

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTUCKY UTILITIES COMPANY)
_____) CASE NO. 2006-00348
)
ALLEGED FAILURE TO COMPLY WITH)
KRS 278.042)

O R D E R

By Order dated September 26, 2006, the Commission directed Kentucky Utilities Company ("KU") to appear at a hearing on November 16, 2006 to show cause why it should not be subject to the penalties provided under KRS 278.990 for one probable violation of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with the most recent edition of the National Electrical Safety Code, which is the 2002 Edition ("NESC"). More specifically, the probable violation is of NESC Section 42, Rule 420.C.4, which requires employees working in the vicinity of energized lines to consider all the effects of their actions and to take into account their own safety, the safety of other employees, the property of others, and the public in general.

The alleged violation arose from an accident which occurred on June 20, 2006, when an employee of QSC Painting, Inc., a contractor hired by KU to perform maintenance work on KU's electric plant and facilities, was painting the steel structure at the Lexington Plant Substation #028 at 745 North Limestone Street, Lexington, Kentucky. A 69 kV disconnect, extending from the outside of the box girder that the

contractor's employee was painting, was still energized. The contractor's employee apparently lost his balance and fell, making contact with that energized disconnect. The contractor's employee suffered burns to his hands and ankles and was hospitalized.

KU filed an answer to the show cause Order and requested an informal conference, which was held at the Commission's offices on November 1, 2006. Those discussions led to the filing of a Stipulation of Facts and Settlement Agreement ("Stipulation") on December 5, 2006. The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth KU's agreement with the statement of facts contained in the *Staff's Incident Investigation Report*, which was appended to the Commission's September 26, 2006 Order. The Stipulation also discusses the remedial action to be taken by KU, and provides that KU will pay a civil penalty in the amount of \$1,500 in full satisfaction of the one probable violation.

Determining whether the terms of the Stipulation are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Stipulation and KU's willingness to reassess its safety policy covering work within substations and cooperate to achieve a resolution of this proceeding. Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the Stipulation is in accordance with the law and does not violate any regulatory principle. The Stipulation is a product of arm's-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:

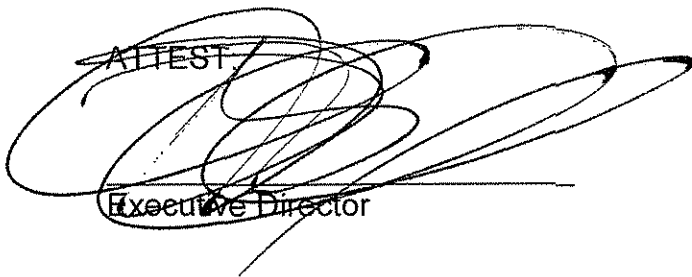
1. The Stipulation is adopted and approved in its entirety as a complete resolution of all issues in this case.

2. KU shall pay \$1,500 as a civil penalty within 30 days of the date of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

3. Upon payment of the \$1,500 civil penalty, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

Done at Frankfort, Kentucky, this 5th day of January, 2007.

By the Commission

ATTEST

Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2006-00348 DATED January 5, 2007.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

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PUBLIC SERVICE
COMMISSION

In the Matter of:

KENTUCKY UTILITIES COMPANY)
_____)) CASE NO. 2006-00348
ALLEGED FAILURE TO COMPLY)
WITH KRS 278.042)

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order of September 26, 2006, the Commission initiated this proceeding to determine whether Kentucky Utilities Company ("KU") should be subject to the penalties prescribed in KRS 278.990 for one probable violation of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with the most recent edition of the National Electrical Safety Code, which is the 2002 Edition ("NESC"). The one probable violation cited by the Commission's September 26, 2006 Order is:

NESC Section 42, Rule 420.C.4, by the employees' failure while working in the vicinity of energized lines to consider all the effects of their actions and to take into account their own safety, the safety of other employees, the property of others, and the public in general.

The Commission's Order arose out of an incident which occurred on June 20, 2006, when an employee of QSC Painting, Inc., a contractor hired by KU to perform maintenance work on KU's electric plant and facilities, was painting the steel structure at the Lexington Plant Substation #028 at 745 North Limestone Street, Lexington, Kentucky. A 69 kV disconnect, extending from the outside of the box girder that the

contractor's employee was painting, was still energized. The contractor's employee apparently lost his balance and fell, making contact with that energized disconnect. The employee suffered burns to his hands and ankles and was hospitalized.

On October 16, 2006, KU filed a response to the Commission's September 26, 2006 Order. KU's response denied the NESC violation cited by the Commission. In response to KU's request for an informal conference, the Commission suspended the hearing that had been set for November 16, 2006, and scheduled an informal conference on November 1, 2006.

As a result of discussions held during the informal conference, KU and the Commission Staff submit the following Stipulation of Facts and Settlement Agreement ("Stipulation") for the Commission's consideration in rendering its decision in this proceeding:

1. KU agrees that the Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's September 26, 2006 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. KU has reassessed its previous policy of allowing employees or contractors to paint within substations in the vicinity of energized parts. In the future, all parts of the substation that are within the minimum approach distances provided for in the NESC will be deenergized or, if deenergizing is not feasible, the energized parts will be isolated or insulated. In addition, KU agrees that all work to be performed within substations will be performed only by personnel who are fully qualified for the job to be performed.

3. KU agrees to pay a civil penalty in the amount of \$1,500 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's September 26, 2006 Order to whether KU should be assessed a penalty under KRS 278.990 for a willful violation of the NESC rules, as made applicable under KRS 278.042. Neither the payment of the civil penalty, nor any other agreement contained in this Stipulation, shall be construed as an admission by KU of a willful violation of any Commission regulation or NESC rule, nor shall it be construed as an admission by KU of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, nor shall the Commission's acceptance of this Stipulation be construed as a finding of a willful violation of any Commission regulation or NESC rule.


4. In the event that the Commission does not accept this Stipulation in its entirety, KU and Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the parties hereto, used as an admission by KU of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, or otherwise used as an admission by either party hereto.

5. This Stipulation is for use in Commission Case No. 2006-00348, and neither party hereto shall be bound by any part of this Stipulation in any other proceeding, except that this Stipulation may be used in any proceeding by the Commission to enforce the terms of this Stipulation or to conduct a further investigation of KU's service, and KU shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. KU and Staff agree that the foregoing Stipulation is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, KU agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

Dated this 29~~th~~ day of November, 2006.

KENTUCKY UTILITIES COMPANY

BY 
Title SENIOR CORPORATE ATTORNEY

STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION

BY 
Richard G. Raff, Staff Attorney