

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC)	
COMPANY)	CASE NO.
_____)	2006-00353
)	
ALLEGED FAILURE TO COMPLY WITH)	
KRS 278.042)	

O R D E R

By Order dated September 29, 2006, the Commission directed Louisville Gas and Electric Company ("LG&E") to appear at a hearing on November 15, 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"). The one probable violation of the NESC cited by the Commission's September 29, 2006 Order is NESC, Section 23, Rule 234.C.1 and Table 234-1 by the failure to maintain a minimum horizontal clearance for unguarded or accessible wires, conductors, cables, or rigid live parts that are located adjacent to buildings.

The alleged violation arose from an accident which occurred on May 23, 2006, when a painter was painting the exterior wall of a building at 1155 South Shelby Street, Louisville, Kentucky. The painter was lying on his chest on the roof of the building, using an aluminum pole with a paint roller at the end, when he contacted a 4 kV primary

conductor running parallel to the roof at a horizontal distance of 2 feet, 2 inches from the rooftop. The painter suffered fatal injuries.

LG&E 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 11, 2006. The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth LG&E's agreement with the statement of facts contained in the Staff's Incident Investigation Report, which was appended to the Commission's September 29, 2006 Order. The Stipulation also discusses the remedial action to be taken by LG&E, and provides that LG&E will pay a civil penalty in the amount of \$2,500 in full satisfaction of the two probable violations.

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 LG&E's willingness to inspect the clearance of each conductor 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. LG&E shall pay \$2,500 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 \$2,500 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. 2006-00353 DATED January 5, 2007.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC)	
COMPANY)	
_____)	CASE NO. 2006-00353
)	
ALLEGED FAILURE TO COMPLY)	
WITH KRS 278.042)	

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated September 29, 2006, the Commission initiated this proceeding to determine whether Louisville Gas and Electric Company ("LG&E") 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 ("NESC"), which is the 2002 Edition.

The one probable violation of the NESC cited by the Commission's September 29, 2006 Order is NESC, Section 23, Rule 234.C.1 and Table 234-1 by the failure to maintain a minimum horizontal clearance for unguarded or accessible wires, conductors, cables, or rigid live parts that are located adjacent to buildings.

The Commission's Order arose out of an incident which occurred on May 23, 2006, when a painter was painting the exterior wall of a building at 1155 South Shelby Street, Louisville, Kentucky. The painter was lying on his chest on the roof of the building, using an aluminum pole with a paint roller at the end, when he contacted a

4 kV primary conductor running parallel to the roof at a horizontal distance of 2 feet, 2 inches from the rooftop. The painter suffered fatal injuries.

On October 19, 2006, LG&E filed a response to the Commission's September 29, 2006 Order. LG&E's response denies that there was a willful violation of the NESC and denies that the 2002 Edition of the NESC is the version applicable to the 4 kV primary conductor with which contact was made. In response to LG&E's request for an informal conference, the Commission suspended the hearing that had been set for November 15, 2006, and scheduled an informal conference on November 1, 2006.

As a result of discussions held during the informal conference, LG&E 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. LG&E agrees that the Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's September 29, 2006 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. LG&E agrees to file a report by December 8, 2006, which will set forth the outline of a plan to identify all electric lines that are not in compliance with the horizontal clearance requirements of the applicable version of the NESC. Under LG&E's plan, all lines with a horizontal clearance not meeting the NESC currently in effect will be noted as points of interest, and each of those lines will subsequently be followed up to determine the date that the line was originally built or rebuilt so that the appropriate version of the NESC can be consulted to determine the applicable horizontal clearance.

The 4 kV line involved in this incident has been deenergized for two spans and will eventually be moved. LG&E has also issued in recent months internal bulletins which reemphasize NESC line clearances and the need for compliance therewith.

3. LG&E agrees to pay a civil penalty in the amount of \$2,500 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's September 29, 2006 Order to whether LG&E should be assessed penalties 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 LG&E 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. LG&E acknowledges its obligations and responsibilities to have all of its conductors in compliance with the minimum clearance standards as set forth in the applicable version of the NESC. LG&E's agreement to undertake the remedial action discussed herein shall not be deemed a waiver or exemption from any applicable NESC clearance standard.

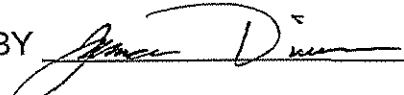
5. In the event that the Commission does not accept this Stipulation in its entirety, LG&E and Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the parties hereto, used as an admission by LG&E 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.

6. This Stipulation is for use in Commission Case No. 2006-00353, 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 LG&E's service, and LG&E shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

7. LG&E 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, LG&E agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

Dated this 11th day of December, 2006.

LOUISVILLE GAS AND ELECTRIC COMPANY

BY 
Title SENIOR CORPORATE ATTORNEY

STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION

BY 
Richard G. Raff, Staff Attorney