

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

MEADE COUNTY RURAL ELECTRIC	)	
COOPERATIVE CORPORATION	)	CASE NO.
_____	)	2007-00030
	)	
ALLEGED FAILURE TO COMPLY WITH	)	
KRS 278.042	)	

O R D E R

By Order dated January 31, 2007, the Commission directed Meade County Rural Electric Cooperative Corporation ("Meade County") to show cause why it should not be subject to the penalties provided under KRS 278.990 for eight probable violations 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 Electric Safety Code ("NESC"), which is the 2002 edition. Specifically, the probable violations are as follows:

1. Section 41, Rule 410.C.1 & 2 – Responsibility – Failure to supervise the safe operation of equipment and lines.
2. Section 41, Rule 411.A.3 – Protective Methods and Devices – Failure to conduct a job briefing to employees as to the character of the equipment, lines, or work methods.
3. Section 42, Rule 420.C.4 & 5 – Safeguarding Oneself and Others – Employee failures.

4. Section 42, Rule 420.H – Tools and Protective Equipment – Failure of an employee to use personal protective equipment, devices, and tools.

5. Section 42, Rule 421.A.1, 2 & 3 – General Operating Routines – Failure in the duties of the first-level supervisor.

6. Section 44, Rule 441.A.1 – Energized Conductors or Parts – Failure to adhere to minimum approach distance to live parts.

7. Section 44, Rule 441.A.3 (a, b & d) – Failure to take precautions for approach.

8. Section 44, Rule 443.A.1 – Work on Energized Lines and Equipment – Failure to apply safeguards.

The alleged violations arose from a November 13, 2006 accident in Breckinridge County, wherein Donald R. Taylor, an employee of Richardson Contracting, was fatally injured due to electrocution after making contact with a 7,200-volt phase wire. Richardson Contracting was a contractor company hired by Meade County for a 3-year electric construction project.

Meade County submitted an answer to the Commission's show cause Order and, subsequently, requested an informal conference. The informal conference was held at the Commission's offices on March 21, 2007. The discussions at the informal conference led to the filing of a Joint Stipulation of Facts and Settlement Agreement (collectively referred to as "Settlement Agreement"). The Settlement Agreement, attached hereto as Appendix A and incorporated herein by reference, sets forth Meade County's agreement with the statement of facts contained in the Commission Staff's Electric Utility Personal Injury Accident Report ("Report"), dated December 11, 2006.

The Report was appended to the Commission's January 31, 2007 show cause Order. The Settlement Agreement also discusses the remedial actions to be taken by Meade County and a civil penalty in the amount of \$9,000.00 that Meade County will pay in full satisfaction of this proceeding.

In determining whether the terms of the Settlement Agreement are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Settlement Agreement and Meade County's willingness to revise its safety audit procedures, implement job briefing documentation methods for contractor crews, and cooperate in achieving a resolution of this proceeding. Based on the evidence of the record and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement is in accordance with the law and does not violate any regulatory principle. The Settlement Agreement 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 Joint Stipulation of Facts and Settlement Agreement is adopted and approved in its entirety as a complete resolution of all issues in this case.
2. Meade County shall pay \$9,000.00 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, Kentucky Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

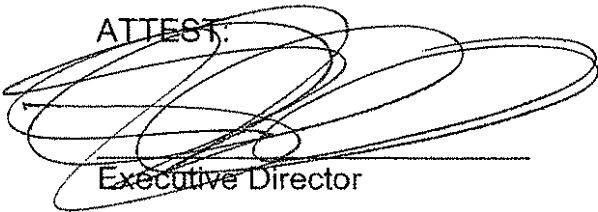
3. Meade County shall file, within 30 days of the date of this Order, a notice setting forth the name and job title of the Meade County employee who will be responsible for ensuring that safety audits are performed and those written documents are maintained in accordance with the Settlement Agreement.

4. Upon payment of the \$9,000.00 civil penalty and the filing of the notice referenced in the ordering paragraph above, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

Done at Frankfort, Kentucky, this 9th day of May, 2007.

By the Commission

ATTEST:

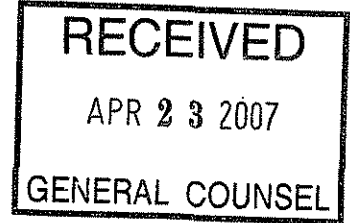


Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2007-00030 DATED May 9, 2007.

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION



In the Matter of:

MEADE COUNTY RURAL ELECTRIC )  
COOPERATIVE CORPORATION ) CASE NO.  
\_\_\_\_\_ ) 2007-00030  
)  
ALLEGED FAILURE TO COMPLY WITH )  
KRS 278.042 )

**JOINT STIPULATION OF FACTS AND SETTLEMENT AGREEMENT**

It is the intent and purpose of the parties to this proceeding to express their agreement on a mutually satisfactory resolution of all of the issues in the proceeding. This agreement is formally known as a Stipulation of Facts and Settlement Agreement ("Stipulation"). The parties to this proceeding are Meade County Rural Electric Cooperative Corporation ("Meade County RECC") and Staff of the Kentucky Public Service Commission ("Commission Staff").

It is understood by all parties that this Stipulation is not binding upon the Public Service Commission ("Commission"). The Commission must independently approve and adopt this Stipulation before this matter can be deemed concluded and removed from the Commission's docket. The parties have expended considerable efforts to reach a stipulation as to the facts of this matter, as well as in developing a proposal for settlement. Meade County RECC and Commission Staff agree that this Stipulation, viewed in its entirety, constitutes a reasonable resolution of all issues in this proceeding.

A handwritten signature in black ink, appearing to be "J. R. ...".

In addition, the adoption of this Stipulation will eliminate the need for the Commission, Commission Staff and Meade County RECC to expend significant resources in litigating this proceeding and will eliminate the possibility of, and any need for, rehearing or appeals of the Commission's final order.

### **STIPULATION OF FACTS**

Meade County RECC and the Commission Staff submit this Stipulation of Facts for the Commission's consideration in rendering a decision in this proceeding.

Commission Staff developed and submitted an Electric Utility Personal Injury Accident Report ("Report") on this matter.<sup>1</sup> The report alleges that on November 13, 2006, in McQuady, Kentucky, a city in Breckinridge County, Donald R. Taylor was electrocuted at the site of a Meade County RECC electric construction project. In March 2006, Meade County RECC hired Richardson Contracting ("Richardson") to serve as a contractor for a three-year electric system construction project.<sup>2</sup> Mr. Taylor was a Richardson employee and served as a lineman.

In the report, the Commission Staff stated that although Richardson had a supervisor on-site, Richardson was unable to produce documentation proving that a job briefing occurred with the employees prior to the start of that day's work to outline the

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<sup>1</sup> The pages of the report are unnumbered. However, for the purpose of this Stipulation only, the parties agree that page numbers will refer to the actual physical order of the pages within the report.

<sup>2</sup> Richardson was selected as the contractor after submitting a winning bid to Meade County RECC for its project, as required under the regulations for the United States Department of Agriculture's Rural Utilities Service ("RUS"). A Richardson contract crew was rebuilding a 7200 volt, three-phase line at the site on the day of the accident.

nature of the equipment or lines to be used during the day.<sup>3</sup> When the accident occurred, Mr. Taylor was in the bucket of a truck, holding a guy wire in his hand when he made contact with a 7200 volt phase wire that was not attached to a temporary hot arm extension. The 7200 volt phase wire was not covered by protective equipment at the time of the accident. Mr. Taylor attempted to take the end of the guy wire up with him instead of waiting for a crew member to get a hand line from another truck. Mr. Taylor was not wearing rubber gloves or sleeves at the time of the accident and grounding equipment for the truck was not being used. Mr. Taylor died at the scene due to electrocution.<sup>4</sup>

By a Show Cause Order ("Order") dated, January 31, 2007, the Commission initiated this proceeding to determine whether Meade County RECC should be subject to the penalties prescribed in KRS 278.990 for eight probable violations of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with the 2002 edition of the National Electrical Safety Code ("NESC"). The eight probable violations cited in the Commission's January 31, 2007 Order are as follows:

- 1) Section 41, Rule 410.C.1 & 2 – Responsibility - Failure to supervise the safe operation of equipment and lines
- 2) Section 41, Rule 411.A.3 – Protective Methods and Devices – Failure to conduct a job briefing to employees as to the character of the equipment, lines or work methods

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<sup>3</sup> See Report, page 3, Probable Violations section.

<sup>4</sup> See Report, page 1, Accident Description, as submitted by Commission Staff. See also Report, pages 12 and 13, Summary and Investigation Results, a supplement to the Report, as submitted by Meade County RECC.



- 3) Section 42, Rule 420.C.4 & 5 – Safeguarding Oneself and Others – Employee failures
- 4) Section 42, Rule 420.H – Tools and Protective Equipment – Failure of an employee to use personal protective equipment, devices and tools
- 5) Section 42, Rule 421.A.1, 2 & 3 – General Operating Routines – Failure in the duties of the first-level supervisor
- 6) Section 44, Rule 441.A.1- Energized Conductors or Parts – Failure to adhere to minimum approach distance to live parts
- 7) Section 44, Rule 441.A.3 (a, b & d) – Failure to take precautions for approach
- 8) Section 44, Rule 443.A.1 – Work on Energized Lines and Equipment – Failure to apply safeguards

On February 19, 2007, Meade County RECC filed a response to the Commission's January 31, 2007 Order. In its response, Meade County RECC stipulated to three of the NESC violations, but denied all other probable violations.<sup>5</sup> An informal conference was scheduled and held on March 21, 2007.<sup>6</sup> Representatives for

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<sup>5</sup> Within its response, Meade County stated that some of cited violations were duplicative, arguing that they arose under overlapping NESC rules. See Meade Response, dated February 19, 2007, Items 6, 7, and 8.

<sup>6</sup> At the informal conference, Mr. Blevins Bowlin, the President of Bowlin Energy, stated that he purchased Richardson Contracting in 2001. Mr. Bowlin stated the company's name was legally changed to Bowlin Energy near the end of the 2006 calendar year.

Meade County RECC, Richardson Contracting and Commission Staff were in attendance.<sup>7</sup>

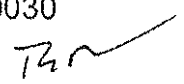
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<sup>7</sup> During the informal conference, representatives of Richardson Contracting, (now d/b/a Bowlin Energy) stated that the company had implemented a number of new self-directed remedial measures since Mr. Taylor's accident and death. Such measures included hiring an outside safety consultant group to evaluate the company's safety policies and procedures. Additionally, the company has implemented a new written safety policy which must be agreed to by all employees and created a new policy requiring employees to sign and document receiving all gloves, sleeves, hardhats, eye protection and boots. Richardson has implemented other remedial measures beyond those noted in this Stipulation.

## SETTLEMENT AGREEMENT

As a result of discussions held during the informal conference, Meade County RECC and the Commission Staff submit the following settlement agreement for the Commission's consideration in rendering its decision in this proceeding:

- 1) Meade County RECC agrees that the Commission Staff's Electric Utility Personal Injury Accident Report, Appendix A to the Commission's January 31, 2007 Order, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.
  
- 2) Meade County RECC agrees to pay a civil penalty in the amount of NINE THOUSAND DOLLARS (\$9,000.00) in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's January 31, 2007 Show Cause Order on whether Meade County RECC 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 Meade County RECC of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Electric Utility Personal Injury Accident 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.
  
- 3) Meade County RECC agrees to perform safety audits once each full calendar month on each Meade County RECC crew and each contractor crew, pursuant to the NESC. Audits will only be conducted on Meade County RECC crews and contractor crews performing work on Meade County RECC facilities. In the event Meade County RECC encounters extended emergencies and outages or contract crews are relocated outside Meade County RECC's service area, safety audits would not be required during that calendar month. Written summaries of each audit shall be maintained by Meade County RECC and one Meade County employee shall be designated as responsible for ensuring that the monthly audits are performed and that the written records are maintained and available for review by the Commission, upon request.
  
- 4) Meade County RECC agrees to have all contractor crews document, in written form, the occurrence of daily job briefing sessions, also known as "tailgate sessions". The records evidencing occurrence of the daily job briefing sessions are to be maintained by the contractor company in such a manner that Meade County RECC can audit and review those records at will.



5) In the event that the Commission does not accept this Stipulation in its entirety, Meade County RECC and Commission Staff reserve their rights to withdraw from it and require that a hearing be held on any and all issues involved and that none of the provisions contained within this Stipulation shall be binding upon the parties, used as an admission by Meade County RECC of any liability in any legal proceeding, administrative proceeding or lawsuit arising out of the facts set forth in the Electric Utility Personal Injury Accident Report or otherwise used as an admission by either party.

6) This Stipulation is for use in Commission Case No. 2007-00030 and no party to this matter shall be bound by any part of this Stipulation in any other proceeding, except that this Stipulation may be used in any proceedings by the Commission to enforce the terms of this Stipulation or to conduct a further investigation of Meade County RECC's service. Meade County RECC shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Stipulation.

7) Meade County RECC and Commission Staff agree that this Stipulation is reasonable, is in the public interest and should be adopted in its entirety by the Commission. If adopted by the Commission, Meade County RECC agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

Dates and Signatures

**Meade County Rural Electric Cooperative Corporation**

19<sup>th</sup> day of April, 2007.

By: (print name) Thomas C. Breike

By: (sign name) T.C. Breike

Title: A Honey

**Staff of the Kentucky Public Service Commission**

23<sup>rd</sup> day of April, 2007.

By: (print name) Tiffany J. Bowman

By: (sign name) Tiffany J. Bowman

Title: **Counsel for Commission Staff**