

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)	
)	
_____)	CASE NO. 2002-00165
)	
FAILURE TO COMPLY WITH COMMISSION)	
REGULATION 807 KAR 5:041, SECTION 3(1))	

O R D E R

By Order dated June 14, 2002, the Commission directed Louisville Gas and Electric Company (LG&E) to appear at a hearing on July 23, 2002 to show cause why it should not be subject to the penalties prescribed by KRS 278.990 for three probable violations of Administrative Regulation 807 KAR 5:041, Section 3(1), which requires the maintenance of utility facilities to be in accordance with the National Electrical Safety Code, 1990 Edition (NESC). The three probable violations of the NESC are: Section 21, Rule 214.A.5, which requires lines with reported defects that could reasonably be expected to endanger life or property to be promptly repaired, disconnected, or isolated; Section 21, Rule 214.B.2, which requires lines temporarily out of service to be maintained in a safe condition; and Section 41, Rule 410.C.1 and 2, which requires a designated person to be in charge of the operation of equipment and lines and to be responsible for their safe operation, and if more than one person is engaged in work on the same equipment or line, one person shall be designated as in charge of the work to be performed.

The probable violations arose from a February 2, 2002 accident in which two individuals received fatal injuries and two individuals were burned as a result of contacting a downed electric line. At LG&E's request, an informal conference was convened on July 11, 2002 to provide an opportunity to discuss the operative facts surrounding the accident. Those discussions led to the filing of a Stipulation of Facts and Settlement Agreement (Stipulation) on July 23, 2002.

The Stipulation, attached hereto as Appendix A and incorporated herein by reference, sets forth LG&E's agreement with the statement of facts set forth in the Staff's Utility Accident Investigation Report (Appendix A to the Commission's June 14, 2002 Order), discusses the remedial measures taken by LG&E since the time of the accident, and provides for LG&E to pay a civil penalty in the amount of \$7,500 in full satisfaction of the probable violations.

In 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 agreement and LG&E's willingness to cooperate to achieve a speedy 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 \$7,500 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.

Done at Frankfort, Kentucky, this 8th day of August, 2002.

By the Commission

ATTEST:

Deputy Wm H. Fowler
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE
KENTUCKY PUBLIC SERVICE COMMISSION

IN CASE NO. 2002-00165

DATED AUGUST 8, 2002

RECEIVED

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PUBLIC SERVICE
COMMISSION

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STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated June 14, 2002, 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 three probable violations of Administrative Regulation 807 KAR 5:041, Section 3(1), which requires the maintenance of utility facilities to be in accordance with the National Electrical Safety Code, 1990 Edition ("NESC"). The three probable violations of the NESC are: Section 21, Rule 214.A.5; Section 21, Rule 214.B.2; and Section 41, Rule 410.C.1 and 2. The Order arose out of an incident that occurred on February 2, 2002 in the vicinity of the Old Waverly Hills Hospital property located in southwest Jefferson County, Kentucky, when one phase of a 7200-volt 3-phase line which had previously burned to the ground became energized, resulting in fatal injuries to two men and nonfatal injuries to two other men.

An informal conference was held at the Commission's offices on July 11, 2002. As a result of discussions held at the conference, LG&E and the Commission Staff submit the following agreement for the Commission's consideration in rendering its decision in this proceeding:

1. LG&E agrees that the Staff's Utility Accident Investigation Report ("Report"), Appendix A to the Commission's June 14, 2002 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order, and that Attachments A and B to the Report are complete and accurate copies.

2. Since this incident, LG&E has modified the Crewtrack software system used by its Trouble Dispatch Department. LG&E's Trouble Dispatch Department will continue to use the remedial modifications to LG&E's Crewtrack software system as described in the letter from Jim Dimas to John Land dated February 19, 2002, contained in Attachment A (LG&E Accident Report) to the Report. Further, in the event the code or status of a correction order changes at any time during the restoration process, that change, along with the date and time of the change, shall be recorded on the correction order. The previous code will remain noted on the correction order. In the event a transfer of responsibility between dispatching employees occurs (breaks), formal documentation of such transfer will be required, and shall include the employees' signatures and the time and date of transfer.

3. LG&E agrees to pay a civil penalty in the amount of Seven Thousand Five Hundred Dollars (\$7,500) in full settlement of this proceeding. Neither the payment of the civil penalty, nor any other agreement contained in this Stipulation of Facts and Settlement Agreement ("Stipulation"), shall be construed as an admission by LG&E of a violation of any Commission regulation or NESC rule, nor shall it 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 violation of any Commission regulation or NESC rule.

4. 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 hereto 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.

5. This Stipulation is for use in Commission Case No. 2002-00165, 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.

6. 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.

Respectfully submitted,

Louisville Gas and Electric Company

By: Junda A. Prosser
Senior Regulatory Counsel
Louisville Gas and Electric Company

Kentucky Public Service Commission

By: Richard G. Bell
Counsel for the Staff of the Public
Service Commission of Kentucky