

DORSEY, KING, GRAY, NORMENT & HOPGOOD

ATTORNEYS-AT-LAW

318 SECOND STREET

HENDERSON, KENTUCKY 42420

JOHN DORSEY (1920-1986)
FRANK N. KING, JR.
STEPHEN D. GRAY
WILLIAM B. NORMENT, JR.
J. CHRISTOPHER HOPGOOD
S. MADISON GRAY

TELEPHONE
(270) 826-3965
TELEFAX
(270) 826-6672
www.dkgnlaw.com

December 17, 2008

Mr. Quang Nguyen
Staff Attorney
Public Service Commission
Post Office Box 615
Frankfort, Kentucky 40602-0615

RECEIVED
DEC 22 2008
PUBLIC SERVICE
COMMISSION

Re: Kenergy Corp.
Case No. 2008-00164

Dear Quang:

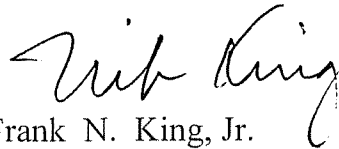
The settlement agreement has been signed on behalf of Kenergy Corp. and the signed original is enclosed herewith. I have inserted today's date which is the date of signature on behalf of Kenergy. We understand this will now be submitted to the Commission for approval and issuance of an order.

We thank you and the other Commission staff members for your cooperation in getting this matter resolved.

Very truly yours,

DORSEY, KING, GRAY, NORMENT & HOPGOOD

By



Frank N. King, Jr.
Attorney for Kenergy Corp.

FNKJr/cds

Encls.

Copy/w/encls.: Mr. Sandy Novick, Kenergy Corp.

Mr. Gerald Ford, Kenergy Corp.

Mr. John Newland, Kenergy Corp.

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENERGY CORP.)	
_____)	CASE NO. 2008-00164
)	
ALLEGED FAILURE TO COMPLY)	
WITH KRS 278.042)	

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated May 22, 2008, the Commission initiated this proceeding to determine whether Kenergy Corp. ("Kenergy") should be subject to the penalties prescribed in KRS 278.990 for an alleged 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"). The alleged violation cited by the Commission's May 22, 2008 Order is as follows:

NESC Section 232-B-1: The vertical clearance of wires, conductors, and cables above ground on cultivated land traversed by vehicles shall not be less than 15.5 feet for a neutral conductor and 18.5 feet for a primary conductor.

The alleged violation arose from a March 1, 2008 accident near Hill Bridge Road in Utica, Kentucky. Jason Koger, a nearby resident, sustained severe burns to his lower arms and hands after making contact with low-hanging wires.

On June 10, 2008, Kenergy filed a response to the Commission's May 22, 2008 Order. Kenergy's response denied the NESC violation cited by the Commission. At the same time it filed its response, Kenergy filed a motion requesting an informal

conference. An informal conference was subsequently held at the Commission's offices on August 1, 2008.

Discussions during the informal conference between Kenergy and Commission Staff resulted in the following Stipulation of Facts and Settlement Agreement ("Stipulation") which is submitted for the Commission's consideration in rendering its decision:

1. Kenergy agrees that the Commission Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's May 22, 2008 Order, accurately describes and sets forth material facts and circumstances surrounding the incident.

2. Kenergy agrees to the following in connection with future line inspections under 807 KAR 5:006, Section 25(4)(d):

a. During the course of line inspections, which include the inspection of insulators, conductors and supporting facilities, a notation will be made to document the reason, if known, concerning the replacement of any equipment.

b. Causes for replacement of equipment will be analyzed at least annually to determine if there is a probability of a systemic problem with design, material or construction. If a systemic problem is discovered, Kenergy shall take appropriate follow-up action to remedy the problem.

3. The scope of this proceeding is limited by the Commission's May 22, 2008 Order to whether Kenergy should be assessed penalties under KRS 278.990 for willful violations of the NESC rules as made applicable under KRS 278.042. No agreement contained in this Stipulation shall be construed as an admission by Kenergy of a violation, willful or otherwise, of any Commission regulation or NESC rule, nor shall it be

construed as an admission by Kenergy 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, willful or otherwise, of any Commission regulation or NESC rule.

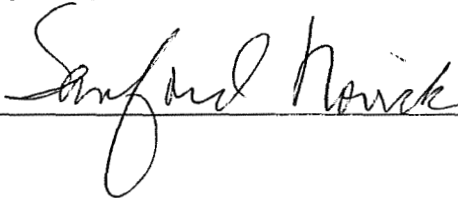
4. In the event that the Commission does not accept this Stipulation in its entirety, Kenergy and Commission Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the parties thereto, used as an admission by Kenergy 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 only in Commission Case No. 2008-00164, 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 Kenergy's service, and Kenergy shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. Kenergy and Commission Staff agree that the foregoing Stipulation is reasonable for the purpose of resolving all issues in Commission Case No. 2008-00164, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, Kenergy agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

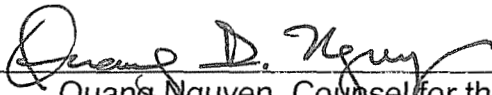
IN WITNESS WHEREOF, the parties hereto have hereunto affixed their signatures this 17th day of December, 2008.

Kenergy Corp.

By: 

Title President and CEO

Staff of the Kentucky Public Service Commission

By: 
Quang Nguyen, Counsel for the Staff