

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC)
COMPANY)

_____)
ALLEGED FAILURE TO COMPLY WITH)
KRS 278.042)

CASE NO. 2009-00014

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated February 11, 2009, the Kentucky Public Service Commission ("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 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"), which was published most recently by the Institute of Electrical and Electronics Engineers, Inc. in 2007.

The one alleged violation of the NESC cited by the Commission Staff in its November 17, 2008 Report ("Report") is NESC Section 420-C-4 which provides: "Employees who work on or in the vicinity of energized lines shall consider all of the effects of their actions, taking into account their own safety as well as the safety of other employees on the job site, or on some other part of the affected electric system, the property of others, and the public in general."

The Commission's Order of February 11, 2009 arose out of an incident which occurred on July 3, 2008, when a worker received minor secondary flash burns to the neck and face while energizing electric service to a newly constructed apartment building located at 5302 Lowerfield Road in Louisville, Kentucky. The worker was treated with non-prescription, over-the-counter topical cream at a hospital and released without an overnight stay.

On February 24, 2009, LG&E filed a response to the Commission's February 11, 2009 Order. LG&E's response denies that there was a willful violation of the NESC rules. In response to LG&E's request for an informal conference, the Commission suspended the hearing that had been set for March 4, 2009, and scheduled an informal conference on that date instead.

As a result of discussion 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 February 11, 2009 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. Effective April 22, 2009, LG&E agrees to require all of its employees and resident contractors who perform work on LG&E's electric distribution system to document in writing that they have had a daily job briefing. In addition, in emergency Passport training sessions, LG&E will request that all mutual assistance or off-system

contractors who perform work on LG&E's electric distribution system document in writing their daily job briefings. LG&E notes that the mutual assistance or off-system contractors who are typically utilized under extraordinary circumstances are high-quality, professional workers and generally work in accordance with the established safety guidelines in place in the regions in which they typically operate. Nothing 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.

3. LG&E agrees to pay a civil penalty in the amount of TWO HUNDRED DOLLARS (\$200) in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's February 11, 2009 Show Cause Order on 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 Electric Utility Personal Injury Accident Report or the Electric Utility Inspection 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, LG&E and Commission Staff reserve the right 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.

5. This Stipulation is for use in Commission Case No. 2009-00014, 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 Commission 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 5th day of May 2009.

LOUISVILLE GAS AND ELECTRIC COMPANY

By: C. David Gray

Title: DIRECTOR OF SYSTEM RESTORATION

STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION

By: Rick Bertelson

Rick Bertelson, Staff Attorney