

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC COMPANY)
_____))
ALLEGED FAILURE TO COMPLY WITH) CASE NO.
KRS 278.042) 2011-00098
)

O R D E R

By Order dated March 29, 2011, the Commission directed Louisville Gas and Electric Company (“LG&E”) to show cause why it should not be subject to the penalties provided under KRS 278.990 for 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 Electrical Safety Code (“NESC”), which is the 2007 edition. The alleged violations cited in the Commission’s March 29, 2011 Order are as follows:

1. 2007 NESC Section 42, Rule 420.H—Personal General Precautions—Tools and Protective Equipment—Employees shall use the personal protective equipment, the protective devices, and the special tools provided for their work. Before starting work, these devices and tools shall be carefully inspected to make sure that they are in good condition.
2. 2007 NESC Section 42, Rule 421.A—General Operating Routines—Duties of a first-level supervisor or person in charge—This individual shall:
 1. Adopt such precautions as are within the individual’s authority to prevent accidents.
 2. See that the safety rules and operating procedures are observed by the employees under the direction of this individual.

The violations cited in the Commission’s March 29, 2011 Order arose from an August 10, 2010 incident in Louisville, Kentucky, wherein Michael Brandon Meany, an

employee of Fishel Company ("Fishel"), a contractor for LG&E, sustained injuries when the hydraulic tamp he was using became energized.

On April 18, 2011, LG&E submitted an answer to the Commission's March 29, 2011 show cause Order and a request for an informal conference. The informal conference was held at the Commission's offices on May 16, 2011. 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 the Appendix and incorporated herein by reference, sets forth LG&E's agreement with the statement of facts contained in the Commission Staff's Electric Utility Personal Injury Accident Report ("Report"), signed and dated January 27, 2011. The Report was appended to the Commission's March 29, 2011 show cause Order. The Settlement Agreement also discusses the remedial actions taken by LG&E and a civil penalty in the amount of \$5,000.00 of which LG&E will pay \$2,500.00 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, LG&E's actions taken after the accident, and LG&E's cooperation in achieving a resolution of the issues in 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. LG&E is assessed a penalty of \$5,000.00.

3. LG&E shall pay \$2,500.00 of the \$5,000.00 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.

4. The remaining \$2,500.00 of the civil penalty is suspended on the condition that LG&E abide by the terms contained in the Settlement Agreement and provide all required documentation within the time allotted.

5. Within 30 days of the date of entry of this Order approving the Settlement Agreement, LG&E shall provide to the Commission documentation on the training given as a result of this incident, including the type of training, who attended, and how this training will be implemented into the training program on a regular basis.

6. LG&E currently performs safety audits of its contractor crews. Within 30 days of the date of entry of this Order approving the Settlement Agreement, LG&E shall provide to the Commission copies of the safety audits performed on all Fishel crews doing work for LG&E in Louisville, Kentucky, for the three month period prior to the date of the accident and for the three month period following the date of the accident.

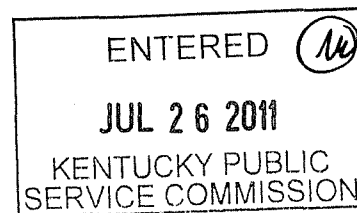
7. LG&E shall maintain all of the safety audit documents and provide them to Commission inspectors upon request during the inspectors' periodic inspections.

8. The hearing scheduled for August 30, 2011 is cancelled.

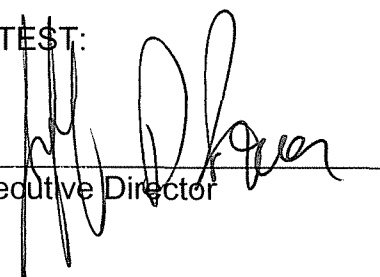
9. Upon payment of the \$2,500.00 civil penalty, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

10. Any documents filed in the future pursuant to ordering paragraphs 5 through 6 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2011-00098

JUL 26 2011

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LOUISVILLE GAS AND ELECTRIC)	
COMPANY)	
_____)	CASE NO. 2011-00098
)	
ALLEGED FAILURE TO COMPLY)	
WITH KRS 278.042)	

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

This agreement is formally known as a Stipulation of Facts and Settlement Agreement ("Settlement Agreement"). The parties to this Settlement Agreement are Louisville Gas and Electric Company ("LG&E") and Staff of the Kentucky Public Service Commission ("Commission Staff"). It is the intent and purpose of the parties hereto to express their agreement on a mutually satisfactory resolution of all of the issues in the proceeding.

It is understood by the parties that this Settlement Agreement is not binding upon the Public Service Commission ("Commission"). The Commission must independently approve and adopt this Settlement Agreement 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. LG&E and Commission Staff agree that this Settlement Agreement, viewed in its entirety, constitutes a reasonable resolution of all issues in this proceeding.

In addition, the adoption of this Settlement Agreement will eliminate the need for the Commission, Commission Staff, and LG&E 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.

FACTS

LG&E 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 to the Commission an Electric Utility Personal Injury Accident Report ("Report") on this matter signed and dated January 27, 2011. The Report describes an incident which occurred on August 10, 2010, in Louisville, Kentucky, in which Michael Brandon Meany, an employee of Fishel Company ("Fishel"), a contractor for LG&E, was injured when the hydraulic tump he was using became energized. LG&E and Commission Staff agree that the Report fairly and accurately describes the events which occurred on the day of the August 10, 2010, incident.

According to the Report, on the day of the accident the victim was working with other Fishel employees replacing a broken pole. An auto accident earlier that morning had broken the LG&E utility pole. Mr. Meany was operating the hydraulic tump connected to the derrick truck that was securing the pole. The insulated section of the derrick's boom was not extended at the time of the incident. This resulted in the truck becoming energized when it inadvertently made contact with an energized part. Mr. Meany was transported to the University of Louisville Hospital and was treated for burns to his legs, groin and chest areas.

Show Cause Order

By a Show Cause Order dated, March 29, 2011, the Commission initiated this proceeding to determine whether LG&E should be subject to the penalties prescribed in KRS 278.990 for two probable violations of KRS 278.042, which requires an electric utility to construct and maintain its plant and facilities in accordance with the 2007 edition of the NESC. The two alleged violations cited in the Commission's March 29, 2011, Order are as follows:

1. NESC Section 42, 420-H: Employees shall use the personal protective equipment, the protective devices, and the special tools provided for their work. Before starting work, these devices and tools shall be carefully inspected to make sure that they are in good condition.
2. NESC Section 42, 421-A: Duties of a First-Level Supervisor or Person in Charge. This individual shall: (1) Adopt such precautions as are within the individual's authority to prevent accidents. (2) See that the safety rules and operating procedures are observed by the employees under the direction of this individual.

On April 18, 2011, LG&E filed a response to the Commission's March 29, 2011, Order. In its response, LG&E requested an informal conference be held in this matter. Pursuant to that request, an informal conference was scheduled in this matter for May 16, 2011, at the Commission's Frankfort offices. Representatives of LG&E, were in attendance, as were Commission Staff.

During the informal conference representatives of LG&E confirmed that they have taken proactive steps to enhance the safety program of contractors, and the supervisor at the time of the incident no longer works on LG&E projects for Fishel. LG&E also made Fishel in Louisville stand down until a refresher training to all employees on the proper uses of the derrick truck could be administered. This training

did include using the third stage of the boom (the insulated section) of the derrick's boom.

SETTLEMENT AGREEMENT

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

1. LG&E agrees that the Commission Staff's Electric Utility Personal Injury Accident Report, Appendix A to the Commission's March 29, 2011, Order in this matter, accurately describes and sets forth the material facts and circumstances surrounding the August 10, 2010, incident.
2. LG&E agrees to pay a total civil penalty in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500), within 30 days of the date of entry of the Order approving this Settlement Agreement, in full settlement of this proceeding. The total maximum fine allowed is five thousand dollars (\$5,000), the remaining two thousand five hundred dollars (\$2,500) is suspended on the condition that LG&E abide by the terms contained in this Settlement Agreement and provide all required documentation within the time allotted.
3. The scope of this proceeding is limited by the Commission's March 29, 2011, Show Cause Order on whether LG&E should be assessed penalties under KRS 278.990 for willful violations of the NESC rules as made applicable under KRS 278.042, and the adequacy, safety, and reasonableness of its practices related to the construction, installation and repair of electric facilities and whether such practices require revision. Neither the payment of the civil penalty, nor any other agreement contained in this Settlement Agreement, 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 Settlement Agreement be construed as a finding of a willful violation of any Commission regulation or NESC rule.
4. Within 30 days of the date of entry of the Order approving this Settlement Agreement, LG&E shall provide to the Commission documentation on the training given as a result of this accident, including the type of training, who attended, and how this training will be implemented into the training program on a regular basis.

5. LG&E currently performs safety audits of its contractor crews. Within 30 days of the date of entry of the Order approving this Settlement Agreement, LG&E shall provide to the Commission copies of the safety audits performed on all Fishel crews doing work for LG&E in Louisville, Kentucky, for three months prior to the incident and 3 months following the incident. On a going forward basis these reports will be made available to Commission Staff during inspections.


6. In the event that the Commission does not accept this Settlement Agreement in its entirety, LG&E 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 Settlement Agreement shall be binding upon the parties, used as an admission by LG&E of any liability in any legal proceeding, administrative proceeding or lawsuit arising out of the facts set forth in the Accident Report and the Inspection Report or otherwise used as an admission by either party.

7. This Settlement Agreement is for use in Commission Case No. 2011-00098, and no party to this matter shall be bound by any part of this Settlement Agreement in any other proceeding, except that this Settlement Agreement may be used in any proceedings by the Commission to enforce the terms of this Settlement Agreement or to conduct a further investigation of LG&E's service. LG&E shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Settlement Agreement.

8. LG&E and Commission Staff agree that this Settlement Agreement is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If 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.

LOUISVILLE GAS AND ELECTRIC COMPANY

By: (print name) Paul Gregory Thomas

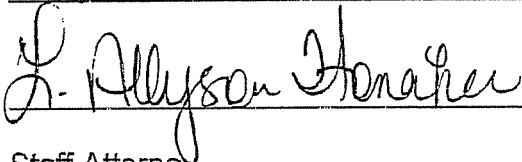
By: (sign name) 

Title: VP Energy Delivery Distribution Operations

Date: 6/8/2011

STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION

By: (print name) L. Allyson Honaker

By: (sign name) 

Title: Staff Attorney

Date: 6/14/11

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