

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

U.S. 60 WATER DISTRICT)	
_____)	
ALLEGED FAILURE TO COMPLY)	CASE NO. 2015-00037
WITH 807 KAR 5:006, SECTION 26,)	
27 AND 807 KAR 5:066, SECTION 7)	

ORDER

By Order dated April 2, 2015, the Commission initiated this proceeding to determine whether U.S. 60 Water District (“U.S. 60”) should be subject to the penalties prescribed in KRS 278.990 for alleged violations arising under 807 KAR 5:006 and 807 KAR 5:066.

ALLEGED VIOLATIONS

The three alleged violations as cited by the Commission’s April 2, 2015 Order are set forth in detail in that Order and in the Stipulation of Facts and Settlement Agreement (“Stipulation”) which is attached hereto as an Appendix and incorporated herein by reference. The three alleged violations are as follows:

807 KAR 5:006, Section 26(6)(b):

The utility shall annually inspect all structures pertaining to purification for their safety, physical and structural integrity, and for leaks, including sedimentation basins, filters, and clear wells; chemical feed equipment; pumping equipment and water storage facilities, including electric power wiring and controls; and hydrants, mains, meters, meter settings and valves.

807 KAR 5:066, Section 7:

Design and construction of the utility's facilities shall conform to good standard engineering practice. Plans and specifications for water supplies shall be prepared by an engineer registered in Kentucky, with the submitted plans bearing the engineer's seal. The utility's facilities shall be designed, constructed and operated so as to provide adequate and safe service to its customers and shall conform to requirements of the Natural Resources Cabinet with reference to sanitation and potability of water.

807 KAR 5:006, Section 27:

(1) Within two (2) hours following discovery each utility, other than a natural gas utility, shall notify the commission by telephone or electronic mail of a utility related accident that results in:

...

(b) Actual or potential property damage of \$25,000 or more;

...

PROCEDURAL HISTORY AND STIPULATION

The violations cited in the Commission's April 2, 2015 Order arise from the August 9, 2014 collapse of a water storage stand pipe operated by U.S. 60 in Waddy, Kentucky. On April 14, 2015, U.S. 60 filed a response to the Commission's show cause Order. An informal conference was held at the Commission's offices on May 13, 2015. Discussions in the course of the informal conference led to the filing of the Stipulation on July 13, 2015, for the Commission's consideration. The Stipulation sets forth an agreed upon summary of the facts, discusses the remedial actions taken, and provides for the payment of \$1,500.00 in full settlement of this proceeding.

On July 30, 2015, the Commission issued an Order scheduling a formal hearing in this matter for the purpose of requiring U.S. 60 to demonstrate why it should not be subject to the full extent of the possible penalties for the three alleged violations.

Thereafter, on August 11, 2015, U.S. 60 tendered a motion to continue the hearing. As its basis for the motion, U.S. 60 states its agreement to increase the penalty provided for in the Stipulation from \$1,500 to \$7,500, with all other provisions to remain unaltered.

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 Stipulation and U.S. 60's agreement to internally inspect its existing water storage tanks. The Commission further notes that through its August 11, 2015 motion, U.S. 60 has agreed to the maximum possible penalty for the three alleged regulatory violations.

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the Stipulation, as amended by U.S. 60's August 11, 2015 filing, is in accordance with the law and does not violate any regulatory principal. 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:

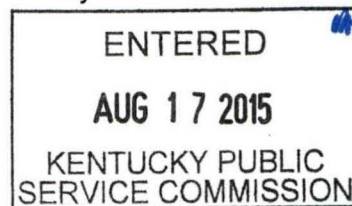
1. The hearing scheduled for Tuesday, August 18, 2015, is cancelled.
2. The Stipulation is adopted and approved subject to the modification in the amount of the civil penalty as set forth in this Order.
3. U.S. 60's proposal to amend the monetary penalty set forth in the Stipulation to \$7,500.00 is accepted.

4. U.S. 60 is assessed a civil penalty of \$7,500.00.

5. U.S. 60 shall pay the amount of \$7,500.00 within 30 days of the date of this Order by cashier's check or money order made payable to the Kentucky State Treasurer and mailed to be delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, P. O. Box 615, Frankfort, Kentucky 40602.

6. Upon the payment of \$7,500.00 by U.S. 60, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2015-00037 DATED **AUG 17 2015**

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
JUL 13 2015
PUBLIC SERVICE
COMMISSION

In the Matter of:

U.S. 60 WATER DISTRICT)
_____))
ALLEGED FAILURE TO COMPLY 807) CASE NO. 2015-00037
KAR 5:006, SECTION 26, 27 AND 807)
KAR 5:066, SECTION 7)
)

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated April 2, 2015, the Commission initiated this proceeding to determine whether U.S. 60 Water District ("U.S. 60") should be subject to the penalties prescribed in KRS 278.990 for alleged violations of 807 KAR 5:006, Sections 26 and 27 and 807 KAR 5:066, Section 7. The three alleged violations are as follows:

807 KAR 5:006, Section 26(6)(b):

The utility shall annually inspect all structures pertaining to purification for their safety, physical and structural integrity, and for leaks, including sedimentation basins, filters, and clear wells; chemical feed equipment; pumping equipment and water storage facilities, including electric power wiring and controls; and hydrants, mains, meters, meter settings and valves.

807 KAR 5:066, Section 7:

Design and construction of the utility's facilities shall conform to good standard engineering practice. Plans and specifications for water supplies shall be prepared by an engineer registered in Kentucky, with the submitted plans bearing the engineer's seal. The utility's facilities shall be designed, constructed and operated so as to provide adequate and safe service to its customers and shall conform to requirements of the Natural Resources Cabinet with reference to sanitation and potability of water.

807 KAR 5:006, Section 27:

(1) Within two (2) hours following discovery each utility, other than a natural gas utility, shall notify the commission by telephone or electronic mail of a utility related accident that results in:

...

(b) Actual or potential property damage of \$25,000 or more;

...

The Commission's Order arose out of an incident which occurred on August 9, 2014 when a U.S. 60 water storage stand pipe in Waddy, Kentucky, catastrophically failed. The Waddy stand pipe was a 177,000-gallon glass-lined bolted steel stand pipe. The tank purportedly initially failed at the seams near the foundation, which resulted in the upper half of the tank collapsing.

U.S. 60's general manager was informed of the collapse at 5:32 p.m. on Saturday, August 9, 2014. At 7:23 p.m. on August 9, 2014, a call was placed to the Commission's consumer complaint hotline, however a voicemail was not left. No further efforts to contact the Commission or Commission Staff pursuant to the Commission's Emergency Notification Guidelines were documented.

The stand pipe's collapse did not result in any injuries. However, the tank's water supply destroyed a church maintenance shed, damaged a church, one additional building, and a parked vehicle. The total damages exceeded \$25,000.

The most recent internal inspection of the Waddy stand pipe was conducted on June 21, 2011. U.S. 60 engaged Liquid Engineering Corporation ("Liquid Engineering") to conduct the internal inspection of the Waddy stand pipe. In its written inspection report, Liquid Engineering noted that the tank exhibited metal loss at the interior wall

seams and recommended that U.S. 60 install cathodic protection and re-inspect the tank every three to five years. In the inspection video accompanying the Liquid Engineering written report, the inspector verbally recommended having a diver take a closer look at certain areas and noted the aggressive corrosion,

On April 14, 2015, U.S. 60 filed a response to the Commission's Order. U.S. 60 denied the allegations raised in the Commission's April 2, 2015 Order. U.S. 60 asserted that it complied with its inspection obligations on an annual basis and that it reasonably relied upon the Liquid Engineering inspector's written report which listed the tank wall conditions as "good." At the May 13, 2015 informal conference, U.S. 60 personnel stated that based upon the report and the Liquid Engineering inspector's comments on the day of the inspection they saw no need to review the video itself. U.S. 60's Manager asserted that the Liquid Engineering inspector did not verbally express to the manager or assistant manager on the day of the inspection any urgency in taking action regarding the tank and or express any objection when verbally advised the tank would not be drained and internally inspected until 4 years later. U.S. 60's manager further stated that U.S. 60 personnel placed several calls to the Commission's consumer complaint hotline on the day of the incident.

As a result of information provided by U.S. 60, and negotiations between Commission Staff and U.S.60 in the course of the informal conference, U.S. 60 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. U.S. 60 agrees that the Report in Appendix A to the Commission's April 2, 2015 Order in this case, accurately describes and sets forth facts and circumstances surrounding the incident giving rise to the Order.

2. U.S. 60 agrees to internally inspect each of its then-existing water storage tanks no later than six months after the Commission's acceptance of this Stipulation. U.S. 60 further agrees to submit the inspection reports for each water storage tank to the Commission within thirty days of each report's completion.

3. U.S. 60 agrees to pay the amount of \$1,500 in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's April 2, 2015 Order as to whether U.S. 60 should be assessed penalties under KRS 278.990 for multiple alleged violations of the Commission's regulations, with each violation having a potential penalty of \$2,500. Neither the payment of \$1,500, nor any agreement contained in this Stipulation, shall be construed as an admission by U.S. 60 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.

4. In the event that the Commission does not accept this Stipulation in its entirety, U.S. 60 reserves its right to withdraw therefrom and require that a hearing be held on any and all issues herein, and that none of the provisions contained herein shall be binding upon the parties hereto, used as an admission by U.S. 60 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. 2015-00037. None of the provisions in this Stipulation establishes any precedent for any other case and neither U.S. 60 nor Staff 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 U.S. 60 service, and U.S. 60 shall not be precluded or estopped from raising any issue, claim, or defense, therein by reason of the execution of this Stipulation.

6. U.S. 60 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, U.S. 60 agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

U.S. 60 Water District

By William Eggen
Title CHAIRMAN U.S. 60 WATER
Date 7-10-15

Staff of the Kentucky Public Service Commission

By Justin Boyer
Title Staff Attorney II
Date 7/13/15

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