

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BASIL C. POLLITT, D/B/A THE GAS)	
GROUP INCORPORATED AND)	
POLLITT ENTERPRISES, INC.)	
_____)	CASE NO.
)	2018-00103
ALLEGED FAILURE TO COMPLY WITH)	
KRS 278.495, 807 KAR 5:022, AND)	
49 C.F.R. PART 192)	
)	

ORDER

This matter arises on a motion filed by Basil C. Pollitt (Mr. Pollitt) d/b/a The Gas Group, Inc. on April 27, 2018, to hold this matter in abeyance pending settlement of two matters pending in Franklin Circuit Court which could affect resolution of this proceeding. On September 1, 2018, Mr. Pollitt, the Commission, and other parties to the Franklin Circuit Court cases entered into a Settlement Agreement, which is attached as an Appendix to this Order. The terms of the Settlement Agreement include, among other things, that Mr. Pollitt will cure the gathering line deficiencies cited in the October 23, 2017 Inspection Report (Inspection Report) by March 1, 2019. Because the gathering line deficiencies cited in the Inspection Report are at issue in this proceeding, the Commission finds that Mr. Pollitt established good cause to hold this proceeding in abeyance pending compliance with the Settlement Agreement, and that the motion should be granted.

IT IS THEREFORE ORDERED that this proceeding is held in abeyance until March 2, 2019.

By the Commission



ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2018-00103 DATED **OCT 03 2018**

EIGHT PAGES TO FOLLOW

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
CIVIL ACTION NO. 01-CI-00581
CIVIL ACTION NO. 18-CI-00069
DIVISION I

PUBLIC SERVICE COMMISSION OF KENTUCKY

PLAINTIFF

v.

BASIL C. POLLITT, *et al.*

DEFENDANTS

SETTLEMENT AGREEMENT

The parties, Public Service Commission of Kentucky ("PSC"); Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("Attorney General"); and Basil C. Pollitt, Whitney Clark Pollitt, Pollitt Enterprises, Inc., and The Gas Group, Inc. (collectively, "The Gas Group"), agree as follows:

1. The Parties agree to settle the consolidated cases, Civil Action No. 01-CI-00581 and Civil Action No. 18-CI-00069 ("Consolidated Cases") under the terms and conditions set forth below.
2. The Gas Group agrees to pay the PSC the total sum of \$20,000.00 in full satisfaction of all claims in connection with the Consolidated Cases. Payment of the \$20,000 is due upon signing the Settlement Agreement by cashier's check or money order payable to the Kentucky State Treasurer, mailed or delivered to the Office of the General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.
3. The parties agree that, based upon the written transportation agreement between The Gas Group and Southern Kentucky Energy, LLC, entered into on May 22,

2018, and the facts as they currently exist, Basil C. Pollitt and The Gas Group operate a commingled gathering line ("Pollitt Gathering Line") that is subject to the PSC's jurisdiction under KRS 278.485.

4. The Gas Group agrees to file a farm tap tariff with the PSC pursuant to KRS 278.485(1). The Gas Group agrees to file the farm tap tariff within two weeks of signing this Settlement Agreement. The PSC agrees to assist the Gas Group in preparing the farm tap tariff for the Pollitt Gathering Line.

5. The Gas Group agrees to cure the deficiencies for a gathering line cited in the October 23, 2017 Inspection Report within six months of the date of signing this Settlement Agreement. The Gas Group shall provide written notice to the PSC within one week of curing the deficiencies and the PSC will re-inspect the Pollitt Gathering Line to confirm that the deficiencies are cured. The deficiencies are:

a. 807 KAR 5:026 Section 6. Customer Lines and Metering Facilities (11) Each customer's service shall have an automatic shutoff valve with manual reset to stop gas flow if gas pressure fails. The valve may be part of the final stage regulator and shall have operating pressure of eight (8) ounces with shutoff pressure setting of not less than two (2) ounces.

i. Citation: None of the Gas Group's regulators observed had low pressure shutoff with manual reset and the operator stated there were none installed in the system.

b. 49 CFR 192.625(a) Odorization of gas. A combustible gas in a distribution line must contain a natural odorant or be odorized so that at a concentration

in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell.

i. Citation: The gas tested on 10/17/2017 at a drip tank behind the Richlandville fire department did not have the required odorant level. The gas tested at 1.66 % gas in air.

6. The PSC acknowledges that the Pollitt Gathering Line is not a utility as defined by KRS 278.010(3) under the facts as they exist today. The PSC further acknowledges that so long as the Pollitt Gathering Line remains a gathering line, The Gas Group is not required at this time to comply with either KRS 278.140, which requires utilities to file annual report of gross earnings from intrastate business, or with 807 KAR 5:006, Section 4(2), which requires utilities to file annual financial and statistical reports.

7. The Parties acknowledge the Pollitt Gathering Line is subject to change from a gathering line to a distribution line should The Gas Group lose its end user, which currently is Southern Kentucky Energy, LLC.

a. The Gas Group agrees to provide written notice to the PSC within one day of the loss of Southern Kentucky Energy, LLC, or a similar end user whose use of the pipeline results in the Pollitt Gathering Line being classified as a gathering line.

b. The PSC agrees to a commercially reasonable amount of time, not to exceed ninety (90) days, for The Gas Group to obtain a new end user whose use of the pipeline would result in the Pollitt Gathering Line being classified as a gathering line. Upon notification by The Gas Group regarding an agreement(s) with a new end user (s) or after ninety days, whichever comes first, the PSC will make a determination regarding

the classification of the Pollitt Gathering Line based upon the facts as they exist at that time.

8. This Settlement Agreement is not an admission by Basil C. Pollitt, Whitney Clark Pollitt, Pollitt Enterprises, Inc., or The Gas Group that they willfully violated any provision of KRS Chapter 278.

9. The PSC will file a release of judgment lien in the Jefferson County Clerk's Office and Warren County Clerk's office upon The Gas Group's payment of \$20,000 as set forth in paragraph 2 above, and filing a farm tap tariff as set forth in paragraph 4 above, and curing the deficiencies set forth in paragraph 5 above.

10. In the event that The Gas Group has not paid the \$20,000 as set forth in paragraph 2 above, and has not filed a farm tap tariff as set forth in paragraph 4 above, and has not cured the deficiencies set forth in paragraph 5 above in the manner and time frames specific herein, the PSC shall be entitled to payment of \$25,750.00 with 12 percent per annum post-judgment interest from March 11, 2004 until paid from the judgment awarded to the PSC in Civil Action No. 01-CI-00069, As of August 31, 2018, the current balance due on that judgment is \$132,909.63, less a payment of \$600.00. The PSC shall also be entitled to bring an action in Franklin Circuit Court to collect the \$57,500 civil penalty assessed against Basil C. Pollitt, Whitney Clark Pollitt, Pollitt Enterprises, Inc., and The Gas Group in PSC Case No. 2017-00120.

11. This Settlement Agreement may be executed in multiple counterparts.

12. Franklin Circuit Court shall retain jurisdiction to enforce the terms of this Settlement Agreement and to conduct such further proceedings and award relief as may be necessary to resolve any breach of this Settlement Agreement by any of the Parties.

THIS SETTLEMENT AGREEMENT has been agreed to as of 1st day of
September, 2018.

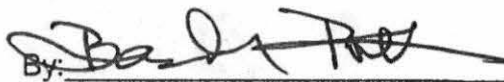
BASIL C. POLLITT, WHITNEY CLARK
POLLITT, POLLITT ENTERPRISES,
INC., AND THE GAS GROUP

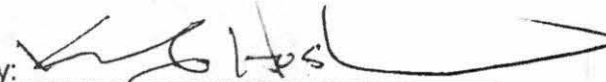
HAVE SEEN AND AGREED

By: 
Basil C. Pollitt

By: 
Whitney Clark Pollitt

By: 
Pollitt Enterprises, Inc.

By: 
The Gas Group

By: 
W. Kirk Hoskins, Counsel

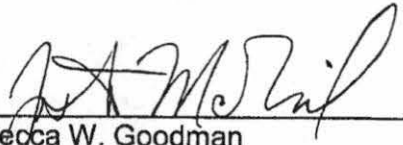
PUBLIC SERVICE COMMISSION OF
KENTUCKY

HAVE SEEN AND AGREED

By: Gwen R. Pinson
Gwen R. Pinson, Executive Director

ATTORNEY GENERAL FOR THE
COMMONWEALTH OF KENTUCKY, BY
AND THROUGH HIS OFFICE OF RATE
INTERVENTION

HAVE SEEN AND AGREED

By: 
Rebecca W. Goodman
Kent A. Chandler
Justin M. McNeil

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