

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LEGACY FARM TOWNHOMES)	
)	
_____)	CASE NO. 2000-534
)	
ALLEGED VIOLATIONS OF)	
ADMINISTRATIVE REGULATION)	
807 KAR 5:022)	

O R D E R

Alexander Properties Group, Inc., a Georgia corporation authorized to do business in Kentucky, does business as Legacy Farm Townhomes (“Legacy Farm”), an apartment complex in Lexington, Kentucky. Legacy Farm is a master meter system operator that receives natural gas from the Columbia Gas of Kentucky system and then redistributes its gas to 152 apartments through a network of steel and plastic pipelines.

Legacy Farm is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.040 and KRS 278.495, and is also subject to Commission jurisdiction under the authority of and in compliance with federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations of 49 CFR 189-199.

On December 14, 2000, this case was established and Legacy Farm was directed to show cause why it should not be subject to the penalties of KRS 278.992(1) relating to violations of pipeline safety laws as contained in a Comprehensive Inspection Report, dated November 16, 2000.

Following the commencement of this proceeding, Legacy Farm and Commission Staff entered into negotiations to resolve all outstanding issues in this proceeding. On April 12, 2001, they executed a Settlement Agreement, appended hereto, and requested Commission approval of that Agreement.

In reviewing the Settlement Agreement, the Commission considered, inter alia, the circumstances surrounding the violations; Legacy Farm's efforts to comply with the Commission's safety regulations; Legacy Farm's willingness to improve and enhance its existing safety programs and operations; and the steps Legacy Farm has undertaken to improve its natural gas pipeline system. The Commission finds that the Settlement Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

In Case No. 99-219,¹ Legacy Farm was assessed a \$3,000 civil penalty pursuant to KRS 278.992(1). Two thousand dollars of that penalty was suspended on the condition that Legacy Farm commit no repeat violations within a 3-year period. Legacy Farm is found to be in violation of the terms of the penalty suspension that was granted in Case No. 99-219, and the balance of the suspended penalty should now be paid.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.
2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.

¹ Case No. 99-219, Legacy Farm Townhomes: Alleged Violations of Administrative Regulation 807 KAR 5:022 (Order dated September 20, 1999).

3. The penalty suspension that was granted to Legacy Farm in Case No. 99-219 is revoked. Within 10 days of the date of this Order, Legacy Farm shall pay to the Commonwealth of Kentucky the sum of \$2,000. This payment shall be in the form of a cashier's check made payable to the Kentucky State Treasurer and shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

4. Legacy Farm is assessed a civil penalty of \$100,000, of which \$95,000 shall be suspended for 3 years and \$5,000 shall be paid in two installments of \$2,500 each by cashier's check payable to the Kentucky State Treasurer, with the first \$2,500 payment due on or before June 1, 2001 and the second \$2,500 payment due on or before August 1, 2001. Each installment shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

5. Failure to pay any installment when due or a repeat violation of any provision of law cited in the Settlement Agreement shall constitute a violation of the terms of the penalty probation and render the suspended \$95,000 penalty due and payable.

6. This case is closed and shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 19th day of April, 2001.

By the Commission

ATTEST:


Executive Director

APPENDIX TO AN ORDER OF THE
KENTUCKY PUBLIC SERVICE COMMISSION
IN CASE NO. 2000-534

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LEGACY FARM TOWNHOMES)
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_____) CASE NO. 2000-534
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ALLEGED VIOLATIONS OF)
ADMINISTRATIVE REGULATION)
807 KAR 5:022)

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into this April ^{12th} 2001, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and Alexander Properties Group, Inc. d/b/a Legacy Farm Townhomes ("Legacy Farm").

WITNESSETH:

WHEREAS, Alexander Properties Group, Inc., a Georgia corporation, authorized to do business in Kentucky, does business as and operates Legacy Farm Townhomes, an apartment complex in Lexington, Kentucky; and

WHEREAS, Legacy Farm is a master meter system operator that receives natural gas from the Columbia Gas of Kentucky system and then redistributes its gas to 152 apartments through a network of steel and plastic pipelines; and

WHEREAS, Legacy Farm, as a master meter operator, is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.040 and KRS 278.495, and is also subject to Commission jurisdiction under the authority of and in compliance with federal

pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations of 49 CFR 189-199; and

WHEREAS, on December 14, 2000, the Public Service Commission entered an Order establishing this case and directing Legacy Farm to show cause why it should not be subject to the penalties of KRS 278.992(1) relating to the violations as contained in the Comprehensive Inspection Report, dated November 16, 2000; and

WHEREAS, on January 11, 2001, an informal conference was held between Commission Staff and representatives of Legacy Farm for the purpose of discussing matters to aid in the disposition of this proceeding; and

WHEREAS, Legacy Farm does not contest the violations as contained in the Commission's Order of December 14, 2000; and

WHEREAS, Legacy Farm does not contest the violation of the terms of probation as contained in the Commission's Order of September 20, 1999 in Case No. 99-219;¹ and

WHEREAS, Legacy Farm filed a supplemental response and settlement request on March 2, 2001 containing a contract for the installation of cathodic protection for its system; and

WHEREAS, Legacy Farm and Commission Staff desire to settle the issues raised by this proceeding and have entered into this Settlement Agreement through compromise to settle the proceeding.

NOW, THEREFORE, it is hereby agreed that:

¹ Case No. 99-219, Legacy Farm Townhomes: Alleged Violations of Administrative Regulation 807 KAR 5:022, Order dated September 20, 1999.

1. There are no further facts to be submitted to the Commission concerning the violations cited herein, and Legacy Farm has waived its right to a public hearing on said violations.

2. Legacy Farm agrees that the violations herein constitute a breach of the terms of the suspension of the \$2,000 penalty assessed in Case No. 99-219, and that the suspension should be revoked and the \$2,000 penalty should become payable as the Commission shall Order.

3. Legacy Farm agrees to pay a civil penalty of One Hundred Thousand Dollars (\$100,000), of which \$95,000 shall be suspended for a period 3 years and \$5,000 shall be paid for the following violations:

a. 49 CFR 192.452 and 807 KAR 5:022, Section 10(2): Failure to provide cathodic protection for its gas system.

b. 49 CFR 192.747 and 807 KAR 5:022, Section 14(25): Failure to conduct annual valve inspection.

c. 49 CFR 192.721 and 807 KAR 5:022, Section 14(12): Failure to patrol its gas system.

d. 49 CFR 192.603 and 807 KAR 5:022, Section 13(2)(b): Failure to have a written Operation and Maintenance Plan on site for its natural gas system.

e. 49 CFR 192.615(10)(b)(1 and 2) and 807 KAR 5:022, Section 13(9)(b)(1 and 2): Failure to have an Emergency Plan on site and available to personnel in the event of an emergency. It is further agreed that the probated penalty of \$95,000 is suspended upon the condition that there is no further violation within a period of 3 years of one or more of the violations listed above.

4. Legacy Farm has filed with the Commission a copy of its Operation and Maintenance Plan and Emergency Plan and has copies on site.

5. Legacy Farm certifies to the Commission that it has performed its leak detection survey and value inspection survey for the year 2000 and is patrolling its gas system.

6. Legacy Farm certifies that it has entered into a contract for the installation of cathodic protection for its gas system, that it will notify the Commission of the completion thereof, and that it will request an inspection by Commission inspectors for cathodic protection on or before June 15, 2001. Failure to notify the Commission shall constitute a violation of the terms of the penalty probation and render the suspended \$95,000 penalty due and payable.

7. Legacy Farm agrees to pay the sum of \$5,000 in two installments of \$2,500 each by certified check payable to the Kentucky State Treasurer, with the first \$2,500 payment due on or before June 1, 2001 and the second \$2,500 payment due on or before August 1, 2001. Failure to pay any installment when due shall constitute a violation of the terms of the penalty probation and render the suspended \$95,000 penalty due and payable.


8. This settlement agreement is subject to the approval of the Public Service Commission.

9. If the Public Service Commission fails to adopt this agreement in its entirety, Legacy Farm reserves the right to withdraw from it and to proceed to a hearing. In such event, none of the matters contained in this settlement shall be binding on any of the parties.

10. If the settlement is adopted in its entirety by the Public Service Commission, this settlement shall constitute a final adjudication of the show cause proceeding without additional hearing.

11. If the settlement agreement is accepted by the Public Service Commission, the parties agree not to request rehearing or to file an appeal of the Order to the Franklin Circuit Court.

Alexander Properties Group, Inc.

By: 
Title: President


James R. Goff, Staff Attorney
Public Service Commission