

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WHEELWRIGHT UTILITY COMMISSION)	
_____)	CASE NO. 2004-00392
ALLEGED VIOLATIONS OF 49 CFR 192)	

O R D E R

Wheelwright Utility Commission (“Wheelwright”) is a municipally owned natural gas distribution company serving approximately 240 customers in the city of Wheelwright, Kentucky. As a municipally owned gas distribution system, Wheelwright is subject to the safety jurisdiction of the Commission pursuant to KRS 278.495(2)(a) and to the penalty provisions contained in KRS 278.992. Wheelwright is also subject to Commission jurisdiction under the authority of and in compliance with federal pipeline safety laws, 49 U.S.C. §§ 60101--60503, and the regulations promulgated thereunder.

Pursuant to its authority, the Commission directed Wheelwright to appear at a hearing on April 12, 2005 to show cause why it should not be subject to the penalties provided under KRS 278.992 for 10 probable violations of 49 CFR 192. At the request of Wheelwright, the Commission cancelled the hearing and scheduled an informal conference with Commission Staff to allow Wheelwright to discuss a possible resolution of this matter. Wheelwright agreed at the informal conference to submit a proposed offer of resolution, which it did on May 12, 2005. In that filing, Wheelwright admitted the

violations of the pipeline safety laws set out in the show cause Order and proposed that a penalty of \$10,000 be imposed.

KRS 278.992(1) provides that the Commission may assess a civil penalty not to exceed \$25,000 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed \$500,000 for any related series of violations. KRS 278.992(1) further provides that any civil penalty may be compromised by the Commission. Since Wheelwright has admitted the violations, the only issue to be considered by the Commission is the penalty to be assessed. In determining the amount of the penalty to be assessed, the Commission considers the gravity of the violations, the appropriateness of the penalty to the size of the business of the person charged, and the good faith of the person charged in attempting to achieve compliance after notification of the violation.

As a municipal utility subject to our jurisdiction for pipeline safety only, no annual reports are on file with the Commission. Consequently, the Commission has no basis upon which to consider the appropriateness of the penalty in relation to the size of Wheelwright, but does note the poor financial condition of Wheelwright as reported by its representatives at the informal conference. With regard to the gravity of the violations, the Commission does not believe that any violation of the pipeline safety laws should be taken lightly. However, we find that the violations enumerated in our Order of February 25, 2005, and admitted by Wheelwright, do not present an immediate danger to life or property and can be easily corrected. As to the final factor in determining the penalty, the Commission notes that, while Wheelwright discussed how it planned to

bring its system into compliance, it had made no attempt to correct any of the violations prior to making its offer of settlement.

The Commission wishes to impress upon Wheelwright the importance of appropriately maintaining and operating its system in compliance with safety laws. Accordingly, the Commission finds that Wheelwright's proffered penalty of \$10,000 should be accepted, but suspended for a period of 6 months on the condition that Wheelwright bring its system into compliance with all applicable safety laws. If at the end of the 6-month suspension period Wheelwright has cured all the violations and has committed no further violations of the pipeline safety laws, the penalty will be vacated. If, after the expiration of 6 months, the condition of the suspension has not been complied with, the entire penalty of \$10,000 shall be immediately due and payable. In order for the Commission to monitor Wheelwright's efforts, we find that Wheelwright should be required to file with the Commission every 60 days during the suspension period a written report on the status of its efforts to correct the violations enumerated in this proceeding. In addition, the Commission will direct its staff to perform an inspection of Wheelwright's gas system 6 months from the date of this Order and to submit a comprehensive inspection report.

IT IS THEREFORE ORDERED that:

1. Wheelwright's proffered penalty of \$10,000 is accepted with such penalty suspended for a period of 6 months from the date of this Order. If Wheelwright has cured all the violations enumerated in the Commission's Order of February 25, 2005 and committed no further violations, the penalty shall be vacated. Otherwise, the penalty shall be due and payable immediately.

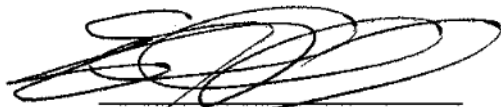
2. Wheelwright shall file with the Commission written compliance status reports every 2 months during the suspension period beginning 60 days from the date of this Order.

3. Six months from the date of this Order, Commission Staff shall perform an inspection of Wheelwright's gas system and submit a comprehensive inspection report to the Commission.

Done at Frankfort, Kentucky, this 27th day of June, 2006.

By the Commission

ATTEST:

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Executive Director