

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

WHITE PLAINS NATURAL GAS SYSTEM)
_____)) CASE NO. 2006-00046
)
ALLEGED VIOLATIONS OF)
ADMINISTRATIVE REGULATION)
807 KAR 5:022 and 49 CFR 189-199)

O R D E R

White Plains Natural Gas System ("White Plains Gas") is a municipally owned natural gas distribution system operated by the city of White Plains, Kentucky. White Plains Gas serves approximately 100 residential and commercial customers through a distribution system constructed in 2000.

White Plains Gas, as a municipally owned gas distribution system, is subject to the safety jurisdiction of the Commission pursuant to KRS 278.495(2). White Plains Gas is also subject to Commission jurisdiction under the authority of and in compliance with federal pipeline safety laws,¹ regulations,² and KRS 278.992.

On February 8, 2006, the Commission issued a show cause Order to White Plains Gas for alleged violations of 49 U.S.C. § 60101, and for assessment of a penalty for those violations pursuant to KRS 278.992.

¹ 49 U.S.C. §§ 60101 through 60125.

² 49 CFR Parts 189-199.

On February 27, 2006, an informal conference was held pursuant to the request of White Plains Gas. During the informal conference, Commission Staff and the representatives of White Plains Gas entered into negotiations to resolve all outstanding issues in this proceeding. A Settlement Agreement was executed and is appended hereto as Appendix A.

In reviewing this Settlement Agreement, the Commission has considered, *inter alia*, the circumstances surrounding both of the inspection reports, the cooperation of the city officials of White Plains, and the willingness of White Plains Gas to comply with all pipeline safety regulations.

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.


IT IS THEREFORE ORDERED that:

1. White Plains Gas has waived a hearing and therefore no formal hearing shall be held in this case.
2. The Settlement Agreement, appended hereto as Appendix A, is incorporated into this Order as if fully set forth herein.
3. The terms and conditions set forth in the Settlement Agreement are adopted and approved.
4. As White Plains Gas has tendered payment of the penalty as set out in Item 3 of the Settlement Agreement, this case is closed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 30th day of March, 2006.

By the Commission

ATTEST:



Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2006-00046 DATED March 30, 2006.

COMMONWEALTH OF KENTUCKY
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WHITE PLAINS NATURAL GAS SYSTEM)
_____)) CASE NO. 2006-00046
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ALLEGED VIOLATIONS OF)
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807 KAR 5:022 and 49 CFR 189-199)

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into this 7th day of March, 2006, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and WHITE PLAINS NATURAL GAS SYSTEM ("White Plains Gas").

WITNESSETH:

WHEREAS, White Plains Gas is a municipally owned natural gas distribution system operated by the City of White Plains, Kentucky, which serves approximately 100 residential and commercial customers in Hopkins County, Kentucky; and

WHEREAS, White Plains Gas is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.495(2); and 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, 807 KAR 5:022 and KRS 278.992; and

WHEREAS, on February 8, 2006, the Public Service Commission entered an Order establishing this case and directing White Plains Gas to show cause why it should not be

subject to the penalties of KRS 278.992 relating to a Utility Inspection Report dated November 16, 2003; and

WHEREAS, in that same Order, the Commission scheduled an informal telephone conference with the representatives of White Plains Gas to discuss the possibility of settlement and the simplification of issues; and

WHEREAS, on February 20, 2006, White Plains Gas filed its response to the Commission's Order; and

WHEREAS, White Plains Gas and Commission Staff held an informal on February 27, 2006, and have entered into this Settlement Agreement through compromise; and

WHEREAS, White Plains Gas has cooperated with Commission Staff in correcting the violations and implementing the proper programs and plans according to law;

NOW THEREFORE, White Plains Gas and Commission Staff agree that:

1. White Plains Gas waives a formal hearing in this case.
2. White Plains Gas shall be assessed a civil penalty of \$1,000 for each of the violations numbered 3 through 7 as alleged in the Order of February 8, 2006, a total of \$5,000. White Plains Gas shall be assessed a civil penalty of \$250 for each of the violations numbered 1 and 2 as alleged in the Order of February 8, 2006, a total of \$500. The total civil penalty assessed against White Plains Gas is \$5,500. However, \$5,000 of that penalty is to be suspended for a period of one year upon the following conditions:
 - a. White Plains Gas shall maintain all necessary records regarding the qualification of its employees and those of its contractors as required by law.

- b. White Plains Gas shall maintain all necessary records regarding its inspections of "key" valves.
- c. White Plains Gas shall have its public education program and anti-drug plan in place by April 1, 2006.
- d. No repeat violations by White Plains Gas of gas pipeline regulations within one year.

3. Within 10 days after the entry of an Order approving this Settlement Agreement, White Plains Gas shall pay to the Commonwealth of Kentucky the sum \$500. 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 of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

4. Nothing contained herein shall be construed as an admission of a willful violation of any federal or state statute or any provision of an administrative regulation, nor shall the Public Service Commission's acceptance of this agreement be construed as a finding of a willful violation of any statute or administrative regulation. This Settlement Agreement shall not be used for any purpose in any subsequent legal or administrative proceeding (other than a proceeding by the Commission to enforce the terms of this Settlement Agreement), and White Plains Gas shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Settlement Agreement.

5. This Agreement is subject to the acceptance of and approval by the Public Service Commission.

6. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on either signatory or be construed against either White Plains Gas or Commission Staff.

7. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be accepted and approved.

IN WITNESS WHEREOF, White Plains Gas and Commission Staff have executed this Settlement Agreement the day and year first above written by and through their duly authorized representatives.

STAFF OF THE PUBLIC SERVICE COMMISSION
OF KENTUCKY

BY: James R. Goff
Staff Attorney

WHITE PLAINS NATURAL GAS SYSTEM

BY: [Signature]
MAYOR ROBBIE LEWIS

TITLE: Mayor