

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CITY OF OLIVE HILL and	)	
CITY OF OLIVE HILL UTILITY DEPARTMENT	)	
_____	)	
ALLEGED FAILURE TO COMPLY	)	CASE NO. 2017-00167
WITH KRS 278.495 AND 49 CFR § 192	)	

ORDER

On May 11, 2017, the Commission initiated this proceeding and directed the City of Olive Hill and City of Olive Hill Utility Department (collectively, "Olive Hill") to show cause why Olive Hill should not be subject to the penalties prescribed in KRS 278.992(1) for alleged violations of 49 C.F.R. § 192.317 for failure to protect its transmission line from washouts, floods, unstable soil, landslides, or other hazards that may cause the pipeline to move or sustain abnormal loads. Following an evidentiary hearing, the Commission entered an Order on June 21, 2017, in which it found that Olive Hill had violated 49 C.F.R. § 192.317 by failing to take all practicable steps to protect a pipeline that was exposed in Tygart's Creek. The Commission further found that for violating 49 C.F.R. §192.317, Olive Hill was subject to a civil penalty under KRS 278.992(1) in the amount of \$60,000. The Commission ordered Olive Hill to pay within 30 days of the date of the Order \$5,000 of the assessed penalty, and suspended the remaining \$55,000 of the penalty on condition that Olive Hill: (1) replace the main that is exposed in Tygart's Creek with a new main installed under the creek within 30 days of the date of the Order; (2) provide the Commission written notice within five days of commencement of construction to replace

the exposed main; and (3) provide the Commission written notice within five days of completion of construction.

On June 26, 2017, Olive Hill filed a response providing notice that work to replace the exposed section of pipe had commenced on June 21, 2017. On July 7, 2017, Olive Hill filed a supplemental response providing notice that work to replace the exposed pipe was completed on June 30, 2017. Because this notice was not filed within five days of completion of construction as required by the June 21, 2017 Order, Olive Hill filed with its supplemental response a motion for leave to file late its notice of completion of construction. On July 10, 2017, the Commission received Olive Hill's payment of \$5,000.

The Commission finds that Olive Hill's motion for leave to file late its notice of completion of construction should be granted. The Commission's primary concern in initiating this proceeding was the serious nature of the potential consequences should the exposed pipeline fail, and Olive Hill acted promptly following the hearing in this matter to replace the pipe. Olive Hill has paid the \$5,000 penalty, and its notice of completion of construction was filed only two days after the deadline in the June 21, 2017 Order. The Commission finds that in these circumstances the late filing should be excused.

IT IS THEREFORE ORDERED that:

1. Olive Hill's motion for leave to file late its supplemental response is granted.
2. Olive Hill's notice of completion of construction to repair the pipeline that was exposed in Tygart's Creek is accepted as filed in compliance with ordering paragraph 5 of the Commission's June 21, 2017 Order.

3. This case is closed and removed from the Commission's docket.

By the Commission

ENTERED  
AUG 07 2017  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Acting Executive Director

\*Angela Owens  
City Clerk  
City of Olive Hill  
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Olive Hill, KENTUCKY 41164

\*Derrick Willis  
City Attorney  
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