

COMMONWEALTH OF KENTUCKY

RECEIVED

PUBLIC SERVICE COMMISSION

JUN 26 2017

Public Service  
Commission

In the Matter of: )

CITY OF OLIVE HILL and )

CITY OF OLIVE HILL UTILITY DEPARTMENT )

\_\_\_\_\_ )

ALLEGED FAILURE TO COMPLY )

WITH KRS 278.495 & 49 CFR §192 )

CASE NO. 2017-167

RESPONSE ON BEHALF OF CITY OF OLIVE HILL

COMES NOW the City of Olive Hill, by and through counsel, and for its Response hereby states as follows:

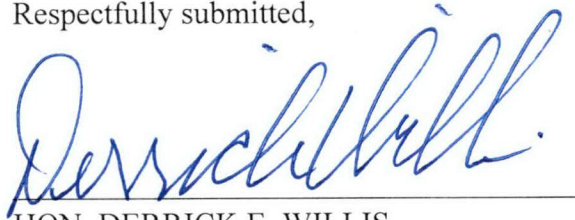
1. The City of Olive Hill appeared before the Public Service Commission on June 7, 2017 for Hearing on the alleged failure to comply with 49 CFR § 192.317.
2. Present were: Jerry Callihan, Mayor; Taylor Duncan, Code Enforcement Officer/Public Safety Coordinator/Building Inspector; Bill Stevens, City Foreman; and Derrick E. Willis, attorney.
3. The City acknowledged its violations and did not dispute the facts presented by the Public Service Commission.
4. The City acknowledged there existed an exposed gas line in the waters of Tygart Creek that was a main source of gas for the City.
5. There was un rebutted testimony that the City substantially complied by remedying 9 out of 10 deficiencies pointed out by the Public Service Commission.

6. The City did recite various circumstances which led to the City's failure to take necessary steps to remedy the problem, including, but not limited to:
  - a. Lack of necessary equipment to perform a road bore;
  - b. Lack of properly certified employees permitted to perform such work;
  - c. Lack of financial resources;
  - d. Lack of personnel to seek grants or funding;
  - e. Lack of communication due to the illness and death of the late Mayor, Kenny Fankell;
  - f. Lack of a municipal order delegating the Mayor's executive authority to other person or persons; and
  - g. Uncontrollable and unforeseen acts of God for which the City was not responsible; i.e. multiple floods.
7. The City concluded the hearing by taking responsibility and making assurances the City would remedy the problem as soon as practicable and by exchanging contact information to ensure the City would promptly respond to all future communications.
8. Mayor Jerry Callihan called for a Special City Council Meeting the following Monday, June 12, 2017 whereby the Mayor and Council deemed an emergency. The Council gave Mayor Callihan discretion and power to remedy the problem.
9. Mayor Callihan directed the city attorney to contact the Public Service Commission and advise what measures were undertaken and that a Response would be filed as soon as more information was available.

10. Mayor Callihan exercised his emergency authority by identifying funds and speaking with two contractors: Martin Construction and Swartz Pipeline Contracting. Both are reputable companies qualified to perform the required work.
11. Mayor Callihan asked both contractors to bid the job and give an estimated start date.
12. Swartz Pipeline Consulting advised they could begin on Monday, June 20, 2017 and expected to complete the job on or before June 30, 2017.
13. Mayor Callihan accepted Swartz Pipeline Contracting's bid and they began delivering equipment and materials on June 20<sup>th</sup> and work began June 21, 2017. Swartz still anticipates completion on or before June 30, 2017.

WHEREFORE, the City respectfully requests this be taken as its Response and to acknowledge it has taken the aforesaid diligent steps to remedy the existing deficiency.

Respectfully submitted,



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HON. DERRICK E. WILLIS  
Attorney for the City of Olive Hill  
225 Roger Patton Drive  
Olive Hill, KY 41164

CERTIFICATE OF SERVICE: The foregoing was served by mailing or electronically-mailing a true and correct copy to the following on the 21<sup>st</sup> day of June, 2017:

Hon. Jennifer Fell  
[Jennifer.Fell@ky.gov](mailto:Jennifer.Fell@ky.gov)

Robert Cicero  
[Robert.Cicero@ky.gov](mailto:Robert.Cicero@ky.gov)

Michael Schmitt  
[Michael.schmitt@ky.gov](mailto:Michael.schmitt@ky.gov)

Joel Grugin  
[Joel.Grugin@ky.gov](mailto:Joel.Grugin@ky.gov)

A handwritten signature in blue ink, appearing to read "Michael Schmitt", written over a horizontal line.