

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of:

ALEXANDER PROPERTIES GROUP,)
INC. AND CURT MANN AND)
ANDY ALEXANDER INDIVIDUALLY)
AND AS OFFICERS OF THE)
CORPORATION,)

CASE NO. 2004-00058

_____)
VIOLATIONS OF PIPELINE SAFETY)
STANDARDS KRS 278.992(1))

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into this December 1, 2004, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and ALEXANDER PROPERTIES GROUP, INC. ("Alexander Properties") d/b/a Legacy Farm Townhomes ("Legacy Farm") and Curt Mann and Andy Alexander, individually and as officers of the corporation.

WITNESSETH:

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

WHEREAS, Alexander Properties is a master meter system operator that receives natural gas from Columbia Gas of Kentucky, Inc. ("Columbia Gas") and then redistributes its gas to 152 apartments through a network of steel and plastic pipelines; and

WHEREAS, Alexander Properties, 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 March 26, 2004, the Public Service Commission entered an Order establishing this case and directing Alexander Properties and Curt Mann and Andy Alexander, individually and as officers of the corporation, to show cause why they should not be subject to the penalties of KRS 278.992(1) relating to the violations described in the Comprehensive Inspection Report dated March 16, 2004; and

WHEREAS, Alexander Properties was also directed to show cause why it should not be subject to revocation of the suspended penalties in Case No. 2000-00534; and

WHEREAS, Alexander Properties filed a response and requested an informal conference with Commission Staff; and

WHEREAS, Alexander Properties and Commission Staff have held two informal conferences to discuss the issues and settlement proposals; and

WHEREAS, Alexander Properties has entered into a agreement with Columbia Gas to install all plant necessary to serve its tenants as customers of Columbia Gas; and

WHEREAS, the effect of the construction and service by Columbia Gas will be to discontinue Alexander Properties as a master meter operator; and

WHEREAS, Alexander Properties and Commission Staff desire to settle all issues raised by this proceeding and have entered into this Settlement Agreement through compromise to settle the pending case.

NOW, THEREFORE, it is hereby agreed that:

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

2. Curt Mann and Andy Alexander, in their individual capacities, are to be dismissed as parties in this case.

3. Alexander Properties agrees to pay a civil penalty of \$2,500 for each violation described below, a total of \$5,000.

a. A violation of 49 CFR 192.615 in that Alexander Properties' Emergency Plan for its Legacy Farm property was not available to personnel in the event of an emergency.

b. A violation of 49 CFR 192.603 and 605 in that Alexander Properties did not have documents on its Legacy Farm property to indicate annual leakage surveys (subpart M, 192.723), corrosion inspections (subpart I), patrolling (subpart M, 192.721), and valve maintenance (subpart M, 192.749) had been performed in 2003.

4. Alexander Properties agrees to pay the sum of \$5,000 by cashier's check payable to the Kentucky State Treasurer, within 30 days from the entry of an Order by the Public service commission approving this Settlement Agreement. Failure to pay the penalty when due shall constitute a violation of the terms of the suspended penalty and shall render the suspended penalty in the amount of \$95,000 due and payable.

5. Alexander Properties and Commission Staff agree that the violations set forth in 3(a) and (b) above constitute a breach of the terms of the suspension of the \$95,000 penalty assessed in Case No. 2000-00534.

6. Alexander Properties and Commission Staff agree that suspension of the penalty should not be revoked by the Commission based upon the following:

a. The filing by Alexander Properties of documents representing its agreement with Columbia Gas whereby Alexander Properties has paid an amount in aid of construction for the installation of gas pipe, service lines, meters and regulators to enable Columbia Gas to provide gas service to its Legacy Farm tenants.

b. Alexander Properties certifies to the Commission that it will continue to perform its leak detection and value inspection surveys, and patrol its gas system until the transfer to Columbia Gas is completed.

c. Alexander Properties contracted with Gerald Powell for technical assistance in its safety program and in records maintenance.

d. The agreement with Columbia Gas provides that the gas system will be operated by an experienced local distribution system operator with more expertise and stability of personnel than could be provided by Alexander Properties.

6. Once the pipes, service lines, meters, and regulators have been installed and service is provided by Columbia Gas, Alexander Properties will no longer be a master meter operator subject to regulation by the Public Service Commission.

7. Based upon the representations contained in paragraphs 4,5,6,7 and 8 herein, Alexander Properties and Commission Staff agree that suspension of the \$95,000 penalty be continued through October 1, 2005. If, prior to October 1, 2005,

Alexander Properties provides to the Commission written confirmation from Columbia Gas that Columbia Gas has commenced gas service to the tenants of Legacy Farm, then the entire \$95,000 penalty shall be forgiven.


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, Alexander Properties 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 Agreement 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
Kentucky Public Service Commission