

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

FAILURE OF CAPITOL OIL COMPANY TO) CASE NO. 9659
COMPLY WITH COMMISSION REGULATIONS)

O R D E R

On August 14, 1986, the Commission ordered Capitol Oil Company ("Capitol") to appear and show cause why it should not be fined for repeated violations of the Commission's regulations, and to present evidence of a schedule to correct those violations. Attached as Appendices A and B to that Order were copies of staff inspection reports dated April 7, 1986, and June 17, 1985, listing numerous violations to the Commission's pipeline safety regulations found during safety inspections conducted on March 11, 12, and 17, 1986, and May 8, 1985. In addition to these violations, Capitol failed to respond to either report in any manner.

A hearing was conducted on September 17, 1986. Representing Capitol and appearing as a witness was Alex Fassas, owner and operator. Gary Johnson, counsel for Capitol, presented additional information regarding Capitol's actions to correct the violations. The decision of the Commission is based on written submissions, testimony by Mr. Fassas and Mr. Johnson, and documents available in the Commission's office.

COMMENTARY

During the course of the two safety inspections by staff utility investigators, Capitol was found deficient in compliance with the Commission's regulations, particularly its gas safety regulations (807 KAR 5:022). Due to Capitol's lack of response to the staff reports submitted on April 14, 1986, and June 14, 1985, respectively, the Commission initiated this show cause proceeding. Capitol has been cited for failure to respond to either inspection report and for failure to perform numerous maintenance activities in order to assure the safe and efficient operation of a natural gas utility. Capitol has also failed to maintain adequate up-to-date records, without which the Commission cannot determine whether prescribed actions have been completed or have been performed regularly.

At the hearing Capitol responded that each violation had been corrected or was scheduled for correction within 30 days. Subsequent to the hearing, on October 15, 1986, Capitol filed a progress report regarding the status of the corrections which were to be made. On October 20, 1986, a staff utility investigator conducted a follow-up inspection to verify the nature and extent of the corrections made.

The plastic pipe installed aboveground has been buried, and the plastic pipe unapproved for gas service has been replaced. The Mount Carmel casing vent has been repaired. A warning sign is in place at the meter house serving the Bible College. In order to meet the odorization requirements, Capitol has agreed to conduct weekly sniff tests to verify that the natural odorant in its

gas is present. While Capitol stated that system patrolling was documented in the employees' time sheets, these records will be updated on different forms suitable to the Commission. Regulator and relief valve maintenance records and main line valve inspection records were presented to the Commission for review and approval. An Operating and Maintenance Plan, including a damage prevention program and emergency plan, has been reviewed by Commission staff and returned to Capitol for additional changes. It was testified that safety meetings have been conducted regularly and are documented by employee time labor sheets. Capitol agreed that this information would be included in the updated Operating and Maintenance Plan. In addition, two of Capitol's employees will be attending a gas seminar in May 1987.

Capitol has also been cited for failure to comply with all corrosion control requirements and inadequate end seals on casings throughout the system. In the progress report filed, Capitol stated that corrosion testing was performed, resulting in the installation of insulators and anodes on buried sections of the six-inch transmission line. The purchase and installation of additional anodes and insulators will be an ongoing effort through 1987. In addition, all discharge lines and farm tap lines are being insulated. The progress of this work was verified during the follow-up inspection.

It was also testified that within 30 days Capitol would initiate a program to install new end seals. The progress report did not refer to this activity, and during the follow-up inspection the staff utility investigator was unable to determine if

this work had begun. Capitol also filed a map of the system at the hearing which it described as preliminary. It was testified that a more concise map would be filed with the Commission in approximately one week. The Commission notes that as of the date of this Order only the preliminary map has been filed.

The testimony at the hearing, the progress report filed, and the follow-up inspection conducted by staff reveal that Capitol has made significant progress towards bringing the system into compliance. Capitol is reminded, though, that it is required to respond to any Commission inspection report within the prescribed time noted.

The Commission notes that the ownership of Capitol is in a state of transition. On October 17, 1986, Mr. Johnson and C. D. Roberts filed an application (Case No. 9718) requesting that the Commission approve the transfer of Capitol's stock from Mr. Fassas to them. Mr. Fassas testified that it is these people who have the resources to make proper management changes, repair the pipeline, and replace the sections where necessary. It was also testified that Mr. Fassas and the prospective new owners first met on August 29, 1986, and approximately one week later the parties entered into a stock purchase agreement. The Commission further notes that the efforts to bring Capitol into compliance coincide with the appearance of Mr. Johnson and Mr. Roberts as prospective owners.

While the Commission recognizes the progress Capitol has achieved in correcting the deficiencies cited, such progress does not relieve Mr. Fassas of the responsibility for not being in

compliance with the Commission's regulations. It has been testified that the deficiencies existed, and Mr. Fassas has admitted to not responding to either report. Mr. Fassas, as operator of Capitol, has shown a consistent disregard for the Commission and its regulations. His failure to respond to the inspection reports and the subsequent follow-up letter of June 23, 1986, has prevented the Commission from working with Capitol to develop a timely schedule to correct the deficiencies. Such a schedule could have been developed with consideration towards any limitations existing within the company and its ability to respond within an appropriate time frame. Therefore, the Commission finds it necessary to levy a fine against Mr. Fassas for the reasons stated herein. Capitol is advised that any decision in Case No. 9718, the transfer application filed by Mr. Johnson and Mr. Roberts, is contingent upon payment of the fine by Mr. Fassas. The Commission is of the opinion that the current owner of Capitol, Mr. Fassas, should pay the fine and not the prospective new owners as identified in Case No. 9718.

FINDINGS AND ORDERS

After reviewing the record and being advised, the Commission is of the opinion and hereby finds that:

1. Safety inspections conducted on May 8, 1985, and March 11, 12 and 17, 1986, found Capitol in violation of numerous regulations of the Commission.

2. From the evidence presented at the hearing, the progress report filed, and follow-up inspection conducted subsequent to the hearing, Capitol has made significant progress towards compliance.

3. Capitol needs to continue its work regarding compliance with the Commission's corrosion control regulations.

4. Capitol should file with the Commission a revised copy of its Operating and Maintenance Plan, including its damage prevention program and emergency plan.

5. Capitol should submit to the Commission a progress report regarding the installation of end seals in all casings, including an estimated completion date.

6. Capitol should file with the Commission a schedule regarding completion of a system map within a reasonable time.

7. A fine should be levied against Mr. Fassas in the amount of \$4,000 for his failure to comply with the Commission's regulations and his failure to respond to the Commission's 1985 and 1986 correspondence, thereby preventing the development of a timely and appropriate compliance schedule.

8. Payment of said fine should not be made from the company's financial accounts but rather from Mr. Fassas' personal finances. Any decision on Case No. 9718 should be contingent upon payment of the fine as prescribed herein.

IT IS THEREFORE ORDERED that:

1. Within 30 days of the date of this Order, Capitol shall submit to the Commission a revised copy of its Operating and Maintenance Plan, including a damage prevention program and emergency plan.

2. Within 20 days of the date of this Order, Capitol shall submit a progress report regarding the installation of end seals in all casings, including an estimated completion date.

3. Within 20 days of the date of this Order, Capitol shall submit to the Commission a schedule regarding completion of a system map.


4. Mr. Fassas shall pay a fine in the amount of \$4,000 for his failure to comply with the Commission's correspondence in 1985 and 1986 regarding such compliance.

5. The payment of the fine shall be made from Mr. Fassas' own finances and not from Capitol's financial accounts.

6. Any decision in Case No. 9718 shall be contingent upon payment of the fine by Mr. Fassas in the manner prescribed herein.

Done at Frankfort, Kentucky, this 9th day of December, 1986.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director