

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DELTA NATURAL GAS COMPANY, INC.)	
_____)	
ALLEGED VIOLATION OF COMMISSION)	CASE NO. 99-158
REGULATION 807 KAR 5:027, SECTION 3)	

O R D E R

Delta Natural Gas Company, Inc. ("Delta") is a natural gas utility, pursuant to KRS 278.010(3)(b) and, as a natural gas utility, Delta is subject to Commission jurisdiction, pursuant to KRS 278.040 and 278.495.

KRS 278.280(2) directs the Commission to prescribe rules and regulations for the performance of services by utilities. Commission Staff has submitted to the Commission an Incident Investigation Report dated February 10, 1999, which alleges that Delta violated 807 KAR 5:027, Section 3(1)(c), which states:

Telephonic Notice of Certain Incidents. (1) At the earliest practicable moment but no later than two (2) hours following discovery, each utility shall give notice to the commission in accordance with subsection (3) of this section of any incident that: (c) Results in gas ignition.

The following facts are undisputed:

1. On February 6, 1999, an employee of Delta was notified of a natural gas line rupture and ignition.
2. On February 8, 1999, the Commission received notice from Delta that a service line break and natural gas fire had occurred on February 6, 1999.

Delta does not contest its violation of 807 KAR 5:027, Section 3(1)(c), but Delta does contest the assessment of any civil penalty for this violation. Delta has waived a public hearing and has agreed that this case is to be submitted to the Commission for a decision upon the record as to the assessment of a penalty, if any.

Delta's response describes several steps it has taken to mitigate the failure to comply with the regulation as reasons not to assess a penalty. Delta states that it had posted notices and had informed its employees of the required notification procedures and that the violation was due to human error.

Delta maintains that it violated a reporting regulation rather than a safety regulation, stating that when the supervisor learned of the incident, Delta reported it forthwith to the Commission. Delta also pointed out its good safety record.

Delta believes that, for the above reasons and in consideration of the actions it has taken (as outlined in its response), Delta should be exempt from the assessment of a civil penalty.

The Commission finds that Delta's argument that it violated a non-safety regulation is not well taken. This administrative regulation, 807 KAR 5:027, establishes rules which apply to reports of leaks by natural gas utilities. Section 2 of 807 KAR 5:027 establishes the scope of the regulation.

(1) This administrative regulation prescribes requirements for reporting gas leaks that are not intended by the utility and that require immediate or scheduled repair .

The Commission finds that the above regulation is in fact a safety regulation in that reporting gas leaks is a major element of the safety of the public. Failure to comply

with that safety regulation is a violation under the provisions of KRS 278.992(1) for which a civil penalty is required.

IT IS HEREBY ORDERED that:

1. Delta has violated 807 KAR 5:027, Section 3(1)(c).
2. Delta is assessed a civil penalty of Five Hundred Dollars (\$500.00) for the violation. Within 10 days of the date of this Order, Delta shall pay to the Commonwealth of Kentucky the sum of Five Hundred Dollars (\$500.00). This payment shall be in the form of a cashier's or certified check made payable to Treasurer, Commonwealth of Kentucky, and shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 11th day of June, 1999.

By the Commission

ATTEST:

Executive Director