

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

LEGACY FARM TOWNHOMES)	
)	
_____)	CASE NO. 99-219
)	
ALLEGED VIOLATIONS OF)	
ADMINISTRATIVE REGULATION)	
807 KAR 5:022)	

O R D E R

Legacy Farm Townhomes ("Legacy Farm") is a master meter system operator that receives natural gas from the Columbia Gas of Kentucky system. Legacy Farm then redistributes its gas to 152 apartments through a network of steel and plastic pipelines.

Legacy Farm, as a master meter operator, is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.040 and KRS 278.495. Legacy Farm 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.

On June 15, 1999, the Commission issued an Order requiring Legacy Farm to appear before the Commission on July 19, 1999 to present evidence and show cause why it should not be subject to civil penalties as prescribed in KRS 278.990 and KRS 278.992.

That Order also directed Legacy Farm to file a written response to the allegations, as set out in the Comprehensive Inspection Report, by July 7, 1999. Legacy Farm did not file a written response to the allegations as directed in the June 15 Commission Order.

On July 19, 1999, a formal hearing was held before the Commission, at which Legacy Farm was represented by its regional manager, Matt Bowling.¹ At that hearing Legacy Farm admitted that it was in violation of the regulations as set out in the Comprehensive Inspection Report.² Legacy Farm also admitted that it did not file a response to the allegations as ordered by the Commission.³ Failure to obey an Order of the Commission is a violation of KRS 278.990(1), which states that any person who willfully fails to obey any Order of the Commission shall be subject to a civil penalty not to exceed \$2,500 for each offense.

Based upon the evidence and admissions contained in the record, the Commission finds that Legacy Farm is in violation of the following:

1. No corrosion inspection for 1998 as required by KAR 5:022, Section 10(9) (a) and 49 CFR Part 192.465.
2. No annual valve inspection conducted in 1998 as required by 807 KAR 5:022, Section 14(25) and 49 CFR Part 192.747.
3. No system patrolling conducted in 1998 as required by 807 KAR 5:022, Section 14(12) and 49 CFR, Part 192.721.

¹ Transcript of Evidence, page 4.

² Transcript of Evidence, page 9-10.

³ Transcript of Evidence, page 14-15.

4. No leakage survey was conducted in 1998 as required by 807 KAR 5:022, Section 14 (13)(b) 1 and 49 CFR, Part 192.723.

5. No Operation and Maintenance (O&M) Plan as required by 807 KAR 5:022, Section 13 (2) and 49 CFR, Part 192.603.

6. No written Emergency Plan for its natural gas system as required by 807 KAR 5:022, Section 13(9) and 49 CFR, Part 192.615.

7. Failure to file a response to the allegations as ordered by the Commission on June 15, 1999, which is a willful violation of KRS 278.990(1).

The Commission has considered, in determining the amount of the penalty to be imposed for the six safety violations under KRS 278.992(1), that each violation carries a penalty of \$25,000. The Commission finds that Legacy Farm is a large apartment complex with 152 units and that the violations directly affect the safety of the residents of those apartments and that Legacy Farm did not attempt to respond to the Commission's Order prior to the hearing. Legacy Farm did testify that it had contacted Moore Pipeline Corrosion Service (Moore), which conducted a leak survey and cathodic protection survey. Legacy Farm presented forms that had been prepared by Moore for these required inspection reports. Legacy Farm also stated it was in the process of contracting with Moore to perform other inspections and prepare Operation & Maintenance plans.⁴

⁴ Transcript of Evidence, page 10, 12, 16, Exhibit A.

The Commission, having considered the evidence of record and having been otherwise sufficiently advised, HEREBY ORDERS that:

1. Legacy Farm is assessed a civil penalty of \$500 for its willful failure to file a response to the Commission's Order of June 15, 1999.

2. Legacy Farm is assessed a civil penalty of \$500 for each of the six violations of the Administrative Regulations as set out in findings 1 through 6 and as prescribed in KRS 278.992(1) for a total of Three Thousand (\$3,000) Dollars.

3. Within 10 days of the date of this Order, Legacy Farm shall pay to the Commonwealth of Kentucky the sum of One Thousand Five Hundred (\$1,500) Dollars. This payment shall be in the form of a cashier's or certified check made payable to Kentucky State Treasurer and shall be mailed or delivered to: Office of General Counsel, Public Service Commission, 730 Schenkel Lane, Post Office Box 615, Frankfort, Kentucky 40602.

4. The balance of the \$3,000 penalty for the violations under KRS 278.992(1) or \$2,000 is to be suspended subject to the following terms and conditions:

a. There are to be no repeat violations upon a re-inspection of Legacy Farm to be performed within 60 days from the date of this Order.

b. There are to be no repeat violations by Legacy Farm within the next three years.

c. Legacy Farm management staff shall attend annually for three years gas safety training seminars such as those sponsored by the Kentucky Gas Association or The United States Department of Transportation/Office of Pipeline Safety and retain records of said attendance for review by Commission Staff.

Done at Frankfort, Kentucky, this 20th day of September, 1999.

By the Commission

ATTEST:

Executive Director