

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BARDWELL CITY UTILITIES	)	
	)	
_____	)	CASE NO. 2001-260
	)	
ALLEGED VIOLATIONS OF	)	
KRS 278.040 and 278.992(1)	)	

O R D E R

Bardwell City Utilities (“Bardwell”) is a municipally owned natural gas distribution system, which serves approximately 620 customers in Bardwell and Cunningham in Lyon County, Kentucky. Bardwell is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.040 and KRS 278.495. Bardwell 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 the penalty provisions of KRS 278.992(1).

On September 18, 2001, the Commission issued a show cause Order to Bardwell for four alleged violations of 49 U.S.C. § 60101, and for assessment of a penalty for those violations pursuant to KRS 278.992.

On October 29, 2001, an informal conference by telephone was held pursuant to the request of Bardwell. During the informal conference, Commission Staff and the representatives of Bardwell entered into negotiations to resolve all outstanding issues in this proceeding. A Settlement Agreement was executed, appended hereto, for Commission approval.

In reviewing this Settlement Agreement, the Commission has considered, inter alia, the circumstances surrounding both of the inspection reports, the cooperation of the city officials of Bardwell, and the willingness of Bardwell to comply with all pipeline safety regulations.

The Commission finds that the Settlement Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

IT IS THEREFORE ORDERED that:

1. As Bardwell has waived its right to hearing, no formal hearing shall be held in this case.

2. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.

3. The terms and conditions set forth in the Settlement Agreement are adopted and approved.


4. Bardwell shall be inspected for pipeline safety regulations within one year from the date of this Order.

5. Upon the payment of the penalty as set out in 3(a) of the Settlement Agreement, this case shall be removed from the Commission's docket without further Order.

Done at Frankfort, Kentucky, this 6<sup>th</sup> day of December, 2001.

By the Commission

ATTEST:

A handwritten signature in black ink, appearing to read "Thomas M. Dixon", written over a horizontal line.

Executive Director

# **APPENDIX**

APPENDIX TO AN ORDER OF THE  
KENTUCKY PUBLIC SERVICE COMMISSION

IN CASE NO. 2001-260

DATED

12/6/01

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BARDWELL CITY UTILITIES	)	
_____	)	CASE NO. 2001-260
	)	
ALLEGED VIOLATIONS OF	)	
KRS 278.040 and 278.992(1)	)	

**SETTLEMENT AGREEMENT**

THIS AGREEMENT is made and entered into this 29<sup>th</sup> day of October, 2001, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and BARDWELL CITY UTILITIES ("Bardwell").

W I T N E S S E T H :

WHEREAS, Bardwell is a municipally owned natural gas distribution system, which serves approximately 620 customers in Bardwell and Cunningham in Carlisle County, Kentucky; and

WHEREAS, Bardwell is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.040 and KRS 278.495; and

WHEREAS, on September 18, 2001, the Public Service Commission entered an Order establishing this case and directing Bardwell to show cause why it should not be subject to the penalties of KRS 278.992(1) relating to an Inspection Report dated August 8, 2001; and

WHEREAS, on October 8, 2001, Bardwell, by counsel, filed its response to the Commission's Order, and on October 29, 2001, filed a supplemental Response; and

WHEREAS, Bardwell and Commission Staff held an informal conference on October 29, 2001, at which Bardwell stated that the former Utilities Commission was dissolved in July 2000; that the city officials began the operation of the utility thereafter; and that those officials began immediately to cure the violations as they became known to Bardwell; and

WHEREAS, Bardwell has cooperated with Commission Staff and has cured the violations of the regulations in a timely matter; and

WHEREAS, Bardwell and Commission Staff desire to settle the issues raised in this proceeding and have entered into this Settlement Agreement through compromise to settle these proceedings;

NOW THEREFORE, Bardwell and Commission Staff agree that:

1. Bardwell does not believe the present city administration is responsible for the alleged violations, but it nevertheless agrees, for the purposes of a settlement of all allegations herein, that Bardwell was in violation of the regulations as set out in the Commission's Order of September 18, 2001.

2. Bardwell waives a formal hearing in this case.

3. Bardwell shall be assessed a civil penalty of \$5,000 for each of the four violations described in the Order of September 18, 2001, or a total of \$20,000. However, a portion of that penalty shall be compromised and probated under the following terms:

- a. Within ten days after entry of an Order by the Commission approving this settlement, Bardwell shall pay \$2,000 to the Kentucky State Treasurer by cashier's check mailed or delivered to the Office of General Counsel, Public Service

Commission of Kentucky, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602.

b. The balance of the penalty, \$18,000, is probated for a period of one year upon the condition of no further violations by Bardwell of gas pipeline regulations.

4. This Agreement is subject to the acceptance of and approval by the Public Service Commission.

5. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on either signatory or be construed against either Bardwell or Commission Staff.

6. Commission Staff shall recommend to the Public Service Commission that this Settlement Agreement be accepted and approved.

IN WITNESS WHEREOF, Bardwell and Commission Staff have executed this Settlement Agreement the day and year first above written by and through their duly authorized attorneys.

STAFF OF PUBLIC SERVICE COMMISSION  
OF KENTUCKY

BY: \_\_\_\_\_  
Staff Attorney

BARDWELL CITY UTILITIES

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_