

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NATURAL GAS OF KENTUCKY, INC.	)	
_____	)	CASE NO. 2001-259
	)	
ALLEGED VIOLATIONS OF	)	
KRS 278.495 and 278.992(1)	)	

and

BLUEGRASS GAS SALES, INC.	)	
_____	)	CASE NO. 2001-279
	)	
ALLEGED VIOLATIONS OF	)	
KRS 278.495 and 278.992(1)	)	

O R D E R

Natural Gas of Kentucky, Inc. ("NGK") owns and operates transportation facilities for natural gas in Allen, Barren, Hart, Metcalfe, Warren, and Ohio counties in Kentucky. Natural Gas is an intrastate natural gas pipeline company composed of 7 separate systems transporting gas for industrial users and is subject to Commission jurisdiction.

Bluegrass Gas Sales, Inc. ("Bluegrass Gas") is a natural gas distribution utility serving about 500 customers in several Kentucky counties and is a utility under the jurisdiction of the Commission.

Both utilities are subject to Commission jurisdiction pursuant to KRS 278.040 and 278.992.

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

On August 8, 2001, Commission Staff submitted to the Commission a Comprehensive Inspection Report, alleging that Bluegrass Gas violated two provisions of federal pipeline safety laws, 49 U.S.C. § 60101 *et seq.*, and regulations promulgated thereunder. It was alleged that:

1. Bluegrass Gas has not conducted a leakage survey as required by 807 KAR 5:022, Section 14(13) and 49 CFR Part 192.723.

2. Bluegrass Gas has not kept the records necessary to administer the procedures established under its operating and maintenance (“O&M”) plan. 49 CFR Part 192.603 and 807 KAR 5:022, Section 13(2)(b).

Upon receipt of that inspection report, the Commission established Case No. 2001-279 for pending action pursuant to KRS 278.992.

On October 30, 2001, an informal conference was held pursuant to the request of NGK. During the informal conference, Commission Staff and the representatives of NGK and Bluegrass discussed a case pending before the Commission that involves Bluegrass Gas. NGK, Bluegrass Gas and Commission Staff entered into negotiations to resolve all outstanding issues in this proceeding and the pending case. A Settlement Agreement inclusive to both cases was executed for Commission approval.

In reviewing this Settlement Agreement, the Commission has considered, *inter alia*, the circumstances surrounding both of the inspection reports, efforts to comply with the Commission’s safety regulations, and the willingness of NKG and Bluegrass Gas to improve and comply with all pipeline safety regulations.

The Commission finds that Case No. 2001-259 and pending Case No. 2001-279 should be consolidated for administrative convenience and settlement purposes.

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. Case No. 2001-279 is consolidated with Case No. 2001-259.
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. Upon the payment of the penalties as set out in the Settlement Agreement, this case shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 28<sup>th</sup> day of November, 2001.

By the Commission

ATTEST:

Deputy W. H. Fowler  
Executive Director

# **APPENDIX**

APPENDIX TO AN ORDER OF THE  
KENTUCKY PUBLIC SERVICE COMMISSION  
IN CASE NOS. 2001-259 AND 2001-279

DATED

November 28, 2001

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NATURAL GAS OF KENTUCKY, INC.	)	
_____	)	
	)	CASE NO. 2001-259
ALLEGED VIOLATIONS OF	)	
KRS 278.495 and 278.992(1)	)	

SETTLEMENT AGREEMENT

On October 30, 2001, an informal conference was held between Commission Staff ("Staff") and representatives of Natural Gas of Kentucky, Inc. (hereinafter "NGK"). The conference was held at the request of NGK and pursuant to an Order of the Commission dated September 18, 2001. In that Order, it was alleged that NGK is in violation of three separate natural gas regulations, pursuant to KRS 278.992(1).

NGK maintains that the required inspections and surveys were, in, fact performed, but that records in support thereof were not kept. Based upon negotiations with Staff, it was agreed that NGK is in violation of the following regulations as contained in the August 8, 2001 inspection report:

1. Failure to conduct periodic leakage survey of distribution system, which is a violation of 807 KAR 5:022, Section 14(13) and 49 CFR Part 192.723.
2. Failure to maintain the records necessary to administer the procedures established under its operating and maintenance plan, which is a violation of 9 CFR Part 192.603 and 807 KAR 5:022, Section 13(2)(b).
3. Failure to provide for the isolated steel sections of the pipeline at each tap, which is a violation of 807 KAR 5:022, Section 10(4) and 49 CFR Part 192.455.

During the informal conference, Staff and the representatives of NGK discussed a pending case before the Commission that involves Bluegrass Gas Sales, Inc. ("Bluegrass Gas"). Bluegrass Gas is a natural gas distribution utility receiving its gas from NGK and has common operating principals. Attorney Jack Hughes represented both entities at the informal conference and requested global settlement of issues involving Bluegrass Gas as well as NGK. Both Staff and the representatives of Bluegrass Gas agreed to consolidate the two cases and to settle the violations charged to Bluegrass Gas without a formal show cause Order being issued against Bluegrass Gas by the Commission. Likewise, Bluegrass Gas maintains it performed the required survey, but failed to keep the required records. Based upon negotiations with Staff, it was agreed that Bluegrass Gas is in violation of the following regulations as contained in the inspection report dated August 8, 2001:

1. Bluegrass Gas has not conducted a leakage survey as required by 807 KAR 5:022, Section 14(13) and 49 CFR Part 192.723.
2. Bluegrass Gas has not kept the records necessary to administer the procedures established under its operating and maintenance plan. 49 CFR Part 192.603 and 807 KAR 5:022, Section 13(2)(b).

NGK, Bluegrass Gas, and Commission Staff desire to settle the issues raised by the proceedings and have entered into this Settlement Agreement through compromise to settle all proceedings herein.

NOW THEREFORE, NGK, Bluegrass Gas, and Commission Staff agree that:

1. NGK is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.040 and KRS 278.495. NGK 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, pursuant to KRS 278.992(1).

2. Bluegrass Gas is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.040 and KRS 278.495. Bluegrass Gas 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, pursuant to KRS 278.992(1).

3. NGK and Bluegrass Gas both waive a formal hearing in all matters herein.

4. In Case No. 2001-259, NGK shall be assessed a penalty of \$5,000 for each of the three violations listed herein, being a total of \$15,000. However, a portion of that penalty shall be compromised and probated under the following conditions:

a. Within ten days after entry of the Commission's Order approving this Settlement Agreement, NGK shall pay \$2,000 by cashier's check payable to the Kentucky State Treasurer, which shall be 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, \$13,000, is probated for a period of one year upon the condition of no further violations of safety regulations by NGK within that period.

5. In Case No. 2001-279, Bluegrass Gas shall be assessed a penalty of \$5,000 for each of the two violations listed herein, being a total of \$10,000. However, a portion of that penalty is to be compromised and probated under the following conditions:

a. Within ten days after entry of the Commission's Order approving this Settlement Agreement, Bluegrass Gas shall pay \$2,000 by cashier's check payable to the Kentucky State Treasurer, which shall be 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, \$8,000, is probated for a period of one year upon the condition of no further violations of safety regulations by Bluegrass Gas within that period.

6. 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 NGK, Bluegrass Gas, or Commission Staff.

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

**NATURAL GAS OF KENTUCKY, INC.**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**BLUEGRASS GAS SALES, INC.**

By: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
**James R. Goff**, Staff Attorney  
Public Service Commission

Date: \_\_\_\_\_