

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE UNION LIGHT, HEAT )  
AND POWER COMPANY )  
\_\_\_\_\_ )  
ALLEGED VIOLATION )  
OF KRS 278.992(1) )

CASE NO. 2002-00303

O R D E R

On August 29, 2002, the Commission issued an Order requiring The Union Light, Heat and Power Company ( UHL&P ) to show cause why it should not be penalized, pursuant to KRS 278.992(1), for the alleged violation of two pipeline safety regulations: (1) 49 CFR Part 192.751(a) (a hazardous amount of gas was vented to the atmosphere without a fire extinguisher present); and (2) 49 CFR 192.13(c) (requiring that each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs it has established under 49 CFR Part 192 ).

UHL&P filed a response to the Commission's Order and requested an informal conference with Commission Staff. An informal conference was held on October 11, 2002. Commission Staff and UHL&P agreed to merge the two violations into a single violation of 49 CFR 192.13(c). Pursuant to this agreement, UHL&P admits it did not follow its procedures regarding the activity in which its employees were engaged. UHL&P agreed to a civil penalty of \$25,000.

KRS 278.992(1) provides for the assessment of a civil penalty not to exceed \$25,000 for each violation. That statute also requires the Commission to consider several factors in determining the amount of said penalty. Although the result of the violation was significant, ULH&P has acted with dispatch and in good faith to acknowledge responsibility for its employees in this incident.

After considering the record herein and the Settlement Agreement, and being otherwise sufficiently advised, the Commission finds that:

1. The injuries to ULH&P's employees and the damage inflicted upon public property justify the assessment of the maximum penalty of \$25,000.
2. A penalty of \$25,000 is appropriate for a utility such as UHL&P.
3. The responses of UHL&P to this incident prior to its appearance before the Commission, in revising its procedures; instituting new training for this type of service; providing additional training for meter specialist one with a refresher course scheduled every 2 years; and providing new training material designed to emphasize safety procedures and address problems that may occur during the performance of activities similar to those involved in this incident, demonstrate good faith in achieving compliance with safety regulations.
4. The Settlement Agreement conforms with the terms and provisions of KRS 278.992(1) and should be approved.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, attached hereto as Appendix A, is incorporated into this Order as if fully set forth herein.

2. ULH&P is assessed a civil penalty of \$25,000. Within 10 days of the date of this Order, UHL&P shall pay the sum of \$25,000 to the Commonwealth of Kentucky. This payment shall be in the form of a cashier s check made payable to Kentucky State Treasurer, and shall be mailed or delivered to the Office of General Counsel, Public Service Commission, Post Office Box 615, 211 Sower Boulevard, Frankfort, Kentucky 40602.

3. Upon payment of the penalty as described above, this case shall be removed from the Commission s docket.

Done at Frankfort, Kentucky, this 21<sup>st</sup> day of November, 2002.

By the Commission

ATTEST:

  
Executive Director

## APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE

COMMISSION IN CASE NO. 2002-00303 DATED November 21, 2002

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE UNION LIGHT, HEAT )  
AND POWER COMPANY )  
\_\_\_\_\_ )

CASE NO. 2002-00303

ALLEGED VIOLATION )  
OF KRS 278.992(1) )

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered this 18<sup>th</sup> day of October, 2002, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and THE UNION LIGHT HEAT AND POWER COMPANY ("ULH&P").

WITNESSETH:

WHEREAS, ULH&P is a natural gas utility subject to Commission jurisdiction pursuant to KRS 278.040 and KRS 278.495; and

WHEREAS, on June 6, 2002, an incident involving a gas-related fire occurred in Covington, Kentucky; and

WHEREAS, on August 29, 2002, the Commission issued a show cause Order to ULH&P for the alleged violation of 49 CFR Part 192.751(a) and 49 CFR 192.13(c), directing ULH&P to show cause why it should not be subject to the penalties of KRS 278.992(1) relating to this incident; and

WHEREAS, ULH&P and Commission Staff held an informal conference on October 11, 2002 at which it was agreed that the two alleged violations would be merged

and ULH&P would admit that it was in violation of 49 CFR 192.13(c) for failure to follow its written procedures.

WHEREAS, ULH&P and Commission Staff desire to settle the issues raised by this proceeding and have entered into this Settlement Agreement through compromise.

NOW, THEREFORE, ULH&P and Commission Staff agree that:

1. Within 10 days after the entry of an Order approving this Settlement Agreement, ULH&P shall pay to the Commonwealth of Kentucky the sum of TWENTY FIVE THOUSAND DOLLARS (\$25,000). This payment shall be in the form of a cashier's check made payable to "Treasurer, Commonwealth of Kentucky" and 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.

2. ULH&P has submitted in mitigation that it had in place at the time of the incident procedures to cover this type of activity; the employees involved were experienced and had good safety records; the employees were disciplined as a result of ULH&P's own internal investigation; and that no member of the public was injured as a result of the accident. Further, ULH&P has revised its procedures and instituted new training for this type of service. ULH&P has conducted training for "meter specialist one" with a refresher course scheduled every two years. This refresher course also contains new material designed to emphasize safety procedures and address problems that may occur during the performance of such activity.

3. ULH&P has submitted to the Public Service Commission a copy of its revised procedures.

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

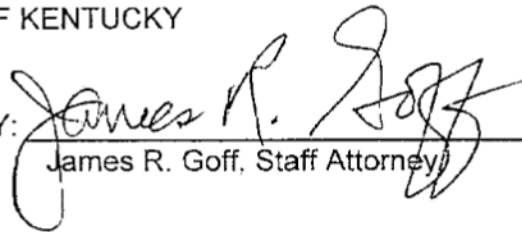
5. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on either signatory or be construed against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

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

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

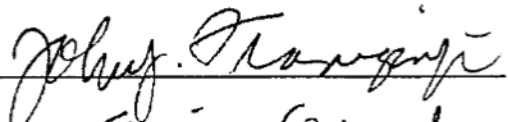
STAFF OF PUBLIC SERVICE COMMISSION  
OF KENTUCKY

BY:

  
James R. Goff, Staff Attorney

THE UNION LIGHT, HEAT AND POWER  
COMPANY

BY:

  
TITLE: Senior Counsel