

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NAMI RESOURCES COMPANY, LLC)		
)		
_____))	CASE NO. 2003-00061
ALLEGED VIOLATIONS OF))	
KRS 278.992(1)))	

O R D E R

Nami Resources Company, LLC (Nami) is a small gathering and transmission company located in Bell, Clay, Knox, Leslie, and Whitley counties, Kentucky. Nami has approximately 500 wells and 155 farm-tap customers.

Nami is subject to Commission safety jurisdiction under the authority of and in compliance with federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, the regulations of 49 CFR 189-199, and the penalty provisions contained in KRS 278.992.

On March 11, 2003, the Commission issued an Order requiring Nami to show cause why it should not be assessed penalties pursuant to KRS 278.992 for twelve alleged violations of 49 U.S.C. § 60101. Nami filed a response to the Order and, on April 22, 2003, an informal conference was held pursuant to Nami's request. During the informal conference, Commission Staff and representatives of Nami discussed the alleged violations and entered into negotiations to resolve all outstanding issues in this case. A Settlement Agreement has been executed by Commission Staff and Nami for consideration by the Commission.

In reviewing this Settlement Agreement, the Commission has considered, *inter alia*, the size of the business, the gravity of the violations, and the good faith efforts to comply with the Commission's safety regulations. The Commission finds that a civil penalty of \$30,000 should be assessed against Nami for the violations herein. The Commission further finds that the suspension of a portion of that penalty under the terms of 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. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.
2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.
3. Upon payment of the \$2,000 penalty as described in the Settlement Agreement, this case shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 9th day of July, 2003.

By the Commission

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2003-00061 DATED JULY 9, 2003

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NAMI RESOURCES COMPANY, LLC)
_____)) CASE NO. 2003-00061
)
ALLEGED VIOLATIONS OF)
KRS 278.992(1))

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered this 5 day of June, 2003, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and NAMI RESOURCES COMPANY, LLC ("Nami").

WITNESSETH:

WHEREAS, Nami is a small gathering and transmission company located in Bell, Clay, Knox, Leslie, and Whitley counties, Kentucky; and

WHEREAS, Nami has approximately 500 wells and 155 farm tap customers and is subject to Commission jurisdiction pursuant to KRS 278.040 and KRS 278.495; and

WHEREAS, on March 11, 2003, an Order was issued to Nami requiring it to show cause why it should not be assessed penalties pursuant to federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations of 49 CFR 189-199 and the penalty provisions contained in KRS 278.992; and

WHEREAS, Nami and Commission Staff held an informal conference on April 22, 2003 in which they agreed to enter into this Settlement Agreement through compromise to settle the proceeding herein; and

WHEREAS, Nami contends that the two violations, listed as repeat violations herein, were committed by Nami's predecessor and that the present management had no knowledge of those violations.

NOW, THEREFORE, Nami and Commission Staff agree that:

1. Nami will be assessed a civil penalty of \$2,500 for each of the twelve violations, for a total penalty of \$30,000. However, \$28,000 of that penalty will be suspended as follows:

a. Within ten days after entry of the Commission's Order approving this Settlement Agreement, Nami shall remit \$2,000 by cashier's check payable to the Kentucky State Treasurer. The check 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 (\$28,000) will be suspended for a period of one year from date of the Order approving this Settlement Agreement, upon the condition of no further violations of safety regulations.

2. Nami waives a formal hearing of all matters herein.

3. As proposed during the April 22, 2003 informal conference and included in Nami's Response filed April 4, 2003, and now made a part of this agreement concerning the twelve listed violations, Nami agrees to the following:

a. Nami did have an Operator Qualification Plan, but had not implemented it as required by 49 CFR Part 192.805. Nami now has implemented its plan, has personnel in place, and is keeping required records.

b. There were no records for a patrol program as required by 49 CFR Part 192.705, but Nami is keeping records and has submitted records of facility patrol.

c. There were no records of a leak survey for the system as required by 49 CFR Part 192.706. Nami has performed a leak survey and has submitted its leak survey records.

d. There were no records of annual inspection and partial operation of main line valves for the system as required by 49 CFR Part 192.745. Nami has established a program of annual inspections of its mainline valves and has submitted records of its inspections.

e. There were no records of corrosion control surveying for the system as required by 49 CFR Part 192.465. Nami has a contractor authorized to conduct inspections. Nami is currently installing anodes and flange insulation for corrosion protection to its system and has submitted corrosion survey reports.

f. There were no records of establishment of a continuing education program as required by 49 CFR Part 192.616. Nami has established a program and will file with the Commission a copy of its public notice.

g. There was an Operation and Maintenance Plan as required by 49 CFR Part 192.605 in effect, but it reflected an outdated coversheet. The Plan has been reviewed and updated.

h. There was no Damage Prevention Program as required by 49 CFR Part 192.614. Nami had experienced many calls concerning excavation in areas in which Nami does not operate. Nami has rejoined the statewide "One Call" system and

has furnished to the "One Call" staff reliable and accurate information for its pipeline system.

i. There was a written Emergency Plan as required by 49 CFR Part 192.615; however, it was not updated. The plan has been reviewed and updated.

j. Some warning signs at compressor stations as required by 49 CFR Part 192.751 were missing. All compressor stations have the appropriate warning signs posted.

k. There was no current Anti-Drug Plan implemented as required by 49 CFR Part 199.101. Nami has reviewed and established a formal Anti-Drug Plan.

l. There was no current Alcohol Misuse Plan implemented as required by 49 CFR Part 199.202. Nami has reviewed and established a formal Alcohol Misuse Plan.

4. Nothing contained herein shall be construed as an admission of a willful violation of any federal or state statute or any provision of an administrative regulation; nor shall the Public Service Commission's acceptance of this agreement be construed as a finding of a willful violation of any statute or administrative regulation. This Settlement Agreement shall not be used for any purpose in any subsequent legal or administrative proceeding (other than a proceeding by the Commission to enforce the terms of this Settlement Agreement), and Nami shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Settlement Agreement.

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

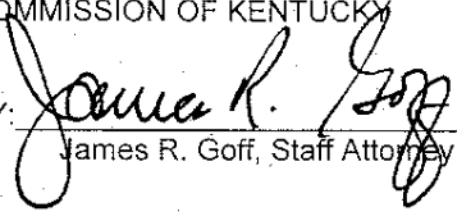
6. If the Public Service Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on any signatory or be construed against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

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

IN WITNESS WHEREOF, Nami and Commission Staff have executed this Settlement Agreement the day and year first above written.

STAFF OF THE PUBLIC SERVICE
COMMISSION OF KENTUCKY

BY:


James R. Goff, Staff Attorney

NAMI RESOURCES COMPANY, LLC

By


Vicki K. Luevano, Exec. V-P