

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TOMPKINSVILLE NATURAL GAS)	
SYSTEM)	
_____)	CASE NO. 2012-00362
)	
ALLEGED FAILURE TO COMPLY WITH)	
KRS 278.495)	

ORDER

By Order dated August 10, 2012, the Commission directed Tompkinsville Natural Gas System ("Tompkinsville") to show cause why it should not be subject to the penalties prescribed in KRS 278.992 for probable violations of KRS 278.495. Tompkinsville had an extensive history of non-compliance dating back several years.

On April 17, 2007, Commission inspector Steve Samples conducted a periodic regulatory compliance inspection of Tompkinsville and noted seven deficiencies of the Code of Federal Regulations, 49 CFR Part 192. On July 27, 2007, Commission inspector Joel Grugin conducted a follow-up inspection of Tompkinsville to ascertain and verify compliance actions taken by Tompkinsville in order to correct the previously noted seven deficiencies of 49 CFR Part 192. During this follow-up inspection it was determined that Tompkinsville had corrected five of the cited deficiencies and was making progress on correcting the remaining two. A second follow-up was scheduled and conducted by Mr. Samples on October 2, 2007. Tompkinsville had corrected one of the two remaining deficiencies by hiring a contractor to perform the necessary functions and was working through the Kentucky Gas Association and/or a contractor to provide

the necessary operator qualification (“OQ”) training for its employees performing covered tasks. The next periodic regulatory compliance inspection of Tompkinsville was conducted on June 5, 2009 by Mr. Grugin. He noted five deficiencies of 49 CFR Part 192. Mr. Grugin conducted a follow-up inspection on October 23, 2009, in order to ascertain and verify compliance actions taken by Tompkinsville to correct the previously noted five deficiencies of 49 CFR Part 192. During this follow-up it was determined that Tompkinsville had corrected all five of the cited deficiencies.

The violations cited in the Commission’s August 10, 2012 Order arose from a February 28, 2012 periodic regulatory compliance inspection of the Tompkinsville system by Mr. Grugin, who also followed up the inspection with phone calls the weeks of March 5, 2012 and April 9, 2012. Prior to issuance of the August 10, 2012 Order, a cover letter and copy of the inspection report were sent to Tompkinsville in which it was requested that Tompkinsville file a response no later than July 20, 2012. Tompkinsville filed its response on July 19, 2012 and stated that it had hired both a consultant and a contractor to aid in curing the deficiencies. Tompkinsville also stated that many of its records were lost or misplaced when the office was moved from the courthouse, but that it now has storage at the police department, where the records will be kept, as well as a person designated to be responsible for the record keeping and filing. The response also stated that Tompkinsville had obtained the manuals and plans it lacked during the inspection. The alleged violations cited in the Commission’s August 10, 2012 Order are as follows:

- 1. 49 CFR Part 192.605(a) Procedural manual for operations, maintenance, and emergencies.**

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Tompkinsville did not have an updated copy of its Operation and Maintenance (“O&M”) manual.

2. 49 CFR Part 192.616 Public awareness.

(a) Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute’s (API) Recommended Practice (RP) 1162 (incorporated by reference, see §192.7).

Tompkinsville had not reviewed or implemented its Public Awareness program and was not providing the public awareness messages as required.

3. 49 CFR Part 192.465 External corrosion control: Monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10–year period.

Tompkinsville had no records of any external corrosion control testing. Tompkinsville is required to have qualified personnel test each pipeline that is under cathodic protection to determine whether the cathodic protection meets the requirements of 49 CFR 192.463.

4. 49 CFR Part 192.721 Distribution systems: Patrolling.

(a) The frequency of patrolling mains must be determined by the severity of the conditions which could cause failure or leakage, and the consequent hazards to public safety.

(b) Mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled—

(1) In business districts, at intervals not exceeding 4 ½ months, but at least four times each calendar year; and

(2) Outside business districts, at intervals not exceeding 7 1/2 months, but at least twice each calendar year.

Tompkinsville did not maintain a list of any river crossings and mains under stress and did not document the frequency in which these mains will be patrolled by qualified personnel.

5. 49 CFR Part 192.723(b)(1) Distribution systems: Leakage surveys.

(a) Each operator of a distribution system shall conduct periodic leakage surveys in accordance with this section.

(b) The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions, but it must meet the following minimum requirements:

(1) A leakage survey with leak detector equipment must be conducted in business districts, including

tests of the atmosphere in gas, electric, telephone, sewer, and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks, at intervals not exceeding 15 months, but at least once each calendar year.

Tompkinsville did not conduct a leakage survey with leak detector equipment in its business district each calendar year, not to exceed 15 months, as required by regulation.

6. 49 CFR Part 192.747 Valve maintenance: Distribution systems.

- (a) Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.
- (b) Each operator must take prompt remedial action to correct any valve found inoperable, unless the operator designates an alternative valve.

Tompkinsville did not identify and maintain a list of critical or system safety valves. It did not have qualified personnel check and service each valve at required intervals, nor did it maintain adequate records for each valve inspection.

7. 49 CFR Part 192.741(a) Pressure limiting and regulating stations: Telemetry or recording gauges.

- (a) Each distribution system supplied by more than one district pressure regulating station must be equipped with telemetry or recording pressure gauges to indicate the gas pressure in the district.

Tompkinsville did not equip its system with an operational recording gauge to indicate the gas pressure in the district.

8. 49 CFR Part 192.1005 What must a gas distribution operator (other than a master meter or small LPG operator) do to implement this subpart?

No later than August 2, 2011 a gas distribution operator must develop and implement an integrity management program that includes a written integrity management plan as specified in §192.1007.

Tompkinsville did not have a written distribution integrity management plan as specified in 49 CFR 192.1007.

9. 49 CFR Part 191.11(a) Distribution system: Annual report.

(a) General. Except as provided in paragraph (b) of this section, each operator of a distribution pipeline system must submit an annual report for that system on DOT Form PHMSA F 7100.1–1. This report must be submitted each year, not later than March 15, for the preceding calendar year.

Tompkinsville had not submitted its annual report for its system to the Department of Transportation for 2011 or 2012.

10. 49 CFR Part 192.383(b) Excess flow valve installation.

(a) Definitions. As used in this section:

Replaced service line means a gas service line where the fitting that connects the service line to the main is replaced or the piping connected to this fitting is replaced.

Service line serving single-family residence means a gas service line that begins at the fitting that connects the service line to the main and serves only one single-family residence.

(b) *Installation required.* An excess flow valve (EFV) installation must comply with the performance standards in §192.381. The operator must install an EFV on any new or replaced service line serving a single-family residence after February 12, 2010, unless one or more of the following conditions is present:

(1) The service line does not operate at a pressure of 10 psig or greater throughout the year;

(2) The operator has prior experience with contaminants in the gas stream that could interfere with the EFV's operation or cause loss of service to a residence;

(3) An EFV could interfere with necessary operation or maintenance activities, such as blowing liquids from the line; or

(4) An EFV meeting performance standards in §192.381 is not commercially available to the operator.

Tompkinsville did not have an excess flow valve installed that complies with the performance standards in 49 CFR 192.381 on the seven new services that were installed in 2011, or for any of the new services installed in 2012.

11. 49 CFR Part 192.805 Qualification program.

Each operator shall have and follow a written qualification program.

Tompkinsville did not have a written OQ plan.

12. 49 CFR Part 192.805(h) Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities;

Tompkinsville did not ensure through evaluation that individuals performing covered tasks are qualified and that only qualified individuals are performing covered tasks on its pipeline system.

13. 49 CFR Part 192.625(f) Odorization of Gas.

(f) To assure the proper concentration of odorant in accordance with this section, each operator must conduct periodic sampling of combustible gases using an instrument

capable of determining the percentage of gas in air at which the odor becomes readily detectable.

Tompkinsville did not use an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable while conducting sampling of combustible gases and did not ensure the instrument being used is properly calibrated and functioning correctly.

14. 49 CFR Part 192.625(a) Odorization of gas.

(a) A combustible gas in a distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell.

Tompkinsville did not have qualified personnel conduct odorant samplings and maintain adequate records of the samples.

On August 27, 2012, Tompkinsville filed a response to the Commission's August 10, 2012 Show Cause Order and requested an informal conference be held in this matter. The informal conference was held at the Commission's offices on November 2, 2012. Tompkinsville was represented by its city attorney, Reed Moore, Jr., its mayor, Jeff Proffitt, a city commissioner, Jeffrey Harrison, the contractor hired to cure the deficiencies, Shawn Martin and the engineering consultant hired, David Bowles. During the informal conference, Tompkinsville stated that no employees had yet become OQ, but that the training was scheduled for November 12-13, 2012 at Martin Contracting's office in Richmond, Kentucky. Tompkinsville also stated that its OQ plan, public awareness plan, and DIMP plan had all been put into place and were being followed.

Tompkinsville discussed the repairs that had been made to its system. Shawn Martin stated that his crew was conducting leak surveys and repairing the leaks as they

were found. He stated approximately 20 Grade 1 leaks had been found and repaired. He also stated that a total of approximately 66 leaks had been found and repaired; that the focus thus far had been on the business districts; and that approximately 70 percent of the business districts had been covered. In addition, he stated that Tompkinsville had replaced approximately 1,500 feet of two-inch pipe with plastic pipe within the downtown area and that it had developed a five-year plan to eliminate all steel pipe from its system. Tompkinsville stated it had two rectifiers on its system (one in working order), and that it had arranged to receive help with the cathodic pressure readings and the rectifier. Tompkinsville still had six critical valves that it had not been able to find, or had been found and were not working properly. Tompkinsville also stated that its odorant detector had been sent for repairs and it did not have a way to conduct the proper odor tests without it. Commission Staff loaned Tompkinsville its odorant detector so these tests could be conducted.

The discussions at the informal conference led to the decision that it would be helpful for Tompkinsville to file an updated response to each of the 14 cited-deficiencies by November 30, 2012, and to provide the names of the employees who attended the OQ training as scheduled. Tompkinsville assured Commission Staff that personnel issues would be addressed for those employees who refused to attend the training. Tompkinsville filed the updated response on November 30, 2012 and a follow-up informal conference was scheduled for December 7, 2012 to further discuss this matter.

The follow-up informal conference was held as scheduled, and Tompkinsville was represented by the same individuals who attended the initial informal conference. Tompkinsville updated Commission Staff on the progress of curing the deficiencies.

Tompkinsville provided information on the employees who attended the OQ training and on what tasks they were now qualified to perform. Tompkinsville stated that a city commission meeting was scheduled for December 27, 2012, to discuss the personnel issue with the gas system; that it had now found all of the critical valves and that the excess flow valves were on back order but that Mr. Martin would try to find them someplace else; and that both rectifiers were now working and that all of its regulator stations had been tested. Mr. Martin stated that all Grade 1 and Grade 2 leaks had been repaired. He estimated that approximately 2,000 feet of pipe had been replaced with plastic and that 24 complete services had been replaced, as well as 20 additional risers and above-ground pipe. Mr. Martin stated that at this time he did not have a long-term contract in place with Tompkinsville; however, his discussions with the city were that he would remain on contract until the system was repaired and that someone qualified to run the gas system had been hired. Mr. Martin stated that his employees were aiding the Tompkinsville employees who had attended the OQ training and that they would continue to supervise those employees until they had enough on-the-job training to perform the necessary tasks. Tompkinsville stated that its long-term plan is to have one dedicated gas superintendent and one dedicated gas employee who are both OQ qualified, as well as to have other city employees OQ qualified to be able to assist in emergency situations. Tompkinsville also stated that it has spent approximately \$169,000 in correcting the deficiencies.

The follow-up informal conference led to the filing of a Joint Stipulation of Facts and Settlement Agreement (collectively referred to as "Settlement Agreement"). The Settlement Agreement, attached hereto as an Appendix and incorporated herein by

reference, sets forth Tompkinsville's agreement that Commission Staff's Utility Inspection Report, Appendix to the Commission's August 10, 2012 Order in this matter, accurately describes and sets forth material facts and findings surrounding the February 28, 2012 inspection. The Settlement Agreement also discusses the remedial actions taken by Tompkinsville and a civil penalty in the amount of \$9,000.00 that Tompkinsville will be assessed and will pay \$1,500.00 of the \$9,000.00 assessed fine in full satisfaction of this proceeding.

In determining whether the terms of the Settlement Agreement are in the public interest and are reasonable, the Commission has taken into consideration the comprehensive nature of the Settlement Agreement, Tompkinsville's actions taken after the inspection (including hiring a competent contractor to repair the gas system so it can be operated in a safe and reliable manner), having the mayor and a city commissioner attend both informal conferences and hiring an engineering consultant to develop a five-year plan of replacing all outdated pipe in the system, and Tompkinsville's cooperation in achieving a resolution of this proceeding.

Based on the evidence of the record and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement is in accordance with the law and does not violate any regulatory principle. The Settlement Agreement is a product of arm's-length negotiations among capable, knowledgeable parties, is in the public interest, and results in a reasonable resolution of all issues in this case.

IT IS THEREFORE ORDERED that:

1. The Joint Stipulation of Facts and Settlement Agreement is adopted and approved in its entirety as a complete resolution of all issues in this case.

2. Tompkinsville is assessed a penalty of \$9,000.00.

3. Tompkinsville shall pay \$1,500.00 of the \$9,000.00 assessed civil penalty within 30 days of the date of this Order by cashier's check or money order payable to the Kentucky State Treasurer and mailed or delivered to the Office of General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, Post Office Box 615, Frankfort, Kentucky 40602. The remaining \$7,500.00 of the civil penalty shall be suspended on the condition Tompkinsville abides by the terms of this Settlement Agreement and provides all documentation within the timeframe allowed. The \$7,500.00 suspended penalty shall be suspended until January 1, 2016 unless otherwise ordered by the Commission.

4. Tompkinsville shall hire a qualified person as a full-time gas superintendent or have a contract in place with a qualified contractor to run its gas system no later than April 30, 2013.

5. Tompkinsville shall complete the initial leakage survey of the entire system within 30 days of the date of this Order.

6. Tompkinsville shall have all outstanding deficiencies addressed and corrected within 90 days of the date of this Order.

7. Tompkinsville shall submit all forms, reports, and documentation generated in an effort to cure an outstanding deficiency to the Commission within ten days of its completion. Any such forms, reports, and documentation that have already been completed and not yet tendered shall be submitted within ten days of the date of the Order approving this Settlement Agreement.

8. Tompkinsville shall conduct subsequent leakage surveys within its business district at least once every six months, for the next three years (2013-2015). Pending review and evaluation of the leakage survey report(s), the Commission may allow Tompkinsville to return to performing leakage surveys according to regulations. The leakage survey report shall include, at a minimum, the following information: (a) location (address) of each leak; (b) grade of each leak discovered; and (c) repair schedule for each leak discovered. These leakage survey reports are to be filed with the Commission within ten days of the survey completion.

9. Beginning in 2013 and continuing through 2015, the following reports and documentation shall be submitted as indicated:

- Operator Qualification Records – annually by June 30 of each year.
- Leakage Survey Report – within 15 days of survey completion. The survey shall be conducted at the timeframes contained in paragraph 8 of this order.
- Valve Inspections – within 15 days of the inspection completion. The inspections shall be conducted at the timeframes contained in its O&M manual.
- Regulator Inspections – within 15 days of the inspections completion. The inspection shall be conducted at the timeframes contained in its O&M manual.
- Corrosion Records – within 15 days of the inspection completion. The inspection shall be conducted at the timeframes contained in its O&M manual.

- Odorant Tests – quarterly, within 15 days of the end of the quarter.

10. Tompkinsville shall be inspected for compliance with Pipeline Safety Regulations at least once each calendar year for the period of 2013-2015.

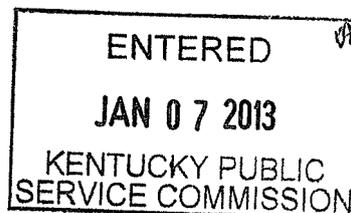
11. Tompkinsville shall file with the Commission, within 30 days of the date of this Order, the cost of compliance it has incurred to date, as well as an estimate of the future costs of compliance and documentation.

12. The hearing scheduled for January 8, 2013, is cancelled.

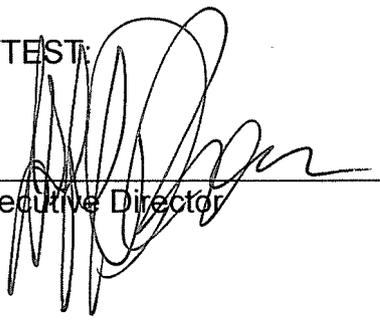
13. Upon payment of the \$1,500.00 civil penalty, this case shall be closed and removed from the Commission's docket without further Order of the Commission.

14. Any documents filed in the future pursuant to ordering paragraphs 4 through 11 herein shall reference this case number and shall be retained in the utility's general correspondence file.

By the Commission



ATTEST:



Executive Director

Case No. 2012-00362

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2012-00362 DATED JAN 07 2013

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TOMPKINSVILLE NATURAL GAS SYSTEM)
)
_____) CASE NO. 2012-00362
)
ALLEGED FAILURE TO COMPLY)
WITH KRS 278.495)

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

This agreement is formally known as a Stipulation of Facts and Settlement Agreement ("Settlement Agreement"). The parties to this Settlement Agreement are Tompkinsville Natural Gas System ("Tompkinsville") and Staff of the Kentucky Public Service Commission ("Commission Staff"). It is the intent and purpose of the parties hereto to express their agreement on a mutually satisfactory resolution of all of the issues in the proceeding.

It is understood by the parties that this Settlement Agreement is not binding upon the Public Service Commission ("Commission"). The Commission must independently approve and adopt this Settlement Agreement before this matter can be deemed concluded and removed from the Commission's docket. The parties have expended considerable efforts to reach a stipulation as to the facts of this matter, as well as in developing a proposal for settlement. Tompkinsville and Commission Staff agree that this Settlement Agreement, viewed in its entirety, constitutes a reasonable resolution of all issues in this proceeding.

In addition, the adoption of this Settlement Agreement will eliminate the need for the Commission, Commission Staff, and Tompkinsville to expend significant resources in litigating this proceeding and will eliminate the possibility of, and any need for, rehearing or appeals of the Commission's final Order.

FACTS

Tompkinsville and the Commission Staff submit this stipulation of facts for the Commission's consideration. Commission Staff submitted to the Commission a Utility Inspection Report ("Report") regarding a periodic regulatory compliance inspection which took place on February 28, 2012. The report alleges that Tompkinsville is in violation of 14 sections of the Code of Federal Regulations, 49 CFR Parts 191 and 192.

On June 14, 2012, a cover letter and copy of the inspection report were sent to Tompkinsville in which it was requested that Tompkinsville file a response no later than July 20, 2012. Tompkinsville filed its response on July 19, 2012 and stated that it had hired both a consultant and a contractor to aid in curing the deficiencies. Tompkinsville also stated it had obtained the manuals and plans it lacked during the inspection.

Tompkinsville and Commission Staff agree that the Report fairly and accurately describes the facts and findings of the February 28, 2012 inspection.

SHOW CAUSE ORDER

By a Show Cause Order dated August 10, 2012, the Commission initiated this proceeding to determine whether Tompkinsville should be subject to the penalties prescribed in KRS 278.992, which establishes the penalties for violations of any minimum safety standard adopted by the United States Department of Transportation pursuant to the federal pipeline safety laws, for probable violations of KRS 278.495,

which grants the Commission authority to regulate the safety of natural gas facilities owned or operated by any public utility, county, or city and used to distribute natural gas at retail. Specifically, the sections alleged to be violated are as follows:

1. 49 CFR Part 192.605(a) Procedural manual for operations, maintenance, and emergencies.

(a) General. *Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.*

2. 49 CFR Part 192.616 Public awareness.

(a) *Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see §192.7).*

3. 49 CFR Part 192.465 External corrosion control: Monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

4. 49 CFR Part 192.721 Distribution systems: Patrolling.

(a) The frequency of patrolling mains must be determined by the severity of the conditions which could cause failure or leakage, and the consequent hazards to public safety.

(b) Mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled—

(1) In business districts, at intervals not exceeding 4 1/2 months, but at least four times each calendar year; and

(2) *Outside business districts, at intervals not exceeding 7 1/2 months, but at least twice each calendar year.*

5. 49 CFR Part 192.723(b)(1) Distribution systems: Leakage surveys.

(a) Each operator of a distribution system shall conduct periodic leakage surveys in accordance with this section.

(b) The type and scope of the leakage control program must be determined by the nature of the operations and the local conditions, but it must meet the following minimum requirements:

(1) *A leakage survey with leak detector equipment must be conducted in business districts, including tests of the atmosphere in gas, electric, telephone, sewer, and water system manholes, at cracks in pavement and sidewalks, and at other locations providing an opportunity for finding gas leaks, at intervals not exceeding 15 months, but at least once each calendar year.*

6. 49 CFR Part 192.747 Valve maintenance: Distribution systems.

(a) Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.

(b) *Each operator must take prompt remedial action to correct any valve found inoperable, unless the operator designates an alternative valve.*

7. 49 CFR Part 192.741(a) Pressure limiting and regulating stations: Telemetering or recording gauges.

(a) Each distribution system supplied by more than one district pressure regulating station must be equipped with telemetering or recording pressure gauges to indicate the gas pressure in the district.

8. 49 CFR Part 192.1005 What must a gas distribution operator (other than a master meter or small LPG operator) do to implement this subpart?

No later than August 2, 2011 a gas distribution operator must develop and implement an integrity management program that includes a written integrity management plan as specified in §192.1007.

9. 49 CFR Part 191.11(a) Distribution system: Annual report.

- (a) General. *Except as provided in paragraph (b) of this section, each operator of a distribution pipeline system must submit an annual report for that system on DOT Form PHMSA F 7100.1-1. This report must be submitted each year, not later than March 15, for the preceding calendar year.*

10.49 CFR Part 192.383(b) Excess flow valve installation.

- (a) Definitions. As used in this section:

Replaced service line means a gas service line where the fitting that connects the service line to the main is replaced or the piping connected to this fitting is replaced.

Service line serving single-family residence means a gas service line that begins at the fitting that connects the service line to the main and serves only one single-family residence.

(b) *Installation required.* An excess flow valve (EFV) installation must comply with the performance standards in §192.381. The operator must install an EFV on any new or replaced service line serving a single-family residence after February 12, 2010, unless one or more of the following conditions is present:

(1) The service line does not operate at a pressure of 10 psig or greater throughout the year;

(2) The operator has prior experience with contaminants in the gas stream that could interfere with the EFV's operation or cause loss of service to a residence;

(3) An EFV could interfere with necessary operation or maintenance activities, such as blowing liquids from the line; or

(4) *An EFV meeting performance standards in §192.381 is not commercially available to the operator.*

11.49 CFR Part 192.805 Qualification program.

Each operator shall have and follow a written qualification program.

12.49 CFR Part 192.805(h) Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities;

13.49 CFR Part 192.625(f) Odorization of gas.

(f) To assure the proper concentration of odorant in accordance with this section, each operator must conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable.

14.49 CFR Part 192.625(a) Odorization of gas.

(a) A combustible gas in a distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell.

On August 27, 2012, Tompkinsville filed a response to the Commission's August 10, 2012 Order and requested an informal conference be held in this matter. Pursuant to that request, an informal conference was scheduled in this matter for November 2, 2012, at the Commission's Frankfort offices. Representatives of Tompkinsville were in attendance, as were Commission Staff.

During the informal conference, representatives of Tompkinsville confirmed that proactive steps have been taken to improve its gas system. Tompkinsville provided information as to the progress that had been made in correcting the deficiencies cited in the August 10, 2012 Order. During that informal conference, Tompkinsville stated that several more of the deficiencies could be corrected in the upcoming weeks. Commission Staff also loaned Tompkinsville an odorant machine so that it may perform the necessary testing. Tompkinsville had sent its machine to be repaired and had not received it back. It was also decided that it would be helpful for Tompkinsville to file an updated response to each of the fourteen cited deficiencies by November 30, 2012.

Tompkinsville filed the updated response on November 30, 2012 and a follow-up informal conference was scheduled for December 7, 2012 to further discuss this matter. The follow-up informal conference was held as scheduled. Tompkinsville had made additional progress on correcting the deficiencies cited. Tompkinsville stated they have obtained the required plans and manuals, tested and corrected both rectifiers to ensure proper cathodic protection on the system, patrolled the required sites, and provided training for gas personnel. Tompkinsville has also conducted a leakage survey of its business district and most of the surrounding area. The leakage survey resulted in the finding and repairing of approximately 148 leaks, including all of the Grade 1 and Grade 2 leaks that were identified, and the replacement of approximately 2000' of pipe. Tompkinsville has also identified an individual that will be responsible for maintaining the appropriate reports and documentation for its gas system. To date Tompkinsville estimates that they have incurred costs of approximately \$165,000 in an effort to correct the cited deficiencies.

SETTLEMENT AGREEMENT

As a result of discussions held during the informal conference, Tompkinsville and the Commission Staff submit the following Settlement Agreement for the Commission's consideration in this proceeding:

1. Tompkinsville agrees that the Commission Staff's Utility Inspection Report, Appendix to the Commission's August 10, 2012 Order in this matter, accurately describes and sets forth material facts and findings surrounding the February 28, 2012 inspection.

2. In settlement of this proceeding, Tompkinsville agrees for a civil penalty of \$9,000.00 to be assessed. Tompkinsville agrees to pay \$1,500.00 of the civil penalty within 30 days of the date of the Commission's Order approving this Settlement Agreement. The remaining \$7,500.00 of the civil penalty shall be suspended on the condition Tompkinsville abides by the terms of this Settlement Agreement and provides all documentation within the timeframe allowed. The \$7,500.00 suspended penalty shall be suspended until January 1, 2016 unless otherwise ordered by the Commission. The scope of this proceeding is limited by the Commission's August 10, 2012 Order on whether Tompkinsville should be assessed a penalty under KRS 278.992 for violations of KRS 278.495 and the adequacy, safety, and reasonableness of its practices related to the operations, maintenance, construction, installation, and repair of natural gas facilities and whether such practices require revision. Neither the payment of the \$1,500.00 nor any other agreement contained in this Stipulation, shall be construed as an admission by Tompkinsville of any liability in this matter, or in any legal proceeding or lawsuit arising out of the facts set forth in the Report, nor shall the Commission's acceptance of this Settlement Agreement be construed as a finding of a violation of any Commission regulation or federal rule.

3. Tompkinsville shall hire a competent person as a full time gas superintendent or have a contract in place with a qualified contractor to run its gas system no later than April 30, 2013.

4. Tompkinsville shall complete the initial leakage survey of the entire system within 30 days of the date of the Order approving this Settlement Agreement.

5. Tompkinsville shall have all outstanding deficiencies addressed and corrected within 90 days of the date of the Order approving this Settlement Agreement.

6. Tompkinsville shall submit all forms, reports, and documentation generated in an effort to cure an outstanding deficiency to the Commission within 10 days of its completion. Any such forms, reports, and documentation that have already been completed and not yet tendered shall be submitted within 10 days of the date of the Order approving this Settlement Agreement.

7. Tompkinsville shall conduct subsequent leakage surveys at least once every six months within its business district, for the next three years (2013-2015). Pending review and evaluation of the leakage survey report(s), the Commission may allow Tompkinsville to return to performing leakage surveys according to regulations. The leakage survey report shall include, at a minimum, the following information: Location (address) of each leak; grade of each leak discovered; repair schedule for each leak discovered. These leakage survey reports are to be filed with the Commission within 10 days of the survey completion.

8. Beginning in 2013 and continuing through 2015, the following reports and documentation shall be submitted as indicated:

- Operator Qualification Records – annually by June 30 of each year
- Leakage survey report – within 15 days of survey completion
- Valve inspections – within 15 days of the inspection completion
- Regulator inspections – within 15 days of the inspection completion
- Corrosion records – within 15 days of the inspection completion
- Odorant tests – quarterly, within 15 days of the end of the quarter.

9. Tompkinsville shall be inspected for compliance with Pipeline Safety regulations at least once each calendar year for the period of 2013-2015.

10. Tompkinsville shall file with the Commission within 30 days of the date of the Order approving this Settlement Agreement, the cost of compliance it has incurred to date as well as an estimate of the future costs of compliance.

11. In the event that the Commission does not accept this Settlement Agreement in its entirety, Tompkinsville and Commission Staff reserve their rights to withdraw from it and require that a hearing be held on any and all issues involved and that none of the provisions contained within this Settlement Agreement shall be binding upon the parties; used as an admission by Tompkinsville of any liability in any legal proceeding, administrative proceeding or lawsuit arising out of the facts set forth in the Utility Inspection Report; or otherwise used as an admission by either party.

12. This Settlement Agreement is for use in Commission Case No. 2012-00362, and no party to this matter shall be bound by any part of this Settlement Agreement in any other proceeding, except that this Settlement Agreement may be used in any proceedings by the Commission to enforce the terms of this Settlement Agreement or to conduct a further investigation of Tompkinsville's system. Tompkinsville shall not be precluded or estopped from raising any issue, claim or defense therein by reason of the execution of this Settlement Agreement.

13. Tompkinsville and Commission Staff agree that this Settlement Agreement is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If adopted by the Commission, Tompkinsville agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

TOMPKINSVILLE NATURAL GAS SYSTEM

By: (print name) Jeff Proffitt

By: (sign name) *Jeff Proffitt*

Title: Mayor

Date: 12-10-12

Attested By:

By: (print name) Jennifer Arms

By: (sign name) *Jennifer Arms*

Title: City Clerk

Date: 12-10-12

STAFF OF THE KENTUCKY PUBLIC SERVICE COMMISSION

By: (print name) L. Allyson Honaker

By: (sign name) *L. Allyson Honaker*

Title: Staff Attorney

Date: 12-14-12

Harold Frazier
Gas Superintendent
Tompkinsville Natural Gas System
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Tompkinsville, KY 42167

Honorable Reed N Moore, Jr.
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Jeff Proffitt
Mayor
City of Tompkinsville
206 N. Magnolia Street
Tompkinsville, KENTUCKY 42167