

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF VALLEY)
GAS, INC.'S FAILURE TO COMPLY WITH) Case No.
KRS 278.495, 807 KAR 5:027, AND 49.C.F.R) 2022-00001
PART 192)

VALLEY GAS, INC.'S POST-HEARING BRIEF

Without waiving the right to defend every allegation referenced herein, Valley Gas, Inc. (“Valley Gas”) does not deny the original allegations in the Inspection Report, per se, though Valley Gas maintains that it has performed adequate remedial measures and contests the amount of the Staff’s proposed civil penalty assessed. In fact, the Staff conducted a follow up inspection on site on November 2, 2021, and reviewed records on January 6 and March 1, 2022, and found that “the Valley gas system has cleared the seven violations cited in the July 12, 14, 15, 16, 19, & August 10, 2021, inspection. (**Exhibit 1 – 3.10.22 Inspection & Follow Up**). Accordingly, the remedial measures implemented by Valley Gas and Valley Gas’ arguments against the amount of the proposed civil penalty for each alleged violation of minimum federal pipeline safety standards (“Safety Standards”) cited by the Staff in the Inspection Report are set out below.

1. 49 CFR § 192.605 – Procedural manual for operations, maintenance, and emergencies.

The first violation cited in the Inspection Report is a violation of 49 CFR § 192.605(a), which states:

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... This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year.

The Staff's reported finding regarding Valley Gas' alleged violation of the above Safety Standard is "Valley Gas failed to conduct an annual review of its written operations and maintenance procedures." Furthermore, the Staff found that this violation is a repeat violation from the previous inspection of Valley Gas conducted in September 2019.

Valley Gas, however, was able to clear this previous deficiency relating to the 2019 inspection through the previous inspector's review of documents provided by, and conversation with, Valley Gas. Valley Gas, in its initial Response to the Inspection Report, noted:

[t]o correct this deficiency, Valley Gas has contracted with Utility Safety and Design, Inc. ("USDI") to develop new plans and manuals (Operations and Maintenance, Emergency, etc.) in accordance with 49 CFR 192.605, which will include a Procedural Manual and new forms. The O&M and Procedural Manual include the requirements to review, update, and document the manuals annually, not to exceed 15 months using the Annual Manual Review Form-101 of 192.491 & 192.459 and applicable procedures, regarding the examination of buried pipelines when exposed. Through the use of the O&M, Procedures, and Form 101-Annual Manual Review Form, Valley Gas will have the necessary tools to properly document its review.

In 2021, USDI completed the writing of the new O&M Manual to replace Valley Gas' existing 2020 manual (**Ex. 2 – USDI Letter of Services and Proposal**) and entered into a verbal agreement with Valley Gas to conduct annual reviews of the O&M Manual during the summer months of June, July, or August. Valley Gas has contracted with USDI to develop the new O&M Manual and review the O&M Manual annually (shown on Page 9 of Ex. 2 – USDI Proposal), along with providing their original Operations, Maintenance & Emergency Manual and an Annual Manual Review Form-101 completed on 11/02/2021 (**Ex. 3 – USDI Summary of Remedial Activities; Ex. 4 – OME Annual Review 2021**). These documents show that Valley Gas has gone above and beyond to adequately remedy the Staff's findings regarding Valley Gas' alleged

violation of 49 CFR § 192.605(a), and have implemented procedures to ensure compliance with 49 CFR § 192.605(a) in the future.

In remediating the violation of 49 CFR § 192.605(a) (along with 49 CFR § 192.615), Valley Gas has spent \$8,392.00. (**Ex. 5 – 8392USDI**).

Moreover, the amount of the civil penalty assessed regarding this violation is excessive. The Staff has assessed an original civil penalty of \$2,000 to Valley Gas due to this alleged violation. This Commission has assessed lesser amounts as penalties for the same violation in the past.

In *In the Matter of: City of Augusta Alleged Failure to Comply with KRS 278.495 & 49 C.F.R. Parts 191 & 192, No. 2019-00188*, 2021 WL 2322454, at *2 (June 2, 2021), the Commission assessed a civil penalty to the City of Augusta (“Augusta”) in the amount of \$1,000, finding “Augusta’s operation and maintenance plan does not meet all requirements of 49 C.F.R. § 192.605.” Here, the operation and maintenance procedures that Valley Gas had in place during the time of the inspection have been deemed to be sufficient, but the failure to review those operation and maintenance procedures is why Valley Gas has been penalized. Surely the mere failure to review adequate procedures is less serious of a violation than having noncompliant procedures in the first place.

Accordingly, Valley Gas argues that the \$2,000 civil penalty should be reduced in an amount equal to the amount spent by Valley Gas for adequate remedial measures having been taken which, in this matter, would completely remove this civil penalty.

2. 49 CFR § 192.615 – Emergency Plans.

The second violation cited in the Inspection Report is a violation of 49 CFR § 192.615(b)(2), which states:

Each Operator shall... Train the appropriate operating personnel to assure that they are knowledgeable of the emergency procedures and verify that the training is effective.

The Staff's reported finding regarding Valley Gas' alleged violation of the above Safety Standard is "Valley Gas failed to conduct emergency response training."

Valley Gas, in its initial Response to the Inspection Report, noted:

[t]o correct this deficiency, Valley Gas has contracted with Utility Safety and Design, Inc. ("USDI") to develop new plans and manuals (Operations and Maintenance, Emergency, etc.) in accordance with 49 CFR 192.605, which will include a Procedural Manual and new forms. The O&M and Procedural Manual include the requirements to review the Emergency Plan annually and review with all employees the requirements of the Plan.

Valley Gas then cited to specific language in the O&M that addresses reviews of the Emergency Plan. Next, Valley Gas noted "[t]he effectiveness of the training may be determined through the use of a written test following the annual review with employees." Valley Gas has contracted with USDI to develop the Emergency Plan (Ex. 2), along with providing their original Emergency Plan (Ex. 3 at Section 2) and has provided copies of written tests taken by employees of Valley Gas to show compliance with the annual review of the Emergency Plan (**Ex. 6 – Written Tests**). These documents show that Valley Gas has gone above and beyond to adequately remedy the Staff's findings regarding Valley Gas' alleged violation of 49 CFR § 192.615(b)(2) and have implemented procedures to ensure compliance with 49 CFR § 192.615(b)(2) in the future.

In remediating the violation of 49 CFR § 192.615 (along with 49 CFR § 192.605(a)), Valley Gas has spent \$8,392.00. (Ex. 5).

The civil penalty assessed against Valley Gas for the alleged violation of 49 CFR § 192.615(b)(2) is disproportionate to civil penalties assessed against other gas companies by this Commission for the same violation. The Staff has assessed a civil penalty of \$20,000 to Valley Gas due to this alleged violation. In *Augusta*, the Commission penalized Augusta only \$5,000 for

the exact same violation. In *In the Matter of: CITY OF DRAKESBORO D/B/A DRAKESBORO NATURAL GAS COMPANY ALLEGED FAILURE TO COMPLY WITH KRS 278.495, 807 KAR 5:022, AND 49 C.F.R. PART 192*, No. 2019-0065, 2021 WL 795440, at *4 (Feb. 25, 2021), this Commission assessed only a \$10,000 penalty for Drakesboro’s failure to train personnel on emergency procedures or ensure the training was effective.

Here, Valley Gas has been penalized in an amount that is twice as much as the penalty in *Drakesboro* and four times more than the penalty assessed in *Augusta*, without any explanation of how the Valley Gas violation is different than either the *Augusta* or *Drakesboro* violations. Although the Staff found this alleged violation to be of a serious nature, the violations in *Augusta* and *Drakesboro* were likewise deemed serious, and this is not a repeat violation of Valley Gas.

Accordingly, Valley Gas argues that the \$20,000 civil penalty should be reduced to \$5,000, in accordance with the *Augusta* penalty, and further reduced for adequate remedial measures having been taken which, in this matter, would completely remove this civil penalty.

3. 49 CFR § 192.625 – Odorization of Gas.

The third violation cited in the Inspection Report is a violation of 49 CFR § 192.625(a), which states:

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.

The Staff’s reported finding regarding Valley Gas’ alleged violation of the above Safety Standard is “[a]ccording to 2019-2021 sampling test records, gas in the Valley Gas distribution system was not properly odorized.”

Valley Gas, in its initial Response to the Inspection Report, noted: “[t]o correct this deficiency, Valley Gas has reviewed the requirements and procedures for conducting odorant tests

to determine the concentration is readily detectable at a concentration of 1/5th the LEL (1% Gas in Air) and recently had its odorization equipment re-calibrated and tested by the manufacturer. Furthermore, Valley Gas had USDI perform a cursory inspection of its odorizer and provided appropriate inspection forms with the newly developed manuals.” Valley Gas has contracted with USDI for odorization adjustment and remediation, odorant testing equipment – calibrated loaner equipment (Ex. 1), and has provided documents showing replaced gauges on the odorization station (**Ex. 7 - Replaced Gauges on Odorization Station**) and payment to USDI to address these issues (**Ex. 8 – USDI Odorization Invoice**). Furthermore, Valley Gas has contracted with USDI to conduct odorant tests four (4) times per year and USDI has developed odorization testing and odorizer inspection procedures (Ex. 2). These documents show that Valley Gas has gone above and beyond to adequately remedy the Staff’s findings regarding Valley Gas’ alleged violation of 49 CFR § 192.625(a), and have implemented procedures to ensure compliance with 49 CFR § 192.625(a) in the future.

The Staff has assessed a total civil penalty of \$40,000 to Valley Gas based on alleged violations occurring in 2020 and 2021. Valley Gas argues that the amount of the civil penalty assessed should be reduced as set forth in Section 9 below, and further reduced in an amount equal to the amount spent by Valley Gas for adequate remedial measures having been taken as set forth in Section 8, below which, in this matter, would completely remove this civil penalty.

4. 49 CFR § 192.721 – Distribution systems: Patrolling

The fourth violation cited in the Inspection Report is a violation of 49 CFR § 192.721(b)(1-2), which states:

(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.

The Staff's reported finding regarding Valley Gas' alleged violation of the above Safety Standard is "Valley Gas could not produce record indicating that its mains were patrolled as required." Furthermore, the Staff found that this violation is a repeat violation from the previous inspection of Valley Gas conducted in September 2019. However, Valley Gas was able to clear this previous deficiency relating to the 2019 inspection through the previous inspector's review of documents provided by, and conversation with, Valley Gas.

Valley Gas, in its initial Response to the Inspection Report, noted:

Patrolling of the distribution system is performed each summer while reading meters. Valley Gas usually reads meters with an automatic device (ITRON), but once a year we manually read and do our patrolling of the system. We have documents showing our manual readings for each customer, but failed to properly document the patrol on the appropriate forms. To correct this deficiency, Valley Gas contracted with USDI to develop new plans and manuals (Operations and Maintenance, Emergency, etc.) in accordance with 49 CFR 12.605, which includes a Procedural Manual and new forms. Patrols will be documented on Form 1101 – Pipeline Patrol Report following the procedures contained in Covered Task 56 – Pipeline Patrol in the Operations Procedural Manual. The new OME states the minimum patrolling schedule for this system as annually, not to exceed 15 months, unless there are mains in places or on structures where anticipated physical movement or external loading could cause failure or leaks. Those areas will be patrolled at least two (2) times per year, not to exceed 7 1/2 months if outside a business district, or at least four (4) times per year, not to exceed 4 1/2 months if within a business district. Through use of the O&M, Procedures, and appropriate forms, Valley Gas will have the necessary tools to properly perform and document patrols. USDI will provide training for Valley Gas personnel with regards to these manuals, implementation, and instructions on proper methods for filling out applicable forms and reports.

Valley Gas has contracted with USDI for leakage surveys in the Business District and Zone 3 of the system (Ex. 1) and has provided a Pipeline Patrol Report-1101 form which will be used to patrol the mains. Furthermore, USDI has developed procedures for conducting gas leakage surveys, recording the results, and providing a written report of the leak survey results (Ex. 2) (Ex.

3 at Covered Task 56). These documents show that Valley Gas has gone above and beyond to adequately remedy the Staff's findings regarding Valley Gas' alleged violation of 49 CFR § 192.721(b)(1-2), and have implemented procedures to ensure compliance with 49 CFR § 192.721(b)(1-2) in the future.

The Staff has assessed a civil penalty of \$4,000 to Valley Gas based on the alleged violation. Valley Gas argues that the amount of the civil penalty should be reduced as set forth in Section 9 below, and further reduced in an amount equal to the amount spent by Valley Gas for adequate remedial measures having been taken as set forth in Section 8, below which, in this matter, would completely remove this civil penalty.

5. 49 C.F.R. § 192.739 – Pressure limiting and regulating stations: Inspection and testing.

The fifth violation cited in the Inspection Report is a violation of 49 CFR § 192.739(a), which states:

Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests...

The Staff's reported finding regarding Valley Gas' alleged violation of the above Safety Standard is "Valley Gas failed to conduct inspections and tests of its Bewleyville Road regulator station at least once in a calendar year 2020. The current configuration of the station does not allow proper testing of the equipment." Furthermore, the Staff found that this violation is a repeat violation from the previous inspection of Valley Gas conducted in September 2019. However, Valley Gas was able to clear this previous deficiency relating to the 2019 inspection through the previous inspector's review of documents provided by, and conversation with, Valley Gas.

Valley Gas, in its initial Response to the Inspection Report, noted:

Regulator station inspections have been performed annually as required by 192.739 in which the regulators were visually inspected, checked for leaks, and lock-up tests performed, however as noted, the configuration of the Bewleyville Road station did not allow for testing lock-up of the regulators. To correct this deficiency, Valley Gas contracted with USDI to reconfigure the station and perform appropriate inspection and testing as required by 192.739(a). This work, along with performing inspections on the remaining stations, was completed on August 3-4, 2021.

Valley Gas has contracted with USDI to inspect and test each pressure regulating station and relief device and to provide a written report of the regulator and relief inspections (Ex. 2). These documents show that Valley Gas has gone above and beyond to adequately remedy the Staff's findings regarding Valley Gas' alleged violation of 49 CFR § 192.739(a), and have implemented procedures to ensure compliance with 49 CFR § 192.739(a) in the future.

The Staff has assessed a civil penalty of \$20,000 to Valley Gas based on the alleged violation. Valley Gas argues that the amount of the civil penalty should be reduced as set forth in Section 9 below, and further reduced in an amount equal to the amount spent by Valley Gas for adequate remedial measures having been taken as set forth in Section 8, below which, in this matter, would completely remove this civil penalty.

6. 49 CFR § 192.807 – Recordkeeping.

The sixth violation cited in the Inspection Report is a violation of 49 CFR § 192.807(b), which states:

Each operator shall maintain... (b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

The Staff's reported finding regarding Valley Gas' alleged violation of the above Safety Standard is "Valley Gas could not produce complete operator qualification records for employees performing covered tasks for the period between September 2014 and February 2020."

Valley Gas, in its initial Response to the Inspection Report, noted:

During the previous audit it was determined that Valley Gas did not have current Operator Qualification records for some covered tasks, so we contracted with Arc Randolph and Associates to requalify Valley Gas employees in February 2020. Recently, we contracted with USDI to complete the appropriate OQ training and evaluations for all Valley Gas employees that did not have current qualifications for tasks they were expected to perform. Employees are working to complete the online modules and, upon successful completion, will be field evaluated by USDI in accordance with 192.807.

Valley Gas contracted with Arc Randolph and Associates to requalify Valley Gas employees (**Ex. 9 – ARC Randolph Contract**). Furthermore, Valley Gas has completed substantial OQ training and field evaluations conducted by USDI (**Ex. 10 – 1.25.22 OQ Training Report**) (**Ex. 11 – 11.30.21 OQ Training Report**). These documents show that Valley Gas has gone above and beyond to adequately remedy the Staff’s findings regarding Valley Gas’ alleged violation of 49 CFR § 192.807(b), and have implemented procedures to ensure compliance with 49 CFR § 192.807(b) in the future.

The Staff has assessed a civil penalty of \$2,000 to Valley Gas based on the alleged violation. Valley Gas argues that the amount of the civil penalty should be reduced as set forth in Section 9 below, and further reduced in an amount equal to the amount spent by Valley Gas for adequate remedial measures having been taken as set forth in Section 8, below which, in this matter, would completely remove this civil penalty.

7. 49 CFR § 192.805 – Qualification program.

The seventh violation cited in the Inspection Report is a violation of 49 CFR § 192.805(b), which states:

Each operator shall have and follow a written qualification program. The program shall include provisions to:... (b) Ensure through evaluation that individuals performing covered tasks are qualified;

The Staff’s reported finding regarding Valley Gas’ alleged violation of the above Safety Standard is “Valley Gas employees without current operator qualification certifications were

performing the following covered tasks: Pipe-To-Soil Potentials (CP Readings) – No record of training; Emergency Valve Inspection – No record of training; Odorization Testing – Expired certification; and Locate and Mark Underground Facilities – Expired certification.” Furthermore, the Staff found that this violation is a repeat violation from the previous inspection of Valley Gas conducted in September 2019. However, Valley Gas was able to clear this previous deficiency relating to the 2019 inspection through the previous inspector’s review of documents provided by, and conversation with, Valley Gas.

Valley Gas, in its initial Response to the Inspection Report, noted:

[t]o correct this deficiency, Valley gas contracted with USDI to review and update its Operator Qualification (OQ) Plan to ensure it satisfies the requirements of 192.805 and provide OQ Training and evaluations on applicable covered tasks for Valley Gas personnel. This will be accomplished by utilizing Energy WorldNet (EWN) for online training and testing to satisfy the “knowledge” requirement of applicable regulations. Upon successful completion of the online training, USDI will perform field evaluations (hands-on, performance evaluations) for Valley Gas personnel, whereby they will be required to successfully demonstrate they have the “skills and ability” to perform the task(s) as well as recognize and react to abnormal operating conditions (AOCs). It is expected that this should be completed by October 31, 2021.

Valley Gas has completed OQ training and field evaluations conducted by USDI for all individuals performing covered tasks (Ex. 10 & 11). These documents show that Valley Gas has gone above and beyond to adequately remedy the Staff’s findings regarding Valley Gas’ alleged violation of 49 CFR § 192.805(b), and have implemented procedures to ensure compliance with 49 CFR § 192.805(b) in the future. The following supporting documents are attached:

Valley Gas argues that the amount of the civil penalty assessed regarding this violation is excessive. The Staff has assessed a total civil penalty of \$80,000 to Valley Gas due to four covered tasks that allegedly violate this Safety Standard. This Commission has assessed lesser amounts as penalties for the same violation in the past.

In *Augusta*, the Commission assessed a civil penalty to the City of Augusta in the amount of \$5,000, finding “Augusta failed to employ a qualified individual to conduct the critical task of pipe-to-soil readings in violation of 49 C.F.R. § 192.805(b).” Here, Valley Gas has been assessed a total civil penalty twenty times greater than the penalty assessed in Augusta. One could argue that Augusta only had one alleged violation of this Safety Standard while Valley Gas had four alleged violations, but this would still not account for the discrepancy between the assessed civil penalties. It stands to reason that if Augusta violated this Safety Standard once and was assessed penalty of \$5,000, then Valley Gas should be assessed, at the maximum, a penalty of \$20,000 for the four violations of the same Safety Standard.

Accordingly, Valley Gas argues that the \$80,000 civil penalty should be reduced to \$5,000, and the payment of the lowered penalty should be reduced in an amount equal to the amount spent by Valley Gas for adequate remedial measures having been taken as set forth in Section 8 which, in this matter, would completely remove this civil penalty.

8. Expenditures Made by Valley Gas to Remedy Violations.

Other than the expenditures made to remedy the violations of 49 CFR § 192.605 and 49 CFR § 192.615(a) as shown in Ex. 5, each specific expenditure is not traceable to each specific violation. However, each expenditure attached hereto as **Exhibits 12-21** are the amounts spent by Valley Gas for the remedial measures taken. In sum, remedial expenses taken amount to **\$40,265.90**, as set forth in Valley Gas’s May 24, 2022 Response to Commission Staff’s Post-Hearing Request for Information.

9. Calculation of Civil Penalty Imposed.

As noted by the Staff in the Inspection Report, KRS 278.992(1) provides that any person who violates any minimum pipeline safety standard adopted by the United States Department of

Transportation, or any regulation adopted by the Commission governing the safety of pipeline facilities shall be subject to a civil penalty not to exceed the maximum civil penalty contained in 49 CFR § 190.223, as amended. Currently, the maximum civil penalty is \$225,134 for each violation for each day the violation continues, with a maximum administrative civil penalty not to exceed \$2,251,334 for any related series of violations.

In determining the amount of the proposed penalty, Staff considers the assessment factors set forth in KRS 278.992(1): “the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of the violation.” Additionally, Staff considers the assessment factors applied under federal law by the Associate Administrator for Pipeline safety for PHMSA to determine the amount of the civil penalty for violation of a federal pipeline safety standard.

Although the Staff found Violations 2, 3, 5 and 7 to be serious, and 1, 4, 5, and 7 to be repeat violations from the 2019 inspection, the Staff also noted that Violations 1, 4, and 6 to be less serious violations and that Valley Gas is a small gas distribution system. Namely, this penalty, if imposed, would require a rate raise for Valley Gas (which they have not had in 10 years) and likely to take out a loan. These findings would allow for any civil penalty assessed to be reduced significantly. Furthermore, the Commission, in *Drakesboro*, found that the Commission had the authority to “both assess penalties pursuant to the criteria established therein and to compromise any civil penalties assessed.”

In *Drakesboro*, the Commission held that *Drakesboro* offered retail gas service to approximately 667 customers. The Commission found *Drakesboro* had committed approximately 35 violations of the Safety Standards and assessed a civil penalty totaling \$864,000. However, due to the size of *Drakesboro* and the ability of *Drakesboro* to remedy the violations, the Commission

only required *Drakesboro* to pay \$30,000 of the penalties within 180 days of the order and the remaining civil penalties were considered to paid based on the satisfaction of certain conditions.

Furthermore, in *Augusta*, the Commission held that Augusta provided retail gas service to 550 customers. The Commission found Augusta to have violated 11 Safety Standards and assessed a total civil penalty of \$142,000. However, in consideration of the size of Augusta's natural gas utility, the Commission reduced the penalty by 75% to \$35,625, and gave Augusta credit for expenditure made to correct the deficiencies cited. These credits included the purchase of a new odorometer and the redesign and rebuilding of regulator stations, making the new total assessed penalty \$25,622.

Here, Valley Gas has been assessed a civil penalty of \$168,000. The Commission reduced the penalty for operator size by \$126,000 for a total civil penalty of \$42,000. However, based on the nature of the alleged violations, the good faith remedial measures implemented by Valley Gas and the expenditures already made by Valley Gas in implementing said remedial measures, the size of Valley Gas, and the Commission's willingness to suspend \$834,000 of the total assessed civil penalties against *Drakesboro*, Valley Gas argues that the payment of the \$42,000 should be waived entirely, or that any penalty should be further discounted and reduced by the amount of money spent in performing the above mentioned remedial measures which, in this matter, would completely remove the civil penalties.

If the Commission shall disagree with waiving the fees entirely, Valley Gas alternatively proposes the following discounting in accordance with the reasons stated above:

Violation 1 - \$1,000

Violation 2 - \$5,000

Violation 3 - \$40,000

Violation 4 - \$4,000

Violation 5 - \$20,000

Violation 6 - \$2,000

Violation 7 - \$20,000

\$92,000

Penalty reduction

For operator size - (\$73,600) (80% reduction based on size of Valley Gas as compared to 75%
reduction in Augusta for larger gas company)

Total Penalty -**\$18,400**

This total penalty should further be reduced by any expenditures already incurred by Valley Gas in an attempt to correct the deficiencies, such as the reconfiguration of the Bewleyville Road station that was completed on August 3-4, 2021, and any contracts entered into to correct the deficiencies. According to the Exhibits attached hereto, Valley Gas has spent \$40,265.90. Therefore, if the Commission should agree with Valley Gas' calculation of the total penalty amount of \$18,400, Valley Gas has spent well over that amount in remedial measures and, as such, the entire amount of Valley Gas' civil penalty should be waived. If the Commission disagrees with Valley Gas' calculation of the total penalty amount, whatever total penalty amount the Commission determined is warranted should be reduced by \$40,265.90.

[Signature Page Follows]

Respectfully submitted,

/s/ Parker M. Wornall

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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing was filed via upload to the PSC Portal on this day of June 10, 2022, thereby sending notice to all counsel of record.

/s/ Parker M. Wornall

Counsel for Respondent