

**THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

Before Commissioners: Dwight D. Keen, Chair
 Shari Feist Albrecht
 Jay Scott Emler

In the Matter of the General Investigation)
Into the Operations of Kansas Gas Service,)
Inc., a Division of ONE Gas, Regarding the)
Natural Gas Incident that Occurred at 918)
West 5th Street, Newton, Kansas.)

Docket No. 17-KGSG-069-GIP

ORDER APPROVING SETTLEMENT AGREEMENT

This matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed the file and records, and being properly advised, the Commission finds:

1. Kansas Gas Service (“KGS”) is a jurisdictional public utility as defined by K.S.A. 66-104 and is providing natural gas utility service in Kansas pursuant to grants of authority from the Commission.
2. On August 25, 2016, Commission Staff (“Staff”) filed a Motion to Open Docket to investigate an incident involving a natural gas fire resulting in an injury in Newton, Kansas. On September 1, 2016, the Commission entered its Order Opening the General Investigation.
3. On May 30, 2017, Staff issued KGS six Notices of Probable Violation (NOPV) associated with the above described natural gas incident.

4. On May 31, 2017, Staff issued KGS two Notices of Amendment (NOA) requesting KGS revise its existing procedure regarding the process of hot tapping and to include the replacement of bolt on service tees during a controlled gas release as a separate task in its Operator Qualification program.

5. KGS filed its response to the Staff issued NOPVs and NOAs on August 1 and September 20, 2017, respectively.

6. On November 9, 2017, Staff filed its Notice of Filing of Report and Recommendation. On January 19, 2018, KGS filed its Response to Staff's Report and Recommendation.

7. On March 23, 2018, Staff filed its Reply to KGS's Response to Staff's Report and Recommendation. On May 1, 2018, KGS filed its Motion and Supplemental Response to Staff's Report and Recommendation.

8. On May 8, 2018, Staff filed its Response to KGS' Motion to Supplement.

9. Finally, on February 4, 2019, Staff and KGS filed a Joint Motion seeking approval of a Settlement Agreement negotiated by the parties for the resolution of the issues raised and subsequently investigated in this docket. In addition to KGS' agreement to pay a \$28,000 penalty, the primary provisions of the Settlement Agreement include:

- a. KGS' Agreement to implement corrective actions to ensure timely notifications of incident;
- b. The implementation of a Corrective Action Plan for steps to be taken by the Company's contractor regarding personal protective equipment ("PPE") and the requirement for a dedicated fire-watch;

- c. The Company's agreement to conduct an analysis of the issue of regarding whether steps should to be taken to avoid the accidental ignition during the performance of work on bare steel piping;
- d. The Company's commitment to modify its training programs to address specific concerns raised by Staff; and,
- e. The Company's commitment to amend its procedures to add clarification requested by Staff.

10. The law generally favors compromise and settlement of disputes between parties when they enter into an agreement knowingly and in good faith to settle the dispute.¹ When approving a settlement, the Commission must make an independent finding that the settlement is supported by substantial competent evidence in the record as a whole, establishes just and reasonable rates, and is in the public interest.²

11. Having reviewed the record, the Commission finds and concludes that the Settlement is reasonable and is in the public interest. The Commission approves the Settlement Agreement in its entirety.

¹ *Krantz v. Univ. of Kansas*, 271 Kan. 234, 241-42 (2001).

² *Citizens' Util. Ratepayer Bd. V. Kansas Corp. Comm'n*, 28 Kan. App. 2d 313, 316 (2000), *rev denied* March 20, 2001.

THEREFORE, THE COMMISSION ORDERS:

A. The Joint Motion for Approval of the Settlement Agreement is granted. The Commission approves the Settlement Agreement in its entirety. The terms of the attached Settlement Agreement are incorporated into this Order.

B. The parties have 15 days from the date this Order was electronically served to petition for reconsideration.

C. The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further orders as it deems necessary.

BY THE COMMISSION IT IS SO ORDERED.

Keen, Chair; Emler, Commissioner; Albrecht, Commissioner.

Dated: 02/19/2019



Lynn M. Retz
Secretary to the Commission

**BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS**

In the Matter of the General Investigation)
Into the Operations of Kansas Gas Service,)
Inc., a Division of ONE Gas, Regarding the) Docket No. 17-KGSG-069-GIP
Natural Gas Incident that Occurred at 918)
West 5th Street, Newton, Kansas.)

UNOPPOSED SETTLEMENT AGREEMENT

Kansas Gas Service, Inc., a Division of ONE Gas, Inc. (“KGS” or “Company”) and the Staff of the Kansas Corporation Commission (“Staff”) (collectively referred to as the “Joint Movants”) agree to the following terms of settlement of this matter, pending approval by the Kansas Corporation Commission.

PROCEDURAL BACKGROUND

1. On August 25, 2016, Staff opened this docket to investigate an incident involving a natural gas fire in an open trench during a KGS contractor’s construction at 918 W. 5th Street in Newton, Kansas.
2. The Commission entered its Order Opening the General Investigation on September 1, 2016.
3. KGS responded to Information Requests and provided personnel for interviews.

4. On May 30, 2017, Staff issued KGS six Notices of Probable Violation (NOPV) associated with the above described natural gas incident. Moreover, on May 31, 2017, Staff issued KGS two Notices of Amendment (NOA) requesting KGS revise its existing procedure regarding the process of hot tapping and to include the replacement of bolt on service tees during a controlled gas release as a separate task in its Operator Qualification program.

5. KGS provided its response to the Staff issued NOPVs and NOAs on August 1 and September 20, 2017, respectively.

6. On November 9, 2017, Staff filed its Notice of Filing of Report and Recommendation.

7. On January 19, 2018, KGS received an extension of time and subsequently filed its Response to Staff's Recommendation.

8. On May 1, 2018, KGS filed its Supplemental Response to Staff's Report and Recommendation.

9. On May 16, 2018, KGS and Staff met to discuss settlement.

10. To date, KGS has provided Staff with satisfactory answers to three NOPVs.¹ The remaining NOPVs and NOAs are addressed within this Agreement.

11. The Settlement Provisions below reflect the aggregation of all information gathered during the investigations into this concern and all discussions held between Staff and the Company throughout this process, and reflect a complete settlement of all outstanding items.

¹ Staff accepts KGS's responses as satisfactory for NOPVs addressing 191.5; 191.9; and 192.605(a).

SETTLEMENT PROVISIONS

In consideration of a payment by KGS of \$28,000 ("Settlement Amount"), the parties agree as follows:

12. Notification. KGS has agreed to implement corrective actions to ensure timely notifications of incidents including retraining internal staff and contractors regarding notification requirements and timing. These corrective actions have been completed and are deemed to be sufficient by Staff.

13. Personal Protective Equipment. KGS has met with Northern Pipeline (NPL), and NPL has initiated a Corrective Action Plan that was submitted to Staff, and is attached hereto as Exhibit B, styled as "June 2, 2016 – Newton Incident NPL Corrective Action Plan PHASE I." Staff concurs that these corrective actions, in conjunction with ongoing monitoring of compliance with procedures, sufficiently address this issue.

14. Fire Watch. In addition to the fire training implemented under the Corrective Actions referred to above and attached hereto, KGS required NPL to retrain its employees on the requirement for three-person crews to ensure a dedicated fire-watch for all of its employees who work on KGS assets. This training has been completed. Staff concurs that these actions were sufficient to resolve this issue.

15. Cathodic Protection Rectifier. KGS believes that the safety measure regarding cathodic protection as it relates to addressing the prevention of accidental ignition are not applicable for work performed on bare steel piping. Notwithstanding the Company's stated position in this matter, KGS is agreeable to conducting an analysis of this issue as it relates to both

bare steel and coated steel service lines and modifying the requirements of Standard 1185, if appropriate, on or before the end of 1st quarter 2019.

16. Compliance with Written Procedures. KGS acknowledges that its contractor's employees failed to follow KGS's, and the Contractor's, procedures for performing work in a gaseous environment. Staff agrees that KGS has taken appropriate action as outlined in the Corrective Action Plan previously referenced and attached hereto.

17. Operator and/or Contractor Training Programs. KGS recognizes the importance of ensuring that no work is performed in gaseous conditions on KGS assets without proper PPE and has retrained inspectors on a no-tolerance policy for lack of PPE. KGS agrees to modify its training program to include training on replacing a bolt-on service tee during a controlled release of gas. KGS will require NPL foremen to document work performed by its personnel while using PPE breathing apparatus that meets KGS and NPL requirements. As part of its field observation program ordered by the Commission in Docket 14-KGSG-566-GIP, KGS agrees to establish a formal observation of KGS employees' proper use of the PPE during the employee's apprentice period and to include this observation as part of the new-hire procedures.

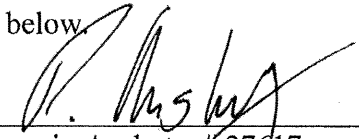
18. Maintaining equipment necessary to safely perform a task in a hazardous atmosphere. KGS agrees to take additional steps to ensure that its contractors meet their contractual obligation to provide sufficient working fresh air. As part of the Corrective Action Plan, discussed above and attached hereto, KGS has required NPL to provide KGS with documentation of a sufficient number adequate working fresh air for all crews working on KGS assets. Additionally, KGS has re-trained its employees on the strict adherence to a stop work policy in the event of an equipment failure. KGS and Staff agree that these corrective actions are sufficient to resolve this issue.

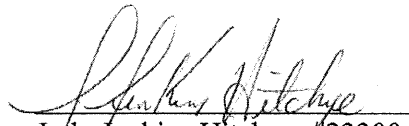
19. Amendment of Procedures. Pursuant to Staff's request, KGS agrees to amend its procedure for replacing bolt-on service tees during a controlled release of gas and will submit the revised procedure to Staff for review. The amended procedure will remove references to "tapping" so as to clarify that the term "hot tapping" does not include replacing service tees in a controlled gas release environment.

20. Full Resolution of Issues. This Settlement Agreement fully resolves all issues specifically addressed in this document between the parties. The Parties further agree the terms of this Stipulated Settlement Agreement constitutes a fair and reasonable resolution of the issues addressed herein and agree to be bound by the same.

IN WITNESS WHEREOF, the Parties have executed and approved this Settlement Agreement, effective as of the 5th day of February 2019, by subscribing their signatures

below


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CERTIFICATE OF SERVICE

17-KGSG-069-GIP

I, the undersigned, certify that the true copy of the attached Order has been served to the following parties by means of electronic service on 02/19/2019.

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/S/ DeeAnn Shupe

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