

STATE CORPORATION COMMISSION

AT RICHMOND,

2008 DEC 22 P 2:20

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2008-00003

VIRGINIA NATURAL GAS, INC.,

Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 et seq. ("Act"), formerly the Natural Gas Pipeline Safety Act, require the Secretary of Transportation ("Secretary") to establish minimum federal safety standards for the transportation of gas and pipeline facilities. The Secretary is further authorized to delegate to an appropriate state agency the authority to prescribe safety standards and enforce compliance with such standards over gas pipeline facilities used for intrastate transportation.

The State Corporation Commission ("Commission") has been designated as the appropriate state agency for the Commonwealth of Virginia to prescribe and enforce compliance with standards for gas pipeline facilities used for intrastate transportation. In Case No. PUE-1989-00052, the Commission adopted Parts 191, 192, 193, and 199 of Title 49 of the Code of Federal Regulations to serve as minimum gas pipeline safety standards ("Safety Standards") in Virginia. The Commission is authorized to enforce the Safety Standards for natural gas facilities under § 56-257.2 B of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

The Commission's Division of Utility and Railroad Safety ("Division") is charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of records, construction, operation, and maintenance activities involving Virginia Natural Gas, Inc. ("VNG" or "Company"), the Defendant, and alleges that:

(1) VNG is a person within the meaning of § 56-257.2 B of the Code of Virginia; and

(2) The Company violated the Commission's Safety Standards by the following conduct:

- a) 49 C.F.R. § 192.273 (b) - Failing on six occasions to make a fusion joint in accordance with written procedures that have been proven by test or experience to produce strong gastight joints;
- b) 49 C.F.R. § 192.614 (c)(6)(i) - Failing on one occasion to perform an inspection of a pipeline as frequently as necessary to verify the integrity of the pipeline;
- c) 49 C.F.R. § 192.319 (b)(2) - Failing on one occasion to backfill a main in a manner that would prevent damage to the pipe from equipment or from backfill material;
- d) 49 C.F.R. § 192.321 (c) - Failing on one occasion to install plastic pipe so as to minimize shear or tensile stresses;
- e) 49 C.F.R. § 192.321 (e) - Failing on one occasion to install a plastic pipeline that is not encased with an electrically conducting wire or other means of locating the pipe;
- f) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Procedure Division IV, Section 6.2.2 by not using the fitting as a reference, and marking the appropriate stab length on the pipe;
- g) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Procedure 10.2.1, developed to comply with 49 C.F.R. § 192.751, by not taking appropriate precautionary measures before using electrical heating tools in areas where combustible mixtures may be present;

- h) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Procedure Division I, Section 2 page 16, developed to comply with 49 C.F.R. § 192.614 (c)(5), by not marking and locating buried pipelines;
- i) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Procedure Division II, Section 19.2.2, developed to comply with 49 C.F.R. § 192.605 (b)(9), by not using a combustible gas indicator to determine if the atmosphere was safe;
- j) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Procedure, Division II, Section 19.2.4, by not having a fire extinguisher in a work area where gas is present;
- k) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Procedure, Division II, Section 10.4.2 (c), by not marking the fusion zone on both pipe ends to measure the stab depth;
- l) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow procedures developed to comply with 49 C.F.R. § 192.605 (b)(3), by not having an active gas pipeline facility accurately displayed on company service record card;
- m) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Emergency Manual, Division II, Section 22 , Page 10, paragraph 22.3.7 (b), by not checking for the presence of gas in surrounding buildings while gas was escaping;
- n) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Emergency Manual, Division II, Section 22, Page 4, paragraph 22.3.3 (A)(b), by not identifying and eliminating possible ignition sources on the premises while gas was escaping;
- o) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Procedure Division I, Section 2, 2.5.2, by not backfilling a main or protecting an excavation;
- p) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Emergency Manual, Division II, Section 22, Page 4, paragraph 22.3.3 (A)(a), by not evacuating the surrounding premises while gas was escaping;
- q) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow the written procedure found in VNG Procedure Division II, Section 7, developed to comply with 49 C.F.R. § 192.617, by not analyzing a failure of a butt fusion joint on the pipeline;

- r) 49 C.F.R. § 192.725 (a) - Failing on two occasions to test each disconnected service line in the same manner as a new service line, before being reinstated;
- s) 49 C.F.R. § 192.805 - Failing on one occasion to follow a written qualification program by allowing an individual to perform a covered task who was not qualified under the written qualification program; and
- t) 49 C.F.R. § 192.805 (b) - Failing on one occasion to ensure through evaluation that individuals performing covered tasks are qualified to perform a covered task.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

As an offer to settle all matters arising from the allegations made against it, VNG represents and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of One Hundred Eighty-Nine Thousand Seven Hundred Fifty Dollars (\$189,750), of which Eighty-Seven Thousand Seven Hundred Fifty Dollars (\$87,750) shall be paid contemporaneously with the entry of this Order. The remaining One Hundred Two Thousand Dollars (\$102,000) shall be due as outlined in paragraph (7) on pages 5 and 6, and may be suspended in whole or in part and subsequently vacated by the Commission, provided the Company timely takes the actions required in paragraphs (2), (3), (4) and (5) on pages 4 and 5 and tenders the requisite certification as required by paragraph (6) on page 5 of this order. The initial payment and any subsequent payments shall be made by check, payable to the Treasurer of Virginia, and directed to the attention of the Director, Division of Utility and Railroad Safety, State Corporation Commission, Post Office Box 1197, Richmond, Virginia 23218-1197.

(2) The Company shall take over the operation and maintenance of ten (10) gas master meter systems served by VNG by December 31, 2009. These ten (10) systems are in

addition to the twelve (12) master meter systems VNG agreed to take over in Case No. URS-2006-00581. At least six (6) of the ten (10) gas master meter systems to be taken over must currently serve more than two hundred (200) units.

(3) On or before January 31, 2009, the Company shall revise its written procedures to include specific language concerning the use of a Combustible Gas Indicator when responding to a leak.

(4) On or before January 31, 2009, the Company shall install the new "811 CARE" stickers on hard hats and Company and contractor vehicles.

(5) On or before January 31, 2009, the Company shall begin the use of a minimum of twelve (12) GPS-enabled mobile phones when notifying the notification center of proposed excavations for its operation and maintenance activities. In addition to these twelve (12) phones, VNG will require any contractor working on the Hampton Roads Crossing Project calling in notices of excavation to the notification center to also use GPS-enabled mobile phones.

(6) On or before February 16, 2009, VNG shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit, executed by the Senior Vice President of Virginia Natural Gas, Inc., certifying that the Company has begun to perform the remedial actions set forth in paragraphs (2), (3), (4) and (5) on pages 4 and 5 herein.

(7) Upon timely receipt of said affidavit, the Commission may vacate up to One Hundred Two Thousand Dollars (\$102,000) of the amount set forth in paragraph (1) on page 4 hereof. Should VNG fail to tender the affidavit required by paragraph (6) above or begin to take the actions required by paragraphs (2), (3), (4) and (5) on pages 4 and 5, a payment of One Hundred Two Thousand Dollars (\$102,000) shall become due and payable, and the

Company shall immediately notify the Division of the reasons for VNG's failure to accomplish the actions required by paragraphs (2), (3), (4), (5) and (6) on pages 4 and 5 hereof. If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than One Hundred Two Thousand Dollars (\$102,000), it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due, and upon such determination, the Company shall immediately tender to the Commission said amount.

(8) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of VNG's cost of service. Any such amounts shall be booked in Uniform System of Account No. 426.3. The Company shall verify its booking by filing a copy of the trial balance showing this entry with the Commission's Division of Public Utility Accounting.

NOW THE COMMISSION, finding sufficient basis herein for the entry of this Order and in reliance on the Defendant's representations and undertakings set forth above, is of the opinion and finds that the offer of compromise and settlement set forth above should be accepted.

Accordingly, IT IS ORDERED THAT:

- (1) The captioned case shall be docketed and assigned Case No. URS-2008-00003.
- (2) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by VNG be, and it hereby is, accepted.
- (3) Pursuant to § 56-257.2 B of the Code of Virginia, VNG shall pay the amount of One Hundred Eighty-Nine Thousand Seven Hundred Fifty Dollars (\$189,750), which may be suspended or vacated in part as provided in paragraph (1) at page 4 hereof.

(4) The sum of Eighty-Seven Thousand Seven Hundred and Fifty Dollars (\$87,750) tendered contemporaneously with the entry of this Order is accepted. The remaining One Hundred Two Thousand Dollars (\$102,000) is due as outlined herein and may be suspended and subsequently vacated, in whole or in part, provided the Company timely undertakes the actions required in paragraphs (2), (3), (4) and (5) found on pages 4 and 5 of this Order and files the timely certification of the remedial actions as required by paragraph (6) on page 5 herein.

(5) The Commission shall retain jurisdiction over this matter for all purposes, and this case shall be continued pending further orders of the Commission.

AN ATTESTED COPY hereof shall be sent to: Jodi Gidley, Senior Vice President, Virginia Natural Gas, Inc., 150 West Main Street, Suite 1510, Norfolk, Virginia, 23510; and the Commission's Office of General Counsel, Office of the Commission Comptroller, Division of Utility and Railroad Safety, and Division of Public Utility Accounting.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND,

RECEIVED

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UTILITY AND RAILROAD SAFETY
VIRGINIA STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2008-00003

VIRGINIA NATURAL GAS, INC.,

Defendant

ADMISSION AND CONSENT

The Defendant, Virginia Natural Gas, Inc., admits the jurisdiction of the Commission as to the party and subject matter hereof and, without admitting or denying the allegations made herein by the Division of Utility and Railroad Safety, hereby consents to the form, substance, and entry of the foregoing Order of Settlement. The Defendant acknowledges that the Order of Settlement entered herein is a public record and is subject to review by the public.

The Defendant further states that no offer, tender, threat or promise of any kind has been made by the Commission or by any member, officer, agent or representative thereof in consideration of this Admission and Consent.

Date: 12-8-08

Virginia Natural Gas, Inc.

By: *Leah G. Haley*

Title: President