

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, MAY 26, 2011

CLERK'S OFFICE

COMMONWEALTH OF VIRGINIA, *ex rel.*

2011 MAY 26 PM 2:22

STATE CORPORATION COMMISSION

DOCUMENT CONTROL

v.

CASE NO. URS-2010-00391

APPALACHIAN NATURAL GAS  
DISTRIBUTION COMPANY,

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.

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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 Appalachian Natural Gas Distribution Company, ("ANGD" or "Company"), the Defendant, and alleges that:

- (1) ANGD 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: 49 C.F.R. § 192.285(a) – Failing on ten occasions to have employees qualified under the applicable joining procedure.

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, ANGD represents and undertakes that:

- (1) The Company shall pay to the Commonwealth of Virginia the amount of Seventy-five Thousand Dollars (\$75,000), of which Ten Thousand Dollars (\$10,000) shall be paid contemporaneously with the entry of this Order. The remaining Sixty-five Thousand Dollars (\$65,000) shall be due as outlined in Undertaking Paragraph (8) herein and may be suspended and subsequently vacated in whole or in part by the Commission, provided the Company timely takes the actions required by Undertaking Paragraphs (2) and (3) herein and tenders the requisite certifications as required by Undertaking Paragraphs (5), (6), and (7) herein. 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 undertake the following remedial actions:
- (a) On or before May 31, 2011, the Company shall:
- (1) Destructively test the sample specimens of electro-fusion joints made during calendar years 2008 and 2009 for the annual employee qualification performed to meet the requirements of 49 C.F.R. §192.285 (b)(2)(iii).
- (2) Excavate, remove from service, and destructively test a statistically significant number of electro-fusion joints installed on the Company's distribution piping between January 1, 2008, and December 31, 2009. The testing shall be in the same manner as required by 49 C.F.R. §192.285 (b)(2)(iii).
- (3) Revise its Operation and Maintenance Manual ("O&M") and Operator Qualification ("OQ") procedures to require the destructive testing of specimens made during the annual qualification of employees for plastic pipe fusion. The Company shall also begin to institute annual reviews and monitoring of the Company's Operator Qualification process.
- (b) On or before December 31, 2011, the Company shall install Supervisory Control and Data Acquisition ("SCADA") pressure transducers at three (3) locations on the Company's facilities located in Castlewood and Lebanon, Virginia. The installed SCADA systems shall monitor the inlet and outlet pressures of the stations at a maximum of 15-minute intervals. The information shall be sent to, and monitored at, the Company's offices for the life of the pipeline facilities.

(3) In addition, in order to resolve this matter, the Company has agreed to and shall undertake the following remedial actions:

- (a) Mail bill inserts containing information on the odor of gas and how to recognize it to all of the Company's Virginia customers once a year in the spring for three (3) consecutive years, beginning in the Spring of 2011.
- (b) The Company shall promote the C.A.R.E. message by the following:
  - (1) Mailing postcards to all persons that normally engage in excavation activities in the Company's operating area that have been identified in accordance with 49 C.F.R. § 192.614(c)(1) by the Company with the C.A.R.E. message twice a year (spring and fall) for three (3) consecutive years starting in the Spring of 2011.
  - (2) On or before October 31, 2011, place the C.A.R.E. logo in area high school sporting event programs for a minimum of five (5) separate sporting events.
  - (3) Cause the C.A.R.E. message and logo, as approved by the Division, to be displayed on two (2) billboards for three (3) months in the Spring of 2011 and three (3) months in the Fall of 2011 to promote the "Dig with C.A.R.E." message.
  - (4) Purchase television advertising on the local TV stations to broadcast the Division's 30-second C.A.R.E. spot, aired at least 40 times during the Spring of 2011 season, for a three-month period. In addition to the C.A.R.E. commercial, the television advertising shall include a rotating bulletin board that shall display the "Dig with C.A.R.E." message at

least seven (7) times an hour during the three-month period in the Fall of 2011. The advertising broadcast shall cover the Counties of Wise, Virginia and Russell, Virginia.

(4) The Company has complied fully with the terms and undertakings outlined in Undertaking Paragraph (2)(a) above. Documentation evidencing destructive testing of the sample specimens, as well as a statistically significant number of electro-fusion joints removed from service and tested, has been submitted to the Division. The Company has also provided documentation of the revisions to its O&M and OQ manuals.

(5) On or before June 30, 2011, ANG D shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit executed by the President of Appalachian Natural Gas Distribution Company certifying that the Company has commenced the voluntary remedial actions set forth in Undertaking Paragraphs (3)(a) and (3)(b)(1).

(6) On or before December 31, 2011, ANG D shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit executed by the President of Appalachian Natural Gas Distribution Company certifying that the Company has completed the voluntary remedial actions set forth in Undertaking Paragraph (3)(b)(2), (3)(b)(3), and (3)(b)(4).

(7) On or before January 31, 2012, ANG D shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit executed by the President of Appalachian Natural Gas Distribution Company certifying that the Company has completed the installation described in Undertaking Paragraph (2)(b) and commenced the other remedial actions set forth therein.

(8) Upon timely receipt of said affidavits described in Undertaking Paragraphs (5), (6), and (7) above, the Commission may suspend up to Sixty-five Thousand Dollars (\$65,000) of the amount set forth in Undertaking Paragraph (1) above. Should ANG D fail to tender the affidavits

required by Undertaking Paragraphs (5), (6), and (7) above, or fail to take the actions required by Undertaking Paragraphs (2) and (3) above, a payment of Sixty-five Thousand Dollars (\$65,000) shall become due and payable, and the Company shall immediately notify the Division of the reasons for ANGD's failure to accomplish the actions required by Undertaking Paragraphs (2) and (3) above or tender the affidavits required by Undertaking Paragraphs (5), (6), and (7) above. If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than Sixty-five Thousand Dollars (\$65,000), 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.

(9) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates as part of ANGD'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-2010-00391.
- (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 ANGD be, and it hereby is, accepted.

(3) Pursuant to § 56-257.2 B of the Code of Virginia, ANG D shall pay the amount of Seventy-five Thousand Dollars (\$75,000) in settlement hereof, which may be suspended and subsequently vacated in part as provided in Undertaking Paragraph (1) of this Order.

(4) The sum of Ten Thousand Dollars (\$10,000) tendered contemporaneously with the entry of this Order is accepted. The remaining Sixty-five Thousand Dollars (\$65,000) shall be due as outlined in Undertaking Paragraph (8) herein, and may be suspended and subsequently vacated in whole or in part by the Commission, provided the Company timely takes the actions required by Undertaking Paragraphs (2) and (3) herein and tenders the timely certifications as required by Undertaking Paragraphs (5), (6), and (7) 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: John Ebert, President, Appalachian Natural Gas Distribution Company, Post Office Box 2543, Abington, Virginia, 24212; and the Commission's Office of General Counsel, Office of the Commission Comptroller, and Divisions of Utility and Railroad Safety and Public Utility Accounting.

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STATE CORPORATION COMMISSION

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APPALACHIAN NATURAL GAS DISTRIBUTION COMPANY,

Defendant

ADMISSION AND CONSENT

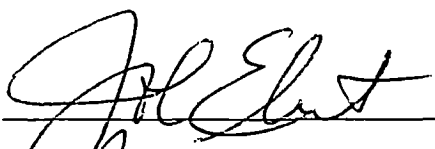
The Defendant, Appalachian Natural Gas Distribution Company, admits the jurisdiction of the Commission as to the party and subject matter hereof and, without admitting or denying the allegations made herein by the Division of Utility and Railroad Safety, hereby consents to the form, substance, and entry 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: 4/28/11

Appalachian Natural Gas Distribution Company

By:

  
Title: PRESIDENT

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MAY 03 2011  
UTILITY AND RAILROAD SAFETY  
VIRGINIA STATE CORPORATION COMMISSION

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