

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, OCTOBER 2, 2013

FILED IN CASE
NO. 2013-2 A 10:40

131019066

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2013-00176

VIRGINIA NATURAL GAS, INC.,

Defendant

ORDER OF SETTLEMENT

The federal pipeline safety statutes found at 49 U.S.C. § 60101 *et seq.*, 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-1989-00052,¹ 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

¹ *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte, In the matter of adopting gas pipeline safety standards and reporting procedures for public service corporations providing gas service under Commission jurisdiction through transmission and distribution facilities located and operated within the Commonwealth of Virginia and granting other authorizations pertaining to the Gas Pipeline Safety Program*, Case No. PUE-1989-00052, 1989 S.C.C. Ann. Rept. 312, Order Vacating Previous Order and Adopting Standard Regulations and Procedures Pertaining to Gas Pipeline Safety in Virginia (July 6, 1989).

under § 56-257.2 B of the Code of Virginia ("Code"), 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.
- (2) The Company violated the Commission's Safety Standards by the following conduct:
 - (a) 49 C.F.R. § 192.183 (a) – Failure on two (2) occasions of the Company to install a vault door that is able to meet the loads which may be imposed upon it, and to protect installed gas pipeline equipment.
 - (b) 49 C.F.R. § 192.199 (e) – Failure of the Company to install a relief stack in a manner where gas can be discharged into the atmosphere without undue hazard.
 - (c) 49 C.F.R. § 192.273 (b) – Failure on two (2) occasions of the Company to make a joint in accordance with written procedures that have been proved by test or experience to produce strong gastight joints.
 - (d) 49 C.F.R. § 192.325 (b) – Failure of the Company to install a main with enough clearance from any other underground structure to allow proper maintenance and to protect against damage that might result from proximity to other structures.
 - (e) 49 C.F.R. § 192.327 (b) – Failure of the Company to install a main with at least 24 inches of cover.
 - (f) 49 C.F.R. § 192.605 (a) – Failure on two (2) occasions of the Company to follow its Construction and Maintenance Manual Division I, Section 5.5.3, developed to comply with 49 C.F.R. § 192.361(g), by not installing the tracer wire adjacent to the pipe for accurate locating.
 - (g) 49 C.F.R. § 192.605 (a) – Failure on two (2) occasions of the Company to follow its Operations Procedure Manual ("OPM")

§ 3.14.1, Investigating and Documenting Third-Party Damages, developed to comply with 49 C.F.R. § 192.617, by failing to take corrective actions to minimize the possibility of recurrence.

- (h) 49 C.F.R. § 192.605 (a) – Failure of the Company to follow its OPM § 3.25.5, Installation Instruction, developed to comply with 49 C.F.R. § 192.319 (b) (2), by allowing rock to be in the backfill.
- (i) 49 C.F.R. § 192.614 (c) (5) – Failure on two (2) occasions of the Company to provide for temporary marking of buried pipelines in the area of excavation activity before, as far as practical, the activity begins.
- (j) 49 C.F.R. § 192.727 (d) (3) - Failure on three (3) occasions of the Company to seal the open pipe ends after physically disconnecting a customer's piping from the gas supply and not having a locking device on the service riser valve.

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, the Company represents and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of Two Hundred Sixty-eight Thousand Dollars (\$268,000), of which Two Hundred Fifty Thousand Dollars (\$250,000) shall be paid contemporaneously with the entry of this Order. The remaining Eighteen Thousand Dollars (\$18,000) shall be due as outlined in Undertaking Paragraph (4) 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 Paragraph (2) herein and tenders the requisite certification as required by Undertaking Paragraph (3) 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) On or before March 31, 2014, the Company shall inspect all its regulator station vault doors and replace any doors that are not vehicle-rated or install bollards around these stations, as necessary, to prevent accidental damage to the station. Further, the Company shall revise its regulator inspection procedures to include the examination of the vault doors.

(3) On or before April 15, 2014, VNG shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit executed by the vice-president of the Company certifying that the Company has completed the remedial actions set forth in Undertaking Paragraph (2) above.

(4) Upon timely receipt of the affidavit required by Undertaking Paragraph (3) above, the Commission may suspend and subsequently vacate up to Eighteen Thousand Dollars (\$18,000) of the remaining amount set forth in Undertaking Paragraph (1) above. Should VNG fail to tender such affidavit or fail to take the actions required by Undertaking Paragraph (2) above, a payment of Eighteen Thousand Dollars (\$18,000) 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 Undertaking Paragraph (2) above. If, upon investigation, the Division determines that the reason for such failure justifies a payment lower than Eighteen Thousand Dollars (\$18,000), 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 such amount.

(5) This settlement does not prohibit the Staff of the Commission ("Staff") from submitting, in any present or future Commission proceeding involving the Company, any information discovered or obtained in the course of the Division's investigation and inspections described herein; nor does this settlement prohibit the Company from submitting information contradicting or mitigating the information submitted by the Staff.

(6) Any amounts paid in accordance with this Order shall not be recovered in the Company's rates. 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 Utility Accounting and Finance.

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-2013-00176.
- (2) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code, the offer of compromise and settlement made by the Company is hereby accepted.
- (3) Pursuant to § 56-257.2 B of the Code, the Company shall pay the amount of Two Hundred Sixty-eight Thousand Dollars (\$268,000), part of which may be suspended and subsequently vacated as provided in Undertaking Paragraph (1) above.
- (4) The sum of Two Hundred Fifty Thousand Dollars (\$250,000) tendered contemporaneously with the entry of this Order is accepted. The remaining Eighteen Thousand Dollars (\$18,000) shall be 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

Undertaking Paragraph (2) above and timely files the certification of the remedial actions required by Undertaking Paragraph (3) above.

(5) Pursuant to Undertaking Paragraph (5), this settlement does not prohibit the Staff from submitting, in any present or future Commission proceeding involving VNG, any information discovered or obtained in the course of the Division's investigation and inspections described herein; nor does the settlement prohibit the Company from submitting information contradicting or mitigating the information submitted by the Staff.

(6) The Commission shall retain jurisdiction over this matter for all purposes, and this case is continued pending further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Robert S. Duvall, Vice President, Virginia Natural Gas, Inc., 544 South Independence Boulevard, Virginia Beach, Virginia 23452; and a copy shall be delivered to the Commission's Office of General Counsel, Office of the Commission Comptroller, and Divisions of Utility and Railroad Safety and Utility Accounting and Finance.

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND,

RECEIVED

SEP 10 2013

UTILITY AND RAILROAD SAFETY
VIRGINIA STATE CORPORATION COMMISSION

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COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2013-00176

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: 9/9/13

Virginia Natural Gas, Inc

By: Robert A. Lowell

Title: V.P.