

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 26, 2009

CLERK'S OFFICE

2009 OCT 26 P 4: 37

DOCUMENT CONTROL

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2009-00041

COLUMBIA GAS OF VIRGINIA, 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 Columbia Gas of Virginia, Inc. ("CGV" or "Company"), the Defendant, and alleges that:

- (1) CGV 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. §192.187 (a)(1) - Failing on one occasion to ventilate an underground closed pit containing a pressure regulator and having an internal volume exceeding 200 cubic feet with two ducts each having at least the ventilating effect of a pipe 4 inches in diameter;
 - (b) 49 C.F.R. §192.281 (c)(3) - Failing on one occasion to perform an electrofusion utilizing the equipment and techniques of the fittings manufacturer;
 - (c) 49 C.F.R. §192.285 (c)(1) - Failing on one occasion to re-qualify an individual to perform 6-inch butt fusion during any 12-month period in which that individual did not make any joints under that procedure;
 - (d) 49 C.F.R. §192.285 (d) - Failing on one occasion to properly establish a method to determine that each person making joints in plastic pipelines in the operator's system is qualified;
 - (e) 49 C.F.R. §192.605 (a) - Failing on one occasion to follow Company Procedure 530-15, section 1.4.2.4 by not properly installing an anode on a steel main;
 - (f) 49 C.F.R. §192.605 (a) - Failing on one occasion to follow Company Procedure 640-10, section 2.3 by not allowing at least five pipe diameters between a fusion joint and a squeeze-off;
 - (g) 49 C.F.R. §192.605 (a) - Failing on one occasion to follow Company Procedure 445-3(38), section 7, developed to comply with 49 C.F.R § 192.605(b)(9), by not taking adequate precautions in excavated trenches to protect personnel;
 - (h) 49 C.F.R. §192.605 (a) - Failing on one occasion to follow Company Procedure 640-1(38), section 5.1, developed to comply with ASTM 2513-99 by installing plastic pipe that is older than 24 months;
 - (i) 49 C.F.R. §192.605 (a) - Failing on one occasion to follow Company Procedure 640-2(38), section 25.2, developed to comply with 49 C.F.R § 192.751 by not properly grounding a plastic pipe while performing a squeeze off, cutting and capping operation;

- (j) 49 C.F.R. §192.725 (b) - Failing on one occasion to test each temporarily disconnected service line in the same manner as a new service line, before reconnecting; and
- (k) 49 C.F.R. §192.805 (b) - Failing on one occasion to ensure through evaluation that individuals performing covered tasks are qualified to perform those covered tasks.

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, CGV offers, agrees, and undertakes that:

(1) The Company shall pay to the Commonwealth of Virginia the amount of Seventy-four Thousand Five Hundred Dollars (\$74,500), of which Twenty-four Thousand Dollars (\$24,000) shall be paid contemporaneously with the entry of this Order. The remaining Fifty Thousand Five Hundred Dollars (\$50,500) shall be due as outlined in undertaking Paragraph (7) of this Order and may be suspended and subsequently vacated in whole or in part by the Commission, provided the Company timely takes the actions required in undertaking Paragraphs (2) and (3) herein and tenders the requisite certifications as required by undertaking Paragraphs (5) and (6) 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 of the Division of Utility and Railroad Safety, Post Office Box 1197, Richmond, Virginia, 23218-1197.

(2) The Company shall undertake the following remedial actions:

- (a) On or before October 15, 2009, the Company shall conduct training for its contractor involved in the probable violation of 49 C.F.R. § 192.605 (a) found in Paragraph (2) (e) on page 2 relative to the proper installation of an anode on steel pipe;
- (b) On or before October 15, 2009, the Company shall conduct training for its contractor involved in the probable violation of 49 C.F.R. § 192.605 (a) found in undertaking Paragraph (2) (g) of this Order relative to the precautions to take in excavated trenches to protect personnel;

- (c) On or before October 15, 2009, the Company shall seal the doors of underground pits housing company facilities with internal volume of less than 200 cubic feet and install vent holes to allow the checking of the internal atmosphere prior to opening the pit doors;
- (d) As of January 1, 2010, the Company will begin installing electronic markers based on the Company's revised construction, operation and maintenance standards; and
- (e) Commencing the date of issuance of the Order, the Company shall submit to the Division every working day, as defined by § 56-265.15 of the Code of Virginia, by electronic mail, a daily schedule for each construction contractor and company crew. This schedule shall include, at a minimum, the construction foreman's name and field phone number, the company inspector's name and field phone number, specific locations including addresses, and the Miss Utility ticket numbers for each project. If multiple projects are assigned to an individual, a priority must be established and listed for each project.

(3) On or before December 31, 2012, the Company shall complete a survey of its gas meters located inside buildings to determine their proximity to possible ignition sources as required by the Safety Standards. Further, upon finding any gas meter settings that do not comply with the Safety Standards, the Company shall take appropriate corrective actions to bring them into compliance within ninety (90) days of the date on which the noncompliance was discovered. In the event that the Company cannot complete the corrective action within ninety (90) days as a result of difficulties in gaining access to the premises to perform the work, the Company shall notify the Division. Upon review of the information provided in the notice, the Division shall establish a revised schedule for the corrective actions, as appropriate.

(4) The Company has complied fully with the terms and undertakings outlined in undertaking Paragraphs (2) (a), (2) (b), and (2) (c) above. Documentation evidencing the training of the contractors and sealing of the pits has been submitted to the Division.

(5) On or before January 29, 2010, CGV shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit, executed by the General Manager of Columbia Gas of

Virginia, Inc., certifying that the Company has begun to perform the remedial actions set forth in undertaking Paragraphs (2) (d) and (2) (e) above.

(6) On or before March 29, 2013, CGV shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit, executed by the General Manager of Columbia Gas of Virginia, Inc., certifying that the Company has completed its survey of inside meters and has taken appropriate corrective actions as set forth in undertaking Paragraph (3) above.

(7) Upon timely receipt of the affidavits required by undertaking Paragraphs (5) and (6) above, the Commission may suspend and subsequently vacate up to Fifty Thousand Five Hundred Dollars (\$50,500) of the fine amount set forth in undertaking Paragraph (1) of this Order. Should CGV fail to tender the affidavits as required by undertaking Paragraphs (5) and (6) above, or fail to begin to take the actions required by undertaking Paragraphs (2) and (3) above, a payment of Fifty Thousand Five Hundred Dollars (\$50,500) shall become due and payable, and the Company shall immediately notify the Division of the reasons for CGV's failure to accomplish the actions required by undertaking Paragraphs (2), (3), (5), and (6). If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than Fifty Thousand Five Hundred Dollars (\$50,500), 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 CGV'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-2009-00041.

(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 CGV be, and it hereby is, accepted.

(3) Pursuant to § 56-257.2 B of the Code of Virginia, CGV shall pay the amount of Seventy-four Thousand Five Hundred Dollars (\$74,500), part of which may be suspended and subsequently vacated as provided in undertaking Paragraph (1) of this Order.

(4) The sum of Twenty-four Thousand Dollars (\$24,000) tendered contemporaneously with the entry of this Order is accepted. The remaining Fifty Thousand Five Hundred Dollars (\$50,500) 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 undertaking Paragraphs (2) and (3) herein and files the timely certification of the remedial actions as required by undertaking Paragraphs (5) and (6) 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 by the Clerk of the Commission to: Dan Cote, General Manager, Columbia Gas of Virginia, Inc., 1809 Coyote Drive, Post Office Box 35674, Chester, Virginia, 23236; and a copy shall be delivered to 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

OCT 16 2009

UTILITY AND RAILROAD SAFETY
VIRGINIA STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2009-00041

COLUMBIA GAS OF VIRGINIA, INC.,

Defendant

ADMISSION AND CONSENT

The Defendant, Columbia Gas of Virginia, 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: 10/2/09

Columbia Gas of Virginia, Inc.,

By: 

Danny G. Cote

Title: General Manager