

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 25, 2010

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2009-00043

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

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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. § 192.241 (a)(1) - Failing on one occasion to follow a qualified welding procedure, by not checking the voltage and amperage of a machine while performing a weld on a pipeline;
 - (b) 49 C.F.R. § 192.273 (b) - Failing on one occasion of Company contractor to make a joint in accordance with a written procedure by not verifying the proper temperature of the heating device performing the fusion as stated in Company Procedure, Division II, Section 10, Paragraph (g);
 - (c) 49 C.F.R. § 192.303 - Failing on one occasion of Company contractor to construct a main in accordance with comprehensive written specifications by not installing an anode 24 inches below the pipe;
 - (d) 49 C.F.R. § 192.303 - Failing on one occasion to have comprehensive written procedures or standards that delineated the proper sequence of anchoring and dewatering a pipeline to prevent damage and undue stresses during the construction process;
 - (e) 49 C.F.R. § 192.303 - Failing on one occasion to construct a pipeline in accordance with a comprehensive written specification by not applying an approved pipeline coating to a pipe joint with proper surface preparation;
 - (f) 49 C.F.R. § 192.303 - Failing on one occasion of Company contractor to construct a main in accordance with comprehensive written specifications by not utilizing the properly sized back reamer as stated in Company Procedure, Division I, Section 9.5.2;
 - (g) 49 C.F.R. § 192.303 - Failing on one occasion to construct a pipeline in accordance with a comprehensive written specification by not applying an approved pipeline coating to a pipe joint to the specified thickness;
 - (h) 49 C.F.R. § 192.307 - Failing on one occasion to install a service line that is free of defects;
 - (i) 49 C.F.R. § 192.319 (b)(2) - Failing on one occasion of Company contractor to backfill a gas main in a manner that prevents damage to the pipe and pipe coating from equipment or from the backfill material;

- (j) 49 C.F.R. § 192.325 (b) - Failing on one occasion to install a main with enough clearance from any other underground structures to allow proper maintenance and to protect against damage that might result from proximity to other structures;
- (k) 49 C.F.R. § 192.327 (b) - Failing on one occasion to install a main with a minimum of 24" of cover;
- (l) 49 C.F.R. § 192.353 (a) - Failing on four occasions to install a meter in a location that is protected from vehicular damage that may be anticipated;
- (m) 49 C.F.R. § 192.355 (b)(2) - Failing on one occasion of Company contractor to install a service regulator at a place where gas from the vent can escape freely away from any opening in the building;
- (n) 49 C.F.R. § 192.357 (a) - Failing on two occasions to install a meter in a manner to minimize anticipated stress upon the connecting piping;
- (o) 49 C.F.R. § 192.605 (a) - Failing on one occasion of Company contractor to follow Company Procedure, Division I, Section 2.19, and the Virginia Underground Utility Damage Prevention Act 56-265.17(A), by excavating without a Miss Utility ticket;
- (p) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow a written procedure by not having a fire extinguisher located at construction and maintenance work as stated in Company Procedure, Division IV, Section 6.2.4, developed to comply with §192.751(a);
- (q) 49 C.F.R. § 192.605 (b)(3) - Failing on two occasions to make accurate construction records, maps, and operating history available to appropriate operating personnel;
- (r) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow a written procedure as stated in Company Procedure, Division II, Section 19.2.2, by not determining if a hazardous atmosphere exists before entering an excavation;
- (s) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow a written procedure by not inspecting a relief valve for proper installation as stated in Company Procedure, Division II, Section 12.1.1(d);
- (t) 49 C.F.R. § 192.605 (a) - Failing on one occasion of Company contractor to follow Company Procedure 6.2.1 "Prevention of Accidental Ignition" by smoking cigarettes in an excavation while working on a Company facility;
- (u) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow Company Procedure 6.3 "Working in Confined Spaces" by not utilizing life protection

equipment such as a lifeline and breathing apparatus in an oxygen deficient excavation;

- (v) 49 C.F.R. § 192.605 (b) - Failing on one occasion to have adequate procedures for squeezing off a pipeline by not specifying the distance a squeeze off can be from any fusion joint, mechanical connection, prior squeeze off point, or second squeeze off point;
- (w) 49 C.F.R. § 192.605 (b) - Failing on one occasion to have adequate procedures for the use of a mechanical weak link during installation of plastic pipe;
- (x) 49 C.F.R. § 192.605 (b)(8) - Failing on two occasions to have adequate procedures for periodically reviewing the work done by operator personnel to determine the effectiveness and adequacy of the procedures by not specifying a time frame for such review in Company Procedure, Division I, section 1.4, for the periodic review of procedures;
- (y) 49 C.F.R. § 192.614 (a) - Failing on three occasions to follow a written program to prevent damage to a pipeline from excavation activities as stated in § 192.614(c)(5) by not providing for temporary markings of the pipeline;
- (z) 49 C.F.R. § 192.614 (c)(6)(i) - Failing on one occasion to inspect pipelines as frequently as necessary to verify their integrity;
- (aa) 49 C.F.R. § 192.739 (a) - Failing on one occasion to inspect each pressure limiting station, relief device, and pressure regulating station and its equipment at intervals not exceeding 15 months, but at least once each calendar year;
- (bb) 49 C.F.R. § 192.805 - Failing on one occasion to have in its written qualification program, specifications for the distance a squeeze off can be from any fusion joint, mechanical connection, prior squeeze off point, or second squeeze off point;
- (cc) 49 C.F.R. § 192.805 - Failing on one occasion to have in its written qualification program, specifications for the proper use of a mechanical weak link during installation of plastic pipe;
- (dd) 49 C.F.R. § 192.805 (b) - Failing on two occasions to ensure through evaluation that individuals are qualified to react to an abnormal operating condition relative to the retrieval of a lost coupon while conducting steel pipeline tapping operations;
- (ee) 49 C.F.R. § 192.907 (a) - Failing on one occasion to have written procedures for the examination, grading, and remediation of anomalies discovered in the integrity management process as required by §192 Subpart O;

- (ff) 49 C.F.R. § 192.907 (a) - Failing on one occasion to follow a written integrity management program developed to comply with § 192.485, by not determining the remaining strength of the pipeline after field examination;
- (gg) 49 C.F.R. § 192.907 (a) - Failing on one occasion to follow a written integrity management program developed to comply with Subpart O, by not providing a schedule for evaluation and remediation;
- (hh) 49 C.F.R. § 192.907 (a) - Failing on one occasion to follow a written integrity management program developed to comply with § 192.713, by not providing design and installation procedures for anomaly repair;
- (ii) 49 C.F.R. § 192.911 (b) - Failing on one occasion to follow a written integrity management program developed to comply with § 192.921(A)(1), by not having procedures for internal inline inspection;
- (jj) 49 C.F.R. § 192.911 (e) - Failing on one occasion to have a comprehensive integrity management program that contains adequate provisions meeting the requirements of § 192.933 for remediating conditions found during integrity assessment;
- (kk) 49 C.F.R. § 192.915 - Failing on one occasion to provide qualified personnel to conduct integrity assessments, specifically NDE examinations by a person who was not at least a Level II certified technician; and
- (ll) 49 C.F.R. § 192.933 (a) - Failing on two occasions to take prompt action to address all anomalous conditions discovered through the integrity assessments.

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 Four Hundred Forty-eight Thousand Five Hundred Dollars (\$448,500), of which Two Hundred Thousand Dollars (\$200,000) shall be paid contemporaneously with the entry of this Order. The remaining Two Hundred Forty-eight Thousand Five Hundred Dollars (\$248,500) shall be due as outlined in Undertaking Paragraph (6) herein, and may be suspended in whole or in part by the

Commission, provided the Company timely takes the actions required in Undertaking Paragraphs (2) and (4) herein and tenders the requisite certification as required by Undertaking Paragraph (5) 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:

Transmission Integrity Management

(a) On or before September 1, 2010, the Company shall revise its Transmission Integrity Management Program ("IMP") procedures to include methods and procedures to repair steel pipelines in accordance with ASME B 31.8. Among other things, repair methods shall be chosen by engineering analysis performed by VNG and consideration shall be given to the reduction of pipeline pressure during repair to ensure the safety and effectiveness of each type of repair.

(b) On or before September 1, 2010, the Company shall revise its IMP plan to require performing and evaluating any in-line inspections of pipelines in accordance with the American Petroleum Institute ("API") Standard 1163, and other applicable standards.

(c) On or before July 1, 2010, the Company shall host a Transmission Integrity Management best practice symposium to learn best practices in complying with the IMP regulations. The Company shall summarize the results and share them with the Division and the Virginia Pipeline industry by July 15, 2010.

(d) On or before July 1, 2010, the Company shall examine and repair the anomaly with identification number 4000116 on the Dig Site Information Report from Magpie Systems, Incorporated as required by ASME B 31.8 and API 5 L.

(e) On or before September 1, 2010, the Company shall create and fill a full time position to oversee its IMP and Distribution Integrity Management Program ("DIMP") processes (Compliance and System Integrity Manager). This individual shall report directly to the Vice President of Operations for the Company.

Quality Assurance

(f) On or before August 1, 2010, the Company shall implement a Distribution Quality Assurance program, acceptable to the Division, for the Company's employees who perform construction and maintenance activities.

(g) On or before October 1, 2010, the Company shall modify its construction record ("as-built") process to ensure it prepares and maintains accurate installation records of its underground utility lines. Additionally, the Company shall implement effective procedures to ensure its service card revision and updating process is accurate.

(h) On or before July 1, 2010, the Company shall begin revising its Operation and Maintenance Procedures ("O&M") to ensure it conforms to the requirements of API 1104 Appendix B whenever repairs are made to in-service transmission and distribution pipelines. As these procedures are revised, the Company shall train personnel and implement the procedures. The Company shall complete the training and implementation of these procedures by no later than December 31, 2010.

Damage Prevention

(i) On or before October 1, 2010, the Company shall employ a Damage Prevention Specialist and a Damage Prevention Analyst to augment audits of the Company's contract locator performance, increase the excavators' training and outreach, where deemed necessary and reasonable, and promptly address the "plant condition" reports.

(j) On or before August 1, 2010, the Company shall expand its damage prevention data gathering and analysis to determine undesirable trends and take actions to correct the reason behind those trends.

(k) On or before August 1, 2010, the Company shall purchase and begin using two Gas Trackers to assist in locating the "difficult to locate" facilities.

Meter Installation and Protection

(l) On or before September 1, 2010, the Company shall revise its construction procedures to require crews installing new meters to determine the need for, and install any meter protection necessary to prevent damage to the meter facilities, at the time of installation.

(m) On or before August 1, 2010, the Company shall begin a three-year program to inspect all meter sets to determine if meter protection is needed. For all meters identified as needing meter protection, the protection shall be installed within 60 days of the date of inspection. The Company shall submit a progress report to the Division no later than August 31st of each year of the three year period detailing the results of the inspections and the corrective actions for the previous 12 months ending July 31st.

(n) On or before December 31, 2010, the Company shall hold at least four (4) meetings with HVAC contractors and plumbers working in VNG's service area to

educate them regarding the proper fuel line placements at structures, gas pipeline safety and damage prevention basics.

Training

(o) On or before July 1, 2010, the Company shall implement an Operation Risk Management Program to address threats, risks and hazards within its system. This program shall be submitted to the Division for review.

(p) On or before August 1, 2010, the Company shall begin delivering specific training to VNG and contractors' field employees to address Operator Qualification and pipeline safety issues noted by the most recent inspections conducted by the Division and the audits performed by VNG.

O&M Procedures

(q) On or before July 1, 2010, the Company shall begin developing and implementing detailed written procedures for the areas noted on Attachment A to this Order. As these procedures are revised, the Company shall train personnel and implement the procedures. The Company shall complete the training and implementation of these procedures by no later than March 31, 2011. A copy of the new procedures shall be submitted to the Division as they are prepared but no later than December 31, 2010.

Others

(r) On or before July 31, 2011, the Company shall take over the operation and maintenance of 10 gas master meter systems currently served by VNG. This is in addition to the 22 master meter systems VNG agreed to take over the operation in Case Nos. URS-2006-00581 and URS-2008-00003. At least 6 of the 10 master meter systems to be taken over must currently serve more than 100 units.

(s) On or before September 1, 2010, the Company shall conduct a study of a statistically valid sample of the 2009 non-hazardous leaks discovered on its system and devise a plan, acceptable to the Division, to reduce the frequency of such leaks. The plan shall be implemented by no later than July 1, 2011.

(t) The Company shall respond to all pipeline safety and damage prevention inquiries from the Division within times specified in such inquiries. The person normally responsible for responding to the Division's pipeline safety inquiries shall report directly to the Vice President of Operations for VNG.

(3) The Division advises that the Company has complied with the terms and undertakings outlined in Undertaking Paragraph (2)(c) above and has submitted documentation evidencing the completion of Undertaking Paragraph (2)(c) to the Division. The Division further advises that the Company has been cooperative with the Division's investigation and, that the Company represents that it is fully committed to complying with the Safety Standards.

(4) Beginning July 1, 2010, and each three months thereafter until August 15, 2011, or as otherwise required, VNG shall provide a written report to the Director of the Division, in a format acceptable to the Division, describing in detail the actions that it has taken, and the expenditures that it has made, to comply with the requirements of Undertaking Paragraph (2) above.

(5) On or before August 15, 2011, VNG will tender to the Clerk of the Commission, with a copy to the Director of the Division, a notarized affidavit signed by the President of the Company certifying that the Company has completed all of the remedial actions described in Undertaking Paragraph (2) above with the exception of the three-year program to inspect all meter sets described in Undertaking Paragraph (2)(m). The Company shall submit progress

reports in accordance with Undertaking Paragraph (2)(m) through the completion of the program.

(6) Upon timely receipt of the affidavit required by Undertaking Paragraph (5) above, the Commission may suspend and subsequently vacate up to Two Hundred Forty-eight Thousand Five Hundred Dollars (\$248,500) of the remaining amount set forth in Undertaking Paragraph (1) above. Should VNG fail to tender said affidavit or fail to take the actions required by Undertaking Paragraphs (2) and (4) above, a payment of Two Hundred Forty-eight Thousand Five Hundred Dollars (\$248,500) 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 Paragraphs (2) and (4) above. If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than Two Hundred Forty-eight Thousand Five Hundred Dollars (\$248,500), 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.

(7) The Company shall not seek to recover from ratepayers, in any present or future Commission proceeding, any of the costs incurred on or before July 31, 2011 in connection with the remedial actions required by Undertaking Paragraph (2) above, or otherwise defer such costs for future recovery from ratepayers.

(8) The Company shall not recover from ratepayers the costs associated with the investigation, repair and re-installation of the sections of the HRX pipeline known as the Middleground-Newport News Closure and the Anderson Park Closure that floated from August 17, 2009 through August 27, 2009, and August 17, 2009 through August 28, 2009, respectively.

(9) This settlement does not prohibit the Commission 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 this settlement prohibit the Company from submitting information contradicting or mitigating the information submitted by the Commission Staff.

(10) Any amounts paid to the Commonwealth of Virginia 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 journal entries made to record such amounts 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-2009-00043.
- (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 Four Hundred Forty-eight Thousand Five Hundred Dollars (\$448,500), part of which may be suspended and subsequently vacated as provided in Undertaking Paragraph (1) above.
- (4) The sum of Two Hundred Thousand Dollars (\$200,000) tendered contemporaneously with the entry of this Order is accepted. The remaining Two Hundred Forty-eight Thousand Five Hundred Dollars (\$248,500) 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 (4) above and files the timely certification of the remedial actions as required by Undertaking Paragraph (5) herein.

(5) The Company shall not recover the costs of the remedial actions described herein from the ratepayers except as provided in Undertaking Paragraph (7) above.

(6) The Company shall not recover any of the costs associated with the investigation, repair and re-installation of the section of the HRX pipeline known as the Middleground-Newport News Closure and the Anderson Park Closure that floated from August 17, 2009 through August 27, 2009, and August 17, 2009 through August 28, 2009, respectively.

(7) Pursuant to Undertaking Paragraph (9), the settlement reached between the Division and the Company does not prohibit the Commission 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 Commission Staff in such a proceeding.

(8) 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, President, Virginia Natural Gas, Inc., 150 West Main Street, Suite 1510, Norfolk, Virginia, 23510; 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,

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2009-00043

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: 6/21/10

Virginia Natural Gas, Inc.

By: Jodi S. Gidley
Jodi S. Gidley
Title: President

CASE NO. URS-2009-00043

Construction

- Installation of pipe above ground
- Inspection and maintenance of above ground support anchors
- Installation of steel pipe in ditch
- Installation of plastic pipe in ditch
- Installation of pipeline by trenchless technology
- Installation of plastic pipeline by plowing planting
- Installation and maintenance of casing spacers, vents and seals
- Inspection of pipelines during construction

Leak and Damage Repairs

- Repair of steel pipelines by grinding
- Installation of composite sleeves
- Repair of leaks on cast and ductile iron pipes
- Measurement and characterization of mechanical damage to pipelines

Leak Survey Investigations

- Investigation of leaks
- Leak survey and classification of leaks

Odorization

- Sampling of odorant in the system

Patrols-Markers

- Installation and maintenance of line markers
- Patrolling of pipelines

Regulating and Metering

- Inspection of regulator stations
- Installation of customer meters and regulators

Tapping-Stopping

- Inspection of valves

Testing-Purging

- Pressure testing
- Testing leaks at operating pressure
- Purging of pipelines

Damage Prevention

- Locating and marking of pipelines