

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 22, 2011

CLERK'S OFFICE

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

IN RE: SETTLEMENT CONFIRMATION

v.

CASE NO. URS-2010-00390

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, 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. § 192.303 - Failing on one occasion of Company contractor to construct a main in accordance with written specifications, developed to comply with 49 C.F.R. § 192.281, by not scraping the appropriate surface area to be fused when installing an electrofusion tapping tee as stated in Company Procedure, Division II, Section 10.4.3;
 - (b) 49 C.F.R. § 192.317 (b) - Failing on one occasion to protect an aboveground transmission line or main from accidental damage by vehicular traffic or other similar causes either by being placed at a safe distance from the traffic or by installing barricades;
 - (c) 49 C.F.R. § 192.361 (a) - Failing on one occasion of Company contractor to install a service line with at least 18" of cover in streets and roads;
 - (d) 49 C.F.R. § 192.605 (a) - Failing on one occasion of Company contractor to follow a written procedure by not taking precautions to determine that a hazardous atmosphere was not present as stated in Company Procedure, Division II, Section 19.2.2;
 - (e) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow a written procedure by squeezing a plastic service in the same place more than once as stated in Company Procedure, Division III, Section 5.16(c);
 - (f) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow a written procedure by not installing an excess flow valve on a service as stated in Company Procedure, Division II, Section 10.2;
 - (g) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow a written procedure by not removing a section of damaged pipe as stated in Company Procedure, Division III, Section 5.16(k);
 - (h) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow a written procedure by not having tracer wire installed adjacent to the plastic pipe for accurate locating as stated in Company Procedure, Division III, Section 5.11.4;

- (i) 49 C.F.R. § 192.605 (a) - Failing on two occasions to follow a written procedure by not marking the appropriate stab length while installing a mechanical fitting as stated in Company Procedure, Division II, Section 10.3.4;
- (j) 49 C.F.R. § 192.605 (a) - Failing on two occasions to follow a written procedure by not using a piece of tape or other conspicuous method to identify squeeze-off point as stated in Company Procedure, Division III, Section 5.16.1(a);
- (k) 49 C.F.R. § 192.605 (a) - Failing on two occasions to follow a written procedure by not grounding squeeze-off tool as stated in Company Procedure, Division IV, Section 5.2.3(D);
- (l) 49 C.F.R. § 192.605 (a) - Failing on eight occasions of Company and Company contractor to follow a written procedure by locating a squeeze-off tool within 3 times the pipe diameter, or 12 inches, whichever is greater, from any fusion joint, mechanical connection as stated in Company Procedure, Division III, Section 5.16(d);
- (m) 49 C.F.R. § 192.605 (a) - Failing on one occasion to follow a written procedure by not depicting an unusual construction detail on a service card as stated in Company Procedure, Division I, Section 2.19.3;
- (n) 49 C.F.R. § 192.605 (a) - Failing on one occasion of Company contractor to follow a written procedure by not visually inspecting for clearances of other utilities during directional drilling operations as stated in Company Procedure, Division I, Section 9.4;
- (o) 49 C.F.R. § 192.605 (a) - Failing on one occasion of Company contractor to follow a written procedure by not following manufacturers specifications for the equipment utilized while performing a hot tap as stated in Company Procedure, Division II, Section 20.2(d);
- (p) 49 C.F.R. § 192.605 (a) - Failing on two occasions to follow a written procedure by not grounding pipe before installing squeeze-off tool as stated in Company Procedure, Division IV, Section 5.2.3(C);
- (q) 49 C.F.R. § 192.725 (b) - Failing on one occasion to test a service line temporarily disconnected from the main from the point of disconnection to the service line valve in the same manner as a new service line, before reconnecting; and

- (r) 49 C.F.R. § 192.805 - Failing on one occasion to identify squeeze-off as a covered task and ensure through evaluation that individuals performing covered tasks are qualified.

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 Three Hundred Eighty-six Thousand Eight Hundred Fifty Dollars (\$386,850), of which One Hundred Eighty-seven Thousand One Hundred Fifty Dollars (\$187,150) shall be paid contemporaneously with the entry of this Order. The remaining One Hundred Ninety-nine Thousand Seven Hundred Dollars (\$199,700) shall be due as outlined in Undertaking Paragraph (7) 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 certifications as required by Undertaking Paragraphs (3), (4), (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, 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 August 31, 2011, the Company shall develop a procedure for identifying potentially isolated short sections of steel pipelines and reporting any found to VNG's corrosion department for review and corrective action as appropriate and train any employees whose job functions include working around customer meters, including but not limited to, meter readers and leak survey technicians, to this procedure.
- (b) On or before August 31, 2011, the Company shall purchase and begin using two universal electrofusion machines with GPS and bar code capability. The Company shall also develop a procedure, train, and

qualify its employees in the use of these machines. The Company shall record the data input into the machines in the field and store it in Company servers for use in the Company's Distribution Integrity Management Plan.

- (c) On or before October 1, 2011, the Company shall implement the study outlined in Attachment A, Study to evaluate new and emerging locate technology, with the final report submitted to the Division on or before October 1, 2013, detailing the study results.
- (d) On or before December 31, 2011, the Company shall leak survey all cast iron and bare unprotected steel pipelines in its system to establish a baseline for determining risk for use in its distribution integrity management program ("DIMP"). The Company shall also annually determine the need for more frequent leak surveys of cast iron and bare steel pipelines, or other actions as appropriate, based upon the data gathered and the implementation of the DIMP plan.
- (e) On or before December 31, 2011, the Company shall implement a web based training portal for fire departments and other emergency responders in VNG's service territory to educate them on pipeline safety, including, but not limited to, the characteristics of natural gas, gas migrations, risk mitigation, responsibilities of the gas operator, and any other pipeline safety and damage prevention information that is necessary for the emergency responders to have pursuant to the Company's public awareness plan. This web based training shall also meet the necessary requirements for continuing education for the emergency responders.
- (f) On or before March 31, 2012, the Company shall perform an in-line inspection to ensure that certain gas pipelines are not in conflict with sewer mains or laterals. This in-line inspection shall be conducted with a high resolution video camera in those sewer mains and laterals in the vicinity of pipelines installed as part of a planned pipeline replacement or betterment project between calendar years 2000 and 2005. The in-line inspections performed must represent a statistically significant sample size sufficient to demonstrate a 95% confidence level. The Company shall provide a report to the Division that delineates the results of the inspections and descriptions of any actions taken to correct any issues found during the in-line inspections.
- (g) On or before July 31, 2012, the Company shall take over the operation and maintenance of 4 gas master meter systems currently served by VNG. This is in addition to the 32 master meter systems VNG agreed to take over the operation of in Case Nos. URS-2006-00581, URS-2008-00003, and URS-2009-00043. At least 2 of the 4 master meter systems to be taken over must currently serve more than 100 units.

(3) On or before September 15, 2011, VNG shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit executed by the President of Virginia Natural Gas, Inc., certifying that the Company completed the remedial actions set forth in Undertaking Paragraphs (2)(a) and (2)(b) above.

(4) On or before January 15, 2012, VNG shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit executed by the President of Virginia Natural Gas, Inc., certifying that the Company completed the remedial actions set forth in Undertaking Paragraphs (2)(d) and (2)(e) above.

(5) On or before April 15, 2012, VNG shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit executed by the President of Virginia Natural Gas, Inc., certifying that the Company completed the remedial actions set forth in Undertaking Paragraph (2)(f) above.

(6) On or before August 15, 2012, VNG shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit executed by the President of Virginia Natural Gas, Inc., certifying that the Company completed the remedial actions set forth in Undertaking Paragraph (2)(g) above.

(7) Upon timely receipt of said affidavits, the Commission may vacate up to One Hundred Ninety-nine Thousand Seven Hundred Dollars (\$199,700) of the amount set forth in Undertaking Paragraph (1) above. Should VNG fail to tender the affidavits required by Undertaking Paragraphs (3), (4), (5), and (6) above, or fail to take the actions required by Undertaking Paragraph (2) above, a payment of One Hundred Ninety-nine Thousand Seven Hundred Dollars (\$199,700) 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), (3), (4), (5), and (6) above. If, upon investigation, the Division determines that the reason for said failure justifies a payment lower than One Hundred Ninety-nine Thousand Seven Hundred Dollars (\$199,700), 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 Undertaking Paragraph (1) of 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-2010-00390.
- (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 Three Hundred Eighty-six Thousand Eight Hundred Fifty Dollars (\$386,850), which may be suspended and subsequently vacated, in whole or in part, as provided in Undertaking Paragraph (1) of this Order.

(4) The sum of One Hundred Eighty-seven Thousand One Hundred Fifty Dollars (\$187,150) tendered contemporaneously with the entry of this Order is accepted. The remaining One Hundred Ninety-nine Thousand Seven Hundred Dollars (\$199,700) 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 Paragraph (2) of this Order and files the timely certification of the remedial actions as required by Undertaking Paragraphs (3), (4), (5), and (6) of this Order.

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

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Jodi Gidley, President, Virginia Natural Gas, Inc., 544 South Independence Boulevard, Virginia Beach, Virginia, 23452; 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.

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2010-00390

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: _____

8/2/11

Virginia Natural Gas, Inc.

By: _____

Title: _____

Judith L. Gidley
President