

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 1, 2014

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2014-00099

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.<sup>1</sup> The Commission is authorized to enforce the Safety Standards for natural gas

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<sup>1</sup>*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).*

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 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.
- (2) The Company violated the Commission's Safety Standards by the following conduct:
  - (a) 49 C.F.R. § 192.273 (b) - Failure of the Company on nine instances to follow its Operations Procedure Manual, Division IV, Section 6.5.2, by not verifying the correct insertion depth on both ends of a coupling before starting the electrofusion process.
  - (b) 49 C.F.R. § 192.273 (b) - Failure of the Company to follow its Operations Procedure Manual, Division IV, Section 6.1, by not applying sufficient force to ensure proper rollback of heated materials during a butt fusion.
  - (c) 49 C.F.R. § 192.305 - Failure of the Company on seven instances to inspect a main to ensure that it was constructed in accordance with its Operations Procedure Manual, Division IV, Section 6.1, developed to comply with § 192.273 (b).
  - (d) 49 C.F.R. § 192.361 (b) - Failure of the Company to install a service line with backfill free of materials that could damage the pipe.
  - (e) 49 C.F.R. § 192.605 (a) - Failure of the Company to have an adequate procedure for the proper installation of tracer wire on plastic pipe developed to comply with § 192.321 (e).
  - (f) 49 C.F.R. § 192.605 (a) - Failure of the Company to have adequate procedures for performing underground leak investigations.
  - (g) 49 C.F.R. § 192.605 (a) - Failure of the Company on three instances to follow its Operations Procedure Manual, Division II, Section 1, by not making accurate construction records, maps, and operating history available to appropriate operating personnel.

- (h) 49 C.F.R. § 192.605 (a) - Failure of the Company to follow its Operations Procedure Manual, Division II, Section 4.8.2, by not calibrating Combustible Gas Indicators in accordance with the manufacturer's recommended calibration instructions.
- (i) 49 C.F.R. § 192.605 (a) - Failure of the Company on two instances to follow its Operations Procedure Manual, Division III, Section 3.6.2, by entering an excavation that exceeded five feet as referenced in OSHA Part 1926, Subpart P, Standard 1926.652 (a) (1) (i) without an adequate system to protect employees from a cave in.
- (j) 49 C.F.R. § 192.605 (a) - Failure of the Company on two instances to follow its Operations Procedure Manual, Division III, Section 5.11.5, by not joining sections of tracer wire to maintain a conductive flow of current for locating.
- (k) 49 C.F.R. § 192.614 (c) (6) (i) - Failure of the Company to inspect a pipeline as frequently as necessary during and after excavation activities to verify the integrity of the pipeline.
- (l) 49 C.F.R. § 192.805 (a) - Failure of the Company to identify the burial of anodes as a covered task in its written qualification program.
- (m) 49 C.F.R. § 192.805 (b) - Failure of the Company to ensure through evaluation that an individual was qualified to perform the covered task of underground leak investigations.

The Company neither admits nor denies these allegations but admits to 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 Three Hundred Fourteen Thousand Dollars (\$314,000), of which Two Hundred Two Thousand Five Hundred Dollars (\$202,500) shall be paid contemporaneously with the entry of this Order. The remaining One Hundred Eleven Thousand Five Hundred Dollars (\$111,500) shall be due as outlined in Undertaking Paragraph (5) 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) (b) and (3) herein and tenders the requisite certification as required by Undertaking Paragraph (4) 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 take the following remedial actions:

(a) Within 60 days of the date of this Order, the Company shall take the necessary action to retrain those employees installing cathodic protection anodes on the proper methods of installing them, including placement and proximity to the pipeline.

(b) Within 90 days of the date of this Order:

- (i) The Company shall develop, maintain, and follow detailed procedures for the installation of both new and replaced service lines as the term "service line" is defined in 49 C.F.R. § 192.3. These procedures shall include, among other things, a requirement to inspect service lines to ensure they are constructed in accordance with the procedures and the applicable requirements of Part 192. The Company shall submit these procedures to the Division upon completion.
- (ii) The Company shall implement a program to perform independent audits of its construction activities. The audit reports shall be reviewed by the Vice President of Operations with corrective actions documented.

(3) The Company has agreed to complete the following:

(a) On or before October 1, 2014, the Company shall "wrap" 3 damage prevention specialist vehicles with the "Dig With C.A.R.E., Call 811" message as designed by the Division. The message shall be displayed on these vehicles for a minimum of 3 years.

(b) On or before July 1, 2015, the Company shall implement a damage prevention program for school children to at least 2 school districts in its service area during the 2014/2015 school year. The details of the program must be acceptable to the Division.

(c) On or before July 1, 2015, the Company shall implement a public outreach program at 2014/2015 sporting events in partnership with Old Dominion University. The details of this program must be acceptable to the Division.

(4) On or before July 15, 2015, VNG shall tender to the Clerk of the Commission, with a copy to the Division, an affidavit, executed by the Vice-President of Operations, certifying that the Company completed the remedial actions set forth in Undertaking Paragraphs (2) (b) and (3) above.

(5) Upon timely receipt of said affidavit, the Commission may suspend and subsequently vacate up to One Hundred Eleven Thousand Five Hundred Dollars (\$111,500) of the amount set forth in Undertaking Paragraph (1) above. Should VNG fail to tender the affidavit required by Undertaking Paragraph (4) above, a payment of One Hundred Eleven Thousand Five Hundred Dollars (\$111,500) 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) (b) and (3) above. If, upon investigation, the Division determines that the reason for said failure justifies a payment

lower than One Hundred Eleven Thousand Five Hundred Dollars (\$111,500), 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.

(6) This settlement does not prohibit 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 Commission Staff.

(7) 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 Division's representations and the 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-2014-00099.
- (2) Pursuant to the authority granted to the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by VNG is hereby accepted.
- (3) Pursuant to § 56-257.2 B of the Code of Virginia, the Company shall pay to the Commonwealth of Virginia the amount of Three Hundred Fourteen Thousand Dollars

(\$314,000), part of which may be suspended and subsequently vacated as provided in Undertaking Paragraph (1) of this Order.

(4) The sum of Two Hundred Two Thousand Five Hundred Dollars (\$202,500) tendered contemporaneously with the entry of this Order is accepted. The remaining One Hundred Eleven Thousand Five Hundred Dollars (\$111,500) 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 Paragraphs (2) (b) and (3) of this Order and files the timely certification of the remedial actions required by Undertaking Paragraph (4) of this Order.

(5) Pursuant to Undertaking Paragraph (6), 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.

(6) This case is hereby continued.

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.

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COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND,

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UTILITY AND RAILROAD SAFETY  
VIRGINIA STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. URS-2014-00099

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: 7/17/14

Virginia Natural Gas, Inc

By: Robert S. Dwell

Title: Vice President