

STATE CORPORATION COMMISSION

AT RICHMOND, OCTOBER 7, 2002

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. PUE-2002-00413

VIRGINIA GAS PIPELINE COMPANY,

Defendant.

ORDER OF SETTLEMENT

The Accountable Pipeline Safety and Partnership Act of 1996, 49 U.S.C. § 60101 et seq. ("Act"), requires 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 Virginia 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 under § 56-5.1 of the Code of Virginia, which allows the Commission to impose the fines and penalties authorized therein.

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DOCUMENT CONTROL

The Commission's Division of Utility and Railroad Safety ("Division")¹, charged with the investigation of each jurisdictional gas company's compliance with the Safety Standards, has conducted various inspections of construction, operation, and maintenance activities involving the Virginia Gas Pipeline Company ("VGPC" or "Company"), the Defendant, and alleges that:

(1) VGPC is a public service corporation as that term is defined in § 56-1 of the Code of Virginia and, specifically a natural gas company within the meaning of § 56-5.1 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 numerous occasions to properly handle and store various pipe sections;
- b) 49 C.F.R. § 192.303 – Failing on numerous occasions to install CANUSA KTC shrink sleeves properly;
- c) 49 C.F.R. § 192.303 – Failing to have and follow comprehensive written specifications relative to the use of coating patches cut from CANUSA shrink sleeves;
- d) 49 C.F.R. § 192.303 – Failing on numerous occasions to follow Section 4 D 2.2, Preheating and Postheating, of VGPC's welding specifications by not verifying the pre-heat temperature requirements;
- e) 49 C.F.R. § 192.303 – Failing to follow Section 7, Coatings, Part 4.3, of VGPC's construction specifications by not using the proper setting on the holiday detection device for the specified coating thickness;
- f) 49 C.F.R. § 192.303 – Failing to follow Section 7, Coatings, General Application Step 2, of VGPC's construction specifications by not verifying the proper preheat temperature for the coating area to be repaired;
- g) 49 C.F.R. § 192.303 – Failing to follow Section 7, Coatings, CANUSA Pipeline Repair Products Installation Guide, of VGPC's construction

¹ Effective July 1, 2002, the Commission created the Division of Utility and Railroad Safety out of the Division of Railroad Regulation and part of the Division of Energy Regulation.

specifications, by using the CANUSA melt stick on damages to the pipe coating with a width and breadth greater than 10 millimeters by 10 millimeters;

- h) 49 C.F.R. § 192.303 – Failing to follow Section 7, Coatings, Scotchkote Hot Melt Patch Compounds Installation Guide, of VGPC's construction specifications, by not applying heat in a manner to avoid burning or charring of the epoxy coating;
- i) 49 C.F.R. § 192.303 – Failing to follow Section 7, Coatings, Part 4.6 of the Powercrete J Installation Guide, of VGPC's construction specifications, by allowing the wet coating to be contaminated with foreign materials;
- j) 49 C.F.R. § 192.319(a) – Failing to install the pipe so that it fits the ditch to minimize stresses and protect the pipe coating from damage;
- k) 49 C.F.R. § 192.461(c) – Failing on several occasions to properly repair damage detrimental to effective corrosion control; and
- l) 49 C.F.R. § 192.461(c) – Failing on several occasions to inspect the protective coating of the pipe just prior to installation.

The Company neither admits nor denies these allegations but admits the Commission's jurisdiction and authority to enter this Order.

Subsequent to the discovery of the probable violations listed above, VGPC took action to correct those probable violations that could be corrected. In light of the corrective actions taken by the Company, and as an offer to settle all matters arising from the allegations made against it, VGPC represents and undertakes that:

(1) The Company shall pay a fine to the Commonwealth of Virginia in the amount of \$410,000, of which \$55,000, shall be paid contemporaneously with the entry of this Order. The remaining \$355,000, is due as outlined in Paragraph (2), below, and may be suspended in whole, or in part, provided the Company tenders the requisite certification that it has completed specific remedial actions, as set forth below in Paragraph (2) on or before the scheduled date for completion of said remedial action. At the completion of all remedial actions described below,

the Commission may vacate any outstanding amounts. The initial payment, and any subsequent payments, will 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 will take remedial actions pursuant to the following schedule:

(A) Corrosion Specialist Firm

(i) The Company shall solicit and engage a corrosion specialist firm ("corrosion specialist"), satisfactory to the staff of the Division of Utility and Railroad Safety, to develop and implement a monitoring and corrective action program which shall, at a minimum, contain the elements delineated in Paragraph (B) below. Such corrosion specialist shall be hired within three months of the date of this Order and shall prepare a monitoring and corrective action program to begin within six months of the date of this Order. The Company shall tender to the Clerk of the Commission an affidavit from the General Manager of Virginia Gas Pipeline Company, certifying that the monitoring program has begun.

(ii) Upon timely receipt of said affidavit, the Commission may suspend \$55,000, of the fine amount specified in Paragraph (1) above. Should VGPC fail to tender said affidavit or begin the actions required by Paragraph (2)(A)(i) within 7 months of the date of the Order, a payment of \$55,000 shall become immediately due. The Company shall immediately notify the Division of the reasons for its failure to accomplish the actions required by Paragraph (2)(A)(i) herein and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$55,000, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(B) Monitoring and Corrective Action Program

- (i) The Company will begin a ten year monitoring program to inspect a statistically significant number, acceptable to the Division, of shrink sleeves each year for the entire pipeline by direct examination. Of the number selected for examination each year, 25% should be selected randomly and 75% should be at locations where disbonding and migration of moisture is most likely. The inspection program, at a minimum, should document the peel strength of the sleeve, mode of failure (e.g., coating adhesive failure, piping adhesive failure, adhesive separation, among others), presence or lack of moisture, presence of any staining under the sleeve, presence of corrosive bacteria, and detailed photographic documentation of each examination. The areas selected for examination should be first chosen from the most populated areas along the pipeline.
- (ii) The Company will run a high resolution in-line inspection device with appropriate instrumentation to measure and identify metal loss relative to the pipe wall thickness through the entire pipeline within three years of the date of this Order and again with eight years of the date of this Order. Any deficiencies discovered will be corrected immediately. Should either of the in-line inspection devices identify significant deficiencies, the Company shall run another high resolution in-line inspection device with appropriate instrumentation to measure and identify metal loss relative to the pipe wall thickness through the entire pipeline at appropriate intervals as determined by the corrosion specialist in consultation with the Division.
- (iii) The Company will run an in-line inspection device, within three years of the date of this Order, equipped with appropriate instrumentation to locate and assess ovality, wrinkles, and dents in the entire pipeline. Any deficiencies discovered will be corrected immediately.
- (iv) The Company will perform a direct assessment corrosion survey for the entire pipeline at least twice during the next ten years from the date of this Order. The direct assessment survey shall include, at a minimum, close interval surveys, and, where appropriate, direct current voltage gradient measurement, a Pearson type survey, and

an electromagnetic survey. The schedule for the surveys will be determined by the corrosion specialist in consultation with the Division. Any deficiencies noted will be corrected immediately.

- (v) The results of the direct examination, in-line inspection, and direct assessment surveys will be reviewed at least annually by the corrosion specialist to determine if additional cathodic protection facilities should be installed. If additional facilities are needed, they shall be installed within 3 months of such determination.
- (vi) The Company shall submit reports of its findings, inspections, and corrective actions every six months to the Commission's Division of Utility and Railroad Safety.
- (vii) Should the Company fail to take immediate corrective action for deficiencies noted during its cathodic protection examinations or submit the findings of its cathodic protection examinations to the Division of Utility and Railroad Safety at the required six month intervals, the remaining \$300,000, shall become due immediately. The Company shall immediately notify the Division of the reasons for its failure to accomplish the corrective actions or submit the required reports, and upon investigation, if the Division determines that the reason for said failure justifies a payment lower than \$300,000, it may recommend to the Commission a reduction in the amount due. The Commission shall determine the amount due. Upon the Commission's determination of the amount due, the Company shall immediately tender to the Commission that amount.

(3) Any fines paid in accordance with this Order shall not be recovered in the Company's rates as part of VGPC's cost of service. Any such fines and costs 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.

The Commission being fully advised in the premises and 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 VGPC has made a good faith effort to cooperate with the Staff during the investigation of this matter; and that, the offer of compromise and settlement should be accepted. The failure of VGPC to comply with the undertakings referenced above may result in the initiation of a Rule to Show Cause proceeding against the Company. Such proceeding may include any action necessary to effect immediate completion of the remedial actions discussed herein.

Accordingly, IT IS ORDERED THAT:

(1) Pursuant to the authority granted the Commission by § 12.1-15 of the Code of Virginia, the offer of compromise and settlement made by VGPC be, and it hereby is, accepted.

(2) VGPC timely comply with the remedial actions outlined herein. The failure of VGPC to so comply with said remedial actions may result in the initiation of a Rule to Show Cause proceeding against VGPC. Such proceeding may include any action necessary to affect immediate completion of the remedial actions described herein.

(3) Pursuant to § 56-5.1 of the Code of Virginia, VGPC be, and it hereby is, fined in the amount of \$410,000.

(4) The sum of \$55,000, tendered contemporaneously with the entry of this Order is accepted.

(5) The remaining \$355,000, 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 Paragraphs (2) (A) and (2) (B) found on pages 4, 5, and 6 of this Order, and files the timely certification of the remedial actions as outlined herein.

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

AN ATTESTED COPY hereof shall be sent to: Joseph L. Curia, General Manager, Virginia Gas Pipeline Company, 1096 Ole Berry Drive, Abingdon, Virginia, 24210; JoAnne L. Nolte, Esquire, The Conrad Firm, 1508 West Main Street, Richmond Virginia 23220; and the Commission's Office of General Counsel, Office of the Commission Comptroller, and the Divisions of Utility and Railroad Safety, and Public Utility Accounting.

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ADMISSION AND CONSENT

The Defendant, Virginia Gas Pipeline Company, admits the jurisdiction of this 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 substance and entry of the foregoing Order of Settlement.

The Defendant further states that no offer, tender, threat or promise of any kind whatsoever has been made by the Commission or by any member, officer, agent or representative thereof in consideration of this Admission and Consent.

Date: September 17, 2002

Seen and approved:

Virginia Gas Pipeline Company

JoAnne D. Nolte
Counsel for
Virginia Gas Pipeline Company

By: Joseph A. Curia
Title: Vice President and General Manager