CITY OF DANVILLE, VIRGINIA
Utilities Department

1040 Monument St.
Danville, Va. 24541
Tel (434) 799-5270
Fax (434) 799-6583

January 23, 2014

Byron Coy, Director, Eastern Region
Pipeline & Hazardous Materials Safety Administration
U. S. Department of Transportation
820 Bear Tavern Road, Suite 103
West Trenton, New Jersey 08628

VIA CERTIFIED MAIL

RE: CFP 1-2013-0010

Dear Mr. Coy:

The City of Danville (City) has received your Notice of Probable Violation and Proposed Civil Penalty dated December 23, 2013, and respectfully requests a hearing to contest allegations relating to the proposed violations and civil penalties stated in items 1.

In response to the Notice of Probable Violation, we the City of Danville, Virginia (City) provide the following:

1. **§ 192.483 Remedial measures: General.**

   (c) Except for cast iron or ductile iron pipe, each segment of buried or submerged pipe that is required to be repaired because of external corrosion must be cathodically protected in accordance with this subpart.

The City of Danville (City) failed to cathodically protect, in accordance with Subpart I, each segment of buried or submerged pipe that is required to be repaired because of external corrosion. Specifically, the City repaired a segment of' externally corroded buried pipe and failed on one occasion to cathodically protect the pipe as required by §192.483(c) after corrosion was found.

On 11/15/2011, the City repaired a corrosion leak on a 2 inch bare steel service line with a leak clamp. On 5/23/2013, after the finding was identified during the 5/8/2013 VA SCC inspection, the City replaced the service line with plastic pipe.

The City's response:

Note that the allegation states that the subject gas service line at 101 Marshall Terrace was replaced on 5/21/13 with a two inch diameter service thirteen days after the 5/8/13 VA SCC visit.

In 1990 the City had approximately 5800 bare steel services in its natural gas distribution system. The bare steel services at that time accounted for approximately 37% of the City's services.

In 2005, the City began a very pro-active bare steel replacement program that utilized both City crews and contractor crews. As of this letter there are approximately 137 bare steel services remaining in the system.

The service line noted by the VA SCC was repaired in 11/15/2011 when the bare steel service lines were being aggressively replaced. In February 2012 the contract with the contractor working on the bare steel service line replacements expired and the City crew's focus shifted to cast iron and ductile iron main replacements.

Many of the remaining bare steel services are connected to cast iron and ductile iron mains; therefore, it was considered that the bare steel replacements would continue but at a slower pace. Since 1990, the City has spent nearly $4,000,000 (average replacement cost of $700 per service) to remove the bare steel service lines from its natural gas distribution system.

While the City's bare steel service replacement program is not directly correlated to the issues addressed in this item, the City has spent a significant amount of money to remove over 94% of its bare steel services and it was always the intent of the City to replace the service identified in Item 1.

A review of our Annual Reports will verify the above replacement information.

With regard to the Civil Penalty, we request a hearing according to Response Option 1.a.4.

2. § 192.727 Abandonment or deactivation of facilities.

(d) Whenever service to a customer is discontinued, one of the following must be complied with:

(1) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.
(2) A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly.
(3) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.

The City failed on one occasion to secure a deactivated service line as required by § 192.727(d) (1) through § 192.727(d) (3).

Specifically, the City did not secure the deactivated service line when the City removed a meter from a service line at 321 Moffett Street on 12/12/2011. The supply valves on the inlet and outlet of the pressure regulator were shutoff, however the valves were not locked and the end of the service line was open to the atmosphere.

The City deactivated the service line at 321 Moffett Street incorrectly on 12/12/2011. The City correctly secured the deactivated service 5/8/2013, after the finding was discovered during the 5/8/13 VA SCC inspection.

The City did not have a work order on the meter removal, nor did the City know the names of the City personnel who removed the meter.

The City's response:

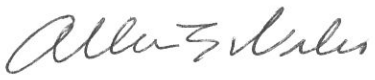
Item 2 does not contain additional enforcement action or penalty assessments; however, the City has already taken several actions to ensure that this type of situation is not duplicated and that its personnel understand the safety procedures for discontinuing service to customers.

We have reiterated the importance of following our Operations and Maintenance Procedures as well as Part 192. This subject carries extensive importance with The City's operation and continues to be discussed with operations personnel.

The City reviewed procedures in its O&M plan to verify that they followed the requirements of §192.727 and determined that they addressed §192.727 appropriately.

During safety and training meetings, the procedures have been reviewed with all personnel so that not only service personnel are aware of the requirements but other personnel are able to recognize improper customer service disconnections while they are performing continuing surveillance activities.

Sincerely,



Allen Wiles
Director of Danville Utilities Water and Gas

U.S. Department
Of Transportation
**Pipeline and
Hazardous Materials
Safety Administration**

820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628
609.989.2171

NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY

RECEIVED
DEC 30 2013
DANVILLE UTILITIES

OVERNIGHT EXPRESS MAIL

December 23, 2013

Mr. Steve Saum, Dir. Of Utilities
City of Danville, VA
1040 Monument St.
Danville, VA 24541

CPF 1-2013-0010

Dear Mr. Saum:

On May 8, 2013, an inspector from the Virginia State Corporation Commission (VA SCC) acting as Agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code inspected the City of Danville's (City) pipeline facilities in Danville, VA.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violation(s) are:

1. **§ 192.483 Remedial measures: General.**
   (c) Except for cast iron or ductile iron pipe, each segment of buried or submerged pipe that is required to be repaired because of external corrosion must be cathodically protected in accordance with this subpart.

The City of Danville (City) failed to cathodically protect, in accordance with Subpart I, each segment of buried or submerged pipe that is required to be repaired because of external corrosion. Specifically, the City repaired a segment of externally corroded buried pipe and failed on one occasion to cathodically protect the pipe as required by §192.483(c) after corrosion was found.

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Specifically, the City did not secure the deactivated service line when the City removed a meter from a service line at 321 Moffett Street on 12/12/2011. The supply valves on the inlet and outlet of the pressure regulator were shutoff, however the valves were not locked and the end of the service line was open to the atmosphere.

The City deactivated the service line at 321 Moffett Street incorrectly on 12/12/2011. The City correctly secured the deactivated service 5/8/2013, after the finding was discovered during the 5/8/13 VA SCC inspection.

The City did not have a work order on the meter removal, nor did the City know the names of the City personnel who removed the meter.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed $200,000 per violation per day the violation persists up to a maximum of $2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed $100,000 per violation per day, with a maximum penalty not to exceed $1,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of $18,700 as follows:

Item number	PENALTY
1	$18,700

Warning Items

With respect to item 2, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Failure to do so may result in additional enforcement action.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this

constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 1-2013-0010,** and for each document you submit, please provide a copy in electronic format whenever possible, and please whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to Byron.Coy@dot.gov. Larger files should be sent on a CD accompanied by the original paper copy to the Eastern Region Office.

Additionally, if you choose to respond to this (or any other case), please ensure that any response letter pertains solely to one CPF case number.

Sincerely,

Byron Coy, PE
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration

Cc: James Hotinger, VA SCC

Enclosure: *Response Options for Pipeline Operators in Compliance Proceedings*

Response Options for Pipeline Operators in Compliance Proceedings

The requirements of 49 C.F.R. Part 190, Subpart B (§§ 190.201–190.237) govern response to Notices issued by a Regional Director, Pipeline and Hazardous Materials Safety Administration (PHMSA).

Be advised that all material submitted by a respondent in response to an enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

I. **Procedures for Responding to a NOTICE OF PROBABLE VIOLATION:**

Within 30 days of receipt of a Notice of Probable Violation, the respondent shall respond to the Regional Director who issued the Notice in the following way:

a. When the Notice contains a proposed **CIVIL PENALTY*** --

1. If you are not contesting any violations alleged in the Notice, pay the proposed civil penalty and advise the Regional Director of the payment. This authorizes PHMSA to issue an order making findings of violation and upon confirmation that the payment has been received PHMSA will close the case with prejudice to the respondent. Payment terms are outlined below;

2. If you are not contesting any violations alleged in the Notice but wish to submit written explanations, information, or other materials you believe warrant mitigation of the civil penalty, you may submit such materials. This authorizes PHMSA to make findings and to issue a Final Order assessing a penalty amount up to the amount proposed in the Notice. Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed $200,000 per violation per day the violation persists up to a maximum of $2,000,000 for a related series of violations. For violations occurring prior to January 4, 2012, the maximum civil penalty may not exceed $100,000 per violation per day, with a maximum penalty not to exceed $1,000,000 for a related series of violations. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based;

3. If you are contesting one or more of the items in the Notice but are not requesting an oral hearing, submit a written response to the allegations and/or seek elimination or mitigation of the proposed civil penalty; or

4. Request a hearing as described below to contest the allegations and/or proposed assessment of a civil penalty.

b. When the Notice contains a proposed **COMPLIANCE ORDER*** --

1. If you are not contesting the compliance order, notify the Regional Director that you intend to take the steps in the proposed compliance order;

2. If you are not contesting the compliance order but wish to submit written explanations, information, or other materials you believe warrant modification of the proposed compliance order in whole or in part, or you seek clarification of the terms of the proposed compliance order, you may submit such materials. This authorizes PHMSA to make findings and issue a compliance order;

3. If you are contesting the proposed compliance order but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the proposed compliance order items in whole or in part; or

4. Request a hearing as described below to contest the allegations and/or proposed compliance order items.

c. When the Notice contains a **WARNING ITEM** --

No written response is required. The respondent is warned that if it does not take appropriate action to correct these items, enforcement action will be taken if a subsequent inspection reveals a violation.

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

II. **Procedures for Responding to a NOTICE OF AMENDMENT*--**

Within 30 days of receipt of a Notice of Amendment, the respondent shall respond to the Regional Director who issued the Notice in the following way:

a. If you are not contesting the Notice, notify the Regional Director of your plans to address the inadequacies identified in the Notice;

b. If you are not contesting the Notice but wish to submit written explanations, information, or other materials you believe warrant modification of the Notice of Amendment in whole or in part, or you seek clarification of the terms of the Notice of Amendment, you may submit such materials. This authorizes PHMSA to make findings and issue an Order Directing Amendment;

c. If you are contesting the Notice of Amendment but are not requesting an oral hearing, submit written explanations, information, or other materials in answer to the allegations in the Notice and stating your reasons for objecting to the Notice of Amendment items in whole or in part; or

d. Request a hearing as described below to contest the allegations in the Notice.

* Failure of the respondent to respond to the Notice within 30 days of receipt constitutes a waiver of the right to contest the allegations in the Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in the Notice without further notice to the respondent and to issue a Final Order.

III. **Procedure for Requesting a Hearing**

A request for a hearing must be in writing and accompanied by a statement of the issues that the respondent intends to raise at the hearing. The issues may relate to the allegations, new information, or to the proposed compliance order or proposed civil penalty amount. Refer to 49 C.F.R. § 190.225 for assessment considerations upon which civil penalties are based. A respondent's failure to specify an issue may result in waiver of the right to raise that issue at the hearing. The respondent's request must also indicate whether or not respondent will be represented by counsel at the hearing. Failure to request a hearing in writing within 30 days of receipt of a Notice waives the right to a hearing. In addition, if the amount of the proposed civil penalty or the proposed corrective action is less than $10,000, the hearing will be held by telephone, unless the respondent submits a written request for an in-person hearing. Complete hearing procedures can be found at 49 C.F.R. § 190.211.

IV. **Extensions of Time**

An extension of time to prepare an appropriate response to a Notice may be granted, at the agency's discretion, following submittal of a written request to the Regional Director. The request must indicate the amount of time needed and the reasons for the extension. The request must be submitted within 30 days of receipt of the Notice.

V. **Freedom of Information Act**

Any material provided to PHMSA by the respondent, and materials prepared by PHMSA including the Notice and any order issued in this case, may be considered public information and subject to disclosure under the Freedom of Information Act (FOIA). If you believe the information you are providing is security sensitive, privileged, confidential or may cause your company competitive disadvantages, please clearly identify the material and provide justification why the documents, or portions of a document, should not be released under FOIA. If we receive a request for your material, we will notify you if PHMSA, after reviewing the materials and your provided justification, determines that withholding the materials does not meet any exemption provided under the FOIA. You may appeal the agency's decision to release material under the FOIA at that time. Your appeal will stay the release of those materials until a final decision is made.

VI. **The Rights of Small Entities To Enforcement Fairness and Policy Against Retaliation**

The Department of Transportation has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights. Our objective is to ensure a fair regulatory enforcement environment. If you feel you have been treated unfairly or unprofessionally, you may contact the PHMSA Office of Chief Counsel. You also have the right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of this agency.

The Department of Transportation strictly forbids retaliatory acts by its employees. As such, you should feel confident that you will not be penalized for expressing your concerns about compliance and enforcement activities.

VII. **Small Business Regulatory Enforcement Fairness Act Information**

The Small Business and Agricultural Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Pipeline and Hazardous Materials Safety Administration, call 1-888-REG-FAIR (1-888-734-3247) or go to http://www.sba.gov/ombudsman/dsp_faq.html.

VIII. **Payment Instructions**

Civil Penalty Payments of Less Than $10,000

Payment of a civil penalty of less than $10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number

for this case) should be made payable to the "Department of Transportation" and should be sent to:

Federal Aviation Administration
Mike Monroney Aeronautical Center
Financial Operations Division (AMZ-341) P.O. Box 269039
Oklahoma City, OK 73125-4915

Wire transfer payments of less than $10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.

Civil Penalty Payments of $10,000 or more

Payment of a civil penalty of $10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8893, or at the above address.