U.S. Department
of Transportation
Pipeline and Hazardous Materials Safety Administration

1200 New Jersey Ave., S.E.
Washington, DC 20590

NOV 24 2008

Mr. Lyle Lacy III
Interim City Manager
City of Danville
427 Patton Street
Municipal Building, 4th Floor
Danville, VA 24541

Re: CPF No. 1-2005-0004

Dear Mr. Lacy:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and specifies actions that must be taken to bring the City into compliance with this agency's pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Eastern Region, OPS, this enforcement action will be closed. Your receipt of this Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

William H Gute
for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Byron Coy, Director, Eastern Region
Mr. Jim Hotinger, Virginia State Corporation Commission

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of	)	
CITY OF DANVILLE, VIRGINIA,	)	**CPF No. 1-2005-0004**
Respondent.	)	

FINAL ORDER

On July 12-16, 2004, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the municipal gas system and records of the City of Danville (City or Respondent) in Danville, Virginia. As a result of the inspection, the Director, Eastern Region, OPS (Director) issued to Respondent, by letter dated November 15, 2005,[1] a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. §§ 192.491(c), 192.603, and 192.743(a), and proposed ordering Respondent to take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated January 17, 2006 (Response). Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

In its Response, Respondent contested some of the allegations in the Notice, offered information in explanation of its actions, and requested that portions of the proposed compliance order be removed. The allegations were as follows:

Item 1(a): The Notice alleged that Respondent violated 49 C.F.R. § 192.491(c), which states:

> **49 C.F.R. § 192.491(c) Corrosion control records.**
> (a) .....
> (c) Each operator shall maintain a record of each test, survey,

[1] The Eastern Region issued an incomplete NOPV dated November 4, 2005. This was replaced by one dated November 15, 2005.

> or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years, except that records related to §§ 192.465 (a) and (e) and 192.475(b) must be retained for as long as the pipeline remains in service.

The Notice alleged that the City violated § 192.491(c) and its own written procedures by failing to maintain adequate records of tests or inspections for corrosion. Specifically, it alleged that Respondent failed to maintain records of any measurements of remaining pipe wall thickness when corrosion was discovered. The City's own Procedures Manual required that determinations of "remaining wall thickness shall be made using a mechanical or electronic measuring device" but the City was unable to produce records that such measurements had actually been taken.

In its Response, the City made several arguments why Item 1(a) should be removed from the proposed compliance order. First, it indicated that following the PHMSA inspection, the City had provided corrosion pit gauges to all of its distribution crews and had hired a contractor to provide ultrasonic thickness gauge measurements. Second, it explained that it had "always treated the 30% remaining wall thickness as a final determination for repair or replacement based on that fact" and that if the wall thickness was "close to 30% remaining, the pipe would be replaced or repaired if the area of corrosion is small." Third, it acknowledged that it had experienced leaks on its system due to corrosion but asserted that its cast iron pipe was not cathodically protected and such corrosion was limited to "small and isolated" areas. Since the records retention requirements of §§ 192.465(a) and (e) and 192.475(b) relate "primarily" to pipelines under cathodic protection, Respondent argued that this Item should be removed. Response, at 2.

I find the City's arguments unconvincing. It is undisputed that the City never provided the PHMSA inspector with any documentation or records showing how City personnel determined remaining wall thickness when corrosion was discovered or that such areas were "small and isolated." Furthermore, the record-keeping requirements of § 192.491(c) apply both to protected and unprotected lines. Accordingly, I find that Respondent violated 49 C.F.R. § 192.491(c) by failing to maintain adequate records showing that tests or inspections for remaining pipe wall thickness were performed, as required by the City's own procedures, and that its corrosion control measures were adequate.

Item 1(b): The Notice alleged that Respondent violated 49 C.F.R. § 192.491(c), as set forth above, by failing to maintain adequate records showing that pipe removed from the City's pipeline system had been inspected for internal corrosion, as required by the City's own written procedures. In its Response, the City contended that its gas supplier was contractually obligated to deliver non-corrosive natural gas and that internal corrosion had "never been a factor" in its system. Response, at 2.

The City, however, failed to show that it had complied with its own written procedures, which required that pipe removed from Respondent's system be inspected for signs of internal

corrosion "and documented on a pipeline inspection Form II.4.4." Notice, at 2. Merely stating that its supplier was obligated to deliver non-corrosive gas does not relieve Respondent of its duty to comply with the requirements of 49 C.F.R. § 192.491(c) and its own procedures. Likewise, merely stating that its senior distribution personnel had never experienced internal corrosion problems in the City's system does not constitute adequate proof that a corrosive condition does not exist. Accordingly, I find that Respondent violated 49 C.F.R. §192.491(c) by failing to maintain adequate records showing that pipe removed from its pipeline system had been inspected for internal corrosion, as required by the City's own procedures, or that a corrosive condition did not exist.

Item 1(c): The Notice alleged that Respondent violated 49 C.F.R. § 192.491(c), as set forth above, by failing to maintain adequate records of its tests or inspections for atmospheric corrosion. Specifically, it alleged that the City's servicemen and meter readers failed to document their observations of such corrosion, as required by the City's own written procedures. The City did not dispute this allegation but indicated that it planned to amend its written procedures in order to improve the reporting process and to require proper training for its servicemen and meter readers. Accordingly, I find that Respondent violated 49 C.F.R. § 192.491(c) by failing to maintain adequate records of tests or inspections for atmospheric corrosion performed by the City's servicemen and meter readers that would demonstrate the adequacy of its corrosion control measures.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.743(a), which states:

> **§ 192.743(a) Pressure limiting and regulating stations: Capacity of relief devices.**
>
> (a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in § 192.739(b), the capacity must be consistent with the pressure limits of § 192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations."[2]

The Notice alleged that the City failed to test 12 pressure regulating stations in place or to conduct annual reviews and calculations for those that could not be tested in place. Such tests are necessary for each station in order to verify that it has sufficient relief capacity to protect the facility to which it is connected. The City responded by indicating that it had replaced or removed from service six pressure regulating stations and that the remaining six were to be replaced or removed from service "as time and funding allow." The City further responded that, in the interim, these stations were being inspected quarterly in lieu of being tested in place.

While the City has made efforts to come into compliance with § 192.743(a), its quarterly inspection of stations that cannot be tested in place does not satisfy the annual review and

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[2] The Notice cited the earlier version of § 192.743 before it was amended effective May 17, 2004. The amendment does not affect the allegations arising out of the July 12-16, 2004 inspection, as set forth in the Notice.

calculations needed to verify that sufficient relief capacity exists for each station. Accordingly, I find that Respondent violated 49 C.F.R. § 192.743(a) by failing to demonstrate that for the 12 pressure regulating stations that could not be tested in place, it performed a review and calculation to verify that each station had sufficient capacity consistent with the pressure limits set forth in § 192.743.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

WITHDRAWAL OF PROPOSED VIOLATION

Item 2 alleged that the City violated 49 C.F.R. § 192.603 by failing to produce any records documenting that it had conducted annual inspections and testing of pressure limiting and regulating stations under § 192.739. Specifically, it alleged that the City could not produce such records for six stations from 1999 to the present and for 33 stations from 2001 to the present. One and one-half years after the inspection, the City provided documentation demonstrating that timely inspections did in fact occur. Because the City has demonstrated compliance through such documentation, I hereby withdraw **Item 2**.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to **Items 1, 2** and **3** in the Notice for violations of 49 C.F.R. §§ 192.491(c), 192.603, and 192.743(a).

Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. In regard to **Item 1**, the City must conduct refresher training for those employees and related contractors who could be assigned the following tasks: (1) the measurement of remaining wall thickness of corroded pipe using a pit gauge or similar mechanical or electronic measuring device, and the recording and evaluation of the results for possible remediation; (2) the inspection of metallic pipe removed from the piping system for internal corrosion, and the recording of the results for an analysis of system integrity; and (3) the observation of any evidence of atmospheric corrosion in the course of service work and meter reading activities, and the recording and evaluation of the results for possible remediation, A list of all job titles identified for such refresher training in each area must be established within 60 days. All refresher training must be completed within 120 days.

2. In regard to **Item 2**, the allegation has been withdrawn, so the proposed compliance measures are no longer necessary.

3. In regard to **Item 3**, the City indicates that it has now removed from its system all pressure relief devices that cannot be tested in place. In the future, the City shall give advance written notice to the Virginia State Corporation Commission (SCC) of the installation of any pressure relief devices that cannot be tested in place.

The Director shall consult with the SCC, which now exercises jurisdiction over intrastate gas pipeline systems in Virginia under an agreement with PHMSA pursuant to 49 U.S.C. § 60105, in the implementation and monitoring of this Compliance Order. The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent demonstrating good cause for an extension.

In accordance with 49 U.S.C. § 60122 and 49 C.F.R. § 190.223, failure to comply with this Final Order may result in assessment of administrative civil penalties of not more than $100,000 per violation per day pursuant to 49 U.S.C. § 60122, or in the imposition of civil judicial penalties and other appropriate relief pursuant to 49 U.S.C. § 60120.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The terms of the order, including any corrective action, shall remain in full force and effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order shall be effective upon receipt.

William H Gute
for

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

NOV 24 2008

Date Issued