

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Investigation of)
Northeast Ohio Natural Gas Company)
Relative to Its Compliance with the) Case No. 14-1639-GA-GPS
Natural Gas Pipeline Safety Standards)
and Related Matters.)

FINDING AND ORDER

The Commission finds:

- (1) Northeast Ohio Natural Gas Company (NEONG or the Company) is a public utility and a natural gas company within the meaning of R.C. 4905.02, 4905.03, and 4905.90 and is, therefore, a public utility and an operator subject to the ongoing jurisdiction and supervision of the Commission, pursuant to R.C. 4905.02, 4905.04, 4905.05, 4905.06, and 4905.90 through 4905.96. Accordingly, NEONG is required to comply with the minimum gas service standards found in Ohio Adm.Code Chapter 4901:1-13, as well as the gas pipeline safety (GPS) rules contained in Ohio Adm.Code Chapter 4901:1-16, which set forth the safety standards and requirements for intrastate gas pipeline facilities subject to the Commission's jurisdiction. Pursuant to Ohio Adm.Code 4901:1-16-03(A), the GPS rules adopt the United States Department of Transportation's GPS regulations, as contained in 49 Code of Federal Regulations (C.F.R.) Parts 40, 191, 192, and 199.
- (2) On September 23, 2014, Staff filed a report detailing the results of its pipeline safety inspection of the facilities and records at NEONG's operating center in Pleasantville, Ohio, which was conducted from June 2, 2014, to June 6, 2014. The purpose of the inspection was to assess NEONG's compliance with the gas transmission pipeline integrity management (IM) requirements and to review the Company's progress toward completion of its initial baseline assessment under Subpart O of 49 C.F.R. Part 192. Staff noted that operators were required to identify pipeline segments within a high consequence area (HCA) and to develop a written IM program by December 17,

2004, pursuant to 49 C.F.R. 192.907, as well as to complete an initial baseline assessment of all covered pipeline segments by December 17, 2012, consistent with 49 C.F.R. 192.921. During its investigation, Staff determined that NEONG had identified and operated one segment of pipeline located in an HCA, in accordance with 49 C.F.R. 192.905, and subject to the IM requirements set forth in Subpart O of 49 C.F.R. Part 192. Staff further determined that, although NEONG was in possession of a template for a written IM program produced by a third-party vendor, the Company had taken no steps to develop or carry out the program. Staff, therefore, concluded that NEONG had violated several sections of Subpart O of 49 C.F.R. Part 192.

- (3) Additionally, Staff reported that, on July 16, 2014, Staff issued NEONG a notice of probable noncompliance concerning the violations below:
 - (a) Other than identifying pipeline segments in an HCA, NEONG has not followed its written IM program, in violation of 49 C.F.R. 192.907. NEONG has not developed a baseline assessment plan, identified potential threats to each of its covered pipeline segments, or addressed the risks on its covered pipeline segments.
 - (b) NEONG does not have trained supervisory personnel and/or staff qualified to carry out an IM program, in violation of 49 C.F.R. 192.915.
 - (c) NEONG does not have records to demonstrate that it has conducted a baseline assessment, in violation of 49 C.F.R. 192.921(d).
- (4) According to Staff, NEONG responded to the notice of probable noncompliance on August 8, 2014. Staff noted that NEONG did not dispute Staff's findings and offered no evidence or additional information to mitigate the alleged violations. Staff further noted that NEONG is in

negotiations with an outside contractor to manage an IM program for the Company.

- (5) In its report, Staff concluded that NEONG was unable to demonstrate that it had acted to comply with the IM requirements, other than the identification of the pipeline segment located in an HCA and the purchase of a written IM program template from a third-party vendor. Staff emphasized that NEONG's inspection history, as well as the Company's annual report acknowledging the existence of a covered pipeline segment, indicated that the Company was aware or should have been aware of the IM requirements, but nevertheless did not comply. Staff, therefore, offered a number of recommendations:
 - (a) NEONG must modify its written IM program not later than December 31, 2014. This program must conform to the requirements, as defined in 49 C.F.R. 192.911, and include the following:
 - (i) Criteria for the qualification of supervisory personnel and/or staff that meet the requirements of 49 C.F.R. 192.915;
 - (ii) An identification of potential threats to pipeline integrity, which must include data integration, a risk assessment, and actions to address particular threats, consistent with the requirements of 49 C.F.R. 192.917;
 - (iii) A schedule to assess covered segments based on the results of the risk assessment; and
 - (iv) A plan to conduct a baseline assessment that meets the requirements of 49 C.F.R. 192.919.

- (b) After completion of a written IM program, NEONG must assess its system to determine if it operates any additional covered pipeline segments located within an HCA. Any newly identified areas must be incorporated into NEONG's baseline assessment plan no later than July 1, 2015.
 - (c) NEONG must complete a baseline assessment, no later than December 31, 2015, of its known covered pipeline segment and any additional covered pipeline segments that may be identified. This assessment must conform to the requirements for a baseline assessment as defined in 49 C.F.R. 192.921. Assessment methods must be chosen that are appropriate to address the threats to the covered pipeline segments identified in the baseline assessment plan.
 - (d) Given the severity of the violations and time spent in noncompliance, a forfeiture of \$10,000 should be assessed, pursuant to R.C. 4905.95, against NEONG for failure to comply with the IM requirements of Subpart O of 49 C.F.R. Part 192.
 - (e) An additional forfeiture of \$90,000 should be assessed against NEONG, to be held in abeyance pending successful completion of the IM program, as identified in Staff's first three recommendations by the dates listed. If these steps are completed by their respective deadlines, as determined by the Commission, the additional forfeiture should be waived.
- (6) On February 3, 2015, NEONG and Staff filed a stipulation and recommendation (stipulation), which would resolve all of the issues in this case. The following is a summary of the provisions agreed to by the parties and is not intended to replace or supersede the stipulation. The stipulation provides, *inter alia*, that Staff recently received confirmation from the Pipeline and Hazardous Materials

Safety Administration (PHMSA) that ownership of the affected section of transmission pipeline was transferred to Richland Stryker Generation, LLC, which will operate the pipeline and bear the responsibility for developing an IM program, as of December 4, 2014. The stipulation further provides that, after discussions between NEONG and Staff regarding the recommendations in Staff's report, in combination with PHMSA's confirmation that the Company is no longer the owner or operator of the affected pipeline, the parties agree to a single condition and recommendation. Specifically, the parties agree that NEONG should pay a civil forfeiture of \$5,000, within 10 business days of the Commission's order adopting the stipulation, payable by certified check to the "Treasurer State of Ohio" and deposited in the state treasury to the credit of the general revenue fund. (Stipulation at 6.)

- (7) Ohio Adm.Code 4901:1-16-11 permits NEONG and Staff to enter into a stipulation for the purpose of resolving any alleged violations of the GPS requirements. Although NEONG and Staff refer to Ohio Adm.Code 4901-1-30 as their underlying authority for the stipulation, the Commission will consider the stipulation pursuant to our enforcement powers under R.C. 4905.91 and Ohio Adm.Code Chapter 4901:1-16.
- (8) The immediate issue before the Commission in this case is whether the stipulation, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. However, the Commission's ultimate goal, where gas pipelines are concerned, is to ensure the safety of consumers by making certain that sufficient plans and procedures are in place to prevent future incidents.

Additionally, R.C. 4905.95 authorizes the assessment upon an operator of forfeitures of not more than \$100,000 for each day of each violation or noncompliance found by the Commission, provided that the aggregate of such forfeitures does not exceed \$1,000,000 for any related series of violations or noncompliances. In the current proceeding, the Commission finds that, given the violations reported by Staff, a forfeiture of \$5,000 is a considerable amount that can be expected to deter NEONG from future violations.

We emphasize that the Commission will not hesitate to impose total forfeitures of a much greater magnitude in future cases involving any operator, if the circumstances of the case justify such action. In this case, we find that the stipulation, including the amount of the recommended forfeiture, is reasonable, in light of PHMSA's confirmation that NEONG is not the current owner or operator of the pipeline in question and, thus, the Company is no longer responsible for implementation of an IM program. Finally, the stipulation offers a fair and equitable resolution of all of the issues raised by Staff in its initiation of this proceeding pursuant to Ohio Adm.Code 4901:1-16-12, while emphasizing the critical importance of compliance with the GPS requirements through the assessment of a monetary forfeiture. Accordingly, we conclude that the stipulation should be approved and adopted in its entirety.

- (9) As a final point, the Commission is committed to ensuring the safety of consumers and requiring operators of gas pipelines to take all reasonable steps to provide necessary safeguards. As another result of our decision today, the Commission expects that NEONG will review its management and training practices related to GPS requirements and immediately correct any issues. We expect NEONG to notify Staff of any issues that are identified and regularly report to Staff until the issues are resolved. Additionally, we direct Staff to continue its diligent efforts to work together with NEONG and the other natural gas companies on compliance with the GPS requirements. If Staff identifies any issues of concern that are not immediately resolved by the company involved, the Commission will undertake any action necessary to investigate the situation and reach an appropriate resolution, including the initiation of a formal docket to audit the GPS practices and procedures of any affected company.

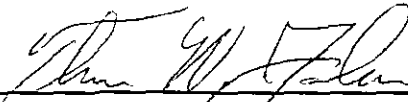
It is, therefore,

ORDERED, That the stipulation and recommendation filed in this proceeding be approved and adopted in its entirety. It is, further,

ORDERED, That nothing in this Finding and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this Finding and Order be served upon all parties of record.

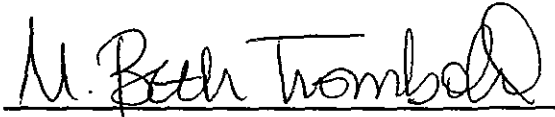
THE PUBLIC UTILITIES COMMISSION OF OHIO



Thomas W. Johnson, Chairman



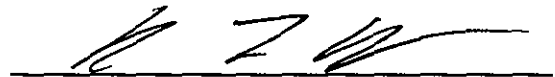
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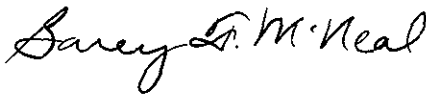


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Secretary