

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE INVESTIGATION
OF THE EAST OHIO GAS COMPANY D/B/A
DOMINION ENERGY OHIO RELATIVE TO
ITS COMPLIANCE WITH THE NATURAL
GAS PIPELINE SAFETY STANDARDS AND
RELATED MATTERS.

CASE NO. 20-681-GA-GPS

FINDING AND ORDER

Entered in the Journal on April 22, 2020

I. SUMMARY

{¶ 1} The Commission approves the Joint Stipulation and Recommendation filed by The East Ohio Gas Company d/b/a Dominion Energy Ohio and Staff on April 2, 2020, resolving all of the gas pipeline safety issues in this matter.

II. DISCUSSION

A. *Applicable Law and Background*

{¶ 2} The East Ohio Gas Company d/b/a Dominion Energy Ohio (Dominion or Company) is a natural gas company as defined in R.C. 4905.03 and a public utility within the meaning of R.C. 4905.02. Dominion is also an operator as defined in R.C. 4905.90. As such, Dominion is subject to the ongoing jurisdiction and supervision of this Commission, pursuant to R.C. 4905.04, 4905.05, 4905.06, and 4905.90 through 4905.96. Accordingly, Dominion 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 Commission has also adopted the GPS regulations of the United States Department of Transportation contained in 49 C.F.R. Parts 40, 191, 192, and 199.

{¶ 3} R.C. 4905.91 provides that the Commission may investigate any service, act, practice, policy, or omission by an operator to determine its compliance with R.C. 4905.90 through 4905.96 and the pipeline safety code.

{¶ 4} On April 2, 2020, Dominion and Staff (Signatory Parties) filed a Joint Stipulation and Recommendation (Stipulation), which is intended to resolve all of the issues identified by Staff in a Notice of Probable Noncompliance and Hazardous Facility (PNC Letter) issued to Dominion on September 16, 2019. The PNC Letter is attached to the Stipulation as Exhibit A.

B. Summary of the PNC Letter

{¶ 5} The PNC Letter was issued after an investigation of a February 3, 2019 incident involving a fire resulting from the release of natural gas from a pipeline operated by Dominion at 13921 Industrial Parkway, Cleveland, Ohio. Based on Staff's investigation of the incident, Dominion's response to the incident, and associated records of the Company, Staff determined that Dominion had failed to properly report the incident in a timely manner, failed to follow Dominion's emergency response plan when responding to the incident, failed to properly investigate the incident, and failed to accurately maintain plans, records, information, and maps of pipelines in the area of the incident. Staff concluded Dominion is in probable noncompliance with 49 C.F.R. 191.5(a), 49 C.F.R. 192.605(a), 49 C.F.R. 192.613(a), 49 C.F.R. 192.615(a), 49 C.F.R. 192.617, and Ohio Adm.Code 4901:1-16-04(A) and 4901:1-16-05(A)(1). To address the issues of probable noncompliance presented in the PNC Letter, Staff proposed that Dominion prepare and submit to Staff a detailed compliance plan to correct the identified violations, including a timetable for completion of the plan. Finally, based on the magnitude and severity of the violations, Staff proposed a forfeiture of \$50,000 against Dominion for the alleged violations noted in the PNC Letter.

C. *Summary of the Stipulation*

{¶ 6} In the Stipulation, the Signatory Parties agree as follows:¹

- (a) On September 16, 2019, Staff issued to Dominion the PNC Letter regarding alleged gas pipeline safety violations. (Stipulation at 1, 3, Ex. A.)
- (b) On October 16, 2019, Dominion submitted its response admitting to some and explaining other allegations set forth in the PNC Letter and providing a compliance plan as requested by Staff (Stipulation at 3).
- (c) Signatory Parties have engaged in settlement negotiations with the understanding that Dominion has implemented or is in the process of implementing the process changes contained in its response, and agreed to in the Stipulation, which the Signatory Parties believe resolves all of the issues raised in the PNC Letter (Stipulation at 4).
- (d) By March 31, 2020, Dominion will provide Staff with an updated Emergency Response Training Module. After review, Staff may submit any comments, concerns, and suggested revisions to Dominion for Dominion's consideration. (Stipulation at 5.)
- (e) Dominion will allow Staff to review the Emergency Response training information that Dominion intends to provide to non-management personnel. After review, Staff may submit any comments, concerns, and suggested revisions to Dominion for Dominion's consideration. (Stipulation at 5.)

¹ The summary of the Stipulation is not intended to supersede or replace the Stipulation.

- (f) By April 15, 2020, Dominion will provide Staff with an updated plan to identify, map, and assess all “service off service” locations. After review, Staff may submit any comments, concerns, and suggested revisions to Dominion for Dominion’s consideration. (Stipulation at 5.)
- (g) Dominion shall update its emergency response policies, practices, or procedures as needed to incorporate methods or practices such as “bar holing” when necessary to detect the migration of natural gas under hard cover surfaces (Stipulation at 5-6).
- (h) Dominion agrees that a civil forfeiture in the amount of \$25,000 shall be assessed against the Company (Stipulation at 6).
- (i) The Signatory Parties, all of whom are represented by capable and knowledgeable counsel, have engaged in lengthy, serious, arm’s length bargaining to reach a mutually acceptable resolution of the concerns raised in the PNC Letter. Further, the Signatory Parties used their expert knowledge of the situation and GPS regulations to reach a mutually beneficial resolution of the matters raised in the PNC Letter. (Stipulation at 2.)
- (j) The Stipulation benefits customers and the public interest by resolving the violations noted in the PNC Letter without the need for expensive and possibly lengthy litigation. In executing the Stipulation, the Signatory Parties recognize that it is not in the public interest to subject the Signatory Parties and the Commission to the burdens associated with litigating the issues raised in the PNC Letter when a reasonable and acceptable outcome can be achieved through a settlement. The primary objective of the Stipulation is to resolve the violations and service

issues identified in the PNC Letter and to avoid, to the extent possible, the potential for future violations. Further, as part of the Stipulation, Dominion agrees to take numerous steps that address Staff's concerns and are intended to improve Dominion's response in the event any future issues occur. All of the aforementioned measures benefit ratepayers and the public interest. (Stipulation at 2-3.)

- (k) The Stipulation does not violate any important regulatory principle or practice and it complies with and promotes the policies and requirements of Title 49 of the Ohio Revised Code (Stipulation at 3).

D. Consideration of the Stipulation

{¶ 7} Ohio Adm.Code 4901:1-16-11 permits Dominion and Staff to enter into a stipulation in order to resolve any alleged violations of the GPS requirements. Although the Signatory Parties 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 to be decided by the Commission is whether the Stipulation, which embodies considerable time and effort by the Signatory Parties, is reasonable and should be adopted. The Commission notes, as is the case where gas pipelines are concerned, our ultimate goal is to safeguard consumers and the public by ensuring that sufficient training, plans, and procedures are in place to prevent incidents. With that goal in mind, we find that the Stipulation benefits the public interest by requiring Dominion to review and evaluate, with the assistance of Staff, its training for emergency response; to review, evaluate, and update the Company's plan to identify and assess all "service off service" locations; and to update Dominion's policies, practices, or procedures to detect the migration of natural gas under hard cover surfaces. We also find that the

agreed forfeiture of \$25,000 is reasonable, given that Dominion has implemented or is in the process of implementing revisions to its processes, consistent with its response plan and the Stipulation. Accordingly, the Commission finds that the Stipulation is reasonable and should be adopted in its entirety.

{¶ 9} As a final matter, the Commission emphasizes our commitment to ensuring consumer safety and requiring operators of gas pipelines to take all reasonable steps to provide necessary safeguards. The Commission expects that Dominion, in addition to undertaking the actions required by the Stipulation, will review its management and training practices related to GPS requirements and immediately correct any issues of concern. Further, the Commission expects Dominion to notify Staff of any issues that are identified and regularly report to Staff until the issues are resolved. In addition, the Commission directs Staff to continue its diligent efforts to work with Dominion and other operators on compliance with the GPS requirements. If Staff identifies any issues of concern that are not immediately resolved by the operator at issue, 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 such operator.

III. ORDER

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the Stipulation be approved and adopted in its entirety. It is, further,

{¶ 12} ORDERED, That Dominion take all necessary steps to carry out the terms of the Stipulation and this Finding and Order. It is, further,

{¶ 13} ORDERED, That nothing in this Finding and Order shall be binding upon the Commission in any future proceeding or investigation. It is, further,

{¶ 14} ORDERED, That a copy of this Finding and Order be served upon all parties and interested persons of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

GNS/hac

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Summary: Finding & Order approving the Joint Stipulation and Recommendation filed by The East Ohio Gas Company d/b/a Dominion Energy Ohio and Staff on electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio