

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
INVESTIGATION INTO OHIO RURAL
NATURAL GAS CO-OP AND RELATED
MATTERS.

CASE NO. 16-1578-GA-COI

OPINION AND ORDER

Entered in the Journal on January 18, 2017

I. SUMMARY

{¶ 1} The Commission finds that, pursuant to R.C. 4905.95(B), Ohio Rural Natural Gas Co-op is in violation of the Commission rules for intrastate gas pipeline facilities, that its facilities are hazardous to human life and property, and that Ohio Rural Natural Gas Co-op should cease operations.

II. PROCEDURAL HISTORY

{¶ 2} Ohio Rural Natural Gas Co-op (ORNG) is a pipeline company as defined in R.C. 4905.03 and an operator as defined in R.C. 4905.90, and, pursuant to R.C. 4905.90 through 4905.96, is subject to the jurisdiction and supervision of this Commission. Accordingly, ORNG is required to comply with Ohio Adm.Code Chapter 4901:1-16, which sets forth the safety standards and requirements for intrastate gas pipeline facilities subject to the jurisdiction of the Commission. Pursuant to Ohio Adm.Code 4901:1-16-03(A), these rules adopt the United States Department of Transportation's gas pipeline safety (GPS) regulations 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 any operator to determine its compliance with R.C. 4905.90 to 4905.96 and the pipeline safety code.

{¶ 4} On March 10, 2015, after investigating a complaint, Staff issued ORNG a Notice of Probable Noncompliance of GPS regulations (March 2015 PNC). Staff alleged two violations and also issued a compliance order.

{¶ 5} After receiving another complaint, Staff issued a second Notice of Probable Noncompliance to ORNG on December 1, 2015 (December 2015 PNC). Staff cited 12 violations and ordered ORNG to complete corrective actions. Additionally, Staff recommended a monetary fine of \$100,000.

{¶ 6} A third Notice of Probable Noncompliance was issued to ORNG on April 5, 2016, after Staff observed ORNG constructing new pipeline (April 2016 PNC). Staff cited two GPS violations and issued a compliance order. Staff also recommended a monetary fine of \$500,000.

{¶ 7} On May 12, 2016, Staff completed a scheduled annual audit of ORNG's operations and maintenance (O&M) procedures. Here, Staff found 21 alleged violations of GPS regulations, discussed below.

{¶ 8} On July 15, 2016, Staff filed a report regarding the results of this series of investigations into ORNG's facilities, operations, and records (Staff Report). In its report, Staff asserts there have been multiple, repeated instances of noncompliance by ORNG from February 2015 to May 2016. Staff believes its administrative enforcement procedures have been ineffective in obtaining compliance and that ORNG is a willful and persistent violator of GPS regulations. Staff contends that ORNG has shown a pattern of willful disregard for safety regulations unless directly observed by, and directed by, a member of the Staff and has not implemented written procedures for its employees to follow when installing gas pipeline facilities. Staff concludes that ORNG is currently operating its natural gas pipeline system in a manner that potentially threatens human life and property. Therefore, Staff recommends the Commission take the following actions:

- (a) Determine that ORNG's facilities are hazardous to life and property;

- (b) Require ORNG to immediately cease all construction and operation of regulated gas pipelines until all of the remaining items from Staff's December 1, 2015 corrective action plan and all of the violations in Staff's May 12, 2016 audit are corrected;
- (c) Require ORNG to fully cooperate with Staff in returning to and maintaining compliance with the GPS regulations on its entire system, including any newly constructed facilities; and
- (d) Assess the recommended forfeiture totaling \$600,000 against ORNG.

{¶ 9} A hearing was held on September 6, 2016. At the hearing, Christopher Domonkos, Gas Pipeline Safety Compliance Investigator, and Peter Chace, Gas Pipeline Safety Program Manager, testified on behalf of Staff. Darryl Knight, ORNG General Manager and President of ORNG's Board of Directors, testified on behalf of ORNG.

{¶ 10} Initial briefs were filed on September 23, 2016, and reply briefs were filed on October 4, 2016.

III. APPLICABLE LAW

{¶ 11} Pursuant to R.C. 4905.95(B), upon a finding of a violation of GPS regulations, the Commission shall require the operator to take the necessary corrective action and may assess a forfeiture. R.C. 4905.95(B)(1)(b)(i) through (vi) lists the factors that the Commission shall consider in assessing a forfeiture, which are: the gravity of the violation or noncompliance, the operator's history of prior violations or noncompliances, the operator's good faith efforts to comply and undertake corrective action, the operator's ability to pay

the forfeiture, the effect of the forfeiture on the operator's ability to continue as an operator, and such other matters as justice may require.

{¶ 12} Pursuant to Ohio Adm.Code 4901:1-16-12, Staff has the burden of proving an occurrence of an incident, noncompliance, hazardous condition of a facility, or violation of a Commission order by a preponderance of the evidence.

{¶ 13} Additionally, pursuant to R.C. 4905.95(B)(2), if the Commission finds an intrastate pipeline transportation facility is a hazard to life or property, the Commission shall order the operator to take corrective action to remove the hazard. Such action may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action. The Commission may also direct the Ohio Attorney General to seek the remedies provided in R.C. 4905.96.

IV. DISCUSSION

{¶ 14} At the hearing, Staff submitted into evidence the July 15, 2016 Staff Report. Additionally, as noted above, Christopher Domonkos and Peter Chace testified on behalf of Staff and Darryl Knight testified on behalf of ORNG.

A. Summary of Staff Report

{¶ 15} The Staff Report, as filed July 15, 2016, purports to encapsulate all of Staff's involvement with ORNG and the resulting findings of noncompliance. This includes Staff's investigations surrounding the March 2015 PNC, the December 2015 PNC, and the April 2016 PNC, as well as the May 2016 annual inspection and audit. In total, the Staff Report alleges 37 instances of noncompliance.

1. MARCH 2015 PNC

{¶ 16} On February 10, 2015, Staff received a complaint regarding the installation of natural gas pipelines in the Newton Falls area. Upon investigation, Staff determined that the entity involved in the pipeline work was Ohio Rural Natural Gas, LLC (ORNG LLC),

which was reportedly owned by Richard Osborne and was not registered with the Commission as a gas distribution company. Staff noted that, subsequent to its contact with this entity, it received a response from ORNG, which advised that, while it was located at the exact same address as ORNG LLC, it was a newly registered co-op with the Ohio Secretary of State. On March 10, 2015, Staff issued to ORNG the March 2015 PNC, citing two violations of the GPS regulations under 49 C.F.R. Part 192, as adopted by the Commission:

49 C.F.R. 192.13(c) (Each operator shall maintain, modify as appropriate and follow the plans, procedures and programs that it is required to establish under this part). ORNG installed approximately 7,300 feet of 4-inch plastic line and installed a tap to a transmission line for the purpose of supplying gas to customers without maintaining plans, procedures and programs that are required under 49 C.F.R. 192.13(c).

Ohio Adm.Code 4901:1-16-06(D) (Distribution operators shall incorporate new construction, including riser installation, as a part of their operator qualification requirements). ORNG performed new construction of pipeline segments without establishing operator qualification requirements.

The March 2015 PNC directed that all identified probable noncompliance be corrected or action taken to correct within 30 days. (Staff Ex. 1 at 1-2, 24-25.)

{¶ 17} By letter dated July 24, 2015 (July 2015 Staff Letter), Staff informed ORNG that it received ORNG's notice regarding its purchase of an O&M plan from a consultant and its assertion that it now had the plans, procedures, and programs necessary to operate its facilities in accordance with the GPS regulations. Staff advised ORNG that it had reviewed ORNG's O&M plan and there were multiple remaining deficiencies that were required to be addressed prior to ORNG commencing any operations. Specifically, Staff indicated that 49 C.F.R. Part 192 required natural gas pipeline operators to establish a Maximum Allowable

Operating Pressure (MAOP) for pipelines, that ORNG had failed to establish a MAOP for piping installed prior to February 10, 2015, and that it had no pressure testing records. Staff also explained that it first became aware of ORNG's construction activity on February 11, 2015, at a time before ORNG had established procedures for new construction and processes to document construction in accordance with the GPS regulations. Staff, therefore, required ORNG to take additional steps to demonstrate the integrity of piping, including pressure testing and leak surveys. (Staff Ex. 1 at 1, 27.)

{¶ 18} Thereafter, on September 3, 2015, Staff stated it discovered that ORNG had ignored compliance with the pressure testing directives set forth in the July 2015 Staff Letter and had pressurized approximately 7,300 feet of piping. Staff noted that it required ORNG to demonstrate the integrity of the pipeline by completing all required corrective actions and to complete action on the remaining deficiencies previously identified by Staff. Further, Staff indicated that, on September 18, 2015, ORNG completed the pipeline integrity procedures on the 7,300 feet of piping in question. (Staff Ex. 1 at 1, 3.)

2. DECEMBER 2015 PNC

{¶ 19} In November 2015, Staff conducted an investigation in response to a complaint that ORNG had cut an Orwell Natural Gas Company (Orwell) main gas line in order to take over service to customers at a storage property located at 6272, 6273, and 6275 Tin Man Road in Mentor, Ohio (Tin Man). Upon investigation, Staff stated it discovered that a metering and regulation (M&R) station had been improperly installed along with a distribution main that connected to 44 service lines, supplying 57 separate customer meters. Staff also determined that a pressure regulator located on the M&R station had been installed without a pressure sensing line, in violation of 49 C.F.R. 192.199; that access to the M&R station emergency shutoff valves was not secured, in violation of 49 C.F.R. 192.181(b); and that pressure testing of newly installed mains, services, and meter settings was not performed, in violation of 49 C.F.R. 192.503(a). Staff noted that the primary purpose of an M&R station is to maintain a safe operating pressure to downstream customers, and that, without

properly installed sensing lines, the pressure regulators at the M&R station cannot function and would risk over-pressurizing downstream piping. In addition, Staff found that ORNG employees at the scene did not have appropriate operator qualifications required to install meter sets and reestablish service to customers, in violation of 49 C.F.R. 192.807(b), and a MAOP for installed piping was not established, in violation of 49 C.F.R. 192.619(a). (Staff Ex. 1 at 3-4.)

{¶ 20} In addition, Staff noted that ORNG failed to contact representatives from Orwell, failed to obtain consent to the cutting of the Orwell main, and failed to provide any notice to the customers at Tin Man regarding the change of operator or emergency contact information, as required under 49 C.F.R. 192.616(d). Immediately thereafter, Staff notified ORNG's management that it must install sensing lines for the pressure regulators and an emergency shutoff valve, secure the station bypass valve from unauthorized operation, and pressure test the newly installed system. Staff also indicated that, as a result of the inspection, ORNG hired a contractor (Big Oats Supply) to install the missing sensing lines on the M&R station on November 21, 2015. While Staff indicated that an emergency shutoff valve was in fact installed upstream of the M&R station, it was buried and ORNG personnel at the scene on November 20, 2015, were not aware of its existence. (Staff Ex. 1 at 3-4.)

{¶ 21} On November 25, 2015, Staff received complaints of a gas leak from tenants at Tin Man who had initially called 9-1-1. Staff noted that the city of Mentor Fire Department contacted Orwell, which was unaware that ORNG had begun service to tenants of Tin Man. In addition, Staff noted that, after contacting ORNG, it was approximately one hour before an ORNG employee responded to the leak and the ORNG employee who arrived on the scene did not have any leak detection equipment and was unfamiliar with leak detection and leak grading procedures. Upon investigation of the leak complaint, it was discovered that approximately 30 of the meters installed before Staff arrived at the scene on November 20, 2015, were assembled without the gaskets designed to prevent leakage at mechanical couplings and these meters were the source of the leak in the complaint. Staff also noted

that the installation of these gaskets is specifically required by the manufacturers of the meters in order to safely operate them. As a result of the leaks, the city of Mentor Fire Department disconnected service at Tin Man on the recommendation of Staff until ORNG could install the meters in accordance with the manufacturer's instructions and properly test the gas lines to ensure no leaks were present. Staff reported that, between December 3 and 11, 2015, ORNG completed the ordered repairs at Tin Man under the supervision of Staff. (Staff Ex. 1 at 4.)

{¶ 22} Thereafter, on December 1, 2015, Staff issued a notice of probable noncompliance (December 2015 PNC), citing multiple violations of the GPS regulations and recommending the Commission assess a monetary penalty of \$100,000 against ORNG related to the safety inspections of the pipeline facilities at Tin Man, including:

49 C.F.R. 192.181 (Distribution line valves). ORNG installed an M&R station designed to control the pressure of gas to customers at Tin Man without an emergency valve installed at a distance sufficient to permit operation during an emergency that might preclude access to the station;

49 C.F.R. 192.199 (Requirements for design of pressure relief and limiting devices). ORNG installed an M&R station without a sensing line on the downstream pressure regulator at the station required for correct operation and without locking devices or other method of securing valves against unauthorized operation;

49 C.F.R. 192.503 (General requirements). ORNG did not perform pressure testing of the service line and tap from an Orwell-Trumbull Pipeline Company (OTP) high pressure main to ORNG's M&R station;

49 C.F.R. 192.605 (Procedural manual for operations, maintenance, and emergencies). ORNG took approximately one hour to respond to a report of

a gas odor inside or near Tin Man and employees had no leak detection equipment;

49 C.F.R. 192.616 (Public awareness). ORNG did not educate the customers at Tin Man or appropriate government organizations responsible for responding to emergency events;

49 C.F.R. 192.619 (MAOP). ORNG is operating steel and plastic piping at Tin Man without having determined the MAOP;

49 C.F.R. 192.707 (Line markers for mains and transmission lines). ORNG failed to place line markers at required locations and line markers present at the site incorrectly show Orwell as the operator;

49 C.F.R. 192.725 (Test requirements for reinstating service lines). ORNG reinstated 44 disconnected service lines at Tin Man without testing for leakage;

49 C.F.R. 192.805 (Qualification program). Staff observed two ORNG employees correctly installing multiple gas meters on November 20, 2015, at Tin Man; however, it was later discovered that the meters installed before Staff's arrival on November 20, 2015, were installed without gaskets designed to prevent leakage of gas at the connection with the service riser and hose piping resulting in approximately 30 of the meters leaking, which led to the leak complaint on November 25, 2015. Neither of the employees were qualified under the operator qualification plan to install domestic meter and regulator sets;

49 C.F.R. 192.807 (Recordkeeping). ORNG was unable to provide records showing the qualification status of any of its employees to Staff upon request;

Ohio Adm.Code 4901:1-13-05 (Minimum customer service levels). Staff observed two ORNG employees install 57 gas meters and reestablish gas service to customers without testing the gas piping downstream of the meter to determine that no leaks exist. (Staff Ex. 1 at 4-8, 28-33.)

3. DECEMBER 2015 COMPLIANCE ORDER

{¶ 23} In conjunction with the December 2015 PNC, Staff issued a compliance order (December 2015 Compliance Order) requiring the following corrective actions be taken in order to restore service at Tin Man:

ORNG was directed to re-install all meters using qualified personnel and procedures established in ORNG's O&M plan;

ORNG was directed to perform pressure testing of the service lines present at Tin Man for leakage, and an inspection of all customer piping to verify gas connections to appliances were either connected or shut off, all relights were performed correctly, and no leaks were present;

ORNG was directed to have in place line markers and signage indicating that it operates the gas pipelines in the area along with an accurate emergency phone number;

ORNG must modify the regulator station at Tin Man to incorporate an emergency shutoff valve, locking device, or other means, to prevent unauthorized operation, and a correct installation of the pressure regulator sensing line;

ORNG must visually inspect all regulator stations in the ORNG system for correct design by December 15, 2015;

ORNG must perform pressure testing on all piping at Tin Man in order to establish a MAOP;

ORNG must provide complete operator qualification records for all ORNG employees and contractors demonstrating they were qualified to perform certain O&M tasks by December 30, 2015;

ORNG must provide public awareness materials to its customers, the general public, appropriate government organizations, and persons engaged in excavation-related activities at Tin Man by January 30, 2016. (Staff Ex. 1 at 8-10, 34-35.)

{¶ 24} Subsequent Staff investigation showed that ORNG only corrected violations that were noted at Tin Man without correcting the violations at other areas where ORNG provides service, and in some cases, ORNG failed to correct the violations altogether (Staff Ex. 1 at 8).

4. ORNG RESPONSE TO DECEMBER 1, 2015 PNC AND COMPLIANCE ORDER

{¶ 25} Staff reported that ORNG did not dispute Staff's findings of the events that occurred at Tin Man between November 20 through 25, 2015, and that ORNG offered no evidence or additional information to mitigate the violations alleged in the December 2015 PNC. Staff also reported that ORNG failed to respond to Staff in writing regarding the December 2015 Compliance Order. In addition, Staff reported that ORNG completed only the directives that were minimally necessary to reestablish service to Tin Man between December 3 and 11, 2015, but not without significant Staff supervision and guidance. Staff also found that ORNG completed only partial compliance of pressure testing under Staff supervision over the week of December 3 through 11, 2015, but ORNG had no records of performing pressure testing of new meter installations on any part of its system other than Tin Man. Staff found that compliance with the line marker and signage directives was

completed by ORNG under Staff supervision over the week of December 3 through 11, 2015. Staff found that partial compliance was completed by ORNG with the directives to incorporate emergency shutoff valves and locking devices, again under Staff supervision. (Staff Ex. 1 at 16-18.)

{¶ 26} Further investigation by Staff revealed that ORNG had no records of performing pressure testing or establishing a MAOP at any of its systems other than Tin Man. Staff found that the directive to complete visual inspections of all regulator stations had not yet occurred. Staff also found that, although ORNG had provided records to Staff showing personnel performing the specific tasks required at Tin Man had received a qualification, ORNG qualification records for other covered tasks not directly required to reestablish service at Tin Man were incomplete. With regard to the directive on providing public awareness materials, Staff found that ORNG sent a mailing out to all Tin Man customers in January 2016, but that, as of the date of the issuance of the Staff Report, it has done nothing else to comply with public awareness requirements. (Staff Ex. 1 at 16-18.)

{¶ 27} In addition, Staff reported that ORNG employees did not appear to understand the requirements for regulator station design or pressure testing. Staff also noted that, on April 4, 2016, it met with representatives of ORNG and ORNG claimed to have met the terms of the December 2015 Compliance Order. While Staff found that ORNG had met these terms, it had still failed to complete the public awareness requirement of 49 C.F.R. 192.616. Further, while ORNG implemented corrective action necessary in order to restore service at Tin Man, it had failed to implement corrective actions at any other part of its pipeline system. (Staff Ex. 1 at 17-20.)

5. APRIL 2016 PNC

{¶ 28} On March 16, 22, and 23, 2016, Staff observed ORNG employees attempting to make plastic joints while installing a gas distribution main without following the manufacturer's instructions or ORNG's O&M procedures. As a result, work was ceased on

Staff's instruction. On April 5, 2016, Staff issued a notice of probable noncompliance (April 2016 PNC), citing the following specific violations and recommending a monetary penalty of \$500,000:

49 C.F.R. 192.273 (Joining of materials other than by welding). ORNG employees were observed joining 4-inch PolyPipe plastic piping on March 16, 2016, in the area of the Ellsworth and Duck Creek Road intersection, including approximately 3,400 feet of plastic piping, without following written procedures or inspecting joints to ensure compliance. Staff noted that butt fusion procedures adopted by ORNG state that the ends of the plastic piping to be joined must be heated between 400 and 450 degrees Fahrenheit; however, temperatures of butt fusion ends were observed by Staff to be between 490 and 505 degrees Fahrenheit. Joined piping showed defective melt beads that did not pass the inspection criteria listed in ORNG's O&M plan for the PolyPipe heat fusion procedures. Staff also observed ORNG employees attempting to cut out and replace the defective plastic joints on March 22-23, 2016, using an incorrect fusion temperature, and improperly using a device intended to align both ends of the pipe during fusion.

49 C.F.R. 192.283 (Plastic pipe: qualifying joining procedures). Written procedures for joining plastic pipe were not available to ORNG personnel making the plastic pipe joints and employees at the scene were not familiar with the joining procedures or inspection criteria for butt fused plastic joints when interviewed by Staff. (Staff Ex. 1 at 8-10, 36-39.)

6. APRIL 2016 COMPLIANCE ORDER AND FINDINGS OF STAFF

{¶ 29} As part of the April 2016 PNC, Staff issued a compliance order (April 2016 Compliance Order) requiring corrective actions to be taken in order to restore service to

distribution mains located at ORNG's Duck Creek Road and Ellsworth Road systems in Mahoning County:

ORNG employees and contractors engaged in making plastic joints must be requalified under the ORNG joining procedure for plastic fusions. Staff reported that ORNG provided documentation that the employees observed making defective plastic joints had been requalified.

All plastic joints along the buried portion of the approximately 3,400 feet of piping at the Duck Creek Road system must be excavated and all defective joints be cut out and replaced prior to the system being placed into service, with Staff being present to observe the evaluation of defective joints and completion of new joints. Staff reported that, at the time of the issuance of the Staff Report, ORNG had not complied with this directive.

All plastic joints along the buried portion of the approximately 5,400 feet of piping at ORNG's Ellsworth Road system must be excavated and all defective joints be cut out and replaced prior to the system being placed into service, with Staff being present to observe the evaluation of defective joints and completion of new joints. (Staff Ex. 1 at 40.)

{¶ 30} Staff indicated that, on April 19, 2016, ORNG responded to the April 2016 PNC and Compliance Order, but that the response did not address the requirements for qualifications and training of its employees. Most importantly, Staff noted that, rather than fully complying with Staff's directive for corrective action with regard to the excavation of all pipeline along Ellsworth and Duck Creek roads, ORNG only offered a counterproposal to excavate a certain percentage of plastic joints for inspection. (Staff Ex. 1 at 17.)

7. MAY 2016 ANNUAL INSPECTION AND AUDIT

{¶ 31} On May 12, 2016, Staff conducted an annual inspection of operator procedures and records at ORNG.¹ Staff identified a number of violations of the GPS regulations including: a lack of welding procedures; failure to provide cathodic protection for installed metallic pipelines or pipeline components; failure to install required excess flow valves; a lack of a leak management program or the equipment required to determine whether or not reported leaks are hazardous; failure to pressure test newly installed piping; failure to determine a MAOP for any piping in the ORNG system; and failure to implement a required public awareness program. Importantly, Staff noted that ORNG had been cited for these same violations on December 1, 2015, and that the corrections undertaken by ORNG at Tin Man were done while under direct Staff observation. However, none of the other ordered corrections were made anywhere else in the ORNG system. The specific violations identified during the May 2016 annual inspection include:

49 C.F.R. 192.13(c) (Each operator shall maintain, modify as appropriate, and follow the plans, procedures and programs that it is required to establish under this part). ORNG did not have the plans or procedures required under Sections 192.225: Welding Procedures and 192.227: Qualifications of Welders and did not follow its own procedures for pressure testing, cathodic protection, or the installation of excess flow valves.

49 C.F.R. 192.16 (Customer notification). ORNG's O&M plan provided procedures for customer notification, but none of the required notices had been sent out to customers.

¹ During the audit, Peter Chace, the manager for the Staff's GPS Program, indicated that while traveling to the location to supervise the audit, he received a telephone call from Richard Osborne questioning why he was participating in the audit and advising him that his employees would not assist with the audit while Mr. Chace was there.

49 C.F.R. 192.225 (Welding procedures). ORNG was unable to provide any qualified welding procedures to Staff. ORNG has tapped into steel transmission and high pressure distribution lines and installed, by means of welding, steel company service lines, steel valves, and steel inlet risers to farm taps and distribution centers without having qualified welding procedures. The lack of qualified welding procedures was first identified by Staff and communicated to ORNG on February 20, 2015, but no action had been taken at the time of the issuance of the Staff Report.

49 C.F.R. 192.241 (Inspection and test of welds—welds on a pipeline must operate at a pressure that produces a hoop stress of 20 percent). ORNG made two taps into a 10-inch steel transmission line operated by Cobra Pipeline Company (Cobra) at its Newton Falls system and the steel lines were welded to the Cobra transmission line at the inlet side of the Hallock-Young and Ellsworth Road Town Border Stations. However, none of these welds were nondestructively tested.

49 C.F.R. 192.243 (Nondestructive testing is required for field butt welds). ORNG's O&M plan states that all distribution facilities will be designed, constructed, operated, and maintained in accordance with requirements for Class 4 locations. Staff found that ORNG made 12 taps into steel transmission and high-pressure distribution lines to feed farm taps, steel M&R station piping, and steel service lines. None of these welds were nondestructively tested.

49 C.F.R. 192.321 (Installation of plastic pipe must be done below ground level and be installed so as to minimize shear or tensile stresses). Staff found that ORNG installed a farm tap at Fracci Court and a regulator station at Tin Man and that both locations supply a plastic line installed through the use of

a plastic to steel transition fitting without a riser. Staff also determined that the piping is exposed above ground level and is helping to support the stations, which imposes tensile stress on the pipe.

49 C.F.R. 192.383 (Excess flow valve installation must comply with performance standards and the operator must install an excess flow valve). Excess flow valves were not installed on ORNG's Muzic, Dowd, or Williams Road - Steel Head Run systems. ORNG's O&M plan provides that ORNG will install excess flow valves on each newly installed service line that serves a single residential unit.

49 C.F.R. 192.455 (External corrosion control: Buried or submerged pipelines installed after July 31, 1971, must be protected against external corrosion including having a cathodic protection system). ORNG installed farm taps supplying steel service lines at its Fracci, Oak, Dowd, Muzic, Williams Road Barn, Williams Road-Steel Head Run, and Reynolds Road systems and new main line steel pipe feeding gas to town border stations for Sugar Bush, Hallock-Young, and Ellsworth Road without a cathodic protection system.

49 C.F.R. 192.455 (External corrosion control: Monitoring – each pipeline that is under cathodic protection must be tested at least once each calendar year). ORNG has no cathodic protection monitoring records for 2015.

49 C.F.R. 192.479 (Atmospheric corrosion control: General – coating materials must be suitable for the prevention of atmospheric corrosion). ORNG operates a steel main line pipe supplying gas to the Os Air facility in Mentor, Ohio. The pipeline coating is in poor condition and active atmospheric corrosion is extensive along approximately 100 feet of the 2-inch steel main pipeline.

49 C.F.R. 192.481 (Atmospheric corrosion control: Monitoring—during inspections, the operator must give particular attention to pipe at soil-to-air interfaces). The outlet riser at the Hallock-Young station has atmospheric corrosion present on the outlet riser at the soil-to-air interface and the soil-to-air interfaces on the Fracci Court system farm tap are not properly protected from atmospheric corrosion.

49 C.F.R. 192.491 (Corrosion control records—each operator shall maintain records or maps to show the location of cathodically protected piping facilities and a record of each test, survey, or inspection required). ORNG has no records or maps showing the location of cathodically protected piping or test points, or records of any tests, surveys, or inspections to demonstrate that a corrosive condition does not exist.

49 C.F.R. 192.503 (General Requirements—no person may operate a new segment of pipeline, or return to service a segment of pipeline that has been relocated or replaced, until it has been tested to substantiate the MAOP). ORNG was unable to produce pressure testing records for the Sugarbush, Hallock-Young, Ellsworth Road, Reynolds Road, Williams Road, Steel Head Run, or Os Air systems or steel service lines off the Fracci, Oak, Dowd, Muzic, Williams Road Barn, and Williams Road-Steel Head Run fed from farm taps.

49 C.F.R. 192.615 (Emergency plans—each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency). ORNG did not have written procedures listing appropriate contact information/phone numbers to establish a means of communication with appropriate emergency and public officials. ORNG's emergency procedures listed incorrect phone numbers for available company personnel to be contacted in the event of an emergency. ORNG had not provided supervisors

with a copy of emergency procedures and has no record of any training of appropriate operator personnel in emergency procedures. ORNG employees had not been provided with equipment necessary to determine the source and concentration of a gas leak (i.e. a combustible gas indicator).

49 C.F.R. 192.616 (Public awareness—each pipeline operator must develop and implement a written continuing public education program). ORNG's public awareness plan had not identified emergency officials, public officials, or excavator stakeholders and no notification messages have been prepared or sent out to those entities. The first messages to the affected public were sent out January 2016, to a limited list of customers on Lyntz Townline Road in the Hallock-Young system in Newton Falls, Ohio. This violation was first identified by Staff on November 24, 2015, and had not been corrected by ORNG at the time of the issuance of the Staff Report.

49 C.F.R. 192.619 (MAOP for steel or plastic pipelines). ORNG had not established a MAOP for the Sugarbush, Hallock-Young, Ellsworth Road, Reynolds Road, Williams Road-Steel Head Run, or Os Air systems or steel service lines off the Fracci, Oak, Dowd, Muzic, Williams Road Barn, and Williams Road-Steel Head Run fed from farm taps.

49 C.F.R. 192.707 (Line markers for mains and transmission lines—must be placed above ground in an area accessible to the public). ORNG operated an exposed 2-inch steel main (Os Air system) with no line markers.

49 C.F.R. 192.721 (Distribution systems—mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled). The ORNG OS Air system had an exposed 2-inch steel main line hung on posts and had no patrolling records for this system.

49 C.F.R. 192.805 (Qualification program—each operator shall have and follow a written qualification program). ORNG could not demonstrate that the plastic piping installation performed in 2015 was performed by individuals who were qualified.

49 C.F.R. 192.1007 (Required elements of an integrity management plan). ORNG has not collected or documented information required to meet the required elements of an integrity management plan, including leak history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, or excavation damage experience. ORNG failed to identify threats or evaluate risks to its pipeline system, or implement measures designed to reduce the risks from failure of its gas distribution system. Further, ORNG failed to have an effective leak management system or a leak detection device capable of measuring the concentration of natural gas in the atmosphere. ORNG had taken no action to measure performance or evaluate the effectiveness of its plan.

Ohio Adm.Code 4901:1-16-04 (Records, maps, inspection, and leak classifications—each operator shall classify all leaks utilizing leak detection equipment and classify all hazardous leaks immediately). Staff identified two leaks on the Hallock-Young town border station in November 2015, and these leaks were still present when observed by Staff on April 14, 2016. ORNG was also unable to produce any documentation that these leaks had been evaluated to determine whether or not they were hazardous. ORNG was also unable to produce a leak detection device capable of measuring the concentration of natural gas in the atmosphere to properly classify the leaks. (Staff Ex. 1 at 10-16.)

8. STAFF REPORT CONCLUSIONS AND RECOMMENDATIONS

{¶ 32} Staff concluded that ORNG has established a pattern of only correcting the violations necessary in order for it to restore its business operations and that ORNG did not implement the necessary corrections in any other parts of its system. Staff noted that one example of this pattern is that ORNG only partially complied with the March 2015 PNC by only purchasing the necessary O&M manuals, but it had not taken the necessary step of enforcing the requirements of the compliance order throughout its system. Staff further found that ORNG established a pattern of ignoring the directives of multiple compliance orders designed to promote safety and, instead, making counteroffers to those compliance orders in order to avoid compliance and the associated costs. Based on past experiences with ORNG and its underlying management and ownership, Staff indicated that it had reason to believe that any new piping installed by ORNG that was not directly observed by Staff would have similar problems to the portions of the ORNG system that were directly observed and that have multiple safety issues and problems. (Staff Ex. 1 at 20.)

{¶ 33} Based on ORNG's history of noncompliance and repeated violations, Staff initiated this case for the purposes of having the Commission review Staff's concerns regarding the pattern of violations of the GPS regulations and ORNG's unsatisfactory responses and to determine if ORNG's facilities are hazardous to life and property. Based on the compliance history of ORNG, Staff believes that ORNG is a willful and persistent violator of the GPS regulations and the administrative enforcement process attempted by Staff has been ineffective in obtaining complete compliance. Staff believes that the pattern of ORNG's conduct is that of an operator with willful disregard for safety regulations, and that it operates in compliance with the GPS regulations only when directly observed by and directed by Staff, and it has not implemented written procedures for its employees to follow when installing gas pipeline facilities. Staff concludes that ORNG operated its natural gas pipeline system in a manner that potentially threatens human life and property. (Staff Ex. 1 at 20.)

{¶ 34} After consideration of the information summarized in the Staff Report, Staff makes the following recommendations to the Commission:

Determine that ORNG's facilities are hazardous to life and property.

Require ORNG to immediately cease all construction and operation of regulated gas pipelines until all of the remaining items from the December 2015 Compliance Order are satisfied. This includes obtaining and adopting a complete operator qualification plan for all covered tasks performed by ORNG, Cobra, OTP, and any outside contractors; completing a visual inspection of all regulator stations currently in the system for correct design; and providing public awareness materials to ORNG's customers, the general public, appropriate government organizations, and persons engaged in excavation related activities as required by the GPS regulations.

Require ORNG to correct all of the violations cited in the Staff Report from the May 2016 annual audit.

Require ORNG to fully cooperate with Staff in returning to and maintaining compliance with the GPS regulations on ORNG's entire system, including any newly constructed facilities.

Assess the recommended \$600,000 forfeiture against ORNG. That forfeiture amount is based on the proposed fine of \$100,000 in the December 2015 PNC and the proposed fine of \$500,000 in the April 2016 PNC. (Staff Ex. 1 at 20-21.)

B. Summary of Testimony and Other Hearing Evidence

{¶ 35} Staff requests the Commission find that ORNG's facilities are hazardous to life and property and that ORNG suspend all operation and construction of its pipelines until

everything outlined in Staff's audit and corrective action plans has been completed and ORNG can demonstrate that it has the knowledge and management to consistently follow GPS regulations. Additionally, Staff asserts a fine of \$600,000 should be assessed upon ORNG.

{¶ 36} While ORNG admits to most of the violations, it insists it has diligently worked to remedy any issues and to ensure future compliance. ORNG maintains its pipelines are currently safe and in compliance and its workers are properly trained and qualified. Thus, ORNG argues its facilities are not hazardous and that Staff's recommended forfeiture is excessive.

1. MARCH 2015 PNC

{¶ 37} Staff avers its recommendations are appropriate and necessary because ORNG has consistently and willfully failed to comply with Commission regulations. According to Staff, ORNG has failed to comply with GPS regulations since ORNG's origins, when it failed to have the proper plans and procedures in place when it started installing pipe. Staff states it is imperative to have a number of written plans and procedures in place prior to operations in order to ensure pipelines are installed correctly and will not fail. Staff witness Peter Chace testified that, upon investigation, ORNG did not have any plans and procedures in place when it began installing pipe. Because of the safety concerns, Mr. Chace said Staff ordered ORNG, in its March 2015 PNC, to cease operations. (Staff Ex. 3 at 5-6.) In its March 27, 2015 response, ORNG agreed to stop operations until it was in compliance. According to Staff, however, it observed ORNG installing service lines on April 3, 2015. Further, Staff asserts it was not until June 16, 2016, that ORNG obtained any plans and procedures. Even then, Staff contends the plans were deficient. Staff further claims that ORNG's plans and procedures remain inadequate. Specifically, Staff states ORNG's operator qualification plan is insufficient. Staff avers that ORNG initially failed to address the deficiencies and while ORNG has since claimed to come into compliance, Staff maintains the plan is still severely lacking. (Staff Ex. 3 at 5-9.)

{¶ 38} In ordering ORNG to obtain the required plans and procedures, Staff states ORNG ignored a directive to establish a MAOP before operating any pipeline. Staff asserts ORNG was aware that, before putting a line in service, it needed to do pressure testing to establish a MAOP. Further, Staff states it specifically notified ORNG about the necessary testing in the July 2015 Staff Letter. Despite this, Mr. Chace testified that on September 3, 2015, ORNG was discovered to have pressurized the 7,300 feet of pipeline without approval from Staff. Although ORNG claims that it has done the proper testing, Staff contends its records do not demonstrate this. (Staff Ex. 3 at 8-10.)

{¶ 39} Regarding the March 2015 PNC, ORNG contends it corrected everything in the notice. According to ORNG, the Hallock-Young Lyntz-Road system is in full compliance and ORNG has obtained the required public awareness manual, drug and alcohol program manual, and all operational manuals. ORNG avers it is only lacking one section of its operator qualification manual, which it is working to correct. (ORNG Ex. 1 at 6-9.)

{¶ 40} In reply, Staff states that ORNG's incorrect assertions that the violations have been remedied illuminates Staff's larger concerns. Staff argues that ORNG does not appear to fully grasp what is necessary to comply with regulations. According to Staff, while ORNG corrected the issues within a single specific system, it did not make corrections to its entire operations. (Staff Ex. 3 at 23.) Further, while ORNG has not yet obtained a complete operator qualification manual, Staff avers ORNG has had over a year and a half to do so. As to the operator qualification manual, Staff states ORNG has twice wrongly claimed it is in full compliance, which demonstrates a basic lack of understanding of what is needed (Tr. at 61-62). Staff further reiterates that, in operating a system without first establishing a MAOP, ORNG willfully contravened GPS regulations and Staff directives. In sum, Staff argues ORNG both ignores regulations and does not understand regulations, which shows it is not capable of safely operating a pipeline system. (Staff Ex. 3 at 23-24.)

2. DECEMBER 2015 PNC

{¶ 41} The importance of pressure testing and having written plans and procedures, according to Staff, is to ensure that the pipelines are installed correctly. Staff avers that the incidences at Tin Man in November 2015 demonstrate why that is important. (Staff Ex. 3 at 5-6, 13-14.) Staff witness Christopher Domonkos testified that, on November 20, 2015, after receiving a complaint, he witnessed ORNG employees improperly installing multiple gas meters and M&R stations. In total, he said 57 meters were installed incorrectly, and 30 were installed without necessary gaskets. The M&R stations lacked multiple necessities such as an emergency shutoff valve, proper locking devices, or a sensing line. Additionally, according to Mr. Domonkos, the employees failed to properly test for any leaks. Mr. Domonkos also stated the employees installing the meters did not have the necessary training or qualifications to do the job. In his testimony, Mr. Domonkos expressed that the proper installation of the meters and stations is something that is a required component in a gas pipeline company's plans and procedures. (Staff Ex. 2 at 2-6.)

{¶ 42} On November 25, 2015, Staff returned to Tin Man after receiving a call from the local fire department regarding a possible gas leak. Mr. Chace indicated that ORNG employees did not arrive until over an hour after being notified about a possible leak. Further, he states they were ill-prepared to handle the situation and did not have leak-testing equipment. Ultimately, according to Mr. Chace, Staff was able to identify that the leaks were caused by the meters not having gaskets. (Staff Ex. 3 at 10-18.)

{¶ 43} Staff contends that while the number of violations committed by ORNG is alarming, of equal concern is ORNG's inability to come into compliance. According to Staff, ORNG has either consciously refused to come into compliance or lacks the institutional knowledge to know what to do. Staff asserts that, after the situation at Tin Man and the December 2015 PNC, it ordered ORNG to do a visual inspection of all M&R stations and to correct any deficiencies. Staff states ORNG offered a cathodic protection report and atmospheric inspection reports to demonstrate compliance (Tr. at 73). Staff argues,

however, that these reports do not address the design flaws of the installation. According to Staff, this demonstrates that ORNG has not complied with directives and that it does not know how to comply. While ORNG contends it corrected any issues, Staff contends this is inaccurate and an example of ORNG's lack of basic understanding. (Staff Br. at 14-15.)

{¶ 44} ORNG maintains it has remedied all of the issues from the December 2015 PNC surrounding the events at Tin Man. ORNG states Staff agrees that ORNG has largely complied with Staff's directives. According to ORNG, while it does not have records to demonstrate that its regulator stations have passed internal inspections, the stations are in compliance. Specifically, ORNG avers the Hallock-Young regulator station has since been replaced and is in compliance. Further, the Tin Man regulator station, according to ORNG, was inspected and approved by Staff, although ORNG lacks the inspection records. ORNG admits that it does not have documentation that it established a MAOP for six of its systems, *but maintains that it is working in good faith to come into compliance.* (ORNG Ex. 1 at 8-13.)

{¶ 45} Staff responds that ORNG continues to show administrative disorganization and a lack of follow-through. Staff avers that, even though ORNG claims its stations are now in compliance, it lacks any of the necessary and required records to prove it. Staff also states it is troublesome that, while ORNG claims to be working in good faith to correct all of the issues, it has failed to do so after a considerable amount of time. (Staff Ex. 3 at 23-25.)

3. APRIL 2016 PNC

{¶ 46} According to Staff, ORNG's lack of basic understanding and willful indifference were also evident when Staff observed pipeline installation on Ellsworth Road. Mr. Domonkos indicated he witnessed ORNG employees performing improper pipeline fusions. Employees were using damaged and defective equipment, faulty procedures, and were missing pages from the procedure manual, according to Mr. Domonkos. Further, the ORNG employees lacked the necessary training and qualifications. Staff asserts ORNG also

used the defective equipment and incorrect procedures when it previously installed the pipeline on Duck Creek Road. Staff says it ordered ORNG to remove and replace all of the pipeline joints on both roads, but ORNG has refused. According to Staff, these systems are pressurized at 40 percent and pose a serious threat of property damage or loss of life. (Staff Ex. 2 at 8-10; Staff Ex. 3 at 18-20.)

{¶ 47} As to the April 2016 PNC, ORNG states it has corrected a majority of the issues and has attempted to work with Staff to fix remaining concerns. ORNG asserts that its employees were immediately requalified and that ORNG remedied issues with its welding manual and its fusion equipment. In response to Staff's directive to replace all of the buried joints in the Duck Creek system, ORNG asserts it requested to instead replace a quarter of the joints and, if they were defective, it would replace all of them. As Staff also directed ORNG to replace all of the joints in the Ellsworth system, ORNG countered Staff's order by seeking to perform leak surveys and pressure testing to see if any joints are defective. ORNG maintains that it has been waiting for Staff's response to its counterproposals before taking any actions. (ORNG Ex. 1 at 15-18.)

{¶ 48} Staff contends that, because of ORNG's refusal to comply with Staff directives to replace all of the joints, the Ellsworth and Duck Creek system is currently a hazardous threat to property and human life and should be taken out of service immediately. Staff asserts its directives to ORNG that the system should be shut down and all of the joints need to be cut out and replaced has never changed or wavered and that ORNG has willfully refused to comply with the orders. (Staff Ex. 3 at 20-21, 24-25.)

4. MAY 2016 ANNUAL INSPECTION AND AUDIT

{¶ 49} Staff maintains that, after the May 2016 audit, ORNG continued to demonstrate a lack of knowledge and a lack of compliance. In the audit, Staff found that ORNG had no cathodic protection monitoring records for 2015. (Staff Ex. 1 at 13.) Staff avers that, to come into compliance, ORNG offered continuing surveillance reports and

atmospheric corrosion inspection reports, as well as leak survey reports, none of which document cathodic protection (ORNG Ex. 1 at 21; Tr. at 92). Staff argues this is another example of how ORNG has failed to comply and does not know how to comply (Staff Br. at 16-18).

{¶ 50} Staff also alleges that ORNG has consistently contravened directives to comply with regulations requiring a public awareness plan. Staff avers ORNG was cited for this in the March 2015 PNC, and that ORNG was to implement a continuing public education program. Staff maintains ORNG purchased such a plan on May 5, 2015, but did not notify the public until after the Tin Man incident (Tr. at 75-77). According to Staff, this resulted in customers, and the fire department, not knowing who to call after a suspected gas leak. Staff asserts that, even after the gas leak, ORNG limited its notification to just the Tin Man customers, and not the general public or appropriate government organizations. Staff states ORNG is only motivated to comply with public awareness regulations under the threat of sanctions. (Staff Br. at 18-19.)

{¶ 51} ORNG asserts it has principally remedied all of the instances of noncompliance found in Staff's audit. According to ORNG, of the 21 issues needing correction, it has addressed all but three. As discussed above, ORNG states it still needs to provide the MAOP calculation records and complete forms for its operator qualification manual. ORNG also affirms it needs to provide emergency training to its personnel. Additionally, while Staff is concerned that ORNG does not have cathodic protection records for 2015, ORNG replies that it should not be a present obstacle, as recent cathodic protection inspections would demonstrate any current problems. ORNG further states that its cathodic protection inspections do not occur until September, so it does not have 2016 records yet. In sum, ORNG contends that it has remedied almost all of the issues identified by Staff and is willing to implement any necessary action regarding the Duck Creek and Ellsworth Road systems and, therefore, its facilities are not hazardous to life or property. (ORNG Ex. 1 at 18-23.)

{¶ 52} In reply, Staff asserts the lack of cathodic protection records continues to be a concern. Staff asserts it is concerning that ORNG does not appear to understand how to demonstrate compliance with cathodic protection records. According to Staff, that ORNG is waiting until September to complete inspections, six months after the audit was completed, is a violation in itself and is an example of ORNG's lack of willingness to comply with regulations. (Staff Reply Br. at 9-11.)

5. REQUESTED RELIEF

{¶ 53} For the foregoing reasons, Staff avers that ORNG's facilities should be found to be hazardous to property and human life. Staff contends ORNG has purposely ignored GPS regulations and has installed pipeline improperly and without taking necessary precautions. According to Staff, ORNG has only been willing to comply when under the threat of sanctions. Even then, Staff contends, ORNG has consistently failed to rectify dangerous situations. Staff specifically points to the pipeline installations at Ellsworth Road and Duck Creek Road, which have defective fusions and are at risk of rupturing. Staff states ORNG has failed to follow orders directing ORNG to excavate, cut out, and replace all of the joints. Staff maintains that this puts property and lives at risk. Further, Staff emphasizes that ORNG's employees are ill-equipped and unqualified to consistently follow GPS regulations. Staff states employees have been found to lack the necessary training to install pipeline and employees and management have not demonstrated that they have the requisite knowledge to implement the proper procedures. (Staff Ex. 3 at 20-24.)

{¶ 54} While admitting that violations did occur, ORNG asserts it has worked diligently to correct all problems and to come into compliance with GPS regulations. Therefore, ORNG states Staff's request for an assessment of a \$600,000 forfeiture is inappropriate. ORNG maintains that, in assessing a forfeiture amount, the Commission is to consider the factors outlined in R.C. 4905.95(B)(1)(b). As to the first factor, the gravity of the violation, ORNG avers that a majority of the citations were for recordkeeping matters. Additionally, ORNG states that, while some violations were concerning, none resulted in

injury to a person or property. Thus, ORNG argues the violations were not grave enough to warrant a significant fine. ORNG further argues the second factor, regarding an operator's history of violations, is not relevant here. ORNG contends the issues in the Staff Report represent the entirety of ORNG's history and it has no prior violations. The third factor states the Commission shall consider the operator's good faith efforts to comply and take corrective action and ORNG contends it worked diligently to remedy all concerns. ORNG maintains that it took considerable time to make all the necessary corrections because of the volume of the violations, but it never ignored the Commission's directives and was at all times working to come into compliance. Finally, ORNG notes the Commission is to also consider the operator's ability to pay the forfeiture and the effect the forfeiture would have on its ability to continue as an operator. ORNG asserts it is currently operating at a deficit, with a negative net income and negative retained earnings. If the Commission levies Staff's recommended fine, ORNG avers it will not be able to afford it and it would force ORNG to cease operations and declare bankruptcy. (ORNG Ex. 1 at 24-25, Attach. 31.)

{¶ 55} In consideration of the enumerated factors, ORNG believes a more appropriate penalty would be a \$50,000 forfeiture, with \$40,000 held in abeyance pending demonstration of full compliance with GPS regulations. According to ORNG, this penalty would be more in line with Commission precedent. Further, ORNG states a lower forfeiture is more applicable because most of its violations were for improper recordkeeping. ORNG contends that, in *In re Ohio Cumberland Gas Co.*, Case No. 06-640-GA-GPS, the Commission only fined the company \$20,000, with \$12,500 held in abeyance. ORNG states that company, like ORNG, had a multitude of recordkeeping GPS violations but was a much larger and more profitable organization. ORNG states Staff's proposed \$600,000 is more akin to *In re Columbia Gas of Ohio, Inc.*, Case No. 15-1351-GA-GPS, where a house exploded, rendering multiple homes uninhabitable and causing over \$9 million in damages. ORNG notes that, in that case, also involving a much larger and profitable company, the Commission only assessed a \$400,000 fine. In comparison, ORNG states that, while its violations were

concerning, they did not result in any harm to property or persons. Thus, ORNG argues \$50,000 would be a suitable forfeiture. According to ORNG, the immediate \$10,000 penalty would still put a significant strain on its operations and the \$40,000 in abeyance would ensure continued compliance. (ORNG Br. at 9-13.)

{¶ 56} Staff reiterates that a \$600,000 fine is appropriate. Staff avers that the majority of the violations are not recordkeeping matters and the gravity of the violations is severe. According to Staff, the violations resulted in leaks that were unable to be immediately resolved by emergency personnel. Further, Staff states pipeline has been improperly and unsafely installed and that stations are in place without the necessary safeguards. Staff avers that, because of these violations, the possibility of an explosion exists. Staff also states that ORNG has a history of noncompliance. While ORNG maintains that there is no history because this is the first proceeding, Staff asserts that, over the course of 14 months, it has issued three separate notices of probable noncompliance and completed an audit that found additional violations, some of which continued from previous inspections. Thus, Staff argues ORNG has continually and repeatedly violated Commission regulations throughout its entire history. Regarding ORNG's efforts to comply and take corrective action, Staff maintains that ORNG's attempts have been lacking and insincere. Staff notes that several violations have yet to be remedied. Staff avers that the proper processes for inspections, recordkeeping, and other compliance measures are contained in ORNG's manuals, but ORNG has repeatedly failed to effectively correct the issues. Staff contends ORNG has had more than enough time to come into compliance and that ORNG's efforts are unconvincing. Additionally, Staff states the cases cited by ORNG have distinctly different facts that separate them from ORNG's situation. While such a fine may bankrupt ORNG, Staff argues that outcome is more beneficial and safer than allowing ORNG to continue to operate. (Staff Reply Br. at 11-15.)

V. COMMISSION CONCLUSION

{¶ 57} The Commission finds that ORNG's facilities are a hazard to life and property as ORNG lacks the knowledge, expertise, and management to safely operate a gas pipeline. Further, due to improper fusions, equipment, and installation, we find the systems at Ellsworth Road and Duck Creek are currently a danger and should not be put into use. In reaching this conclusion, we recognize that ORNG has been a consistent violator of Commission regulations for the entirety of its operational history. From the moment ORNG installed its first pipeline, it was doing so without the necessary manuals and procedures, in violation of GPS regulations. Thus, Staff issued ORNG its first notice of probable noncompliance within a month of ORNG beginning operations. (Staff Ex. 3 at 5-6.) From there, over the next 14 months, Staff issued two more notices of probable noncompliance for various violations. An audit of ORNG's facilities revealed even more violations, some of which were uncorrected instances of noncompliance from previous notices (Staff Ex. 3 at 22-23). In total, ORNG accrued 37 violations over the course of just 14 months (Staff Ex. 1). Additionally, at the hearing, it was demonstrated that ORNG still has not completely corrected issues from any of the notices and is still not in compliance (Tr. at 62, 86, 97-100). ORNG has had multiple opportunities to demonstrate compliance with Staff directives but has repeatedly failed over its history to meet the requests of Staff. We find ORNG is a repeated violator of Commission regulations and has never been in complete compliance at any point in ORNG's history.

{¶ 58} While the gravity of each issue varied, the cumulative impact of so many violations is especially concerning. Of the violations, several stood out as particularly alarming, as they created potentially dangerous situations. First, the events at Tin Man, the impetus for the December 2015 PNC, were troubling. A gas leak caused by ORNG's failure to follow procedures and to properly install pipeline is concerning on its face (Staff Ex. 3 at 16). However, because ORNG failed to communicate to its customers or to local authorities that it now operated the pipeline, it compounded an already dangerous and hazardous

situation. Further complicating matters, ORNG's response to the emergency was slow and inadequate. (Staff Ex. 3 at 16-17.) The leak was discovered and safely addressed by others, which was fortunate for ORNG and its customers. The gravity of each violation that occurred at Tin Man is alarming and the violations could have resulted in a situation that was dangerous for people and property.

{¶ 59} Also troubling is ORNG's failure to properly test its pipelines, including failing to establish a MAOP before putting lines into service (Staff Ex. 3 at 22). Both ORNG and Staff acknowledged the importance of establishing a MAOP before putting a pipeline into operation and ensuring there are no leaks. Operating a pipeline without making certain leaks do not exist creates an inherently dangerous situation. Further, ORNG knew establishing a MAOP was necessary, but still neglected to comply. This behavior adds to the gravity of the violations. The violations from the April 2016 PNC created conditions hazardous to life and property by installing pipeline that is improperly fused and pressurizing that system (Staff Ex. 3 at 19-20). ORNG acknowledged the possible consequences associated with improperly fused pipeline, which includes the risk of an explosion (Tr. at 82). These violations remain uncorrected and add to the gravity of the safety concerns.

{¶ 60} One of the most concerning aspects surrounding ORNG's violations is its lack of effort to come into compliance. First, we note that, in several instances, ORNG has still failed to comply. For example, the MAOP calculations and operator qualification manual were identified in the first notice of probable noncompliance and have yet to be corrected (Tr. at 64, 97-98). Further, the improperly installed pipeline on Duck Creek and Ellsworth Road, which Staff directed ORNG to cease operating, excavate, and replace, has never been remedied and is currently hazardous (Tr. at 80). For other violations, it took ORNG months to comply. When Staff completed its audit in May 2016, many of the violations were repeat violations that Staff previously identified (Staff Ex. 3 at 22).

{¶ 61} It is evident that ORNG either did not place a priority on coming into compliance or lacked sufficient knowledge to comply. In making our ruling, the Commission finds that ORNG's consistent and myriad violations, and its inability to efficiently remedy them, stem from a lack of industry knowledge and organization, as well as a willful indifference to the Commission's regulations. ORNG asserts that its issues are the result of previous mismanagement during a period of time that Mr. Knight was not employed with ORNG. ORNG states it was so disorganized that important documents, such as the cathodic protection reports, cannot be found. According to ORNG, upon Mr. Knight's return, ORNG has been making strides in returning to compliance and any delays are only caused by the sheer number of violations. (ORNG Ex. 1 at 20, 23-24.) This alone is disconcerting. While ORNG avers that it is now mainly in compliance, Staff demonstrated this to be false. By incorrectly putting forth continuing surveillance reports, atmospheric corrosion inspection reports, and leak survey reports to indicate proper cathodic protection, ORNG exposed its lack of knowledge and understanding. Similarly, ORNG averred it could demonstrate it established MAOPs for numerous pipeline systems but later admitted that it could not. Additionally, ORNG has continuously ignored Staff's directives to repair the improperly installed systems at Duck Creek and Ellsworth Road. (Tr. at 64, 80, 97-98.) The Commission is not persuaded that ORNG is waiting on Staff's response to a counterproposal, when it knows the systems are hazardous (Tr. at 82). Thus, even under Mr. Knight's guidance, ORNG has not presented to the Commission that its ability to comply with GPS regulations will be different than before.

{¶ 62} Throughout its short organizational history, ORNG has not demonstrated that it can safely operate a pipeline system. Regarding gas pipelines, the Commission's ultimate goal is to preserve consumer safety by ensuring that sufficient plans and procedures are in place to prevent future incidents. Having failed to have such plans and procedures, we find that ORNG is operating its pipeline system in a manner that is hazardous to human life and property.

{¶ 63} Pursuant to R.C. 4905.95(B)(2), upon a finding that intrastate pipeline transportation facility is hazardous to life or property, the Commission shall require the pipeline operator to take corrective action to remove the hazard, which may include suspended or restricted use of the facility, physical inspection, testing, repair, replacement, or other action. ORNG has not demonstrated that it has the requisite knowledge, training, organization, or procedures to safely operate a gas pipeline system. This has resulted in systems that are untested, without cathodic protection, and improperly fused. Accordingly, ORNG is directed to cease all operations, as described below, until it has corrected all of the violations cited in the Staff Report and can demonstrate to the Commission that it has the knowledge and organization to consistently follow the GPS regulations. ORNG shall not reconnect any existing customers, or connect any new customers, without the express authorization of the Commission. ORNG should immediately suspend all operations at the Duck Creek Road and Ellsworth Road systems, including depressurizing and purging any pipelines containing natural gas, where ORNG was previously directed in the April 2015 PNC to excavate and replace all defective joints. Additionally, with respect to its remaining systems, ORNG is directed to work with Staff to assist customers in obtaining an alternative source of energy by March 1, 2017. On March 1, 2017, ORNG is directed to suspend service at its remaining systems. ORNG shall also mail or hand-deliver to all its customers a copy of this Order and the attached customer notice. The notices shall be mailed or hand-delivered no later than seven days from the date of this Order. By January 27, 2017, ORNG shall provide Staff with the addresses and other contact information for all of its customers. Further, by January 30, 2017, ORNG shall file notice with the Commission that it delivered the notices to its customers and has supplied its customer information to Staff.

{¶ 64} In the interest of public safety, the Commission finds it is necessary to direct ORNG to cease operations without undue delay, as discussed above. However, regarding the assessment of a civil forfeiture, that matter is still under consideration by the Commission. Accordingly, we will issue our assessment in a subsequent entry.

{¶ 65} In the event that ORNG fails to fully comply with these directives, to the Staff's satisfaction, the Ohio Attorney General's office is directed, pursuant to R.C. 4905.96, to seek enforcement and appropriate remedies in state or federal court. These remedies may include, but are not limited to, actions in common pleas court for injunctive relief. The Ohio Attorney General's office is directed to proceed without further authorizations, in the event that ORNG does not fully satisfy the directives set forth above.

VI. FINDINGS OF FACT AND CONCLUSION OF LAW

{¶ 66} ORNG is a pipeline company as defined in R.C. 4905.03 and an operator as defined in R.C. 4905.90, and, pursuant to R.C. 4905.90 through 4905.96, is subject to the jurisdiction and supervision of this Commission.

{¶ 67} On March 10, 2015, after investigating a complaint, Staff issued a notice of probable noncompliance of GPS regulations upon ORNG. Staff alleged two violations and also issued a compliance order.

{¶ 68} After receiving another complaint, Staff issued a second notice of probable noncompliance to ORNG on December 1, 2015. Staff cited 12 violations and ordered ORNG to complete corrective actions. Additionally, Staff recommended a monetary fine of \$100,000.

{¶ 69} A third notice of probable noncompliance was issued to ORNG on April 5, 2016, after Staff observed ORNG constructing new pipeline. Staff cited two GPS violations and issued a compliance order. Staff also recommended a monetary fine of \$500,000.

{¶ 70} On May 12, 2016, Staff completed a scheduled annual audit of ORNG's O&M procedures. Staff alleged 21 violations of GPS regulations.

{¶ 71} On July 15, 2016, Staff filed the Staff Report. In its report, Staff asserted there have been multiple, repeated instances of noncompliance by ORNG from February 2015 to

May 2016 and that ORNG's operational system is a potential threat to human life and property.

{¶ 72} A hearing was held on September 6, 2016.

{¶ 73} Initial briefs were filed on September 23, 2016, and reply briefs were filed on October 4, 2016.

{¶ 74} The Commission finds ORNG is in violation of the Commission rules and regulations and its facilities are a hazard to life and property. Accordingly, ORNG should cease operations until it has corrected all of the violations cited in the Staff Report and can demonstrate it has the knowledge and organization to consistently follow the GPS regulations.

VII. ORDER

{¶ 75} It is, therefore,

{¶ 76} ORDERED, That ORNG's facilities are hazardous to life and property and ORNG should cease operations, in accordance with paragraph 63, until it has corrected all of the violations in the Staff Report and can demonstrate it has the knowledge and organization to consistently follow the GPS regulations. It is, further,

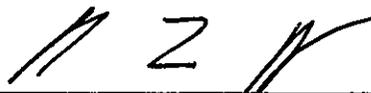
{¶ 77} ORDERED, That ORNG comply with all notice directives, in accordance with paragraph 63. It is, further,

{¶ 78} ORDERED, That, in the event that ORNG fails to fully comply with these directives, the Ohio Attorney General's office is directed to seek enforcement and appropriate remedies in state or federal court, including, but not limited to, injunctive relief. It is, further,

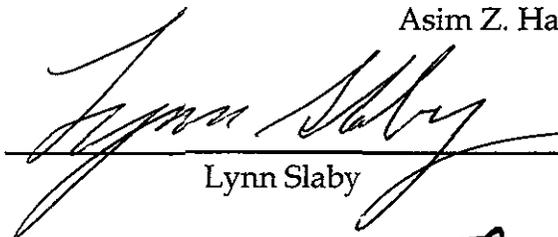
{¶ 79} ORDERED, That ORNG mail or hand-deliver to all of its customers a copy of this Order and the customer notice attached to this Order. It is, further,

{¶ 80} ORDERED, That a copy of this Opinion and Order be served upon all parties of record.

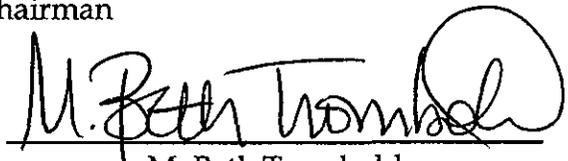
THE PUBLIC UTILITIES COMMISSION OF OHIO



Asim Z. Haque, Chairman



Lynn Slaby



M. Beth Trombold

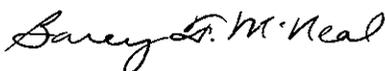


Thomas W. Johnson

NW/SEF/vrm

Entered in the Journal

JAN 18 2017



Barcy F. McNeal
Secretary

NOTICE TO CUSTOMERS OF OHIO RURAL NATURAL GAS FROM THE PUBLIC UTILITIES COMMISSION OF OHIO

The Public Utilities Commission of Ohio (PUCO) has ordered Ohio Rural Natural Gas (ORNG) to suspend all natural gas service to its customers on March 1, 2017, and has ordered ORNG to work with PUCO Staff to assist customers in acquiring alternative service. The PUCO realizes that this will inconvenience the customers of ORNG, but in order to ensure the safety of the public, no reasonable alternative was available.

Since ORNG was started in early 2015, the PUCO has found 37 violations of the gas pipeline safety regulations. The PUCO completed a full investigation, submitted a staff report, and held a hearing in September 2016. Afterwards, the Commission found that many of the violations remain uncorrected and that ORNG lacks the knowledge, expertise, and management to safely operate a gas pipeline. Accordingly, the Commission found ORNG's facilities are operated in a manner that is hazardous to life and property and ORNG should cease operations. A copy of the Commission's opinion and order is attached to this notice.

Customers of ORNG will need to make arrangements by March 1, 2017, for an alternate energy source to replace the service currently provided by ORNG. If you have any questions regarding this matter, please call the PUCO at (800)686-7826. More information, including the staff report, can be found by viewing the PUCO's web site at www.PUCO.ohio.gov. Click on the link to the Docketing Information System and enter the case number 16-1578-GA-COI.