

**BEFORE
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 : Case No. 20-0681-GA-GPS
to Its Compliance with the Natural Gas :
Pipeline Safety Standards and Related :
Matters. :

JOINT STIPULATION AND RECOMMENDATION

I. Introduction

Rule 4901-1-30, Ohio Administrative Code provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. This Joint Stipulation and Recommendation (“Stipulation”) sets forth the understanding and agreement of The East Ohio Gas Company d/b/a Dominion Energy Ohio (“Dominion”) and the Staff of the Public Utilities Commission of Ohio (“Staff”), each of whom is a “Signatory Party” and together constitute the “Signatory Parties.” The Signatory Parties recommend that the Public Utilities Commission of Ohio (“Commission”) approve and adopt this Stipulation, which resolves all of the issues identified by the Staff in its Notice of Probable Noncompliance and Hazardous Facility dated September 16, 2019 (“PNC Letter”), attached as Exhibit A.

When considering proposed stipulations, the Commission reviews whether the agreement is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria¹:

- 1) Is the settlement a product of serious bargaining among capable, knowledgeable parties;
- 2) Does the settlement, as a package, benefit ratepayers and the public interest; and
- 3) Does the settlement package violate any important regulatory principle or practice?

For the first prong, the Signatory Parties, all of whom are represented by capable and knowledgeable counsel, have engaged in lengthy, serious, arm's length bargaining in an effort to reach a mutually acceptable resolution that would address the concerns raised in the PNC Letter. The Signatory Parties used their expert knowledge of the situation and pipeline safety regulations to come to a mutually beneficial resolution of the PNC Letter.

This Stipulation meets the second prong of the Commission's analysis because this 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 joining in this 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

¹The Commission's use of these three criteria to evaluate the reasonableness of a stipulation has been endorsed by the Supreme Court of Ohio. *See, e.g., Consumers' Counsel v. Pub. Util. Comm.* (1992), 64 Ohio St.3d 123, 126, 592 N.E.2d 1370, 1373; *AK Steel Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 81, 2002-Ohio-1735.

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 this 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 these measures benefit ratepayers the public interest.

Finally, this 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.

II. History

- A. On September 16, 2019, the Staff issued the PNC Letter outlining alleged violations of the Ohio Revised Code and Title 49 of the Code of Federal Regulations ("C.F.R.") by Dominion regarding gas pipeline safety violations. The PNC letter was issued after an investigation of a February 3, 2019 incident involving a fire resulting from a release of natural gas from a pipeline operated by Dominion at 13921 Industrial Parkway, Cleveland, OH 44135.
- B. On October 16, 2019, Dominion submitted its response to the PNC Letter admitting to some and explaining other allegations set forth in the PNC Letter, and providing a compliance plan as requested by Staff in the PNC Letter.

- C. The 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 this Stipulation, which the Signatory Parties believe resolve all of the issues raised in the PNC Letter.

III. Recitals

- A. WHEREAS, all of the related issues and concerns raised by the Signatory Parties have been addressed in the substantive provisions of this Stipulation, and reflect, as a result of such discussions and compromises by the Signatory Parties, an overall reasonable resolution of all such issues;
- B. WHEREAS, this Stipulation is the product of the discussions and negotiations of the Signatory Parties and is not intended to reflect the views or proposals that any individual Party may have advanced acting unilaterally;
- C. WHEREAS, this Stipulation represents an accommodation of the diverse interests represented by the Signatory Parties and is entitled to careful consideration by the Commission;
- D. WHEREAS, this Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and
- E. WHEREAS, the Signatory Parties believe that the agreements herein represent a fair and reasonable solution to the issues raised in this matter;

- F. NOW, THEREFORE, the Signatory Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in these proceedings approving this Stipulation in accordance with the following:

IV. Joint Recommendation of Signatory Parties

The Signatory Parties agree that, for purposes of settlement and in consideration of the terms and mutual promises set forth herein, the Commission should approve this Stipulation without modification as follows:

- A. 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.
- B. 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.
- C. 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.
- D. 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.

- E. Dominion agrees that a civil forfeiture in the amount of twenty-five thousand dollars (\$25,000.00) shall be assessed against the Company.

V. Procedural Matters

- A. Except for purposes of enforcement of the terms of this Stipulation, neither this Stipulation, nor the information and data contained therein or attached, shall be cited as precedent in any future proceeding for or against any Signatory Party or the Commission itself. This Stipulation is a reasonable compromise involving a balancing of competing positions and it does not necessarily reflect the position that one or more of the Signatory Parties would have taken if these issues had been fully litigated.
- B. This Stipulation is expressly conditioned upon its adoption by the Commission in its entirety and without material modification. Should the Commission reject or materially modify all or any part of this Stipulation, the Signatory Parties shall have the right, within thirty days of issuance of the Commission’s Order, to file an application for rehearing. Should the Commission, in issuing an entry on rehearing, not adopt the Stipulation in its entirety and without material modification, any Signatory Party may withdraw from the Stipulation. Such withdrawal shall be accomplished by filing a notice with the Commission, including service to all Parties, in the docket within thirty days of the Commission’s entry on rehearing. Prior to

the filing of such a notice, the Signatory Party wishing to withdraw agrees to work in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Stipulation and, if a new agreement is reached that includes the Signatory Party wishing to withdraw, then the new agreement shall be filed for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful in reaching a new agreement that includes all Signatory Parties to the present Stipulation, and a Signatory Party files a notice to withdraw from the Stipulation, then the Commission will convene an evidentiary hearing such that the withdrawing party will be afforded the opportunity to contest the Stipulation by presenting evidence through witnesses and cross-examination, presenting rebuttal testimony, and briefing all issues that the Commission shall decide based upon the record and briefs.

- C. The Signatory Parties will support the Stipulation if the Stipulation is contested, and no Signatory Party will oppose an application for rehearing designed to defend the terms of this Stipulation. If the Stipulation is adopted by the Commission, the Signatory Parties will support the Stipulation in any appeal of the decision.

VI. Conclusion

The undersigned hereby stipulate and agree and each represents that he or she is authorized to enter into this Stipulation and Recommendation this 2nd day of April, 2020.

STAFF OF THE PUBLIC UTILITIES
COMMISSION OF OHIO

By: /s/Werner L. Margard III
Werner Margard, Assistant Attorney General

THE EAST OHIO GAS COMPANY D/B/A DOMINION ENERGY OHIO

By: /s/Andrew J. Campbell (authorization via email)
Andrew J. Campbell, Counsel for Dominion

Exhibit A



Public Utilities Commission

Mike DeWine, Governor
Sam Randazzo, Chairman

Commissioners

M. Beth Trombold
Lawrence K. Friedeman
Dennis P. Deters
Daniel R. Conway

September 16, 2019

Mr. James E. Eck
Vice President & General Manager
Dominion Energy Ohio
1201 East 55th Street
Cleveland, OH 44103

Dear Mr. Eck:

Pursuant to Ohio Administrative Code (“Ohio Adm.Code”) 4901:1-16-09, this letter is a notice of probable non-compliance to Dominion Energy Ohio (“Dominion”). Pursuant to Ohio Revised Code (“R.C.”) 4905.93, operators of gas pipelines must comply with R.C. 4905.90 – 4905.96 and the rules adopted by the Public Utilities Commission of Ohio (the “Commission”) to carry out R.C. 4905.90 – 4905.96 (“the pipeline safety code” which include, *inter alia*, 49 C.F.R. 40, 191, 192, and 199). Based on the Public Utilities Commission of Ohio Staff’s (“Staff”) investigation of an incident that occurred on Dominion’s pipeline facilities and review of Dominion’s records, Staff finds that Dominion is in probable non-compliance with certain requirements of the pipeline safety code and the Ohio Adm.Code.

On February 3, 2019, an incident involving a fire resulting from a release of natural gas from a pipeline operated by Dominion occurred at 13921 Industrial Parkway, Cleveland, Ohio 44135 (hereinafter, the “Incident”). Staff conducted an investigation of the Incident and Dominion’s response to the Incident. The pipeline safety code and the Ohio Adm.Code contain several regulations regarding how pipeline operators must respond to incidents, including notification requirements, emergency response and planning requirements, and accident investigation requirements.

As a result of this investigation, Staff determined that Dominion had failed to properly report the Incident in a timely manner, failed to follow its own emergency response plan when responding to the Incident, failed to properly investigate the incident, and failed to accurately maintain plans, records, reports, information, and maps of pipelines in the area of the incident.

Probable Non-compliance Violations

Based on the findings of Staff’s investigation and review of Dominion’s records, Staff finds that Dominion is in probable non-compliance with:

1. 49 C.F.R. 191.5(a), which states that “At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in section 191.3.”

Dominion failed to report the Incident to the PUCO until almost four hours after confirmed discovery and failed to report the incident to the National Response Center until over four hours after confirmed discovery.

2. 49 C.F.R. 192.605(a), which states in relevant part, that “Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response.”

Dominion failed to follow its written emergency response plan: Dominion failed to investigate neighboring structures for further evidence of gas; failed to stop the leak in a reasonable amount of time; did not designate an incident commander to coordinate Dominion’s activities at the site of the Incident; failed to keep accurate incident logs; failed to establish a chain of custody for physical evidence removed from the site; failed to establish the perimeter of gas in subsurface soil; and failed to perform safety checks in the immediate area of the affected building.

3. 49 C.F.R. 192.613(a), which requires that “Each operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions.”

Dominion failed to take appropriate action to record the location of a 2-inch polyethylene (PE) main and five service lines at 13921-13981 Industrial Parkway, Cleveland, Ohio. Maps of the area provided to Staff did not show the presence of any gas pipeline facilities in this area. Emergency responders were unable to stop the flow of gas to the fire from arrival at 5:00 AM until 10:20 AM because a shutoff valve could not be located, partially due to inaccurate or nonexistent mapping. Locating information provided to line locators marking the main for excavation did not show the presence of the main or service lines in the area. The main was located and marked in the field and was misidentified as a 4-inch steel main. Leak detection records did not accurately show the location of this main or service lines. Mapping maintained for leak detection records show seven service lines at this location while in reality there are five, and these service lines are shown in an incorrect location. The 2-inch PE main is not shown at all, and an assumption seems to have been made that seven service lines extended out to a 4-inch steel main running along a nearby street. This inaccurate

mapping raises the question of whether the portion of the property containing the 2-inch PE main and five services present was leak surveyed at all. Staff understands this 2-inch PE main is a pipeline segment which Dominion refers to as a “service off service” line, where certain information about these mains is unknown because they had been historically mis-identified as service lines. Staff notes that Dominion has known about “service off service” scenarios for a number of years and measures should be in place to identify and accurately map these mains.

4. 49 C.F.R. 192.615(a), which states that, in part, that “Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency. At a minimum, the procedures must provide for the following: (1) Receiving, identifying, and classifying notices of events which require immediate response by the operator. (2) Establishing and maintaining adequate means of communication with appropriate fire, police, and other public officials. (3) Prompt and effective response to a notice of each type of emergency, including the following: (i) Gas detected inside or near a building. (ii) Fire located near or directly involving a pipeline facility. (iii) Explosion occurring near or directly involving a pipeline facility.”

Staff investigation, witness statements and interviews with applicable Dominion employees show that neighboring structures were not investigated for further evidence of gas as required in the Dominion emergency plan, Section 35 “Response to Emergencies.” Safety checks in the immediate area of the affected building were not performed as required by Dominion’s Emergency Plan Section 170.0 “Fire or Explosion – House/Building.”

An emergency valve to secure the flow of gas to the fire was not designated or marked. First responders first arrived at the scene at 5:00 AM and were unable to stop the flow of gas to the fire until 10:20 AM. The main was not shown on maps available to first responders and as a result a shutoff valve could not be located. The main was also not shown on maps available to line locators who were called out to the scene. These line locators were able to identify a tracer wire hookup, located the line in the field, and misidentified it as a 4-inch steel main similar to the one running along Industrial Parkway. As a result, no effort was made to excavate and squeeze off the 2-inch PE main.

Dominion did not investigate the extent of the leak to determine if other potential hazards existed to life and property in the area. Dominion’s emergency plans section 35 “Response to Emergencies” states that the supervisor first arriving at the site should assume the role of incident commander and overall coordinator of Company activities at the emergency site. Based on Staff’s observations at the emergency site this was not

done and Company activities were being directed by a representative from Dominion's Claims Department who did not appear to be trained on emergency response procedures to protect human health and property.

5. 49 C.F.R. 192.617, which requires that "Each operator shall establish procedures for analyzing accidents and failures, including the selection of samples of the failed facility or equipment for laboratory examination, where appropriate, for the purpose of determining the causes of the failure and minimizing the possibility of a recurrence."

The source of the gas leak which caused the fire was a Perfection PermaLock bolt-on tapping tee that was incorrectly installed with the locking sleeve component of the tee not engaged with the service line. This particular model tap has been involved in other gas incidents nationwide and was identified by the National Transportation Safety Board (NTSB) as being particularly prone to incorrect installation (NTSB Accident/Incident Number DA 17FP006, July 2, 2017). Commission Staff at the scene of the incident recommended a pressure test of the "service off service" main to determine if other taps off this main had failed but Dominion's emergency response team was unwilling to do this and ultimately it took a formal letter to Mr. Jim Eck, President of Dominion Energy Ohio dated February 4, 2019 to make this happen. Investigation ultimately revealed that all four of the other taps on this main were Perfection PermaLock bolt-on tapping tees. One of these taps were incorrectly installed in a similar manner to the tee that was the source of the gas leak, and a second tap had two broken bolts.

Dominion failed to maintain a chain of custody for the failed tapping tee removed from the incident site on February 3, 2019 or for four other Permalock tapping tees removed from the other four services in the area on February 6, 2019. No documentation exists to show where these tees were stored or how they were secured to prevent tampering until the tees were checked into the evidence locker at SEA Labs on February 11, 2019.

6. R.C. 4905.93 which states, in relevant part, that "Each operator shall * * * (A) Comply with sections 4905.90 to 4905.96 of the Revised Code and the pipe-line safety code. For the purpose of that compliance, the act or omission of any officer, employee, or agent of an operator, while acting within the scope of his duties or employment, is deemed the act or omission of the operator."
7. Ohio Adm.Code 4901:1-16-04(A) which requires each operator to "establish and maintain all plans, records, reports, information, and maps necessary to ensure compliance with applicable sections of the pipeline safety code * * * ."

As discussed above under item 3, Dominion failed to record accurate locations for its pipelines at location of the Incident.

8. Ohio Adm.Code 4901:1-16-05(A)(1), which states that “ Operators shall notify the state of Ohio on all incidents, as defined in rule 4901:1-16-01 of the Administrative Code, by calling 1-844-OHCALL1 (1-844-642-2551) within thirty minutes of discovery unless notification within that time is impracticable under the circumstances. This includes any telephone notice which is required to be made to the United States department of transportation pursuant to 49 C.F.R. 40, 191, 192, and 199 as effective on the date referenced in paragraph (D) of rule 4901:1-16-02 of the Administrative Code.”

As discussed above under item 1, Dominion failed to notify the PUCO until almost four hours after discovery of the Incident.

Proposed Corrective Action

To address these issues of probable non-compliance, Staff proposes that Dominion draft and submit to Staff a detailed compliance plan that will correct all of the identified violations and a timetable for completion of the compliance plan.

Proposed Forfeiture

Finally, due to the magnitude and severity of the violations, Staff is proposing a forfeiture of \$50,000 against Dominion for the above mentioned failures to comply with the gas pipeline safety code. This forfeiture may be paid by certified check or money order made payable to the “Public Utilities Commission of Ohio” in accordance with Ohio Adm.Code 4901:1-16-14.

You may contact me at (614) 644-8983 or via e-mail at peter.chace@puco.ohio.gov with any questions.

Sincerely,



Peter A. Chace
Chief, Facility & Operations Field Division

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in

Case No(s). 20-0681-GA-GPS

Summary: Stipulation electronically filed by Mrs. Tonnetta Y Scott on behalf of PUCO