

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE FILING BY)	
COMMISSION PIPELINE SAFETY STAFF FOR)	AMENDED COMPLAINT
APPROVAL OF A PENALTY FOR A PIPELINE)	
SAFETY VIOLATION BY CROOKS)	PS13-002
MUNICIPAL GAS UTILITIES)	
)	

On May 7, 2013, Pipeline Safety Staff (“Staff”) filed a letter alleging pipeline safety violations by Crooks Municipal Utilities (“Crooks” or “operator”). Since that time, additional violations were noted by Staff. Staff now amends its complaint and penalty assessment recommendations.

I. Background

In the summer of 2012, NorthWestern Energy gave notice that it would no longer provide pipeline maintenance and operations contract services to the City of Crooks and the cities of Humboldt and Garretson effective January 1, 2013. In October 2012, the pipeline safety program manager initiated a conference call with representatives of all three cities on the call as well as their consultant. In November, the program manager and the pipeline inspector again met with all three cities in Garretson. On both occasions they informed Staff that they intended to perform some of the tasks previously performed by NorthWestern themselves and contract some of the NorthWestern tasks to other contractors. The municipalities agreed to the following:

1. By January 1, 2013, install new line markers with a new emergency contact number;
2. Obtain a new emergency contact number;
3. Complete operator qualification requirements for all the new tasks they would be performing starting January 1, 2013;

4. Remove NorthWestern welding and joining procedures from operations and maintenance manual and add new welding and joining procedures

The subsequent inspections revealed the following violations at Crooks:

1. The leak survey previously was conducted in 2008 by NorthWestern on 4/4/08. Crooks did not re-survey by 4/4/13 as required.
2. Operator Qualification certification for operating Identified Valve(s) was not completed until 5/23/13. This task should have been identified as a covered task and qualifications completed prior to 1/1/13 when Northwestern Energy discontinued their contract for emergency response.
3. Line markers - phone numbers were not updated by 1/1/13 as required in 22 locations. There were also 2 warning signs missing. These corrections have been made.
4. Operations and maintenance manual still contained NorthWestern procedures they are no longer authorized to use.

II. Inspection History

Under guidance from this Commission Staff has until now taken a stance of focusing on training these small operators and minimizing enforcement action. With the willful neglect of the required compliance actions with the departure of NorthWestern, Staff feels these operators need to be treated the same as the larger operators.

III. Requests/Recommendations

Staff respectfully requests the Commission approve the penalties and compliance order recommendations as set forth in the following chart.

Violation	Proposed penalty	Compliance Order	See Exhibits
Failure to complete annual review in 2012	\$242	Crooks must hire additional qualified help in the areas of gas technician and DOT compliance	C1, C2
Leak survey	\$2,756	Crooks must hire additional qualified help in the areas of gas technician and DOT compliance	C3, C8
Operator qualification	\$3,085	Crooks must hire additional qualified help in the areas of gas technician and DOT compliance	C4, C8
Line Markers	\$3,414	Crooks must hire additional qualified help in the areas of gas technician and DOT compliance	C5, C8
Welding Procedures	\$3,743	Crooks must hire additional qualified help in the areas of gas technician and DOT compliance	C6, C8
Joining Procedures	\$4,072	Crooks must hire additional qualified help in the areas of gas technician and DOT compliance	C7, C8

Pursuant to SDCL 49-34B-12, Staff recommends the penalty amounts based on the following considerations:

1. Maximum penalty and relative size of the operator
2. Operator's prior offenses and compliance history
3. Severity of violation
4. Willfulness
5. Cooperation and good faith of the operator in attempting to achieve compliance
6. Mitigating factors

The attached Summary of Deficiencies and Penalties Calculation Template provide details regarding the violation and recommendation. See Exhibits C1 and C8.

Staff is not primarily interested in issuing penalties but rather seeks behavior change. To that end, we recommend the compliance order in the table above be approved. The reasons are:

1. The City of Crooks was understaffed before taking on the additional burdens from NorthWestern's departure. Their gas technicians cover all the city's utilities and work only part time in gas.
2. Crooks' performance since NorthWestern's departure confirms they are understaffed. Unfortunately, although they have been told the same by their consultant, they to date have been not hired additional support, meaning a compliance order may be the only way to correct this situation.

IV. Conclusion

Staff believes that if corrective action is not taken, one of these violations will be repeated or others will occur because of the understaffing issue. Therefore, Staff respectfully requests the recommended penalty and corrective action be ordered.

Dated this 23rd day of July, 2013.



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Certificate of Service

I hereby certify that on the 23rd day of July, 2013, I caused a copy of Staff's **Amended Complaint** to be served on

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