

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

|   |                          |
|---|--------------------------|
| <b>IN THE MATTER OF THE FILING BY )</b>       |                          |
| <b>COMMISSION PIPELINE SAFETY STAFF FOR )</b> | <b>AMENDED COMPLAINT</b> |
| <b>APPROVAL OF A PENALTY FOR A PIPELINE )</b> |                          |
| <b>SAFETY VIOLATION BY GARRETSON )</b>        | <b>PS13-003</b>          |
| <b>MUNICIPAL GAS UTILITIES )</b>              |                          |
| <b>)</b>                                      |                          |

On May 7, 2013, Pipeline Safety Staff (“Staff”) filed a letter alleging pipeline safety violations by Garretson Municipal Utilities (“Garretson” 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 Garretson and the cities of Crooks and Humboldt 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 Garretson:

1. Operator failed to complete an annual review in 2012, as required by operator's Distribution Integrity Management Plan ("DIMP").
2. Operator Qualification certification for operating Identified Valve(s) was not completed until May 23, 2013. This task should have been identified as a covered task and qualifications completed prior to January 1, 2013, when Northwestern Energy discontinued their contract for emergency response. Qualifications on other tasks also were not completed by January 1, 2013.
3. Line markers - phone numbers were not updated by January 1, 2013 as required in three locations. In addition, one warning sign was 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 held to the same standards 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            | Garretson must hire additional qualified help in the areas of gas technician and DOT compliance | G1, G2       |
| Line Markers                              | \$2,615          | Garretson must hire additional qualified help in the areas of gas technician and DOT compliance | G4, G7       |
| Operator qualification                    | \$2,927          | Garretson must hire additional qualified help in the areas of gas technician and DOT compliance | G5, G7       |
| Welding Procedures                        | \$3,239          | Garretson must hire additional qualified help in the areas of gas technician and DOT compliance | G6, G7       |
| Joining Procedures                        | \$3,551          | Garretson must hire additional qualified help in the areas of gas technician and DOT compliance | G3, G7       |

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 G1 and G7.

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 Garretson 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. Garretson's 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 23<sup>rd</sup> 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

Ms. Meredith A. Moore  
Attorney for City of Garretson  
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Via first class mail.

Ms. Anna Uhl  
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Mr. Craig Nussabaum  
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