

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. G-40, SUB 142

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Frontier Natural Gas Company – Violations of)	ORDER SCHEDULING
Title 49 Code of Federal Regulations,)	SHOW CAUSE HEARING
Part 192, Subpart O)	

BY THE COMMISSION: Pursuant to G.S. 62-50(b) and 49 U.S.C. § 60105, the North Carolina Utilities Commission (NCUC or Commission) has entered into an agreement with the United States Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA) that grants the Commission the authority to enforce federal minimum pipeline safety standards with regard to all PHMSA jurisdictional natural gas pipelines located within the State of North Carolina. Pursuant to the statute and the agreement, the Commission is authorized to enforce the PHMSA federal minimum pipeline safety standards under Title 49 Code of Federal Regulations (CFR) Part 192, et al. (PHMSA regulations). Commission Rule R6-39 states that the minimum federal safety standards pertaining to gas pipeline safety and the transportation of natural gas as adopted in 49 CFR, Part 192 are in effect on November 15, 1971, and amendments thereto, are adopted and shall be applicable to all natural gas facilities under the jurisdiction of the Commission.

On December 15, 2003, PHMSA published in the Federal Register Subpart O of 49 CFR, Part 192, which prescribes minimum requirements for an integrity management program (IMP) on any gas transmission pipeline covered under Part 192. Pursuant to 49 CFR 192.907:

No later than December 17, 2004, an operator of a covered pipeline segment must develop and follow a written integrity management program that contains all the elements described in § 192.911 and that addresses the risks on each covered transmission pipeline segment. The initial integrity management program must consist, at a minimum, of a framework that describes the process for implementing each program element, how relevant decisions will be made and by whom, a time line for completing the work to implement the program element, and how information gained from experience will be continuously incorporated into the program. The framework will evolve into a more detailed and comprehensive program. An operator must make continual improvements to the program.

From October 26 through 29, 2009, Stephen F. Hurbanek and John S. Hall of the NCUC Pipeline Safety Section (Pipeline Safety) conducted an Integrity Management inspection of Frontier Natural Gas Company (Frontier). In a November 9, 2009 letter from Christopher R. Isley, the Director of Pipeline Safety, to Mr. Raymond Fisher, Vice President and General Manager of Frontier, Pipeline Safety noted that Frontier had responded to 49 CFR 192.907 by developing and beginning to implement an IMP. However, Pipeline Safety further noted that there was a considerable amount of potential IMP and record keeping compliance deficiencies that were addressed during the inspection. Mr. Isley's letter further stated that, at an October 28 meeting with Mr. Hurbanek and Mr. Hall, Frontier agreed to correct all of the deficiencies in its IMP and record keeping within eight months.

From November 15 through 17, 2010, Mr. Hurbanek and Mr. Hall conducted a follow-up Integrity Management inspection of Frontier. In a November 22, 2010 letter from Mr. Isley to Mr. Fisher, Pipeline Safety stated that Frontier had corrected most of the potential issues identified in the 2009 inspection, but revealed potential issues in nine of the IMP's protocols. Mr. Isley noted that, in a November 17, 2010 meeting with Mr. Hurbanek and Mr. Hall, it was agreed that Frontier would correct all the deficiencies in its IMP and record keeping within eight months of that inspection.

On December 5, 2012, PHMSA published in the Federal Register an Advisory Bulletin to remind pipeline operators, "of their responsibilities, under Federal integrity management regulations, to perform evaluations of their integrity management programs using meaningful performance metrics."

On September 23, 2015, Fred Steele, then General Manager of Frontier, forwarded an email from to Commission Staff advising Staff that Gas Natural Inc. (GNI) had hired an engineer named Mickey Grewal. The email states that Mr. Grewal would provide "direction and oversight as it relates to a number of items, including, "Regulatory compliance with Part 192, including DIMP, IMP, Public Awareness and etc.," and "Overall safety compliance in operations." Attached to the email was a job description for the GNI "Director of Engineering System Planning and Regulatory/Safety Compliance." The description included, "The Director evaluates and recommend [sic] programs that comply with Part 192 of Federal Code."

On February 8 and 9, 2017, Harry C. Bryant, III and Mr. Hall of Pipeline Safety met with Frontier employees as part of a scheduled inspection to review Frontier's IMP to ascertain compliance with 49 CFR, Part 192, Subpart O (2017 inspection). As a result of the 2017 inspection, Pipeline Safety learned that many activities of Frontier's IMP either have not been occurring, have not been consistently occurring, or have not been documented adequately. Further, Pipeline Safety determined that some of Frontier's IMP records are either non-existent or missing, that a planned re-evaluation of High Consequence Areas (HCAs) has not occurred, and that re-assessments of transmission gas pipelines located in HCAs are past due. Personnel did not appear to be knowledgeable or qualified.

The information obtained by Pipeline Safety during the 2017 inspection indicates a serious failure on the part of Frontier to carry out its gas transmission IMP, and represents significant violations of 49 CFR, Part 192. Generally, it appears that Frontier has failed to comply with § 192.13(c) which states: “Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part.” More specifically, it appears that Frontier has failed to comply with the following Sections under 49 CFR, Part 192, Subpart O:

1) § 192.911 – This regulation is entitled “What are the elements of an integrity management program?” It states, in part:

An operator’s initial integrity management program begins with a framework (see §192.907) and evolves into a more detailed and comprehensive integrity management program, as information is gained and incorporated into the program. An operator must make continual improvements to its program.

Paragraph (I) of § 192.911 lists as one of the elements of an IMP, “A quality assurance process as outlined in ASME/ANSI B31.8S, section 12.”

During the February 2017 inspection, and subsequently, Frontier was unable to demonstrate that it has been maintaining record keeping necessary to document a quality assurance process (quality control plan) as outlined in ASME / ANSI B31.8S, Section 12 (incorporated by reference), in violation of § 192.911(I).

2) § 192.915 - This regulation is entitled “What knowledge and training must personnel have to carry out an integrity management program?” and states in part:

(a) *Supervisory personnel* The integrity management program must provide that each *supervisor* whose responsibilities relate to the integrity management program possesses and maintains a thorough knowledge of the integrity management program and of the element for which the supervisor is responsible. The program must provide that any person who qualifies as supervisor for the integrity management program has appropriate training or experience in the area for which the person is responsible.

Discussion with Frontier personnel during the 2017 inspection indicated that Frontier employees, although directly responsible for implementing the IMP, were not familiar with 49 CFR, Part 192, Subpart O. They were also not familiar with the Frontier’s plans and procedures that were developed for carrying out an IMP. At a minimum, the personnel Frontier currently has in place to implement its IMP need additional training.

Frontier’s IMP included an External Corrosion Direct Assessment (ECDA) Protocol. That Protocol listed three positions: (1) Integrity Management Program

Manager, (2) ECDA Project Coordinator, and (3) Project Engineer. The education, training and experience required for those positions was explicitly described. The personnel put forward by Frontier during the February 2017 inspection did not appear to be qualified. For example, while the position of IMP Manager calls for a person with an engineering degree or equivalent experience, the position of Project Engineer explicitly calls for a degreed engineer. Frontier has not has a degreed engineer on staff since Mr. Adam Theriault resigned in February 2015. Frontier did not have trained supervisory personnel and/or staff qualified to carry out an IMP, in violation of § 192.915.

3) § 192.937 – This regulation is entitled “What is a continual process of evaluation and assessment to maintain a pipeline’s integrity?” It states in part:

- (a) *General* After completing the baseline integrity assessment of a covered segment, an operator must continue to assess the line pipe of that segment at the intervals specified in § 192.939 and periodically evaluate the integrity of each covered pipeline segment as provided in paragraph (b) of this section. An operator must reassess a covered segment on which a prior assessment is credited as a baseline under § 192.921(e) by no later than December 17, 2009. An operator must reassess a covered segment on which a baseline assessment is conducted during the baseline period specified in § 192.921(d) by no later than seven years after the baseline assessment of that covered segment unless the evaluation under paragraph (b) of this section indicates earlier reassessment.

It was determined during the 2017 inspection that assessment of covered pipe segments in High Consequence Areas (HCAs) has not been occurring, and the timeframe for reassessing pipelines in HCAs has been exceeded. On May 8, 2017 in the hearing in Docket No. G-40, Sub 136, Frontier witness Fred A. Steele testified:

...we met with two of the pipeline safety folks in January [sic] of this year. That was to review our IMP plan. When we met with the pipeline safety inspectors, we actually brought to their attention something when we were evaluating our IMP plan last fall. We recognized the fact that the reassessment that was in 2011, prior to my coming to Frontier Natural Gas, had not been performed on our transmission line, our 10-inch line....

Frontier failed to carry out a continual process of evaluation and assessment to maintain the integrity of its transmission pipelines, in violation of § 192.937.

On February 23, 2017, Mr. Stephen P. Wood, Director of Pipeline Safety, sent a Letter of Violation to Fred A. Steele, President and General Manager of Frontier. The letter formally notified Mr. Steele of the violations found in the February 8-9 inspection, and informed him that “The information obtained indicates a serious failure on the part of Frontier to carry out a Gas Transmission Integrity Management Program, and represents significant violation(s) of the Pipeline Safety Regulations....” Mr. Wood’s

letter required Frontier to, within thirty (30) days of the date of the Letter of Violation, provide Pipeline Safety with Frontier's plan and schedule for assessing pipe in HCAs. Furthermore, the letter listed six steps that Frontier should take "as soon as reasonably possible," but no later than sixty (60) days from the date of the letter. On March 23, 2017, Mr. Steele responded, outlining Frontier's plans to bring Frontier into compliance.

FINDINGS

1. Frontier Natural Gas Company whose ultimate parent is Gas Natural Inc., is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2. The North Carolina Utilities Commission has entered into an agreement with the United States Department of Transportation and has been certified by the United States Department of Transportation to inspect all natural gas operators in North Carolina for compliance with the minimum federal safety standards set forth in 49 CFR, Part 192.

3. The Pipeline Safety Section of the North Carolina Utilities Commission has inspected Frontier Natural Gas Company for compliance with 49 CFR, Part 192 since 1998. The Pipeline Safety Staff inspected Frontier for compliance with 49 CFR, Part 192, Subpart O in 2009 and 2010. On February 8 and 9, 2017, the Pipeline Safety Staff again inspected Frontier Natural Gas Company for Subpart O compliance.

4. At the conclusion of the February 8 and 9, 2017 inspection, violations of 49 CFR, Part 192, Subpart O were cited. These violations showed that, while Frontier had prepared an IMP, it had not been taking actions required of it under its IMP for at least several years.

CONCLUSIONS

Based on the foregoing and additional information in the Pipeline Safety records, pursuant to G.S. 62-50 the Commission finds good cause to order that Frontier show cause why Frontier should not be found to have violated the provisions of 49 CFR, Part 192, Subpart O by failing to fully implement the requirements of its IMP, and/or by failing to adequately maintain records of its actions under its IMP.

Further, the Commission finds good cause to order that Frontier show cause why Frontier should not be required and enjoined to take immediate action to correct the deficiencies in Frontier's implementation of its IMP and maintenance of records of its actions under its IMP.

Moreover, the Commission finds good cause to order that Frontier show cause why Frontier should not be required to pay a civil penalty pursuant to G.S. 62-50, G.S. 62-310, and/or 49 CFR § 190.223, as applicable, based on Frontier's failure to fully implement the requirements of its IMP and/or failure to adequately maintain records of its actions under its IMP.

Finally, the Commission finds good cause to direct that the parties to this proceeding shall informally and cooperatively conduct discovery and share information about the facts and issues involved in this matter in order to facilitate the presentation of the facts and the resolution of the issues.

IT IS, THEREFORE, ORDERED as follows:

1. That an evidentiary hearing shall be, and is hereby, scheduled for October 16, 2017, at 2:00 p.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina. The hearing is being held for three main purposes: (1) to provide Frontier Natural Gas Company the opportunity to show cause why Frontier should not be found to have violated the provisions of 49 CFR, Part 192, Subpart O by failing to fully implement the requirements of its IMP and/or by failing to adequately maintain records of its actions under its IMP; (2) to provide Frontier the opportunity to show cause why it should not be required and enjoined to take immediate action to correct the deficiencies in Frontier's implementation of its IMP and maintenance of records of its actions under its IMP; and (3) to provide Frontier the opportunity to show cause why it should not be required to pay a civil penalty pursuant to G.S. 62-50, G.S. 62-310, and/or 49 CFR § 190.223, as applicable, based on Frontier's failure to fully implement the requirements of its IMP and/or failure to adequately maintain records of its actions under its IMP.

2. That the Commission Staff shall pre-file its testimony in this docket on or before Tuesday, September 5, 2017.

3. That any person having a direct interest in this matter may file a petition to intervene stating such interest on or before Monday, September 25, 2017.

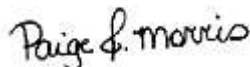
4. That Frontier and any other parties to this proceeding shall file their testimony on or before Monday, September 25, 2017.

5. That the parties shall informally and cooperatively conduct discovery and share information about the facts and issues involved in this matter. However, if a discovery issue arises that the parties are unable to resolve, the party seeking information may file a motion to compel with the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of July, 2017.

NORTH CAROLINA UTILITIES COMMISSION



Paige J. Morris, Deputy Clerk

Commissioners ToNola D. Brown-Bland and Daniel G. Clodfelter did not participate in this decision.