Docket No. 06-0311
ICC Staff Exhibit 1.0

DIRECT TESTIMONY
OF
DARIN BURK
PIPELINE SAFETY ANALYST II
ENERGY DIVISION
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission on its own motion

vs.

The Peoples Gas Light and Coke Company

DOCKET NO. 06-0311

Citation for alleged violation of Commission rules regarding external corrosion control monitoring.

August 23, 2006

WITNESS IDENTIFICATION

Q. **What is your name and business address?**

A. My name is Darin Burk. My business address is 527 East Capitol Avenue, Springfield, Illinois 62701.

Q. **By whom are you employed and in what capacity?**

A. I am employed by the Illinois Commerce Commission ("Commission" or "ICC") as Pipeline Safety Analyst II in the Pipeline Safety Program of the Energy Division. In my current position, I perform audits and inspections in accordance with the natural gas pipeline safety program, which ensures the natural gas operators in Illinois are meeting the minimum federal safety standards as prescribed by 49 CFR Sections 191.23, 192, 193, 199, and by the Illinois Gas Pipeline Safety Act (220 ILCS 20).

Q. **Please describe your education and experience?**

A. Prior to employment with the ICC, I was a Technician for Utility Safety and Design Inc. and the Southern Cross Corporation. Both companies provide field consulting services to the natural gas industry. I have received extensive technical training at the Transportation Safety Institute ("TSI") in Oklahoma City, which is where state and federal pipeline safety inspectors receive technical education relating to the enforcement and interpretation of pipeline safety standards. Training at TSI included subjects such as incident investigation, pipeline integrity management, operator qualification, pipeline corrosion control and various other technical aspects of natural gas pipeline operations. I have worked as a Pipeline Safety Analyst for 17 years.

PURPOSE OF TESTIMONY

Q. **What is the purpose of this proceeding?**

A. The purpose of this proceeding is to consider whether Peoples Gas Light and Coke Company ("Company") or ("Peoples") has violated Commission rules regarding external corrosion control monitoring requirements as required under 49 CFR Part 192.465 (a); taking prompt remedial action to correct deficiencies discovered during the monitoring as required under 192.465 (d); and the failure to follow its own procedures as required by 49 CFR Part 192.13(c). These sections of Part 192 were adopted by the ICC under 83 Ill. Admin. Code Part 590 in 1977.

Q. **What is the purpose of your testimony?**

A. The purpose of my testimony is to present Staff of the Commission's ("Staff") position. I have performed inspections and created or participated in creating reports that lead to the Initiating Order in this proceeding. The report for the Initiating Order is attached to and incorporated into my testimony. (See Attachment A)

Regulatory and Enforcement Provisions

Q. **What authority or jurisdiction does the ICC have in this matter?**

A. Enforcement of the Minimum Federal Safety Standards is granted to the ICC under an agreement pursuant to 49 U.S.C. Section 60105 with the U.S. Department of Transportation ("USDOT") Office of Pipeline Safety. The federal standards codified under 49 CFR Sections 191.23, 192, 193 and 199 have been adopted by the State of Illinois in 83 Ill. Adm. Code 590.

Q. **What is the regulation covering corrosion control monitoring?**

A. Corrosion control monitoring is covered under 49 CFR Part 192.465(a) which states:

> *Sec. 192.465 External corrosion control: Monitoring.*
>
> *(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, theses pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.*

Q. **What is the regulation covering correcting corrosion control deficiency?**

A. *Sec. 192.465 External corrosion control: Monitoring. (d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.*

Q. **Would you say that corrosion control monitoring and correcting a corrosion control deficiency are the same act?**

A. No. Monitoring refers to testing the pipeline on a specified schedule. Correcting a corrosion control deficiency requires taking remedial action after it has been determined that there is a deficiency in the pipeline's corrosion control. These are separate activities.

Q. **When was 49 CFR Part 192.465 established and then adopted by the Illinois Commerce Commission?**

A. 49 CFR Part 192 was originally adopted on August 19, 1970. 49 CFR Part 192.465 was included in Amendment 192-4 which became effective August 1, 1971. These rules were codified by the Commission under Il Admin Code Part

590, which was first adopted in 1977 with biennial updates to adopt any amendments since that time.

Q. **Why is corrosion control monitoring important?**

A. Corrosion control monitoring surveys are critical to ensuring the safety and integrity of natural gas distribution systems. The monitoring process can identify areas that may be susceptible to corrosion on the metallic piping systems. Adequate corrosion control can significantly decrease the likelihood of corrosion on the pipeline and subsequent leakage of the natural gas contained in the piping. Corrosion problems left uncorrected could result in escaping gas, which could cause explosions or fires and, thus, result in loss of property or life.

Q. **Explain “prompt remedial action”?**

A. The Pipeline and Hazardous Materials Safety Administration ("PHMSA") is within the U. S, Department of Transportation. PHMSA is the primary federal regulatory agency responsible for ensuring safe, reliable, and environmentally sound operation of America’s energy pipelines. PHMSA develops and implements pipeline regulations at a federal level and shares regulatory responsibility with the States. PHMSA provides guidance material beyond the adopted regulations to aid with clarification of performance based standards. Inspection guidelines are provided to state inspectors to ensure consistent interpretation and enforcement of the CFR. Guidance material involving remedial action states that, under normal conditions, the operator should have the evaluation and decisions made and action started within a few months, or less where required monitoring is to occur on intervals of less than one year, and corrective action completed by the time of the next scheduled monitoring. The CFR requires the gas system

operator to have procedures in place to address maintenance issues. Peoples Corrosion Control Policy, Operating and Maintenance Plan Exhibit X Revised August 2003 Page 12 of 31 states:

> Except for remedial actions requiring substantial construction effort, PGL's objective is to complete necessary remedial action such that cathodic protection is restored to the system within one year from the time of discovery of the inadequate protection level.

Q. **To what extent are corrosion monitoring surveys to be conducted on gas pipeline facilities?**

A. Gas pipeline operators are responsible for corrosion monitoring surveys, which are to be conducted on all metallic pipelines. As previously stated, CFR Part 192.465 (a) requires that each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of § 192.463. Separately protected short sections of mains and separately protected service lines may be surveyed on a ten-year sampling basis.

Q. **Please provide a general explanation of cathodic protection and what is involved in a monitoring survey.**

A. Regular inspections to assess the rate of change in physical condition give an accurate idea of how much longer a pipeline can be expected to operate safely and productively and can also be used to plan for remedial action if the life of the pipeline is below requirement. Iron and steel pipes that transport natural gas underground may suffer from corrosion due to chemical and electrochemical reactions. Cathodic protection reduces the corrosion rate of a metal pipe by reducing its corrosion potential. The two main methods of achieving this goal are

by either using sacrificial anodes with a potential lower than the metal to be protected or by using an impressed current provided by an external source. Sacrificial anodes are pieces of metal that are electrically connected to the metal pipe and are more electrically active that the metal pipe. Because these anodes are more active, a corrosive current will exit from them rather than from the metal pipe. Thus, the pipe is protected while the attached anode is sacrificed. When anodes are depleted they must be replaced to continue the corrosion protection. An impressed current system uses a device to convert alternating current to direct current called a rectifier. The current is sent through an insulated wire to the anodes, which are special metal bars buried in the soil near the pipeline. The current then flows through the soil to the pipe and returns to the rectifier through an insulated wire connected to the pipe. The pipe is protected from corrosion because the current going to the pipe overcomes the corrosion causing current normally flowing away from it. The level of cathodic protection on a pipeline is measured with a volt meter and a copper-copper sulfate electrode or half-cell. A half-cell is a cylindrical device that contains a copper rod suspended in a copper sulfate and water solution. The cooper rod is connected to the negative terminal of a volt meter via an insulated wire. The solution inside the half-cell makes contact with the earth via a porous plug in the bottom of the cylinder. A test lead connected to the positive terminal of a volt meter is connected to the metallic gas pipe or test wire attached to the pipe. The current flow is measured through the volt meter. To achieve cathodic protection in accordance with the -0.85v criteria a minimum of negative 0.85 volt must be maintained on the pipeline at all times to maintain the cathodic protection.

Q. **What are the Part 192.463 requirements?**

A. The requirements state that each cathodic protection system required by this subpart must meet the requirements of Appendix D of 49 CFR Part 192. Appendix D outlines the various criteria that may be used to prove cathodic protection exists on the pipeline. The most commonly used criteria and the criteria used on the majority of Peoples steel piping is a negative cathodic voltage of at least 0.85 volt with reference to a saturated copper-copper sulfate half-cell. This means that when the pipe-to-soil potential is obtained through a volt meter and half-cell it should be consistently more negative than negative 0.85 volts ("-0.85"). If it is not more negative than negative 0.85 volts then remedial actions are required.

Q. **When did you become aware that Peoples failed to meet the monitoring requirements?**

A. According to records produced during a January 2004 audit, Peoples failed to monitor short sections of steel main and isolated steel gas services within the ten-year time interval required by CFR Part 192.465 (a) in calendar year 2003. The piping falling into the category described above that was monitored in 1993 would have required additional monitoring by the end of calendar year 2003.

Q. **What did the audit indicate as to the monitoring of steel main and isolated steel gas services?**

A. Staff recorded thirteen examples of steel sections that were not monitored as required in either 2002 or 2003 during the January 2004 record audit in the Field Trip Report ("2004 Report") drafted upon completion of the audit. The thirteen identified were examples of the issue identified and not an all inclusive list. (See

Attachment B). The examples included test points that had 0.00 readings recorded for the periods identified above. The zero test readings were discussed with the Peoples representatives associated with the audit. The individual in charge of the corrosion control program at that time stated that the zero readings were a result of the inability of the technicians to obtain readings at the designated test points due to the fact either that the test box was covered by pavement or soil or that the test wires had become damaged or disconnected. He also stated that he understood the CFR to allow one inspection cycle to correct deficiencies noted during the monitoring and in his opinion correcting a damaged test station fell into this category. As indicated on the 2004 Report, Staff explained that test lead maintenance was not considered a correction to a deficiency in the cathodic protection since it did not necessarily effect the level of protection. He was told that test lead maintenance most definitely affected the ability to monitor the level of protection, so that test lead maintenance is required to be performed so that test may be completed on the cycles required by the CFR.

Q. **Were there any audit findings regarding failure to correct deficiencies in January 2004?**

A. One example was recorded of a segment of main that required annual testing that was listed as having a pipe-to-soil potential below the required level. This is listed as reference number 100-18310-10 on page 2 of the 2004 report. Again this was recorded as an example of the issue and was not an all inclusive listing. The remedial action requirements were discussed with Peoples representatives

during an exit meeting. The remedial action guidance material was reviewed with the Peoples personnel associated with the audit.

Q. **Was Peoples notified of any deficiency and if so, what type of notification was provided?**

A. Yes. A notice of Apparent Non-compliance was issued to Peoples on January 30, 2004. A letter was sent to Mr. Glen Armstrong, Manager Code Compliance, Peoples Gas Light and Coke Company dated January 30, 2004. (See Attachment C) The letter explained that the records reviewed indicated that Peoples had not complied with the corrosion control monitoring activities required under the CFR. The letter also requested a reply describing the actions Peoples intended to initiate to prevent a reoccurrence of the problem.

Q. **Did Peoples respond as requested?**

A. Yes. On February 25, 2004, a letter addressed to Mr. Rex Evans was received form Glen Armstrong. (See Attachment D) The letter explained that Peoples had been applying guidance gleaned from a statement made by an Office of Pipeline Safety Director in a public forum. The guidance included that the natural gas system operator had until the next scheduled survey for the correction of condition found during the monitoring and that Peoples considered this to include the repair of test stations and test lead wires. The letter also stated that corrective actions, when needed to restore system protection levels to the requirements of 49 CFR part 192 Appendix D, are completed within the stated timeframe. The letter stated PGL had revised its corrosion test station monitoring schedule by compressing sufficient time to perform required repairs and obtain a reading within the mandated window. The letter also stated that additional

emphasis has been placed on scheduling and completing to coincide with code deadlines.

Q. **Did Staff perform a follow-up audit of Peoples corrosion control monitoring?**

A. Yes. In March of 2005, Staff performed a follow-up audit of Peoples corrosion control monitoring program.

Q. **What issues were noted on the follow-up audit?**

A. The issues noted were: fifty-four isolated service lines due for testing in 2003 had not been tested as of March 9, 2005; one isolated service line due for testing in 2004 had not been tested as of March 9, 2005; five isolated segments of main in excess of 100 feet were not tested as required in 2003; twenty-one corrosion control families requiring annual testing in 2004 were not tested within the fifteen month interval required; four corrosion control families requiring annual testing were not tested at all in 2004; and eighteen corrosion control test points found to have less than adequate levels of cathodic protection in 2003 did not receive corrective actions in 2003 or 2004. The Field Trip Report ("2005 Report") from the March 8 and 9, 2005 follow-up audit is attached as Attachment E.

Q. **Had Peoples completed the surveys of the short sections of steel gas main and isolated gas services that were overdue and were the subject of the January 30, 2004 letter?**

A. No. At the time of the March, 2005 audit, Peoples had failed to test at least fifty-four isolated service lines that were due to be monitored in 2003.

Q. **Did the enhanced performance standards referenced in Peoples' February 23, 2004 letter prevent a reoccurrence of the failure to monitor the pipelines?**

A. No. Several additional violations of the same nature were noted during the audit, including the failure to monitor one isolated service line due in 2004, and five isolated segments of main due in 2003.

Q. **Were any other violations identified in the March 2005 audit?**

A. Yes. The audit determined that at least twenty-one corrosion control families requiring annual testing were not tested within the fifteen month period in calendar year 2004; four corrosion control families were not tested at all in 2004; and eighteen corrosion control test points were found to have less than adequate levels of cathodic protection in 2003 did not receive corrective actions in 2003 or 2004.

Q. **Please explain what is meant by a corrosion family?**

A. The cathodically protected pipelines are segregated into corrosion control families which are electrically isolated from each other, and cathodically protected as a unit. Electrical isolation is provided by a variety of insulating devices depending on the installations. Typically, the total footage of steel pipe in a corrosion control family of distribution main is between 2,500 and 3,500 feet. Insulators are installed at tie in points or in a long run of pipe to maintain corrosion control family size. Test points or test stations are designated at varying distances determined by Peoples based on the characteristics of the steel piping system.

Q. **How are these violations different from the ones discovered in 2003?**

A. These lines are required to be monitored annually, at intervals not to exceed 15 months, to determine whether the cathodic protection meets the requirements of Part 192.463. The 2003 violations were failure to monitor lines that were required to be monitored every 10 years.

Q. **Were any other deficiency issues identified during the March 2005 audit?**

A. Yes. Eighteen test points requiring annual testing demonstrating less than adequate levels of cathodic protection in 2003 had not been tested in 2004. (See Attachment E) The discovery of the failure to demonstrate corrective actions on test points with inadequate levels of cathodic protection resulted in Staff issuing a notice of apparent non-compliance citing 49 CFR Part 192.465(d) on April 21, 2005. (See Attachment F)

Q. **Please explain what is required to comply with Part 192.465(d)'s mandate to take prompt remedial action to correct any deficiencies?**

A. The meaning of prompt remedial action was addressed above in the discussion about the PHMSA guidance material.

Q. **Were the results of the follow-up audit provided to Peoples?**

A. Yes. On April 21, 2005, a letter was sent to Mr. Ed Doerk informing him that during an audit performed March 8-9, 2005 Staff found deficiencies and a notice of non-compliance was issued to Peoples citing CFR Part 192.465:

> External corrosion control: Monitoring (d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring. In addition a request for steps to be implemented to correct the deficiency and prevent a reoccurrence was requested. (See Attachment F)

Q. **Was a response received?**

A. Yes. A letter dated May 16, 2005 was received from A. S. Ulanday, Manager, Technical Training Services and Compliance. (See Attachment G) The letter stated that Peoples had recently revised its Corrosion Control Policy. The revised Corrosion Control Policy states that "PGL's objective is to complete necessary remedial action such that cathodic protection is restored to the system within one year from the time of discovery of the inadequate protection level." (See Attachment G) In the letter dated May 16th 2005, Mr. Ulanday confirmed that over 3000 test points had not been monitored as required in calendar years 2003 and 2004 combined. Mr. Ulanday also sent a follow-up letter on October 12, 2005 with a weekly corrosion workload reporting sheet which detailed Peoples attempts at compliance. (See Attachment G**)**

Q. **Have additional audits of the Peoples corrosion control monitoring program been conducted since 2005?**

A. Yes. In January of 2006, Staff conducted an analysis of the corrosion control records maintained by Peoples. The review included a historical review of corrosion control test points that were recorded as having less than adequate levels of cathodic protection and remedial actions had been taken. Beginning February 7, 2006, Staff began field verification testing of approximately 370 test points that had been recorded as receiving remedial actions.

Q. **Did the Peoples' records reviewed by Staff indicate adequate levels of cathodic protection prior to the field testing performed by Staff?**

A. Yes. All of the test points chosen indicated adequate levels of protection.

Q. **What did the field testing include?**

A. Staff, assisted by Peoples personnel, went out to the pipeline and attempted to locate the test points where annual and 10-year testing had been performed. Upon locating the appropriate test point, pipe-to-soil potentials were taken using a copper-copper sulfate reference electrode and a volt meter. Readings obtained by Peoples' equipment and ICC-owned equipment were compared during the testing with results being essentially equal.

Q. **What was the purpose of the field testing?**

A. Staff was attempting to verify that information documented in Peoples' safety records was consistent with work actually performed on Peoples' distribution system.

Q. **Were any significant discrepancies identified between Peoples' records and the field testing?**

A. Yes. Approximately 184 test points that require annual testing were checked during the field testing. Although Peoples' records indicated that each one of these points had received remedial action and had adequate levels of cathodic protection, approximately one third of the tests conducted by Staff indicated inadequate levels of cathodic protection. Additionally, approximately 190 locations were tested that require monitoring at ten-year intervals. Again, Peoples' records indicated that each of these locations had received remedial action after which they had adequate levels of cathodic protection. Of those 190 locations, approximately one-half of the test points showed inadequate levels of cathodic protection, when Staff tested them. Of the 374 sites visited, approximately 10 percent of the test points could not be located by ICC Staff even with the assistance of Peoples personnel. (See Attachment A)

Q. **Please explain what you mean when you refer to test locations that "could not be located."**

A. Staff conducted the field testing, to verify the records that Peoples kept in regards to corrosion monitoring. Staff chose approximately 400 specific locations referred to in Peoples records as test points that Peoples had used to monitor corrosion control. According to Peoples' records each of the chosen points had been tested, had received remedial actions, and had ultimately tested as having adequate levels of cathodic protection. However, when Staff went to the location of the points referenced in Peoples records, about 10% of them either did not exist or were places from which it was impossible to conduct the test. In some cases the records described the test point as a test box located in the roadway but when Staff and Peoples personnel attempted to locate the box it was not visible and the surface of the road had not been disturbed in years. The fact that no test point could be found in the field indicates that Company personnel recorded data in the Company's safety records without actually having access to the source of the data.

Q. **Can you provide examples of the various deficiencies described in your testimony?**

A. Yes. Attachment H contains examples of test points identified during the 2005 follow-up audit. The first section demonstrates examples of test points that require testing on a ten-year rotation. The first column on the left hand side contains reference numbers assigned by Peoples that tie to geographical locations. The second column contains testing dates taken from the records provided by Peoples during the audit. The third column contains the pipe-to-soil

potentials entered into the Peoples record keeping system. The 0.00 readings in the third column indicated that an attempt was made to take a pipe-to-soil potential on the date identified in the second column but the individual making the attempt was not able to obtain the reading. The Peoples representatives involved in the record audit stated that this entry may be due to the test box being covered or missing or the test wires had become disconnected or removed. The second section contains examples of locations requiring annual monitoring where testing was attempted in 2003 but could not be performed and no attempt was made in 2004. The third section contains examples of test locations that had less than adequate levels of cathodic protection in 2003 and no corrective action as of March of 2005.

Q. **Have you provided a comprehensive list of the number and location of test points where Peoples is or has been in violation of either 49 CFR 192.465 (a) or (d)?**

A. No. None of the lists is all inclusive. My intention was to provide a representative sampling of the violations at Peoples from 2003 to the present.

Q. **Have you completed your investigation of the violations?**

A. No. My investigation regarding these violations is ongoing. I sent data requests to Peoples requesting additional information on July 12, 2006. Peoples provided several boxes and 2 CDs of documents, totaling over 8,000 documents, which it states are responsive to the data requests. However, the volume and the disorganized nature of the production have made it virtually impossible to make meaningful use of the documents. I will continue to pursue this information from

Peoples. Additional information regarding these violations will be addressed in my rebuttal testimony.

Conclusions

Q. **Has Staff reached a conclusion as to why the field testing results are significantly different from the official records provided by Peoples?**

A. No. Staff performs field verifications of all natural gas operator records to verify the integrity and content of the written documentation provided. Variances or inconsistencies in the testing should be rare. In most cases, it should be explainable. To date, Peoples has not provided adequate explanation. As for the test points that could not be located, it appears that data was entered into Peoples' official record that could not have been obtained. Staff has determined that, due to the high rate of variance between the records provided and the field testing, coupled with the inability to locate numerous test points, Peoples' cathodic protection monitoring records are inaccurate and cannot be relied upon.

Q. **What is your recommendation to the Commission?**

A. I recommend that the Commission find that Peoples has violated 49 CFR §192.465(a) regarding corrosion monitoring, 49 CFR §192.465(d) regarding taking prompt remedial action to correct any deficiencies, and 49 CFR §192.13(c), regarding maintaining and following plans, procedures and programs necessary to comply with the minimum federal safety standards.

Q. **Under the Gas Pipeline Safety Act, what factors should be considered in determining the amount of penalty?**

For purposes of determining the amount of the penalty, Section 7(b) states:

> ... the Commission shall consider the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation.

Q **How would you describe the size of Peoples?**

A. Peoples can be considered a large natural gas distribution company. According to American Gas Association statistics, Peoples ranks 14th in the United States in residential customers and revenue. According to the Annual Report filed by Peoples with the Commission, its net utility operating income for 2004 was $58, 682,020.

Q. **How would you describe the gravity of this offense?**

A. Cathodic protection is intended to prevent corrosion on pipelines. When the protection is allowed to become ineffective for extended periods of time metal is lost from the pipe wall. Simply bringing the protective levels back into compliance with the CFR does not return the metal to the pipe wall. The failure to verify adequate levels of cathodic protection in a timely manner and delayed remedial actions when deficiencies are noted may have diminished the integrity of some sections of the Peoples natural gas system which could result in a failure and of loss of life or property.

Q. **Has People's maintained a good faith effort in trying to achieve compliance?**

A. No. Peoples has been repeatedly notified of its failure to be in compliance with the external corrosion control monitoring requirements, i.e., by letters on January 30, 2004 and April 21, 2005 and by meetings with Staff. This violation has been ongoing in excess of two and one-half years. During that period of time, rather

than coming in to compliance the number of violations has increased. In July of 2005, Peoples claimed to have taken remedial actions to bring the pipe segments with less than adequate levels of cathodic protection up to the level required by 49 CFR §192. Staff's record analysis and field review, which was conducted to verify the information in the Company's safety records, resulted in findings inconsistent with the Company's records. In fact, Staff inspectors were unable to physically locate test stations identified in Peoples' records. The high frequency of inconsistent records is unexplainable. These facts lead to the conclusion that Peoples has not acted in good faith to achieve compliance after it was notified of the violation.

Q. **Please explain the basis of your opinion that Peoples has not made a good faith effort to achieve compliance.**

A. The written response to the notice of noncompliance provided by Peoples on February 23, 2004, states:

> *For the test readings that were not obtained within the timeframe in 2003 there is nothing that can be done such that they will be in compliance during the next records audit performed by the ICC. PGL intends to treat those corrective actions with a higher priority in order to obtain readings during 2004.*

The March 2005 follow-up audit performed by Staff verified that PGL still had not performed the monitoring of the test points that had been missed in 2003. The 2004 letter promised that these test points would be treated with a higher priority but they were now over two years over due for testing.

As noted in a Staff report dated October 19, 2005, a meeting was held with Peoples representatives in the Commission's Springfield offices on July 11, 2005. Staff informed Peoples that a Staff report was being prepared for the Commission recommending a Citation Order be entered to determine whether civil penalties should be imposed on Peoples Gas. Mr. Ed Doerk, Vice President of Gas Operations, explained that Peoples Gas has taken remedial actions to bring pipe segments with less than adequate levels of cathodic protection up to the level deemed acceptable under 49 CFR Part 192 Appendix D criteria. The results of the 2006 record review and field testing not only indicated that the remedial actions were either not taken or inadequate but that some data entered into the official record keeping system could not have been obtained from the test location identified.

Q. **What penalties may be assessed against Peoples?**

A. Title 49 of Federal Regulation Chapter 60122, which was adopted by Section 7 of the Gas Pipeline Safety Act, allows for civil penalties of not more than $100,000 for each violation, for a maximum of $1,000,000. Both the Gas Pipeline Safety Act & the federal regulations state that each day the violation persists is also a separate violation.

Q. **In this situation what would be considered a violation?**

A. Staff believes each corrosion control family not tested and each corrosion family found to have inadequate levels of protection with no remedial actions taken should be considered a separate violation. In the letter dated May 16, 2005, Peoples admits that over 3000 test points were out of compliance in calendar years 2003 and 2004 combined.

Q. **What is your recommendation as to what penalty should be assessed against Peoples?**

A. Given the magnitude and duration of this violation, Staff recommends the maximum penalty be imposed for the violations of 49 CFR Part 192.465(a) and 49 CFR Part 192.465(d).

Summary

Q. **Please summarize your position**.

A. Staff concludes that Peoples Gas should be found in violation of Commission rules and subject to the maximum penalty as outlined above. Peoples, by its own admission in its letter(s) of February 23, 2004 and May 16, 2005, confirmed that it is not in compliance with Commission rules, has not been in compliance with Commission rules for years even though it was warned about the violations and claimed it was taking steps to cure the violations.

Q. **Does this conclude your direct testimony?**

A. Yes, it does.