

DIRECT TESTIMONY  
OF  
CHARLES GRIBBINS  
PIPELINE SAFETY ANALYST II  
ENERGY DIVISION  
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission on its own motion

Vs.

The City of Shawneetown

DOCKET NO. 10-0609

Citation for alleged violations  
of federal Rules incorporated by the Illinois Commerce Commission  
and of 83 Ill. Adm.Code 520.

March 24, 2011

1           **WITNESS IDENTIFICATION**

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

3           A.     My name is Charles Gribbins. My business address is 527 East Capitol  
4                 Avenue, Springfield, Illinois 62701.

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

6           A.     I am employed by the Illinois Commerce Commission (“Commission” or  
7                 “ICC”) as Pipeline Safety Analyst II in the Pipeline Safety Program of the  
8                 Energy Division.     In my current position, I perform audits and  
9                 inspections in accordance with the natural gas pipeline safety program,  
10                which ensures the natural gas operators in Illinois are meeting the  
11                minimum federal safety standards as prescribed by 49 CFR Sections  
12                191.23, 192, 193, 199, and by the Illinois Gas Pipeline Safety Act (220  
13                ILCS 20).

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

15          A.     Prior to employment with the ICC, I was a Gas Superintendent with the  
16                 Village of Edinburg. I operated the municipal gas system. I have received  
17                 extensive technical training at the Transportation Safety Institute (“TSI”) in  
18                 Oklahoma City, which is where state and federal pipeline safety  
19                 inspectors receive technical education relating to the enforcement and  
20                 interpretation of pipeline safety standards. Training at TSI includes  
21                 subjects such as Introduction to Part 192, Pipeline Safety Regulation  
22                 Application, and Compliance, Natural Gas Odorization, Joining of Pipeline  
23                 Materials, Incident Investigation, Pipeline Integrity Management, Operator

24 Qualification, Pipeline Corrosion Control, and various other technical  
25 aspects of natural gas pipeline operations. I have worked as a Pipeline  
26 Safety Analyst for 21 years.

27 **PURPOSE OF TESTIMONY**

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

29 A. The purpose of this proceeding is to consider whether the City of  
30 Shawneetown has violated numerous Commission rules regarding 49  
31 CFR Part 192 and 199 in its operation of the Shawneetown Municipal Gas  
32 System ("Shawneetown").

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

34 A. The purpose of my testimony is to present Pipeline Safety's ("Staff")  
35 position. I have performed inspections and created, or participated in  
36 creating reports, including the Staff Report which was filed on October 12,  
37 2010 and which led to the Initiating Order in this proceeding. The Staff  
38 Report is attached to and incorporated into my testimony as Attachment  
39 A.

40 **Regulatory and Enforcement Provisions**

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

42 A. Enforcement of the Minimum Federal Safety Standards is delegated to  
43 the ICC under an agreement pursuant to 49 U. S. C. Section 60105 with  
44 the U. S. Department of Transportation ("USDOT") Office of Pipeline  
45 Safety. The federal standards codified under 49 CFR Sections 192, 193  
46 and 199 have been adopted by the State of Illinois in 83 Ill. Adm. Code  
47 590.

48

49 **Q. How did you become aware of the violations identified in the Staff**  
50 **Report?**

51 A. I became aware of the violations during audits of Shawneetown which I  
52 conducted on September 23, 2009 and April 15, 2010

53 **Q. Please describe the Shawneetown system.**

54 A. The Shawneetown system serves the City of New Shawneetown in  
55 Gallatin County, Illinois. At the time of my audits, Shawneetown had one  
56 employee. For the audits, I went to Shawneetown's business office at 330  
57 North Lincoln Blvd East, Shawneetown, Illinois, spoke to Jim Rigsby, Gas  
58 & Street Superintendent of the natural gas system, and reviewed system  
59 records.

60 **Q. Please describe Shawneetown's violation of Section 192.615(c)<sup>1</sup> of**  
61 **the federal Rules.**

62 A. Section 192.615 (c) requires each operator to establish and maintain  
63 liaison with appropriate fire, police, and other public officials to share  
64 information regarding resources or entities that may respond to a natural  
65 gas emergency, acquaint those officials with the operator's ability to  
66 respond to an emergency, identify the types of gas pipeline emergencies  
67 that require notification, and plan for mutual assistance. During the  
68 September 23, 2009, inspection I asked Mr. Rigsby to provide  
69 documentation demonstrating Shawneetown's compliance with Section

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<sup>1</sup> 49 CFR §192.615(c)

70 192.615(c). Mr. Rigsby did not provide documentation regarding meetings  
71 or other communication with fire, police, and public officials regarding  
72 emergency response.

73 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
74 **of Section 192.615 (c)?**

75 A. During the April 15, 2010 inspection I again asked Mr. Rigsby to provide  
76 documentation demonstrating Shawneetown's compliance with Section  
77 192.615 (c). Mr. Rigsby could not provide documentation regarding  
78 meetings or other communication with fire, police, and public officials  
79 regarding emergency response.

80 **Q. Did you conduct additional follow-up inspection of Shawneetown's**  
81 **violation of Section 192.615 (c)?**

82 A. During the March 9, 2011 inspection I asked Mr. Rigsby to provide  
83 documentation demonstrating Shawneetown's compliance with this code  
84 section. Mr. Rigsby provided some documentation indicating that  
85 meetings or other communications with fire, police, and other public  
86 officials had taken place regarding emergency response. However he still  
87 did not document what was covered at these meetings. This violation had  
88 not been corrected and to my knowledge is ongoing.

89 **Q. Please describe Shawneetown's violation of Section 192.616(e) of**  
90 **the Federal Rules.**

91 A. Section 192.616 (e)<sup>2</sup> requires that each operators' Public Awareness  
92 Program include activities to advise affected school districts, business,  
93 and residents of the location of pipeline facilities. During the September  
94 23, 2009 inspection I asked Mr. Rigsby to provide documentation  
95 demonstrating Shawneetown's compliance with this code section. Mr.  
96 Rigsby could not provide documentation confirming that the required  
97 notifications had been provided to the appropriate stakeholders.

98 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
99 **of Section 192.616 (e)?**

100 A. During the April 15, 2010 inspection, I again asked Mr. Rigsby to provide  
101 documentation demonstrating Shawneetown's compliance with this code  
102 section. Mr. Rigsby could not provide documentation confirming that the  
103 required notification had been provided to the appropriate stakeholders.

104 **Q. Did you conduct additional follow-up inspection of Shawneetown's**  
105 **violation of Section 192.616 (e)?**

106 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
107 documentation demonstrating Shawneetown's compliance with this code  
108 section. Mr. Rigsby was not able to provide documentation that any  
109 aspects of the requirements of the Public Awareness Plan had been met  
110 in 2010. This violation had not been corrected and to my knowledge is  
111 ongoing.

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<sup>2</sup> 49 CFR §192.616(e)

112 **Q. Please describe Shawneetown's violation of Section 192.625(f) of the**  
113 **Federal Rules.**

114 A. Section 192.625 (f)<sup>3</sup> requires the operator to assure proper concentration  
115 of odorant in the natural gas system through periodic sampling of the  
116 combustible gases, using an instrument capable of determining the  
117 percentage of gas in air at which the odor becomes readily detectable.  
118 During the September 23, 2009 inspection, I asked Mr. Rigsby to provide  
119 documentation demonstrating Shawneetown's compliance with section  
120 192.625(f). Mr. Rigsby could not provide documentation regarding  
121 periodic sampling of the combustible gases using an appropriate  
122 instrument.

123 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
124 **of 192.625 (f)?**

125 A. During the April 15, 2010 inspection I again asked Mr. Rigsby to provide  
126 documentation demonstrating Shawneetown's compliance with section  
127 192.625 (f). Mr. Rigsby could not provide documentation regarding  
128 periodic sampling of the combustible gases using an appropriate  
129 instrument.

130 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
131 **of 192.625 (f)?**

132 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
133 documentation demonstrating Shawneetown's compliance with this code

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<sup>3</sup> 49 CFR §192.625(f)

134 section. Mr. Rigsby was not able to provide documentation that any odor  
135 intensity test was conducted within Shawneetown natural gas system. The  
136 operator has not obtained an instrument to determine the level of  
137 odorization in the Shawneetown natural gas system. This violation had  
138 not been corrected and to my knowledge is ongoing.

139 **Q. Please describe Shawneetown's violation of Section 192.721(b) of**  
140 **the federal Rules.**

141 A. Section 192.721 (b)<sup>4</sup> outlines operator requirements to periodically patrol  
142 mains in places or on structures where anticipated physical movement or  
143 external loading could cause failure or leakage. During the September  
144 23, 2009 inspection I asked Mr. Rigsby to provide documentation  
145 demonstrating Shawneetown's compliance with this code section. Mr.  
146 Rigsby could not provide documentation establishing that patrols had  
147 been conducted over the pipeline at highway crossings.

148 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
149 **of 192.721 (b)?**

150 A. During the April 15, 2010 inspection I again asked Mr. Rigsby provide  
151 documentation demonstrating Shawneetown's compliance with this code  
152 section. Mr. Rigsby provided documentation that patrolling had been done  
153 as required by this section. This violation was corrected.

154 **Q. Please describe Shawneetown's violation of Section 192.481(a) of**  
155 **the Federal Rules.**

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<sup>4</sup> 49 CFR §192.721(b)

156 A. Section 192.481 (a)<sup>5</sup> requires the operator to inspect each pipeline or  
157 portion of pipeline that is exposed to the atmosphere for evidence of  
158 atmospheric corrosion at least once every three calendar years with  
159 intervals not exceeding 39 months. During the September 23, 2009  
160 inspection, I asked Mr. Rigsby to provide documentation demonstrating  
161 Shawneetown's compliance with Section 192.481(a). Mr. Rigsby could  
162 not provide documentation indicating that each portion of the exposed  
163 pipelines had been inspected as required by this section.

164 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
165 **of 192.481 (a)?**

166 A. During the April 15, 2010 inspection I again asked Mr. Rigsby to provide  
167 documentation demonstrating Shawneetown's compliance with Section  
168 192.481 (a). Mr. Rigsby could not provide documentation indicating that  
169 each portion of the exposed pipelines has been inspected as required by  
170 this section.

171 **Q Did you conduct a follow-up inspection of Shawneetown's violation**  
172 **of Section 192.481 (a)?**

173 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
174 documentation demonstrating Shawneetown's compliance with this code  
175 section. Mr. Rigsby was not able to provide documentation indicating that  
176 each portion of exposed pipelines had been inspected as required by this  
177 section. Mr. Rigsby did not conduct the initial atmospheric corrosion

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<sup>5</sup> 49 CFR §192.481(a)

178 control inspection of the system and document the exposed pipe that  
179 required remedial actions to be taken; he only provided a list of risers and  
180 meter sets that had been painted.

181 This violation had not been corrected and to my knowledge is ongoing.

182 **Q. Please describe Shawneetown's violation of 83 Ill. Adm Code**  
183 **520.10(10).**

184 A. 83 Ill. Adm. Code 520.10 (10) requires the operator to develop and follow  
185 training procedures which will assure that its field employees engaged in  
186 construction, operation, inspection and maintenance of the gas system  
187 are properly trained. During the September 23, 2009 inspection, I asked  
188 Mr. Rigsby to provide documentation demonstrating compliance with this  
189 section. Mr. Rigsby could not provide a training program as required by  
190 this section.

191 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
192 **of 83 Ill. Adm. Code 520.10 (10)?**

193 A. During the April 15, 2010 inspection I again asked Mr. Rigsby to provide  
194 documentation demonstrating Shawneetown compliance with section 83  
195 Ill. Adm. Code 520.10. Mr. Rigsby provided satisfactory documentation  
196 indicating that a training section had been added to the old Operation &  
197 Maintenance Manual. This violation was corrected.

198 **Q. Please describe Shawneetown's violation of Section 199.113(b) of**  
199 **the federal Rules.**

200 A. Section 199.113(a)<sup>6</sup> requires each operator to provide an Employee  
201 Assistance Program (EAP) for its employees and supervisory personnel  
202 who will determine whether an employee must be drug tested based on  
203 reasonable cause, Each EAP must include education and training on drug  
204 use. Section 199.113 (b)<sup>7</sup> requires education under each EAP to include,  
205 at a minimum, display and distribution of informational material, display  
206 and distribution of a community hot-line telephone number for employee  
207 assistance, and display and distribution of the employer's policy regarding  
208 the use of prohibited drugs. During the April 15, 2010 inspection, I asked  
209 Mr. Rigsby to provide documentation demonstrating compliance with  
210 Section 199.113(b). Mr. Rigsby could not provide documentation that  
211 indicated that all informational material was displayed and distributed to  
212 the employees.

213 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
214 **of 199.113 (b)?**

215 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
216 documentation demonstrating Shawneetown's compliance with this code  
217 section. Mr. Rigsby provided documentation indicating that the community  
218 service hotline number was displayed in the office. However, Mr. Rigsby  
219 could not provide documentation on the display and distribution of  
220 information material and the employer's policy regarding the use of

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<sup>6</sup> 49 CFR §199.113(a)  
<sup>7</sup> 49 CFR §199.113(b)

221 prohibited drugs. This violation had not been corrected and to my  
222 knowledge is ongoing.

223 **Q. Please describe Shawneetown's violation of Section 199.113(c) of**  
224 **the Federal Rules.**

225 A. Section 199.113 (c)<sup>8</sup> requires training under each Employee Assistance  
226 Program for supervisory personnel who will determine whether an  
227 employee must be drug tested based on reasonable cause. The training  
228 must include one 60-minute period of training on the specific,  
229 contemporaneous physical, behavioral and performance indicators of  
230 probable drug use. During the April 15, 2010 inspection, I asked Mr.  
231 Rigsby to provide documentation demonstrating compliance with this code  
232 section. Mr. Rigsby could not provide documentation demonstrating that  
233 the supervisory personnel had received 60 minutes of training on the  
234 specific topics outlined in this section.

235 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
236 **of 199.113(c)?**

237 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
238 documentation demonstrating Shawneetown compliance with section  
239 199.113 (c). Mr. Rigsby could not provide documentation demonstrating  
240 that the supervisory personnel had received 60 minutes of training on the  
241 specific topics outlined in this section. This violation had not been  
242 corrected and to my knowledge is ongoing.

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<sup>8</sup> 49 CFR §199.113(c)

243 **Q. Please describe Shawneetown's violation of Section 199.117(a) (4) of**  
244 **the Federal Rules.**

245 A. Section 199.117 (a) (4)<sup>9</sup> requires that records confirming that supervisors  
246 and employees have been trained as required by Part 199 of the federal  
247 Rules must be kept for a minimum of 3 years. During the April 15, 2010  
248 inspection, I asked Mr. Rigsby to provide documentation demonstrating  
249 compliance with Section 199.117(a) (4). Mr. Rigsby could not provide  
250 documentation confirming that the required records are being maintained  
251 for supervisor training.

252 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
253 **of Section 199.117 (a) (4)?**

254 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
255 documentation demonstrating Shawneetown's compliance with Section  
256 199.117 (a) (4). Mr. Rigsby could not provide documentation confirming  
257 that the required records are being maintained for supervisor training.  
258 This violation had not been corrected and to my knowledge is ongoing.

259 **Q. Please describe Shawneetown's violation of Section 199.241 of the**  
260 **Federal Rules.**

261 A. Section 199.241<sup>10</sup> requires each operator to ensure that persons  
262 designated to determine whether reasonable suspicion exists to require a  
263 covered employee to undergo alcohol testing under Section 199.225(b)  
264 receive at least 60 minutes of training on physical, behavioral, speech,

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<sup>9</sup> 49 CFR §199.117(a)(4)

265 and performance indicators of probable alcohol misuse. During the April  
266 15, 2010 inspection, I asked Mr. Rigsby to provide documentation  
267 demonstrating compliance with this code section. Mr. Rigby could not  
268 provide documentation demonstrating that the supervisory personnel had  
269 received the required 60 minutes of training.

270 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
271 **of Section 199.241?**

272 A. During the March 9, 2011 inspection, I again asked Mr. Rigsby to provide  
273 documentation demonstrating compliance with this code section. Mr.  
274 Rigsby could not provide documentation demonstrating that the  
275 supervisory personnel had received the required 60 minutes of training.  
276 This violation had not been corrected and to my knowledge is ongoing.

277 **Q. Please describe Shawneetown's violation of Section 199.119(d) of**  
278 **the Federal Rules.**

279 A. Section 199.119 (d)<sup>11</sup> deals with required reporting of anti-drug testing  
280 results to the Federal Pipeline and Hazardous Materials Safety  
281 Administration (PHMSA). The requirement allows an employer to use a  
282 service agent to perform random selection for drug testing of operator  
283 employees that may be part of a larger random pool of covered  
284 employees. The operator must ensure that the service agent used is  
285 testing at the appropriate percentage established for the industry and that  
286 covered employees are in a random testing pool. During the April 15,

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<sup>10</sup> 49 CFR §199.241

<sup>11</sup> 49 CFR §199.119(d)

287 2010 inspection, I asked Mr. Rigsby to provide documentation  
288 demonstrating compliance with this code section. Mr. Rigsby could not  
289 provide documentation demonstrating that covered employees were  
290 included in a drug testing pool. Furthermore, he could not confirm the  
291 service agent was performing random selections regarding anti drug  
292 testing of covered employees of Shawneetown and testing at the  
293 appropriate rate as established by Section 199.105 (c)<sup>12</sup>.

294 **Q. How many covered employees does Shawneetown have employed?**

295 A. Shawneetown only has one covered employee working on the natural gas  
296 system.

297 **Q. What is a service agent?**

298 A. Section 40.3 of the federal Rules defines "service agent" as:

299 Any person or entity, other than an employee of the  
300 employer, who provides services specified under this part to  
301 employers and/or employees in connection with DOT drug  
302 and alcohol testing requirements. This includes, but is not  
303 limited to, collectors, BATs and STTs, laboratories, MROs,  
304 substance abuse professionals, and C/TPAs. To act as  
305 service agents, persons and organizations must meet the  
306 qualifications set forth in applicable sections of this part.  
307 Service agents are not employers for purposes of this part.<sup>13</sup>  
308

309 **Q. Who is the service agent for Shawneetown?**

310 A. The service agent for Shawneetown is John Heckman of Illinois Testing  
311 Services, located in Decatur, Illinois.

312 **Q. Did you conduct a follow-up of Shawneetown's violation of Section**  
313 **199.119 (d)?**

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<sup>12</sup> 49 CFR §199.105(c) requires that 25-50% of covered employees be tested each year.  
<sup>13</sup> 49 CFR §40.3

314 A. During the March 9, 2011 inspection I again asked Mr. Rigsby provide  
315 documentation demonstrating Shawneetown's compliance with this code  
316 section. Mr. Rigsby provided documentation indicating that service agent  
317 had only performed two random drug tests in 2010, The random testing  
318 should have been reasonably spaced throughout the year, these test  
319 should have been performed on a quarterly basis. Therefore, this  
320 violation has not been corrected and to my knowledge is ongoing.

321 **Q. Please describe Shawneetown's violation of Section 192.285 of the**  
322 **Federal Rules.**

323 A. Section 192.285 (a) and (b)<sup>14</sup> state that no person may make a plastic  
324 joint unless that person has been qualified under the applicable joining  
325 procedure and has a specimen joint tested in accordance with one of the  
326 methods listed under Section 192.283<sup>15</sup>. During the April 15, 2010  
327 inspection, I asked Mr. Rigsby to provide documentation demonstrating  
328 compliance with Section 192.285. Mr. Rigsby could not provide  
329 documentation demonstrating that operator personnel had been qualified  
330 to make plastic fusion joints under the applicable procedures as required  
331 by Section 192.285.

332 **Q. Did you conduct a follow-up of Shawneetown's violation of Section**  
333 **192.285?**

334 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
335 documentation demonstrating Shawneetown's compliance with this code

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<sup>14</sup> 49 CFR §192.285(a), (b)  
<sup>15</sup> 49 CFR §192.283

336 section. Mr. Rigsby could not provided documentation demonstrating that  
337 operator personnel had been qualified to make plastic fusion joints under  
338 the applicable procedures as required by 49 CFR sections 192.285. This  
339 violation had not been corrected and to my knowledge is ongoing.

340 **Q. Please describe Shawneetown's violation of Section 192.287.**

341 A. Section 192.287<sup>16</sup> prohibits anyone from inspecting joints in plastic pipes  
342 unless he or she has first has been qualified by appropriate training or  
343 experience in evaluating the acceptability of plastic pipe joints made under  
344 the applicable joining procedure. During the April 15, 2010 inspection I  
345 asked Mr. Rigsby to provide documentation demonstrating  
346 Shawneetown's compliance with this code section. Mr. Rigsby could not  
347 provided documentation that operator personnel had been qualified by  
348 appropriate training or experience in the evaluation of acceptability of  
349 plastic joints.

350 **Q. Did you conduct a follow-up of Shawneetown's violation of Section**  
351 **192.287?**

352 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
353 documentation demonstrating Shawneetown's compliance with this code  
354 section. Mr. Rigsby could not provided documentation that operator  
355 personnel had been qualified by appropriate training or experience in the  
356 evaluation of acceptability of plastic joints. This violation had not been  
357 corrected and to my knowledge is ongoing.

358 **Q. Please describe Shawneetown's violation of Section 192.615(a) (3) (i)**  
359 **of the Federal Rules.**

360 A. Section 192.615 (a) (3) (i)<sup>17</sup> requires each operator to establish written  
361 procedures to minimize the hazard resulting from a gas pipeline  
362 emergency, prompt and effective response to a notice of each  
363 emergency, including gas detected inside or near a building. During my  
364 inspection on April 15, 2010, I reviewed documents indicating that on  
365 September 1, 2009, a natural gas odor was reported at the Amanda  
366 Austin residence in Shawneetown, and attached to the Shawneetown  
367 system. Shawneetown received the call regarding the natural gas odor  
368 present at the Austin residence at 8:00 am but did not respond until 10:00  
369 am. In my opinion, the two hour delay was excessive. In light of this  
370 incident, I asked Mr. Rigsby to provide documentation demonstrating  
371 compliance with Section 192.615(a)(3)(i), in this case documentation  
372 giving a reason for the delay in responding to the report. Mr. Rigsby could  
373 not provide documentation of any reasons for the delayed response to the  
374 odor notification.

375 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
376 **of Section 192.615 (a) (3) (i)?**

377 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
378 documentation demonstrating Shawneetown's compliance with this code  
379 section. Mr. Rigsby provided documentation that indicated adequate

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<sup>16</sup> 49 CFR §192.287

<sup>17</sup> 49 CFR §192.615(a)(3)(i)

380 emergency response intervals were achieved in 2011. This violation has  
381 been corrected.

382 **Q. Please describe Shawneetown's violation of Section 192.747(a) of**  
383 **the Federal Rules.**

384 A. Section 192.747(a)<sup>18</sup> requires that each valve that may be necessary for  
385 the safe operation of the distribution system be checked and serviced at  
386 intervals not exceeding 15 months, but at least once each calendar year.  
387 During the April 15, 2010 inspection, I asked Mr. Rigsby to provide  
388 documentation demonstrating compliance with this code section. Mr.  
389 Rigsby could not provide documentation demonstrating that distribution  
390 system valves were checked and serviced at the required intervals in  
391 2009.

392 **Q. Did you conduct a follow-up inspection of Shawneetown's violation**  
393 **of Section 192.747(a)?**

394 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
395 documentation demonstrating Shawneetown's compliance with this code  
396 section. Mr. Rigsby provided documentation that critical valves were  
397 inspected. However, the documentation produced by Mr. Rigsby  
398 demonstrated that the interval between inspections had exceeded the  
399 minimum time frame of once each calendar year not to exceed fifteen  
400 months. This violation had not been corrected and to my knowledge is  
401 ongoing.

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<sup>18</sup> 49 CFR §192.727(a)

402 **Q. Please describe Shawneetown’s violation of Section 192.807(b) of**  
403 **the federal Rules.**

404 A. Section 192.807(b)<sup>19</sup> requires operators to maintain qualification records  
405 identifying which individuals are qualified to do specific tasks, as well as  
406 the dates upon which and the methods by which those individuals were  
407 qualified. During the April 15, 2010 inspection, I asked Mr. Rigsby to  
408 provide documentation demonstrating compliance with this section. Mr.  
409 Rigsby could not provide documentation demonstrating that current or  
410 previous employee individuals performing covered tasks were qualified.

411 **Q. Did you conduct a follow-up inspection of Shawneetown’s violation**  
412 **of Section 192.807(b)?**

413 A. During the March 9, 2011 inspection I again asked Mr. Rigsby to provide  
414 documentation demonstrating compliance with this section. Mr. Rigsby  
415 provided documentation that three Midwest Energy Association (MEA)  
416 modules had been completed. After reviewing a section of the  
417 Shawneetown Operator Qualification Plan (OQ), the minimal requirements  
418 had not been met for the covered task “Working with Natural Gas”. The  
419 “Working with Natural Gas” covered task is the pre-requisite that has to be  
420 completed prior to any other task being completed. In all, Shawneetown’s  
421 Operator Qualification Plan has 22 covered tasks with multiple MEA  
422 modules under each task, that are required be taken and passed before  
423 M. Rigsby can perform any emergency or maintenance operations on the

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<sup>19</sup> 49 CFR §192.807(b)

424 system. Mr. Rigsby has only documented completion of three MEA  
425 modules. Therefore, this violation had not been corrected and to my  
426 knowledge is ongoing.

427 **Q. Was Shawneetown notified of the violations that are the subject of**  
428 **your testimony?**

429 A. Yes. Staff sent Notices of Probable Violation (“NOPVs”) to Shawneetown  
430 on October 2, 2009 and April 23, 2010. (See Attachments B and C)

431 **Q. How did Shawneetown respond to the October 2, 2009 NOPV?**

432 A. Shawneetown did not respond by November 2, 2009, the deadline given  
433 in the NOPV for a response. On November 4, 2009, I contacted  
434 Shawneetown City Hall to state that no response had been received. On  
435 November 17, 2009, I received a FAX transmittal from Jim Rigsby  
436 indicating that Shawneetown:

- 437 • Had received a new Operator Qualification Plan from a contracted  
438 consultant:
- 439
- 440 • Had a consultant was working on a new Operation and Maintenance  
441 Plan for Shawneetown?
- 442
- 443 • Had contacted a drug testing agent regarding employee inclusion in an  
444 anti-drug testing pool and was scheduling a time for the Shawneetown  
445 covered employees to be anti-drug tested:
- 446
- 447 • Had started working on a Public Awareness announcement to be  
448 published in local newspapers; and
- 449
- 450 • Had completed the two patrols of the gas system to meet code  
451 requirements.
- 452

453 See Attachment D.

454

455 **Q. Did these actions resolve any of the violations?**

456 **A.** Yes, on April 15, 2010 Staff reviewed the NOPV's that were cited on  
457 September 23, 2009. Staff identified the following NOPV's as being  
458 corrected: Section 192.721 (b) - Distribution systems patrolling and 83 Ill.  
459 Adm Code 520.10(10).

460 **Q. How did Shawneetown respond to the April 23, 2010 NOPV Letter?**

461 **A.** Staff has received no response to date. The NOPV letter requested a  
462 response by May 24, 2010. On June 1, 2010, I telephoned Shawneetown  
463 and advised the City Clerk about the NOPV sent to the Mayor and that a  
464 response should be faxed to the Pipeline Safety office by no later than  
465 June 4, 2010. No response was received.

466 **Q. Have any of the violations listed in the April 23, 2010 NOPV Letter**  
467 **been corrected?**

468 **A.** Yes. The violation of Section 192.615(a)(3)(i) was corrected as of my  
469 inspection of March 9, 2011.

470 **Conclusions**

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

472 **A.** I recommend that the Commission find that Shawneetown has violated 49  
473 CFR Sections 192.615 (c), 192.616 (e), 192.625 (f), 192.721 (b), 192.481  
474 (a), 199.113 (b), 199.113 (c), 199.117 (a) (4), 199.241, 199.119 (d),  
475 192.285 (a) and (b), 192.287 (b), 192.615 (a) (3) (i), 192.747 (a), 192.807  
476 (b), and 83 Ill. Adm. Code 520.10 (10). Shawneetown did not comply with  
477 these minimum federal safety standards as addressed above.

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

480 A. For purposes of determining the amount of penalty, Section 7 (b) states:  
481  
482 [T]he Commission shall consider the appropriateness of the penalty to  
483 size of the business of the person charged, the gravity of the violation,  
484 and the good faith of the person charged in attempting to achieve  
485 compliance, after notification of the violation<sup>20</sup>.  
486

487 Q. **How would you describe the size of Shawneetown?**

488 A. According to data submitted on the calendar year 2008 DOT Annual  
489 Report, Shawneetown serves a total of 620 service lines. It is a small  
490 system.

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

492 A. Shawneetown failed to demonstrate compliance with the Federal Codes.  
493 Shawneetown failed to meet the minimum requirements to maintain  
494 records related to the maintenance of the natural gas system under their  
495 control. Failure to comply with the minimum safety standards could result  
496 in a failure of the pipeline system resulting in the loss of life or property if  
497 not maintained properly. Without maintaining proper documentation the  
498 operator cannot prove that the maintenance was being performed on the  
499 system, without this documentation and proof of work this could lead to  
500 system failures and incidents resulting in loss of life or property.

501 Q. **Has Shawneetown made a good faith effort in trying to achieve**  
502 **compliance?**

---

<sup>20</sup> 220 ILCS 20/7(b)

503 A. No. Shawneetown only responded to the first NOPV Letter after I  
504 contacted City Clerk via telephonic communication. The call was placed  
505 after the requested response date included in the notice had passed in  
506 2009.

507 Again in 2010 Shawneetown failed to respond by the required date, I  
508 called Shawneetown to notify it of the failure to respond by the required  
509 date. No response was received to the second NOPV.

510 These facts lead to the conclusion that Shawneetown has not acted in  
511 good faith to achieve compliance after beings notified of the probable  
512 violations.

513 Q. **What penalties may be assessed against Shawneetown?**

514 A. Title 49 United States Code Section 60122, which was adopted by  
515 Section 7 of the Illinois Gas Pipeline Safety Act, allows for civil penalties  
516 of not more than \$100,000 for each violation; a separate violation occurs  
517 each day the violation continues, the maximum civil penalty for a related  
518 series of violations is \$1,000,000. The Illinois Gas Pipeline Safety Act also  
519 states that each day the violations persist is also a separate violation.

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

521 A. Each failure to comply with the Federal Rules as I described above is a  
522 violation and each day that the failure to comply persisted is considered a  
523 separate violation. Shawneetown failed to comply with, and to maintain  
524 records to demonstrate compliance with the sections of the CFR noted  
525 above and it failed to respond to two NOPV letters. The actions or lack

526 thereof, constitute a long term pattern of failure to comply with the  
527 standards and processes that each operator under the jurisdiction of the  
528 Illinois Commerce Commission must meet to maintain compliance with  
529 required federal standards.

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

532 A. Given the magnitude and duration of this violation, I would recommend  
533 the maximum penalty be imposed for the violations of 49 CFR Part  
534 192.615 (c), 192.616 (e), 192.625 (f), 192.721 (b), 192.481 (a), 199.113  
535 (b), 199.113 (c), 199.117 (a) (4), 199.241, 199.119 (d), 192.285 (a) and  
536 (b), 192.287, 192.615 (a) (3) (i), 192.747 (a), 192.807 (b), and 83 Ill. Code  
537 520.10 (10). However, consideration must be given to the ability of the  
538 operator to pay the civil penalties. Therefore, I recommend that  
539 Shawneetown be required to pay civil penalties equal to \$5,000 per code  
540 section for a total of \$80,000.  
541 Additionally I recommend that Shawneetown be required to pay additional  
542 civil penalties equal to \$100 per code section for every day in  
543 noncompliance until the violations are corrected. The additional civil  
544 penalties would apply to the violations of 49 CFR Part 192.615 (c),  
545 192.616 (e), 192.625 (f), 192.481 (a), 199.113 (b), 199.113 (c), 199.117  
546 (a) (4), 199.241, 199.119 (d), 192.285 (a) and (b), 192.287, 192.747 (a)  
547 192.807 (b), which were not corrected at the time of the last audit and are  
548 ongoing.

549                    Additionally, I recommend that the Commission order Shawneetown to  
550                    take the necessary actions to achieve compliance with all applicable  
551                    sections of the Code of Federal Regulations and provide proof of  
552                    compliance within 60 days of the final order.

553                    Q.     **Please summarize your position.**

554                    A.     Staff concludes that Shawneetown should be found in violation of  
555                    Commission rules and subject to the maximum penalty as outlined above.

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

557                    A.     Yes, it does.

**Staff Report**  
**Shawneetown Municipal Gas System**  
**Shawneetown, Illinois**  
**October 12, 2010**

**Subject**

Shawneetown Municipal Gas System Compliance Violations

**Introduction**

As authorized by Section 3 of the Illinois Gas Pipeline Safety Act (the "Act") [220 ILCS 20/3], the Illinois Commerce Commission ("Commission") adopted, in 83 Ill. Adm. Code 590, federal safety standards in 49 CFR Sections 191.23, 192, 193, and 199 as minimum standards for the transportation of gas and for gas pipeline facilities. Shawneetown is a city in Illinois and the county seat of Gallatin County. On September 23, 2009, and April 15, 2010, the Commission's Pipeline Safety Staff ("Staff") conducted compliance audits of the Shawneetown Municipal Gas System ("Shawneetown") maintenance records and Shawneetown's anti-drug and alcohol testing program and records. Staff's review identified numerous probable violations of the CFR.

**Compliance Issues**

**September 23, 2009 Record Audit**

49 CFR Section 192.615 (c) requires each operator to establish and maintain liaison with appropriate fire, police, and other public officials to share information regarding resources or entities that may respond to a natural gas emergency, acquaint those officials with the operator's ability to respond to an emergency, identify the types of gas pipeline emergencies that require notification, and plan for mutual assistance. Staff requested documentation required to verify compliance with 49 CFR Section 192.615 (c). Shawneetown could not provide Staff with such documentation.

49 CFR Section 192.616(e) requires the operator's Public Awareness Program to include activities to advise affected school districts, businesses, and residents of the location of pipeline

facilities. Staff requested documentation required to verify compliance with 49 CFR Section 192.616(e). Shawneetown could not provide Staff with such documentation.

49 CFR Section 192.625(f) requires the operator to assure proper concentration of odorant in the natural gas system through periodic sampling of the combustible gases. Instrumentation is to be used to verify that the odorant is readily detectable to a person with a normal sense of smell. Staff requested documentation of odor intensity testing as required by 49 CFR Section 192.625(f). Shawneetown could not provide Staff with such documentation.

49 CFR Section 192.721(b) outlines operator requirements to periodically patrol mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage. Such locations include mains attached to buildings, mains on bridges, or mains crossing under highways or railroads. Staff requested documentation necessary to verify compliance with 49 CFR Section 192.721(b) relating to distribution system patrolling. Shawneetown could not provide Staff with such documentation.

49 CFR Section 192.481(a) requires the operator to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every three calendar years with intervals not exceeding 39 months. Staff requested documentation of atmospheric corrosion control monitoring as required by 49 CFR Section 192.481(a). Shawneetown could not provide Staff with such documentation.

83 Ill. Adm. Code 520.10(b) requires operators to develop and follow training procedures which will assure that its field employees engaged in construction, operation, inspection and maintenance of the gas system are properly trained. Staff requested the operators' Training Program required by Section 520.10(b). Shawneetown could not provide Staff with a training program.

### **Notification**

On October 2, 2009, the Manager of the Pipeline Safety Program sent a letter outlining each Notice of Probable Violation (NOPV") identified during the September 23, 2009 Record Audit to the Honorable Terry Williams, Mayor – City of Shawneetown. The letter advised that the City of Shawneetown could submit to the Pipeline Safety Program Office, in writing, evidence refuting the probable violations referenced in the NOPV or submit a plan outlining actions to be taken to correct each violation identified in the NOPV, including a schedule and the date when compliance was anticipated. The letter required a response by November 2, 2009.

On November 4, 2009, Staff contacted the Shawneetown City Hall and advised that a response to the October 2, 2009 letter had not been received. On November 17, 2009, Staff

received a FAX Transmittal from Jim Rigsby of Shawneetown Municipal Gas System. The transmittal was intended to address the NOPV issues outlined in the October 2, 2009 letter.

The FAX Transmittal indicated that the operator:

- Had received a new Operator Qualification Plan from a contracted consultant;
- Had a consultant was working on a new Operation and Maintenance Plan for Shawneetown;
- Had contacted a drug testing agent regarding employee inclusion in an anti-drug testing pool and was scheduling a time for the Shawneetown covered employees to be anti-drug tested;
- Had started working on a Public Awareness announcement to be published in local newspapers; and
- Had completed the two patrols of the gas system to meet code requirements.

#### **April 15, 2010 Record Audit**

Staff requested records and performed a facility inspection to determine if 49 CFR Section 199.113(b), Employee Assistance Program, requirements had been met. Section 199.113(b) requires education under each Employee Assistance Program to include, at a minimum, display and distribution of informational material, display and distribution of a community hot-line telephone number for employee assistance, and display and distribution of the employer's policy regarding the use of prohibited drugs. Shawneetown could not provide Staff with documentation relating to those activities and Staff could not locate displayed materials during the April 15, 2010, inspection.

49 CFR Section 199.113(c) requires training under each Employee Assistance Program for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause. The training must include one 60-minute period of training on the specific, contemporaneous physical, behavioral and performance indicators of probable drug use. Shawneetown could not provide Staff with documentation of training of supervisory personnel as required by 49 CFR Sections 199.113(c), 199.117(a)(4), 199.241, and 199.227(c)(6)(iii).

49 CFR Section 199.117(a)(4) requires that records confirming that supervisors and employees have been trained as required by this part must be kept for a minimum of 3 years. The training for employees must include notice of the availability of and Employee Assistance Program regarding drug use and the operators' policy regarding the use of prohibited drugs. The training for supervisors must also include methods to determine if an employee should be

tested based on reasonable cause. Shawneetown could not provide Staff with documentation regarding training of supervisory personnel required by Section 199.117(a)(4).

Staff requested documentation to determine compliance with 49 CFR Section 199.241, Training for Supervisors. This Section requires each operator to ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under Section 199.225(b) receive at least 60 minutes of training on physical, behavioral, speech, and performance indicators of probable alcohol misuse. 49 CFR Section 199.227(c)(6)(iii) requires documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion. Shawneetown could not provide Staff with documentation regarding provided for required training of supervisors.

Staff requested documentation required to determine compliance with 49 CFR Section 199.119(d), Reporting of anti-drug testing results. This Section allows an employer to use a service agent to perform random selection for drug testing of operator employees that may be part of a larger random testing pool of covered employees. However, the operator must ensure that the service agent used is testing at the appropriate percentage established for the industry and that covered employees are in a random testing pool. Shawneetown could not provide Staff with documentation that covered employees were included in the drug testing pool or to confirm the service agent performing random selections regarding anti-drug testing of covered employees for Shawneetown is testing at the appropriate percentage rate as established by Section 199.105(c).

Staff requested documentation to determine compliance with 49 CFR Section 192.285(a) and (b), Plastic pipe, Qualifying Persons to Make Joints. This Section states that no person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure and had a specimen joint tested in accordance with one of the methods listed under Section 192.283. Section 192.287, Plastic pipe, Inspection of Joints, requires the operator to be qualified by appropriate training or experience in evaluation of the acceptability of plastic pipe joints made under the applicable joining procedure. Shawneetown could not provide Staff with documentation to confirm that operator personnel had been qualified to make plastic fusion joints under the applicable procedure as required by 49 CFR Section 192.285. Shawneetown also could not provide Staff with documentation confirming that operator personnel had been qualified by appropriate training or experience in the evaluation of acceptability of plastic joints as required by 49 CFR Section 192.287.

Staff reviewed odor detection report records. The records track the reports of natural gas odors received by the operator, the time of a report and the response time. It was noted that an odor report call was received by Shawneetown at 8:00 am on September 1, 2009. The

operator did not respond to the report until 10:00 am that day. 49 CFR Section 192.615(a) requires each operator to establish written procedures to minimize the hazard resulting from a gas pipeline emergency. At a minimum, the procedure must provide for prompt and effective response to a notice of each type of emergency including gas detected inside or near a building, which is clearly identified in the CFR as an emergency response situation. Prompt response is defined as responding without delay. Shawneetown could not provide Staff with documentation of any reason for the delayed response to the odor notification.

Staff requested documentation to verify compliance with Section 192.747(a) regarding distribution system valve maintenance. The Section requires that each valve that may be necessary for the safe operation of the distribution system be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year. Shawneetown could not provide Staff with documentation demonstrating that distribution system valves were checked and serviced as required in 2009.

Staff requested records necessary to determine compliance with 49 CFR Section 192.807(b) regarding operator qualification record keeping. Records supporting an individual's current qualification shall be maintained while the individual is performing covered tasks. Records of prior qualification and records of individuals no longer performing covered tasks must be retained for a period of five years. Covered tasks include any task that is performed on a pipeline facility, is an operation or maintenance task, is performed as a requirement of Part 192, and affects the operation or integrity of the pipeline. Shawneetown could not provide Staff with documentation supporting current or previous employee individuals performing covered tasks.

### **Notification**

On April 23, 2010, a letter identifying each Notice of Probable Violation ("NOPV") identified during the April 15, 2010 Record Audit was sent by the Pipeline Safety Program Manager to the Honorable Terry Williams, Mayor – City of Shawneetown. The letter advised that the City of Shawneetown should submit to the Pipeline Safety Office, in writing, evidence refuting the probable violations referenced in the NOPVs or submit a plan of action outlining actions to be taken to correct each issue of the violations, including a schedule and the date when compliance was anticipated. The letter required a response by May 24, 2010. A response was not received by the required date. On June 1, 2010, Staff telephoned Shawneetown and advised the Shawneetown City Clerk that a NOPV letter had been sent to the Mayor that required response by May 24, 2010. Staff advised that the response should be faxed to the Pipeline Safety office by June 4, 2010. No response has been received.

### **Conclusion**

Shawneetown's failure to comply with, and to maintain records to demonstrate compliance, with the numerous Sections of the CFR noted above and its failure to respond to the two NOPV letters constitutes a long-term course of intentional disregard of the standards and processes that each operator under the jurisdiction of the Illinois Commerce Commission must meet to maintain compliance with required federal standards.

**Recommendation**

Staff recommends that a Citation Order be issued to initiate a proceeding to determine whether Shawneetown has failed to comply with 49 CFR Sections: 192.285(a), 192.481(a), 192.615(a), 192.615(c), 192.616(e), 192.625(f), 192.747(a), 192.807(b), 199.113(b), 199.113(c), 199.117(a), 199.119(d) and 199.241 and whether civil penalties should be assessed as allowed by Section 7 of the Illinois Gas pipeline Safety Act (220 ILCS20/7).

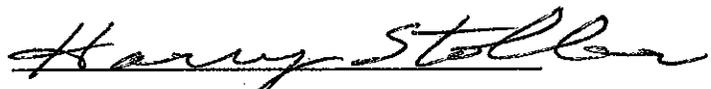


Prepared By:

Darin R. Burk

Pipeline Safety Program Manager

Energy Division



Approved By:

Harry Stoller, Director

Energy Division

**ILLINOIS COMMERCE COMMISSION**

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October 2, 2009

The Honorable Terry Williams  
Mayor – City of Shawneetown  
330 North Lincoln Blvd. East Street  
Shawneetown, Illinois 62984

Re: Notice of Probable Violation

Dear Mayor Williams:

During our Pipeline Safety Staff ("Staff") September 23 & 24, 2009, inspection of the City of Shawneetown, our Analyst observed the following probable violations with reference to Part 192 of the Federal Regulations for the Transportation of Natural Gas. A Notice of Probable Violation ("NOPV") has been issued for each section of the Code of Federal Regulations cited. The violations are outlined below.

The City of Shawneetown is in probable violation with reference to the following code section:

***§192.605 Procedural manual for operations, maintenance, and emergencies***

*Each operator shall include the following in its operating and maintenance plan:*  
*(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least one each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.*

The operator needs to add references to its Operation and Maintenance Manual to address the following code sections.

- **§192.613 Continuing Surveillance.**
- **§192.614 Damage prevention program.**
- **§192.615 Emergency plans.**
- **§192.629 Purging of pipelines.**

The Honorable Terry Williams  
October 2, 2009  
Page 2

Staff reviewed the City of Shawneetown Operation, Maintenance and Emergency Manual and discovered numerous inadequately written procedures. The City of Shawneetown must modify the current Operation, Maintenance & Emergency Manual to include written procedures to address the requirements of this code section. The Manual must include procedures for the proper utilization of all equipment specified for use in the O&M Manual.

The City of Shawneetown is in probable violation with reference to the following code section:

**§192.605 Procedural manual for operations, maintenance, and emergencies**

*(a) General. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least one each calendar year.*

The operator failed to provide Staff with documentation confirming that the Operation and Maintenance Manual was reviewed as required by this section of the code.

The City of Shawneetown is in probable violation with reference to the following code section:

**§192.615 Emergency plans.**

*(c) Each operator shall establish and maintain liaison with appropriate fire, police, and other public officials to:*

- (1) Learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency;*
- (2) Acquaint the officials with the operator's ability in responding to a gas pipeline emergency;*
- (3) Identify the types of gas pipeline emergencies of which the operator notifies the officials; and,*
- (4) Plan how the operator and officials can engage in mutual assistance to minimize hazards to life or property.*

The operator failed to provide Staff with documentation to confirm that the city held meetings with the appropriate public officials and local emergency response personnel as required by this code section.

The Honorable Terry Williams  
October 2, 2009  
Page 3

The City of Shawneetown is in probable violation with reference to the following code section:

**§192.616 Public Awareness**

*(e) The program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations.*

The operator failed to send out the required information as required under this section.

The City of Shawneetown is in probable violation with reference to the following code section:

**§192.625 Odorization of gas.**

*(f) To assure the proper concentration of odorant in accordance with this section, each operator must conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable.*

The operator failed to provide Staff with documentation confirming that odorant intensity level testing was conducted as required by this section.

The City of Shawneetown is in probable violation with reference to the following code section:

**§192.721 Distribution systems: Patrolling.**

*(b) Mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage must be patrolled - The operators Operation and Maintenance Plan section 14 stated that two section of pipe that crosses State Route 13 must be patrolled 4 times a year not to exceed 4 1/2 months.*

The operator failed to provide staff with documentation confirming that the patrols were done as required by the operators O&M Manual.

The Honorable Terry Williams  
October 2, 2009  
Page 4

The City of Shawneetown is in probable violation with reference to the following code section:

**§192.481 Atmospheric corrosion control: Monitoring.**

*(a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows: If the pipeline is located: Onshore Then the frequency of inspection is: At least once every 3 calendar years, but with intervals not exceeding 39 months.*

The operator failed to provide staff with documentation confirming that atmospheric corrosion was monitored as required under this section.

The City of Shawneetown is in probable violation with reference to the following code section:

**PART 520 TRAINING PROGRAMS FOR NATURAL GAS SYSTEM OPERATING PERSONNEL (General Order 204)**

*a) In order to reasonably assure the safety and well being of the populace, each natural gas system operator in Illinois shall develop training procedures which will assure that its field employees engaged in construction, operation, inspection, and maintenance of the gas system are properly trained.*

*b) Operators of small gas systems, such as municipal gas systems and master meter gas systems, may satisfy the requirements of Section 520.10(a) if the gas system personnel attend regularly scheduled instructional courses held by utility companies or participate in courses such as the Institute of Gas Technology (IGT) Gas Distribution Home Study Course, or programs developed and presented by community colleges, vocational schools, universities, consultants or other recognized gas distribution oriented agencies, which includes the procedures outlined in Section 520.10(a) which, will pertain to their particular system.*

The operator needs to add a training section to the Operation & Maintenance Manual or the Operator Qualification Plan.

Upon receipt of the NOPV, the City of Shawneetown may submit to this office by November 2, 2009, in writing, evidence refuting the probable violations referenced in the NOPV or submit a written plan of action outlining actions to be taken to correct the violations, including a schedule and the date when compliance is anticipated. The response should include the steps the City of Shawneetown has taken, or expects to take to prevent a reoccurrence of this situation.

The Honorable Terry Williams  
October 2, 2009  
Page 5

Failure to respond and take corrective actions will result in the initiation of a Citation Order and subject the City of Shawneetown to a penalty assessment as allowed under Section 7 of the Illinois Gas Pipeline Safety Act (220 ILCS 20/7).

If you have any questions concerning this matter, please contact Charles Gribbins at (217) 414-9359 or I may be contacted at (217) 785-1165.

Sincerely,



Darin R. Burk  
Manager – Pipeline Safety

DRB/cjg/ns  
cc: Jim Rigsby, Gas Superintendent

**ILLINOIS COMMERCE COMMISSION**

April 23, 2010

The Honorable Terry Williams  
Mayor – City of Shawneetown  
330 North Lincoln Blvd. East Street  
Shawneetown, Illinois 62984

Re: Notice of Probable Violation

Dear Mayor Williams:

During our Pipeline Safety Staff ("Staff") April 15, 2010, inspection of the City of Shawneetown, our Analyst observed the following probable violations with reference to Part 192 of the Federal Regulations for the Transportation of Natural Gas. A Notice of Probable Violation ("NOPV") has been issued for each section of the Code of Federal Regulations cited. The NOPV's were discussed with Jim Rigsby on April 15, 2010. The violations are outlined below.

The City of Shawneetown is in probable violation with reference to the following code sections:

**199.113 Employee assistance program.**

*(b) Education under each EAP must include at least the following elements: display and distribution of informational material; display and distribution of a community service hot-line telephone number for employee assistance; and display and distribution of the employer's policy regarding the use of prohibited drugs.*

The operator failed to display employee assistance information in the employees work locations.

**199.113 Employee assistance program.**

*(c) Training under each EAP for supervisory personnel who will determine whether an employee must be drug tested based on reasonable cause must include one 60-minute period of training on the specific, contemporaneous physical, behavioral, and performance indicators of probable drug use.*

The operator failed to provide documentation for training of supervisory personnel relating to this code section.

### **199.117 Recordkeeping.**

*(a) Each operator shall keep the following records for the periods specified and permit access to the records as provided by paragraph (b) of this section:*

*(4) Records confirming that supervisors and employees have been trained as required by this part must be kept for at least 3 years.*

The operator failed to provide documentation verifying that the supervisors have been trained as required.

### **199.241 Training for supervisors.**

*Each operator shall ensure that persons designated to determine whether reasonable suspicion exists to require a covered employee to undergo alcohol testing under §199.225(b) receive at least 60 minutes of training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.*

The operator failed to provide documentation that training was provided for supervisory personnel relating to this code section.

### **199.227 Retention of records.**

*(c) Types of records. The following specific records shall be maintained:*

*(6) Records related to education and training:*

*(iii) Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol testing based on reasonable suspicion.*

The operator failed to provide documentation verifying that the supervisors have been trained as required relating to this code section.

### **199.119 Reporting of anti-drug testing results.**

*(d) As an employer, you may use a service agent (e.g., C/TPA) to perform random selections for you; and your covered employees may be part of a larger random testing pool of covered employees. However, you must ensure that the service agent you use is testing at the appropriate percentage established for your industry and that only covered employees are in the random testing pool.*

The operator failed to provide documentation to confirm that the service agent performing random selections for City of Shawneetown is testing at the appropriate percentage rate as established by Part 199.

**192.285 Plastic pipe; qualifying persons to make joints.**

(a) No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:

- (1) Appropriate training or experience in the use of the procedure; and
- (2) Making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section.

(b) The specimen joint must be:

- (1) Visually examined during and after assembly or joining and found to have the same appearance as a joint or photographs of a joint that is acceptable under the procedure; and
- (2) In the case of a heat fusion, solvent cement, or adhesive joint;

- (i) Tested under any one of the test methods listed under §192.283(a) applicable to the type of joint and material being tested;
- (ii) Examined by ultrasonic inspection and found not to contain flaws that would cause failure; or
- (iii) Cut into at least three longitudinal straps, each of which is:

- (A) Visually examined and found not to contain voids or discontinuities on the cut surfaces of the joint area; and
- (B) Deformed by bending, torque, or impact, and if failure occurs, it must not initiate in the joint area.

The operator failed to provide documentation to confirm that the operator had been qualified under the applicable joining procedures.

**192.287 Plastic pipe. Inspection of joints**

No person may carry out the inspection of joints in plastic pipes required by §§192.273(c) and 192.285(b) unless that person has been qualified by appropriate training or experience in evaluating the acceptability of plastic pipe joints made under the applicable joining procedure.

The operator failed to provide documentation to confirm that the operator had been qualified by appropriate training or experience in the evaluation of acceptability of plastic pipe joints.

**192.615 Emergency plans.**

(a) 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.

On September 1, 2009, a natural gas odor was reported at the Amanda Austin residence. The call was received at 8:00 am and was not responded to until 10:00 am. There was no documentation explaining the delay in response time.

**192.747 Valve maintenance: Distribution systems.**

- (a) Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.

The operator failed to provide documentation to confirm that the valves were inspected within the required time lines.

**192.807 Recordkeeping.**

- (b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

The operator failed to provide documentation to support an individual's current qualification to perform covered tasks on the natural gas system.

Upon receipt of the NOPV's, the City of Shawneetown may submit to this office by May 24, 2010, in writing, evidence refuting the probable violations referenced in the NOPV's or submit a written plan of action outlining actions to be taken to correct each issue of the violations, including a schedule and the date when compliance is anticipated. The response should include the steps that the City of Shawneetown has taken, or expects to take to prevent a reoccurrence of the situations.

Failure to respond and take corrective action will result in the initiation of a Citation Order and subject the City of Shawneetown to a penalty assessment as allowed under Section 7 of the Illinois Gas Pipeline Safety Act (220 ILCS 20/7).

If you have any questions concerning this matter, please contact Charles Gribbins at (217)414-9359 or I may be contacted at (217)785-1165.

Sincerely,



Darin R. Burk  
Manager- Pipeline Safety

DRB/ns

cc: Jim Rigsby, Gas Superintendent

Shawneetown City Hall  
East Lincoln Boulevard  
Shawneetown, IL 62984  
Phone: (618) 269-3018  
Fax: (618) 269-3253

## FAX TRANSMITTAL



Date: NOV. 17, 2009

To: CHARLES Gribbins ICC.

Phone No.: CELL # 217-414-9359

Fax No.: 217-524-5516

From: Jim Rissby (SHAWNEETOWN MUNICIPAL GAS COMPANY)

Total Number of Pages: 2

### Message:

1. I HAVE RECEIVED MY NEW OQ PLAN FROM USDI
2. THEY ARE WORKING ON NEW OM PLAN.
3. HAD LEAK SURVEY DONE + COMPLETED OCT. 21, 2009  
AND DID ODORATER TEST IT WAS GOOD.
4. CHECKING WITH HECKMAN ABOUT DRUG POOL AND SETTING  
UP TIME TO GET GUYS DRUG TESTED.

**CITY of SHAWNEETOWN**  
OLDEST TOWN IN THE STATE MODERN IN EVERY RESPECT  
SHAWNEETOWN, ILLINOIS  
ZIP CODE 62984

5. WORKING ON PUBLIC AWARENESS ABOUT NATURAL GAS TO BE PUBLISHED IN NEWSPAPER.
6. I HAVE DONE PATROLING OF GAS SYSTEM TWICE.
7. MY NEW E-MAIL ADDRESS  
RIGSBY.JIM A G MAIL.COM

THANKS

JIM RIGSBY