

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission :
On it's Own Motion :
Vs. : 10-0609
Shawneetown, Illinois, a Municipal :
Corporation :
Citation for alleged violations of federal :
Rules incorporated by the Illinois :
Commerce Commission and of 83 Ill. Adm. :
Code 520. :

STIPULATION

Now come, Shawneetown, Illinois, a Municipal Corporation (“Shawneetown”) and the Staff of the Illinois Commerce Commission (“Staff”) (collectively referred to as the “Parties”), and hereby submit this Stipulation, in regards to the facts pertaining to Docket No. 10-609, for the consideration of the Illinois Commerce Commission (“Commission”). For this Stipulation, the Parties state as follows:

1. Shawneetown, Illinois, a Municipal Corporation (“Shawneetown”) is a corporation organized and existing under the laws of the State of Illinois.
2. Shawneetown is engaged in delivering natural gas to the public in Illinois and was a public utility within the meaning of 220 ILCS 5/3-105 of the Public Utilities Act (the “Act”).
3. On October 20, 2010, the Commission entered an Order commencing Docket No. 10-0609 under Section 7 of the Illinois Gas Pipeline Safety Act (the “Pipeline

Safety Act”), 220 ILCS 20/7, to determine whether Shawneetown had failed to comply with the rules adopted by the Commission in 83 Illinois Administrative Code 590 establishing minimum safety standards for the transportation of gas and pipeline facilities, including the adoption of the Minimum Federal Safety Standards promulgated by the United States Department of Transportation, and whether civil penalties should be imposed pursuant to Section 7 of the Pipeline Safety Act.

4. Pursuant to scheduling rulings by a duly authorized Administrative Law Judge of the Commission, Staff and Shawneetown filed the direct testimony of Charles Gribbins, Staff Exhibit 1.0, on behalf of Staff and the direct testimony of Terry Williams, and Kevin Bratcher City of Shawneetown Exhibits 1.0 and 2.0 on March 24, 2011, and on June 24, 2011, respectively.
5. Shawneetown does not contest the violations set forth in Staff testimony, but has provided testimony outlining the steps it has taken and will in the immediate future take to address and resolve the complained of violations..
6. In an attempt to reach an agreement between the Parties with respect to the factual matters in Docket No. 10-0609, the Parties hereby join in this Stipulation with the intent to request the Commission’s consideration of the same.
7. This Stipulation constitutes the full and complete agreement between the Parties with respect to all factual issues in Docket No. 10-0609.
8. For the purposes of this Stipulation and the settlement of the issues of fact in Docket No. 10-0609, the Parties agree to the following facts which are supported by testimony:

- A. On September 23, 2009 and April 15, 2010, Staff conducted compliance record audits of the Shawneetown Municipal Gas System (“Shawneetown System”).
- B. The Shawneetown System serves the City of Shawneetown in Gallatin County, Illinois. At the time of the audits, Shawneetown had one employee, James Rigsby, Gas & Street Superintendent of the natural gas system.
- C. During the September 23, 2009 and April 15, 2010 audits, Staff identified violations of the following minimum safety standards adopted by the Commission, for the transportation of gas and for pipeline facilities:
 1. 49 CFR §192.615 (c), which 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;
 2. 49 CFR §192.616 (e), which requires that each operators’ Public Awareness Program include activities to advise affected school districts, business, and residents of the location of pipeline facilities;
 3. 49 CFR §192.625 (f), which requires the operator to assure proper concentration of odorant in the natural gas system through periodic sampling of the combustible gases, using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable;
 4. 49 CFR §192.721 (b), which outlines operator requirements to periodically patrol mains in places or on structures where anticipated physical movement or external loading could cause failure or leakage;
 5. 49 CFR §192.481 (a) which 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;
 6. 83 Ill. Adm. Code 520.10 (10) requires the operator 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;
 7. 49 CFR §199.113(a), (b), and (c), which require each operator to provide an Employee Assistance Program (EAP), including

specific education and training on drug use, for its employees and supervisory personnel who will determine whether an employee must be drug tested;

8. 49 CFR §199.117 (a) (4), which requires that records confirming that supervisors and employees have been trained as required by Part 199 of the federal Rules must be kept for a minimum of 3 years;
9. 49 CFR §199.241, which 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;
10. 49 CFR §199.119 (d), which requires reporting of anti-drug testing results to the Federal Pipeline and Hazardous Materials Safety Administration (PHMSA);
11. 49 CFR §192.285 (a) and (b), which state that no person may make a plastic joint unless that person has been qualified under the applicable joining procedure and has a specimen joint tested in accordance with one of the methods listed under 49 CFR §192.283;
12. 49 CFR §192.287, which prohibits anyone from inspecting joints in plastic pipes unless he or she has first has been qualified by appropriate training or experience in evaluating the acceptability of plastic pipe joints made under the applicable joining procedure;
13. 49 CFR §192.615 (a) (3)(i), which requires each operator to establish written procedures to minimize the hazard resulting from a gas pipeline emergency, prompt and effective response to a notice of each emergency, including gas detected inside or near a building;
14. 49 CFR §192.747(a), which 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;
15. 49 CFR §192.807(b), which requires operators to maintain qualification records identifying which individuals are qualified to do specific tasks, as well as the dates upon which and the methods by which those individuals were qualified. ;

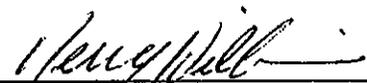
- D. The violations of 49 CFR §192.721(b) and 83 Ill. Adm. Code 520.10(10) were corrected prior to Staff filing its direct testimony.
- E. In response to Staff's testimony regarding these violations, Shawneetown has committed to or has undertaken the following:
1. Shawneetown has discharged James Rigsby from his position as Gas Superintendent for the Shawneetown System.
 2. Shawneetown entered into an Intergovernmental Cooperation Agreement dated April 4, 2011 with Gas Utilities Alliance and subsequently became a member of the Gas Utilities Alliance.
 3. Shawneetown has entered into an agreement, dated April 1, 2011 and approved by Shawneetown on April 26, 2011, with Consumers Gas Company to undertake the full operation and maintenance of the Shawneetown System.
 4. The Shawneetown System is now being operated by Consumers Gas Company without any Shawneetown employees.
 5. Since Consumers Gas Company has taken over the operation and maintenance of the Shawneetown System, the following steps have been taken to address the former violations:
 - a. 49 CFR §192.615 (c) – An emergency planning meeting will be scheduled and completed by September 2011 with the appropriate fire, police and other public officials to share information as required.
 - b. 49 CFR §192.616 (e) – A customer notification and customer awareness program has been established. A mailing to all customers took place by the end of June, 2011 using Consumers Gas notification cards. Another mailing will take place in December, 2011. Thereafter customers will be notified twice yearly, as required.
 - c. 49 CFR §192.625 (f) – Consumers Gas checks and documents periodic sampling, using the proper instrumentation. The first sampling was done in May, 2011. Another sampling will be done in June 2011, and periodically thereafter as required.
 - d. 49 CFR §192.721 (b) – Consumers Gas maintains periodic patrols. A patrol was done in May, 2011. There are two crossings of Illinois Route 13. These will be patrolled regularly, no less often than every 3 months as required.

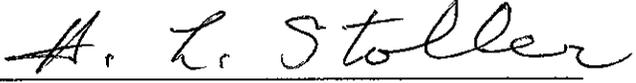
- e. 49 CFR §192.481 (a) – Consumers Gas will perform inspections as required. An atmospheric corrosion survey was conducted in May, 2011. All exposed pipeline was repainted then. Compliance will be maintained.
- f. 83 Ill. Adm. Code 520.10 (10) - Consumers Gas is in compliance with this requirement and will maintain compliance.
- g. 49 CFR §199.113(a), (b), and (c) – Consumers Gas has established employee assistance program as required. All of its employees are in compliance. There are no City employees involved in the operation or maintenance of the Shawneetown Gas System. Compliance will be maintained.
- h. 49 CFR §199.117 (a) (4) – Consumers Gas is in compliance with this requirement and will maintain compliance.
- i. 49 CFR §199.241 - Consumers Gas is in compliance with this requirement and will maintain compliance.
- j. 49 CFR §192.285 (a) and (b), 49 CFR §287 – Consumers Gas has and maintains qualified persons and is in compliance with these requirements, and will maintain compliance.
- k. 49 CFR §192.615 (a) (3)(i) - Consumers Gas is in compliance with this requirement and will maintain compliance. It has an operations manual and emergency plan.
- l. 49 CFR §192.747(a), - Consumers Gas is in compliance with this requirement and will maintain compliance.
- m. 49 CFR §192.807(b) - Consumers Gas is in compliance with this requirement and will maintain compliance.

DATED this 29th day of August, 2011.

CITY OF SHAWNEETOWN

ILLINOIS COMMERCE COMMISSION STAFF

by 

by 

Terry Williams Mayor	Harry Stoller Director
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