

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Public Service Commission)
City of Granville)
Pipeline Safety Case)

GS-16-764

CONSENT AGREEMENT

Preliminary Statement

This Consent Agreement is entered into by and between The City of Granville, (“Granville”) and Public Service Commission Advocacy Staff (“Staff”) (together, the “Parties”) for resolution of Docket No. GS-16-764.

Granville Records Audit: On November 22, 2016, the Public Service Commission Staff Gas Pipeline Safety Inspector, Craig Reamann (Inspector), conducted a standard records audit of the gas pipeline safety records for the propane distribution system operated by Granville.

As a result of the audit, three probable violations of the pipeline safety regulations were identified. On December 14, 2016, Staff issued a Notice of Probable Violation (NOPV) alleging the following:

Probable Violation 1: Granville did not inspect or test the capacity of relief device #14 in 2015 or determine the capacity by review and calculations as required by 49 CFR § 192.743(a). Relief devices must have sufficient capacity to protect the facilities to which it is connected.

Probable Violation 2: In 2015, Granville did not check or service distribution valve(s) as required under 49 CFR § 192.747 (a), in 2015.

Probable Violation 3: In 2015, Granville did not inspect their aboveground pipe for atmospheric corrosion as required under 49 CFR § 192.481 (a).

See Notice of Probable Violation, December 14, 2016.

On February 7, 2017 Granville filed a response to the NOPV. The response did not contest the allegations of probable violation, but gave a written explanation, information, and other materials that Granville believed should mitigate or eliminate the proposed civil penalties included in the NOPV. Granville did not request a hearing.

Granville and Staff engaged in good faith settlement discussions resulting in this Consent Agreement. Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and that an order approving this Consent Agreement is the most appropriate means of resolving the NOPVs, pursuant to North Dakota Administrative Code § 69-09-03-02 and 49 C.F.R. § 190.219, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, the following is agreed upon:

I. GENERAL PROVISIONS

1. Granville agrees and understands that this Consent Agreement is subject to approval of the North Dakota Public Service Commission.
2. Granville acknowledges that Granville and its pipeline system are subject to the jurisdiction of the North Dakota Public Service Commission and the laws, rules and administrative orders issued thereunder. For purposes of this Consent Agreement, Granville acknowledges that it received proper notice in this proceeding and that the NOPVs state claims upon which relief may be granted pursuant to North Dakota Century Code § 49-02-01.2 and 49 CFR § 190.
3. Granville, for purposes of this Consent Agreement, does not contest the allegations made in the NOPV and agrees to abide by the terms of this Consent

Agreement. Granville agrees to the civil penalty as set forth in Section II of this Consent Agreement.

4. Granville consents to the filing of this Consent Agreement and an Order Adopting this Consent Agreement (Order) and hereby waives any further procedural requirements with respect to its issuance. Subject to the Order approving this Consent Agreement, Granville understands and agrees to waive all rights to contest the NOPV, the right to be represented by legal counsel, the right to present evidence and arguments to the Commission, the right to cross examine witnesses, or contest the validity of this Consent Agreement and the Order Adopting this Consent Agreement, including all rights to administrative or judicial hearings or appeals. By agreeing to this Consent Agreement, and subject to the Order Adopting this Consent Agreement, Granville waives all of those rights in their entirety.

5. This Consent Agreement shall apply to and be binding upon Granville and its successors and assigns. Granville agrees to provide a copy of this Consent Agreement and the Order Adopting this Consent Order to all of Granville's officers, employees and agents whose duties might reasonably include compliance with this Consent Agreement.

6. For all transfers of ownership or operating responsibility of Granville's gas pipeline system, Granville shall provide a copy of the Consent Agreement and Order to prospective transferee before such transfer.

7. This Consent Agreement constitutes the final, complete and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Consent Agreement, and the Parties acknowledge that there are no representations,

agreements or understandings relating to the settlement other than those expressly contained in this Consent Agreement, except that the terms of this Consent Agreement and may be construed by reference to the NOPV.

8. Nothing in this Consent Agreement affects or relieves Granville of its responsibility to comply with all applicable requirements of pipeline safety laws, rules and orders issued thereunder. Except with respect to the NOPVs which are being resolved by this Consent Agreement, nothing herein alters the Commission's authority to bring enforcement actions against Granville pursuant to pipeline safety laws, rules and orders issued.

II: Civil Penalties

9. The Commission has the authority to assess a civil penalty for violation of a rule or order of the Commission, not to exceed \$200,000 for each violation for each day that the violation continues, except that the maximum penalty may not exceed \$2,000,000 for any related series of violations. See N.D. Admin. Code § 49-07-05.1.

10. In determining the amount of a civil penalty under this part, the program manager shall consider the appropriateness of the penalty to the size of the business of the person charged, the nature, circumstances and gravity of the violation, the degree of culpability, any history of prior violations, the effect on the respondent's ability to continue in business, the good faith of the person charged in attempting to achieve compliance after notification of a violation, and such matters as justice may require. See N.D.C.C. § 49-07-05.1.

11. Granville agrees to be assessed a civil penalty of \$4,500, suspended on the condition that Granville remains compliant with the following requirements for a period of three years:

- inspect or test the capacity of relief device #14 annually or determine the capacity by review and calculations as required by 49 CFR § 192.743(a). Relief devices must have sufficient capacity to protect the facilities to which it is connected.
- check or service distribution valve(s) as required under 49 CFR § 192.747 (a),.
- inspect their aboveground pipe for atmospheric corrosion as required under 49 CFR § 192.481 (a).

In the event that the Commission finds Granville in violation of the listed requirements within three years of the date of the Order approving Consent Agreement, Granville agrees that it shall remit the suspended portion of the penalty, \$4,500 within the time ordered by the Commission, in addition to any additional fines or penalties imposed for the subsequent violations.

III: Effective Date

12. The "Effective Date" as used herein is the Order date of the Commission.

IV: Ratification

13. The parties' undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind such party to this document.

14. The Parties hereby agree to all conditions and terms of this Consent Agreement:

For Granville:

Antea Trona

Person signing

Title City Auditor

City of Granville

Date: 3-14-2017

For PSC Staff:

Craig Reamann

Craig Reamann

Program Manager

PSC Staff

Date: 3-20-2017