

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Dakota Gasification Company
Pipeline Safety Enforcement**

Case No. GS-23-302

ORDER ON NOTICE OF PROBABLE VIOLATION

October 9, 2025

Preliminary Statement

Dakota Gasification Company (DGC) is a domestic corporation with a principal address of 1717 East Interstate Avenue, Bismarck, North Dakota 58503.

On December 22, 2023, Public Service Commission (Commission) Gas Pipeline Safety Inspectors (Staff) conducted a Biennial Transmission Operations & Maintenance (O&M) Records Inspection of DGC.

On March 22, 2024, a Notice of Probable Violation (NOPV) was issued to DGC alleging two violations of Pipeline Safety Regulations and proposed a civil penalty in the amount of \$1,500.

On April 22, 2024, Staff received a response from DGC providing additional information and records regarding the inspection findings and requesting mitigation or elimination of the civil penalties.

On May 8, 2025, Staff denied DGC's request for the mitigation or elimination of the civil penalties.

On May 29, 2025, DGC remitted the \$1,500 civil penalty and provided a response that DGC was not contesting the NOPV.

Discussion

Violation 1:

During the O&M records inspection, Staff identified that DGC records indicated cathodic protection rectifiers and impressed current power sources were not inspected at the required frequency. Per 49 CFR § 192.465(b), a minimum of six rectifier inspections are required per calendar year. DGC records indicated these components were only inspected five times.

Furthermore, the DGC O&M records show that in CY2021 and CY2022, the inspection interval was exceeded three times. 49 CFR § 192.465(b) establishes that an inspection interval must not exceed 2½ months. DGC records indicated the code required interval was exceeded first by 91 days, second by eight days, and third by one day.

Failing to inspect each cathodic protection rectifier or impressed current power source at the frequency required is a violation of Pipeline Safety Regulation 49 CFR § 192.465(b) which states in part:

- (b) Cathodic protection rectifiers and impressed current power sources must be periodically inspected as follows:
 - (1) Each cathodic protection rectifier or impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2½ months between inspections, to ensure adequate amperage and voltage levels needed to provide cathodic protection are maintained. This may be done either through remote measurement or through an onsite inspection of the rectifier.

Violation 2:

DGC O&M records indicate that each interference bond whose failure would jeopardize structure protection (critical bond) was not electrically checked for proper performance at the required interval. Per 49 CFR § 192.465(c), each reverse current switch, each diode, and each interference bond whose failure would jeopardize structure protection must be electrically checked for proper performance six times each calendar year, but with intervals not exceeding 2½ months. DGC records indicate that the code required interval was exceeded once by 204 days.

Failing to electrically check for proper performance each reverse current switch, each diode, and each interference bond whose failure would jeopardize structure protection at the frequency required is a violation of Pipeline Safety Regulation 49 CFR § 192.465(c) which states:

- (c) Each reverse current switch, each diode, and each interference bond whose failure would jeopardize structure protection must be electrically checked for proper performance six times each calendar year, but with intervals not exceeding 2½ months. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding 15 months.

Pursuant to 49 CFR § 190.208, by DGC not contesting the NOPV, paying the proposed penalty, and advising the Commission of the payment, DGC has admitted to the violations.

Order

The Commission Orders:

1. DGC's response is accepted. A copy of the NOPV is attached to and made a part of this Order on Notice of Probable Violation (Order).
2. DGC's payment of \$1,500 is accepted as full satisfaction of the civil penalty.
3. DGC agrees to provide the Commission, within ten (10) business days of service of this Order, a U.S. Department of the Treasury Internal Revenue Service Form W-9 for purposes of the identification requirement of Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), the performance is restitution, remediation, or an amount paid to come into compliance with the law.


PUBLIC SERVICE COMMISSION



Sheri Haugen-Hoffart
Commissioner



Randy Christmann
Chair



Jill Kringstad
Commissioner

STATE OF NORTH DAKOTA
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**Public Service Commission
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NOTICE OF PROBABLE VIOLATION

March 22, 2024

Pursuant to North Dakota Century Code (N.D.C.C.) section 49-02-01.2, and North Dakota Administrative Code (N.D. Admin. Code) chapter 69-09-03, Public Service Commission (Commission) Gas Pipeline Safety Staff (Staff) conducted a Biennial Transmission Operations & Maintenance Records Inspection of Dakota Gasification Company (DGC). As a result of the inspection, probable violations of the Commission's gas pipeline safety regulations were identified.

DATE(S) OF AUDIT:

December 22, 2023

TYPE OF AUDIT:

Biennial Operations & Maintenance Records Inspection

LOCATION OF AUDIT:

Audit was conducted remotely.

PSC STAFF:

Caleb Simburger, Program Manager/Inspector
Lakken Paulsrud, Inspector

OPERATOR'S AUDIT CONTACT PERSON:

Kurt Dutchuk
Pipeline Supervisor
KDutchuk@bepc.com
701-873-6367

INSPECTION

A Biennial Transmission Operations & Maintenance (O&M) Records Inspection of DGC was conducted remotely. Follow-up items were requested and reviewed. The inspection was completed on December 22, 2023.

As a result of the inspection, Staff alleges that DGC committed violations of pipeline safety regulations.

PROBABLE VIOLATION NO. 1:

INSPECTION FINDINGS:

DGC O&M records indicate that cathodic protection rectifiers and impressed current power sources were not periodically inspected at the frequency required by 49 CFR Part 192.465(b).

O&M records show that four rectifier inspections were documented in CY2021. The inspections were conducted on 01/13/2021, 03/11/2021, 07/15/2021, and 09/15/2021. Per 49 CFR Part 192.465(b), a minimum of six rectifier inspections are required per calendar year. Furthermore, the O&M records show that in CY2021 and CY2022, the inspection interval was exceeded four times. The following list shows documented inspection dates and the number of days between those inspections:

Date of inspection	Date of following inspection	Number of days between inspections
03/11/2021	07/15/2021	126
09/15/2021	03/01/2022	167
03/28/2022	06/20/2022	84
09/22/2022	12/08/2022	77

49 CFR Part 192.465(b) establishes that an inspection interval must not exceed 2½ months.

PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:

49 CFR Part 192.465(b) External corrosion control: Monitoring and remediation.

(b) Cathodic protection rectifiers and impressed current power sources must be periodically inspected as follows:

(1) Each cathodic protection rectifier or impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2½ months between inspections, to ensure adequate amperage and voltage levels

needed to provide cathodic protection are maintained. This may be done either through remote measurement or through an onsite inspection of the rectifier.

(2) After January 1, 2022, each remotely inspected rectifier must be physically inspected for continued safe and reliable operation at least once each calendar year, but with intervals not exceeding 15 months.

VIOLATION:

As operator of the system, DGC is responsible for complying with gas pipeline safety regulations. DGC failed to inspect each cathodic protection rectifier or impressed current power source at the frequency required by 49 CFR Part 192.465(b).

PROPOSED CIVIL PENALTY:

Any person or entity who violates a rule or order of the Commission pursuant to N.D.C.C. § 49-02-01.2 and N.D. Admin. Code Chapter 69-09-03, is subject to a civil penalty not to exceed two hundred thousand dollars for each violation for each day that the violation continues, except that the maximum penalty may not exceed two million dollars for any related series of violations.

The Proposed Civil Penalty is \$1,000.00.

PROBABLE VIOLATION NO. 2:

INSPECTION FINDINGS:

DGC O&M records indicate that each interference bond whose failure would jeopardize structure protection (critical bond) was not electrically checked for proper performance at the frequency required by 49 CFR Part 192.465(c) which states each interference bond whose failure would jeopardize structure protection must be electrically checked for proper performance six times each calendar year, but with intervals not exceeding 2½ months.

Records show that a critical bond (TP 1) was installed and checked on October 5, 2022. It was checked next on July 11, 2023, exceeding the code required interval by 204 days. DGC updated their Interference Bonds Bimonthly Report to include the TP 1 bond and additional information describing each bond as either a “bond” or a “critical bond.”

PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:

49 CFR Part 192.465(c) External corrosion control: Monitoring and remediation.

- (c) Each reverse current switch, each diode, and each interference bond whose failure would jeopardize structure protection must be electrically checked for proper performance six times each calendar year, but with intervals not exceeding

2½ months. Each other interference bond must be checked at least once each calendar year, but with intervals not exceeding 15 months.

VIOLATION:

As the operator of the system, DGC is responsible for complying with gas pipeline safety regulations. DGC failed to electrically check for proper performance each interference bond whose failure would jeopardize structure protection at the frequency required by 49 CFR Part 192.465(c).

PROPOSED CIVIL PENALTY:

Any person or entity who violates a rule or order of the Commission pursuant to N.D.C.C. § 49-02-01.2 and N.D. Admin. Code Chapter 69-09-03, is subject to a civil penalty not to exceed two hundred thousand dollars for each violation for each day that the violation continues, except that the maximum penalty may not exceed two million dollars for any related series of violations.

The Proposed Civil Penalty is \$500.00.

TOTAL PROPOSED PENALTY:

Based upon review of the circumstances and supporting documentation involved in the above probable violations, the total Proposed Civil Penalty is: \$1,500.

RESPONSE OPTIONS:

The respondent may provide an answer or response addressed to the following:

Public Service Commission
Attn: Caleb Simburger
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

Within 30 days of receipt of a Notice of Probable Violation, the respondent must answer in the following manner:

- (a) When the notice contains a proposed civil penalty —
 - (1) If the respondent is not contesting an allegation of probable violation, pay the proposed civil penalty by check or money order made payable to “North Dakota Public Service Commission,” and advise the Gas Pipeline Safety Program Manager of the payment. The payment authorizes the Commission to make a finding of violation and to issue a final Order;

- (2) If the respondent is not contesting an allegation of probable violation, but wishes to submit a written explanation, information, or other materials the respondent believes may warrant mitigation or elimination of the proposed civil penalty, the respondent may submit such materials. This authorizes the Commission to make a finding of violation and to issue a final Order;
 - (3) If the respondent is contesting one or more allegations of probable violation, but is not requesting a hearing, the respondent may submit a written response in answer to the allegations; or
 - (4) The respondent may request a hearing.
- (b) When the notice contains a proposed Compliance Order—
- (1) If the respondent is not contesting an allegation of probable violation, agrees to the proposed Compliance Order. This authorizes the Commission to make a finding of violation and to issue a final Order;
 - (2) Request the execution of a Consent Order;
 - (3) If the respondent is contesting one or more of the allegations of probable violation or compliance terms, but is not requesting a hearing, the respondent may object to the proposed Compliance Order and submit written explanations, information, or other materials in answer to the allegations in the notice of probable violation; or
 - (4) The respondent may request a hearing.

Before or after responding in accordance with paragraph (a) or, when applicable paragraph (b), the respondent may request a copy of the violation report. The violation report will be provided to the respondent within five business days of receiving a request.

Failure by the respondent to respond in accordance with paragraph (a) or, when applicable paragraph (b), constitutes a waiver of the right to contest the allegations in the Notice of Probable Violation and authorizes the Commission, without further notice to the respondent, to find the facts as alleged in the Notice of Probable Violation and to issue a final Order.

All materials submitted by operators in response to enforcement actions may be placed on publicly accessible websites. A respondent seeking confidential treatment for any portion of its responsive materials must submit an application in accordance with N. D. Admin. Code Chapter 69-02-09.