



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

July 24, 2009


James J. McNulty, Jr., Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Law Bureau Prosecutory Staff of the Pennsylvania Public Utility
Commission v. The Peoples Natural Gas Company d/b/a Dominion Peoples
No. C-2009- 2027991

Dear Mr. McNulty:

Enclosed for filing are an original and three (3) copies of the Complaint of the Law Bureau Prosecutory Staff against The Peoples Natural Gas Company d/b/a Dominion Peoples. Copies have been served on the parties of record in accordance with the Certificate of Service.

Sincerely,


James P. Melia
Assistant Counsel
Attorney ID No. 35265

JPM/lmm

Enclosure

cc: As per certificate of service
Wayne T. Scott, DCC

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PA. P.U.C.
SECRETARY'S BUREAU

N-O-T-I-C-E

A. **You must file an Answer within 30 days of the date of service of this Complaint.** The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this Complaint and Notice. See 52 Pa. Code § 1.56(a). The Answer must raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your Answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within 30 days, Law Bureau Prosecutory Staff will request that the Commission issue an order imposing the penalty set forth in the Complaint.

C. You may elect not to contest this Complaint by paying a civil penalty in the amount of \$90,000 within 30 days. **If you elect to pay the civil penalty send payment within 30 days payable to the Commonwealth of Pennsylvania, Law Bureau Prosecutory Staff will withdraw this complaint.** The payment should be forwarded to the Pennsylvania Public Utility Commission (Law Bureau), P.O. Box 3265, Harrisburg, PA 17105-3265.

D. If you file an Answer which either admits or fails to deny the allegations of the Complaint, Law Bureau Prosecutory Staff will request the Commission to issue an order imposing the penalty set forth in this Complaint.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The Judge is not bound by the penalty set forth in the Complaint, and may impose additional and/or alternative penalties as appropriate.

F. If you are a corporation, you must be represented by legal counsel. See 52 Pa. Code §§ 1.21-1.22.

G. Alternative formats of this material are available for persons with disabilities by contacting the Public Utility Commission at (717) 787-5620.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Law Bureau Prosecutory Staff of the Pennsylvania Public Utility Commission	:	
	:	
	:	Docket No.
v.	:	C-2009- <u>2027991</u>
	:	
The Peoples Natural Gas Company d/b/a Dominion Peoples	:	
	:	

COMPLAINT OF THE
Law Bureau Prosecutory Staff

AND NOW, this 24th day of July, 2009, the Law Bureau Prosecutory Staff of the Pennsylvania Public Utility Commission files the following Complaint against The Peoples Natural Gas Company d/b/a Dominion Peoples (“Dominion”), pursuant to Section 701 of the Public Utility Code, 66 Pa. C.S. § 701, predicated on information obtained during its investigation into several operational, maintenance and safety issues associated with a gas explosion in Plum Borough, Allegheny County, Pennsylvania on March 5, 2008. Complainant further avers as follows:

I. INTRODUCTION.

1. The Commission is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate utilities within Pennsylvania pursuant to the Public Utility Code (the “Code”), 66 Pa. C.S. §§ 101, et seq.

2. Prosecutory Staff is the entity established by statute to prosecute complaints against public utilities pursuant to 66 Pa. C.S. § 308(b). The Commission has delegated its authority to initiate proceedings that are prosecutory in nature to Prosecutory Staff and other bureaus with enforcement responsibilities. Delegation of

Prosecutory Authority to Bureaus with Enforcement Responsibilities, M-00940593
(Order entered Sept. 2, 1994).

3. Section 501(a) of the Code, 66 Pa. C.S. § 501(a), authorizes and obligates the Commission to execute and enforce the provisions of the Code.

4. Section 701 of the Code, 66 Pa. C.S. § 701, authorizes the Commission, inter alia, to hear and determine complaints against public utilities for a violation of any law or regulation that the Commission has jurisdiction to administer.

5. Section 3301 of the Code, 66 Pa. C.S. § 3301, authorizes the Commission to impose civil penalties on any public utility or any other person or corporation subject to the Commission's authority for violations of the Code and/or Commission regulations. Section 3301 further allows for the imposition of a separate fine for each day such violation(s) continue.

6. Pursuant to the Commission's regulations at 52 Pa. Code § 59.33(b), the Commission's Gas Safety Division has the authority to enforce the federal gas pipeline safety regulations, set forth in 49 U.S.C.A. §§ 60101, et seq., and implemented in 49 C.F.R. Parts 191-193 and 199.

7. The Respondent is The Peoples Natural Gas Company d/b/a Dominion Peoples, a jurisdictional gas utility with corporate offices located in the D.L. Clark Building Suite 500, 501 Martindale Street, Pittsburgh, Pennsylvania.

8. Dominion is a public utility as defined by 66 Pa. C.S. § 102(1)(ii), holding Utility Certificate No. A-122250, and is engaged in providing public utility service as a gas distribution company to the public for compensation.

9. Respondent, in providing gas (distribution/transmission) service for compensation, is subject to the power and authority of the Commission pursuant to Section 501(c) of the Code, 66 Pa. C.S. § 501(c), which requires a public utility to comply with Commission orders.

10. Pursuant to the provisions of the applicable Commonwealth statutes and regulations, the Commission has jurisdiction over the subject matter and the actions of the Respondent.

II. THE PARTIES.

11. Complainant is the Law Bureau Prosecutory Staff of the Pennsylvania Public Utility Commission (“Prosecutory Staff”). The Prosecutory Staff attorneys are James P. Melia and Adam Young, P.O. Box 3265, Harrisburg, PA, 17105-3265.

12. Respondent is The Peoples Natural Gas Company d/b/a Dominion Peoples (“Dominion Peoples” or “Dominion”), a jurisdictional public utility, with offices located at 1201 Pitt Street, Pittsburgh, Pennsylvania 15221.

II. FACTUAL ALLEGATIONS.

A. SEQUENCE OF CRITICAL EVENTS.

13. The following is a sequence of events that led to an explosion and fire at 171 Mardi Gras Drive, Plum Borough, PA on March 5, 2008.

14. At approximately 1:39PM EST on March 5, 2008, a single-family residence, owned by the Pettinato family, located at 171 Mardi Gras Drive in Plum Borough, Pennsylvania exploded.

15. At 1:42PM the Holiday Park Fire Department was notified and the Fire Chief arrived on the scene approximately six minutes later.

16. There was a male fatality and a child was seriously injured. One house was destroyed and two other houses were rendered a total loss. Eleven (11) other houses sustained damage from the explosion.

17. Dominion owns and operates the gas distribution pipelines in the area and was notified of the explosion at 1:44PM. At 2:12 PM, a Dominion Service Representative arrived. At 2:17 PM, the Dominion maintenance crews arrived at the scene. Dominion supervisors arrived at 2:20PM.

18. Valves that controlled the flow of gas in the pipeline designated M-2523, directly serving Mardi Gras Drive, were turned off at 5:50PM. Gas was eliminated from the pipeline. A fire along the driveway at 171 Mardi Gras Drive was extinguished at 5:55PM. The steel pipeline was exposed by the Dominion crews north of the driveway at 8:29PM under the supervision of the Commission and Allegheny County Fire Marshals Office.

19. A circumferential crack approximately 270 degrees around the steel pipe was discovered. The ligament holding the steel pipe together was located at the top of the pipe. A pronounced bowing of the pipe and a dent on the underside of the pipe was observed. A crack was also identified on the pipe. The pipe was marked, photographed and the crack was covered by a full circle band clamp. A section of the pipe was removed and was examined at the National Transportation Safety Board (“NTSB”) Laboratory in Washington, DC.

B. ADDITIONAL FACTUAL ALLEGATIONS.

20. There were no odors of gas reported or any other reports of unusual occurrences prior to the explosion.

21. Notice of the explosion was reported to the Allegheny County Emergency Response Center at 1:39PM on March 5, 2009.

22. A Dominion serviceman arrived on site at 2:12PM and a crew truck arrived at 2:17PM. It was determined that there were two valves located at 140 Mardi Gras Drive that controlled the flow of gas to the 2-inch main on the west side of Mardi Gras Drive. These valves were designated Valve Nos. 9115 and 9116. The other valve needed to shut off the flow of gas is located at the corner of Hialeah and Mardi Gras Drive. This valve is designated Valve No. 1280. The valves at 140 Mardi Gras Drive (Valves 9115 and 9116) were closed first. This work was supervised by a Dominion supervisor.

23. Dominion initiated a leak survey of the area and gas readings were taken on both sides of Mardi Gras Drive near house Nos.171 and 170.

24. Commission Gas Safety Inspector, Ralph Graeser, arrived at 3:15PM.

25. Dominion personnel were attempting to operate Valve No. 1280 located at Hialeah and Mardi Gras Drive. Dominion planning personnel identified another valve to shut off the flow of gas across from 4803 Hialeah Drive. This valve is labeled as Valve No. 785. A Dominion crew and supervisor were dispatched to this location.

26. At approximately 3:30PM, Duquesne Light Company shut off the electric service to Mardi Gras Drive. At approximately 3:40PM, the Dominion representative turned off the gas curb valve to 171 Mardi Gras Drive. The ground remained on fire along the north side of the driveway at 171 Mardi Gras Drive.

27. Valve No.1280 was excavated to determine the position of the valve and subsequently turned off. At approximately 4:30 PM, the crew at Valve No. 785 was notified to turn off this valve. The valve was turned off but the ground remained on fire along the north side of the driveway at 171 Mardi Gras Drive.

28. Dominion planning personnel were asked by Commission personnel to identify other valves to shut off the flow of gas to Mardi Gras Drive. Dominion moved a crew to the valves at 140 Mardi Gras Drive to evaluate the position of Valve Nos. 9115 and 9116. A crew tried to turn these valves but the valves were frozen. Valve Nos. 9115 and 9116 were excavated. Both valves required lubrication and both valves were turned to the "off" position at 5:50PM. At approximately 5:55PM, the ground fire along the north side of the driveway at 171 Mardi Gras Drive was extinguished. There were 37 customers without gas service on Mardi Gras Drive as a result of the explosion and resulting fire.

29. The area where the ground remained on fire along the north side of the driveway at 171 Mardi Gras Drive was directly in line with the sanitary sewer lateral.

30. After the fire was extinguished at 171 Mardi Gras Drive, the area was visually evaluated by Commission personnel. A 4-inch plastic pipe was found along the pavement at the north side of the driveway at 171 Mardi Gras Drive. The depth of this pipe was measured at 83-inches. This pipe was identified by a Plum Borough Municipal Authority ("Authority") employee as the "sewer clean-out" pipe at the sewer lateral. Dominion placed an emergency "One Call" notice through the Pennsylvania One Call

System for the excavation of the pipe. The sewer service was located and marked. The Dominion crew located Pipeline M-2523 located in front of 171 Mardi Gras Drive.

31. At approximately 8:29PM, a Dominion representative identified the top of Pipeline M-2523 at a depth of 57-inches. A six-foot length of 2-inch steel (Pipeline M-2523) was completely uncovered by hand.

32. Commission Gas Safety Division personnel Paul Metro and Robert Biggard arrived on the site at approximately 9:00 PM.

33. At approximately 9:10PM, a circumferential crack was identified on the bottom of Pipeline M-2523. The crack measured 270-degrees around the steel pipe and 4-millimeters wide at the bottom of the pipe. A ten foot section of Pipeline M-2523 was exposed.

34. At approximately 11:30PM, a 7.5 foot segment of Pipeline M-2523 was removed. A replacement section of 2-inch plastic was inserted into the pipeline. Gas service was restored on March 6, 2008 to the houses not damaged by this explosion.

C. RESULTS OF THE INVESTIGATION.

35. An investigation conducted by the National Transportation Safety Board (“NTSB”) and the Commission revealed that the prior owner of the residence at 171 Mardi Gras Drive had engaged a local excavation contractor, Mr. Scott Ley and a subcontractor, Higgins Plumbing, to install a sewer lateral in October 2003. At the time of the sewer lateral replacement, a six foot section of gas line M-2523 was exposed and was damaged through the activities of the contractors Ley and Higgins.

36. Further investigation revealed that Dominion initially installed the Pipeline M-2523 on the west side of Mardi Gras Drive in 1961. Service at 171 Mardi Gras Drive was begun in 1967 for the building contractor, Ryan Homes. Pipeline M-2523 has a Maximum Allowable Operating Pressure of 10psig. This segment of Pipeline M-2523 was put under cathodic protection in 1984. There is no prior record of any corrosion leaks on Pipeline M-2523.

37. The valves involved in this incident (Valve Nos. 9115, 9116, 1280 and 785) were not inspected annually by Dominion. The valve at 140 Mardi Gras Drive (Valve 9115) was last inspected January 26, 1998 and Valve 9116 was last inspected June 14, 1996. Both these valves were inspected annually from 1970 to 1979. The valve at Hialeah and Mardi Gras Drive (Valve 1280) was last inspected January 30, 1998. This valve was inspected annually from 1974 to 1980. The valve across from 4803 Hialeah Drive (Valve 785) was last inspected January 12, 1998. This valve was inspected annually from 1989 to 1991.

38. There were no odor level tests taken at the site of the explosion on Mardi Gras Drive and a pressure test revealed no leaks at this location.

39. The pressure in the Pipeline M-2523 at the time of the failure was 9 psig. The results of Dominion pressure tests were as follows: 171 Mardi Gras Drive (10psig) ; 159, 167 and 163 Mardi Gras Drive (9psig).

40. On March 7, 2008, Dominion services to 167 and 171 Mardi Gras Drive were abandoned at the main. The gas reading in front of 170 Mardi Gras Drive went to zero. Dominion Peoples conducted leak surveys of the residential development for a period of time thereafter.

41. On April 15, 2008, the National Transportation Safety Board (“NTSB”) Laboratory in Washington DC conducted metallurgical analysis on the failed section of pipe removed from 171 Mardi Gras Drive in Plum Borough on March 5, 2008. NTSB procedures involved: (1) removal of the band clamp; (2) photography of the pipe section; and (3) cleaning of the pipe section. Preliminary NTSB analysis indicated: (1) evidence of mechanical damage located on the bottom of the pipe causing the pipe to be “out of round;” (2) lack of external coating in the area of the damage; (3) a crack in the pipe located in the damaged area beginning at the bottom and extending to the top of the pipe. Microscopic analysis revealed an area of external corrosion in the crack initiation area. This corrosion in the wall of the pipe allowed the crack to propagate through the pipe.

42. The final NTSB Report was issued on November 21, 2008.

IV. COUNTS OF THE COMPLAINT.

A. COUNT 1 - Violation of 52 Pa. Code §59.33(b) and 49 CFR § 192.13 (General.Requirements).

43. Section 59.33(a) of the Pa. Code obligates all Pennsylvania utilities to employ a reasonable standard of care to warn and protect the public, customers and its employees from danger. This provision extends to jurisdictional gas distribution companies.

44. Section 192.13(c) of the Code of Federal Regulations requires each operator to maintain, modify and follow the plans, procedures and programs that it is required to establish under this part (Part 192). Dominion failed to follow and comply with plans, procedures and programs that it is required to establish under specific provisions of Part 192. In so failing to follow these provisions, Dominion's actions constitute both violations of 49 CFR §192.13(c) and 52 Pa. Code § 59.33.

45. Dominion's failure to adhere to the general provisions of 49 CFR § 192.13(c) relating to the failure to follow, comply with and maintain proper safety, operational and maintenance plans, policies and procedures, as adopted pursuant to 52 Pa. Code § 59.33(b), subjects it to a fine of up to \$10,000 pursuant to Section §3301(c) of the Code for each provision or a total of \$20,000.

B. COUNT 2- Violation of 52 Pa. Code § 59.33(b) and 49 CFR § 192.614 (Continuing Surveillance and Damage Prevention).

46. Title 49 CFR § 192. 614 requires each operator of a gas distribution system to have in place a damage prevention program including an inspection program for pipelines that it reasonably believes could be damaged by excavation activities.

47. Based on Commission investigation, it was determined that Dominion failed to follow specific procedures outlined in Dominion Standard Operating Procedure 090-Section III (F) (2) and (3) (SOP 090) with reference to inspection of the site of the original work performed by contractors Ley/Higgins at the time of the excavation and replacement work on the sewer lateral both before and after the excavation. Had these procedures been followed, detection of the damaged Pipe M- 2523 would have likely

been detected and corrected. In failing to properly follow the provisions of its own SOP 090, Dominion additionally failed to comply with the record-keeping provisions of Section III (F) (5) for documenting the inspection activities of contractors Ley/Higgins at the 171 Mardi Gras site.

48. Dominion's failure to comply with the provisions of 52 Pa. Code § 59.33(b) and 49 CFR § 192.614 subjects Dominion to a fine of \$10,000 for violation of each statutory provision pursuant to Section 3301(c) or a total of \$20,000.

C. COUNT 3- Violation of 52 Pa. Code § 59.33(b) and 49 CFR § 192.747.

49. Title 49 CFR § 192.747 requires operators of gas distribution systems to conduct valve inspection and maintenance programs with valve inspection not exceeding intervals of 15 months. Operators must also take prompt remedial action to correct any valve found to be inoperable.

50. Dominion decided, on March 5, 2008, to use valves for gas shut-off at the site of the explosion, that were not categorized as "critical," to shut off the flow of gas to M-2523 during this emergency. None of these valves had been inspected recently.

51. The investigation of the 171 Mardi Gras Drive incident also indicates an inadequate number of critical valves for complete M-2523 shut down on March 5, 2008. The required procedure under Dominion Standard Operating Procedure 390 (SOP 390) was not followed to identify critical valves for M-2523. Additionally, these valves were not properly inspected or maintained as critical valves pursuant to SOP 390.

52. Violation of 49 CFR § 192.747 and 52 Pa. Code §59.33(b) with respect to each of the four valves constitutes separate violations for which Dominion is obligated to pay a fine of up to \$10,000 for each valve or a total penalty of \$40,000 pursuant to Section 3301(c) of the Code. Further, the continuing nature of these violations could subject Dominion to additional penalties.

D. COUNT 4 - Violation of Section 1501 of the Public Utility Code.

53. The averments contained in Counts 1 through 3 are incorporated by reference herein.

54. Dominion's actions in failing to adhere to the previously cited provisions of 52 Pa. Code 59.33 and 49 C.F.R. Part 192 constitute a violation of Section 1501 of the Code.

55. Further, as a result of any findings that arise from this proceeding that demonstrates Dominion's failure to inspect and maintain its gas distribution system generally, the Commission has the right to direct and prescribe additional safety measures as it deems necessary.

56. Dominion is subject to a total penalty of \$10,000 for violation of Section 1501 of the Code with respect to the violations contained in Counts 1 through 3 detailed above.

V. REQUESTED RELIEF.

WHEREFORE, for all the foregoing reasons, the Prosecutory Staff of the Law Bureau of Pennsylvania Public Utility Commission respectfully requests:

1. That the Commission find Dominion in violation of Sections 1501, 66 Pa. C.S. § 1501; 52 Pa. Code § 59.33(b) and 49 CFR §§ 192.13, 614 and 747 as described above;

2. That Dominion be assessed a penalty of \$ 90,000 as described above pursuant to Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301;

3. That Dominion be ordered to comprehensively review and modify their Damage Prevention Program to evaluate and determine how to correct the program to address issues described above and submit the review and subsequent modifications to the Gas Safety Division;

4. That the penalties outlined herein be directed to the Commonwealth General Fund;

5. That Dominion not be permitted to recover these fines from ratepayers in a subsequent proceeding; and

6. That the Commission grant such further relief as is just and reasonable.

Respectfully submitted,


James P. Melia
Assistant Counsel

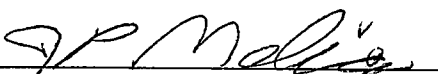
Adam D. Young
Assistant Counsel

Law Bureau
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Date: July 24, 2009

VERIFICATION

I, James P. Melia, hereby state that the facts above set forth are true and correct and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).


James P. Melia
Counsel for the Pennsylvania
Public Utility Commission

Date: July 24, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the forgoing Complaint on the parties listed below:

Delivery via First-Class Mail:

Susan George, Esq.
Dominion Resources Services, Inc.
501 Martindale Street
D. L. Clark Building, Suite 500
Pittsburgh PA 15212



James P. Melia

Attorney ID No. 35265

Counsel for the Pennsylvania Public
Utility Commission

PO Box 3265
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Dated: July 24, 2009