



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

IN REPLY PLEASE
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August 6, 2010

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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2010 AUG -6 AM 10:45
SECRETARY'S BUREAU

**Re: LBPS v. Peoples Natural Gas d/b/a Dominion Peoples
Docket No. C-2009-2027991**

Dear Secretary Chiavetta:

Law Bureau Prosecutory Staff files this letter in response to your request dated June 21, 2010 seeking additional information regarding the Proposed Settlement Agreement entered into between the parties in the above-captioned action. The letter requests a copy of Dominion SOP 090 referenced in paragraph 33B of the proposed Settlement in Count 2. The letter also requests the parties' position as to whether the failure of Dominion to follow the SOP before the excavation contributed to the explosion or whether compliance with the SOP provision could have prevented the explosion.

Initial examination of the facts indicates that a violation of SOP 090 may have occurred, but Dominion's position, undoubtedly, would be that it did not. Absent a full fact-finding inquiry and, probably, full-blown litigation before an administrative law judge, the facts are inconclusive as to whether, under the particular circumstances of this case, following SOP 090 would have prevented this incident. But the focus of the settlement is not whether SOP 090 was violated or whether absent such a violation this incident could have been prevented. In fact, it is doubtful that the liability would increase even if SOP 090 was violated.

The settlement makes clear that if Staff's allegations had been brought before an administrative law judge, Dominion would have denied them and defended against them. Both Dominion's and Staff's positions regarding Dominion's duty to have an inspector on-site during the excavation is one of many issues that were extensively discussed in the process of negotiating this settlement. The purpose of this settlement is not to accentuate the liability of Dominion, nor is it to state conclusively that the facts favor Staff's position. To do so without hearings would not be fair to the company and would impede

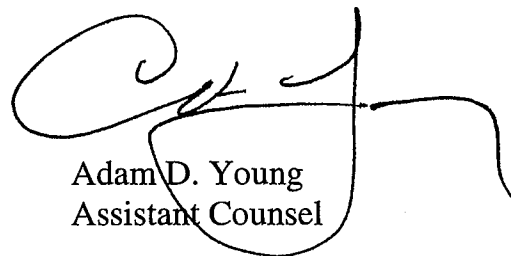
the ability to settle this and other cases. The purpose of the settlement is to neutrally state the facts, minimize to an extent any admissions of liability, and reach a mutually agreeable resolution to the matter while avoiding the time, expense, and uncertainty of litigation and lessening the time that important changes in procedures can be implemented to enhance safety.

While it is possible that following SOP 090 could have prevented this incident, there is just no way to be certain. But what is certain is that this settlement accelerated Dominion's process of implementing remedial measures designed to minimize the likelihood of an incident such as this reoccurring. Prior to, and during the settlement negotiation process, Dominion was cooperative in establishing and implementing several safety matrices, which are referenced in the settlement. Had the parties decided to litigate this matter, these remedial measures likely would not be in place at this time.

Finally, while investigating this matter, Gas Safety reviewed what documentation was available, including the NTSB report which determined that the third party excavator, not Dominion, was responsible. For the reasons stated above, Staff believed that the matter was appropriate for settlement given the inherent uncertainties associated with the facts. Moreover, the amount of the proposed penalty is consistent with the presumption that the relevant provision(s) of the CFR was violated.

The Law Bureau reiterates its position that the settlement was just and reasonable and in the public interest in light of the circumstances and avoids the costs and uncertainties of litigation.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Adam D. Young', is written over a circular stamp or seal.

Adam D. Young
Assistant Counsel

Counsel for Pennsylvania Public
Utility Commission Prosecutory Staff

cc: Cheryl Walker-Davis, OSA
Jonathan P. Nase, OSA
Paul Metro, Manager, Gas Safety
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