

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND)	DOCKET NO. PG-030438
TRANSPORTATION COMMISSION,)	
)	
Complainant,)	
)	COMPLAINT
v.)	
)	
CASCADE NATURAL GAS)	
CORPORATION,)	
)	
Respondent.)	
.....)	

1 The Washington Utilities and Transportation Commission (Commission) alleges as follows:

I. PARTIES

2 The Commission is an agency of the State of Washington, authorized by Title 80 RCW to regulate in the public interest the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation, and related activities, including gas companies.

3 Respondent Cascade Natural Gas Corporation, (“CNG” or ”Respondent”) is a gas company subject to regulation by the Commission pursuant to RCW 80.01.040(3), *et al.*

II. JURISDICTION

4 The Commission has jurisdiction over CNG because CNG is a gas company subject to regulation by the Commission, under RCW 80.28, *inter alia*. The Commission has jurisdiction over this matter pursuant to the provisions of RCW 80.01, RCW 80.04, RCW 80.28, and chapter 480-93 WAC. Specific provisions include but are not limited to: RCW 80.01.040, RCW 80.04.070, RCW 80.04.110, RCW 80.04.380, RCW 80.04.385, RCW 80.04.405, RCW 80.04.410, RCW 80.28.010, RCW 80.28.040, RCW 80.28.130, RCW 80.28.207, RCW 80.28.210, RCW 80.28.212, and WAC 480-93-188, and -220.

III. FORMAT OF THE COMPLAINT

5 Among other things, WAC 480-93 adopts certain minimum gas pipeline safety requirements, by adopting by reference specific provisions of Title 49, Code of Federal Regulations (CFR) Part 192 and requiring gas companies to comply with such regulations. *See e.g.*, WAC 480-93-010, -015, and -220.

6 For purposes of this Complaint, when a violation of a specific section of the CFR is alleged, that is intended to allege a violation of Commission rules adopting such regulations. If a violation is continuing in nature, each day the violation continues is considered a separate violation. *WAC 480-93-223(2)*.

7 The dates of the Company's records and activities for which violations are alleged in this Complaint are during the 2003 through 2004 time period.

IV. FACTUAL ALLEGATIONS

8 During 2003, Commission Pipeline Safety Staff (Staff) conducted standard pipeline safety inspections of CNG facilities and operations in CNG's Bellingham and Mt. Vernon districts. Staff determined that CNG had committed numerous apparent

violations of WAC 480-93.

9 CNG was provided a copy of the Staff's investigation report in this docket. CNG was previously provided a copy of Staff's prior investigation reports in Docket Nos. UG-010113, UG-011161, and UG-011305. Certain violations alleged in this Complaint are the same sort of violations alleged in the investigation reports in the above referenced prior dockets. Where that situation occurs, the allegation refers to "repeat violations" and contains a reference to the prior docket where the same violation is alleged to have occurred.

10 The Commission alleges, based on Staff's investigation report, as follows:

11 49 CFR § 192.285 (a)(2) requires that no person may make a plastic pipe joint unless that person has been qualified by: "making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section." 49 CFR § 192.285(b) requires that, in the case of heat fusion, the joint be subjected to one of the three tests described in 49 CFR § 192.285(b)(2)(i)-(iii). CNG violated this requirement because CNG was not subjecting qualification test specimens to one of the three tests described in 192.285(b)(2)(i)-(iii). One violation is alleged. It is not known how long CNG violated this requirement. Staff recommends the imposition of a \$5,000 penalty for this violation. ***The maximum penalty for this violation is \$25,000, pursuant to WAC 480-93-223.***

12 49 CFR § 192.13(c) requires CNG to "maintain, modify as appropriate, and follow the plans, procedures and programs that it is required to establish under [49 CFR Part 192]." CNG maintains a gas safety procedures manual. CNG's manual contains procedures relating to plastic pipe testing. However, CNG's procedure number 607.215 is inconsistent with the test requirements of 49 CFR § 192.285(b)(2), because CNG's procedure number 607.215 does not require one of the three tests described in 49 CFR § 192.285(b)(2)(i)-(iii). Therefore, because CNG's gas safety procedure manual contains a procedure not consistent with 49 CFR Part 192, CNG

violates 49 CFR §192.13. One violation is alleged. It is not known how long CNG violated this requirement. Staff recommends the imposition of a \$5,000 penalty for this violation, and seeks an order requiring CNG to conform its gas safety procedure manual to 49 CFR § 192.285(b)(2). ***The maximum penalty for this violation is \$25,000 pursuant to WAC 480-93-223.***

13 49 CFR § 192.721(b)(1) requires that CNG patrol its distribution systems located in business districts “at intervals not exceeding 4 ½ months.” CNG’s records for the Mount Vernon district indicated that CNG conducted one of its required distribution system business district patrols on April 25, 2002, and again on September 19, 2002. CNG violated 49 CFR § 192.721(b)(1) because the September 19, 2002 patrol was more than 4 ½ months after the April 25, 2002 patrol. One violation is alleged. The total number of days for this violation is four days. Staff recommends the imposition of a \$5,000 penalty for this violation. ***The maximum penalty for this violation is \$100,000 pursuant to WAC 480-93-223.***

14 49 CFR § 192.739 requires that CNG inspect its pressure regulating stations “at intervals not exceeding 15 months, but at least once each calendar year.” CNG records indicated that annual maintenance was not performed on 2 pressure regulator stations, R-28 in the Mount Vernon district, and R-137 in the Bellingham district. For R-28, maintenance was not conducted during the calendar year 2003. For R-137, maintenance was conducted on June 15, 2002 and again on September 20, 2003, which exceeds the maximum allowed 15-month interval. CNG therefore violated 49 CFR § 192.739. Two violations are alleged. The total number of days for this violation is 6 days. Staff recommends the imposition of a \$10,000 penalty for this violation. ***The maximum penalty for this violation is \$150,000, pursuant to WAC 480-93-223. (Repeat violation Docket No. UG-010113).***

15 49 CFR § 192.741(c) requires that “if there are indications of abnormally high or low pressure, the regulator and the auxiliary equipment must be inspected and the necessary measures employed to correct any unsatisfactory operating conditions.” CNG records indicated that the Maximum Allowable Operating Pressure (MAOP)

was exceeded at four regulator stations. Records for the Arlington regulator station R-86 indicated that the MAOP for this system was exceeded approximately 70 times between March 2002 and October 2003. Records for the Anacortes regulator station Commercial (no regulator number) indicated that the MAOP for this system was exceeded approximately six times between June 2002 and January 2003. The records for the Burlington regulator station 1955 S Burlington Blvd. (no regulator number) indicated that the MAOP for this system was exceeded approximately seven times between March 2003 and May 2003. The records for the Arlington regulator station R-19 indicated that the MAOP for this system was exceeded approximately 17 times between December 2002 and March 2003. CNG violated 49 CFR § 192.741(c) because it failed to conduct the required inspections of each of the regulators or auxiliary equipment after these indications of abnormally high pressures. Four violations are alleged. The total number of days for this violation is 100 days. Staff recommends the imposition of a \$60,000 penalty for this violation. ***The total cumulative days that this series of violations continued times the maximum per day penalty amount would result in a potential penalty that exceeds the maximum amount of \$500,000, pursuant to WAC 480-93-223. Accordingly, the maximum penalty is \$500,000. (Repeat violation, Docket No. UG-011161 and UG-011305).***

- 16 49 CFR § 192.747 requires that “each distribution valve, the use of which may be necessary for the safe operation of the distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.” In CNG’s Bellingham district, records indicated that three valves exceeded the maximum timeframe of 15 months between checking and servicing. Valve V-23 in the City of Ferndale was checked and serviced on May 21, 2002 and then again on September 2, 2003. This exceeded the maximum 15-month timeframe by approximately 12 days. Valve V-168 in the City of Bellingham was checked and serviced on March 28, 2002 and again on September 2, 2003. This exceeded the maximum 15-month timeframe by approximately 66 days. Valve V-82 in the City of Sumas was checked and serviced on May 17, 2002 and then again on September 2, 2003. This exceeded the maximum 15-month timeframe by approximately 16 days.

Three violations of 49 CFR § 192.747 are alleged. The total number of days for this violation is approximately 94. Staff recommends the imposition of a \$15,000 penalty for this violation. ***The total cumulative days that this series of violations continued times the maximum per day penalty amount would result in a potential penalty that exceeds the maximum amount of \$500,000 pursuant to WAC 480-93-223. Accordingly, the maximum penalty is \$500,000. (Repeat violation, Docket No. UG-010113).***

17 WAC 480-93-188(2) requires leak detection instruments to be “calibrated in accordance with the latest applicable manufacturer’s specifications.” CNG’s instrument calibration records indicated that 23 leak detection instruments were not calibrated according to the manufacturer’s specifications. CNG’s procedures require calibration of Hydrogen Flame Ionization instruments prior to each use. According to CNG’s calibration records, instrument Det PK III, serial #9040 was used for leak surveys 10 times in 2002 and 2003 without being calibrated; instrument DET PK III, serial #9308 was used for leak surveys 7 times in 2002 and 2003 without being calibrated; and instrument Det PK III, serial#3397 was used for leak surveys 2 times in 2002 without being calibrated. The remaining 20 instruments were not calibrated semi-annually as required. Twenty-three violations of WAC 480-93-188(2) are alleged. It is not known how long CNG violated this requirement. Staff recommends the imposition of a \$20,000 penalty for this violation. ***The total cumulative days that this series of violations continued times the maximum per day penalty amount would result in a potential penalty that exceeds the maximum amount of \$500,000 pursuant to WAC 480-93-223. Accordingly, the maximum penalty is \$500,000. (Repeat violation, Docket No. UG 011161, UG-011305, and UG 010113).***

18 Based on the foregoing allegations, a total of thirty-five violations are alleged, before consideration of each day as a continuing violation. After considering each day as a continuing violation, the total violations are 229, and the maximum potential penalty for this series of violations exceeds the maximum amount of \$1,800,000 pursuant to WAC 480-93-223. Accordingly, the maximum penalty is \$1,800,000.

V. CLAIM FOR RELIEF

- 19 The Commission realleges paragraphs 2 - 17.
- 20 WAC 480-93-010 requires gas companies' gathering, storage, distribution, and transmission facilities be designed, constructed, maintained, and operated in compliance with the provisions of Title 49 CFR, Parts 191, 192, 193, and 199.
- 21 The total number of violations alleged in this Complaint before consideration of each day of a continuing violation, is 35 violations.
- 22 RCW 80.28.212 states (in pertinent part) that any gas company that violates any regulation issued under authority of RCW 80.28.210 shall be subject to a civil penalty to be directly assessed by the Commission. Staff recommends the imposition of penalties totaling \$120,000. The Commission should also order CNG to conform its gas safety procedure manual to 49 CFR § 192.285(b)(2). The Commission is not bound by these recommendations and the Commission may impose penalties in the maximum amount permitted by law, or any other lesser amount permitted by law. The Commission may also order CNG to make such other repairs, improvements or other changes as may be deemed appropriate. RCW 80.28.040 and RCW 80.28.130.
- 23 The Commission may issue penalties to any gas company, which violates any public safety provision of RCW 80.28.210 or regulation issued thereunder. Gas companies violating provisions of Chapter 480-93 WAC are subject to a civil penalty not to exceed twenty-five thousand dollars for each violation for each day that the violation persists. The maximum civil penalty under this subsection for a related series of violations is five hundred thousand dollars.
- 24 The Commission may compromise any civil penalty issued for violations of RCW 80.28.210, and by reference therein, for violations of any Commission regulation issued thereunder. *RCW 80.28.212.*

VI. COMPLAINT

25 The Commission finds that probable cause exists to issue this complaint against the
Respondent as follows:

- 26 (1) Respondent has failed to comply with the rules and orders of the Commission
as set forth in the allegations above, and the Staff investigation reports
attached to this Complaint.
- 27 (2) The Commission should assess monetary penalties and/or other sanctions
against the Respondent if the alleged violations of state law or Commission
rules or orders identified by Staff during its investigation of Company
practices are proven.
- 28 (3) The Commission should consider ordering whatever improvements or other
changes in CNG's gas plant that may be appropriate.

DATED at Olympia, Washington, and effective this 30th day of November, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner