

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

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

CITY OF ENUMCLAW,

Respondent.

DOCKET PG-080097

COMPLAINT

NOTICE OF PREHEARING
CONFERENCE
(Set for March 11, 2009, at
1:30 p.m.)

1 The Washington Utilities and Transportation Commission (Commission), on its own
motion, and through its Staff, alleges:

I. PARTIES

2 The Commission is an agency of the State of Washington. The Legislature has
authorized the Commission to regulate the safety of gas plants used to transport
natural gas in this state, as well as the related practices of those who own or operate
such gas plants. *RCW 80.01.040, RCW 80.28.010(2), and RCW 81.88.065.*

3 Respondent City of Enumclaw (“Enumclaw” or “the City”), is located in the state of
Washington. The City owns and operates a natural gas distribution system that
transports natural gas in this state to city customers for light, heat or power.

II. JURISDICTION

4 The Commission has jurisdiction to regulate “gas companies” as to safety. *RCW
80.28.010(2)*. The City meets the definition of “gas company,” because it is a “city
owning, controlling, operating or managing any gas plant within this state.” *RCW
80.04.010 (definition of “gas company”)*. The City’s natural gas distribution system
constitutes “gas plant” because it consists of “real estate, fixtures and personal property,
owned, leased, controlled, used or to be used for or in connection with the...
distribution, sale or furnishing of natural gas...for light, heat, or power.” *RCW
80.04.010 (definition of “gas plant”)*.

- 5 An alternative basis for Commission jurisdiction over the City is that the City is a “gas pipeline company” that operates a gas pipeline for transporting gas, and the Commission regulates the safety of such operations. *RCW 81.88.010, RCW 81.88.065.*
- 6 The statutes and rules governing or implementing Commission jurisdiction over this matter are contained in RCW 80.01, RCW 80.04, RCW 80.28, RCW 81.88 and WAC 480-93. 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, 80.28.130, 81.88.040, 81.88.065, 81.88.090, 81.88.100 and WAC 480-93-007, WAC 480-93-018, -110, -170, -180, -186, -187, -188, -200, and -999.
- 7 In WAC 480-93-999(1), the Commission has adopted by reference the provisions of 49 Part 192 of the Code of Federal Regulations (CFR). Accordingly, when this Complaint alleges any violation of 49 CFR Part 192, it alleges a violation of a Commission rule.

III. OVERVIEW

- 8 From 1993 to the present, Commission employees in the Commission’s Pipeline Safety Section (“Commission Staff” or “Staff”) have conducted various safety inspections of the City’s gas plant and the related practices of the City. Over that period, Commission Staff has issued to the City at least ten notices of probable violations of Commission laws and rules, and a notice of areas of concern.
- 9 These notices, and the City’s responses to each of these notices, are contained in Commission records in several dockets, including, but not limited to: UG-930308, UG-940908, UG-951343, UG-961443, UG-971569, UG-990605, UG-000955, PG-021283, PG-040525, PG-051609.
- 10 These documents reflect a history of continued non-compliance by the City related to gas pipeline safety requirements.
- 11 In 2006, in Docket PG-051609, Staff conducted a specialized inspection of Enumclaw’s gas system, and documented several alleged violations of Commission

statutes and rules. In December 2006, the Commission approved a Settlement Agreement (“Agreement”) filed by Staff and Enumclaw to resolve the docket. Enumclaw agreed that there were violations of Commission rules, and agreed to take a number of steps in an effort to improve compliance, including: (a) retaining a qualified consultant to prepare a new O&M Manual; (b) completing the new O&M Manual and submitting it to the Commission; (c) developing and implementing a training plan for City employees responsible for the operation and maintenance of the its gas control systems; and (d) assigning a person to the dedicated position of Gas Systems Manager. The Agreement established deadlines for compliance.

- 12 From June 9 to June 13, 2008, in this docket, Commission Staff conducted a Natural Gas Standard Inspection (“2008 Inspection”) of Enumclaw’s gas pipeline system, policies, and procedures. Staff’s findings are documented in a final Probable Violation Report (“Report”), a copy of which is attached as *Attachment 1* to this Complaint (and incorporated herein by this reference). The Report also documents that, with respect to several probable violations, Enumclaw was previously notified in earlier dockets of similar probable violations.
- 13 Despite the City’s statements and actions to attempt to ensure future compliance with the Commission’s gas pipeline safety rules, Staff’s findings indicate that the City has continued to fail to comply with those rules.
- 14 The violations alleged in this Complaint constitute violations of RCW 81.88.065 in that the City of Enumclaw did not construct and maintain its facilities in such a manner as will be safe and efficient.
- 15 RCW 81.88.040 states (in pertinent part) that any (gas) pipeline company that violates any provision of RCW 81.88 or a rule adopted under RCW 81.88.060 is subject to a civil penalty to be assessed by the Commission. The Commission adopted rules in WAC 480-93 governing gas companies. According to WAC 480-93-223, the maximum civil penalty for violating any provision in RCW 81.88 or WAC 480-93, including federal rules adopted by reference, is \$100,000 for each violation, for each day the violation persists. The maximum civil penalty for a related series of violations is \$1,000,000.

- 16 In addition to the penalties prescribed in WAC 480-93-223, the City of Enumclaw is subject to penalties for violation of Commission rules under RCW 80.04.380. Each violation is \$1,000 and every day of a continuing violation is a separate offense.
- 17 Under RCW 80.28.130, the Commission may order Enumclaw to make repairs, improvements or other changes as may be deemed appropriate.

IV. SPECIFIC RULES AND STANDARDS THE COMMISSION ALLEGES THE CITY HAS VIOLATED

A. Violations of Commission Rules Regarding Establishing Plans and Procedures in the City's Operations and Maintenance Manual. [WAC 480-93-180(1)]

- 18 WAC 480-93-180(1) requires operators such as the City of Enumclaw to:

have and follow a gas pipeline plan and procedure manual (manual) for operation, maintenance, inspection, and emergency response activities that is specific to the gas pipeline company's system. The manual must include written plans and procedures for meeting all applicable requirements of 49 CFR Parts 191, 192 and WAC 480-93, and any plans or procedures used by a gas pipeline company's associated contractors.

- 19 As a result of the Agreement in Docket PG-051609, Enumclaw developed and implemented a new Operations and Maintenance Manual ('O&M Manual') in February 2008. Staff reviewed the new O&M Manual during the 2008 Inspection, and found that it did not include several plans and procedures adequate to ensure compliance with all 49 CFR Part 192 and WAC 480-93 requirements.
- 20 In particular, the 2008 Inspection found the following five examples of required procedures that were not included in the new O&M Manual: (1) a procedure to gain access to conduct an atmospheric corrosion inspection at locations where access is unavailable during the initial inspection, in order to fully meet the requirements of 49 CFR § 192.481 [atmospheric corrosion inspections]; (2) a method, such as a list, to identify pre-existing high occupancy structures; (3) a procedure to determine areas of active corrosion by electrical survey to reflect the intent of 49 CFR § 192.465(e); (4) a written procedure to ensure that all required pressure recording charts are interpreted

by an adequately qualified person, promptly, with steps to handle abnormal readings and filed in accordance with their recordkeeping policies; and (5) a procedure reflecting the City's practice of inspecting every valve on its system.

21 In sum, for the reasons set forth in paragraphs 18-20 above, Enumclaw violated WAC 480-93-180(1) in at least five (5) instances because its new O&M Manual did not include plans and procedures for meeting all requirements of 49 CFR Part 192 and WAC 480-93. Because the Commission alleges procedures are out of compliance with WAC 480-93-180(1), these are continuing violations.

B. Violations of Rules Related to Capacity of Pressure Relieving and Limiting Stations. [49 CFR § 192.201(a)(2)(ii)]

22 49 CFR § 192.201(a)(2)(ii) requires that:

each pressure relief station or pressure limiting station or group of those stations installed to protect a pipeline must have enough capacity and must be set to operate, to insure that: in pipelines other than a low pressure system, if the maximum allowable operating pressure is 12 p.s.i. (83 kPa) gage or more, but less than 60 p.s.i. (414 kPa) gage, the pressure may not exceed the maximum allowable operating pressure plus 6 p.s.i. (41 kPa) gage.

23 Enumclaw's farm taps are pressure relief stations installed on the City's high pressure pipeline to prevent the overpressure of gas services fed by these regulators. The Commission has granted the City a waiver to operate its intermediate pipeline segments at a maximum allowable operating pressure (MAOP) of 40 pounds per square inch gage (psig). In accordance with 49 CFR § 192.201(a)(2)(ii), the rupture disks on these farm taps may not relieve at a pressure exceeding 46 psig. However, the 2008 Inspection found that 56 farm taps on Enumclaw's system had rupture disks that relieve at pressures between 54 and 57 psig, exceeding the requirement. The locations of these farm taps are set forth on pages 2-3 of *Attachment 1* to this Complaint.

24 In sum, for the reasons set forth in paragraphs 22-23 above, Enumclaw violated 49 CFR § 192.201(a)(2)(ii) in at least 56 instances, because its farm taps relieved between 8 and 11 psig higher than the regulation allows. These are continuing violations from the date of the first violation.

C. Violations of Commission Rules Relating to Remediation / Corrosion Control [WAC 480-93-110(2)]

25 WAC 480-93-110 (2) requires, in relevant part, that:

each gas pipeline company must complete remedial action within ninety days to correct any cathodic protection deficiencies known and indicated by any test, survey, or inspection. An additional thirty days may be allowed for remedial action if due to circumstances beyond the gas pipeline company's control the company cannot complete remedial action within ninety days. Each gas pipeline company must be able to provide documentation to the Commission indicating that remedial action was started in a timely manner and that all efforts were made to complete remedial action within ninety days..

26 In 1996, following a standard inspection in Docket UG-951343, Enumclaw committed to repair or replace approximately 350 unprotected services by December 1, 2005, to comply with WAC 480-93-110(2). Copies of the letters documenting the agreement between Staff and Enumclaw are contained in *Attachment 2* to this Complaint (incorporated herein by this reference).

27 The 2008 Inspection, the first standard inspection since the December 1, 2005, deadline, found that Enumclaw failed to complete remedial action on 141 of its unprotected services, and could not provide documentation to the Commission. One hundred and forty one (141) violations of WAC 480-93-110(2) are alleged, for each failure to remediate these unprotected services because they remained un-remediated at the time of the 2008 Inspection.

28 Enumclaw failed to complete remedial action at a location at or near 27113 SE 432nd Street within 90 days after an atmospheric corrosion inspection on September 5, 2007, noted conditions requiring immediate repair. Remedial action should have been completed by December 4, 2007, but was not completed until August 11, 2008.

29 Enumclaw failed to complete remedial action at a location at or near 26815 SE 432nd Street within 90 days after the 2007 atmospheric corrosion inspection, on September 5, 2007, noted conditions requiring immediate repair. Remedial action should have

been completed by December 4, 2007, but was not completed until August 6, 2008.

30 Enumclaw failed to document a corrosion issue and a timely 90-day remediation at a location at or near 1522 or 1518 Cole. Staff found and reported to the City a corrosion issue at this location during a pre-field inspection on February 19, 2008. Although the 2008 Inspection found that Enumclaw did subsequently inspect, find corrosion, and replace the service on April 23, 2008, the City did not document the corrosion issue or the 90-day remediation.

31 In sum, for the reasons set forth in paragraphs 25-30 above, Enumclaw violated WAC 480-93-110(2) on at least 144 instances by: (a) failing to follow through on its documented commitment to remediate all unprotected services identified in 1995 by December 1, 2005; (b) failing to complete remediation within 90 days; and (c) failing to document corrosion issues and the associated timely remediation. Because the Commission alleges that remediation was not timely completed, and records were incomplete, these are continuing violations of WAC 480-93-110(2).

D. Violations of Commission Rules Related to Corrosion Control [WAC 480-93-110(5)) and WAC 480-93-110(8)]

32 WAC 480-93-110 sets forth several requirements related to corrosion control. WAC 480-93-110(5) requires that:

each gas pipeline company must conduct inspections or tests for electrical isolation between metallic pipeline casings and metallic pipelines at least once annually, but not to exceed fifteen months between inspections or tests. The test or inspection must also determine whether the pipeline has adequate levels of cathodic protection at the casing to pipeline interface.

33 During the 2008 Inspection, Staff found that Enumclaw had no records of inspections or tests for electrical isolation for 36 casings on its natural gas mains and services. The 36 casings that Enumclaw did not inspect are set forth on pages 3-4 of *Attachment 1* to this Complaint.

34 In sum, for the reasons set forth in paragraphs 32-33 above, Enumclaw violated WAC 480-93-110(5) in at least 36 instances, by failing to inspect casings. These are continuing violations from the date of the first violation.

35 In addition, WAC 480-93-110(8) requires that, on all cathodically protected pipelines, a gas pipeline company must take a cathodic protection test reading each time an employee or representative of the gas pipeline company exposes the facility and the protective coating is removed.

36 The 2008 Inspection found that in 2007, Enumclaw did not take a cathodic protection test reading at two locations where the facilities were exposed and the protective coatings removed. These two locations are: (1) 3038 Gossard (facility exposed on May 27, 2007); and (2) 38606 Auburn Enumclaw Road (facility exposed on September 7, 2007).

37 In sum, for the reasons set forth in paragraphs 35-36 above, Enumclaw violated WAC 480-93-110(8) on at least two instances by failing to take a cathodic protection test reading on exposed facilities. These are continuing violations from the date of the violation.

E. Violations of Rules Related to Atmospheric Corrosion Control: Monitoring [49 CFR § 192.481(a)]

38 Enumclaw must inspect, protect and maintain each pipeline against corrosion, including pipelines exposed to the atmosphere. The pipe must have an external protective coating to maintain the integrity of the pipeline and prevent leaks. Operators such as the City must establish atmospheric corrosion processes that meet federal requirements.

39 49 CFR § 192.481(a) requires that an operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

<i>If the pipeline is located:</i>	<i>Then the frequency of inspection is:</i>
Onshore___	At least once every 3 calendar years, but with intervals not exceeding 39 months
Offshore___	At least once each calendar year, but with intervals not exceeding 15 months

40 The 2008 Inspection found that 33 of Enumclaw's natural gas services that were inspected for atmospheric corrosion in 2007 were not previously inspected within 36-39 months as required. The locations of these services are described on pages 5-6 of *Attachment 1* to this Complaint.

41 The 2008 Inspection also found that 38 natural gas services exposed to the atmosphere that should have been inspected in 2007 in compliance with 49 CFR § 192.481(a), were not inspected in 2007. The locations of these services are described on page 6 of *Attachment 1* to this Complaint.

42 In sum, for the reasons set forth in paragraphs 38-41 above, Enumclaw violated 49 CFR § 192.481(a) on at least 71 instances by failing to inspect portions of pipeline exposed to the atmosphere for evidence of atmospheric corrosion at least once every three calendar years but with intervals not exceeding 39 months. These are continuing violations from the date of the violation.

F. Violations of Rules Related to Following the Plans and Procedures in O&M Manual [49 CFR § 192.13(c)]

43 49 CFR § 192.13(c) requires that each operator maintain, modify as appropriate, and follow the plans, procedures and programs that it is required to establish under 49 CFR Part 192.

44 Enumclaw established a new O&M Manual as required by Commission order in Docket PG-051609, and implemented it in February, 2008. However, in order to fully implement and maintain plans and procedures, the City must provide adequate technical procedural training to its employees. Enumclaw's training on the new O&M Manual was insufficient. It consisted of how to navigate the electronic version of the manual, but did not train employees on the procedures in the manual to ensure the safety of its pipeline system. One violation of 49 CFR § 192.13(c) is alleged for Enumclaw's failure to properly implement its new O&M Manual.

45 During the 2008 inspection, Staff found that Enumclaw failed to follow 12 separate plans, procedures, and programs in its O&M Manuals. Staff found 75 instances in which those procedures were not followed. One violation of 49 CFR § 192.13(c) is alleged for each instance a procedure was not followed, for a total of 75 violations.

These are continuing violations, from the date of the violation. Each of these procedures, and the 75 instances, are summarized on pages 6-10 of *Attachment 1* to this Complaint.

- 46 In sum, for the reasons set forth in paragraphs 43-45 above, Enumclaw violated 49 CFR § 192.13(c) in at least 76 instances, by failing to provide appropriate training on its new O&M Manual, and by failing to follow the plans, procedures, and programs that it established in its O&M Manual.

**G. Violations of Rules Related to External Corrosion Control: Monitoring.
[49 CFR § 192.465(e)]**

- 47 49 CFR § 192.465 sets forth requirements related to external corrosion control (monitoring). Specifically, 49 CFR § 192.465(e) states, in relevant part, that:

after the initial evaluation required by sections 192.455(b) and (c) and 192.457(b), each operator must, not less than every 3 years at intervals not exceeding 39 months, reevaluate its unprotected pipelines and cathodically protect them in accordance with this subpart in areas in which active corrosion is found. The operator must determine the areas of active corrosion by electrical survey.

- 48 The 2008 Inspection found that Enumclaw failed to conduct and document electrical surveys on 141 unprotected services to determine if there are areas of active corrosion. An electrical survey has never been done on most of the unprotected services. The 141 unprotected services are listed on pages 10-12 of *Attachment 1* to this Complaint.

- 49 For the reasons set forth in paragraphs 47-48 above, Enumclaw violated 49 CFR § 192.465(e) in at least 141 instances by failing to conduct and document electrical surveys on its unprotected services to determine if there are areas of active corrosion. Although 141 instances are alleged, each is a continuing violation of 49 CFR § 192.465(e) from the date of the first violation.

H. Violations of Commission Rules Related to Gas Leak Surveys. [WAC 480-93-188(1)(a), and WAC 480-93-188(6)]

50 WAC 480-93-188 sets forth requirements for conducting gas leak surveys. WAC 480-93-188(1)(a) requires that:

each gas pipeline company must perform gas leak surveys using a gas detection instrument over all mains, services, and transmission lines including the testing of the atmosphere near other utility boxes or manholes, and other underground structures.

51 It is critical that Enumclaw's records adequately, and accurately, show the locations of mains and services. The 2008 Inspection found that Enumclaw's maps do not have specific location measurements for facilities such as mains and services. Without exact measurements, Enumclaw cannot document that leak surveys were conducted over all mains and services in compliance with WAC 480-93-188(1). For example, the 2008 Inspection found that the City did not properly leak survey over a main at a location in a cul-de-sac north of 472nd Street (on map 1 G). The main cuts diagonally across the land; however, the map used to conduct the leak survey inaccurately located the main, and, consequently, the main was incorrectly leak surveyed at a 90-degree angle, but not over the main.

52 The 2008 Inspection found that Enumclaw could not document that it leak surveyed its high pressure stubs leading to individual farm taps during its 2007 High Pressure Gas Leak Survey. The map used to conduct the survey was not of sufficient scale to show the service stubs and farm taps.

53 In sum, for the reasons set forth in paragraphs 50-52 above, Enumclaw violated WAC 480-93-188(1) in at least two instances because it cannot document that it leak surveyed over all mains and services, and it cannot document that it leak surveyed high pressure stubs leading to farm taps. These are continuing violations from the date of the violation.

54 Further, WAC 480-93-188(6) requires that:

Each gas pipeline company must perform self audits of the effectiveness of its leak detection and recordkeeping programs.

Each gas pipeline company must maintain records of the self audits for five years. Self audits must be performed as frequently as necessary, but not to exceed three years between audits..

55 The 2008 Inspection found that Enumclaw did not have documentation for self audits, and did not conduct self audits, prior to 2008.

56 In sum, for the reasons set forth in paragraphs 54-55 above, Enumclaw violated WAC 480-93-188(6).

I. Violations of Commission Rules Related to Corrosion Control Records. [49 CFR § 192.491(a)]

57 49 CFR § 192.491 sets forth requirements for corrosion control records. 49 CFR § 192.491(a) states:

Each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, galvanic anodes, and neighboring structures bonded to the cathodic protection system.

58 The 2008 Inspection found that Enumclaw's cathodic protection records of the service located at or near 1522 Cole or 1518 Cole were incorrect. Enumclaw's records indicated the service was cathodically protected, when, in fact, a portion of this service was not cathodically protected.

59 In sum, for the reasons set forth in paragraphs 57-58 above, Enumclaw violated 49 CFR § 192.491(a) because its records incorrectly indicated that a service was cathodically protected. Because the Commission alleges that these records contain incorrect information, this is a continuing violation.

J. Violations of Commission Rules Related to Gas Leak Records. [WAC 480-93-187]

60 WAC 480-93-187 requires that Enumclaw prepare and maintain permanent gas leak records sufficient to permit the Commission to assess the adequacy of Enumclaw's leakage program. Under the rule, gas leak records must contain, at a minimum:

- (1) Date and time the leak was detected, investigated, reported, and repaired, and the name of the employee(s) conducting the investigation;

- (2) Location of the leak (sufficiently described to allow ready location by other qualified personnel);
- (3) Leak grade;
- (4) Pipeline classification (e.g., distribution, transmission, service);
- (5) If reported by an outside party, the name and address of the reporting party;
- (6) Component that leaked (e.g., pipe, tee, flange, valve);
- (7) Size and material that leaked (e.g., steel, plastic, cast iron);
- (8) Pipe condition;
- (9) Type of repair;
- (10) Leak cause;
- (11) Date pipe installed (if known);
- (12) Magnitude and location of CGI readings left; and
- (13) Unique identification numbers (such as serial numbers) of leak detection equipment.

61 The 2008 Inspection found that Enumclaw's gas leak records did not contain the minimum data and information required under WAC 480-93-187 to permit the Commission to assess the adequacy of the City's leakage program. Staff found 39 required items missing from nine records. The records, and the 39 instances, are described on pages 14-16 of *Attachment 1* to this Complaint.

62 In sum, for the reasons forth in paragraphs 60-61 above, Enumclaw violated WAC 480-93-187 in at least 39 instances by failing to include information specifically required by the rule in its gas leak records. Because the Commission alleges that these records do not contain complete information, these are continuing violations of WAC 480-93-187 from the date of the violation.

K. Violations of Commission Rules Concerning Leak Evaluation. [WAC 480-93-186(2)]

63 WAC 480-93-186(2) requires, in part, that: "Each gas pipeline company must establish a procedure for evaluating the concentration and extent of gas leakage. When evaluating any leak, the gas pipeline company must determine and document the perimeter of the leak area."

64 The 2008 Inspection found that, on September 7, 2007, at a location at or near 38606 Auburn Enumclaw Road, a leak occurred when a steel line was pulled from a dresser coupling. Enumclaw did not have a diagram to document the perimeter of the leak area.

65 The 2008 Inspection found that, on February 29, 2008, at a location at or near E 1243 Roosevelt, a bad weld was repaired while the City was repairing third-party damage to a pipe. Enumclaw did not note or diagram the perimeter of the leak area.

66 In sum, for the reasons set forth in paragraphs 63-65 above, Enumclaw violated WAC 480-93-186(2) in at least two instances by failing to document the perimeter of the leak area. Because the Commission alleges that Enumclaw's records do not contain required information, these are continuing violations of WAC 480-93-186(2) from the date of the violation.

L. Violations of Commission Rules Concerning Reporting to the Commission. [WAC 480-93-200(7)(b)(ii)]

67 WAC 480-93-200 sets forth a gas pipeline company's reporting requirements. Specifically, WAC 480-93-200(7)(b)(ii) requires that Enumclaw must file with the Commission, no later than March 15 for the preceding calendar year, an annual report titled "Damage Prevention Statistics." This report must include, in detail, the number of third-party damages incurred.

68 The 2008 Inspection found that Enumclaw failed to report to the Commission in its 2007 Damage Prevention Statistics Report all the actual third-party damages that occurred in 2007. Although Staff identified in Enumclaw's records at least nine damage incidents requiring repair, Enumclaw only reported six damage incidents to the Commission. The dates of three incidents that Enumclaw failed to report, and their approximate locations, are: (a) March 21, 2007, at 420 Rainier; (b) April 30, 2007, at 2462 McHugh; and (c) May 14, 2007, at or near 2016 Initial.

69 In sum, for the reasons set forth in paragraphs 67-68 above, Enumclaw violated WAC 480-93-200(7)(b)(ii) by failing to properly report to the Commission the number of third-party damages that occurred in 2007.

**M. Violations of Commission Rules Concerning Pressure Test Records.
[WAC 480-93-170(7)]**

70 WAC 480-93-170(7) requires that:

each gas pipeline must keep records of all pressure tests performed for the life of the pipeline, and must document the following information: (a) gas pipeline company's name; (b) employee's name; (c) test medium used; (d) test pressure; (e) test duration; (f) line pipe size and length; (g) dates and times; and (h) test results.

71 The 2008 Inspection found that Enumclaw's 2007 pressure test records at three locations did not include all the information required by WAC 480-93-170(7), as follows:

72 The records for the 2007 Muckleshoots extension pressure test did not include: (a) the operator's name, or (b) the time the pressure test started and ended.

73 The records for the 2007 Bondgard extension/service pressure test did not include: (a) the operator's name, or (b) the test results.

74 The records for the 2007 290th Street extension pressure test did not include: (a) the operator's name, or (b) the line pipe length.

75 In sum, for the reasons set forth in paragraphs 70-74 above, Enumclaw violated WAC 480-93-170(7) in at least six instances by failing to document all information required by the rule in its records of pressure tests performed on its pipeline. Because the Commission alleges that Enumclaw's records are incomplete, these are continuing violations from the date of the violation.

**N. Violations of Commission Rules Regarding Maintaining Sufficient
Records [WAC 480-93-018(1)]**

76 WAC 480-93-018(1) requires that each gas pipeline company must maintain records sufficient to demonstrate compliance with all requirements of 49 CFR Parts 191, 192 and WAC 480-93.

- 77 The 2008 Inspection found at least six instances in which Enumclaw's records were insufficient to demonstrate compliance with federal rules and Commission regulations, as set forth in paragraphs 78-83 below. One violation is alleged for each instance.
- 78 Enumclaw's maps do not have a means to indicate the location of mains and services. Enumclaw did not have sufficient documentation to demonstrate that leak surveys were conducted over all mains and services in compliance with WAC 480-93-188(1).
- 79 Enumclaw did not have sufficient documentation to demonstrate that its service stubs and farm taps were leak surveyed during the 2007 High Pressure Gas Leak Survey in compliance with WAC 480-93-188(1).
- 80 Enumclaw did not have sufficient documentation to demonstrate that its 2007 High Pressure Leak Survey was conducted on an updated map, as there was no revision date on the map.
- 81 Enumclaw did not have sufficient documentation of the locations of all unprotected services on its Unprotected Service List. Eight unprotected services were not documented.
- 82 Enumclaw did not have sufficient documentation to demonstrate compliance with WAC 480-93-187(1)-(13) (regarding gas leak records). Nine of the City's gas leak records did not contain all information required by the rule.
- 83 Enumclaw did not have sufficient documentation to accurately and completely prepare its 2007 Annual Damage Prevention Statistics Reports in compliance with WAC 480-93-200(7)(b)(ii).
- 84 In sum, for the reasons set forth in paragraphs 76-83 above, Enumclaw violated WAC 480-93-018(1) in at least six instances by failing to maintain records sufficient to demonstrate compliance with 49 CFR Part 192 and WAC 480-93.

O. Violations of Commission Rules Regarding Updating Records. [WAC 480-93-018(5)]

85 WAC 480-93-018(5) requires that each gas pipeline company “update its records within six months of when it completes a construction activity, and make such records available to appropriate company operations personnel.”

86 Enumclaw is required to update its records when it installs or otherwise completes construction activity on its mains and services. Making updated records available to personnel is critical to the maintenance and safe operation of a pipeline. Maps are vital records, and it is standard industry practice to update maps.

87 The 2008 Inspection found that Enumclaw did not accurately update its records, specifically its maps, when it completed construction activity on services. The 2008 Inspection identified at least 55 important items that were not updated on maps used by Enumclaw. The items fall into the following general categories: (a) system pressures; (b) pressure regulation; (c) the transition point from steel to polyethylene pipeline; (d) the type of material on mains and services; (e) the pipe size of mains and services; and (f) the addresses for mains and services. One violation of WAC 480-93-018(5) is alleged for each item. These instances are described on pages 19-22 of *Attachment 1* to this Complaint.

88 The 2008 Inspection also found that Enumclaw did not make updated maps available to personnel during the City’s 2007 High Pressure Gas Leak Survey and its 2007 Five-Year Leak Survey, constituting two violations of WAC 480-93-018(5). Enumclaw could not document that the map used for its High Pressure Gas Leak Survey had been updated within six months of construction activity. The map used for Enumclaw’s Five-Year Leak Survey did not include mains that had been installed over six months previously.

89 In sum, for the reasons set forth in paragraphs 85-88 above, Enumclaw violated WAC 480-93-018(5) in at least 57 instances by failing to update its records within six months of construction activity, and by failing to make updated maps available to personnel during leak surveys.

P. Violations of Rules Related to Inspection and Testing of Pressure Limiting and Regulating Stations. [49 CFR § 192.739(a)]

90 49 CFR § 192.739 sets forth requirements for the inspection and testing of pressure limiting and regulating stations. In particular, 49 CFR § 192.739(a) states:

Each pressure limiting station, relief device (except rupture discs), and pressure limiting station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is-

- (1) in good mechanical condition;
- (2) adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;
- (3) except as provided in paragraph (b) of this section, set to control or relieve at the correct pressure consistent with the pressure limits of § 192.201(a); and
- (4) properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

91 Enumclaw's farm taps are pressure regulating stations as defined in 49 CFR Part 192. Therefore, these farm taps are subject to inspection and testing requirements of CFR § 192.739(a). The 2008 Inspection found that Enumclaw had never performed required inspections of five farm taps/pressure regulating stations. The locations of these farm taps are as follows: (1) 5719 Auburn Way S; (2) 36823 Auburn Enumclaw Road; (3) 151st Ave SE and Auburn Enumclaw Road; (4) 37676 Auburn Enumclaw Road; and (5) 188th Ave SE and Auburn Enumclaw Road.

92 For the reasons set forth in paragraphs 90-91 above, Enumclaw violated 49 CFR § 192.739(a) in at least five instances by failing to inspect pressure regulating stations. These are continuing violations, from the date of the violation.

Q. Minimum Number of Violations

93 The minimum number of violations of 18 Commission rules are summarized as follows, in the order they are alleged in this Complaint:

- Minimum number of violations of WAC 480-93-180(1) (establishing procedures): 5

- Minimum number of violations of 49 CFR § 192.201(a)(2)(ii) (press. limiting stations): 56
- Minimum number of violations of WAC 480-93-110(2) (remedial action): 144
- Minimum number of violations of WAC 480-93-110(5) (corrosion control): 36
- Minimum number of violations of WAC 480-93-110(8) (corrosion control): 2
- Minimum number of violations of 49 CFR § 192.481(a) (corrosion control): 71
- Minimum number of violations of 49 CFR § 192.13(c) (general requirements): 76
- Minimum number of violations of 49 CFR § 192.465(e) (corrosion control, monitoring): 141
- Minimum number of violations of WAC 480-93-188(1)(a) (gas leak surveys): 2
- Minimum number of violations of WAC 480-93-188(6) (gas leak surveys): 1
- Minimum number of violations of 49 CFR § 192.491(a) (corrosion control records): 1
- Minimum number of violations of WAC 480-93-187 (gas leak records): 39
- Minimum number of violations of WAC 480-93-186(2) (leak evaluation): 2
- Minimum number of violations of WAC 480-93-200(7)(b)(ii) (reporting): 1
- Minimum number of violations of WAC 480-93-170(7) (tests and reports): 6
- Minimum number of violations of WAC 480-93-018(1) (maintaining records): 6
- Minimum number of violations of WAC 480-93-018(5) (updating records): 57
- Minimum number of violations of 49 CFR § 192.739(a) (pressure limiting stations): 5

94 These 651 violations are a minimum number of violations because, while they were observed in June 2008, it is likely they did not occur only on that date. For example, the violations may have begun on an earlier date and/or they may have continued to a later date. These earlier and later dates are not certain at this time. As alleged in this Complaint, many violations are continuing violations from the date of the violation. The hearing process in this matter will be an opportunity to determine the number of days of violations.

95 Consequently, the Commission cannot allege at this time a maximum number of violations. The Commission gives notice to Enumclaw that the number of violations in this matter may far exceed the number listed in paragraph 94.

V. CLAIMS FOR RELIEF

96 Commission realleges paragraphs 2-95.

97 Staff requests the Commission find that Enumclaw has failed to comply with the statutes and rules of the Commission as set forth in the allegations above.

98 Staff requests that the Commission assess monetary penalties and/or other sanctions against Enumclaw if the alleged violations of state law or Commission rules are proven. The total violations, before considering continuing violations, is 651 (as described in paragraphs 93 and 94). Pursuant to the manner of calculating penalties under RCW 81.88.040 and WAC 480-93-223, the maximum penalty that could be assessed under RCW 81.88.040 and WAC 480-93-223 based on the 651 violations is over \$11,000,000.

99 Staff further requests that the Commission order Enumclaw, under the authority of RCW 80.28.130, to undertake any and all necessary specific measures to ensure as quickly as possible that its gas system is in a safe and operable condition and in full compliance with Commission laws and rules.

100 Staff requests the Commission order such other and/or further relief as is appropriate under the circumstances

VI. PROBABLE CAUSE

101 Based on a review of the documents identified in this complaint, and consistent with
RCW 80.01.060, the Commission finds that probable cause exists to issue this
complaint.

VII. NOTICE OF PREHEARING CONFERENCE

102 **THE COMMISSION GIVES NOTICE** That a prehearing conference in this matter
will be held on **March 11, 2009, at 1:30 p.m.**, in Room 206, Second Floor, Richard
Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The
purpose of the prehearing conference is to discuss procedural issues.

103 The Commission will hear this matter under the Administrative Procedure Act (APA),
particularly Part IV of RCW 34.05, relating to adjudications. The provisions of the
APA that relate to this proceeding include, but are not limited to, RCW 34.05.413,
RCW 34.05.431, RCW 34.05.434, RCW 34.05.440, RCW 34.05.449, and RCW
34.05.452. The Commission will also follow its procedural rules in WAC 480-07 in
this proceeding.

104 **THE COMMISSION GIVES FURTHER NOTICE THAT ANY PARTY WHO
FAILS TO ATTEND OR PARTICIPATE IN THE HEARING SET BY THIS
NOTICE, OR ANY OTHER STAGE OF THIS PROCEEDING, MAY BE
HELD IN DEFAULT IN ACCORDANCE WITH RCW 34.05.440 AND WAC
480-07-450.**

105 If any party or witness needs an interpreter or other assistance, please fill out the form
attached to this notice and return it to the Commission.

106 The names and mailing addresses of all parties and their known representatives are as
follows:

Complainant: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
PO Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Michael A. Fassio
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
PO Box 40128
Olympia, WA 98504-0128
(360) 664-1192

Respondent: City of Enumclaw
Mark Bauer, City Administrator
1339 Griffin Avenue
Enumclaw, WA 98022
(360) 825-3591
markbauer@ci.enumclaw.wa.us

Representative: Michael J. Reynolds, City Attorney
City of Enumclaw
329 East Main Street
Auburn, WA 98002
(253) 939-4556
mjrlaw@hotmail.com

107 Patricia Clark is appointed as the Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, and will preside at the hearing.

108 Notice of any other procedural phase will be given in writing or on the record as the Commission may deem appropriate during the course of this proceeding.

DATED at Olympia, Washington, and effective February 10, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

ANN E. RENDAHL
Director, Administrative Law Division

Inquiries may be addressed to:

Executive Director and Secretary
Washington Utilities and
Transportation Commission
Richard Hemstad Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

Hearing facilities are accessible to persons with disabilities. Smoking is prohibited. If limited English-speaking, hearing-impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

If you need an interpreter, or have other special needs, please fill out this form and return it to Washington State Utilities and Transportation Commission, Attention: David W. Danner, 1300 S. Evergreen Park Drive SW, P. O. Box 47250, Olympia, WA 98504-7250. (PLEASE SUPPLY ALL REQUESTED INFORMATION)

Docket : _____

Case Name: _____

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) _____ (No) _____

Do you need a certified sign language interpreter:

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____