



STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

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VIA CERTIFIED MAIL AND FACSIMILE

October 23, 2007

Mark Bauer
City Administrator
City of Enumclaw
1339 Griffin Avenue
Enumclaw, Washington 98022

Dear Mr. Bauer:

Subject: Commission Order Requiring Pipeline Safety Compliance

This letter is a follow-up to your telephone call with David Danner on October 19, 2007, regarding the City of Enumclaw's (City) apparent failure to comply with the requirements of the Settlement Agreement (Agreement) on file with the Utilities and Transportation Commission (commission) in Docket PG-051609, and the commission order accepting that Agreement.

As was discussed, staff has informed us that if the City of Enumclaw does not fulfill its obligations under the Agreement by November 15, 2007, it intends to present the commission with a complaint for violations of that Agreement and recommend the commission issue the complaint. The outcome could include substantial monetary penalties, an order requiring the City to change its practices with respect to its gas distribution system, or both.

Background:

This matter stems from problems identified during a specialized gas safety inspection in 2005. At that time, a commission pipeline inspector found that the City's Operations & Maintenance (O&M) manual did not comply with commission gas pipeline safety rules. Pipeline safety staff was especially concerned given its view that the City's prior compliance history indicated that the City did not have sufficient qualified personnel to operate its gas pipeline system.

The commission addressed these concerns by issuing an order at its open public meeting on December 13, 2006. In that order, the commission accepted an agreement between commission staff and the City. In particular, the Agreement required the City to take the following steps:



- “...retain a qualified consultant who will prepare a new Operation and Maintenance (O&M) Manual for the City, containing applicable policies and procedures related to the City’s operation of its gas system, and including the City’s operator qualification plan. Before retaining the consultant, the City will obtain the Commission Staff’s agreement that the consultant has the qualifications necessary to do the work accurately and effectively. The new O&M Manual will comply with all relevant parts of 49 CFR, 191 and 192 together with RCW 80.28 and WAC 480-93. The O&M Manual’s policies and procedures will specifically apply to the City’s gas system. In December, 2006, the City will hire the consultant, who will begin work on or before January 1, 2007. The city’s new O&M Manual will be completed and submitted to the Commission by March 31, 2007.”
- “The City agrees to assign an employee to the role of “Natural Gas Systems Engineer” or “Natural Gas Systems Manager.” “The Parties understand that it is critical that this person not have responsibilities outside the management of the City’s gas system.”

On April 5, 2007, the City asked the commission to extend the O&M manual completion date from March 31, 2007, to August 30, 2007. It stated that it was unable to retain a consultant by December 2006 with work commencing in January 2007. In March 2007, the City hired a contractor (Mr. Paul Oleksa) to begin work on the O&M manual. This consultant was acceptable to staff. However, shortly thereafter, the consultant advised the City that he would not be able to meet the March 31, 2007, completion date. Staff agreed to grant an extension to August 30, 2007, and the parties filed an agreed amendment to the Agreement to reflect the new deadline.

In August 2007, Mr. Oleksa informed the City that he would not be able to meet the August 30th extension date. On September 12, 2007, the City asked for another extension for meeting this requirement, this time until November 30, 2007.

Staff then asked the City whether it had met the other requirements of the Agreement. By letter dated September 24, 2007, it said that it had not hired a natural gas systems manager as required by the Agreement, and suggested that it had assigned the duties intended for its natural gas systems manager to multiple City employees, despite language in the Agreement committing to “assign an employee to the role of Natural Gas Systems Engineer,” who will “coordinate all work of the City’s gas system personnel” and “not have responsibilities outside the management of the City’s gas system.”

As discussed with Mr. Danner on Friday, the commission expects full and timely compliance with the Agreement, and is not willing to grant the City’s request for additional extensions of time to complete its obligations. Rather, please be aware that the City has until November 15, 2007, to (1) submit an O&M manual that meets the requirements of the Agreement, and (2) notify the commission that it has designated an employee to act full time as its natural gas system manager. If these requirements are not met by that date, the commission will file a complaint by December 1, 2007.

City of Enumclaw

October 23, 2007

Page 3 of 3

Thank you for your attention to this matter. Please direct any questions you have about this letter to David Lykken, Acting Pipeline Safety Director at (360) 664-1219 or dlykken@utc.wa.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carole J. Washburn".

Carole J. Washburn
Executive Secretary

cc: John G. Wise, Mayor
Chris Searcy, Public Works Director
Michael J. Reynolds, City Attorney
David Lykken, Acting Pipeline Safety Director (UTC)
David W. Danner, Executive Director (UTC)