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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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December 21, 2009

Ms. Patricia Van Gerpen, Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501

RE: Request to Open Docket

Dear Ms. Van Gerpen:

On August 20, 2009 Staff filed a pipeline safety inspection report in docket PS09-001. The inspection report was a result of a compliance review associated with the explosion of Midwest Auto in Rapid City on March 14, 2009. At that time, Staff recommended a penalty be assessed for a notice of probable of violation. Specifically, Staff does not believe the operator was in compliance with 49 CFR 192.465 (d) which requires prompt remedial action of low cathodic protection readings. The inspection report stated the amount of the penalty was to be determined at a later date.

Staff now recommends a penalty of \$600 be assessed for the probable violation. The amount was determined by considering:

- Maximum penalty
- Operator's past history of violations
- Severity of violation
- Willfulness
- Cooperation
- Mitigating factors

This is a compliance issue separate from the incident probable cause investigation in PS09-001. Per ARSD 20:10:37:09, civil penalties are subject to commission approval. Although Staff does not take issue with Montana-Dakota Utilities' proposed remediation, this filing is necessary for approval of Staff's recommended civil penalty. Staff, therefore, requests this issue be address in a new pipeline safety docket. Staff further requests the attached Summary of Deficiencies form with the proposed penalty be maintained as a confidential document.

Sincerely,

Nathan D. Solem

Nathan D. Solem
Pipeline Safety Program Manager

attachment