

Gary Hanson, Chair
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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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December 21, 2011

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

RE: Commission Approval of Penalty

Dear Ms. Van Gerpen:

The South Dakota Pipeline Safety Staff (Staff) released a report to Montana-Dakota Utilities regarding the results of a public awareness effectiveness inspection conducted on December 12-13, 2011. The inspection covered the requirements in 49 CFR 192.616 and the incorporated document API RP 1162 for pipeline public awareness programs. The inspection revealed a major deficiency in the public awareness program in violation of the above regulations. Specifically, Montana-Dakota Utilities failed to provide the complete required annual (distribution) or biannual (transmission) notice to non-customer residents along its pipeline system. Due to the noncompliance, Staff respectfully requests the Commission assess an \$800 penalty.

The notice to non-customers must contain the following messages:

- Pipeline purpose and reliability
- Awareness of hazards and prevention measures undertaken
- Damage prevention awareness
- Leak recognition and response
- How to get additional information
- One Call requirements (transmission only)
- Availability of list of pipeline operators through NPMS (transmission only)

Although MDU has communicated the damage prevention and One Call elements of the notice, records indicate the other elements of the required message remain missing. In fact, records indicate, the complete message has not ever been sent throughout the entire five year history of the program.


Staff's penalty recommendation is based on the considerations listed in SDCL 49-34B-12. Specifically Staff considered:

- The Maximum potential penalty of ten thousand dollars for each violation
- The Operator's failure to remedy the violation after a previous noted deficiency

- Staff believes this violation is a moderately severe issue, but does not believe the violation was willful or committed in bad faith.

In conclusion, the penalty is intended as an incentive for Montana-Dakota Utilities to fully develop their public awareness program to include non-customer residents. Staff appreciates your attention to this matter and will be available at an upcoming Commission meeting for questions.

Sincerely,



Kara Semmler
Staff Attorney

Attachment