

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE FILING BY )</b>	
<b>COMMISSION PIPELINE SAFETY STAFF FOR )</b>	<b>COMPLAINT</b>
<b>APPROVAL OF A PENALTY FOR A PIPELINE )</b>	
<b>SAFETY VIOLATION BY MONTANTA- )</b>	<b>PS13-007</b>
<b>DAKOTA UTILITIES CO. )</b>	
)	

Pursuant to an inspection conducted by Pipeline Safety Staff (“Staff”) on July 15-19, 2013, a violation of 47 CFR 192.723(b)(1) and a violation of 47 CFR 192.723(b)(2) by Montana-Dakota Utilities Co. (MDU) were noted. Staff now files this complaint and requests approval of Staff’s proposed penalty. See Exhibit 1 for explanation of Notices of Probable Violations.

Pursuant to SDCL 49-34B-12, Staff recommends the penalty amounts based on the following considerations (See Exhibit 2):

1. Maximum penalty and relative size of the operator: Two violations were documented. The maximum penalty is \$10,000.00 for each violation. The penalty proposed by Staff is not unduly burdensome based on the size of MDU.
2. Operator’s prior offenses and compliance history: This is a repeat violation, however, this is the first Notice of Probable Violation issued. See Exhibit 1 and Exhibit 2, Section I.
3. Severity of violation: This is a minor violation which did not result in damage or pose an imminent hazard to safety. See Exhibit 2, Section I.
4. Willfulness: Staff considers this violation to be a result of negligence. See Exhibit 2, Section I.

5. Cooperation and good faith of the operator in attempting to achieve compliance: Staff has the option of rating MDU's cooperation as good, fair, or poor. Staff feels that cooperation by MDU has been fair. See Exhibit 2, Section III.
6. Mitigating factors: Staff did not identify any mitigating factors.

The attached Summary of Deficiencies and Penalties Calculation Template provide details regarding the violation and recommendation. See Exhibits 1 and 2.

### **Conclusion**

For the above-mentioned reasons, as well as those detailed in Exhibit 1, Staff respectfully requests the Commission approve a penalty of \$1,689.00.

Dated this 6<sup>th</sup> day of August, 2013.



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