

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

IN THE MATTER OF THE FILING BY COMMISSION)	
PIPELINE SAFETY STAFF FOR APPROVAL OF A)	COMPLAINT
PENALTY FOR A PIPELINE SAFETY VIOLATION BY)	
MONTANA-DAKOTA UTILITIES CO., EAST RIVER)	PS13-008
AREA)	
)	

Pursuant to an inspection conducted by Pipeline Safety Staff (“Staff”) in June and July, 2013, the following violations were noted in Montana-Dakota Utilities Co., East River Area:

- A violation of 49 CFR 192.625 regarding the use of odor detection equipment with out of date calibration.
- A violation of 49 CFR 192.805 (b) regarding technicians performing the covered task of operating valves without the proper operator qualification certification.

Staff now files this complaint and requests approval of Staff’s proposed penalties. 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):

- the size of the business of the person charged,
- the gravity of the violation,
- prior offenses and compliance history,
- the good faith of the person charged in attempting to achieve compliance,
- and such other matters as justice may require

The following table summarizes these considerations for each proposed penalty

Consideration Size	49 CFR 192.625 No adjustment downward, not unduly burdensome	49 CFR 192.805 (b) No adjustment downward, not unduly burdensome
Gravity	Moderate to severe violation: Odor detection is a primary prevention measure and first offenses are considered serious	Moderate violation: Performing tasks without proper OQ certification are considered serious even at a first violation
Priors	One public awareness violation in 2011	One public awareness violation in 2011
Good Faith	Negligent in willfulness category and good in cooperation category	Negligent in willfulness category and good in cooperation category
Other	None	None
Maximum Penalty of \$100,000	\$2,732	\$3,079
Exhibit	1 and 2	1 and 3

Conclusion

For the above-mentioned reasons, as well as those detailed in Exhibit 1, Staff respectfully requests the Commission approve the proposed penalties.

Dated this 9th day of August, 2013.



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