

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

IN THE MATTER OF THE PUC STAFF'S)	COMPLAINT
COMPLAINT AGAINST GARRETSON)	
NATURAL GAS UTILITIES)	PS25-001

COMES NOW, the Staff of the South Dakota Public Utilities Commission (Staff) and hereby files this Complaint against Garretson Natural Gas Utilities (Respondent)¹ requesting the Commission issue a civil fine for violations of SDCL § 49-34B-7 and 49 C.F.R. § 192.

In support of this Petition, Staff asserts as follows:

1. Respondent is a municipal natural gas utility pipeline operator located in Garretson, South Dakota.
2. Respondent operates an intrastate natural gas pipeline system subject to SDCL Chapter 49-34B and 49 C.F.R. § 192.
3. Pursuant to 49 C.F.R. § 192.743, Respondent is required to determine relief capacity at least once each calendar year, and at intervals not exceeding fifteen months.
4. Pursuant to SDCL § 49-34B-7, Respondent is required to maintain records, including relief capacity calculations.
5. Pursuant to SDCL § 49-34B-7, Respondent is subject to inspection by the SD PUC Pipeline Safety Program.
6. On or about June 10, 2024, Ms. Mary Zanter, SD PUC Pipeline Safety Program Manager, conducted a routine inspection on Respondent.
7. During that inspection, Ms. Zanter discovered that Respondent did not provide records of relief capacity calculations for 2022 or 2023.
8. On or about June 17, 2024, Ms. Zanter issued a Summary of Deficiencies to Respondent detailing the relief capacity calculation deficiency and proposed a correction due date of October 15, 2024.
9. Respondent failed to provide the 2022 and 2023 relief capacity calculation records by October 15, 2024.

¹ Respondent is also known to file as "City of Garretson Gas Utility" and has been known to the PUC as "Garretson Municipal Gas Utilities."

10. On January 3, 2025, Ms. Zanter sent a quarterly status report to Respondent noting that the 2022 and 2023 relief capacity calculations were still outstanding and demanded they be provided by January 15, 2025.
11. On January 21, 2025, Respondent provided relief capacity calculations showing a completion date of November 14, 2024.
12. On or about May 18, 2022, Ms. Zanter conducted an inspection on Respondent and issued a Summary of Deficiencies noting that Respondent has not reviewed the relief calculations in 2020 or 2021, and that Respondent had not been factoring in the effect of the relief stack in the capacity calculations. Ms. Zanter proposed a correction due date of “ASAP”.
13. On or about July 8, 2022, Ms. Zanter received information that no changes had been done to the regulator stations and that the calculations would still be accurate and the relief stack would not affect the capacity calculation.

Legal Authority and Analysis

SDCL § 49-34B-3 provides:

There is created a pipeline safety inspection program. The federal safety standards adopted as Code of Federal Regulations, title 49 appendix, parts 191, 192, 193, and 199 as amended to January 1, 2023, are adopted as minimum safety standards for this chapter. The commission shall establish and implement a compliance program to enforce these safety standards. The program shall be established and implemented in a manner that fully complies with requirements for state certification under the United States Code, title 49, section 60105, as amended to January 1, 2023.

49 C.F.R. § 192.743 provides:

(a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in § 192.739(b), the capacity must be consistent with the pressure limits of § 192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations.

(b) If review and calculations are used to determine if a device has sufficient capacity, the calculated capacity must be compared with the rated or experimentally determined relieving capacity of the device for the conditions under which it operates. After the initial calculations, subsequent calculations need not be made if the annual review documents that parameters have not changed to cause the rated or experimentally determined relieving capacity to be insufficient.

(c) If a relief device is of insufficient capacity, a new or additional device must be installed to provide the capacity required by paragraph (a) of this section.

SDCL § 49-34B-7 provides:

Any person who engages in the intrastate transportation of gas or who owns or operates intrastate gas pipeline facilities shall establish, maintain, and provide such records, reports, and information as the commission may require to determine whether the person has complied with the provisions of this chapter and the standards established under this chapter. Any such person shall, upon request of an employee or agent authorized by the commission, permit the employee or agent to inspect facilities, books, papers, records, and documents relevant to determining whether the person has complied with this chapter and the standards established pursuant to this chapter. Any employee or agent of the commission, upon presenting appropriate credentials to the individual in charge, may enter upon and inspect gas pipeline facilities at reasonable times and in a reasonable manner.

SDCL § 49-34B-12 provides:

Any person who violates any provision of this chapter or any rule promulgated pursuant to this chapter is subject to a civil penalty to be imposed by the commission, after notice and opportunity for hearing. The civil penalty may not exceed two hundred thousand dollars for each violation each day that the violation persists, except that the maximum civil penalty may not exceed two million dollars for any related series of violations. In determining the amount of the penalty upon finding a violation, or the amount of a compromise settlement, the commission shall consider the appropriateness of the penalty to 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. All penalties collected pursuant to this chapter shall be deposited in the state treasury to the credit of the pipeline safety account, established pursuant to § 49-34B-9. This section does not apply to interstate gas pipeline facilities.

State law, through the adoption of the federal safety standards, requires a pipeline operator, such as Respondent, to determine pressure relief device capacity at least once per

calendar year, and at intervals not to exceed fifteen months, and to maintain the records of such determinations. Respondent failed to provide those records to Staff during the June 2024 inspection, and when the records were finally provided, the November 14, 2024, completion date on the record makes it clear that the determinations were not done in 2022 or 2023, as required by 49 C.F.R. § 192.743. The determinations were not completed for more than five months after Staff issued a Summary of Deficiency to Respondent, and there was an approximate delay of two months between completion and providing the record to Staff.

Staff is concerned that the determinations were not completed in accordance with federal and state law, but is also concerned with the length of time it took Respondent to correct the situation after receiving a Summary of Deficiency.

The maximum penalty allowed under state law for this violation is two thousand dollars for each day that the violation persists, except the maximum civil penalty may not exceed two million dollars for any related series of violations. However, Staff recommends the Commission assess a penalty of \$5,000 for this violation. In calculating a proposed penalty for this violation, Staff considered 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. Respondent is a small, municipal gas utility and as such, imposing a large penalty may have a disproportionate impact on the health of the utility and the community as a whole. However, given the delay in completing the pressure relief calculations and providing the records to Staff, Staff questions whether Respondent made a good faith effort to achieve compliance. Additionally, this is not the first offense or compliance issue Staff has raised to Respondent.

Staff's pursuit of a penalty is to ensure the pipeline operator complies with safety standards and reporting requirements in order to ensure the safe operation of gas service in the state, Staff believes the recommended penalty is of sufficient size to accomplish this goal without unnecessary punitive harm to Respondent.

Conclusion

WHEREFORE, the Staff respectfully requests the Commission issue and order finding Garretson Municipal Gas Utilities to have been in violation of SDCL § 49-34B-7 and issue a civil penalty pursuant to SDCL § 49-34B-12 in the amount of \$5,000.

Dated this 4th day of March, 2025.



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