



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

1595 WYNKOOP STREET

DENVER, CO 80202-1129

Phone 800-227-8917

http://www.epa.gov/region08

2012 MAR 27 AM 8:44

FILED
EPA REGION VIII
DENVER, CO

DOCKET NO.: CAA-08-2012-0003

IN THE MATTER OF:

PUBLIC SERVICE CO., OF COLORADO
(RIFLE GAS PLANT)

1800 Larimer Street, Suite 1400
Denver, Colorado 80202

RESPONDENT

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FINAL ORDER

Pursuant to 40 C.F.R. §22.13(b) and 22.18(b)(2) and (3), of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondent is hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

SO ORDERED THIS 27th DAY OF March, 2012.

Elyana R. Sutin
Regional Judicial Officer

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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DENVER, CO EPA

IN THE MATTER OF:)
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Public Service Company of Colorado)
(Rifle Gas Plant))
1800 Larimer Street, Suite 1400)
Denver, Colorado 80202)
)
Respondent)
)

**COMBINED COMPLAINT AND
CONSENT AGREEMENT**

DOCKET NO. : CAA-08-2012-0003

1. This civil administrative enforcement action is issued to Public Service Company of Colorado (PSCo or Respondent) pursuant to § 113(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3)(B), for alleged violations of the implementing regulations associated with the "Prevention of Accidental Releases" requirements of 42 U.S.C. § 7412(r) (CAA § 112(r)(7)). This proceeding is subject to EPA's *Consolidated Rule of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits* (Rules of Practice), 40 C.F.R. part 22.
2. The undersigned EPA officials have been properly delegated the authority to issue this action.
3. Respondent is a domestic corporation organized under the laws of Colorado.
4. 40 C.F.R. § 22.13(b) provides that where the parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a Combined Complaint and Consent Agreement (CCCA).

5. The parties agree that the settling of this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the terms of this CCCA, including the assessment of the civil penalty specified below.

JURISDICTION AND WAIVER OF RIGHT TO HEARING

7. Respondent admits the jurisdictional allegations in this CCCA and neither admits nor denies all remaining allegations herein.

8. Respondent waives its right to a hearing before any tribunal to contest any issues of law or fact set forth in this CCCA.

STATUTORY AND REGULATORY FRAMEWORK

9. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), authorizes the Administrator to promulgate regulations regarding the prevention and detection of accidental releases of designated chemicals. Section 112(r)(7)(B) of the CAA, 42 U.S.C. § 7412(r)(7)(B), requires the Administrator to promulgate regulations requiring the owners or operators of stationary sources where a regulated substance is present above a threshold quantity to prepare a risk management plan to prevent or minimize risks of accidental releases of those designated substances. The regulations promulgated by EPA pursuant to CAA § 112(r)(7), are set forth in 40 C.F.R. part 68.

10. Under 40 C.F.R. § 68.3, the following definitions apply:

- a. "Stationary source" means "any buildings, structures, equipment, installations or substance emitting stationary activities which belong to the same industrial group which are located on one or more contiguous properties, which are under the control of the same person (or persons under common control) and from which an accidental release may occur".

- b. "Regulated substance" means "any substance listed pursuant to section 112(r)(3) of the Clean Air Act as amended in § 68.130". Threshold quantities for the regulated substances are included in § 68.130.
- 11. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines the term "person" to include in relevant part, an individual, corporation, or partnership.
- 12. Respondent is a person, and thus subject to regulation under CAA § 112(r).
- 13. Pursuant to CAA § 112(r)(7) the owner or operator of a stationary source at which a regulated substance is present in more than a threshold quantity is required to prepare and implement a risk management plan (RMP) to detect and prevent or minimize accidental releases of such substances.

SPECIFIC ALLEGATIONS

- 14. On April 25, 2011, an authorized representative of the EPA conducted an inspection of the Respondent's facility (Rifle Gas Plant or the Facility) located at 620 County Road 264, Rifle, Colorado, with the consent of the Respondent, to determine compliance with CAA § 112(r)(7) and 40 C.F.R. part 68 (EPA inspection). During the EPA inspection, the EPA representative observed alleged violations of 40 C.F.R. part 68.
- 15. The alleged violations are described in paragraphs 16-19.
- 16. 40 C.F.R. § 68.48(a) provides that the owner or operator shall compile and maintain up to date safety information related to the regulated substances, processes, and equipment, including equipment specifications.
 - a. Equipment specifications were incomplete for hoses used to transfer a regulated substance.

17. 40 C.F.R. § 68.52(b)(7) provides that facility operating procedures shall address consequences of deviations and steps required to correct or avoid deviations.

- a. The Facility's RMP did not address the consequences of deviation in the RMP operation procedure sheets.

18. 40 C.F.R. § 68.56(a) provides that the owner or operator shall prepare and implement procedures to maintain the on-going mechanical integrity of the process equipment.

- a. The Facility's maintenance procedures state that the condensate system has been maintained in accordance with the American Petroleum Institute (API). At the time of the EPA inspection, API standards had not been followed for the on-going mechanical integrity of the condensate equipment.

19. 40 C.F.R. § 68.56(d) provides that the owner or operator shall perform or cause to be performed inspections and tests on process equipment. Inspection and testing procedures shall follow recognized and generally accepted good engineering practices. The frequency of inspections and tests of process equipment shall be consistent with applicable manufacturers' recommendations, industry standards or codes, good engineering practices and prior operating experience.

- a. Inspections and tests had not been performed on four storage tanks in accordance with applicable industry standards.
- b. Inspections and tests had not been performed on interconnected process piping containing a regulated substance in accordance with applicable industry standards.

PENALTY

20. This CCCA, upon incorporation into a final order, applies to and is binding upon EPA, Respondent, and Respondent's heirs, successors or assigns. Any change in ownership or

corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement. This CCCA contains all terms of the settlement agreed to by the parties. Attachment A (Collection Information) provides terms for payment including the assessment of fees and interest charges for late payments. Respondent consents and agrees to pay a civil penalty in the amount of **fifty thousand dollars (\$50,000)**.

CERTIFICATION OF COMPLIANCE

21. On or before ninety days after the date of the Final Order approving this CCCA, PSCo will submit to EPA a Certification of Compliance, establishing Rifle Gas Plant's completion of the items described in the following subparagraphs a.-d. In the Certification of Compliance, Respondent shall demonstrate:

- a. that the RMP includes both the recommended lifespan or "change-out" date for all covered hoses, and includes other applicable hose specifications already available on site;
- b. that written operating procedures address consequences of deviations in accordance with 40 C.F.R. § 68.52(b)(7);
- c. that the RMP includes the inspections and testing frequency for process equipment and piping at the Facility in accordance with applicable industry standards; and
- d. that testing has been conducted on storage tanks and process piping in accordance with applicable API requirements.

22. The Certification of Compliance shall contain the date, printed name, and signature of a PSCo officer, as well as the following statement:

I certify that I am authorized to verify the completion of work on behalf of the Public Service Company of Colorado. I certify under penalty of perjury that the foregoing is true and correct. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

23. The Certification of Compliance will be mailed or emailed to Greg Bazley at the following address:

Greg Bazley, 8ENF-AT
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202-1129
E-mail: bazley.greg@epa.gov

OTHER TERMS

24. Nothing in this CCCA shall relieve Respondent of the duty to comply with the CAA and its implementing regulations.

25. Failure of Respondent to comply with any terms of this CCCA shall constitute a breach and may result in referral of the matter to the U.S. Department of Justice for enforcement of this agreement and such other relief as may be appropriate.

26. Nothing in the CCCA shall be construed as a waiver by the United States of its authority to seek costs or any appropriate penalty associated with any action instituted as a result of Respondent's failure to perform pursuant to the terms of this CCCA.

27. The undersigned representative of PSCo certifies that he or she is fully authorized to enter into and legally bind PSCo to the terms and conditions of the CCCA.

28. The parties agree to submit this CCCA to the Regional Judicial Officer, with a request that it be incorporated into a final order.

29. Each party shall bear its own costs and attorney fees in connection with this administrative matter.

30. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

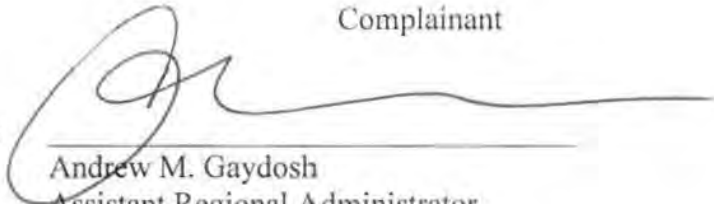
31. This CCCA, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in this CCCA.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Office of Enforcement, Compliance, and
Environmental Justice

Complainant

Date: 3/26/2012

By:



Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

Public Service Company of Colorado

Respondent

Date: 3/29/12

By:



Cheryl F. Campbell
Vice President, Gas Engineering and Operations

COLLECTION INFORMATION

Payment shall be due on or before 30 calendar days after the date of the Final Order issued by the Regional Judicial Officer who adopts this agreement. If the due date falls on a weekend or legal Federal holiday, then the due date is the next business day. Payments must be received by 11:00 a.m. Eastern Standard Time to be considered as received that day.

In the event payment is not received by the specified due date, interest accrues from the date of the Final Order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717, and will continue to accrue until payment in full is received. (That is, on the 1st late day, 30 days of interest accrues.)

In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 61st day from the date of the Final Order, and each subsequent thirty-day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (that is, the 121st day from the date the Final Order is signed). Payments are first applied to handling charges, 6% penalty interest, and late interest; then any balance is applied to the outstanding principal amount.

The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," (or be paid by one of the other methods listed below) and sent as follows:

CHECK PAYMENTS:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

WIRE TRANSFERS:

Wire transfers should be directed to the Federal Reserve Bank of New York

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read " D 68010727 Environmental Protection Agency "

OVERNIGHT MAIL:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

Contact: Natalie Pearson
314-418-4087

ACH (also known as REX or remittance express)

Automated Clearinghouse (ACH) for receiving US currency
PNC Bank
808 17th Street, NW
Washington, DC 20074
Contact – Jesse White 301-887-6548
ABA = 051036706
Transaction Code 22 - checking
Environmental Protection Agency
Account 310006
CTX Format

ON LINE PAYMENT:

There is now an On Line Payment Option, available through the Dept. of Treasury.
This payment option can be accessed from the information below:

WWW.PAY.GOV
Enter sfo 1.1 in the search field

Open form and complete required fields.

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **COMBINED COMPLAINT CONSENT AGREEMENT** in the matter of **PUBLIC SERVICE CO., OF COLORADO (RIFLE GAS PLANT); DOCKET NO.: CAA-08-2012-0003** was filed with the Regional Hearing Clerk on March 27, 2012.

Further, the undersigned certifies that a true and correct copy of the documents were delivered to David Rochlin, Senior Enforcement Attorney, U. S. EPA – Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. True and correct copies of the aforementioned documents were placed in the United States mail certified/return receipt requested on March 27, 2012.

Cheryl F. Campbell
Public Service Co. of Colorado
1800 Larimer Street, Suite 1400
Denver, CO 80202

E-mailed to:

Elizabeth Whitsel
U. S. Environmental Protection Agency
Cincinnati Finance Center
26 W. Martin Luther King Drive (MS-0002)
Cincinnati, Ohio 45268

March 27, 2012



Tina Artemis
Paralegal/Regional Hearing Clerk

