



April 30, 2012

Mr. Byron Coy, PE, Director
Pipeline and Hazardous Materials Safety Administration - Eastern Region
820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628

Re: CPF 1-2012-1002 (Notice of Probable Violation and Compliance Order)
Response of Eastern Shore Natural Gas Company Declining to Contest NOPV and
Compliance Order and Offering Explanations and Information

Dear Mr. Coy:

On April 4, 2012, you issued a Notice of Probable Violation (NOPV), Proposed Civil Penalty, and Proposed Compliance Order to Eastern Shore Natural Gas Company (Eastern Shore) in regard to alleged probable violations found and documented by PHMSA Staff as a result of inspections of Eastern Shore's natural gas transmission system during the week of May 16, 2011.

In your letter, the following items and alleged probable violations were noted:

1. **Public Awareness:** The operator failed to evaluate the size and groups of non-English speakers in its service territory, and took no action to educate possibly affected groups in its Public Education Program. PHMSA has proposed a compliance order related to this alleged probable violation.
2. **External Corrosion Control Monitoring:** The operator failed to test CP at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the CP met the requirements of 49 C.F.R. § 192.463. The operator failed to perform annual monitoring at 17 test stations for a total of 29 readings over the three year period 2008 - 2010 reviewed. PHMSA has proposed a civil penalty of \$34,600 for this alleged violation.
3. **Procedural Manual - Patrolling:** The operator's pipeline patrolling program procedures failed to include direction to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation in accordance with 49 C.F.R. § 192.705(a). The operator's procedures only included direction to seek out indications of leaks and construction activity. PHMSA has proposed a compliance order related to this alleged probable violation.
4. **Procedural Manual – Emergency Plan Training:** The operator's emergency plan program procedures failed to include a process to verify the training of the appropriate operating personnel, to assure that they are knowledgeable of the procedures in the emergency plan and to verify that the training is effective in accordance with 49 C.F.R. § 192.615(b)(2). The operator's procedures were satisfactorily updated immediately following the inspection and filed with the PHMSA inspector on June 10, 2011. PHMSA

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has issued a warning to correct any deficiencies related to this alleged probable violation.

5. Transmission Line – Record Keeping: The operator failed to document in accordance with 49 C.F.R. § 192.709 that it had operated all of its valves that might be used in an emergency at the Delaware City Compressor Station. In a review of records for 2009, the record keeping was not completely filled out, a column entitled “Valve Turned” was left blank. PHMSA has issued a warning to correct any deficiencies related to this alleged probable violation.

6. General – Electrical Isolation Tests: The operator failed to follow its procedures which require that electrical tests be performed annually during the CP surveys to assure that electrical isolation is adequate. Such testing is also required by 49 C.F.R. § 192.467(d). PHMSA Staff noted that the operator failed to perform the required testing at several locations noted over the three year period 2008 -2010 reviewed. PHMSA has issued a warning to correct any deficiencies related to this alleged probable violation.

In response to the Notice of Probable Violation, Eastern Shore has elected not to contest the Proposed Civil Penalty but to offer certain supplemental explanation, information, and other materials which we believe may warrant mitigation of the proposed civil penalty. We respectfully offer this further explanation for your consideration.

In regard to Item Number 2:

Eastern Shore, a subsidiary of Chesapeake Utilities Corporation headquartered in Dover, Delaware, has been transporting natural gas on the Delmarva Peninsula since 1959. Eastern Shore serves 6 Local Distribution Companies (LDCs), approximately 12 commercial/industrial customers, and 3 electric generation customers in the states of Delaware, Maryland and Pennsylvania. Eastern Shore currently owns and operates approximately 403 miles of pipeline and 3 compressor stations with a combined total of 10,220 horsepower. The current peak day maximum daily transportation quantity is just over 200,000 dekatherms.

Since its inception, Eastern Shore has strived to operate and maintain its pipeline facilities in accordance with the applicable industry and regulatory standards. Eastern Shore has maintained a respectable PHMSA compliance and safety record in the 52 plus year operating history of the pipeline. At Eastern Shore, safety is never an afterthought. In order to perform our jobs in a safe manner at all times, we require active planning and involvement by everyone on our team. Ask anyone at Eastern Shore what their top priority is and they will answer “Safety First”.

Eastern Shore’s commitment to safety hinges on its employees and is backed solidly by Company management. We believe that the industry as a whole is committed to safe work

practices and safe, reliable pipeline operations. The safety of the public, our contractors, and our employees is our highest priority at Eastern Shore. The key to our successful practices is obtaining buy-in from our employees and front line management; and our solid reputation for reliable gas service and friendly customer support is augmented by the value we put on safety, in and out of the workplace. As indicated below, Eastern Shore has redoubled its commitment to safety and to full compliance with PHMSA regulatory requirements in the past 18 months.

Eastern Shore has conducted annual CP surveys each year, as PHMSA regulations require. Unfortunately, the 2008 – 2010 annual CP surveys missed several CP readings. During 2008 and 2009, Eastern Shore was relying heavily on Third Party Consultants to complete the annual CP surveys. Although the missed reads were noted in the consultants' reports, Eastern Shore did not follow up sufficiently to correct some of the deficiencies (for example, missing test station wires or missing casing vent posts), resulting in the same missing reads in subsequent annual CP surveys.

Having become aware that it needed to focus more resources on CP and pipeline matters, in July 2010 Eastern Shore hired an experienced Corrosion Engineer and placed him under the direction of our Pipeline Integrity Manager. One of this Corrosion Engineer's major responsibilities is to assist in the formulation and implementation of improvements to Eastern Shore's pipeline integrity management processes and procedures. Beginning in 2010, Eastern Shore personnel took on all responsibility for performing the annual CP surveys, and since mid-2010 this work has been performed in house with Eastern Shore's own experienced and dedicated personnel. We believe that this change has already improved, and will continue to improve, the quality of data collected in the field and the follow-up and oversight of remedial work, all of which is and will continue to enhance the quality of our cathodic protection systems. We are working diligently to catch up on any outstanding CP system maintenance items in 2012, and expect to have all such items resolved before year end.

Eastern Shore submits that given the nature of the violations PHMSA has identified, the corrective actions the company took even before the PHMSA's May 2011 inspection, and other factors, it would be appropriate for PHMSA to reduce the proposed civil penalty by \$5,000, to \$29,600. While Eastern Shore acknowledges that missing CP readings in annual CP surveys is a serious matter, it notes that it has always conducted annual CP surveys, that it has attempted in good faith to comply with the relevant CP survey requirements, and that it missed certain CP readings inadvertently. No facility leaks or environmental damage resulted from the missed CP readings. The company did not gain financially from its inadvertent failure to take certain CP readings. As PHMSA's "Summary of Enforcement Actions" web page tab¹ confirms, during the period from 2002 to 2011, Eastern Shore has had no Corrective Action Orders, Notices of

¹ http://primis.phmsa.dot.gov/comm/reports/enforce/Actions_opid_4149.html#_TP_1_tab_1.

Probable Violation or Notices of Amendment, and only a single Warning Letter (relating to an inadvertent failure to submit drug and alcohol testing data for CY 2009). Thus, Eastern Shore does not have a history of prior violations of PHMSA requirements. The Company has taken proactive steps to remedy the deficiencies that led to the missed CP readings, and has reaffirmed its commitment to full compliance with PHMSA regulatory requirements through the addition of an experienced Corrosion Engineer whose responsibilities include enhancing Eastern Shore's corrosion control programs and its pipeline integrity management initiatives generally. For these reasons, and having regard for the assessment factors set forth in 49 C.F.R. § 190.225, Eastern Shore asks that PHMSA consider reducing the proposed civil penalty.

In response to the Proposed Compliance Order, Eastern Shore has elected not to contest the Order but to offer a supplemental explanation, information, and other materials which we believe may warrant modification of the proposed compliance order. We respectfully offer this further explanation for your consideration.

In regard to Item Number 1:

During the PHMSA inspection the week of May 16, 2011 and in a follow-up email on June 17, 2011, Eastern Shore advised of the company's intent to begin providing public awareness education materials in English and Spanish as part of our standard mailing to all of the affected public within our pipeline corridor. We have reviewed the US Census demographic data available for the States by County in which we operate and have determined that a small but significant population of persons of Hispanic or Latino origin does exist. By providing our educational materials in English and Spanish, we are confident that we are communicating in the two primary languages recognizable to the stakeholders in our operating area. In fact, we completed our first bi-lingual public awareness mailing in late June 2011 along our entire pipeline corridor. Alex Dankanich, PHMSA CATS Coordinator, conducted his first detailed Public Awareness audit of Eastern Shore's program on August 2 – 3, 2011 and during our exit interview he commented that Eastern Shore's public awareness brochure was one of the best he had reviewed to date.

Eastern Shore respectfully requests that PHMSA consider the actions already undertaken in resolution of this issue prior to making its final determination whether, or not, to recommend further action in the form of the proposed compliance order.

In regard to Item Number 3:

Eastern Shore's pipeline operations personnel have been instructed and are familiar with the requirement to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation during pipeline patrolling functions. Transmission lines should be patrolled, as necessary, to observe factors affecting safe operation and to enable correction of potentially hazardous

conditions. In addition to visual evidence of leakage or construction activity, pipeline patrols should also include observation and reporting of potential hazards such as:

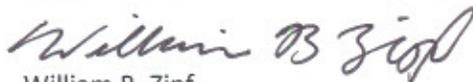
1. Ongoing excavation, grading, or demolition activity that could cause damage to the pipe, loss of support or undermining, loss of cover or excessive fill.
2. Evidence of impending construction activity or recently completed construction activity.
3. Physical deterioration or damage observed on above grade pipeline components such as exposed pipeline crossings, casing vent posts, markers, and valve or M&R sites.
4. Land subsidence, extensive erosion, flooding, or other natural events to the extent that they could be reasonably believed to have a detrimental impact upon the pipeline facilities.
5. Specific areas of continual earth-moving activities such as quarries which may require special attention.
6. Condition of the right-of-way to the extent that it can be reasonably believed to have a detrimental impact to the pipeline facilities. For example, excessive vegetation growth may restrict ingress and egress for purposes of patrolling or other maintenance or emergency response.

We have drafted an updated Procedure Subsection 310 paragraph 312 that incorporates these updated requirements and attached for your reference.

Eastern Shore respectfully requests that PHMSA consider the proposed updated procedure at this time in resolution of this issue prior to making its final determination whether, or not, to recommend further action in the form of the proposed compliance order.

Eastern Shore recognizes this is an opportunity to improve our processes and procedures going forward. If you have any questions or would like to discuss our responses further, please contact me at any time. Thank you.

Sincerely,
Eastern Shore Natural Gas Company



William B. Zipf
Vice President

Attachments