

May 28, 2013

Mr. Jeffrey A. Bruner
President
Iroquois Pipeline Operating Company
One Corporate Drive, Suite 600
Shelton, CT 06484

Re: CPF No. 1-2012-1026

Dear Mr. Bruner:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$8,700, and specifies actions that need to be taken by Iroquois Pipeline Operating Company to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer dated February 7, 2013. When the terms of the Compliance Order are completed, as determined by the Director, Eastern Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Byron Coy, Director, Eastern Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)	
)	
Iroquois Pipeline Operating Company,)	CPF No. 1-2012-1026
)	
Respondent.)	
)	

FINAL ORDER

Between July 11, and July 15, 2012, State Inspectors from the New York State Department of Public Service (NYSDPS), acting as Agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, conducted an on-site pipeline safety inspection of the facilities and a records review of Iroquois Pipeline Operating Company (Iroquois or Respondent) in New York and Western Connecticut. Iroquois is a wholly owned subsidiary of Iroquois Gas Transmission System, LP. Iroquois operates a 416-mile natural gas pipeline extending through New York and Western Connecticut.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated December 18, 2012, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Iroquois had violated 49 C.F.R. §§ 192.491(c) and 192.707(a) and proposed assessing a civil penalty of \$8,700 for one of the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct an alleged violation.

Iroquois responded to the Notice by letter dated January 16, 2013 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$8,700, as provided in 49 C.F.R. § 190.227. Payment of the penalty authorizes PHMSA to make findings of violation as to those items which Iroquois has paid. The findings are made with prejudice to Respondent.

FINDINGS OF VIOLATION

In its Response, Iroquois did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

¹ See <http://www.iroquois.com/environmental-gas.asp>, (last accessed on May 2, 2013).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.491(c), which states in relevant part:

§ 192.491 Corrosion control records.

(a)....

(c) Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years, except that records related to §§192.465 (a) and (e) and 192.475(b) must be retained for as long as the pipeline remains in service.

The Notice alleged that Respondent violated 49 C.F.R. § 192.491(c) by failing to maintain and provide a record of an inspection for internal corrosion. Specifically, the Notice alleged that Iroquois failed to maintain a record of inspecting the internal surface of removed pipe for corrosion during the installation of a Dresser Series 7M1480 Roots meter and the removal of a short section of 4-inch pipe, on July 22, 2011, for the New Bremen meter replacement project.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.491 by failing to maintain an internal inspection record for corrosion during the installation of a Dresser Series 7M1480 Roots meter and the removal of a short section of 4-inch pipe for the New Bremen meter replacement project.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.707(a), which states in relevant part:

§ 192.707 Line markers for mains and transmission lines.

(a) *Buried Pipelines.* Except as provided in paragraph (b) of this section, a line marker must be placed and maintained as close as practical over each buried main and transmission line:

(1)

(2) Wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference.

The Notice alleged that Respondent violated 49 C.F.R. § 192.707(a) by failing to install and maintain markers for each transmission line wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference. Specifically, the Notice alleged that Iroquois did not have pipeline markers in adequate quantity or placement so that the location of the pipeline from the St. Lawrence River Crossing to the Mohawk River Crossing could be accurately discerned.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.707 by failing to have pipeline markers in adequate quantity or placement so that the location of the pipeline from the St. Lawrence River Crossing to the Mohawk River Crossing could be accurately discerned.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

ASSESSMENT OF PENALTY

Under 49 U.S.C. § 60122, Respondent is subject to an administrative civil penalty not to exceed \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations. In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I must consider the following criteria: the nature, circumstances, and gravity of the violation, including adverse impact on the environment; the degree of Respondent's culpability; the history of Respondent's prior offenses; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. In addition, I may consider the economic benefit gained from the violation without any reduction because of subsequent damages, and such other matters as justice may require. The Notice proposed a total civil penalty of \$8,700 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$8,700 for Respondent's violation of 49 C.F.R. § 192.491, for failing to maintain an internal inspection record for corrosion during the installation of a Dresser Series 7M1480 Roots meter and the removal of a short section of 4-inch pipe, on July 22, 2011, for the New Bremen meter replacement project. Iroquois paid the proposed penalty, which authorizes PHMSA to make a finding of violation, with prejudice, regarding this item. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$8,700 for violation of 49 C.F.R. §192.491.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$8,700**, which has been paid in full by Iroquois.

COMPLIANCE ORDER

The Notice proposed a Compliance Order with respect to Item 2 in the Notice for the violation of 49 C.F.R. §192. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.707 (**Item 2**), Respondent must install and maintain pipeline markers along the pipeline from the St. Lawrence River Crossing to the Mohawk River Crossing in adequate quantity and placement so that the route of the pipeline, especially changes in direction, can be accurately discerned to reduce the possibility of damage or interference.

2. Respondent must submit documentation that demonstrates it has completed the installation of the pipeline markers, as noted in item #1 above, within 90 days of receipt of the Final Order.
3. It is requested (not mandated) that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Byron Coy, P.E., Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued