

DECEMBER 26, 2013

Mr. Zin Smati
President and CEO
GDF SUEZ Energy North America
1990 Post Oak Boulevard, Suite 1900
Houston, Texas 77056-3831

Re: CPF No. 1-2013-2001

Dear Mr. Smati:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$13,700. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. 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. Gary S. Williams, Director, Port Operations, Neptune LNG, LLC
Mr. Frank Katulak, Senior Vice President, Operations, Neptune LNG, LLC
Mr. Byron Coy, Director, Eastern Region, 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)	
)	
Neptune LNG, LLC, and)	
GDF SUEZ Energy North America,)	CPF No. 1-2013-2001
)	
Respondent.)	
_____)	

FINAL ORDER

During the week of August 15, 2011, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Neptune LNG, LLC (Neptune or Respondent), in Gloucester, Massachusetts. Neptune is a subsidiary of GDF SUEZ Energy North America.¹ Neptune operates 13.5 miles of pipeline transporting natural gas associated with its deepwater port operation located off the coast of Gloucester, Massachusetts.

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated January 24, 2013, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Neptune had violated 49 C.F.R. § 192.605(a) and proposed assessing a civil penalty of \$13,700 for the alleged violation.

Neptune responded to the Notice by letter dated March 8, 2013 (Response). The company contested the allegation, offered additional information in response to the Notice, and requested that the proposed civil penalty be eliminated. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

¹ The Notice of Probable Violation in this case was issued to Neptune LNG, LLC.

§ 192.605(a) -- Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a) by failing to follow its manual of written procedures for conducting operations and maintenance activities. Specifically, the Notice alleged that Neptune's procedures required it to verify the electrical isolation of its deepwater port from the Algonquin Hubline by July 10, 2011, and that Neptune failed to do so.

In its Response, Neptune contended that it had complied with its procedures. Neptune asserted that its procedure on electrical isolation states:

“On the Neptune pipeline, an electrical isolation gasket kit is installed on the 20” ball valve flange-to-flange connecting the 20”/16” reducer spool to electrically isolate the Algonquin Hub Line hot tap and the Transition Manifold. Inspection and electrical tests must be made to assure that electrical isolation is adequate, once each calendar year not exceeding 15 month interval. Arrangements will be made with Spectra annually to obtain readings from the Spectra side of the hot tap.”²

Neptune stated that initial testing was performed prior to the commissioning date of April 10, 2010, and that for calendar year 2011, it completed its own tests in June 2011 and received Spectra's reading on August 22, 2011. Neptune asserted that the procedure requires the company to “make its readings which will be used to confirm electrical isolation within its 15-month interval, and to obtain readings separately from Spectra on an annual basis.” Neptune stated that because it did conduct its inspection and electrical test within the 15-month interval, and that because it obtained an annual reading from Spectra for Spectra's side of the hot tap, it had not violated its procedure.

I disagree. Neptune's procedure states that “[i]nspection and electrical tests must be made to assure that electrical isolation is adequate, once each calendar year not exceeding 15 month interval [*sic*].” The procedure does not specify that only Neptune's tests must be completed within the 15-month interval. In order to assure that electrical isolation is adequate, the readings from both the Neptune side and the Spectra side of the hot tap are required. Because Neptune could not verify that the electrical isolation was adequate until receiving the test results from Spectra, and because August 22, 2011, was more than 16 months after the initial testing, Neptune failed to meet the 15-month deadline.

² Response at 2.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605(a) by failing to follow its written procedures for electrical isolation verification.

This finding of violation will be considered a prior offense 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 \$13,700 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$13,700 for Respondent's violation of 49 C.F.R. § 192.605(a), for failing to follow its manual of written procedures for conducting operations and maintenance activities. In its Response, Neptune requested that the proposed penalty be eliminated or reduced. Neptune's only argument for this reduction was the same as its defense to the alleged violation. As discussed above, however, I did not find that argument persuasive. The purpose of electrical isolation is to ensure the pipeline can be adequately protected from external corrosion which, if left unchecked, can lead to a pipeline failure. Neptune was fully culpable for the failure to ensure that the electrical isolation on its pipeline was adequate. Therefore, I find that the nature, circumstances, and gravity of the violation justify the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$13,700 for violation of 49 C.F.R. § 192.605(a).

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 **\$13,700**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$13,700 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to

those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

Under 49 C.F.R. § 190.215, Respondent has the right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of the Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed but does not stay any other provisions of the Final Order, including any required corrective actions. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

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