



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, D.C. 20590

DEC 31 2012

Ms. Kim Watson
President, Eastern Pipeline Group
Tennessee Gas Pipeline Company, LLC
Kinder Morgan Building
1001 Louisiana Street
Houston, TX 77002

Re: CPF No. 4-2012-1005

Dear Ms. Watson:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$118,500, and specifies actions that need to be taken by Tennessee Gas Pipeline Company, LLC, to comply with the pipeline safety regulations. This is to acknowledge receipt of the full penalty amount, by wire transfer dated August 31, 2012. When the terms of the compliance order have been completed, as determined by the Director, Southwest 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. Tom Martin, Vice President, KM Gas Pipeline, 1001 Louisiana Street, Houston, TX
77002
Mr. R. M. Seeley, Director, Southwest 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)

Tennessee Gas Pipeline Company, LLC,)

Respondent.)
_____)

CPF No. 4-2012-1005

FINAL ORDER

Between January and October 21, 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 Tennessee Gas Pipeline Company, LLC (TGPL or Respondent), in Cleveland, Edinburg, and Robstown/Victoria, Texas, and in Kinder, Natchitoches, Houma, and West Monroe, Louisiana. TGPL, a subsidiary of Kinder Morgan Energy Partners, LP, operates a 13,900-mile pipeline system that transports natural gas from the U.S. Gulf Coast to Texas, Louisiana, Arkansas, Kentucky, Tennessee, Ohio, Pennsylvania, West Virginia, New Jersey, New York, and the New England region.¹

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated April 25, 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 TGPL had violated 49 C.F.R. §§ 191.15, 192.229, 192.605, 192.743 and 192.805, assessing a civil penalty of \$118,500 for the alleged violations, and ordering Respondent to take certain measures to correct the alleged violations. The warning items required no further action but warned the operator to correct the probable violations or face future potential enforcement action.

Respondent responded to the Notice by letter dated July 9, 2012 (Response). TGPL requested an extension of time to respond and requested a hearing. By letter dated August 31, 2012, Respondent withdrew its request for a hearing and thereby authorized the entry of this Final Order without further notice (Supplemental Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$118,500, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

¹ At the time of the inspection, the facilities in question were operated by El Paso Pipeline Partners, LP (EPNG). In May 2012, Kinder Morgan acquired EPNG and TGPL.
http://www.kindermorgan.com/business/gas_pipelines/east/TGP/ (last accessed on November 7, 2012).

FINDINGS OF VIOLATION

In its Response, TGPL did not contest the allegations in the Notice that it violated 49 C.F.R. Parts 191 and 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 191.15(a), which states:

§ 191.15 Transmission and gathering systems: Incident report.

(a) Except as provided in paragraph (c) of this section, each operator of a transmission or a gathering pipeline system shall submit Department of Transportation Form RSPA F 7100.2 as soon as practicable but not more than 30 days after detection of an incident required to be reported under § 191.5.²

The Notice alleged that Respondent violated 49 C.F.R. § 191.15(a) by failing to submit a written incident report on RPSA Form 7100.2³ (Form 7100.2) as soon as practicable, but not more than 30 days, after detection of an incident required to be reported under 49 C.F.R. § 191.5.⁴ Specifically, it alleged that on July 26, 2010, a pinhole leak occurred in a girth weld on the bottom of Respondent's pipeline, resulting in a release of natural gas. TGPL did not submit Form 7100.2 until September 14, 2010, approximately 50 days after detection of the incident.⁵

Respondent did not contest this allegation of violation. Accordingly, based upon a review of the evidence, I find that Respondent violated 49 C.F.R. § 191.15(a) by failing to submit an incident report on RSPA Form 7100.2 as soon as practicable, but not more than 30 days, after detection of an incident required to be reported under 49 C.F.R. § 191.5.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.229(c)(1), which states:

§ 192.229 Limitations on welders.

(a) ...

(c) A welder qualified under § 192.227(a)--

(1) May not weld on pipe to be operated at a pressure that produces a hoop stress of 20 percent or more of [Specified Minimum Yield Strength] SMYS unless within the preceding 6 calendar months the welder has had one weld tested and found acceptable under the sections 6 or 9 of [American Petroleum Institute] API Standard 1104 (incorporated by reference, *see* § 192.7). Alternatively, welders may maintain an ongoing qualification status by performing welds tested and found acceptable

² The Notice erroneously cited § 191.15(a) as it had been amended, effective November 26, 2010. The amendment, however, did not make any substantive changes in the reporting requirement.

³ PHMSA Form 7100-2, formerly named Form RSPA F 7100.2.

⁴ Sections 191.5 and 191.3 provide that incidents must be reported if they involve a release of gas from a pipeline, a death or personal injury necessitating in-patient hospitalization, or estimated property damage of \$50,000 or more.

⁵ Pipeline Safety Violation Report (Violation Report) (April 26, 2011) (on file with PHMSA), at 78 and Exhibit 1.

under the above acceptance criteria at least twice each calendar year, but at intervals not exceeding 7½ months. A welder qualified under an earlier edition of standard listed in § 192.7 of this part may weld but may not requalify under that earlier edition;....

The Notice alleged that Respondent violated 49 C.F.R. § 192.229(c)(1) by failing to ensure that welders did not weld on pipe operated at a pressure producing a hoop stress of 20 percent or more of SMYS unless the welder has had one weld tested and found acceptable under Sections 6 or 9 of API Standard 1104 within the past six months. Specifically, the Notice alleged that PHMSA's inspection found multiple instances, as more fully described in the Notice and Violation Report, where welders on Respondent's pipeline had not been qualified within the preceding six calendar months in accordance with Sections 6 or 9 of API Standard 1104.⁶

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. § 192.229(c)(1) by failing to ensure that welders did not weld on pipe operated at a pressure that produces a hoop stress of 20 percent or more of SMYS unless the welder had one weld tested and properly qualified within the preceding six calendar months in accordance with Sections 6 or 9 of API Standard 1104.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

§ 192.605 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 own manual of written procedures for conducting operations and maintenance (O&M) activities. Specifically, it alleged that TGPL failed to follow its *Operating and Maintenance Procedures, Section 302: Pressure Control and Overpressure Protection, Sub Section 10*, which required TGPL employees to witness, document, and provide a witness signature on either a company form or an operator-provided document indicating that the testing and maintenance activity had been completed.⁷

⁶ Violation Report at 7-31 and Exhibits 2A-2D.

⁷ TGPL's *O&M Procedure Section 302: Pressure Control and Overpressure Protection, Sub Section 10*, stated: "The inspection, testing and maintenance of overpressure equipment located on pipeline facilities connected to El Paso facilities but operated by other companies must be witnessed by Operations personnel qualified for that task." Further, Appendix D of this section required documentation that the activity had been witnessed by Operations personnel qualified for the task. Violation Report Exhibit 3.

Specifically, the Notice alleged that during 2007 through the time of the inspection, TGPL failed to follow its own procedure for witnessing and documenting the testing and maintenance of overpressure protection equipment installed at the company's HILCORP Station. The company's records show that the last time its personnel witnessed the activity was on June 16, 2006.

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. § 192.605(a) by failing to follow its manual of written procedures for conducting O&M activities.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), as quoted above, by failing to follow its own manual of written procedures for emergency response. Specifically, the Notice alleged that TGPL failed to follow its *Operating and Maintenance Procedures 603: Emergency Plan/Notification and Investigation, Section 6*, which required that appropriate location employees be trained once each calendar year on the company's emergency response procedures and that the dates of training and the names of the instructors and trainees present be documented, with a copy of the documentation filed at the designated location."⁸ According to the Notice, the company's records revealed that several individuals had not been trained for one or more years, as more fully described in the Violation Report.⁹ During PHMSA's inspection, the company was unable to provide records or demonstrate that the company's employees and/or contractors had been trained on TGPL's plan for emergency response.

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. § 192.605(a) by failing to follow its own manual of written procedures for emergency response.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 192.743(a) which states:

§ 192.743 Pressure limiting and regulator stations: Capacity of relief devices.

(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 determine at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations.

⁸ TGPL *Operating and Maintenance Procedures 603: Emergency Plan/Notification and Investigation, Section 6* states: "The appropriate location employees will be trained once each calendar year in the pipeline or plant emergency operating procedures. The methods of training (instruction, discussion, testing, emergency simulation, review of actual emergency, etc.), the dates of training, the instructors, and the trainees present will be documented. The training should be conducted at least once each calendar year and reviewed with all area employees. A copy of the documentation will be filed at the designated location." Violation Report, Exhibit 4.

⁹ Violation Report, Exhibit 4.

The Notice alleged that Respondent violated 49 C.F.R. § 192.743(a) by failing to determine, at intervals not exceeding 15 months but at least once each calendar year, that the pressure relief devices at pressure limiting stations and pressure regulating stations had sufficient capacity to protect the facilities to which they were connected. Specifically, the Notice alleged that TGPL failed to conduct the required tests for two pressure relief devices at its East Bernard Compressor Station for three years, as more fully described in the Violation Report.¹⁰

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. § 192.743(a) by failing to determine, at intervals not exceeding 15 months but at least once each calendar year, that the pressure relief devices at the East Bernard Compressor Station had sufficient capacity to protect the facilities to which they were connected.

Item 8: The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b), which states:

§ 192.805 Qualification program.

Each operator shall have and follow a written qualification program.

The program shall include provisions to:

- (a) . . .
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;

The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b) by failing to ensure through evaluation that an employee performing a covered task was properly qualified. Specifically, the Notice alleged that a TGPL employee performed covered task “038MST: Inspect/troubleshoot/Repair Pressure Regulator (Worker Device),” when the employee’s qualification records did not show that the individual had been qualified to perform the task.¹¹

The PHMSA inspection revealed that during annual breakdown inspections on August 16, 2007, and April 2, 2008, the employee in question allegedly installed a new Teflon seal disc kit and an “O” ring kit in the pilot regulator located at the company’s station # 9 B-Master Fuel. The Notice further alleged that the employee in question had not been directed and observed by a qualified individual when covered Task 038MST was performed. The employee had been qualified on this covered task on March 17, 2004, but the task constituted a Level A task that required subsequent qualification at an interval of three years but not to exceed 39 months.¹² The employee’s qualification had expired on or about June 17, 2007. At the time that the covered task was performed, the employee’s qualification had been expired approximately two months as of August 16, 2007, and 10 months as of April 2, 2008.

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. § 192.805(b) by failing to ensure through evaluation that an employee performing a covered task had been properly qualified.

¹⁰ Violation Report at 59 and Exhibit 7.

¹¹ Violation Report, Exhibit 8.

¹² *Id.*

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 \$118,500 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$11,400 for Respondent's violation of 49 C.F.R. § 191.15(a), for failing to submit a written incident report as soon as practicable, but not more than 30 days, after detection of the incident required to be reported under 49 C.F.R. § 191.5. Specifically, on July 26, 2010, an incident on Respondent's pipeline resulted in a release of natural gas but TGPL did not submit Form 7100.2 until September 14, 2010, approximately 50 days after detection of the incident. TGPL paid the proposed penalty for this allegation of violation, which serves to close the case with prejudice to Respondent. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$11,400 for violation of 49 C.F.R. § 191.15(a).

Item 2: The Notice proposed a civil penalty of \$16,100 for Respondent's violation of 49 C.F.R. § 192.229(c)(1), for failing to ensure that welders did not weld on pipe to be operated at a pressure producing a hoop stress of 20 percent or more of SMYS unless the welders had one weld tested and found acceptable under Sections 6 or 9 of API Standard 1104 within the previous six months. TGPL paid the proposed penalty for this allegation of violation, which serves to close the case with prejudice to Respondent. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$16,100 for violation of 49 C.F.R. § 192.229(c)(1).

Item 3: The Notice proposed a civil penalty of \$15,700 for Respondent's violation of 49 C.F.R. § 192.605(a), for failing to follow its own written *Operating and Maintenance Procedures, Section 302: Pressure Control and Overpressure Protection, Sub Section 10*, which required TGPL employees to document that an O&M activity had been completed. TGPL paid the proposed penalty for this allegation of violation, which serves to close the case with prejudice to Respondent. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$15,700 for violation of 49 C.F.R. § 192.605(a).

Item 4: The Notice proposed a civil penalty of \$17,400 for Respondent's violation of

49 C.F.R. § 192.605(a), for failing to follow its own written procedures for emergency response, as set forth in its *Operating and Maintenance Procedures 603: Emergency Plan/Notification and Investigation, Section 6*. TGPL paid the proposed penalty for this allegation of violation, which serves to close the case with prejudice to Respondent. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$17,400 for violation of 49 C.F.R. § 192.605(a).

Item 7: The Notice proposed a civil penalty of \$42,700 for Respondent's violation of 49 C.F.R. § 192.743(a), for failing to determine, at intervals not exceeding 15 months but at least once each calendar year, that the pressure relief devices at the East Bernard Compressor Station had sufficient capacity to protect the facilities. TGPL paid the proposed penalty for this allegation of violation, which serves to close the case with prejudice to Respondent. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$42,700 for violation of 49 C.F.R. § 192.743(a).

Item 8: The Notice proposed a civil penalty of \$15,200 for Respondent's violation of 49 C.F.R. § 192.808(b), for failing to ensure through evaluation that an employee performing a covered task had been properly qualified to perform the task. TGPL paid the proposed penalty for this allegation of violation, which serves to close the case with prejudice to Respondent. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$15,200 for violation of 49 C.F.R. § 192.805(b).

In summary, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of **\$118,500**, which has already been paid by Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 7 in the Notice for violation of 49 C.F.R. § 192.743(a). 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 § 192.743(a) (**Item 7**), Respondent must perform an audit to ensure that pressure regulators and relief devices that protect TGPL's East Bernard Compressor Station from overpressure are in compliance with § 192.743. As part of the audit, Respondent must:
 - A. Develop a plan to calculate the capacity of regulators and relief valves installed on TGPL's facility.
 - B. Conduct a survey of overpressure protection devices currently installed on TGPL's natural gas pipeline system. The survey must evaluate the overpressure protection devices and verify the data collected, such as the inlet and outlet size, the orifice area and the coefficient of actual discharge, in order to perform sizing

calculations. TGPL's D.O.T. Compliance Services Group must ensure that the highest peak throughput provided by the company's Plant Service Group is accurate.

- C. Identify deficiencies observed during the review of personnel performance in preparing and following TGPL procedures for calculating sizing capacities. TGPL must integrate the findings and amend its procedures.
- D. Based upon results of the plan, verify that the regulator and relief devices installed on TGPL's facilities have adequate capacities, as required by 49 CFR § 192.743. If the capacity is found to be insufficient, TGPL must install/modify the equipment to provide the required capacity.

TGPL must complete Item A within 30 days and Items B, C, and D within 365 days following receipt of the Final Order.

TGPL must also submit documentation to demonstrate completion of the items above to Mr. R. M. Seeley, Region Director, Southwest Region, Office of Pipeline Safety, Pipeline and Hazardous Materials Safety Administration.

- 2. It is requested that TGPL maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

WARNING ITEMS

With respect to Items 5, 6, and 9, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warning(s) were for:

49 C.F.R. § 192.615(b)(3) (**Item 5**) — Respondent's alleged failure to review employee activity to determine whether the company's emergency procedures were effectively followed during an emergency. Specifically, TGPL did not have adequate documentation to demonstrate that the company had reviewed its

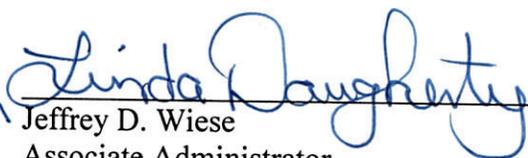
employees' activities directly following an August 2007 emergency to verify the effectiveness of its procedures;

49 C.F.R. § 192.736(b)(1)-(2) and (c) **(Item 6)** — Respondent's alleged failure to maintain gas detection and alarm equipment at TGPL's Cleveland and Jasper compressor stations. Specifically, random field tests found gas detectors had inoperable building horns (audible alarm) and strobe lights (visual alarm) to warn persons about to enter the building and persons inside the building of the danger; and

49 C.F.R. § 192.706(a) **(Item 9)** — Respondent's alleged failure to conduct a leakage survey in a newly identified Class 3 location, using leak detector equipment. Specifically, TGPL allegedly did not conduct a leakage survey of a newly identified class location upgrade in June of 2007, and did not include the section of pipeline in the company's November 2007 leakage survey. TGPL did not survey the section of pipe until April 10, 2008.

If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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

DEC 31 2012
Date Issued