

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

FEB 19 2013

BRIDER PIPELINE, LLC Petitioner	Case No.
v.	
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION Respondent	Petition for Review

PETITION FOR REVIEW OF FINAL AGENCY ACTION

Pursuant to Rule 15 of the Federal Rules of Appellate Procedure and 49 U.S.C. 60119, Bridger Pipeline, LLC (Bridger) hereby petitions this Court for review of final agency action of the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (PHMSA).

This is a proceeding in which PHMSA alleged Bridger had violated certain pipeline safety regulations promulgated by PHMSA and sought penalties. PHMSA issued a Notice of Probable Violation (Notice) (CPF No. 5-2009-5034) to Bridger, containing eight alleged violation "Items." At Bridger's request, a hearing was held on May 18, 2010. Over two years later, on August 30, 2012, PHMSA issued an order (the "Final Order") finding that Bridger had violated certain of the Items, including Item 4, Item 5, Item 6, and Item 7, and assessing a penalty and requiring certain corrective action. Final Order, August 30, 2012. On September 24, 2012, Bridger sought reconsideration of the Final Order including its determination that Bridger violated the regulations cited in Item 4, Item 5, Item 6, and Item 7 of the Notice, and the penalty. On December 31, 2012, PHMSA affirmed the Final Order with regard to Item 4, Item 5, Item 6, and Item 7 of the Notice, and the penalty. Decision on Petition for Reconsideration, December

31, 2012 (the "Decision). The Decision states that it is "the final administrative action in this proceeding."

Bridger petitions for review of both the Final Order and the Decision. Specifically, Bridger seeks review of the determination in the Final Order finding that Bridger violated the regulations cited in Item 4, Item 5, Item 6, and Item 7 because, without limitation, the findings of violation are (1) contrary to law in that Bridger did not violate the regulations cited, among other reasons; (2) are not supported by substantial evidence in the record, and in fact are contradicted by the only reliable, substantial evidence in the record, which PHMSA improperly dismissed or did not address at all; and (3) are arbitrary and capricious. Further, Bridger also petitions for review of the penalty assessed in the Final Order for the reasons set forth above and because the penalty has been miscalculated and is excessive, to the extent that Bridger violated some or all of the cited regulations, which Bridger disputes. Bridger requests that the Court set aside the factual findings of PHMSA, and reverse and vacate the findings of violation in the Final Order concerning Item 4, Item 5, Item 6, and Item 7 of the Notice, and the penalty. In addition, Bridger seeks review of the Decision, and requests that this Court vacate the Decision and find that PHMSA should have granted Bridger's request for reconsideration of Item 4, Item 5, Item 6, and Item 7 of the Notice, and should have dismissed or recalculated the penalty. Copies of the Final Order and the Decision for which review is sought are attached hereto.

This Court has jurisdiction and is the proper venue for this matter pursuant to 49 U.S.C. §60119 and PHMSA is the proper respondent under Federal Rule of Appellate Procedure 15(a). A filing fee of \$450.00 will be paid, as required, to the Clerk for the filing of this Petition.

The undersigned hereby certifies that this submission was scanned for viruses with the

most recent version of a commercial virus scanning program, specifically Trend Micro Office Scan and the program components were updated on February 5, and February 9, 2013, and according to the program is free of viruses.

Dated: February 15, 2013

RESPECTFULLY SUBMITTED,

s/Colin G. Harris

Colin G. Harris

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 15th day of February, 2013, a true and correct copy of the foregoing PETITION FOR REVIEW was served via Federal Express Overnight Delivery as follows:

Jeffrey D. Wiese, Associate
Administrator for Pipeline Safety
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and by U.S. mail, postage prepaid, to the following:

Chris Hoidal, P.E.
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Office of Pipeline Safety
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s/Ramona Bailey
Ramona Bailey