

Mr. James C. Yardley
President
Tennessee Gas Pipeline Company
1001 Louisiana Street
Houston, Texas 77002

RE: CPF No. 2-2004-1005

Dear Mr. Yardley:

Enclosed is the Final Order issued by the Pipeline and Hazardous Materials Safety Administration in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$5,000. I acknowledge receipt of Tennessee Gas Pipeline Company's payment of \$5,000 in satisfaction of the civil penalty assessed in the Final Order. This case is now closed. Your receipt of the Final Order constitutes service of that document 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: Linda Daugherty, Director, Southern Region, PHMSA

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,)	CPF No. 2-2004-1005
)	
Respondent.)	

FINAL ORDER

Between May and August 2003, pursuant to 49 U.S.C. § 60117, a representative of the Research and Special Programs Administration,¹ Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Tennessee Gas Pipeline Company's facilities and records in Alabama, Kentucky, Tennessee, and Mississippi. Tennessee Gas Pipeline Company (TGP or Respondent) is a wholly-owned subsidiary of El Paso Corporation, which owns a 42,000-mile interstate natural gas pipeline system throughout the United States. TGP operates approximately 13,700 miles of the El Paso system stretching from the Mexican border to Canada.

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated April 30, 2004, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that TGP had violated 49 C.F.R. § 192.706(a) and assessing a civil penalty of \$5,000 for the alleged violation.

TGP responded to the Notice by letter dated June 4, 2004 (Response). Respondent did not contest the charge giving rise to the civil penalty and sent a wire transfer in the amount of \$5,000. In its Response, TGP also provided information regarding the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

¹Effective February 20, 2005, the Pipeline and Hazardous Materials Safety Administration (PHMSA) was created to ensure safety in pipeline and hazardous materials transportation. See, Section 108 of the Norman Y. Mineta Research and Special Programs Improvement Act (Public Law 108-426, 118 Stat. 2423-2429 (November 30, 2004)). See also, 70 Fed. Reg. 8299 (February 18, 2005), re delegating the pipeline safety functions of the Research and Special Programs Administration to PHMSA.

FINDING OF VIOLATION

Pursuant to 49 U.S.C. § 60122 and 49 C.F.R. §§ 190.209(a)(1) and 190.213, I find that Respondent violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.706(a), which states:

§ 192.706 Transmission lines: Leakage surveys.

Leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year. However, in the case of a transmission line which transports gas in conformity with § 192.625 without an odor or odorant, leakage surveys using leak detector equipment must be conducted -

(a) In Class 3 locations, at intervals not exceeding 7½ months, but at least twice each calendar year. . . .

The Notice alleged that Respondent did not perform the required leakage surveys using leak detector equipment in the following Class 3 areas: valve sections 564-1 (stations 163 + 18.2 to 206 + 34.2); 564-2 (stations 163 + 59.7 to 206 + 42.7); and 865-1 (stations 163 + 57.7 to 206 + 93.9). On June 3, 2002, Respondent confirmed a class location change from Classes 1 and 2 to Class 3 for these areas. Respondent was required to either odorize this line in accordance with § 192.625 or perform leakage surveys using leak detector equipment at the required 7½-month intervals. However, Respondent failed to perform these surveys between the date of the change (June 3, 2002) and July 1, 2003. At the time of the inspection, Respondent's area manager admitted that these locations had not been inspected using leak detector equipment. After considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.706(a) by failing to conduct leakage surveys of its transmission pipeline located in various Class 3 areas within the required 7½-month interval, as set forth more fully in the Notice. 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 a 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.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, including adverse impact on the environment; degree of Respondent's culpability, the history of Respondent's prior offenses, 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 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.

Item 1 of the Notice proposed a civil penalty of \$5,000 for violation of 49 C.F.R. § 192.706(a), for Respondent's failure to conduct routine leakage surveys using leak detector equipment in the Class 3 areas listed above. Since leakage surveys are one of the principal means of detecting gas leaks in populated areas, this type of maintenance is critical to public safety. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,000, which amount Respondent has already remitted to PHMSA.

The terms and conditions of this Final Order shall be effective upon receipt.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued