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**VIA E-MAIL AND UPS OVERNIGHT**

November 11, 2015

Ms. Lori Hutwagner  
Acting Director, Southern Region, OPS  
Pipeline and Hazardous Materials Safety Administration  
233 Peachtree Street NE, Suite 602  
Atlanta, GA 30303

**Re: Request for Hearing, Request for Documents and Statement of Issues  
Texas Gas Transmission, LLC, CPF No. 2-2015-1005**

Dear Ms. Hutwagner:

As provided under 49 C.F.R. §§ 190.208 and 190.211, Texas Gas Transmission, LLC (“Texas Gas”) respectfully submits the attached Request for Hearing, Request for Documents, and Preliminary Statement of Issues in response to the Notice of Probable Violation and Proposed Compliance Order (“Notice”) that OPS issued to Texas Gas, on October 13, 2015, in the above-referenced case. The Notice alleges that Texas Gas committed a violation of the gas pipeline safety regulations for Operator Qualification at 49 C.F.R. § 192.805, and proposes a compliance order. Texas Gas respectfully contests the allegation of violation and proposed compliance order.

On October 13, 2015, Texas Gas also received a Notice of Amendment (“NOA”), CPF No. 2-2015-1006M, related to its Operator Qualification procedures. Texas Gas has requested a hearing on the NOA under separate cover.

Texas Gas takes pipeline safety and any allegation of violation by OPS seriously. However, the Company believes that the allegations of violations in this case are not supported by the facts or the regulations, and that a proposed compliance order is unwarranted.

Texas Gas looks forward to discussing and resolving OPS’s concerns at or before the hearing.

Request for Hearing, Request for Documents and  
Preliminary Statement of Issues  
CPF No. 2-2015-1005  
November 11, 2015

Please do not hesitate to contact me if you have any questions.

Respectfully submitted,



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James B. Curry  
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Washington, DC 20007  
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[JBC@vnf.com](mailto:JBC@vnf.com)  
Counsel for Texas Gas Transmission, L.L.C.

CC: Mr. Benjamin Fred, Esq., Presiding Official, Office of Chief Counsel, PHMSA  
Mr. Larry White, Esq., Presiding Official, Office of Chief Counsel, PHMSA  
Ms. Alisa Chunephisal, Esq., Senior Attorney, Counsel for the Southern Region, OPS  
Mr. David Goodwin, P.E., Vice President, Technical Services, Boardwalk Pipeline  
Mr. Michael E. McMahon, Esq., Senior Vice President and General Counsel, Boardwalk Pipeline  
Mr. Jeff McMaine, P.E., Manager, Codes and Standards, Boardwalk Pipeline

Attachment: Request for Hearing, Request for Documents and Preliminary Statement of Issues

**PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
WASHINGTON, DC 20590**

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<b>In the matter of</b>	§	
	§	
	§	
<b>Texas Gas Transmission, L.L.C.,</b>	§	<b>CPF 2-2015-1005</b>
	§	
<b>Respondent.</b>	§	
	§	

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**REQUEST FOR HEARING, REQUEST FOR DOCUMENTS,  
AND PRELIMINARY STATEMENT OF ISSUES,  
OF  
TEXAS GAS TRANSMISSION, L.L.C.  
IN RESPONSE TO  
NOTICE OF PROBABLE VIOLATION,  
AND PROPOSED COMPLIANCE ORDER**

**A. Request for Hearing**

Pursuant to 49 C.F.R. §§ 190.208(a)(4) and 190.211(b), Texas Gas Transmission, LLC (“Texas Gas”) respectfully requests an in-person hearing on the alleged violation and proposed compliance order contained in the Notice of Probable Violation and Proposed Compliance Order (“Notice”) issued by OPS on October 13, 2015.

On October 13, 2015, Texas Gas also received a Notice of Amendment (“NOA”), CPF No. 2-2015-1006M, related to its Operator Qualification procedures. Texas Gas has sought an in-person hearing in that matter, and requests that the hearings in these two cases be consolidated. Texas Gas will be represented by counsel at the hearing.

**B. Request for Documents**

Pursuant to 49 C.F.R. § 190.208(c), Texas Gas requests that OPS provide a copy of its violation report and any accompanying evidence in this matter.

Pursuant to the requirement set forth at 5 U.S.C. § 552(a)(2)(C), that federal agencies affirmatively disclose, without the need for a Freedom of Information Act (“FOIA”) request,<sup>1</sup> to the public, administrative staff manuals and instructions to staff that affect a member of the public, Texas Gas requests that OPS provide copies of any and all training materials that

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<sup>1</sup> *Food Chem. News v. Dep't of Health & Human Servs.*, 980 F.2d 1468, 1472 (D.C. Cir. 1992). An agency’s obligation to disclose staff manuals and instructions “clearly does not require a FOIA request.”

PHMSA's Inspector Training and Qualification Division or other components of PHMSA use to train OPS inspectors about the Operator Qualification program.

### **C. Preliminary Statement of Issues**

Texas Gas respectfully contests the allegation of violation and Proposed Compliance Order contained in the Notice.

#### **Allegation of Violation in Notice Item 1 – 49 C.F.R. § 192.805**

Whether Texas Gas violated 49 C.F.R. § 192.805 as alleged in the Notice.

- a. Whether OPS's allegation is supported by the record in this case, the text of the regulations, PHMSA guidance materials, prior enforcement orders, and industry consensus standards, such as ASME B31Q.
- b. Whether OPS's allegation reflects a new interpretation of the regulations that differs from prior agency interpretations but without any reasoned explanation.
- c. Whether OPS's allegation reflects a change in policy that may have industry-wide effects.
- d. Whether it was entirely consistent with Texas Gas's own procedures and the regulations for Texas Gas to adopt evaluation intervals set out in the Veriforce Common Covered Task List or the evaluation intervals in ASME Standard B31Q, Pipeline Personnel Qualifications.
- e. Whether OPS has met its burden of proof that a violation occurred.

#### **Proposed Compliance Order**

Whether OPS's proposed compliance order must be withdrawn.

- a. Whether the record supports the proposed compliance order.
- b. Whether the proposed compliance order is unwarranted because no violation occurred.

At the hearing in this case, Texas Gas intends to present evidence and engage with OPS in discussion on these issues. Texas Gas reserves the right to revise and supplement this Preliminary Statement of Issues at or before the hearing based on a review of the material in OPS's violation report as well as any other evidence Texas Gas obtains in the course of this proceeding. Texas Gas also reserves the right to respond to any assertions and arguments introduced by OPS during the proceedings in this case, and to supplement the record accordingly.

Request for Hearing, Request for Documents and  
Preliminary Statement of Issues  
CPF No. 2-2015-1005  
November 11, 2015

Respectfully submitted, November 11, 2015.

A handwritten signature in blue ink, consisting of a large, stylized initial 'J' followed by a series of loops and a long horizontal stroke.

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