

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY**

VIA ELECTRONIC MAIL TO: bill.moler@tallgrassenergylp.com and
jennifer.eckels@tallgrassenergylp.com

October 26, 2020

Mr. William Moler
President and Chief Executive Officer
Tallgrass Energy Partners, LP
2400 W. 115th Street, Suite 350
Leawood, KS 66221-2609

CPF 3-2020-1008

Dear Mr. Moler:

On May 7 – 11, 2018 and December 4 – 6, 2018, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected Tallgrass Energy Partners, LP's (Tallgrass) Control Room plan and operation for its natural gas pipeline facility in Lakewood, Colorado.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. §192.631 Control room management.

(a) . . .

(c) *Provide adequate information.* Each operator must provide its controllers with the information, tools, processes and procedures necessary for the controllers to carry out the roles and responsibilities the operator has defined by performing each of the following:

(1) . . .

(3) Test and verify an internal communication plan to provide adequate means for manual operation of the pipeline safely, at least once each calendar year, but at intervals not to exceed 15 months.

Tallgrass failed to test and verify its internal communication plan to provide adequate means for manual operation of the pipeline safely at least once each calendar year, but at intervals not to exceed 15 months. Specifically, Tallgrass was unable to demonstrate that it tested and verified the plan in the calendar year 2017. During the inspection, Tallgrass stated that it migrated to a new scheduling platform, Enablon, and that the task for the internal test was not entered causing the test not to be scheduled nor conducted.

2. §192.631 Control room management.

(a) . . .

(d) *Fatigue mitigation.* Each operator must implement the following methods to reduce the risk associated with controller fatigue that could inhibit a controller's ability to carry out the roles and responsibilities the operator has defined:

(1) . . .

(2) Educate controllers and supervisors in fatigue mitigation strategies and how off-duty activities contribute to fatigue;

(3) Train controllers and supervisors to recognize the effects of fatigue; and . . .

Tallgrass failed to provide training in 2017 to educate controllers and supervisors in fatigue mitigation strategies and how off-duty activities contribute to fatigue, and to train controllers and supervisors to recognize the effects of fatigue. Tallgrass's Control Room Management (CRM) Procedure Section 13.5 Table 2, Fatigue Management Training, identifies the training frequency to occur annually, but not to exceed 15 months. Therefore, Tallgrass failed to conduct the training at the requisite interval in accordance with its CRM Procedure.

3. §192.631 Control room management.

(a) . . .

(e) **Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator’s plan must include provisions to:**

(1) . . .

(2) **Identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities.**

Tallgrass failed to identify, at least once each calendar month, points in the SCADA host affecting safety that have generated false alarms. Specifically, Tallgrass’ CRM Procedure O&M 1100_GL 11 requires monthly review of false alarms. Tallgrass’ reporting process is based on a review of the top most frequent alarms for the month and determining whether those alarms are actual events occurring frequently, or false alarms.

While reviewing the reports, PHMSA inspectors noted that some alarms were identified as “actual” while others were identified as “faulty” with a follow-up comment. By only reviewing the highest volume of alarms for the month, Tallgrass did not capture all the false alarms that could be occurring on the pipeline system and affecting safety. Therefore, Tallgrass failed to identify, at least once each calendar month, points affecting safety that have generated false alarms due to following a procedure that did not conform with the regulatory requirement.

4. §192.631 Control room management.

(a) . . .

(j) ***Compliance and deviations.* An operator must maintain for review during inspection:**

(1) **Records that demonstrate compliance with the requirements of this section; . . .**

Tallgrass failed to maintain for review during inspection records that demonstrate compliance with the requirements of 49 CFR §192.631. During the inspection, Tallgrass was unable to produce records for 2015 that showed the monthly review of points affecting safety had been taken off scan in the SCADA host, had alarms inhibited, generated false alarms or had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities in accordance with §192.631(e)(2).

In an follow-up email to PHMSA, Tallgrass indicated the reason the monthly reports were unavailable for inspection is as follows: “as [Tallgrass] separated from Kinder [Morgan] in 2013 they continued to utilize [the current SCADA system], but made the decision to transition to [a new system] in 2014. During the implementation of [the new system] it was determined that the system was not the correct solution for Tallgrass, and therefore made the decision to transition to [a second SCADA system] in 2015. The monthly alarm reports were compiled and stored in various formats during each system implementation. OCC utilized Excel, Info Path, and SharePoint to compile the monthly reports, and late in 2015 a new SharePoint library was created to house all alarm reports as [they] felt [they] now had a stable system in place and could start fresh, but unfortunately during the move [they] lost the reports.”¹ Despite attempts to recover the records from this period, Tallgrass has been unable to do so.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$86,700 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$19,000
2	\$19,600
3	\$28,500
4	\$19,600

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of

¹ Email from Jennifer Eckles to Maureen Williams, dated June 26, 2019. See Exhibit 3C to the Pipeline Safety Violation Report.

the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 3-2020-1008** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Gregory A. Ochs
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*

Cc: Jennifer Eckels, Manager of Compliance, Tallgrass Interstate Gas Transmission, 370 Van Gordon, Street, Lakewood, CO 80228 jennifer.eckels@tallgrassenergyllp.com