

December 9, 2021

**VIA ELECTRONIC MAIL TO: stan.horton@bwpipelines.com**

Mr. Stanley C. Horton  
President and Chief Executive Officer  
Boardwalk Pipeline Partners, LP  
9 Greenway Plaza, Suite 2800  
Houston, Texas 77066

**Re: CPF No. 3-2021-016-NOPV**

Dear Mr. Horton:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$37,100, and specifies actions that need to be taken by your subsidiary, Texas Gas Transmission, LLC, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Central Region, this enforcement action will be closed. Service of the Final Order by e-mail is effective upon the date of transmission as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA  
Mr. Tony Rizk, P.E., Vice President of Technical Services, Texas Gas Transmission, LLC,  
tony.rizk@bwpipelines.com

Ms. Tina Baker, Manager, Compliance Services, Boardwalk Pipeline Partners, LP,  
tina.baker@bwpipelines.com  
Mr. Richard Keyser, Sr., Vice President of Operations, Boardwalk Pipeline Partners, LP,  
dick.keyser@bwpipelines.com

**CONFIRMATION OF RECEIPT REQUESTED**

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

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<b>In the Matter of</b>	)	
	)	
<b>Texas Gas Transmission, LLC,</b>	)	<b>CPF No. 3-2021-016-NOPV</b>
<b>a subsidiary of Boardwalk Pipeline Partners, LP,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

From June 15 through June 19 2021, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted a virtual safety inspection of the records of Texas Gas Transmission, LLC, a subsidiary of Boardwalk Pipeline Partners, LP (TET or Respondent). TET operates a bi-directional interstate natural gas pipeline that provides transportation and storage services in Texas, Louisiana, Mississippi, Arkansas, Tennessee, Kentucky, Illinois, Indiana, and Ohio.<sup>1</sup>

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated April 8, 2021, 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 TET had violated 49 C.F.R. §§ 192.631(a)(2) and 192.631(e)(2) and proposed assessing a civil penalty of \$37,100 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

TET responded to the Notice by letter dated May 7, 2021 (Response). The company did not contest the allegations of violation but provided an explanation of its actions, information concerning the corrective actions it had taken, and requested that the proposed civil penalty be reduced or eliminated. Respondent did not request a hearing and therefore has waived its right to one.

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<sup>1</sup> <https://www.txgt.com/about-us/subsidiaries/texas-gas-transmission-llc/default.aspx> (last accessed September 30, 2021).

## **FINDINGS OF VIOLATION**

In its Response, TET did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.631(a)(2), which states:

**§ 192.631 Control room management.**

(a) *General.*

(1) ...

(2) The procedures required by this section must be integrated, as appropriate, with operating and emergency procedures required by §§ 192.605 and 192.615. An operator must develop the procedures no later than August 1, 2011, and must implement the procedures according to the following schedule. The procedures required by paragraphs (b), (c)(5), (d)(2) and (d)(3), (f) and (g) of this section must be implemented no later than October 1, 2011. The procedures required by paragraphs (c)(1) through (4), (d)(1), (d)(4), and (e) must be implemented no later than August 1, 2012. The training procedures required by paragraph (h) must be implemented no later than August 1, 2012, except that any training required by another paragraph of this section must be implemented no later than the deadline for that paragraph.

The Notice alleged that Respondent violated 49 C.F.R. § 192.631(a)(2) by failing to integrate procedures required by this section, as appropriate, with operating and emergency procedures required by §§ 192.605 and 192.615. Specifically, the Notice alleged that TET failed to implement training procedures required by § 192.631(h) no later than August 1, 2012. In the Response, TET did not contest the violation, but described its ongoing and planned, future actions for addressing the deficiencies in its control room management training program.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.631(a)(2) by failing to implement training procedures required by § 192.631(h) no later than August 1, 2012.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 192.631(e)(2), which states:

**§ 192.631 Control room management.**

(a) ...

(e) *Alarm management.* 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;

The Notice alleged that Respondent violated 49 C.F.R. § 192.631(e)(2) by failing to 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. Specifically, the Notice alleged that TET's monthly reviews did not include review of points that had forced or manual values, nor did TET's control room management plan require the review of points that had forced or manual values.

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. § 192.631(e)(2) by failing to 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.

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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.<sup>2</sup>

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; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. 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 \$37,100 for the violation cited above.

**Item 2:** The Notice proposed a civil penalty of \$37,100 for Respondent's violation of 49 C.F.R. § 192.631(e)(2), for failing to 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. In its Response, TET stated that it "immediately remediated the alarm management issue addressed in the Notice during the subject audit."<sup>3</sup> TET described the actions it took to remediate the issue and stated it came into compliance with the

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<sup>2</sup> These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

<sup>3</sup> Response, 2.

regulation in June 2020. TET requested that PHMSA consider reducing or eliminating the penalty amount based on these actions. Having considered TET's actions, I find they were taken after PHMSA discovered the violation and brought the issue to Respondent's attention. The actions were then taken in order to achieve compliance with the regulations. A reduction or elimination of the penalty is, therefore, not appropriate in this case.<sup>4</sup>

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$37,100 for violation of 49 C.F.R. § 192.631(e)(2).

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$37,100 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 1 in the Notice for the violation of 49 C.F.R. § 192.631(a)(2). 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 § 192.631(a)(2) (**Item 1**), Respondent must implement a structured on-the-job training plan that includes, at a minimum: identification specific training content, web-based or instructor-led training, assessments for training courses and periodic progress, and definitions of competency. This plan must be provided for all positions, defined in the control room, who will maintain operator qualification to operate a console for either assigned shift rotation or to fill a temporary vacancy. The training plan should be developed so that the individual trainee, mentor, and supervisor understand the

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<sup>4</sup> See, e.g., Kinder Morgan Liquid Terminals, LLC, Final Order, CPF No. 1-2018-5004, 2019 WL 4257137, at \*5 (Jun. 27, 2019) (finding an operator's actions to correct a violation were taken after PHMSA had already identified the violation and therefore did not constitute grounds to reduce the proposed penalty).

requirements and can track progress. This must be completed, and documentation submitted to the Director, within 180 days of receipt of the Final Order.

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.

PHMSA requests that Respondent 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223), 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.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

December 9, 2021

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued