

**DEC 21 2010**

Mr. Robert O. Bond  
President  
Panhandle Energy  
Southern Union Company  
5444 Westheimer Road  
Houston, TX 77056-5306

**Re: CPF No. 4-2007-2005**

Dear Mr. Bond:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, withdraws certain allegations and the civil penalties proposed in the Notice, and specifies actions that need to be taken by Trunkline Gas Company, LLC, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, PHMSA, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided 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: Mr. Rod Seeley, Director, Southwest Region, PHMSA

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0041 3184]**

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

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In the Matter of )

Trunkline Gas Company, LLC, )

Respondent. )  
\_\_\_\_\_

CPF No. 4-2007-2005

**FINAL ORDER**

On August 21-25 and October 30, 2006, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Trunkline Gas Company, LLC (Trunkline or Respondent)<sup>1</sup> in Centerville and Erath, Louisiana. The inspection focused on Trunkline's Vermillion and Terrebonne offshore gas pipeline systems in the Gulf of Mexico. Trunkline operates a 3,500-mile natural gas transmission pipeline network that supplies gas from the Gulf Coast to the Midwest.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated August 16, 2007, 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 Trunkline had violated 49 C.F.R. §§ 192.477, 192.479, 192.605(a) and 192.612(a), assessing a civil penalty of \$55,000 for the alleged violations, and ordering Respondent to take certain measures to correct the alleged violations. The Notice also proposed finding that Trunkline had committed certain other probable violations of 49 C.F.R. Part 192 and warning the company to take appropriate corrective action or be subject to future enforcement action.

Respondent responded to the Notice by letter dated May 29, 2007 (Response). Trunkline contested several of the allegations and requested a hearing, which was held on April 23, 2008, in Houston, Texas, with an attorney from the Office of Chief Counsel, PHMSA, presiding. At the hearing, Respondent was represented by counsel. After the hearing, Respondent provided a post-hearing statement for the record, by letter dated May 29, 2008 (Closing).

<sup>1</sup> Trunkline is a wholly-owned subsidiary of Southern Union Company.

## FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 192.477, which states:

**§ 192.477 Internal corrosion control: Monitoring.**

If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two times each calendar year, but with intervals not exceeding 7½ months.

The Notice alleged that Trunkline violated 49 C.F.R. § 192.477 by failing to check a coupon two times each calendar year, but with intervals not exceeding 7½ months. Specifically, it alleged that the internal corrosion coupon at Ship Shoal 139 on the Newfield production platform had not been checked since 2004. Trunkline contested this allegation on the basis that it did not own or operate the pipeline on which the coupon was installed. At the hearing, Trunkline provided maps and drawings supporting its argument. OPS has reviewed these documents and confirmed that the coupon was not on a pipeline facility owned or operated by Trunkline. Accordingly, based upon the foregoing, I hereby order that Item 2 be withdrawn.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 192.479, which states:

**§ 192.479 Atmospheric corrosion control: General.**

(a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

(c) Except portions of pipelines in offshore splash zones or soil-to-air interfaces, the operator need not protect from atmospheric corrosion any pipeline for which the operator demonstrates by test, investigation, or experience appropriate to the environment of the pipeline that corrosion-

(1) Only be a light surface oxide; or

(2) Not affect the safe operation of the pipeline before the next scheduled inspection.

The Notice alleged that Trunkline violated 49 C.F.R. § 192.479 by failing to protect its pipeline from atmospheric corrosion. Specifically, it alleged that Trunkline allowed corrosion to develop on its pipeline at the South Timbalier 63 and 151 locations. The OPS Violation Report prepared in support of the Notice included photographs of the corroded areas.<sup>2</sup> Respondent contested this allegation. At the hearing, Trunkline argued that the remaining pipe wall thickness at the indicated locations was sufficient to protect the safety of the pipeline. Respondent also argued that the regulation allowed for corrosion of offshore piping. In its Closing, Trunkline further

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<sup>2</sup> *Violation Report*, Attachments 2 and 3.

argued that corrosion would have to be significantly greater than what was observed in order to support a violation of § 192.479.<sup>3</sup>

Respondent is correct that § 192.479(c) allows operators to forego atmospheric corrosion protection for some pipelines under certain circumstances. However, Respondent has not demonstrated “by test, investigation or experience appropriate to the environment of the pipeline” that the corrosion observed by OPS would not affect safe operation of the pipeline before the next scheduled inspection. Respondent’s argument on the remaining wall thickness does not demonstrate that the corrosion would not continue and reach an unsafe level before the next inspection. At the time of the OPS inspection, the coating at the indicated locations was compromised and corrosion was continuing. Offshore environmental conditions are variable and any number of factors could lead to further corrosion that would affect the safe operation of the pipeline.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.479 by failing to protect its pipeline from atmospheric corrosion.

**Item 5:** The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

**§ 192.605 Procedural manual for operations, maintenance, and emergencies.**

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

The Notice alleged that Trunkline violated 49 C.F.R. § 192.605(a) by failing to keep appropriate parts of its manual of written procedures for conducting operations and maintenance activities and for emergency response at locations where such activities were being conducted. Specifically, it alleged that there was no site-specific emergency plan kept at the Ship Shoal 139 compressor platform.

Trunkline contested this allegation and argued that a document known as the “Station Bill” was posted on the platform and served as the facility’s emergency plan.<sup>4</sup> At the hearing, Respondent provided photographs of the Station Bill and argued that this document, along with portions of the company’s operating procedures and a safety training video shown to all individuals who come aboard the platform, collectively constituted its procedures for emergency response.

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<sup>3</sup> *Closing* at 2.

<sup>4</sup> *Response* at 3.

I find this argument unpersuasive. The regulation requires operators to keep appropriate parts of their written manual of emergency response procedures on their platforms. For the following reasons neither the Station Bill, the video, nor Trunkline's operating procedures, either singly or collectively, constitute the written manual required by the regulations. In addition, while Trunkline argued that its standard operating procedures contained emergency response materials, those materials neither provided nor referenced the relevant parts of the required written manual. In the absence of such materials, I cannot assess whether or not they satisfy the requirements of § 192.605(a).

Finally, it should be noted that the Station Bill lacked the level of detail required of an emergency plan. Section 192.615(a) sets out the minimum requirements for emergency plans as follows:

**§ 192.615 Emergency plans.**

(a) Each operator shall establish written procedures to minimize the hazard resulting from a gas pipeline emergency. At a minimum, the procedures must provide for the following:

(1) Receiving, identifying, and classifying notices of events which require immediate response by the operator.

(2) Establishing and maintaining adequate means of communication with appropriate fire, police, and other public officials.

(3) Prompt and effective response to a notice of each type of emergency, including the following:

(i) Gas detected inside or near a building.

(ii) Fire located near or directly involving a pipeline facility.

(iii) Explosion occurring near or directly involving a pipeline facility.

(iv) Natural disaster.

(4) The availability of personnel, equipment, tools, and materials, as needed at the scene of an emergency.

(5) Actions directed toward protecting people first and then property.

(6) Emergency shutdown and pressure reduction in any section of the operator's pipeline system necessary to minimize hazards to life or property.

(7) Making safe any actual or potential hazard to life or property.

(8) Notifying appropriate fire, police, and other public officials of gas pipeline emergencies and coordinating with them both planned responses and actual responses during an emergency.

(9) Safely restoring any service outage.

(10) Beginning action under § 192.617, if applicable, as soon after the end of the emergency as possible....

The procedures for emergency response required by § 192.615(a) must be included in the manual required by § 192.605(a).<sup>5</sup> Respondent's Station Bill lacked the emergency response procedures required by § 192.615(a).

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<sup>5</sup> 49 C.F.R. § 192.605(e).

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605(a) by failing to keep appropriate parts of its manual of written procedures for conducting operations and maintenance activities and for emergency response at locations where such activities were being conducted.

**Item 6:** The Notice alleged that Respondent violated 49 C.F.R. § 192.612(a), which states:

**§ 192.612 Underwater inspection and reburial of pipelines in the Gulf of Mexico and its inlets.**

(a) Each operator shall prepare and follow a procedure to identify its pipelines in the Gulf of Mexico and its inlets in waters less than 15 feet (4.6 meters) deep as measured from mean low water that are at risk of being an exposed underwater pipeline or a hazard to navigation. The procedures must be in effect August 10, 2005.

The Notice alleged that Trunkline violated 49 C.F.R. § 192.612(a) by failing to follow its own procedure for identifying pipelines in the Gulf of Mexico and its inlets in waters less than 15 feet (4.6 meters) deep, as measured from mean low water, that were at risk of being exposed underwater pipelines or hazards to navigation. Specifically, it alleged that Respondent improperly delayed certain underwater inspections of the Terrebonne and Vermillion pipeline systems because of a “lack of resources,” rather than on the basis of risk.

Trunkline’s procedure stated that the company would “develop and maintain an inspection plan prioritized by the calculated risk for each underwater pipeline segment based on specific identified threats...”<sup>6</sup> The procedure set out a list of 10 specific threats that had to be considered, but did not require that inspections be performed by a date certain.<sup>7</sup> The record includes two versions of Respondent’s inspection plan, namely, from August and November 2006.<sup>8</sup> The plans listed the threats specified in the procedure and assigned a value to each one.<sup>9</sup> The August and November plans were identical, except for the addition of dates for recent hurricanes, dates for the next scheduled underwater inspection, and the inclusion of a note on the November plan that stated, “plan revised to indicate surveys moved to 2<sup>nd</sup> Qtr. 2007 due to lack of survey resources.”<sup>10</sup>

Though it is clear that a “lack of survey resources” played a role in Trunkline’s decision to delay the underwater inspection,<sup>11</sup> Respondent’s procedure did not prohibit it from considering this

<sup>6</sup> *Hearing Exhibit*, PANHANDLE EASTERN PIPE LINE COMPANY AND TRUNKLINE GAS COMPANY, STANDARD OPERATING PROCEDURES, 1-6110, OFFSHORE FACILITIES & SHALLOW COVER INSPECTIONS, 10 (MAR. 9, 2006).

<sup>7</sup> *Id.*

<sup>8</sup> *Hearing Exhibit*, OFFSHORE UNDERWATER DOC SURVEY PLANS (AUG. 21 AND NOV. 12, 2006).

<sup>9</sup> Trunkline’s procedure required that the year of installation be considered when developing the inspection plan, but the company’s plans did not list this threat. Neither party raised this issue and I find it immaterial to the allegation.

<sup>10</sup> *Hearing Exhibit*, OFFSHORE UNDERWATER DOC SURVEY PLAN (NOV. 12, 2006).

<sup>11</sup> *Hearing Exhibit*, OFFSHORE UNDERWATER DOC SURVEY PLAN (AUG. 21 AND NOV. 12, 2006).

factor. Respondent's August and November inspection plans both addressed and weighted threats, as required by the procedure. Respondent also submitted a memo on the company's decision-making process for delaying the inspections, including how risks were assessed.<sup>12</sup> At the hearing, OPS observed that the weights assigned to the risk factors in Trunkline's plan did not change from August to November and questioned whether an analysis had been done. Trunkline responded that its method for calculating risk was not sensitive enough to show changes in risk in this case.

While Trunkline's inspection plans and risk calculations are indeed limited, there is insufficient evidence to prove that Respondent failed to follow its own procedures. Furthermore, Trunkline's procedures did not preclude it from considering a "lack of survey resources" when scheduling underwater inspections. Based upon the foregoing, I hereby order that Item 6 be withdrawn.

### **WITHDRAWAL OF PENALTY**

The Notice proposed civil penalties of \$24,000 for Item 2 and \$31,000 for Item 6. Having withdrawn both items, I hereby withdraw the proposed penalties associated with these items.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Items 2, 3, 5 and 6 in the Notice for violations of 49 C.F.R. §§ 192.477, 192.479(a), 192.605(a) and 192.612(a), respectively. Having withdrawn Items 2 and 6, no compliance order is appropriate for these items. 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. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

With respect to the violation of § 192.605(a) (**Item 5**), Respondent has submitted a copy of an acceptable site-specific emergency plan for the Ship Shoal 139 compressor platform.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed for Item 5 is not included in this Order.

The proposed compliance order also included a paragraph that would require Trunkline to maintain documentation of the safety improvement costs associated with fulfilling the Compliance Order and report the total costs.<sup>13</sup> Respondent raised numerous issues with this

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<sup>12</sup> *Hearing Exhibit*, TRUNKLINE GAS COMPANY UNDERWATER INSPECTION PLAN ASSESSMENT. Respondent stated that this document was a "contemporaneous memo authored by the individual responsible for such decisionmaking..." but the document contains no date or attribution. The lack of such information reduces the probative value of the document as a contemporaneous account of Trunkline's basis for delaying the survey.

<sup>13</sup> *Notice* at 5.

provision, including the purpose of collecting such information, how it would be used, its public availability, and PHMSA's statutory and regulatory authority to require the information.<sup>14</sup>

After considering this requirement in light of Trunkline's comments, I find that this provision would not affect compliance with the pipeline safety regulations because there is no pipeline safety regulation requiring pipeline operators to maintain information on safety improvement costs. Furthermore, I find that the provision would not affect compliance with 49 U.S.C. chapter 601. While PHMSA may have valid reasons to collect this information, including tracking the financial impact of compliance orders, I see no basis for ordering this conduct when an operator has objected. Accordingly, I do not include the cost information provision in this Order.

As for the remaining compliance term, 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 action to ensure compliance with the pipeline safety regulations applicable to its operations:

With respect to the violation of § 192.479(a) (**Item 3**), within 90 days of receipt of this Final Order, Respondent shall clean and coat the areas of atmospheric corrosion on its pipeline facilities at South Timbalier 151 and South Timbalier 63, or replace such facilities, and shall submit documentation of compliance to the Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration.

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.

Failure to comply with this Order may result in administrative assessment of civil penalties not to exceed \$100,000 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.

### **WARNING ITEMS**

With respect to Items 1 and 4, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.475(a) (**Item 1**) — Respondent's alleged failure to inspect the internal surface of a pipeline spool piece for evidence of corrosion. The spool piece was removed during a 2006 pig launcher and receiver project on a 10-inch pipeline from South Timbalier 52 to South Peltier 25; and

49 C.F.R. § 192.603(b) (**Item 4**) — Respondent's alleged failure to keep records necessary to administer the procedures established under § 192.605. Specifically, Trunkline's failure to document certain abnormal operating conditions.

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<sup>14</sup> Response at 4.

Trunkline contested Item 4, arguing that its procedures required abnormal operations, not abnormal operating *conditions*, to be documented. Section 192.605(c) is entitled “Abnormal operation” and provides that the manual required by § 192.605(a) “must include procedures....to provide safety when operating design limits have been exceeded.” This section does not specifically require operators to document abnormal operating conditions. Furthermore, neither Respondent nor OPS included such procedures in the record, so I am unable to verify whether they required documentation of abnormal operating conditions. Based upon the foregoing, I hereby order that Item 4 be withdrawn.

Accordingly, having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that a probable violation of 49 C.F.R. § 192.475(a) (Notice Item 1) has occurred and Respondent is hereby advised to correct such conditions. In the event that OPS finds a violation of this item in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: 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. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued