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FILE NO: 78027.000005

July 22, 2013

**VIA ELECTRONIC & OVERNIGHT MAIL**

Jeffrey D. Wiese  
Associate Administrator  
Pipeline and Hazardous Materials Safety Administration  
U.S. , Department of Transportation  
1200 New Jersey Avenue, S.E.  
East Building, 2nd Floor (PH)  
Washington, D.C. 20590

JUL 23 2013

Re: Final Order CPF No. 4-2011-5016  
Petition for Reconsideration

Dear Mr. Wiese,

On behalf of ExxonMobil Pipeline Company (EMPCo or the Company) and in connection with the above referenced matter, please find enclosed a Petition for Reconsideration in which EMPCo is respectfully seeking reconsideration of Item 1 of the Final Order issued in this matter, a stay of Item 1 of the Compliance Order pending resolution of this Petition, and modification of the Compliance Order to remove Item 1.

This is an unusually fact intensive matter, and the post-Hearing schedule for this matter was established to specifically accommodate further dialog between the Southwest Region and EMPCo following the Company's submittal of post-hearing documentation. No follow-up meeting or discussions occurred, however, and as a result the Final Order does not accurately reflect the status of the pipeline segments at issue in Item 1 of the Final Order or the documentation that EMPCo has available to the Agency.

It is for these reasons that the Company is seeking reconsideration of the Final Order, as well as a stay, and ultimately removal, of Item 1 of the Compliance Order. At the same time, EMPCo is submitting additional information to the Region which EMPCo believes will resolve these issues. In the event that the Associate Administrator does not believe that it can resolve this Petition based on the information set forth in the Petition, or through review of additional information, the Company requests that this matter be remanded back to PHMSA's Southwest Region.



Jeffrey D. Wiese  
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We appreciate your attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Catherine D. Little". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Catherine D. Little

Enclosures

cc: Benjamin Fred, Esq. (PHMSA Hearing Officer) (w/o encl.)  
Rodrick Seeley (PHMSA Southwest Region Director) (w/o encl.)  
Larry White, Esq. (PHMSA Counsel) (w/o encl.)  
Susan Davenport, Esq. (EMPCo) (w/o encl.)

**Before the  
U.S. Department of Transportation  
Pipeline and Hazardous Materials Safety Administration  
Office of Pipeline Safety**

In the Matter of	)	
	)	
ExxonMobil Pipeline Company	)	CPF No. 4-2011-5016
	)	
Respondent	)	<b>Petition for Reconsideration</b>
	)	<b>And Request for Stay of</b>
	)	<b>Compliance Order</b>

In accordance with 49 C.F.R. § 190.215(a), ExxonMobil Pipeline Company (EMPCo or the Company), submits this Petition for Reconsideration on the above referenced matter. A Final Order was issued for this matter with a date of June 27, 2013, and was received by the Company on July 2, 2013. This Petition is therefore timely.

The Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) issued a Notice of Probable Violation (NOPV) to the Company on November 7, 2011, alleging three violations. EMPCo requested a Hearing on the NOPV, which was held at the Southwest Region (Region) on April 25, 2012. EMPCo submitted follow-up documentation to the Agency on June 29, 2012 and submitted a written post-hearing response on August 30, 2012. In its Final Order, PHMSA withdrew the third violation and portions of the first and second, reduced the penalty from \$151,000 to \$112,300, and issued a Compliance Order. For the reasons set forth below, EMPCo is seeking reconsideration of Item 1 of the Final Order, a stay of the Compliance Order pending resolution of this Petition, and modification of the Compliance Order as set forth below.

As the record reflects, EMPCo understood that the Region would meet with the Company following its submittal of post-hearing documentation. No follow-up meeting was conducted, however. Concurrent with the filing of this Petition, the Company is submitting additional information to the Region which EMPCo believes will resolve these issues. In the event that the Associate Administrator does not believe that it can resolve this Petition based on the information set forth below, we request that this matter be remanded back to PHMSA's Southwest Region.

**I. Basis for Reconsideration**

EMPCo requests reconsideration of Item 1 of this Final Order with regard to whether certain pipelines have been properly pressure tested under 49 C.F.R. Part 195.302. The Company respectfully requests that the Associate Administrator for Pipeline Safety withdraw the finding of a violation under Item 1 for sixteen pipelines, reduce the penalty accordingly, and modify the Compliance Order in light of the following:

- (1) EMPCo is providing additional documentation to the Region, including documentation that was not previously requested by the Agency and additional pressure test documentation for certain pipelines that was not previously available;
- (2) EMPCo's engineering assessments meet the requirements of 195.303;
- (3) A number of the pipelines at issue are intrastate pipelines subject to State jurisdiction and therefore are not subject to a penalty or the Compliance Order issued by PHMSA;
- (4) A number of the pipelines at issue have been subject to a Subpart E pressure test (for which adequate documentation is readily available or has been provided) and/or have been idled after the deadlines set forth under 195.302; and
- (5) The penalty assessed by PHMSA should be reduced to (a) proportionately reflect the reduction in the number of segments subject to the alleged violation under Item 1; and (b) properly account for penalty considerations required by the Pipeline Safety Act.

In summary, only three pipeline segments remain for which original "complete, verifiable and traceable" hydrotest documentation is not available. All of these three pipeline segments have since been hydrotested and/or idled, however, and therefore there is no risk to safety or the environment presented by these pipelines. Attached as Exhibit 1 is an overview of the 19 segments that further summarizes the disposition and status of each segment as described above, and as further described in this Petition.

As the Agency considers these issues and the additional documentation summarized in this Petition, the Company requests a stay of the Compliance Order pending resolution of this Petition. The Company further requests modification of the Compliance Order to remove the requirement under Item 1 to prepare a plan to pressure test 19 pipeline segments.

## **II. Background**

This is a fact intensive and complicated matter that could have been resolved at the Regional level. The NOPV issued on November 7, 2011, initially proposed a \$151,100 penalty for three alleged violations: (1) failure to pressure test 27 segments by the relevant Part 195 deadlines; (2) failure to comply with discovery timeframes under integrity management program (IMP) regulation in two instances (Melville to Boyce and West Delta 73 to Grand Isle); and (3) failure to evaluate and timely address immediate repair conditions under IMP in two instances.

As reflected in the Final Order, the Agency withdrew the third violation in its entirety, withdrew one of the allegations at issue in the second violation, and narrowed the number of segments subject to the first violation from 27 to 19 segments. The Agency assessed a total reduced penalty of \$112,300 for the first two alleged violations (reflecting the reduction to 19 segments for the first violation, and the withdrawal of the West Delta 73 to Grand Isle allegation for the second violation). PHMSA also issued a Compliance Order requiring that (1) a plan be prepared

for pressure testing the 19 segments; and (2) the Company's IMP procedures be revised to address delays in receiving ILI data from tool vendors to ensure timely discovery.

The NOPV was issued as a result of inspections conducted by PHMSA on March 31 and April 1, 2011. During the inspection, EMPCo shared a spreadsheet with the Agency that was prepared in 1998 as part of the Exxon Pipeline Company's efforts to comply with the regulatory deadlines for pressure testing under 49 C.F.R. Part 195.302. The 2011 date appearing on the document reflected the date that it was printed for the PHMSA inspectors, not the date it was prepared or most recently updated by the Company. Consistent with the dynamic nature of the ownership and operation of pipeline systems, since the document was created in 1998, many of the 27 pipelines identified in the spreadsheet had been reconfigured, renamed, sold, idled, or abandoned. Based on this thirteen year old document, however, the NOPV alleged in Item 1 that EMPCo was operating 27 pipeline segments without proper pressure testing or was unable to provide testing records.

In response to the NOPV, the Company endeavored to demonstrate that the 27 pipeline segments complied with Part 195 pressure testing requirements. To that end, the Company submitted extensive documentation with respect to the status of these 27 pipeline segments, both in advance of the Hearing and after the Hearing, to document that it performed a Subpart E pressure test, timely complied with the risk based alternative to pressure testing and/or derated, or the pipeline was exempt from Part 195.<sup>1</sup> Given the document and fact intensive nature of this alleged violation, the PHMSA Hearing Officer scheduled the post Hearing deadlines for submission of supplemental documentation and a written response two months apart. The extended schedule was expressly intended to provide sufficient time for PHMSA to review the materials and confer with the Company with relevant questions and to request any additional information from the Company prior to the deadline for the post-hearing submission. See EMPCo Hearing CPF 4-2011-5016, April 25, 2012 Transcript prepared by Merrill Corporation, pp. 151-157.

The Agency did not avail itself of any opportunity to engage with the Company after the Hearing with regard to the extensive documentation contained in its submittals, which could have resolved many of the issues addressed in this Petition. The Company submitted supplemental pressure test documentation on June 29, 2012, and noted that the full hydrostatic pressure test documentation was available for review by PHMSA. The Company did not hear from the Agency until August 2, 2012, however, when a PHMSA inspector scheduled a meeting to

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<sup>1</sup> The Company submitted a pre-hearing submittal with supporting documentation with regard to eight pipelines that it currently operates that were exempt from pressure testing requirements. *EMPCo Pre-Hearing Submission, PHMSA CPF 4-2011-5016* (April 16, 2012). In response to the Agency's request at the Hearing on this matter, the Company provided PHMSA on June 29, 2012, with following supplemental documentation: (1) a timeline of the 27 pipeline segments set forth in the 1998 spreadsheet, including status in 1998, subsequent assessments and/or disposition of the pipe, and the status at the time of the inspection; and (2) available underlying documentation for the 27 segments to demonstrate whether they were exempt, subjected to a Subpart E pressure test, timely complied with the risk based alternative (RBA) set forth in 49 C.F.R. Part 195.303 and/or were derated. For the majority of the segments, this underlying documentation included a diagram of the pipeline segment, Maximum Operating Pressure Reports (MOP) and the PL-709 form of the hydrostatic test report which contains the first several pages of the larger hydrostatic test report. *EMPCo Post-Hearing Submission, PHMSA CPF 4-2011-5016* (June 29, 2012).

discuss and review the documentation. That meeting was subsequently cancelled by the inspector, however, stating that the Agency did not need to meet. In addition, EMPCo made several efforts to contact the Agency by telephone and email to confirm whether it had any questions or required additional information, but PHMSA responded that it did not. As a result, the document and fact intensive nature of this alleged violation has been exacerbated by the fact that the Agency did not meet or confer with the Company to discuss the documentation provided before and after the Hearing or request additional documentation, explanation or assistance. As reflected in this Final Order, this has created unnecessary confusion with respect to pipeline nomenclature, testing mileage, and the pressure testing documentation maintained by the Company. Moreover, it has resulted in a Final Order and Compliance Order that creates additional confusion and uncertainty.

### **III. Argument**

#### **A. The Number of Segments Subject to Item 1 Should be Reduced From 19 to 3**

As set forth in detail below, EMPCo believes that the number of pipeline segments subject to the alleged violation under Item 1 should be reduced from 19 to 3, as the result of (1) additional hydrotest documentation that was not previously requested by the Agency and/or has since been located by the Company for 13 pipeline segments; (2) the sufficiency of the Engineering Assessments for 2 pipeline segments; and (3) the status of 8 pipeline segments as intrastate, regulated solely by a certified State.

##### **1. Additional Original Hydrotest Documentation**

In the Final Order, the Agency found that with respect to Item 1 of the NOPV, EMPCo complied with 49 C.F.R. Part 195.302 for 8 of the 27 segments that were alleged to be in violation. The Agency maintained that 19 of the pipeline segments had not been pressure tested or were inadequately tested. For a number of these 19 segments, EMPCo retains pressure recording charts and made those available to the Agency to review on site following the Company's Post-Hearing Submission.<sup>2</sup> In addition, as a result of an intensive integrated audit conducted by PHMSA in May 2013, and further document review following that audit, the Company has been able to recover additional pressure recording charts that were not previously available. The Company respectfully requests that the Agency consider this information and withdraw its finding under Item 1 with respect to 13 pipeline segments. These segments are summarized in Exhibit 2 to this Petition.

For the pipeline segments identified in Exhibit 2, the Company has readily available pressure test records for the entire mileage of the segment at issue. These records are "traceable,

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<sup>2</sup> The Company's Post-Hearing Submission included the first page of the tests in order to minimize the volume of the submission and in anticipation of future dialog with the Agency. As set forth in Section II, PHMSA's decision not to meet with EMPCo to discuss and review additional records led to the Final Order which erroneously cites EMPCo for not retaining required records. This confusion could have been avoided if PHMSA had elected to engage further with EMPCo, as anticipated at the Hearing and allowed for in the post-Hearing schedule set by PHMSA's Hearing Officer.

verifiable, and complete,”<sup>3</sup> and include the documentation required under applicable industry standards, Part 195 standards, and/or EMPCo procedures as of the date of the pressure test.<sup>4</sup> The records include dated pressure recording charts, and include temperature and calibration data where required by applicable industry standards, Part 195 standards, and/or EMPCo procedures that were in place at the time of the pressure test. The recording charts can be linked to the individual segments at issue and confirmed by “complementary” documentation.<sup>5</sup> As before, EMPCo has the original pressure test documentation available for review by the Agency at a mutually convenient time at the Company’s office in Houston, Texas.<sup>6</sup>

In light of the additional documentation that has been made available and/or located, EMPCo respectfully requests that PHMSA withdraw its findings of violation with respect to these pipeline segments and correspondingly reduce the penalty associated with these segments under Item 1. Further, EMPCo respectfully requests that PHMSA modify the Compliance Order so as not to apply to these lines.

## **2. Sufficiency of Engineering Assessments**

This Final Order finds that the engineering assessment and analysis completed for two pipeline segments (Pierce to Luling and SMI 6 A to South Bend) was insufficient.<sup>7</sup> To the contrary, EMPCo used sound and reasonable engineering judgment in making its conclusions with regard to seam susceptibility. The plain language of 49 C.F.R. Part 195.303(d) requires that the engineering analysis consider the seam related leak history of the pipe and pipe manufacturing information “*as available*, which *may include* [...] the manufacturing process and controls related to seam properties, including whether the [electric resistance weld (ERW)]... process was high-frequency or low-frequency, whether the weld seam was heat treated, whether the seam was inspected, the test pressure and duration during mill hydrotest [...]” 49 C.F.R. Part 195.303(d) (emphasis added). Further, the Agency’s own report that it commissioned on low frequency electric resistance welded and lap welded pipe limits the information that must be considered in an engineering analysis to information that is available. *See Low Frequency ERW and Lap Welded Longitudinal Seam Evaluation Report submitted by M. Baker in association with Kiefner & Associates*, p. 63 (April 2004).

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<sup>3</sup> PHMSA Advisory Notice, 77 Fed. Reg. 26822, 26823 (May 7, 2012).

<sup>4</sup> While EMPCo believes that its pressure test documentation meets all applicable requirements in place at the time of each test, the Company believes that documentation that is considered sufficient evidence under the Federal Rules of Evidence (FRE), in particular FRE Rules 1004 and 1007, not required under the Administrative Procedure Act, should constitute sufficient evidence of to fill in gaps that may exist in operator pressure test records, such as photocopies and/or an affidavit prepared by a person with personal knowledge of a pressure test.

<sup>5</sup> PHMSA Advisory Notice, 77 Fed. Reg. 26822, 26823 (May 7, 2012).

<sup>6</sup> Arrangements to review that information should be coordinated with EMPCO’s Risk Integrity Manager, Johnita Jones, at (713) 656 8088.

<sup>7</sup> Segments 3 and 5 of the 1998 Spreadsheet, respectively.

PHMSA offers no publicly available instructive interpretation letters, guidance or even prior enforcement as to the sufficiency of an operator's engineering assessment. The rulemakings similarly do not further expand beyond the language included in the regulation. The preamble to the final rule and the prior notice of proposed rulemaking simply explain that with respect to consideration of a pipeline's failure history and determining whether the prior spill was due to time-dependent defects, "[a]n operator's determination should be based on sound engineering judgment and be documented." *Notice of Proposed Rulemaking*, 63 Fed. Reg. 5918, 5920 (Feb. 5, 1998); *Final Rule* 63 Fed. Reg. 59475, 59477 (Nov. 4, 1998).

In performing its engineering analysis for the two segments at issue, EMPCo did, in fact, consider all available manufacturing records, process, and controls as required by the rule. As such, the Company complied with the plain language of the rule. The Supreme Court has made clear that the starting point for statutory construction is analysis of the statutory text. *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 98-99 (2003); see also *Connecticut Nat'l Bank v. Germain*, 503 U.S. 249, 253-254 (1992) ("[C]ourts must presume that a legislature says in a statute what it means and means in a statute what it says there."). PHMSA's finding that the weighting of certain factors favored a more conservative conclusion regarding susceptibility goes beyond the requirements of the plain language of the regulation, and is not established in any guidance or other interpretive document available to EMPCo or to the regulated community.

For the reasons set forth above, the Company respectfully requests that PHMSA withdraw the alleged violation with respect to those two pipeline segments, reduce the penalty associated with those violations under Item 1, and modify the Compliance Order accordingly.

### **3. Intrastate Pipelines are Not Subject to PHMSA Jurisdiction**

Eight of the 19 pipeline segments found to be in violation of 49 C.F.R. Part 195.302 in PHMSA's Final Order are intrastate pipelines subject solely to the jurisdiction of the Texas Railroad Commission (TRRC), not PHMSA. EMPCo provided PHMSA with documentation with respect to each of the 27 pipeline segments, including the 8 intrastate pipelines, in response to both the NOPV and requests made by the Agency at the Hearing, in the spirit of cooperation because these pipelines were included in the 1998 spreadsheet that prompted the alleged violations in the NOPV. In addition to the records provided, these 8 pipeline segments have never been identified as interstate pipelines in the Company's annual reports submitted to the Agency under Part 195.<sup>8</sup>

As authorized by the Pipeline Safety Act, at 49 U.S.C. § 60105 (a), PHMSA has certified the TRRC to regulate, inspect and enforce pipeline safety requirements for intrastate hazardous liquid pipelines in Texas. The Pipeline Safety Act clearly states, "the Secretary of Transportation may not prescribe or enforce safety standards and practices for an intrastate pipeline facility or intrastate pipeline transportation to the extent that the safety standards are regulated by a State

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<sup>8</sup> Seven of these segments are included in the 13 segments described in Section III.A.1 (for which additional hydrotest documentation is being provided); one is addressed in Section III.A.2 above (for which a sufficient engineering assessment has been provided); and the remaining intrastate segment is the Borregas to Viola pipeline (which was hydrotested in 2005 as detailed in Section III.B.).



authority [...] that submits to the Secretary annually a certification...” 49 U.S.C. § 60105(a) (*emphasis added*). Because the pipeline segments listed below fall under the jurisdiction of the TRRC, PHMSA does not have jurisdiction under which to impose a civil penalty or a Compliance Order against the Company. The relevant intrastate pipelines are summarized in Exhibit 3 to this Petition.

Given the status of these pipelines as intrastate, and their location in a state with a certified program, PHMSA does not have jurisdiction to issue a civil penalty under Item 1 or impose a Compliance Order with respect to the 8 intrastate pipelines identified in Exhibit 3. Instead, the inspection and enforcement of those pipelines are more properly addressed with the TRRC.

**B. Subsequent Information (Hydrotest or Idled Status)**

It is also relevant to the Final Order and Proposed Compliance Order that EMPCo has performed subsequent Subpart E pressure tests – after the relevant deadlines under 195.302 – on 11 pipeline segments. *See* Exhibit 4. The Company has retained “traceable, verifiable and complete” pressure test documentation for these 11 segments that is readily available to the Agency. Of these 11 segments that have been subsequently hydrotested, 3 are segments for which the Company does not maintain complete original hydrotest documentation that complies with the deadline under 195.302.

Additionally, EMPCo has either fully or partially idled 6 of the pipeline segments (meaning, for purposes of this Petition, that the relevant segment or portion of the pipeline is no longer in operation and has been purged of product). *See* Exhibit 5. Three of these 6 idled pipeline segments are the same pipeline segments noted above for which the Company does not maintain complete original hydrotest documentation that complies with the deadline under 195.302, but has performed a subsequent hydrotest.

As such, there is no meaningful application of the Compliance Order to these pipeline segments, and therefore we respectfully request that Item 1 of the Compliance Order be removed as to these pipeline segments.

**C. Penalty Calculation**

The Agency proposed a penalty of \$109,500 in the NOPV for alleged violations of 49 C.F.R. Part 195.302 with respect to 27 pipeline segments. In the Final Order, PHMSA withdrew the violation with respect to 8 pipeline segments, reducing the violations under Item 1 by almost 30%, but reducing the associated penalty by only 6%, a \$7,200 reduction. In addition, the Pipeline Safety Act requires that the Administrator consider the following factors, among others, in determining the amount of a civil penalty: the nature, circumstances, and gravity of the violation, including adverse impact on the environment, and the good faith in attempting to comply. 49 U.S.C. § 60122(b); *see also* 49 C.F.R. Part 190.225(a).

The penalty in this matter should be reduced to account for the following significant facts as presented in this Petition:

1. 13 of the 19 pipeline segments have adequate pressure test documentation available (Exhibit 2);
2. Engineering assessments conducted for 2 of the segments met all applicable legal requirements;
3. 7 of the 13 segments described in 1 above are intrastate pipelines, and 1 of the segments described in 2 above is an intrastate line, and none of these are subject to a civil penalty by PHMSA (Exhibit 3);
4. 11 of the 19 pipeline segments have been subsequently subjected to a Subpart E pressure test for which the Company maintains 'complete, traceable and verifiable' documentation (Exhibit 4);
5. 6 of the 19 pipeline segments are presently either completely or partially idled (as discussed in Section IV and Exhibit 5);
6. None of the 19 segments pose a risk to safety or the environment; and
7. The Company exhibited good faith in attempting to comply with the regulations as evidenced by the submission of evidence of compliance with 49 C.F.R. 195.302.

*See also* Exhibit 1. In summary, only three pipeline segments remain for which original "complete, verifiable and traceable" hydrotest documentation is not available.<sup>9</sup> All of these three pipeline segments have since been hydrotested and/or idled, however, and therefore there is no risk to safety or the environment presented by these pipelines. PHMSA should therefore reduce and recalculate the penalty for violations under Item 1 of the Final Order to proportionately reflect the reduced number of three pipelines potentially subject to pipeline safety violations under the Item 1 of this Final Order and to account for the penalty considerations set forth above for those remaining violations.

#### **IV. Compliance Order**

The Company requests that PHMSA stay the Compliance Order pending the Agency's review of this Petition. The Company also requests that the Compliance Order be modified to remove entirely the requirement under Item 1 to prepare a plan to pressure test 19 pipeline segments. Of the 19 segments, original hydrotest information and/or sufficient engineering analysis exists for 15 segments (7 of which are intrastate lines not subject to PHMSA jurisdiction) and 1 segment is an intrastate line not subject to PHMSA jurisdiction (for which a hydrotest was performed after the deadline under 195.302). Of the remaining 3 pipelines, all have been idled and/or subsequently hydrotested (and for which sufficient documentation is readily available). Item 1

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<sup>9</sup> As set forth in this Petition and accompanying exhibits, the 3 pipeline segments are as follows: New Iberia to Sunset, South Bend to New Iberia, and Sunset to Anchorage, all of three which have been subsequently hydrotested and/or are currently idled (as set forth in Section III.B. and Exhibits 4 and 5).

of the Compliance Order therefore has no remaining applicability. See Exhibit 1 (Overview of Disposition of the 19 Segments). In alternative, the Company requests that PHMSA modify the Compliance Order to reflect the pipeline segments that have been hydrotested and/or idled after the deadlines under 49 C.F.R. Part 195.302.

#### V. Summary

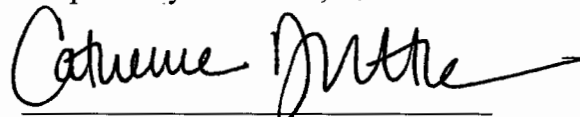
In this Final Order, PHMSA found under Item 1 of the NOPV that the Company violated 49 C.F.R. Part 195.302 with respect to 19 pipeline segments. The Company respectfully requests that the Associate Administrator for Pipeline Safety withdraw the finding of a violation under Item 1 for 16 pipelines, reduce the penalty associated with those pipelines and other pipelines for which the Agency has already withdrawn compliance violations, and modify the Compliance Order. In support of this Petition, the Company is concurrently providing to the PHMSA Southwest Region additional information regarding: (1) additional pressure test documentation for certain pipeline segments that was recently located or that was not previously requested by the Agency; (2) the sufficiency of EMPCo's engineering assessments performed under 195.303; (3) the intrastate status of 8 pipeline segments; (4) the fact that a number of the pipelines at issue have been subject to a Subpart E pressure test (for which adequate documentation is readily available) and/or have been idled after the deadlines set forth under 195.302; and (5) the calculation of the penalty, which is disproportionate to the number of violations cited by the Agency, fails to properly account for penalty considerations required by the Pipeline Safety Act, and should be further reduced to reflect the information provided with this Petition.

The Company remains available to meet with the Region to review and discuss the relevant documentation. As the Agency considers these issues and the additional documentation detailed in this Petition, the Company requests a stay of the Compliance Order pending resolution of this Petition. The Company further requests modification of the Compliance Order to remove the requirement under Item 1 to prepare a plan to pressure test 19 pipeline segments.

In the event that the Associate Administrator does not believe that it can resolve this Petition based on the information provided, we alternatively request that this matter be remanded back to PHMSA's Southwest Region.

EMPCo respectfully requests that the Agency grant the relief requested.

Respectfully submitted, .



**HUNTON & WILLIAMS**

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July 22, 2013