

Mr. Tony Burns
Vice President of Operations
Alabama-Tennessee Natural Gas Company
P.O. Box 918
Florence, Alabama 35631

Re: CPF No. 25107

Dear Mr. Burns:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$3,000, and requires certain corrective action. The penalty payment terms are set forth in the Final Order. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

Gwendolyn M. Hill
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT ON TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 200590

In the Matter of)
)
Alabama-Tennessee)
Natural Gas Company,) CPF No. 25107
)
Respondent.)
_____)

FINAL ORDER

On August 14-17, 1995, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of Respondent's facilities and records in Florence, Alabama. As a result of the inspection, the Director, Southern Region, OPS, issued to Respondent, by letter dated August 24, 1995, 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 Respondent had violated 49 C.F.R. §§ 192.171, 192.459, 192.465, 192.469, 192.605, 192.225, 192.743 and 199.7. The Notice proposed assessing a civil penalties of \$500 each for the alleged violations of §§ 192.459, 192.465, 192.605 and 192.225, and \$2,000 for the alleged violation of § 199.7. The Notice also proposed that Respondent take certain measures to correct the alleged violations.

Respondent responded to the Notice by letter dated September 25, 1995 (Response). Respondent contested several of the allegations, offered information to explain the allegations and requested mitigation of the proposed civil penalties. Respondent has not requested a hearing and therefore, has waived its right to one.

FINDINGS OF VIOLATION

Item 1 of the Notice alleged that Respondent violated 49 C.F.R. § 192.171. This provision requires that each compressor station have adequate fire protection facilities. The Notice alleged that the fire extinguishers at each of the compressor stations had not been inspected in a timely manner, thus placing doubt upon the extinguisher's capabilities to protect in the event of a fire.

Respondent contested that allegation, arguing that (1) its compressor stations are adequately protected, and (2) even though the extinguishers did not have tags reflecting inspection dates, they had been serviced and inspected and are operable. Respondent added that inspection tags have been ordered.

Respondent's facilities contained fire extinguishers, placed there as part of its system for fire protection. A timely inspection is the only manner in which to ensure the adequacy of the fire extinguishers. The adequacy of the fire extinguishers are an integral part of the fire protection system. Documentation of the inspection and its results is critical because without it, no one would know whether it was in fact done. Respondent failed to provide any such documentation. Accordingly, I find that Respondent violated 49 C.F.R. § 192.171.

Item 2 of the Notice alleged that Respondent violated 49 C.F.R. § 192.459. This provision requires each operator, upon knowledge that any portion of a buried pipeline is exposed, to examine the exposed portion for evidence of external corrosion if the pipe is bare, or if the coating is deteriorated. If external corrosion is found, remedial action must be taken to the extent required by § 192.483. The Notice alleged that Respondent did not maintain records of buried pipeline examinations from August 1990 to August 1994.

Respondent acknowledged that no records were presented to the OPS inspectors. However, Respondent contested the allegation, arguing that § 192.459 does not address a "paper" record that must be maintained.

As stated previously, documentation of an examination and its results is critical because without it, no one would know whether it was in fact done. Respondent failed to provide any such documentation of its pipeline examinations from August 1990 to August 1994. Accordingly, I find that Respondent violated 49 C.F.R. § 192.459.

Item 3 of the Notice alleged that Respondent violated 49 C.F.R. § 192.465(a) and (d). These provisions require the testing of each pipeline that is under cathodic protection at least once each calendar year, but with intervals not exceeding 15 months. If deficiencies are found, prompt remedial action must be taken to correct the deficiencies. Item 4 of the Notice alleged that Respondent violated 49 C.F.R. § 192.469. This provision requires each pipeline under cathodic protection required by this subpart, must have sufficient test stations or other contact points for electrical measurement in order to determine the adequacy of the cathodic protection.

The Notice alleged that Respondent did not repair cathodic protection test stations in a timely manner, leaving some stations unusable for at least three years. Similarly, the Notice alleged that Respondent did not test up to a six mile long section of pipe because of broken or nonexistent test stations.

Respondent did not dispute that some test stations were unusable for at least three years and that some sections as long as six miles did not have test stations. However, Respondent stated that "this neither indicates that surveys have not taken place within the required intervals, nor does it indicate that we have deficiencies in our cathodic protection which requires prompt remedial action." (Response; p.2) Respondent added that its cathodic protection surveys do adequately monitor its system without the presence of the subject test stations, and that its monitoring has never indicated a problem with its cathodic protection.

Respondent's facilities contain test stations, placed there by Respondent, as part of its system for cathodic protection. Respondent, not OPS, decided to include those test stations as part of its system. Several of those test stations were found unusable for at least three years, with sections as long as six miles without test stations. There is no evidence, such as a close-interval survey, which would indicate that those test stations were no longer necessary for cathodic protection. Respondent's failure to repair the test stations places doubt upon the adequacy of its cathodic protection. Accordingly, I find that Respondent had violated 49 C.F.R. §§ 192.465(a) and (d), and 192.469.

Item 5 of the Notice alleged that Respondent violated 49 C.F.R. § 192.605(a) and (b)(2). These provisions require each operator to prepare and follow a manual of written procedures for conducting operations and maintenance activities, which must include procedures for controlling corrosion in accordance with the requirements of subpart I of this part. The Notice alleged that Respondent did not have procedures for cathodically protecting the aluminum pipe that is in its pipeline system.

In its Response, Respondent stated that it would take the necessary action to include procedures for the cathodic protection of aluminum pipe in its operations and maintenance manual. However, Respondent added that it did not believe that it has committed a violation, nor that a fine is warranted. As justification, Respondent stated that it has been inspected many times and this issue had never been raised.

Respondent's statement suggesting that no violation was committed

because this issue had not been raised by previous inspectors does not negate the validity of the violation. Accordingly, I find that Respondent had violated 49 C.F.R. § 192.605.

Item 6 of the Notice alleged that Respondent violated 49 C.F.R. § 192.225(a) and (b). These provisions require welding to be performed by a qualified welder and that each welding procedure be recorded in detail. The Notice alleged that Respondent had no welding procedures for either steel or aluminum pipe.

Respondent did not deny the allegation; however, it stated that this omission occurred inadvertently during an extensive revision of the operations and maintenance manual. Accordingly, I find Respondent in violation of 49 C.F.R. § 192.225(a) and (b).

Item 7 of the Notice alleged that Respondent violated 49 C.F.R. § 192.743. This provision requires testing of relief devices, or alternative calculations, at intervals not exceeding 15 months. The Notice alleged that Respondent did not test or review relief capacities within the required time interval.

Respondent contested the allegation stating that it disagreed with the OPS statement that the relief capacities were not reviewed within the required time interval. Respondent further stated that its "[r]elief devices are tested as required and the operating parameters for each individual location are reviewed." (Response, p. 3) Respondent added that "perhaps the information is not documented as thoroughly as necessary," and stated that steps will be taken to remedy this.

Some form of documentation is a critical part of the test or the review. Without it, no one knows whether they were in fact conducted. Respondent failed to provide any such documentation. Accordingly, I find Respondent in violation of 49 C.F.R. § 192.743.

Item 8 of the Notice alleged that Respondent violated 49 C.F.R. § 199.7. This provision requires each operator to maintain and follow a written anti-drug plan that conforms to the requirements of this part and 49 C.F.R. Part 40 ("DOT procedures"). The Notice alleged that Respondent's drug plan did not contain any of the DOT procedures.

Respondent acknowledged that its drug plan did not contain the DOT procedures. Respondent added that its drug plan had been inspected in August 1994 by the Tennessee Public Service Commission with no significant problems noted.

Section 199.7(a) clearly states that each pipeline operator must

have an anti-drug plan that conforms to the DOT procedures. Furthermore, the Respondent's statement that previous inspectors did not note this violation, does not negate the violation itself. Accordingly, I find that Respondent had violated 49 C.F.R. § 199.7.

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 a civil penalty not to exceed \$25,000 per violation for each day of the violation up to a maximum of \$500,000 for any related series of violations. The Notice proposed a penalty of \$4,000.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

With respect to Notice Items 2, 3, 5 and 6, having reviewed the record and considered the assessment criteria, I find no mitigation is warranted. Therefore, I assess Respondent a civil penalty of \$500 each for the above items.

With respect to Notice Item 8, I note that Respondent took immediate action to correct the situation. I also note that the inspector did not note any further concerns with Respondent's anti-drug plan. Therefore, I assess a reduced civil penalty of \$1,000.

Payment of the civil penalty must be made within 20 days of service. Payment can be made by sending a certified check or money order (containing the CPF Number for this case) payable to " U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-320), P.O. Box 25770, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this **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.** After completing the wire transfer, send a copy of the **electronic funds transfer receipt** to the **Office of the Chief Counsel** (DCC-1), Research and Special Programs Administration, Room 8405, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590-0001.

Questions concerning wire transfers should be directed to: **Valeria Dungee**, Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-320), P.O. Box 25770, Oklahoma City, OK 73125; **(405) 954-4719**.

Failure to pay the \$3,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 4 C.F.R. § 102.13 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 an United States District Court.

COMPLIANCE ORDER

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 hereby ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations.

- (1) In regard to the violation of 49 C.F.R. § 192.171, within 30 days of the issuance of this Final Order, establish a procedure that will follow best industry practice for inspecting and maintaining fire extinguishers at all of Respondent's facilities.
- (2) In regard to the violation of 49 C.F.R. § 192.469, within 6 months of the issuance of this Final Order, repair and/or install cathodic test stations so that, two test stations are no more than one mile apart, wherever feasible.
- (3) In regard to the violation of 49 C.F.R. § 192.743, within 6 months of the issuance of this Final Order, test or review the calculations for all pressure limiting and regulating stations to insure that all relief valves have sufficient capacity to vent any anticipated possible over pressure.

- (4) The Regional Director may grant an extension of time for completion of any required action upon receipt of a written request stating the reasons for the extension.
- (5) Submit the appropriate procedures and evidence of compliance with this Compliance Order to: Director, Southern Region, Office of Pipeline Safety, Research and Special Programs Administration, 100 Alabama Street, 16th Floor, Atlanta, Georgia 30309.

Under 49 C.F.R. § 190.215, Respondent has a right to petition for reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.

\s\ Richard B. Felder

Richard B. Felder
Associate Administrator Pipeline Safety

Date: 04/28/98