

**DEC 29 2009**

William J. Akley  
Senior Vice President  
National Grid LNG, L.P.  
One Metrotech Center  
Brooklyn, NY 11201

**Re: CPF No. 1-2007-3006**

Dear Mr. Akley:

Enclosed is the Final Order issued in the above-referenced case. It makes findings of violation and assesses a reduced civil penalty of \$41,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service of that document 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 (by email): Renita Bivins, Senior Attorney, Office of Chief Counsel, PHMSA  
Byron Coy, Director, Eastern Region, PHMSA  
Thomas P. O'Neill, Senior Counsel, National Grid LNG, L.P.

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7009 1410 0000 2464 5812]**

**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>National Grid LNG, L.P.,</b> )	<b>CPF No. 1-2007-3006</b>
<b>f/k/a KeySpan LNG, L.P.,</b> )	
)	
<b>Respondent.</b> )	
_____ )	

**FINAL ORDER**

During October and December 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 liquefied natural gas (LNG) facilities and records of KeySpan LNG, L.P., in Providence, Rhode Island. On or about August 24, 2007, KeySpan LNG, L.P., was acquired by National Grid P.L.C. Subsequent to this acquisition, KeySpan LNG, L.P., was renamed National Grid LNG, L.P. (Respondent or National Grid).

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated October 22, 2007, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. §§ 193.2605 and 193.2711 and proposed assessing a civil penalty of \$55,000 for the alleged violations.

National Grid responded to the Notice by letter dated November 19, 2007 (Response). National Grid contested all of the allegations and requested a hearing. A hearing was held on August 19, 2008, in Washington, D.C., with Jim Curry, Office of Chief Counsel, PHMSA, presiding. Respondent was represented by counsel. After the hearing, Respondent provided a closing response by letter dated September 16, 2008 (Closing).

**FINDINGS OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 193, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 193.2605, which states:

**§ 193.2605 Maintenance procedures.**

- (a) ....
- (b) Each operator shall follow one or more manuals of written procedures for the maintenance of each component, including any required corrosion control. The procedures must include:
  - (1) The details of the inspections or tests determined under paragraph (a) of this section and their frequency of performance; and
  - (2) A description of other actions necessary to maintain the LNG plant according to the requirements of [Subpart G-Maintenance].

The Notice alleged that Respondent violated 49 C.F.R. § 193.2605, by failing to follow its manual of written procedures for the maintenance of each component of its Providence LNG facility. Specifically, the Notice alleged that Respondent failed to follow its LIM 7.6 Water Glycol System procedures for the protection of that system from internal corrosion.

Respondent's procedures required it to conduct an annual inspection of the water glycol system. As part of the inspection, Respondent was required to send a glycol sample to a laboratory for an assessment of its chemical composition and to determine whether any supplementary chemicals were necessary. Respondent's procedure also required the company to prepare and execute a maintenance plan based on the results of the inspection, including the glycol analysis. The Notice alleged that Respondent failed to prepare and execute a maintenance plan based on the results of the company's 2005 and 2006 glycol analyses.

In its Response, National Grid contested this allegation of violation and offered information supporting a reduction in the proposed civil penalty. Before the hearing, National Grid and OPS met to discuss this Item and, at the hearing, Respondent indicated that it was no longer contesting the allegation. OPS indicated, in turn, that it could support elimination of the proposed civil penalty relating to this Item. Finally, Respondent indicated that it would modify certain monitoring and maintenance procedures at issue in the Notice. The Director, Eastern Region, has reviewed National Grid's modified procedures after the hearing and found them to be adequate.

Accordingly, upon considering all of the evidence I find that Respondent violated 49 C.F.R. § 193.2605 by failing to develop a maintenance plan based on the results of the 2005 and 2006 glycol tests, as required by the company's manual of written procedures.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 193.2711, which states:

**§ 193.2711 Personnel health.**

Each operator shall follow a written plan to verify that personnel assigned operating, maintenance, security, or fire protection duties at the LNG plant do not have any physical condition that would impair performance of their assigned duties. The plan must be designed to detect both readily observable disorders, such as physical handicaps or injury, and conditions requiring professional examination for discovery.

The Notice alleged that Respondent violated 49 C.F.R. § 193.2711 by failing to follow its written plan for verifying that personnel who were assigned security duties at the company's LNG plant did not have any physical conditions that would impair performance of their assigned duties. Respondent's procedures required that all new personnel pass a physical exam before being offered a job at the LNG facility. The Notice alleged that Respondent failed to conduct physical exams of certain security contractor personnel before they began employment. In its Response, National Grid contested this allegation of violation. However, during the hearing, National Grid clarified that it was not contesting the allegation but simply offering information to support a reduction of the civil penalty.

Accordingly, upon considering all of the evidence, I find that National Grid violated 49 C.F.R. § 193.2711 by failing to follow its written plan for verifying that personnel assigned operating, maintenance, security, or fire protection duties at the LNG plan did not have any physical conditions that would impair performance of their assigned duties

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 \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations.

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; the Respondent's ability to pay the penalty and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. 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 \$55,000 for violations of 49 C.F.R. §§ 193.2605 and 193.2711.

**Notice Item 1** proposed a civil penalty of \$14,000 for violation of 49 C.F.R. § 193.2605, for Respondent's failure to follow its manual of written procedures for the maintenance of each component of its Providence LNG facility. As noted above, National Grid admitted at the hearing that a violation had occurred, while OPS acknowledged that it could support elimination of the proposed penalty. I agree that there is a basis for elimination of the penalty. The record shows that National Grid took action to respond to the results of an initial laboratory analysis by sending a second sample to the laboratory for testing, and by later adding certain chemicals to its water glycol system based on those test results. While Respondent admittedly did not follow its procedures for preparing a maintenance plan that addressed the laboratory tests, National Grid did take reasonable actions to maintain its water/glycol system. On the basis of Respondent's good faith efforts to comply with the regulation, I hereby withdraw the penalty associated with Item 1.

**Notice Item 2** proposed a civil penalty of \$41,000 for violation of 49 C.F.R. § 193.2711, for Respondent's failure to follow its written plan for verifying that personnel who had been assigned security duties at the company's LNG plant did not have any physical conditions that would impair performance of their assigned duties. In its Response, at the hearing, and in its Closing, National Grid presented several arguments for elimination of the proposed penalty, none of which are persuasive.

First, National Grid contended that § 193.2711 did not apply to the security personnel of its contractor because National Grid had hired them to perform duties "supplemental" to Respondent's existing personnel. National Grid argued that this was a good faith mistake. I find this argument unpersuasive in light of the text of § 193.2711. The regulation draws no distinction among personnel based upon regarding the nature or type of security duties that they perform. Pipeline safety depends on the thorough examination of *all* personnel, "supplemental" or otherwise, to determine whether they have physical conditions that would impair performance of their assigned duties.

Second, Respondent argued that it mistakenly believed that the contractor had required its employees to undergo physical examinations that met code requirements. However, at the hearing, Respondent acknowledged that its contracting standards did not cover physical exams required by the regulation. Therefore, I reject this argument.

Finally, Respondent argued that the supplemental guards were not required by the regulations and were added after an incident occurred at another KeySpan LNG facility in order to provide an extra layer of security. Here, again, the regulation draws no distinction between minimal and "supplemental" security personnel nor one based upon their different functions. If National Grid chose to hire additional personnel to work in proximity to its sensitive LNG facility, then such individuals had to be properly screened to ensure they could perform their duties. PHMSA regards adequate security as essential to the protection of LNG infrastructure and a key responsibility of each operator.

Respondent raised other miscellaneous arguments for reduction of the penalty but none warrants further discussion here. Accordingly, upon consideration of all of the evidence and the arguments presented, I hereby assess Respondent a civil penalty of \$41,000 for violation of 49 C.F.R. § 193.2711.

In summary, having reviewed the record and considered the assessment criteria for Items 1 and 2, I assess Respondent a reduced total civil penalty of \$41,000.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment 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 (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the **\$41,000** 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 United States District Court.

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 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. However if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective upon receipt.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued