

JAN 24, 2011

Mr. Thomas Wooden
Vice President
Northeast Transmission
Algonquin Gas Transmission LLC
890 Winter Street, Suite 300
Waltham, MA 02451

Re: CPF No. 1-2010-1004

Dear Mr. Wooden:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$85,700. This letter acknowledges receipt of the full penalty amount, by wire transfer, dated September 9, 2010. This enforcement action is now 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: Byron Coy, P.E., Director, Eastern Region, PHMSA

CERTIFIED MAIL - RETURN RECEIPT REQUESTED [7005 1160 0001 0040 0061]

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

In the Matter of)	
)	
Algonquin Gas Transmission LLC,)	CPF No. 1-2010-1004
)	
Respondent.)	
)	

FINAL ORDER

In October 2007 and October 2009, pursuant to 49 U.S.C. § 60117, a representative of the Connecticut Department of Public Utility Control, as agent for 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 Algonquin Gas Transmission LLC (Algonquin or Respondent) in Cromwell, Connecticut. Algonquin operates 1,120 miles of pipeline throughout the Northeast and is owned and operated by Spectra Energy Transmission, LLC.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated August 10, 2010, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Algonquin had committed various violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$85,700 for the alleged violations. The Notice also proposed finding that Respondent had committed certain other probable violations of 49 C.F.R. Part 192 and warned the company to take appropriate corrective action or be subject to future enforcement action.

Algonquin responded to the Notice by letter dated September 21, 2010 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$85,700 as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

FINDINGS OF VIOLATION

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

¹ http://www.spectraenergy.com/what_we_do/businesses/us/assets/algonquin/ (last accessed on December 20, 2010).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states in relevant part:

§ 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 also 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 Respondent violated 49 C.F.R. § 192.605(a) by failing to follow its own manual of written procedures for completing work permit forms. Specifically, the Notice alleged that Algonquin personnel failed to complete work permit forms prior to commencing hot work per company procedures.² Several of Algonquin's permit forms at the Cromwell Compressor station were either missing a supervisor's signature, had missing fields for work type and job location, or were otherwise incomplete. 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. § 192.605(a) by failing to follow its own procedures for completing work permit forms.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.736(b), which states, in relevant part:

§ 192.736 – Compressor stations: Gas detection.

(a) . . .

(b) Except when shutdown of the system is necessary for maintenance under paragraph (c) of this section, each gas detection and alarm system required by this section must---

(1) Continuously monitor the compressor building for a concentration of gas in air of not more than 25 percent of the lower explosive limit. . . .

The Notice alleged that Respondent violated 49 C.F.R. § 192.736 by failing to continuously monitor the Cromwell compressor station for a concentration of gas in air of not more than 25% of the lower explosive limit (LEL). Specifically, the Notice alleged that in February 2008, August 2008, and March 2009, the gas detector alarm setting for 21 detectors was set at 30% which is higher than the percentage permissible under the pipeline safety regulations. This percentage is also higher than the amount permitted by the operator's own procedures (20%).³ Respondent did not contest this allegation of violation. Accordingly, based upon a review of all

² Spectra Energy Transmission SOP procedure # 5-8010, January 1, 2007, pages 1-5.

³ Spectra Energy Transmission SOP procedure # 4-3030, "Stationary Gas and Fire Detection Systems", June 5, 2009, page 4.

of the evidence, I find that Respondent violated 49 C.F.R. § 192.736(b) by failing to continuously monitor the Cromwell compressor station for a concentration of gas in air of not more than 25 percent of the lower explosive limit.

WARNING ITEMS

With respect to Items 3, 4, 5, and 6, 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. § 192.603 (**Item 3**) — Respondent's alleged failure to keep records to administer the procedures established under § 192.605. Specifically, the Notice alleged that Algonquin failed to keep a set of drawings at the Cromwell compressor station current. Valve 202 was incorrectly labeled on the control room map. In addition, Valves 207 and 208 were still located on the control room map even though the valves had been removed after a vessel project in 2004; and

49 C.F.R. § 192.745 (**Item 4**) — Respondent's alleged failure to inspect transmission line valves that might be required during an emergency, at required intervals. Specifically, the Notice alleged that between 2004-2005, Algonquin failed to inspect valves 1239A, 215A, 215B, 215C, 215D, 28A, and 202 at least once each calendar year, but not to exceed 15 months; and

49 C.F.R. § 192.709 (**Item 5**) — Respondent's alleged failure to retain records of internal corrosion inspections or valve inspections for five years. Specifically, the Notice alleged that Algonquin could not produce records of internal corrosion inspections connected with the 2005 E-system dent removal project or records for 10 valve inspections occurring in 2008; and

49 C.F.R. § 192.739 (**Item 6**) — Respondent's alleged failure to inspect pressure regulating stations at intervals not exceeding 15 months. Specifically, the Notice alleged that Algonquin failed to inspect regulator station No. 82 once each calendar year, at intervals not exceeding 15 months. Algonquin inspected this regulator station on March 1, 2007, and again on August 20, 2008, exceeding the mandatory time period. In addition, Respondent inspected regulator station No. 50 on May 22, 2008, and again on October 12, 2009, again exceeding the required interval.

Algonquin presented information in its Response showing that it had taken certain actions to address the cited items. Accordingly, having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. §§ 192.603 (Notice Item 3), 192.745 (Notice Item 4), 192.709 (Notice Item 5) and 192.739 (Notice Item 6) have occurred and Respondent is hereby advised to correct such conditions. In the event that OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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 \$85,700 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$20,700 for Respondent's violation of 49 C.F.R. § 192.605, for failing to follow its manual of written procedures for completing work permit forms. Algonquin did not contest the allegation but stated that it had undertaken remedial measures to ensure that its personnel were properly trained. However, at the time of the inspection, Algonquin did not follow its procedures and although this violation did not contribute to an accident or incident, there were five instances of violations. Algonquin's procedures required a completed work permit form prior to commencing a hot work event. The operator was aware of the requirements in its procedures and yet failed to ensure that the permit forms were complete. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$20,700 for violation of 49 C.F.R. § 192.605.

Item 2: The Notice proposed a civil penalty of \$65,000 for Respondent's violation of 49 C.F.R. § 192.736(b), for failing to continuously monitor the Cromwell compressor station for a concentration of gas in air of not more than 25% of the LEL. Monitoring the concentration of gas in air is particularly critical to the safety of Algonquin's employees and members of the public near the facility. Certainly, the operator was aware of this requirement and its own procedures required a concentration of gas in air of not more than 20%. However, the operator permitted the gas alarms for 21 detectors at this facility to be set at 30% during February 2008, August 2008, and March 2009. Algonquin did not contest the allegation but stated that upon further review, it was determined that the gas detectors were calibrated correctly. According to the operator, the company complied with the regulation but maintained incorrect documentation. However, Algonquin could not produce paperwork to confirm that the concentration of gas in air did not exceed 25% throughout 2008. In fact, Algonquin stated that "there is not documentation for 2008 as there were no program changes made between the 2007 and 2009 versions."⁴ Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$65,000 for violation of 49 C.F.R. § 192.736(b).

Therefore, I assess Respondent a total civil penalty of **\$85,700** which Respondent has already remitted to PHMSA.

⁴ Response at 4.

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

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued