

DECEMBER 27, 2012

Mr. Robert C. Skaggs, Jr.
President & CEO
NiSource, Inc.
801 East 86th Ave.
Merrillville, Indiana 46410

Re: CPF No. 1-2012-1009

Dear Mr. Skaggs:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one allegation of violation and issues a warning to NiSource Gas Transmission and Storage Company with respect to one other alleged violation. This case 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: Mr. Michael Hoffman, Manager – System Integrity, NiSource Gas Transmission and Storage Company, 1700 MacCorkle Avenue, Charleston, WV, 25314
Mr. Byron E. Coy, Eastern Region Director, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)	
)	
NiSource Gas Transmission & Storage)	CPF No. 1-2012-1009
Company,)	
)	
Respondent.)	
)	

FINAL ORDER

On October 5, 2010, and June 3, 2011, pursuant to 49 U.S.C. § 60117, representatives of the West Virginia Public Service Commission (WV PSC), acting as agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of NiSource Gas Transmission & Storage Company's (NGTSC or Respondent) SM-80 facilities, operated by Columbia Gas Transmission, LLC, and its records in West Virginia. NGTSC is a subsidiary of NiSource, Inc.¹ The Columbia Gas Transmission system consists of approximately 12,000 miles of pipeline, transporting an average of three billion cubic feet of natural gas per day through 10 states.²

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to NGTSC, by letter dated April 6, 2012, a Notice of Probable Violation and Proposed Civil Penalty (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that NGTSC had violated 49 C.F.R. § 191.5, proposed assessing a civil penalty of \$32,500 for the alleged violation, and warned Respondent to take appropriate corrective action or be subject to future enforcement action.

NGTSC responded to the Notice by letter dated May 4, 2012 (Response). NGTSC contested the allegation, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced or eliminated.

¹ NiSource, Inc., Annual Report (Form 10K), at Exhibit 21 (February 24, 2012).

² NiSource Gas Transmission and Storage Home Page, <http://www.ngts.com/en/home.aspx> (last visited November 5, 2012).

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 191, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 191.5(a), which states:

§ 191.5 Telephonic notice of certain incidents.

(a) At the earliest practicable moment following discovery, each operator shall give notice in accordance with paragraph (b) of this section of each incident as defined in § 191.3.

The Notice alleged that Respondent violated 49 C.F.R. § 191.5(a) by failing to make a telephonic report of an incident on pipeline SM-80 at the earliest practicable moment following discovery. Specifically, the Notice alleged that an incident occurring on July 16, 2008, but was never reported by NGTSC to the National Response Center (NRC). At the time of the event, 49 C.F.R. § 191.3 defined the term “Incident” as follows:

Incident means any of the following events:

(1) An event that involves a release of gas from a pipeline or of liquefied natural gas or gas from an LNG facility and

(i) A death, or personal injury necessitating in-patient hospitalization;
or

(ii) Estimated property damage, including cost of gas lost, of the operator or others, or both, of \$50,000 or more; . . .³

According to the Notice, an NGTSC crew hit a consumer tap line operating at about 693 psig, at which point NGTSC blew down more than an estimated \$50,000 worth of gas in order to stop the resulting leak. Because the amount of the gas lost exceeded \$50,000, the Notice alleged that NGTSC was required to make a telephonic report of the incident. In response to subsequent information requests from the WV PSC, NGTSC provided information indicating a total cost of \$106,544 for the gas lost from the damaged consumer tap line and from purging the transmission line.

In its Response, NGTSC argued that the \$50,000 reporting threshold in 49 C.F.R. § 191.3 did not apply to gas lost due to an intentional or optional blow down.⁴ NGTSC contended that the allegation in the NOPV reflected an incorrect application of the regulation because it included the cost of gas that was evacuated from the pipeline due to an intentional blow-down for the purpose of making a repair.

According to NGTSC, a small leak at a weld intersection had occurred as a result of certain

³ Section 191.3 was amended effective November 26, 2010, and redefined the term “Incident” to cover “[e]stimated property damage of \$50,000 or more, including loss to the operator and others, or both, but excluding cost of gas lost.”

⁴ Response at 2.

maintenance work done on July 16, 2008. The amount of gas escaping from the leak was minimal and the condition did not cause a risk to public safety. The amount of gas lost was conservatively estimated at less than 30 MCF and the value of the gas lost from the leak was \$279.41. In addition, the cost of the repair, including labor, equipment and materials, was less than \$2,000. The total property damage due to the repair plus the gas lost as a result of the incident was less than the \$50,000 incident threshold. Therefore, NiSource argued, the event did not meet the definition of “Incident” under the regulations in effect at that time or now.

I agree. Upon review of the record, it is apparent that the estimated property damage was determined by including the gas lost during the blow down and therefore reached the \$50,000 threshold for incident reporting. However, by the agency’s own guidance (i.e., PHMSA Form F 7100.2 (1-2002)), the reporting threshold has not been interpreted as including the cost of gas incurred as part of routine maintenance. Specifically, the general instructions for the incident report form indicate that a release of gas “during maintenance or other routine activities need not be reported if the only reportable criteria met is losing gas of \$50,000 or more as defined in 191.3(1)(ii).”⁵ Under Part A – General Report Information on Form F 7100.2 (1-2002), it further states that “[f]acility repair, replacement, or change that is not related to the incident but the operator does for convenience is not to be included.” Therefore, I find that the blow down and subsequent gas loss should be considered as part of the pipeline’s routine maintenance activities to repair the leak.

Accordingly, I find that NGTSC did not violate § 191.5(a) because the leak did not meet the definition of “incident” that would require a report. Based upon the foregoing, I hereby order that this Item and the proposed penalty be withdrawn.

WARNING ITEM

With respect to Item 2, the Notice alleged a probable violation of Part 192 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

49 C.F.R. § 192.605 (**Item 2**) — Respondent’s alleged failure to follow its [*Operation and Maintenance Procedure 200.01.02, section 3.4,*] that required identification tags on emergency valves. The NGTSC pipeline SM-80 Martha valve setting had no identification tags on the following critical valves:

1. One main line valve;
2. Two bypass valves; and
3. Two blow down valves.

NGTSC presented information in its Response showing that it had replaced the missing tags listed above and had instituted an initiative to identify missing identification tags on critical

⁵ Pipeline and Hazardous Materials Safety Administration, Pipeline Safety Community Forms, <http://phmsa.dot.gov/pipeline/library/forms> (last visited November 5, 2012).

valves throughout its system.⁶ If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

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

⁶ Response at 3.