

JULY 26, 2013

Mr. Thomas F. Farrell, II
President
Dominion Resources Services, Inc.
701 East Cary St.
Richmond, VA 23219

Re: CPF No. 1-2012-1015

Dear Mr. Farrell:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation, assesses a reduced civil penalty of \$43,700, and specifies actions that need to be taken by Dominion Transmission, Inc., to comply with the pipeline safety regulations. It also withdraws several other allegations of violation in the Notice of Probable Violation.

The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Eastern Region, this enforcement action will be 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. Byron Coy, Director, Eastern Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. Jeffrey Barger, Senior Vice President, Dominion Transmission, Inc., 445 West Main
Street, Clarksburg, WV 26301

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)	
)	
Dominion Transmission, Inc.,)	CPF No. 1-2012-1015
)	
Respondent.)	
_____)	

FINAL ORDER

Between August 4-6, 2009, and June 22, 2010, pursuant to 49 U.S.C. § 60117, a representative of the West Virginia Public Service Commission, 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 Dominion Transmission, Inc. (Dominion or Respondent), in Clarksburg, West Virginia. Dominion is a subsidiary of Dominion Resources Services, Inc., and operates approximately 7,800 miles of pipeline in six states — Ohio, West Virginia, Pennsylvania, New York, Maryland and Virginia.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated May 29, 2012, 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 Dominion had committed various violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$174,500 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

Dominion responded to the Notice by letters dated June 28, 2012, and July 16, 2012 (collectively, Response). The company contested the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be eliminated. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.163(e), which states:

§ 192.163 Compressor stations: Design and construction.
(a) . . .

¹ See <https://www.dom.com/business/gas-transmission/> (last accessed on May 10, 2013).

(e) *Electrical facilities.* Electrical equipment and wiring installed in compressor stations must conform to the National Electrical Code, ANSI/NFPA 70, so far as that code is applicable.

The Notice alleged that Respondent violated 49 C.F.R. § 192.163(e) by failing to install electrical equipment and wiring at the company's Bridgeport Compressor Station in conformance with the National Electrical Code (NEC), ANSI/NFPA 70. Specifically, the Notice alleged that Dominion failed to comply with NEC Article 501.5(b), which requires operators to install a conduit seal within 18 inches of the explosion-proof housing for the breaker/starter switch associated with the jacket water circulation pump.

In its Response, Dominion argued that Article 501.5(b) is not applicable to the equipment cited in the Notice because that article was not included in the 2008 version of the NEC. The 2008 edition is the version currently incorporated by reference in the pipeline safety standards. Therefore, Dominion requested that PHMSA withdraw this item.

I have reviewed the Notice, the Violation Report, and the Response. The equipment covered by this alleged violation was installed prior to 2000.² At the time of the installation, the 1996 edition of the NEC controlled, as it was the version of the NEC incorporated in the pipeline safety regulations at that time.³ Therefore, Dominion was required to comply with the 1996 edition of the National Electrical Code when it installed the conduit seal, not the 2008 edition.

Regardless, the two editions are quite similar. Article 501.5(b)(1) of NEC (1996) states: "For connections to explosion proof enclosures that are required to be approved for Class 1 locations, seals shall be provided in accordance with [501.5](a)(1), (a)(2), and (a)(3) above." Further, Article 501.5(a)(1) states that "[i]n each conduit run entering an enclosure for switches, circuit breakers, fuses, relays, resistors, or other apparatus that may produce enclosure for switches, circuit breakers, fuses, relays, resistors, or other apparatus that may produce arcs, sparks, or high temperatures in normal operation, seals shall be installed within 18 in (457 mm) from such enclosures..." Article 501.15(A)(1) of NEC (2008) states that "[f]actory-sealed enclosures shall not be considered to serve as a seal for another adjacent explosion proof enclosure that is required to have a conduit seal. Conduit seals shall be installed within 450 mm (18 in.) from the enclosure..."

The record shows that Dominion failed to follow NEC, ANSI/NFPA70 (1996), which was in effect at the time the Bridgeport Compressor Station was designed and constructed, and required that seals be installed within 450 mm (18 in.) from the enclosure. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.163(e) by failing to install electrical equipment and wiring at the company's Bridgeport Compressor Station in conformance with the NEC, ANSI/NFPA 70.

² Dominion personnel informed OPS during the inspection that the conduit seal was installed prior to 2000. See Pipeline Safety Violation Report (Violation Report), (May 29, 2012) (on file with PHMSA).

³ The agency incorporated the 1996 version by Final Rule on June 24, 1996. This particular standard was not updated in Part 192 until 2006, at which time, the agency incorporated the 2005 version of the National Electrical Code. In 2010, the agency incorporated the 2008 edition of the NEC.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

WITHDRAWAL OF ITEMS

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.163(e), as quoted above, by failing to install electrical equipment and wiring at the Bridgeport Compressor Station in conformance with the NEC, ANSI/NFPA 70. Specifically, it alleged that Dominion failed to install proper grounding conductors and systems in conformance with Articles 250.5(b), 250.42(a), (d), and (f), and 250.81(b) of the NEC. In the Notice, OPS alleged that at the time of its inspection, there were no grounding conductors for the micro-turbine generators at the station.

Respondent contested this probable violation, arguing that the Articles referenced in this Item were not present in NEC (2008), which is the edition currently incorporated by reference in the pipeline safety regulations. In addition, Dominion stated that it did perform an evaluation of the two micro-turbine generators and determined that these devices were indeed equipped with grounding conductors. As a result, Dominion requested that this item be withdrawn.

After reviewing the materials submitted with the Response, I agree that Respondent complied with § 192.163(e) because the devices were properly equipped with grounding conductors at the estimated date of installation. Accordingly, based upon a review of all the evidence, I am withdrawing Item # 1.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.163(e), as quoted above, by failing to install electrical equipment and wiring at the Bridgeport Compressor Station in conformance with the NEC, ANSI/NFPA 70. Specifically, it alleged that Dominion failed to comply with NEC Article 230.95(c), which requires a performance test when the ground fault protection system is first installed on site, and requires a written record of the test be created. OPS alleged that at the time of its inspection, the operator was unable to produce any records of this post-construction performance test.

Dominion first acknowledged that it had been unable to locate the records associated with the performance tests. However, in its supplementary Response dated July 16, 2012, Dominion contended that Article 230.95 was not applicable to the Bridgeport Compressor Station because (1) the micro-turbines providing power to the Bridgeport Compressor Station did not deliver power from a “serving utility,” as defined in Article 230.1, and (2) the combined rating of the micro-turbines was 200 amperes. Dominion argued that Article 230.95 only requires ground fault protection systems for systems rated at 1000 amperes or more. As a result, Dominion requested that this item be withdrawn.

After reviewing the materials submitted with the Response, I agree that this requirement applies only to facilities with a minimum combined rating of 1000 amperes. Dominion’s facility had a rating of 200 amperes. Therefore, I am withdrawing Item # 3.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.163(e), as quoted above, by failing to install electrical equipment and wiring at the Bridgeport Compressor Station in conformance with the NEC, ANSI/NFPA 70. Specifically, it alleged that Dominion failed to

have grounding conductors with a continuous outer finish that was either solid green or green with one or more yellow stripes. NEC Article 230.57(b) requires that such conductors either be solid green or green with one or more yellow stripes. The grounding wires for the Dominion motor control center for the suction, discharge, and bypass of compressor engine number 1 at the Bridgeport Compressor Station allegedly had a red continuous outer finish.

Respondent contested this probable violation, arguing that Article 230.57(b) is not included in NEC (2008) and therefore is not applicable to Dominion. In addition, the company confirmed that the wires in question *are* marked with green tape in compliance with NEC 230.57(b). As a result, Dominion requested that this item be withdrawn.

After reviewing the materials and photographic evidence submitted with the Response, I agree that Respondent has complied with 49 C.F.R. § 192.163(e) because the wires are marked with green tape. Therefore, I am withdrawing Item # 4.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b), which states:

§ 192.603 General provisions.

(a) . . .

(b) Each operator shall keep records necessary to administer the procedures established under § 192.605.

The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b) by failing to keep records necessary to administer the procedures established under § 192.605. Dominion had replaced all segments of pipeline TL-260 except for two segments. During the OPS inspection, Dominion staff had stated that the maximum allowable operating pressure (MAOP) for the two segments had been determined in accordance with § 192.619(c), but had been unable to provide the relevant MAOP records.

Respondent contested this alleged violation. Dominion confirmed that the MAOP for the entire pipeline line was 460 psig, as established under § 192.619(c), and that the supporting MAOP records were in fact provided to the West Virginia inspector during the inspection. In its Response, Dominion provided PHMSA with an additional copy of the records.

The records show a discharge pressure of 460 psig that was attained multiple times between November 4-5, 1969. This documentation substantiates a 460 psig MAOP during the prescribed five-year period required by § 192.619(c)(3). Upon reviewing the materials submitted with the Response, including the MAOP records, I agree that Respondent has complied with 49 C.F.R. § 192.603(b). Therefore, I am withdrawing Item #5.

ASSESSMENT OF PENALTY

As discussed above, I have withdrawn Items #1, 3, 4, and 5. Therefore, the proposed civil penalty amounts associated with those items are also withdrawn.

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 \$43,700 for Item #2.

Item 2: The Notice proposed a civil penalty of \$43,700 for Respondent's violation of 49 C.F.R. § 192.163(e), for failing to install a conduit seal within 18 inches of the explosion-proof housing for the breaker switch at the jacket water circulation pump. I have reviewed the proposed civil penalty amount and find that the amount is appropriate, given that non-compliance persisted over nine years (dating back to 2000), and that Dominion's history of prior offenses shows the company had committed eight other violations of the pipeline safety regulations in the five years preceding the date of the Notice.⁴

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$43,700 for violation of 49 C.F.R. § 192.163(e).

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a total civil penalty of **\$43,700**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such 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. 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, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$43,700 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 district court of the United States.

COMPLIANCE ORDER

As discussed above, I have withdrawn Items 1, 3, 4, and 5 and therefore the proposed compliance items associated with these items are also withdrawn.

⁴ The eight violations are listed in Part D of the Pipeline Safety Violation Report (History of Prior Offenses). *See also*, CPF No. 1-2011-1011 and CPF No. 1-2010-1006.

The Notice proposed a compliance order with respect to Item #2 in the Notice for violation of 49 C.F.R. § 192.163(e), respectively. 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 ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.163(e) (**Item 2**), Respondent must install a conduit seal for the breaker/starter switch for the jacket water circulation pump that complies with Article 501.15(A)(1) of the National Electrical Code, ANSI/NFPA 70 (2008) within 120 days of receipt of the Final Order. The seal must be installed within 450 mm (18 inches) from the enclosure.⁵

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

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 sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed.

Unless the Associate Administrator, upon request, grants a stay, all other 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

⁵ Although Dominion failed to comply with NEC Article 501.5(b) (1996) at the time of the installation, the Compliance Order addresses current regulations. Therefore, the conduit seal must be installed in accordance with current pipeline safety requirements, namely, Article 501.15(A)(1) of the National Electrical Code, ANSI/NFPA 70 (2008). As discussed in the Findings section, the requirements of NEC (2008) and NEC (1996), in terms of the conduit seal, are largely the same.