

NOVEMBER 26, 2014

Mr. Robert Steidel
Director
City of Richmond – DPU
730 East Broad Street
Richmond, VA 23219

Re: CPF No. 1-2013-0003

Dear Mr. Steidel:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$10,000. It further finds that the City of Richmond has completed the actions specified in the Notice to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated October 1, 2014. 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: Mr. Byron Coy, PE, Director, Eastern Region, OPS
Mr. Alfred Scott, Interim Deputy Director, City of Richmond – DPU

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)	
)	
City of Richmond,)	CPF No. 1-2013-0003
)	
Respondent.)	
_____)	

FINAL ORDER

On July 26, 2012, pursuant to 49 U.S.C. § 60117, a representative of the Virginia State Corporation 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 City of Richmond (Respondent) in Richmond, Virginia. The City of Richmond system is a municipally owned gas distribution system consisting of approximately 1,865 miles of main lines 91,487 services.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated September 3, 2013, 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 City of Richmond had violated 49 C.F.R. § 192.465(a) and proposed assessing a civil penalty of \$10,000 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

City of Richmond responded to the Notice by letters dated October 2, 2013 and February 24, 2014 (Response). Respondent did not contest the allegations of violation, but offered information concerning the corrective measures it had taken and requested that the proposed civil penalty be reduced. After OPS satisfied its request for a copy of the case file, Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, City of Richmond did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

¹ See Pipeline Safety Violation Report (Violation Report), (Sept. 3, 2013) (on file with PHMSA), at 1.

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.465(a), which states:

§ 192.465 External corrosion control: Monitoring.

(a) Each pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets the requirements of §192.463. However, if tests at those intervals are impractical for separately protected short sections of mains or transmission lines, not in excess of 100 feet (30 meters), or separately protected service lines, these pipelines may be surveyed on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system must be surveyed each calendar year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

The Notice alleged that Respondent violated 49 C.F.R. § 192.465(a) by failing to monitor certain separately protected short sections of services in accordance with the regulation. Specifically, the Notice alleged that City of Richmond failed to annually test the cathodic protection on these services during the two-year period prior to the inspection at the following five locations: 2500, 2501, 2505, and 2508 Glen Center Street and 1600 Barlow Street in Richmond, VA. In its Response, City of Richmond stated that it did not admit nor deny the allegation, but offered no information or argument contesting this allegation of violation.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.465(a) by failing to conduct annual testing of the cathodic protection on five separately protected short sections of services in accordance with the regulation.

This finding of violation will be considered a prior offense 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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.² 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; 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 \$10,000 for the violation cited above.

² The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.

Item 1: The Notice proposed a civil penalty of \$10,000 for Respondent's violation of 49 C.F.R. § 192.465(a), for failing to conduct annual testing of the cathodic protection on five separately protected short sections of services in accordance with the regulation. With respect to the nature, circumstances, and gravity of this violation, proper monitoring of cathodic protection is a key part of pipeline safety. With respect to culpability, Respondent provided no explanation for its failure to comply. While Respondent provided information in its Response concerning the corrective actions it has taken, nothing in the record constitutes a good faith effort to comply prior to the OPS inspection.

Respondent has presented no evidence or arguments that would warrant a reduction in the civil penalty amount proposed for this Item in the Notice. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of **\$10,000** for violation of 49 C.F.R. § 192.465(a), which has been paid in full.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for the violation of 49 C.F.R. § 192.465(a). 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.

The Director indicates that Respondent provided documentation showing that it has satisfied the proposed compliance order by installing replacement anodeless risers at all five locations specified in the Notice. Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice are not included in this Order.

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