

NOVEMBER 6, 2014

Mr. Robert Steidel
Director, Department of Public Utilities
City of Richmond
730 East Broad Street
Richmond, VA 23219

Re: CPF No. 1-2014-0001

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 \$5,600. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated April 10, 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, Director, Eastern Region, PHMSA, 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)	
)	
City of Richmond,)	CPF No. 1-2014-0001
)	
Respondent.)	
_____)	

FINAL ORDER

On November 13, 2012, pursuant to 49 U.S.C. § 60117, pursuant to 49 U.S.C. § 60117, a representative of the Virginia State Corporation Commission (VA SCC), 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 of the City of Richmond (Richmond, City, or Respondent) in Richmond, Virginia.

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated February 18, 2014, 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 Respondent had violated 49 C.F.R. § 192.465(b) and proposed assessing a civil penalty of \$5,600 for the alleged violation. The warning item required no further action, but warned the operator to correct the probable violation.

Richmond responded to the Notice by letter dated April 2, 2014 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$5,600, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

FINDING OF VIOLATION

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

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

§ 192.465 External corrosion control: Monitoring.

(a)

(b) Each cathodic protection rectifier or other impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2 ½ months, to insure that it is operating.

The Notice alleged that Respondent violated 49 C.F.R. § 192.465(b) by failing to inspect each cathodic protection rectifier or other impressed current power source six times each calendar year, but with intervals not exceeding 2 ½ months, to insure that it is operating. Specifically, the Notice alleged that in 2011 and 2012, the City failed to inspect 21 rectifiers at intervals not exceeding 2 ½ months. 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. § 192.465(b) by failing to inspect each cathodic protection rectifier or other impressed current power source six times each calendar year, but with intervals not exceeding 2 ½ months, to insure that it is operating.

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.¹ 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 \$5,600 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$5,600 for Respondent's violation of 49 C.F.R. § 192.465(b), for failing to inspect each cathodic protection rectifier or other impressed current power source six times each calendar year, but with intervals not exceeding 2 ½ months, to insure that it is operating. Richmond neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,600 for violation of 49 C.F.R. § 192.465(b).

¹ 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.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$5,600**, which has already been paid by Respondent.

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. § 192.747(a) (**Item 2**) — Respondent's alleged failure to check and service each valve, the use of which may be necessary for the safe operation of a distribution system, at intervals not exceeding 15 months, but at least once each calendar year.

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