Tennessee Gas Pipeline Company, L.L.C.
a Kinder Morgan company

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December 9, 2016

**VIA E-MAIL AND FED EX OVERNIGHT DELIVERY**

Attention: Mr. Byron Coy, PE
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration
Eastern Region Office
820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628

RE: Notices of Probable Violation and Proposed Civil Penalty and Proposed Compliance Order, CPF Nos. 1-2016-1011 and 1-2016-1012, and Response and Request for Hearing, Request for Documents, and Preliminary Statement of Issues

Dear Mr. Coy:

Tennessee Gas Pipeline Company, L.L.C. ("TGP") respectfully submits the attached Request for Hearing, Request for Documents, and Preliminary Statement of Issues pursuant to 49 C.F.R. Part 190.208 and 190.211. TGP received the above-referenced Notices of Probable Violation and Proposed Civil Penalty and Proposed Compliance Order ("NOPVs" or "Notices") on November 11, 2016 (CPF No. 1-2016-1011) and on November 22, 2016 (CPF No. 1-2016-1012).

The Notices allege that TGP committed probable violations of the pipeline safety regulations (i.e., 49 C.F.R. § 192.605(b)(2)), propose civil penalties of $34,500 and $34,500, respectively, and include proposed compliance orders. TGP respectfully contests all aspects of the NOPVs: the alleged violations, the proposed civil penalties, and the proposed compliance orders.

TGP takes its pipeline safety obligations seriously and welcomes the opportunity to resolve these issues in lieu of a hearing. Please do not hesitate to contact me at 303-914-7630 or Catherine D. Little at 404-888-4047 if you have any questions.

Respectfully submitted,

By: Jessica Toll, Esq.
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Counsel for Tennessee Gas Pipeline Company LLC

Enclosures

cc: Mr. Gary Buchler, Chief Operating Officer – Gas Pipelines, Kinder Morgan
Mr. Jorge Torres, Vice President of Engineering, Kinder Morgan
Mr. Reji George, Director, Compliance / Codes & Standards, Kinder Morgan
Catherine D. Little, Hunton & Williams

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
WASHINGTON, D.C. 20590

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|---|---|---|
| In the Matter of | ) | |
| | ) | CPF No. 1-2016-1011 |
| Tennessee Gas Pipeline Company, L.L.C. | ) | CPF No. 1-2016-1012 |
| | ) | Notices of Probable Violation |
| Respondent. | ) | |
| | ) | |

**REQUEST FOR HEARING,**
**REQUEST FOR DOCUMENTS, AND**
**PRELIMINARY STATEMENT OF ISSUES**

## I. Request for Hearing

Pursuant to 49 C.F.R. §§ 190.208(a)(4) and 190.211(b), Tennessee Gas Pipeline Company, L.L.C. ("TGP") respectfully requests an in-person hearing on the proposed civil penalties contained in the Notices of Probable Violation (Notices or NOPVs) received by TGP on November 11, 2016 and November 22, 2016, in the above-referenced cases. Because of the overlap of issues within these NOPVs, TGP requests that both NOPVs be heard at the same hearing. This Request for Hearing is timely under 49 C.F.R. §190.208. TGP will be represented by counsel at the hearing.

## II. Request for Documents

In order to ensure a full and fair hearing, TGP respectfully requests the following:

1. Pursuant to 49 C.F.R. § 190.208(c), TGP requests that the Office of Pipeline Safety ("OPS") provide a copy of its violation report and any accompanying evidence in each of these matters, including the supporting documentation reviewed by the Compliance Officer in developing the recommended civil penalties.

2. Pursuant to 49 C.F.R. § 190.212(c)(2), (c)(3) and (c)(7), and 5 U.S.C. § 552(a)(2)(C), TGP requests copies of the following materials related to the proposed civil penalties in these cases:

    a. Copies of any penalty calculation worksheets or work papers for the specific penalties proposed in these cases.

b. Copies of any administrative staff manuals or instructions to staff, including guidance, manuals, directions, procedures or any other documents that the Presiding Official or Associate Administrator rely on to determine a final civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225.

## III. Preliminary Statement of Issues

TGP respectfully contests the underlying alleged violations in the NOPVs, the proposed civil penalties of $34,500 and $34,500, respectively, and the proposed compliance orders. TGP intends to raise the following issues at a hearing:

1. Whether Item 1 of both NOPVs should be withdrawn because TGP complied with 49 C.F.R. §§ 192.605(b)(2) and 192.481(b) and its own procedure for inspecting pipe this is not visually accessible.

2. Whether the NOPVs (including the alleged violations, the proposed civil penalties, and the proposed compliance orders) are duplicative because they allege the same procedural violation, with respect to the very same procedures from the same inspection.

3. Whether these NOPVs should have been Notices of Amendment because they only allege that TGP's procedures are inadequate under 49 CFR § 190.206

4. Whether the record should be corrected because TGP is not a subsidiary of Kinder Morgan Liquid Terminals, LLC.

5. Whether the record supports the proposed civil penalties in each case and whether they should be withdrawn.

6. Whether the penalties are consistent with penalty consideration factors in 49 C.F.R. § 190.225, the Pipeline Safety Act, and precedent.

7. Whether OPS's method of developing, proposing, and assessing administrative civil penalties is consistent with applicable laws and regulations.

8. Whether the proposed compliance orders in the NOPVs should be withdrawn because (1) TGP's atmospheric corrosion monitoring procedure complies with Part 192 with respect to monitoring thermal insulation and pipe supports and (2) the alleged violations are procedural and there is no allegation that TGP's atmospheric corrosion monitoring inspections were inadequate.

At the hearing in this case, TGP intends to present evidence and engage in discussion with PHMSA on these issues. TGP reserves the right to revise and supplement this Statement of Issues at or before the Hearing. TGP also reserves the right to respond to any new factual assertions or arguments introduced by OPS during the proceeding of these cases.

December 9, 2016

Respectfully submitted,

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