

August 10, 2017

Mr. Robert Burrough
Acting Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration
820 Bear Tavern Road
Suite 103
West Trenton, NJ 08628

**RE: CPF 1-2017-1010 Notice of Probable Violation
Algonquin Gas Transmission, L.L.C. Response**

Dear Mr. Burrough,

From December 8 – 14, 2016, representatives of the New York State Department of Public Service (NYSDPS), acting as agents for the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code, inspected the Algonquin Gas Transmission LP (AGT) Algonquin Incremental Market (AIM) project in Brewster, New York. As a result of the inspection, PHMSA alleges that AGT committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations, and issued a Notice of Probable Violation (NOPV) and Proposed Compliance Order. The NOPV proposes a civil penalty of \$36,200.

The probable violation is summarized below, followed by AGT's response.

PHMSA Finding

§192.167 Compressor Stations: Emergency Shutdown

(a) Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following:

(4) It must be operable from at least two locations, each of which is:

...

(ii) Near the exit gates, if the station is fenced, or near emergency exits, if not fenced; and . .

PHMSA alleges AGT failed to have emergency shutdown (ESD) activation points near two (2) fence exit gates, as is required by §192.167. The Southeast Compressor Station had eight (8) exit gates, four (4) exit gates for personnel and four (4) exit gates for vehicles. The compressor station had activation stations within the facility, but activation points were not present near exit gates.

AGT Response

At the time of the inspection, there were a total of sixteen (16) ESD activation points at Southeast Compressor Station. These ESD activation stations are located near planned emergency evacuation routes and where personnel may be working. As such, the ESD activation points were located within the compressor station to facilitate activation of the ESD system in the event of an emergency.

Of the sixteen (16) ESD activation points at Southeast Station, there were ESD activation points located in close proximity to fence gates on all four (4) sides of the compressor station, as summarized below and shown in the attached site drawing (Attachment 1).

- North fence: An ESD activation point is located approximately 72 feet of an exit gate.
- East fence: An ESD activation point is located approximately 60 feet of an exit gate.
- South fence: An ESD activation point is located approximately 135 feet of an exit gate.
- West fence: An ESD activation point is located approximately 69 feet of exit gate. AGT also notes this ESD activation point is located at the exit of the control room on the evacuation route to the nearest gate.

AGT contends §192.167 does not specify the maximum distance between an ESD activation point and a fence exit gate, nor, to AGT's knowledge, has PHMSA issued guidance or interpretations on this matter. Thus AGT contends a finding of violation is not warranted based on the distance from the ESD activation points to the fence gates at AGT's Southeast Compressor Station.

§192.167 also requires the two (2) ESD activation near fence exit gates also be located outside the gas area. To AGT's knowledge, PHMSA has not issued guidance or interpretations on what is considered the "gas area" within a compressor station, though PHMSA has determined through a previous enforcement action¹ that an ESD activation point located outside a compressor building is not necessarily outside the gas area if it is an area "where gas could ignite." Thus, AGT does not contest the finding of violation.

AGT contends the number and locations of the ESD activation points at the time of the inspection did not negatively impact safety, since personnel at the site would be working near an ESD activation point at the time of a potential emergency, or would pass one as they evacuated the station.

To address the concerns expressed by the NYSDPS during the inspection, and prior to receiving this NOPV and Proposed Compliance Order, AGT installed one (1) new ESD activation point and two (2) new man gates. The new ESD activation point is approximately eleven (11) feet from one (1) of the new man gates. The other new man gate is located approximately nineteen

¹ CPF 3-2011-1009. The distance between the ESD activation point and the fence gate in this case was 300 feet. Discerning the relevance of enforcement actions is difficult as non-parties are limited to the information stated in the orders.

(19) feet from an existing ESD activation point. The site drawing provided as Attachment 1 provides the location of the new ESD activation point and new man gates.

For the reasons noted above, AGT contends the proposed civil penalty of \$36,200 is not warranted, and respectfully requests PHMSA to eliminate the civil penalty. In this regard, AGT took significant steps to comply, installing one (1) new ESD activation point and two (2) new man gates at the Southeast Compressor Station. The Station, the employees and the public are also protected by automatic shutdown devices triggered by gas detectors and flame detectors, independently of a person's ability to activate an ESD. As there is no guidance or interpretations of the subjective distance of "near" at issue here, AGT contends that this good faith effort should support the elimination of the civil penalty or, at a minimum, garner credit in the penalty calculation. Additionally, AGT did not receive any economic gain, and undertook to comply with the inspectors findings before this enforcement action was received.

Proposed Compliance Order

The Proposed Compliance Order specifies the following work.

1. AGT must install emergency shutdown system activation points near the exit gates at the Southeast Compressor Station in accordance with the requirements of §192.167(a)(4) within 120 days of receipt of the Final Order.
2. PHMSA requests AGT maintain documentation of the cost of the safety improvement costs associated with fulfilling this Compliance Order and submit the cost to the Acting Director, PHMSA Eastern Region. PHMSA requests the costs be reported in two (2) categories: 1) total cost associated with preparation or revision of plans, procedures, studies and analysis, and 2) cost associated with replacements, additions and other changes to pipeline infrastructure.

AGT Response to Proposed Compliance Order

AGT does not contest the Proposed Compliance Order. As noted above, AGT has already installed an additional ESD activation point and two (2) new man gates. The cost of these installations was approximately \$125,000.

Summary

As noted above, AGT is not contesting the finding of non-compliance. AGT contends that the safety of the Southeast Compressor Station was not compromised by the observation by NYSPSC, and therefore the proposed civil penalty of \$36,200 is not warranted. Furthermore, prior to receiving the NOPV and Proposed Compliance Order, AGT installed an additional ESD activation point and two (2) new exit gates to address the concerns expressed by NYSPSC. AGT

respectfully requests an elimination of the civil penalty due to the mitigating factors summarized in this letter.

AGT takes this finding seriously, and we have already implemented corrective actions prior to receiving the NOPV and Proposed Compliance Order.

Please call me at (713) 627-6388 if you need additional information.

Sincerely,

A handwritten signature in blue ink that reads "Rick Kivela". The signature is written in a cursive style with a large initial "R".

Rick Kivela
Manager, Operational Compliance

Attachment

Attachment 1
CPF 1-2017-1010
Southeast Compressor Station ESD and Fence Site Plan

Critical Energy Infrastructure Information