

October 10, 2019

Mr. Stanley Chapman, III
Executive Vice President and President
U.S. Natural Gas Pipelines
TC Energy
700 Louisiana Street, Suite 700
Houston, Texas 77002

Re: CPF No. 1-2018-1003

Dear Mr. Chapman:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Columbia Gas Transmission, LLC. It withdraws one of the allegations of violation and its associated civil penalty, makes one finding of violation, assesses a civil penalty of \$47,500, and specifies actions that need to be taken by Columbia Gas Transmission to comply with the pipeline safety regulations. 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 effective upon the date of mailing, as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Robert Burrough, Director, Eastern Region, Office of Pipeline Safety, PHMSA
Mr. Lee Romack, Manager, U.S. Regulatory Compliance, TC Energy, 700 Louisiana
Street, Suite 700, Houston Texas 77002
Mr. Randal Broussard, Senior Vice President, U.S. Gas Operations East, Columbia Gas
Transmission, LLC, 201 Energy Parkway, Suite 100, Lafayette, Louisiana 70508

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)

Columbia Gas Transmission, LLC,)
a subsidiary of TC Energy,)

Respondent.)
_____)

CPF No. 1-2018-1003

FINAL ORDER

From May 2 through May 20, 2016, pursuant to 49 U.S.C. § 60117, a representative of the Public Utilities Commission of Ohio (PUCO), 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 Columbia Gas Transmission, LLC (CGT or Respondent) in Ohio. CGT, a subsidiary of TC Energy, operates approximately 12,000 miles of pipelines and 37 gas storage fields in four states.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated January 18, 2018, 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 CGT had committed two violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$115,100 for the alleged violations. The Notice also proposed that Respondent be required to take certain measures to correct the alleged violations.

TC Energy, on behalf of CGT, responded to the Notice by letter dated February 27, 2018 (Response).² The company contested both allegations of violation and requested an informal meeting, or, alternatively, a hearing. Subsequently, in March 2018, Respondent met with the Director to discuss the Notice and, by letter dated September 27, 2018, withdrew its request for a hearing and thereby authorized the entry of this Final Order without further notice.

FINDING OF VIOLATION

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

¹ See, TC Energy website, available at <https://www.tcenergy.com/operations/natural-gas/columbia-gas-transmission/> (last accessed October 3, 2019).

² In May 2019, TransCanada Corporation changed its name to TC Energy. See, TC Energy website, available at <https://www.tcenergy.com/TC-Energy/> (last accessed October 3, 2019).

Item 1: 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 its manual of written procedures for operations, maintenance and emergencies established under § 192.605.³ Specifically, the Notice alleged that CGT had failed to keep records that substantiated the established maximum allowable operating pressure (MAOP) of its pipelines pursuant to § 192.619.

Subparagraph § 192.605(b)(1) requires that an operator's procedural manual include procedures for "[o]perating, maintaining, and repairing the pipeline in accordance with each of the requirements of this [Subpart L] and Subpart M of this Part." Under Subpart L, § 192.619 sets requirements for establishing the MAOP of steel pipelines:

§ 192.619 Maximum allowable operating pressure: Steel or plastic pipelines.

- (a) No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under paragraph (c) or (d) of this section, or the lowest of the following..."

The section lists a number of options that an operator has to establish a safe MAOP, including the design pressure of the weakest segment, certain test-pressure calculations, or a combination of historical actual operating conditions. In addition, the operator must keep records necessary to document how it determined the calculated MAOP.

According to the Notice, the PUCO inspector requested the company's MAOP records for PHMSA-regulated pipeline segments within PHMSA Inspection Unit 9353, Crawford/McArthur (Ohio). Subsequently, CGT provided an MAOP spreadsheet accounting for 16.828 miles of pipeline that allegedly contained incomplete MAOP documentation. The PUCO inspector spoke with CGT on November 2, 2016, regarding the missing MAOP data and was told that the missing MAOP documentation had not been found. The information provided during the inspection and in subsequent communications did not include sufficient records necessary to validate the MAOP of these pipeline segments.

In its September 27, 2018 letter, CGT withdrew its objection to this allegation of violation and request for an informal hearing. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.603(b) by failing to keep records necessary to administer its written procedures established under § 192.605.

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

³ Section 192.605 requires all operators of gas pipelines to prepare and follow for each pipeline a manual of written procedures for conducting normal operations and maintenance activities, and for emergency response.

WITHDRAWAL OF ALLEGATION OF VIOLATION

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.455(a)(2), which states:

§ 192.455 External corrosion control: Buried or submerged pipelines installed after July 31, 1971.

(a) Except as provided in paragraphs (b), (c), and (f) of this section, each buried or submerged pipeline installed after July 31, 1971, must be protected against external corrosion, including the following:

(1) . . .

(2) It must have a cathodic protection system designed to protect the pipeline in accordance with this subpart, installed and placed in operation within 1 year after completion of construction.

The Notice alleged that Respondent violated 49 C.F.R. § 192.455(a)(2) by failing to have a cathodic protection (CP) system designed to protect its pipeline in accordance with Part 192, Subpart I, installed and placed in operation within one year after completion of construction. Specifically, the Notice alleged that CGT had not installed a CP system on 77 feet of its 4-inch-diameter coated piping on Pipeline R-486, which was constructed and placed into service on July 10, 2003.

During the inspection, the PUCO inspector reviewed CGT's work-management system database (Database). The PUCO inspector noted a 77-foot section of coated piping in the Database and requested a map, procedure, installation record, and monitoring information related to the CP on this pipeline.⁴

Following the March 2018 informal meeting with OPS Eastern Region, CGT provided records from 2002 to 2016 that had not been previously presented during the PHMSA inspection. These records demonstrated that CGT did indeed have a CP system installed and placed in operation within one year of completing the construction of the subject 77-foot pipeline segment on Pipeline R-486. PHMSA's Regional Director accepted this new evidence as demonstrating compliance with 49 C.F.R. § 192.455(a)(2).

Accordingly, based upon the foregoing, I hereby order that Item 2 be withdrawn.

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.⁵ 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,

⁴ The monitoring of pipelines under cathodic protection is required under 49 C.F.R. § 192.465 in order to determine whether corrosion-protection levels are adequate.

⁵ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223; Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732, 60744 (Nov. 27, 2018).

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; 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 \$115,100 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$47,500 for Respondent's violation of 49 C.F.R. § 192.603(b), for failing to keep records necessary to administer the procedures established under § 192.605. In Respondent's September 27, 2018 letter, Respondent agreed to pay the proposed penalty.⁶ Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$47,500 for violation of 49 C.F.R. § 192.603(b).

Item 2: The Notice proposed a civil penalty of \$67,600 for Respondent's violation of 49 C.F.R. § 192.455(a)(2), for failing to have a CP system designed to protect its pipeline in accordance with Part 192, Subpart I, installed and placed in operation within one year after completion of construction. Having withdrawn Item 2, I hereby withdraw the proposed civil penalty associated with this Item.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total reduced civil penalty of **\$47,500**.

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 (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$47,500 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

The Notice proposed a compliance order with respect to Item 1 in the Notice, for violation of 49 C.F.R. §§ 192.603(b). 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.

⁶ Hearing request withdrawal letter (on file with PHMSA), at 1.

With regard to the violation of § 192.603(b) (Item 1), Respondent requested that the proposed compliance terms be modified in order to allow CGT more time to re-establish the MAOP for segments lacking adequate records. The Director has recommended that the compliance order be modified accordingly.

For the above reasons, the Compliance Order is modified as set forth below.

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 § 192.603(b) (**Item 1**), Respondent must determine MAOP records availability for jurisdictional pipeline segments operated in Ohio that are located in Class 3 locations, High Consequence Areas (HCAs), and post-1970 segments in Class 1 and 2 locations. CGT must provide PHMSA with a spreadsheet showing the results of this review by December 31, 2019. The following information must be included in the spreadsheet:
 - a. A list of jurisdictional pipeline segments operated by CGT in Ohio, as per the above requirements;
 - b. The MAOP of each pipeline segment;
 - c. Identification of segments that do not have adequate records; and
 - d. Identification of which required record(s) are missing for the segment.
2. With respect to the violation of § 192.603(b) (**Item 1**), Respondent must, for each pipeline segment determined to have inadequate records necessary to substantiate the established MAOP, develop a plan to re-establish its MAOP in accordance with 49 CFR § 192.619. CGT must provide the plan to PHMSA for review by December 31, 2019. The plan must include the following:
 - a. A list of segments identified as having inadequate records;
 - b. A method to obtain adequate records or re-establish the MAOP; and
 - c. The safety measures to be taken before the MAOP is re-established or records obtained.
3. With respect to the violation of § 192.603(b) (**Item 1**), Respondent must provide records indicating the completion of the plan elements in Item 2 above and updates on the progress biannually (submissions due by June 30 and December 31 each year), including the following:
 - a. By December 31, 2021, CGT must remediate a minimum of 50% of the MAOP gaps in HCA and Class 3 locations;
 - b. By December 31, 2023, CGT must remediate all MAOP gaps on the identified segments in HCA and Class 3 locations in Ohio; and
 - c. By December 31, 2027, CGT must remediate MAOP gaps on the identified post-1970 segments in Class 1 and Class 2 locations in Ohio.
4. Upon request, CGT must provide records necessary to substantiate the established MAOP to PHMSA within 14 days of the request.

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.

It is requested (not mandated) that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. It is requested that these costs be reported in two categories: (1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and (2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), 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. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the 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, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed. The other terms of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

October 10, 2019

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued