

September 18, 2018

Mr. Kelcy L. Warren
Chief Executive Officer
Energy Transfer Partners, LP
8111 Westchester Drive
Dallas, Texas 75225

Re: CPF No. 1-2018-5010

Dear Mr. Warren:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Sunoco Pipeline, LP. It makes findings of violation and assesses a reduced civil penalty of \$121,200. This acknowledges receipt of a partial payment of \$51,400, by wire transfer dated March 20, 2018. The payment terms for the remaining penalty due, in the amount of \$69,800, are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. 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. Ryan Coffey, Executive VP of Operations, Energy Transfer Partners, LP, 800 East
Sonterra Boulevard, San Antonio, TX 78258

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)	
)	
Sunoco Pipeline, LP,)	
 a subsidiary of Energy Transfer Partners, LP,)	CPF No. 1-2018-5010
)	
Respondent.)	
)	

FINAL ORDER

From May 22-26, 2017, pursuant to 49 U.S.C. § 60117, representatives of 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 the Sunoco Pipeline, LP (Sunoco or Respondent) Logan System in Boston, Massachusetts. Sunoco transports refined petroleum products and crude oil. In its 2016 annual reports, Sunoco reported that it operated 6,384 miles of jurisdictional interstate and intrastate hazardous liquid transmission pipelines across 11 states, and operated 267 jurisdictional breakout tanks in eight states.¹ Sunoco Pipeline, LP, is a subsidiary of Energy Transfer Partners, LP.²

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 and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Sunoco had violated 49 C.F.R. §§ 195.428(a) and 195.583(a) and proposed assessing a civil penalty of \$127,000 for the alleged violations.

Energy Transfer Partners, LP, responded to the Notice on behalf of Respondent by letter dated February 28, 2018 (Response). The company did not contest the allegations of violation, offered additional information in response to the Notice, and requested that the proposed civil penalty for one of the alleged violations be reduced. Sunoco paid the proposed civil penalty of \$51,400 for Item 2 on March 20, 2018. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make a finding of violation for Item 2 and to issue this final order without further proceedings.

¹ Pipeline Safety Violation Report (Violation Report), (Jan. 18, 2018) (on file with PHMSA), at 1.

² See <http://www.sunocologistics.com/> (last visited May 15, 2018).

FINDINGS OF VIOLATION

In its Response, Respondent did not contest the allegations in the Notice that it violated 49 C.F.R. Part 195, as follows:

Item 1: The Notice alleged that Sunoco violated 49 C.F.R. § 195.428(a), which states:

§ 195.428 Overpressure safety devices and overfill protection systems.

(a) Except as provided in paragraph (b) of this section, each operator shall, at intervals not exceeding 15 months, but at least once each calendar year, or in the case of pipelines used to carry highly volatile liquids, at intervals not to exceed 7½ months, but at least twice each calendar year, inspect and test each pressure limiting device, relief valve, pressure regulator, or other item of pressure control equipment to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used.

The Notice alleged that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test each item of pressure-control equipment at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used. Specifically, the Notice alleged that Sunoco failed to inspect the pump station discharge, line pressure and suction pressure-control devices (transmitters) for the pump units at the East Boston Terminal, at an interval not exceeding 15 months. These devices are used to control and regulate pipeline pressures. During the inspection, PHMSA inspectors reviewed records of inspections of pressure transmitters. These records indicated that Sunoco inspected the pump station discharge, line pressure and suction pressure transmitters on January 14, 2014, and January 15, 2014. The next inspections were not performed until July 16, 2015, and July 17, 2015, 92 days after the 15-month deadline.

Although Sunoco indicated that it was not contesting the alleged violation, it did ask for a reduction in the penalty on the basis that one of the three transmitters identified in the allegation was not subject to the regulation. Sunoco agreed that the pump-station discharge and line-pressure transmitters were utilized in the overpressure-protection system design to regulate pipeline pressure and thereby provide overpressure protection, as required by § 195.428. However, it stated that the suction pressure-control device was exempt from § 195.428 because it was not a covered pipeline, as defined by § 195.1(b)(9)(ii).³ That section reads:

(b) *Excepted.* This Part does not apply to any of the following:

...

(9) Transportation of hazardous liquid or carbon dioxide:

(i) ...

(ii) Through facilities located on the grounds of a materials transportation terminal if the facilities are used exclusively to

³ Response, at 2.

transfer hazardous liquid or carbon dioxide between non-pipeline modes of transportation or between a non-pipeline mode and a pipeline. These facilities do not include any device and associated piping that are necessary to control pressure in the pipeline under § 195.406(b); ...

Sunoco noted that the suction pressure-control device was upstream of the suction side of the pump(s) and was located on the piping that is excepted from regulation. It also explained that the suction pressure control device

“ . . . does not operate in a manner that provides any input or control to the overpressure protection system design of the pipeline from the discharge of the pump to the delivery point of product at the airport. This transmitter is located on excepted from regulation, non-jurisdictional piping coming from storage tankage to the suction side of the pump(s). This transmitter is in place to detect low pressure on this upstream piping and protect the pump(s) from damage in the case of a low suction pressure scenario.”⁴

I agree with Sunoco’s determination that the suction pressure-control device is a pressure transmitter on the non-regulated, suction side of the pump within the in-plant tank facility, and that its function of detecting low suction pressure excludes it from the overpressure safety device requirements of § 195.428. I therefore withdraw the alleged violation with regard to the suction pressure-control device.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.428(a) by failing to inspect and test each item of pressure-control equipment at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used with regard to the pump station discharge and line pressure transmitters.

Item 2: The Notice alleged that Sunoco violated 49 C.F.R. § 195.583(a), which states in relevant part:

§ 195.583 What must I do to monitor atmospheric corrosion control?

(a) You must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore.....	At least once every 3 calendar years, but with intervals not exceeding 39 months

⁴ Response at 2.

Offshore.....	At least once each calendar year, but with intervals not exceeding 15 months.
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The Notice alleged that Respondent violated 49 C.F.R. § 195.583(a) by failing to inspect portions of its pipeline system at the Boston Logan Airport that are exposed to the atmosphere at least once every three calendar years, but with intervals not exceeding 39 months. Specifically, the Notice alleged that during their inspection, PHMSA inspectors reviewed atmospheric-corrosion inspection records for the Boston Logan Airport pipeline system. The records indicated that atmospheric-corrosion inspections were conducted on May 2, 2012, and September 9, 2013. Records provided by Sunoco indicated that the next inspections were conducted between February 8, 2017, and May 20, 2017, missing the 39-month deadline by between two and 21 months, as shown on the chart in the Notice.

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. § 195.583(a) by failing to inspect portions of its pipelines within the Boston Logan Airport system that were exposed to the atmosphere at least once every three calendar years, but with intervals not exceeding 39 months.

These findings of violation will be considered prior offenses 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.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, 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 \$127,000 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$75,600 for Respondent’s violation of 49 C.F.R. § 195.428(a), for failing to inspect and test each item of pressure-control equipment at intervals not exceeding 15 months, but at least once each calendar year, to determine that it is functioning properly, is in good mechanical condition, and is adequate from the standpoint of capacity and reliability of operation for the service in which it is used. Sunoco requested that the number of instances of probable violation be reduced to two and that the associated proposed civil penalty be recalculated because the suction pressure-control device was exempt from 49 C.F.R. Part 195.

⁵ These amounts are adjusted annually for inflation. See, e.g., Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

I have agreed that only two instances of violation occurred, those relating to the pump-station discharge and line-pressure transmitters.

Based upon the foregoing, I assess Respondent a reduced civil penalty of \$69,800 for violation of 49 C.F.R. § 195.428(a).

Item 2: The Notice proposed a civil penalty of \$51,400 for Respondent's violation of 49 C.F.R. § 195.583(a), for failing to inspect portions of its pipeline system at the Boston Logan Airport that were exposed to the atmosphere at least once every three calendar years, but with intervals not exceeding 39 months. Sunoco 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 \$51,400 for violation of 49 C.F.R. § 195.583(a). Payment for this Item was received by PHMSA on March 20, 2018.

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 **\$121,200**. Sunoco partially paid this penalty on March 20, 2018, making a payment in the amount of \$51,400. Therefore, a balance of **\$69,800** remains outstanding.

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 \$69,800 remaining 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.

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 the Final Order by Respondent. Any petition submitted must contain a brief 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 any corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

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

September 18, 2018

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued