

May 28, 2020

VIA ELECTRONIC MAIL TO: kmork@greylockenergy.com

Mr. Kyle Mork
President and Chief Executive Officer
Greylock Energy, LLC
500 Corporate Landing
Charleston, West Virginia 25311

Re: CPF No. 1-2019-1020

Dear Mr. Mork:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Greylock Midstream, LLC. It makes a finding of violation and assesses a civil penalty of \$21,400. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. Service of the Final Order by electronic mail is effective upon the date of transmission 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. R. Ray Lovejoy II, Counsel, Greylock Energy, LLC, rlovejoy@greylockenergy.com

CONFIRMATION OF 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)	
)	
Greylock Midstream, LLC,)	
 a subsidiary of Greylock Energy, LLC,)	CPF No. 1-2019-1020
)	
Respondent.)	
)	

FINAL ORDER

From January 15 to August 22, 2019, pursuant to 49 U.S.C. § 60117, a representative 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 Greylock Midstream, LLC, a subsidiary of Greylock Energy, LLC (Greylock or Respondent) in Clearfield, Pennsylvania. Greylock is an oil and natural gas, exploration, production, and midstream company.¹ Greylock has one federal unit with 15.8 miles of gas transmission pipeline located in Clearfield County, Pennsylvania.²

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated October 3, 2019, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Greylock had violated 49 C.F.R. § 192.709(c) and proposed assessing a civil penalty of \$21,400 for the alleged violation.

After requesting and receiving an extension of time to respond, Greylock responded to the Notice by letter dated December 16, 2019 (Response). The company contested the allegation, offered additional information in response to the Notice, and requested that the proposed civil penalty be reduced or eliminated.

Respondent did not request a hearing and therefore has waived its right to one.

¹ Greylock Midstream website, *available at* <https://www.greylockmidstream.com/> (last accessed May 20, 2020); Greylock Energy website, *available at* <https://www.greylockenergy.com/leadership> (last accessed May 20, 2020).

² Pipeline Safety Violation Report (Violation Report), (Oct. 3, 2019) (on file with PHMSA), at 1.

FINDING OF VIOLATION

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

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.709(c), which states:

§ 192.709 Transmission lines: Record keeping.

Each operator shall maintain the following records for transmission line for the periods specified:

(a)

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

The Notice alleged that Respondent violated 49 C.F.R. § 192.709(c) by failing to maintain records of a test required by subpart M of 49 C.F.R. Part 192 for at least five years. Specifically, the Notice alleged that Greylock failed in 18 instances to maintain records demonstrating that 9 emergency valves in its Clearfield County, Pennsylvania operating area were partially operated in accordance with § 192.745(a) during calendar years 2017 and 2018. Section 192.745(a) states that “each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.”

Greylock’s Valve Inspection Reports for 2017 and 2018 included a column titled “Partially Operated,” which is populated with a Yes or No response to document that the valve was partially operated. The reports indicated nine times each in 2017 and 2018 where emergency valves were not documented as being partially operated during the annual inspection, as the “Partially Operated” field was incomplete for those records.

In its Response, Greystone admitted that the Valve Inspection Reports “do not reflect a checked box in the section for Partially Operated,” however it stated that this was due to a limited clerical administrative oversight. It explained that the partial operation tests were performed on October 31, 2017, and September 20, 27, and October 1, 2018, respectively. Respondent submitted copies of the same Valve Inspection Reports, which do not reflect any boxes checked in the section for Partially Operated. Greylock also stated that it had implemented measures to address the matter and “the reporting procedure has been amended to fully reflect and memorialize any completed partial operation inspection moving forward.”

While PHMSA recognizes Greylock’s assertion that the tests were in fact completed, Respondent has acknowledged that it failed to maintain a record of those tests, which is required under § 192.709(c). Thus, the evidence in the record demonstrates Respondent did not comply with the record keeping requirement in § 192.709(c) as alleged in the Notice. The Notice did not allege that Greylock failed to perform the tests under § 192.745(a). Therefore, Respondent’s assertion is not grounds to withdraw the violation, however the information is considered below with respect to the civil penalty. Although Greylock has updated its procedures to prevent this issue from reoccurring, this action was taken in response to PHMSA identifying the violation.

Therefore, I am unpersuaded to withdraw the violation on this basis.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.709(c) by failing to maintain records of a test required by subpart M of 49 C.F.R. Part 192 for at least five years.

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.³ 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; 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 \$21,400 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$21,400 for Respondent's violation of 49 C.F.R. § 192.709(c), for failing to maintain records of a test required by subpart M of 49 C.F.R. Part 192 for at least five years. Greylock requested that the penalty be reduced or withdrawn because the company did in fact perform the tests and simply made a clerical error. In addition, the company has taken measures to prevent the violation from repeating in the future. Having considered this information in light of the civil penalty assessment factors, I find no basis to reduce the penalty.

The nature of the violation was designated correctly in the Violation Report as "Records (examples: missing, inaccurate, or incomplete records)," which is the lowest designation. The circumstances were designated correctly as "PHMSA or a State Partner discovered the violation." Since Greylock did not self-report this violation, I find there is no justification for lowering the penalty based on "circumstances." The gravity of the violation was already designated at the lowest level as "Pipeline safety was minimally affected," which is reflective of Respondent's assertion that the tests were performed. Had Respondent instead failed to perform the tests, the gravity of the violation and resulting civil penalty amount would have been higher.

The degree of Respondent's culpability was correctly designated as "The operator failed to comply with an applicable requirement." The lower options for culpability require the operator to have taken action before PHMSA discovers the violation; this did not occur in this case. Although Greylock updated its procedures to prevent this issue from reoccurring, this action was

³ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

taken in response to PHMSA identifying the violation. Greylock does not have a previous history of prior offenses, so history did not negatively impact the penalty calculation. Greylock has provided no information stating that the penalty would have any effect on its ability to continue doing business, therefore I find there is no basis to reduce the penalty based on this criteria. Lastly, I find that there is no justification to provide a credit to Greylock for good faith in attempting to comply with the pipeline safety regulations because it did not provide a reasonable justification for its non-compliance.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$21,400** for violation of 49 C.F.R. § 192.709(c).

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 \$21,400 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.

May 28, 2020

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued