

February 17, 2016

Mr. Keith Windle
General Manager
Dominion Carolina Gas Transmission, LLC
220 Operations Way
Cayce, South Carolina 29033

Re: CPF No. 2-2014-1006

Dear Mr. Windle:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$46,400. 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, Southern Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Director, Southern Region, PHMSA, OPS

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)
)
)
Dominion Carolina Gas Transmission, LLC,)
(successor of Carolina Gas Transmission Corporation,)
a subsidiary of Dominion Midstream Partners, LP),)
)
Respondent.)
_____)

CPF No. 2-2014-1006

FINAL ORDER

On July 30-31, 2014, 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 Carolina Gas Transmission Corporation (CGT or Respondent) in Cayce, South Carolina. CGT was subsequently sold to Dominion Resources, Inc., and is now known as Dominion Carolina Gas Transmission (DCGT), a subsidiary of Dominion Midstream Partners LP.¹ DCGT is an interstate natural gas transportation company that operates approximately 1,467 miles of gas transmission pipeline in South Carolina and Georgia.²

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to CGT, by letter dated October 22, 2014, a Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that CGT had violated 49 C.F.R. §§ 192.616 and 192.805 and proposed assessing a civil penalty of \$46,400 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The warning item required no further action, but warned the operator to correct the probable violation.

¹ Effective February 1, 2015, Dominion Resources, Inc. acquired Carolina Gas Transmission Corporation (CGT) from SCANA Corp. On March 24, CGT assumed its new name as Dominion Carolina Gas Transmission, LLC, and on April 1, 2015, Dominion Midstream Partners, LP, acquired Dominion Carolina Gas Transmission from Dominion Resources, Inc.

² Current as of December 16, 2015 (<https://www.carolinagastransmission.com/about-cgt>)

CGT responded to the Notice by letter dated December 4, 2014 (Response). The company contested the allegations, offered additional information in response to the Notice, and requested that the proposed civil penalty be eliminated. CGT did not request a hearing and therefore has waived its right to one.

FINDINGS 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. § 192.616 (a), which states:

§ 192.616 Public awareness.

(a) Except for an operator of a master meter or petroleum gas system covered under paragraph (j) of this section, each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, *see* § 192.7).

The regulation references API RP 1162, which states, in relevant part:

API RP 1162 (1st Edition)

Section 8.3

The operator should complete an annual audit or review of whether the program has been developed and implemented according to the guidelines in this RP. The purpose of the audit is to answer the following two questions:

- Has the Public Awareness Program been developed and written to address the objectives, elements and baseline schedule as described in Section 2 and the remainder of this RP?
- Has the Public Awareness Program been implemented and documented according to the written program?

Appendix E includes a sample set of questions that will aid an operator in auditing the program implementation process.

The operator should use one of the following three alternative methodologies when completing an annual audit of program implementation:

- Internal self-assessments using, for example, an internal working group, or
- Third-party audits where the evaluation is undertaken by a third-party engaged to conduct an assessment and provide recommendations for improving the program design or implementation, or
- Regulatory inspections, undertaken by inspectors working for federal or state regulators who inspect operator pipeline programs subject to pipeline safety regulations.

The Notice alleged that Respondent violated 49 C.F.R. § 192.616(a) by failing to conduct annual audits or reviews of its written Pipeline Public Awareness Plan (PAP) to determine whether the program was developed and implemented in accordance with API RP 1162. Specifically, the Notice alleged that at the time of the 2014 PHMSA inspection, CGT could not verify, and did not provide any evidence to PHMSA to show that it had conducted any annual audits or reviews of its PAP from April 20, 2011 (the last date of a previous PHMSA Public Awareness inspection), to July 31, 2014, the last day of the current inspection.

In its Response, CGT asserted that PHMSA had misunderstood the steps CGT had taken to effect compliance.³ CGT claimed that it relied on the 2011 PHMSA inspection that occurred on April 18-20, 2011, for compliance with the annual audit requirement, as allowed under API RP 1162. The 2011 inspection resulted in an OPS detailed review of CGT's PAP that was documented on PHMSA PAP Effectiveness Inspection Form 21. For the 2012 and 2013 audit years, CGT asserted that it had completed internal self-assessments of its PAP development and implementation, labeled "Policy/Procedure Review Forms" dated March 15, 2012, and March 15, 2013.

CGT never mentioned its intention to use the 2011 documentation report to fulfill its regulatory mandate before this Notice despite having its most senior PAP officials directly involved with the 2014 inspection. Additionally, the 2011 inspection report does not meet the regulatory requirements in part because it did not contain sufficient detail on the current state of the policy; it focused on too broad a time period (approximately 2006 to 2011). In terms of the 2012 and 2013 annual audits, CGT has provided them as Exhibits A and B in its Response.⁴ Both are audit forms or checklists that contain assertions of review and room for stating which areas of the PAP should be revised, but do not contain answers to the specific questions required under API RP 1162 Section 8.3.

CGT's arguments are unconvincing. During the 2014 inspection, CGT did not offer evidence documenting fulfillment of their annual duty under API RP 1162 despite having the most senior PAP officials available, and while the 2011 documentation report could have served as an effective review, it was only presented as such after the current Notice. In addition, the 2012 and 2013 internal policy review forms lack sufficient detail to meet the standards of API RP 1162. Section 8.3 requires an annual accounting of whether the PAP has been established and promoted according to a particular written program, and while the 2012 and 2013 policy review forms may point to evidence of an in-person review, they certainly do not document that review as required by the regulations. It should also be noted that the 2012 form actually calls for further review, but there is no documentation to show CGT has done that review. CGT does provide a third-party report⁵ which devotes a portion to PAP Assessment, but in addition to not being available during the 2014 inspection, this document provides a cursory assessment without

³ Operator Response at 3-6.

⁴ Operator Response at 11-14.

⁵ Operator Response at Exhibit C.

details as to PAP program strengths or weaknesses. The complete review only occupies three to four pages of the third-party's complete report, and fails to specifically address the questions presented in Section 8.3.⁶ Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.616 (a) by failing to conduct annual audits or reviews of its written PAP to determine whether the program was developed and implemented in accordance with API RP 1162.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.616 (a), as quoted above, and API RP 1162 (1st Edition), Section 8.5 – Table 8-1, which states, in relevant part:

Evaluation of effectiveness of program implementation recommended frequency: No more than four years apart.

According to the Notice, Respondent allegedly violated 49 C.F.R. § 192.616(a) by failing to complete an effectiveness evaluation of its written PAP at intervals of no more than four years. Specifically, the Notice alleged that at the time of the inspection, CGT could not verify, and did not provide any evidence to PHMSA to show, that it had completed an evaluation of the effectiveness of its PAP implementation from the time the effectiveness evaluation was required by the regulations (June 20, 2010) to the last date of the current PHMSA inspection (July 31, 2014).

In its Response, CGT pointed to program effectiveness surveys it had disseminated in 2007, 2008 and 2010⁷. A copy of the June 2010 survey was provided in CGT's Response at Exhibit D. In addition, CGT prepared an additional survey subsequent to the 2011 PHMSA inspection, and that (along with an analysis of same) was provided in CGT's response at Exhibits E and F, respectively. CGT considered the 2011 effort as fulfilling its duty under API RP 1162, and therefore claimed that another public awareness program effectiveness evaluation should not be due until 2015.

PHMSA recognizes the efforts undertaken by CGT in 2010 and 2011, but finds them inadequate to meet the requirements of API RP 1162.⁸ While the effectiveness surveys provide CGT with broad information on the recipient audience, they fail to provide the kind of granular detail required under a full effectiveness review in API RP 1162. API RP 1162's requirements for a regular and thorough program effectiveness evaluation are clear. Not only is the time requirement clear, but the impetus placed on identifying, targeting and then evaluating the efforts to serve pertinent audiences is spelled out clearly in the Recommended Practice. For instance, API RP 1162, Section 8.4 and Section 8.5, Table 8-1, provide further details on what operators must do:

⁶ Operator Response at 17-79.

⁷ Operator Response at 6-9.

⁸ PHMSA Recommendation at 3-5.

- Define the objectives of the public awareness program (awareness, prevention, response)
- Obtain management commitment
- Establish roles and responsibilities of key players in the program
- Identify pipeline assets
- Identify stakeholder audiences
 - Affected Public
 - Emergency Officials
 - Public Officials
 - Excavators
- Determine coverage area
- Breakdown effectiveness by BOTH types of pipe AND audience
- Determine baseline delivery frequency
- Implement, assess and document the program

The documents provided by CGT were helpful, but were insufficient to meet the clear requirements of the regulations. CGT completed surveys in 2010 and 2011, and provided some analysis of those surveys⁹. Those surveys effectively documented mailer surveys sent to thousands of homes, but failed to document compliance with the thorough requirements of Section 8.5 mentioned above. The most obvious deficiency is shown in the data itself, where CGT's own survey shows it was done without sufficient planning because it reached very few people, and an extremely small number of respondents outside the general public¹⁰. In addition, there is no evidence that CGT outlined its broader objectives, established roles of key players in its program or obtained management commitment in a systematic way. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.616 (a) by failing to complete a public awareness program effectiveness evaluation of its written PAP at intervals of no more than four years.

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.¹¹ 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

⁹ Operator Response at 82 – 128.

¹⁰ Operator Response at 81, 98, 124 and 128.

¹¹ The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.

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 \$46,400 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$30,600 for Respondent's violation of 49 C.F.R. § 192.616 (a), for failing to conduct annual audits or reviews of its written PAP, to determine whether the program had been developed and implemented in accordance with API RP 1162. Neither the 2011 inspection documentation nor the 2012 and 2013 internal policy review forms contain sufficient specificity to fulfill the detailed regulatory requirements of API RP 1162 Section 8.3. Accordingly, having reviewed the record and considered the assessment criteria and the importance of keeping the community informed, I assess Respondent a civil penalty of \$30,600 for violation of 49 C.F.R. § 192.616 (a).

Item 2: The Notice proposed a civil penalty of \$15,800 for Respondent's violation of 49 C.F.R. § 192.616 (a), for failing to complete a public awareness program effectiveness evaluation of its written PAP at intervals of no more than four years. A partial public awareness program effectiveness evaluation in both 2010 and 2011 (subsequent to PHMSA's inspection), was insufficient to meet the extensive requirements necessary to fulfill the regulations and standards in API RP 1162 Section 8.5. PHMSA acknowledges that CGT made an effort at measuring their outreach, but it failed to reach out with particularity to some of the most important members responsible for protection of the community (emergency responders, public officials, etc.). Accordingly, having reviewed the record and considered the assessment criteria, and considering the importance of making sure emergency responders and local officials are aware of the dangers presented from gas lines, I assess Respondent a civil penalty of \$15,800 for violation of 49 C.F.R. § 192.616 (a).

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 **\$46,400**.

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, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$46,400 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.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 2 in the Notice for violations of 49 C.F.R. § 192.616. 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. 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 § 192.616 (**Item 2**), Respondent must:
 - Complete a written PAP effectiveness evaluation that meets the requirements of API RP 1162, Section 8 within **60 days** of issuance of the Final Order; and
 - Submit to the Director, Southern Region, the written effectiveness evaluation required above within **90 days** of issuance of the Final Order.

2. It is requested (not mandated) that Carolina maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Director, PHMSA Southern Region. 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, addition and other changes to pipeline infrastructure.

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.

WARNING ITEM

With respect to Item 3, the Notice alleged probable violation of Part 192 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be warning items. The warning was for:

49 C.F.R. § 192.805 (**Item 3**) — Respondent's alleged failure to ensure through evaluation that individuals performing covered tasks under its Operator Qualification (OQ) Plan were qualified to perform the covered tasks.

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.243, Respondent has the right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: 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. PHMSA will accept petitions received no later than 20 days after receipt of service of the Final Order by

the Respondent, provided they 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 but does not stay any other provisions of the Final Order, including any required corrective actions. 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.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued