

August 24, 2017

Mr. Stanley Horton  
President & CEO  
Boardwalk Pipeline Partners, LP  
9 Greenway Plaza, Suite 2800  
Houston, Texas 77046

**Re: CPF No. 2-2015-1005**

Dear Mr. Horton:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws the allegation of violation against Texas Gas Transmission, LLC, a subsidiary of Boardwalk Pipeline Partners, LP, contained in the October 13, 2015 Notice of Probable Vioation and Proposed Compliance Order. 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. James Urisko, Director, Southern Region, Office of Pipeline Safety, PHMSA  
Mr. Richard Keyser, Sr. Vice President of Operations, Texas Gas Transmission, LLC,  
Boardwalk Pipeline Partners, LP, 9 Greenway Plaza, Suite 2800, Houston, Texas 77046  
Ms. Susan Olenchuk, Van Ness Feldman, LLP, Counsel for Texas Gas Transmission,  
LLC, 1050 Thomas Jefferson Street, NW, Washington, DC 20007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, D.C. 20590**

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<b>In the Matter of</b>	)	
	)	
<b>Texas Gas Transmission, LLC,</b>	)	<b>CPF No. 2-2015-1005</b>
<b>a subsidiary of Boardwalk Pipeline</b>	)	
<b>Partners, LP,</b>	)	
	)	
<b>Respondent.</b>	)	
_____	)	

**FINAL ORDER**

From July 28 through July 29, 2015, 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 Texas Gas Transmission, LLC (Texas Gas or Respondent), a wholly-owned, operating subsidiary of Boardwalk Pipeline Partners, LP (Boardwalk), in Owensboro, Kentucky. Texas Gas operates approximately 6,025 miles of pipeline that transport natural gas from the Gulf Coast to the Midwest and Northeast.<sup>1</sup> Texas Gas' pipeline originates in Louisiana, East Texas, and Arkansas and runs north and east through Louisiana, Arkansas, Mississippi, Tennessee, Kentucky, Indiana, Ohio and Illinois.<sup>2</sup> Texas Gas also operates nine natural gas storage fields located in Indiana and Kentucky.<sup>3</sup>

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated October 13, 2015, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Texas Gas had violated 49 C.F.R. § 192.805 and proposed ordering Respondent to take certain measures to correct the alleged violation or face potential enforcement action.

Texas Gas responded to the Notice by letter dated November 11, 2015. The company contested the allegation of violation and requested a hearing. Texas Gas subsequently submitted a letter dated April 12, 2016, withdrawing its request for a hearing and, therefore, has waived its right to one. Finally, Texas Gas submitted a letter dated April 15, 2016 (Response) responding to the

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<sup>1</sup> Texas Gas Transmission, LLC, website, *available at* <http://www.txgt.com/AboutUsTXGT.aspx> (last accessed May 1, 2017).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

allegations in the Notice and requesting PHMSA withdraw the Notice and Compliance Order.

### **WITHDRAWAL OF ALLEGATION**

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.805(g), which states:

**§ 192.805 Qualification program.**

Each operator shall have and follow a written qualification program. The program shall have provisions to:

- (a) ...
- (g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed;

The Notice alleged that Respondent violated 49 C.F.R. § 192.805(g) by failing to identify in its written operator qualification (OQ) program the intervals at which evaluation of an individual's qualifications is needed. Specifically, the Notice alleged that Texas Gas failed to follow its written operator qualification program because it did not identify requalification intervals based on the factors specified in the company's OQ program. During the inspection, Texas Gas informed the Southern Region (Region) that it uses Boardwalk's Operator Qualification Plan, which specifically states that "each covered task includes a requalification interval based on task difficulty, task importance, the potential for loss of knowledge or skill over time, and/or manufacturer's recommendations."<sup>4</sup> The Notice alleged Texas Gas did not demonstrate that the requalification intervals recorded by the company were in fact "based on their estimate of task difficulty, task importance, the potential for loss of knowledge or skill over time, and/or manufacturer's recommendations," in accordance with the company's written program.<sup>5</sup> The Region also alleged that many of the requalification intervals were set at three years based on the American Society of Mechanical Engineers (ASME) B31Q Pipeline Personnel Qualification Standard, rather than by following the requirements of the company's own written program.<sup>6</sup>

In its April 15, 2016 Response, Texas Gas contested the proposed violation, arguing it had not violated § 192.805(g) or its own written operator qualification program. Respondent first argued that the regulations do not require operators to create or maintain documentation justifying requalification intervals associated with covered tasks; rather, Respondent argued that the regulations require that operators only "identify" the intervals.<sup>7</sup> Respondent also argued that, even if there were such a documentation requirement, Texas Gas met that requirement because its written program details the process that its third-party operator qualification service provider,

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<sup>4</sup> Notice of Probable Violation and Proposed Compliance Order (Notice), (October 13, 2015) (on file with PHMSA), at 2.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Respondent's Response to the Notice (Response), (April 15, 2016), at 2.

Veriforce, uses to evaluate covered tasks and to establish requalification intervals.<sup>8</sup> Further, Respondent argued the ASME B31Q Standard describes the process by which requalification intervals are established for covered tasks, and that Texas Gas has the same or shorter intervals than the ASME standard for the covered tasks in all but two instances.<sup>9</sup>

After considering all of the evidence in the Violation Report and submitted with Respondent's Response, as well as the legal issues presented, I find that Respondent did not violate 49 C.F.R. § 192.805(g) as alleged in the Notice. Section 195.805(g) requires that operators "[i]dentify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed." The Boardwalk Internal Covered Task List, adopted by Texas Gas and submitted by the company during the inspection, includes a list of covered tasks and corresponding qualification intervals.<sup>10</sup> Further, PHMSA guidance advises operators that "[i]t is the responsibility of the operator to determine and document the basis for" setting requalification intervals.<sup>11</sup> The OQ program adopted by Texas Gas, described in more detail below, shows that the company provided a basis for the requalification intervals listed on its submissions.

The record reflects Texas Gas set the requalification intervals in accordance with its written operator qualification program. PHMSA allows operators to use "off-the-shelf" operator qualification programs, such as the Veriforce OQ program adopted by Boardwalk and Texas Gas, provided that the operator maintains an adequate level of oversight over the implementation and management of the program.<sup>12</sup> Texas Gas implements the Boardwalk Operator Qualification Plan (Boardwalk OQ Plan), which explains that "Boardwalk has adopted the Common Covered Task List based on work by the Veriforce Common Task List Committee."<sup>13</sup> The Boardwalk OQ Plan states that "[e]ach covered task includes a requalification interval based on task difficulty, task importance, the potential for loss of knowledge or skill over time, and/or manufacturer's recommendations."<sup>14</sup> The Boardwalk OQ Plan also explains that the Common Covered Task List and corresponding requalification intervals were created by Veriforce in 2003

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<sup>8</sup> *Id.*, at 3.

<sup>9</sup> *Id.*

<sup>10</sup> Pipeline Safety Violation Report (Violation Report), (October 14, 2015) (on file with PHMSA), Exhibit A.

<sup>11</sup> PHMSA OQ FAQ 5.6 (available at <https://primis.phmsa.dot.gov/oq/faqs.htm#13>).

<sup>12</sup> See PHMSA OQ FAQ 1.1 ("An operator choosing to use an 'off-the-shelf' OQ program (e.g., MEA, Northeast Gas Association, and Consortium on Operator Qualification/NCCER) is still fully responsible to understand and meet the provisions of the OQ Rule. For example, the operator must make sure that tasks performed in its unique operating environment by its employees or contractors are evaluated to determine whether they are covered or not. The operator must also determine which of its employees and contractors perform the covered tasks, and ensure that they are qualified to perform the tasks. Additionally, the operator must understand the basis on which reevaluation intervals have been specified and implement any performance monitoring activities needed to make sure qualified persons are performing covered tasks in an acceptable manner (according to the evaluation criteria established or accepted by the operator).") (available at <https://www.phmsa.dot.gov/pipeline/technical-resources/oq/faq#1>).

<sup>13</sup> Response, Exhibit 3, at 45. See also, *id.*, explaining that "[a]dditional tasks may be added to [the Common Covered Task List] as appropriate for qualification of Boardwalk personnel."

<sup>14</sup> *Id.*, at 36.

during an eight-month process in consultation with pipeline operators, contractors, industry trade associates and other subject-matter experts.<sup>15</sup> The Boardwalk OQ Plan includes further detail regarding the various factors Veriforce considered in deriving the Task List and corresponding requalification intervals.<sup>16</sup> The Plan lists the factors considered by its third-party OQ service provider in setting the intervals for the tasks included on the Veriforce Common Task List.

The Boardwalk OQ Plan also includes several covered tasks that are specific to Boardwalk operating companies, which are not derived from the Veriforce Common Covered Task List. These tasks are referred to as the “9000-Series Covered Tasks.”<sup>17</sup> During the inspection, Texas Gas indicated that the requalification intervals for the 9000-Series tasks were based on recommendations in ASME B31Q, and the evidence submitted with the Response shows the requalification interval for each 9000-Series task does match the interval established in ASME B31Q.<sup>18</sup> It appears the requalification intervals for the 9000-Series tasks set by Boardwalk were based on the intervals endorsed by the ASME B31Q Standard.

A review of the Boardwalk OQ Plan shows Respondent identified covered tasks and intervals at which re-evaluations of individual qualifications is needed pursuant to § 192.805.<sup>19</sup> For the tasks included on the Veriforce Common Task List, Respondent adopted the requalification intervals set by Veriforce. For those tasks not included in the third-party’s covered task list, Respondent followed industry guidance in setting the requalification intervals. As discussed above, Respondent’s OQ Plan also includes detail regarding the methodology used by its third-party vendor in calculating the requalification intervals. The methodology used by ASME in deriving requalification intervals is detailed in the B31Q Standard. Further, the evidence submitted by Respondent shows the requalification intervals adopted by Boardwalk, both from Veriforce and ASME B31Q, are consistent with PHMSA guidance.<sup>20</sup> Respondent is encouraged, however, to

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<sup>15</sup> *Id.*, at 45. While the Violation Report notes that Veriforce does not have the records to show the work of the committee that established the requalification intervals, the Boardwalk OQ Program includes sufficient detail to show there was some basis for the intervals chosen. Violation Report, at 6.

<sup>16</sup> Response, Exhibit 3, at 45-46.

<sup>17</sup> *Id.*, at Exhibit 8.

<sup>18</sup> Violation Report, at 4.

<sup>19</sup> Response, at Exhibits 5, 6, and 8.

<sup>20</sup> See PHMSA OQ FAQ 5.6 (“[D]etermination and justification of the reevaluation interval should consider existing consensus standards and industry practice (e.g., OSHA standards, non-mandatory consensus standards)” (available at <https://www.phmsa.dot.gov/pipeline/technical-resources/oq/faq#13>); PHMSA OQ FAQs 2.7 and 6.1, directing operators to use ASME B31Q as guidance (available at <https://www.phmsa.dot.gov/pipeline/technical-resources/oq/faq#6>, and <https://www.phmsa.dot.gov/pipeline/technical-resources/oq/faq#14>); PHMSA Operator Qualification Enforcement Guidance, at 27, citing to ASME B31Q as reference material for complying with § 192.805(g) (available at [https://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Files/OQ\\_Enforcement\\_Guidance\\_12\\_7\\_2015.pdf](https://phmsa.dot.gov/staticfiles/PHMSA/DownloadableFiles/Files/OQ_Enforcement_Guidance_12_7_2015.pdf)). See also, Response, at Exhibits 5, 6, and 8. *But see*, Response, Exhibit 6, at 3-4 (showing there are two covered tasks (Task 211, Perform plastic fusion inspection; Task 216, Joining of steel pipe – Compression couplings) for which Veriforce set a different interval than is recommended in ASME B31Q. There is no evidence that the requalification intervals chosen by Veriforce for these two tasks were set without proper analysis)

amend its OQ plan to include additional details concerning the methodology used by Veriforce and ASME to create the intervals within Respondent's own plan.

Accordingly, I find Respondent adequately identified the intervals at which evaluation of operator qualifications is needed in accordance with the § 192.805(g) as well as its own written program.

Based upon the foregoing, I hereby order that the allegation of violation in the Notice be withdrawn.

August 24, 2017

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued