

June 27, 2019

Mr. Paul Bieniawski
Chief Executive Officer
ENSTOR Gas, LLC
20329 State Highway 249, Suite 500
Houston, Texas 77070

Re: CPF No. 2-2018-1007

Dear Mr. Bieniawski:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and specifies actions that need to be taken by Freebird Gas Storage, LLC, which operates as a subsidiary of ENSTOR Gas, LLC, to comply with the pipeline safety regulations. When the terms of the compliance order have been completed, as determined by the Director, Southern 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. James Urisko, Director, Southern Region, Office of Pipeline Safety, PHMSA

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)

Freebird Gas Storage, LLC,)
a subsidiary of ENSTOR Gas, LLC,)

Respondent.)
_____)

CPF No. 2-2018-1007

FINAL ORDER

From July 16 to 17, 2018, 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 Freebird Gas Storage, LLC (Freebird or Respondent), in Alabama. Freebird, which operates as a subsidiary of ENSTOR Gas, LLC, is a high-deliverability, multi-cycle natural gas storage facility located in Lamar County, Alabama and is interconnected with Tennessee Gas Pipeline's 500 Leg in Zone 1.¹

As a result of the inspection, the Director, Southern Region, OPS (Director), issued to Respondent, by letter dated November 14, 2018, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Freebird had violated 49 C.F.R. § 192.463(a) and proposed ordering Respondent to take certain measures to correct the alleged violation.

ENSTOR Gas, LLC responded on the behalf of Freebird to the Notice by letter dated December 4, 2018 (Response). The company did not contest the allegation of violation but provided information concerning the corrective actions it had taken and agreed to complete the remaining proposed compliance actions. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, Respondent did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

¹ Freebird is also partially owned by Northwest Alabama Gas District. See ENSTOR Gas, LLC website, available at <https://www.enstorinc.com/freebird-gas-storage.html> (last accessed April 25, 2019).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.463(a), which states:

§ 192.463 External corrosion control: Cathodic Protection.

(a) Each cathodic protection system required by this subpart must provide a level of cathodic protection that complies with one or more of the applicable criteria contained in appendix D of this part. If none of these criteria is applicable, the cathodic protection system must provide a level of cathodic protection at least equal to that provided by compliance with one or more of these criteria.²

The Notice alleged that Respondent violated 49 C.F.R. § 192.463(a) by failing to provide a level of cathodic protection that complies with, or is at least equal to, one or more of the applicable criteria contained in Appendix D of Part 192. Specifically, the Notice alleged that a review of Freebird's annual cathodic protection (CP) surveys from 2015, 2016, and 2017 showed that only "current applied" pipe-to-soil potential were recorded, with values ranging from -0.0813V to -3.6V . While the surveys referenced the -0.85V criterion from section I(1) of Appendix D, Freebird was unable to provide an explanation as to how IR drop was considered, as required by sections I and II of Appendix D.

Additionally, the Notice noted that Section 10.7 of Freebird's Operations and Maintenance Manual, titled *Cathodic Protection Survey 192.465(a)*, does not include consideration of IR drop for the referenced -0.85V criterion as required by section I(1) of Appendix D. Instead, Section 10.7 allowed the use of other criteria in Appendix D but did not include consideration of IR drop for the other relevant criteria. Moreover, Freebird's records do not indicate that any criterion other than the -0.85V criterion was used to determine the level of CP on the Freebird system.

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. § 192.463(a) by failing to provide a level of cathodic protection that complies with, or is at least equal to, one or more of the applicable criteria contained in Appendix D of Part 192.

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

² Relevant sections of Appendix D to Part 192 - Criteria for Cathodic Protection and Determination of Measurements include:

I. *Criteria for cathodic protection - A. Steel, cast iron, and ductile iron structures.*

(1) A negative (cathodic) voltage of at least 0.85 volt, with reference to a saturated copper-copper sulfate half cell. Determination of this voltage must be made with the protective current applied, and in accordance with sections II and IV of this appendix.

....

II. *Interpretation of voltage measurement.* Voltage (IR) drops other than those across the structure-electrolyte boundary must be considered for valid interpretation of the voltage measurement in paragraphs A(1) and (2) and paragraph B(1) of section I of this appendix.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violations of 49 C.F.R. § 192.463(a). 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 § 192.463(a) (**Item 1**), Respondent must:
 - a. Modify its procedures to comply with applicable criteria contained in Appendix D of Part 192 within 30 days of issuance of the Final Order.
 - b. Submit the modified procedure to the Director within 30 days of issuance of the Final Order.
 - c. Upon approval of the modified procedure, perform and document a cathodic protection survey using the approved procedure within 180 days of issuance of the Final Order.
 - d. Submit the result of the cathodic protection survey and any proposed remedial actions (if any) to the Director within 180 days of issuance of the Final Order.

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 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.

June 27, 2019

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued