

October 15, 2018

Mr. Al Monaco
President and Chief Executive Officer
Enbridge, Inc.
5400 Westheimer Court
Houston, TX 77056

Re: CPF No. 3-2017-1008

Dear Mr. Monaco:

Enclosed please find the Final Order issued in the above-referenced case to Vector Pipeline, LP (Vector), a joint pipeline venture of Enbridge, Inc., and DTE Energy Company, that is operated by Enbridge. It makes findings of violation, assesses a civil penalty of \$35,500, and specifies actions that need to be taken by Vector to comply with the pipeline safety regulations. 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, Central 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. Allan Beshore, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. John T. Donaldson, Jr., President, Vector Pipeline, LP, 38705 Seven Mile Road,
Suite 490, Livonia, Michigan 48152
Mr. Kerry Puckett, Vice President, Natural Gas Operations, Vector Pipeline, LP
Mr. Rick Kivela, Manager, Operational Compliance, Enbridge, Inc.

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)	
)	
Vector Pipeline, LP,)	CPF No. 3-2017-1008
 a joint venture of Enbridge, Inc., and)	
 DTE Energy Company,)	
)	
Respondent.)	
)	

FINAL ORDER

From October 5 through October 8, 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 Vector Pipeline, LP (Vector or Respondent), in Indiana and Michigan. Vector is a joint venture between Enbridge, Inc. (Enbridge), and DTE Energy Company, with pipeline operations conducted by Enbridge.¹ Vector’s assets include more than 400 miles of natural gas pipeline and several associated facilities in the United States and Canada.²

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated July 25, 2017, 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 Vector had violated 49 C.F.R. §§ 192.167(a)(4), 192.465(d) and 192.603(b) and proposed assessing a civil penalty of \$35,800 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct one alleged violation. The warning item required no further action, but warned the operator to correct the probable violation or face possible future enforcement action.

After requesting and receiving an extension of time to respond, Enbridge responded to the Notice on behalf of Vector, by letter dated September 15, 2017 (Response). Respondent partially contested one of the allegations of violation, provided an explanation of its actions, and requested that the proposed civil penalty be reduced or eliminated. Respondent did not contest the proposed compliance action, but not provide information concerning corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

¹ Vector Pipeline, LP, website, available at <http://www.vector-pipeline.com/About-Us/About-Vector.aspx> (last accessed June 15, 2018).

² *Id.*

FINDINGS OF VIOLATION

Except as indicated below, Respondent did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.167(a)(4), which states:

§ 192.167 Compressor stations: Emergency shutdown.

(a) Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following:

- (1)
- (4) It must be operable from at least two locations, each of which is:
 - (i) Outside the gas area of the station;
 - (ii) Near the exit gates, if the station is fenced, or near emergency exits, if not fenced; and
 - (iii) Not more than 500 feet (153 meters) from the limits of the station.

The Notice alleged that Respondent violated 49 C.F.R. § 192.167(a)(4) by failing to have an emergency shutdown (ESD) system for a compressor station that was operable from at least two locations, each of which was outside the gas area of the compressor station and near the fenced station's exit gates. Specifically, the Notice alleged that the ESD system at Vector's Athens Compressor Station did not have an operation switch installed outside the gas area of the station and near the station's emergency exit gates.

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. § 192.167(a)(4) by failing to have an ESD system for a compressor station that was operable from at least two locations, each of which was outside the gas area of the compressor station and near the station's exit gates.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.465(d), which states:

§ 192.465(d) External corrosion control: Monitoring.

- (a)
- (d) Each operator shall take prompt remedial action to correct any deficiencies indicated by the monitoring.

The Notice alleged that Respondent violated 49 C.F.R. § 192.465(d) by failing to take prompt remedial action to correct deficiencies indicated by monitoring at five cathodic protection (CP) test points. Specifically, the Notice alleged that Vector failed to take readings during 2013, 2014, and 2015 at five CP test points, and did not conduct remedial action to address bad test leads until after PHMSA's 2015 inspection.

Respondent did not contest this allegation of violation, but did offer information that one test point was located on a third-party line, not Vector's line, and that another test point was "considered as an informational reference test point – a test point that is only used for reference purposes and not intended to be utilized as test points to 'determine the adequacy of cathodic

protection of the pipeline.”³ Additionally, Respondent argued that three of the test points, including the “informational reference test point,” were close enough to upstream or downstream CP test points for Vector to sufficiently determine the adequacy of CP.

In light of the information provided by Respondent, I agree that the test point located on the third-party line does not constitute an instance of violation. Respondent’s other arguments are unpersuasive. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.465(d) by failing to take prompt remedial action to correct deficiencies indicated by monitoring at four CP test points.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b), which states:

§ 192.603 General provisions.

- (a)
- (b) Each operator shall keep records necessary to administer the procedures established under §192.605.

The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b) by failing to document the periodic review of work done by Vector’s personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found, as required under 49 C.F.R. § 192.605(8). Specifically, the Notice alleged that Vector did not maintain any formal documentation to demonstrate that a periodic review of work done by operator personnel was conducted to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance, as required under 49 C.F.R. § 192.605(8) and Vector’s own *O&M Manual, section 1.1.3.1*.

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. § 192.603(b) by failing to document the periodic review of work done by Vector’s personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found, as required under 49 C.F.R. § 192.605(8).

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.⁴

In determining the amount of a civil penalty under 49 U.S.C. § 60122 and 49 C.F.R. § 190.225, I

³ Response, at 3-4.

⁴ 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).

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 \$35,800 for the violations cited above.

Item 2: The Notice proposed a civil penalty of \$20,300 for Respondent's violation of 49 C.F.R. § 192.465(d), for failing to take prompt remedial action to correct deficiencies indicated by monitoring at five CP test points. As noted in the finding of violation above, Respondent argued that PHMSA should withdraw four of the five instances of violation and reduce the civil penalty accordingly.

With respect to the test point located on the third-party line, I agree with Respondent and have consequently reduced the instances of violation from five to four. With respect to the remaining test points, Vector did not distinguish between test points that require monitoring under the company's *O&M Manual* and those that did not and, accordingly, violated § 192.465(d) by failing to correct deficiencies in monitoring at those four test points. In consideration of Respondent's remaining arguments and of the other criteria required by 49 U.S.C. § 60122, I find no reason to further reduce the civil penalty. Based upon the foregoing, I assess Respondent a reduced civil penalty of \$20,000 for violation of 49 C.F.R. § 192.465(d).

Item 3: The Notice proposed a civil penalty of \$15,500 for Respondent's violation of 49 C.F.R. § 192.603(b), for failing to document the periodic review of work done by Vector's personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found, as required under 49 C.F.R. § 192.605(8). In the Response, Enbridge alleged that Vector was performing the periodic reviews required by § 192.605(8), but that the company simply did not have documentation to evidence said review. Because Respondent admits the violation of 49 C.F.R. § 192.603(b), and offers no mitigating factors for its failure to keep adequate documentation, I find no reason to reduce the civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$15,500 for violation of 49 C.F.R. § 192.603(b).

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 **\$35,500**.

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 \$35,500 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 1 in the Notice for a violation of 49 C.F.R. § 192.167(a)(4). 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 § 192.167(a)(4) (**Item 1**), Respondent must install emergency shutdown devices outside of the gas areas at the Athens Compressor Station, as required under the regulation. Respondent must provide a proposed schedule for installation of the devices within 30 days after receipt of this 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 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.

WARNING ITEM

With respect to Item 4, the Notice alleged a probable violation of Part 192 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

- 49 C.F.R. § 192.935(a) (**Item 4**) — Respondent's alleged failure to provide information on additional preventative and mitigative measures considered or taken for each pipeline segment in a high consequence area.

Respondent presented information in its Response showing that it was taking certain actions to address this warning item. 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 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 filing of a petition automatically stays the payment of any civil penalty assessed. The other 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.

October 15, 2018

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued