

June 27, 2019

Mr. Kevin Fletcher  
President and Chief Executive Officer  
WEC Energy Group Inc.  
231 W. Michigan St.  
Milwaukee, Wisconsin 53203

**Re: CPF No. 3-2018-1005**

Dear Mr. Fletcher:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$38,000. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer dated January 8, 2019. This enforcement action is now 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. Daniel Krueger, President, Bluewater Gas Storage, LLC, 333 S. Wales Center Road,  
Columbus, Michigan 48063

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>Bluewater Gas Storage, LLC,</b> )	<b>CPF No. 3-2018-1005</b>
<b>a subsidiary of WEC Energy Group Inc.,</b> )	
)	
<b>Respondent.</b> )	
_____ )	

**FINAL ORDER**

From May 7-14, 2018, pursuant to 49 U.S.C. §§ 60106 and 60117, a representative of the Michigan Public Service Commission (MIPSC), as agent for the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the control room facilities of Bluewater Gas Storage, LLC (Bluewater or Respondent), in Columbus, Michigan. Bluewater is a subsidiary of WEC Energy Group, Inc., and operates approximately 37 miles of natural gas transmission pipeline within Michigan and two storage fields.<sup>1</sup>

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated November 23, 2018, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Bluewater had committed two violations of 49 C.F.R. § 192.631 and proposed assessing a civil penalty of \$38,000 for the alleged violations. The warning items required no further action, but warned the operator to correct the probable violations or face possible future enforcement action.

Bluewater responded to the Notice by letter dated December 19, 2018 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$38,000 by wire transfer dated January 8, 2019. In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make findings of violation and to issue this final order without further proceedings.

**FINDINGS OF VIOLATION**

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

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<sup>1</sup> <http://www.bluewatergasstorage.com/regulatory/regulatory-information.htm> (last accessed Mar. 28, 2019); Pipeline Safety Violation Report (Nov. 21, 2018) (on file with PHMSA), at 1.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 192.631(e)(4), which states:

**§ 192.631 Control room management.**

(a) *General.* (1) . . . Each operator must have and follow written control room management procedures that implement the requirements of this section . . . .

(e) *Alarm management.* Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator's plan must include provisions to . . .

(4) Review the alarm management plan required by this paragraph at least once each calendar year, but at intervals not exceeding 15 months, to determine the effectiveness of the plan;

The Notice alleged that Respondent violated 49 C.F.R. § 192.631(e)(4) by failing to have and follow procedures to review its written alarm management plan at least once each calendar year, but at intervals not exceeding 15 months, to determine the effectiveness of the plan. Specifically, the Notice alleged that Respondent failed to review the alarm management plan in calendar year 2017.

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. § 192.631(e)(4) by failing to follow procedures to review its alarm management plan at least once each calendar year.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 192.631(h), which states:

**§ 192.631 Control room management.**

(a) . . . .

(h) *Training.* Each operator must establish a controller training program and review the training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months . . . .

The Notice alleged that Respondent violated 49 C.F.R. § 192.631(h) by failing to review its training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. Specifically, the Notice alleged that Respondent failed to review its controller training program in calendar year 2017.

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. § 192.631(h) by failing to review its controller training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months.

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.<sup>2</sup> 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 \$38,000 for the violations cited above.

**Item 2:** The Notice proposed a civil penalty of \$19,000 for Respondent's violation of 49 C.F.R. § 192.631(e)(4), for failing to review its alarm management plan at least once each calendar year. Respondent neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$19,000 for violation of 49 C.F.R. § 192.631(e)(4).

**Item 3:** The Notice proposed a civil penalty of \$19,000 for Respondent's violation of 49 C.F.R. § 192.631(h), for failing to review its controller training program content to identify potential improvements at least once each calendar year, but at intervals not to exceed 15 months. Respondent neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$19,000 for violation of 49 C.F.R. § 192.631(h).

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 **\$38,000**, which amount was paid in full by wire transfer on January 8, 2019.

### **WARNING ITEMS**

With respect to Items 1 and 4, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.631(d)(4) (**Item 1**) — Respondent's alleged failure to implement a maximum limit on controller hours-of-service. Bluewater deviated from the maximum limit for several months to compensate for being short-staffed; and

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<sup>2</sup> These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223; Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732, 60744 (Nov. 27, 2018).

49 C.F.R. § 192.631(j)(1) (**Item 4**) — Respondent’s alleged failure to maintain records demonstrating compliance with the requirements of this section. Respondent could not locate records of testing its internal communications plan, as required by § 192.631(c)(3).

If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

June 27, 2019

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued