

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

December 12, 2019

Mr. Kelcy Warren
Chief Executive Officer
Energy Transfer
8111 Westchester Drive
Dallas, Texas 75225

CPF 3-2019-1004

Dear Mr. Warren:

On April 12, 2019, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected your Panhandle Eastern Pipe Line safety related condition report submitted to PHMSA on April 11, 2019 (PHMSA reference number 19-148238). The safety related condition report detailed that on April 7, 2019, the regulators at Johns Manville meter and regulator station at the Johns Manville Factory in Defiance, Ohio did not lock up, causing the outlet pressure downstream of the regulators to exceed the maximum allowable operating pressure.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§192.619 Maximum allowable operating pressure: Steel or plastic pipelines.**

(a) No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under paragraph (c) or (d) of this section, or the lowest of the following:

(1)

(3) The highest actual operating pressure to which the segment was subjected during the 5 years preceding the applicable date in the second column. This pressure restriction applies unless the segment was tested according to the requirements in paragraph (a)(2) of this section after the applicable date in the third column or the segment was updated according to the requirements in subpart K of this part:

Pipeline segment	Pressure date	Test date
—Onshore gathering line that first became subject to this part (other than §192.612) after April 13, 2006	March 15, 2006, or date line becomes subject to this part, whichever is later	5 years preceding applicable date in second column
—Onshore transmission line that was a gathering line not subject to this part before March 15, 2006		
Offshore gathering lines	July 1, 1976	July 1, 1971
All other pipelines	July 1, 1970	July 1, 1965.

(c) The requirements on pressure restrictions in this section do not apply in the following instance. An operator may operate a segment of pipeline found to be in satisfactory condition, considering its operating and maintenance history, at the highest actual operating pressure to which the segment was subjected during the 5 years preceding the applicable date in the second column of the table in paragraph (a)(3) of this section. An operator must still comply with §192.611.

Energy Transfer (ET) violated § 192.619 by operating a segment of steel pipeline at a pressure that exceeded a maximum allowable operating pressure (MAOP) as determined by the highest actual operating pressure to which the segment was subjected during 5 years prior to July 1, 1970 (grandfather clause). ET’s safety related condition report (SRCR) (PHMSA reference 19-148238) related that on April 7, 2019, the regulators at Johns Manville meter and regulator station did not lock up, causing the outlet pressure downstream of the regulators to reach a pressure of 449 psig, exceeding the MAOP plus 10% allowed buildup. On May 16, 2019, PHMSA discussed the SRCR with ET. As a result of this discussion, ET’s Director of Interstate Regulatory Compliance sent a follow-up email on May 28, 2019, clarifying that the downstream MAOP at this station was established as 60 psig from the highest actual operating pressure from 5 years preceding July 1, 1970 as allowed in §192.619(c). Therefore, ET exceeded the MAOP by operating its pipeline at 580% above the MAOP plus allowable (60 + 6 = 66 psig).

2. **§192.739 Pressure limiting and regulating stations: Inspection and testing.**
(a) Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is—

(1)

(4) Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

ET failed to install equipment or a device to protect its pressure regulating station from dirt, liquids, or other conditions that might prevent proper operation in accordance with § 192.739(a)(4). ET's SRCR related that ET installed a relief valve downstream on June 10, 2019, to prevent reoccurrence. On May 28, 2019, ET's Director of Interstate Regulatory Compliance sent a follow-up email to a discussion about the SCRC that occurred on May 16, 2019 between PHMSA and ET. The email clarified that a technician overhauled the failed regulators and upon disassembly "observed small pieces of welding slag caught between the boot and the cage in each regulator, thus explaining the cause of the failures." The email also states that the technician "installed a 1" Anderson-Greenwood relief valve as a token relief d/s of the regulators. The token relief valve's purpose is in the event of station no-flow conditions and should the Singer regulators not achieve 100% lock up, the token can relieve the very small amount of leakage through the regulators and prevent over-pressure of the station outlet piping." The email further states in additional notes that on the same day a similar regulator failure to lock up occurred at the Johns Mansville #2 station.

While installation of a token relief might prevent downstream pressure from exceeding the MAOP, in this case of the regulators not locking up, this corrective measure does not meet the requirements of §192.739(a)(4). The regulation clearly states that the inspection determines if the station is properly installed and protected from dirt, liquids and other conditions that might prevent proper operation. The technician's finding of "small pieces of weld slag" causing the failure to lock up, necessitates that equipment or a device be installed upstream of the regulators to protect them from this "dirt". ET has failed to meet this requirement.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved for the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$12,000 as follows:

Item number

1

PENALTY

\$12,000

Proposed Compliance Order

With respect to item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Panhandle Eastern Pipeline Company, LP. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 3-2019-1004** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Allan C. Beshore
Director, Central Region, OPS
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

Copy:

Ryan Coffey, Executive Vice President, Operations, Energy Transfer, dba Panhandle Eastern Pipeline Company, 800 E. Sonterra Blvd. #400, San Antonio, TX 78258

Eric Amundsen, Senior Vice President, Energy Transfer, dba Panhandle Eastern Pipeline Company, 1300 Main Street, Houston, TX 77002

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Energy Transfer a Compliance Order incorporating the following remedial requirements to ensure the compliance of Energy Transfer with the pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to a regulator station being protected from dirt, liquids, or other conditions that might prevent proper operation, Energy Transfer must install equipment or device to meet this function at the Johns Manville regulator stations in Defiance, Ohio.
2. Energy Transfer must complete Item 1 of the compliance order with 90 days of the receipt of Final Order and submit documentation of the measures taken.
3. It is requested (not mandated) that Energy Transfer maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Allan C. Beshore, Director, Central Region, OPS, Pipeline and Hazardous Materials Safety Administration. 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.