

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY
ADMINISTRATION - OFFICE OF PIPELINE SAFETY**

In the Matter of)	
)	
ANR Pipeline Company,)	CPF No. 3-2020-1012
)	
Respondent.)	
)	

**REQUEST FOR HEARING AND PRELIMINARY STATEMENT OF ISSUES
IN RESPONSE TO NOTICE OF PROBABLE VIOLATION, PROPOSED CIVIL
PENALTY, AND PROPOSED COMPLIANCE ORDER**

I. Request for Hearing

Pursuant to 49 C.F.R. §§ 190.208(a)(4) and (b)(4) and 190.211(b), TC Energy, on behalf of its subsidiary ANR Pipeline Company (ANR), respectfully requests that the Pipeline and Hazardous Materials Safety Administration (PHMSA) convene a hearing in the above-captioned enforcement proceeding. PHMSA initiated this proceeding on December 4, 2020, by issuing a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice) to ANR. On December 15, 2020, PHMSA granted TC Energy’s request for an extension of time to respond to the Notice until February 2, 2021. TC Energy appreciates PHMSA’s willingness to grant that extension and intends to raise the following issues at the hearing.¹ TC Energy will be represented by counsel at the hearing.

II. Statement of Issues

Notice Item 1 – Project Notification

1. Whether, based on the allegations in the Notice and other evidence in the record, PHMSA can meet its burden of demonstrating that TC Energy violated 49 C.F.R. § 191.22.
2. Whether PHMSA’s proposed civil penalty of \$36,200 should be withdrawn, eliminated, or reduced.

Notice Item 2 – Compressor Station Gates

1. Whether, based on the allegations in the Notice and other evidence in the record, PHMSA can meet its burden of demonstrating that TC Energy violated 49 C.F.R. § 192.163.

¹ TC Energy is providing written responses and explanations for Notice Items 6, 9, and 10 in a separate letter. TC Energy is not contesting those allegations of probable violation or seeking mitigation or elimination of the proposed civil penalties.

2. Whether the proposed compliance order terms should be amended or withdrawn.

Notice Item 3 - Corrosion Control Records

1. Whether, based on the allegations in the Notice and other evidence in the record, PHMSA can meet its burden of demonstrating that TC Energy violated 49 C.F.R. § 192.491.
2. Whether PHMSA's proposed civil penalty of \$79,400 should be withdrawn, eliminated, or reduced.

Notice Item 4 – Request for Specific Information

1. Whether, based on the allegations in the Notice and other evidence in the record, PHMSA can meet its burden of demonstrating that TC Energy violated 49 C.F.R. § 192.603.

Notice Item 5 – Rate of Pressure Drop Settings

1. Whether, based on the allegations in the Notice and other evidence in the record, PHMSA can meet its burden of demonstrating that TC Energy violated 49 C.F.R. § 192.605.
2. Whether PHMSA's proposed civil penalty \$105,900 should be withdrawn, eliminated, or reduced.

Notice Item 7 – Transmission Line Patrolling

1. Whether, based on the allegations in the Notice and other evidence in the record, PHMSA can meet its burden of demonstrating that TC Energy violated 49 C.F.R. § 192.705.
2. Whether the proposed compliance order terms should be modified or withdrawn.

Notice Item 8 – Combustible Materials

1. Whether, based on the allegations in the Notice and other evidence in the record, PHMSA can meet its burden of demonstrating that TC Energy violated 49 C.F.R. § 192.735.

TC Energy reserves the right to revise and supplement this Statement of Issues, if necessary, based on any new information or argument provided by PHMSA in this matter.

III. Request for Meeting

Pursuant to Section 108(a)(2) (amending 49 U.S.C. § 60117(b)(1)(B)) of the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020, TC Energy respectfully requests that PHMSA convene a meeting for purposes of settlement or simplification or to aid in the disposition of the issues.

IV. Request for Agency Records

Pursuant to 49 C.F.R. § 190.212(c)(2), (c)(3), and (c)(7), Section 108(a)(2) (amending 49 U.S.C. § 60117(b)(1)(C)) of the Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020, and the affirmative disclosure requirements of 5 U.S.C. § 552(a)(2)(C), TC Energy respectfully requests that PHMSA include in the case file all agency records pertinent to the matters of fact and law asserted in the Notice. TC Energy respectfully requests that PHMSA release these agency records at the earliest possible date, but not to exceed 10 days prior to the hearing, so that TC Energy has a full “opportunity to offer facts, statements, explanations, documents, testimony or other evidence that is relevant and material to the issues under consideration[,]” and to fully and fairly “examine the evidence and witnesses presented by the other party” at the hearing, in accordance with 49 C.F.R. § 190.211(d)-(e). TC Energy reserves the right to ask the Presiding Official to compel the production of any agency records that PHMSA fails to release pursuant to the authority provided in 49 C.F.R. § 190.212(c)(2), (c)(3) and (c)(7).

Respectfully submitted this 1st day of February 2021.



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