

September 19, 2022

VIA ELECTRONIC MAIL TO: rhatchett@westtexasgas.com

Mr. Richard Hatchett
President
WTG Hugoton, LP
211 North Colorado
Midland, Texas 79701

Re: CPF No. 3-2022-030-NOPV

Dear Mr. Hatchett:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a reduced civil penalty of \$20,700. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon receipt of payment. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt 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. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Ray Reed, Director of Integrity Management, West Texas Gas, Inc.,
rreed@westtexasgas.com
Mr. Bart Bean, Manager of Gas Operations, West Texas Gas, Inc.,
bbean@westtexasgas.com

CONFIRMATION OF 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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In the Matter of)	
)	
WTG Hugoton, LP,)	CPF No. 3-2022-030-NOPV
)	
Respondent.)	
)	

FINAL ORDER

From June 29, 2021 to July 14, 2021, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the natural gas pipeline facilities and records of WTG Hugoton, LP (WTG or Respondent) in Kansas. WTG operates 152 miles of gas transmission lines.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated January 24, 2022, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that WTG had violated 49 C.F.R. § 192.605(b)(2) and proposed assessing a civil penalty of \$41,400 for the alleged violation. The Notice also included one warning item pursuant to 49 C.F.R. § 190.205, which warned the operator to correct the probable violation or face possible future enforcement action.

WTG responded to the Notice by letter dated January 31, 2022 (Response). The company did not contest the allegations of violation but provided an explanation of its actions and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(b)(2), which states:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance

activities and for emergency response

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1)

(2) Controlling corrosion in accordance with the operations and maintenance requirements of subpart I of this part.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(b)(2) by failing to follow its written procedural manual regarding controlling corrosion. Specifically, the Notice alleged that WTG failed to perform analyses of the readings, report the deficiencies, or take any corrective action with respect to six test points that did not meet the cathodic protection (CP) criteria in Part 192, Appendix D as required by its procedures.

In its Response, WTG did not contest this item, but provided additional information relevant to the proposed civil penalty. Specifically, WTG stated that it did follow its procedures, but failed to document the action taken in response to the low CP test readings identified in the Notice. WTG argued that the results of its CP tests at five of the six test points in the following years did meet the Appendix D criteria and thus indicate that sufficient remedial action was taken. Respondent requests that this information be considered in evaluating the civil penalty associated with this item, and this is addressed below.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605(b)(2) by failing to follow its written procedural manual regarding controlling corrosion.

This finding of violation will be considered a prior offense 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.¹

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; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. 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 \$41,400 for the violation cited above.

¹ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223 for adjusted amounts.

Item 2: The Notice proposed a civil penalty of \$41,400 for Respondent’s violation of 49 C.F.R. § 192.605(b)(2), for failing to follow its written procedural manual regarding controlling corrosion. WTG provided additional information to suggest that it did address the low CP readings, but admitted that the corrective actions were not documented. Specifically, for the first four listed test stations (Drip #5, Rmillo Farm Tap, SV Wilson F#3, and TL & Sec Ln Road), WTG stated it remediated these test stations after receiving the low March 2019 CP readings. WTG provided a table, and corresponding surveys, with the 2020 and 2021 CP readings for these four test stations. The 2020 and 2021 CP readings indicate the remediations were effective.

For the SV TO KB608 – BV TO KNE test station, WTG stated that this CP system is “erratic” and that it is developing a plan to improve CP on this pipeline. For the TL at N/S Fence on East ROW Lakin Ln test station, WTG stated that the pipeline did not completely depolarize. On a second attempt to depolarize, this test station met the CP reading. However, the second attempt at depolarization was not documented. WTG provided a table, and corresponding survey, indicating that the 2020 and 2021 CP readings met the Appendix D criteria for the TL at N/S Fence on East ROW Lakin Ln test station.

The information submitted by Respondent is relevant to the “gravity of the violation,” under which PHMSA considers the severity of the violation and its impacts to pipeline safety. The Violation Report noted the violation potentially impacted the pipeline’s susceptibility to external corrosion. Having considered the additional information submitted, I find that with respect to gravity, WTG corrected the low CP readings on five of the six test stations identified in the Notice prior to the PHMSA inspection and has plans to address the remaining low CP reading. Therefore, I find that a reduction in the civil penalty is warranted because pipeline safety was minimally affected.

Based on the foregoing, I assess Respondent a reduced civil penalty of **\$20,700** for violation of 49 C.F.R. §192.605(b)(2).

Payment of the civil penalty must be made within 20 days after receipt of this Final Order. 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 \$20,700 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.

WARNING ITEM

With respect to Item 1, the Notice alleged a probable violation of Part 192, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 192.227(a) (**Item 1**) — Respondent’s alleged failure to properly qualify a welder that performed repairs to its KSG-390-01 pipeline in Finney County, Kansas.

WTG presented information in its Response showing that it had taken certain actions to address the cited 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. The written petition must be received no later than 20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a brief 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 any corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. If Respondent submits payment of the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

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

September 19, 2022

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued