



U.S. Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh St., S.W.
Washington, D.C. 20590

AUG 24 2004

Mr. Richard D. Hatchett
Vice President
Western Gas Interstate Company
211 North Colorado
Midland, Texas 79701

Re: CPF No. 4-2004-1004

Dear Mr. Hatchett:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$10,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of)
)

Western Gas Interstate Company,)
)

Respondent)
_____)

CPF No. 4-2004-1004

FINAL ORDER

On May 20-23, 2003, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) conducted an on-site pipeline safety inspection of Respondent's onshore pipeline system consisting of the Guymon Division area in Texas and Oklahoma. As a result of the inspection, the Director, Southwest Region, OPS, issued to Respondent, by letter dated March 5, 2004, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. § 192.465(d) and proposed assessing a civil penalty of \$10,000 for the alleged violation.

Respondent responded to the Notice by letter dated March 29, 2004 (Response). Respondent did not contest the allegation of violation, but offered an explanation and requested that the proposed civil penalty be withdrawn. Respondent did not request a hearing, and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, Respondent did not contest the violation alleged in the Notice. Accordingly, I find that Respondent violated the following section of 49 C.F.R. Part 192, as more fully described in the Notice:

49 C.F.R. § 192.465(d) – failing to take prompt remedial action to correct deficiencies in its cathodic protection system. Respondent's annual survey data indicated several test stations failing to meet the -850 mV criterion for two consecutive years.

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 a civil penalty not to exceed \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations. The Notice proposed a civil penalty of \$10,000 for violation of § 192.465(d). Respondent requested the proposed civil penalty be withdrawn based on its good faith efforts to comply with § 195.465.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

Respondent explained that the inadequate levels identified had resulted from severe drought conditions that caused anode ground beds to dry. Respondent stated that it attempted to remedy these conditions by watering the ground beds on a regular basis and by installing additional anodes at two locations. The actions brought several readings to an acceptable level, but did not sustain adequate levels at all deficient locations.

Failing to promptly remedy inadequate cathodic protection levels increases the risk of damage to pipelines by corrosion and may lead to a hazardous release of natural gas. For this reason, it is imperative that operators promptly remedy deficiencies identified during mandatory cathodic protection monitoring. Where the corrosion protection system is affected by environmental conditions, the operator must properly consider those conditions when devising remedial efforts for discovered inadequacies.

I do not find that a reduction in the civil penalty is warranted, as Respondent's actions were inadequate to correct the deficiencies despite Respondent's awareness of the deficiencies for more than one year. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,000.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-120), P.O. Box 25082, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this 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 (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$10,000 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 United States District Court.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a petition for reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of a petition automatically stays the payment of any civil penalty assessed. However, if Respondent submits payment of the civil penalty, the Final Order becomes the final administrative action and the right to petition for reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.



Stacey Gerard
Associate Administrator
for Pipeline Safety

AUG 24 2004

Date Issued