

**NOV 03 2010**

Mr. Michael E. Nelson  
Senior Vice President  
Natural Gas Pipeline Operations  
ONEOK Partners, L.P.  
OkTex Pipeline Company, L.L.C.  
100 West Fifth St  
Tulsa, OK 74103-4298

**Re: CPF No. 4-2010-1003**

Dear Mr. Nelson:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$16,200. 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 certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. R.M. Seeley, Director, Southwest Region, PHMSA

**CERTIFIED MAIL – RETURN RECEIPT REQUESTED[7005 1160 0001 0041 0763]**

**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** ) )  
 ) )  
**OkTex Pipeline Company, L.L.C.,** ) **CPF No. 4-2010-1003**  
 ) )  
**Respondent.** ) )  
 ) )  
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**FINAL ORDER**

On April 26–30, 2010, 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 pipelines of OkTex Pipeline Company (OkTex or Respondent) in Oklahoma and Texas. Respondent operates nine natural gas pipeline segments, totaling approximately 105 miles of pipe, in Oklahoma, New Mexico, and Texas. The company is a subsidiary of ONEOK Partners, L.P., which owns or operates approximately 7,000 miles of natural gas transmission and gathering pipeline in the Central United States.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated June 16, 2010, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that OkTex had committed a violation of 49 C.F.R. Part 192 and proposed a civil penalty of \$16,200. The Notice also proposed finding that Respondent had committed a separate probable violation of Part 192 and warned Respondent to take appropriate corrective action.

OkTex responded to the Notice by letter dated July 14, 2010 (Response). The company did not contest the allegation of violation but provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

**FINDING OF VIOLATION**

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

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.745, which states:

**§ 192.745 Valve maintenance: Transmission lines.**

(a) Each transmission line valve that might be required during any

emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.

The Notice alleged that Respondent violated 49 C.F.R. § 192.745 by failing to inspect each of its transmission line valves that might be required during an emergency at least once each calendar year. Specifically, it alleged that OkTex failed to inspect 12 valves on the “OkTex 9” and “OkTex 10” pipelines during the 2006 calendar year, even though the inspections had been performed at intervals not exceeding 15 months.

In its Response, Respondent explained that the subject pipelines underwent a change of operator during 2006, and acknowledged that the required valve testing was not conducted within the appropriate time frames. OkTex further explained that valve inspections since 2006 have been conducted within the appropriate time frames.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.745 by failing to inspect each of its transmission line valves that might be required during an emergency at least once each calendar year.

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 \$100,000 per violation for each day of the violation, up to a maximum of \$1,000,000 for any related series of violations.

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; the Respondent’s ability to pay the penalty and 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.

**Item 1:** The Notice proposed a civil penalty of \$16,200 for Respondent’s violation of 49 C.F.R. § 192.745, for failing to inspect each of its transmission line valves that might be required during an emergency at least once each calendar year. OkTex neither contested the allegation nor requested a reduction in the proposed penalty.

Failing to inspect transmission line valves that might be required during an emergency at the required intervals increases the risk that a valve may not function to contain or mitigate a pipeline emergency. I note, however, that Respondent performed the valve inspections at the prescribed 15-month intervals, and therefore I find the nature, circumstances, and gravity of the violation correspond with the proposed civil penalty amount. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$16,200 for

violation of 49 C.F.R. § 192.745.

Payment of the civil penalty must be made within 20 days of receipt of this Final Order. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment 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-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$16,200 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 2, the Notice alleged a probable violation of 49 C.F.R. Part 192 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

49 C.F.R. § 192.705 (**Item 2**) — Respondent’s alleged failure to patrol its “OkTex 4” pipeline within the required 15 month interval during the 2006–2007 calendar years.

OkTex presented information in its Response showing that it had taken certain actions to address the cited item. Accordingly, having considered such information, I find, pursuant to 49 C.F.R. § 190.205, that a probable violation of 49 C.F.R. § 192.705 (Notice Item 2) has occurred. In the event that OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. Unless the Associate Administrator, upon request, grants a stay, the terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

Date Issued