

**DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION  
OFFICE OF PIPELINE SAFETY  
WASHINGTON, DC 20590**

_____	)	
<b>In the Matter of</b>	)	
	)	
<b>Florida Gas Transmission Company, LLC.,</b>	)	<b>CPF No. 4-2012-1001S</b>
	)	
<b>Respondent</b>	)	
_____	)	

**CONSENT AGREEMENT**

On February 24, 2012, the Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation, issued a Notice of Proposed Safety Order (Notice) to Florida Gas Transmission Company, LLC (FGT or Respondent). The Notice alleges that the segment of FGT’s natural gas pipeline designated as LAMEB-8 running from the Zachary Compressor Station to the Franklinton Compressor Station (the “Affected Segment”) has an apparent condition that, without corrective measures, would pose a pipeline integrity risk to public safety, property, or the environment. Specifically, the Notice alleges that a failure occurred on the Affected Segment approximately two miles downstream of the Zachary Compressor station in East Baton Rouge, Louisiana on February 13, 2012 that resulted in a 44-foot long rupture in the pipe. The cause of the failure is still under investigation.

On March 1, 2012, Respondent requested an informal consultation in response to the Notice via email. On March 8, 2012, the informal consultation was held at the Southwest Region Office in Houston, Texas at which time Respondent and PHMSA engaged in good faith settlement discussions resulting in this Consent Agreement.

Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and that entry of this Consent Agreement (“Agreement”) is the most appropriate means of resolving the Notice, pursuant to 49 C.F.R. Part 190, without adjudication of any issue of fact or law, and upon consent and agreement of Respondent and PHMSA (“the Parties”), the Parties agree as follows:

## **I. General Provisions**

1. Respondent acknowledges that as operator of the LAMEB-8 pipeline, Respondent and its pipeline system are subject to the jurisdiction of the Federal pipeline safety laws, 49 U.S.C. 60101 *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Consent Agreement, Respondent acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. 60101 *et seq.* and the regulations and orders issued thereunder.

2. Respondent agrees, for purposes of this Consent Agreement, that the condition identified in the Notice exists and agrees to address it by completing the actions specified in Section II of this agreement ("Work to be Performed"). These actions, including any work plans and schedules, shall automatically be incorporated into this agreement. This Agreement does not constitute a finding of violation of any Federal law or regulation and may not be used in any civil proceeding of any kind as evidence or proof of any fact, fault or liability, or as evidence of the violation of any law, rule, regulation or requirement, except in a proceeding to enforce the provisions of this Agreement.

3. After Respondent returns this signed Agreement, PHMSA's representative will present it to the Associate Administrator for Pipeline Safety recommending that the Associate Administrator adopt the terms of this Agreement by issuing an administrative order (Consent Order) incorporating the terms of this Consent Agreement. The terms of this Agreement constitute an offer of settlement until accepted by the Associate Administrator. Upon the effective date of this Agreement, any request for a hearing submitted by Respondent shall be automatically withdrawn.

4. Respondent consents to the issuance of the Consent Order, and hereby waives any further procedural requirements with respect to its issuance. Respondent waives all rights to contest the adequacy of notice, or the validity of the Consent Order or this Consent Agreement, including all rights to administrative or judicial hearings or appeals.

5. This Consent Agreement shall apply to and be binding upon PHMSA, and upon Respondent, its officers, directors, and employees, and its successors, assigns, or other entities or persons otherwise bound by law. Respondent agrees to provide a copy of this Agreement and any incorporated work plans and schedules to all of Respondent's officers, employees, and agents whose duties might reasonably include compliance with this Agreement.

6. For all transfers of ownership or operating responsibility of Respondent's LAMEB-8 pipeline, Respondent shall provide a copy of this Consent Agreement to the prospective transferee at least 30 days prior to such transfer and simultaneously provide written notice of the prospective transfer to the PHMSA Regional Director who issued the Notice.

7. This Consent Agreement constitutes the final, complete and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this agreement, and the Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Agreement, except that the terms of this agreement may be construed by reference to the Notice.

8. Nothing in this Consent Agreement affects or relieves Respondent of its responsibility to comply with all applicable requirements of the Federal pipeline safety laws, 49 U.S.C. § 60101 *et seq.*, and the regulations and orders issued thereunder. Nothing in this Agreement alters PHMSA's right of access, entry, inspection, and information gathering or PHMSA's authority to bring enforcement actions against Respondent pursuant to the Federal pipeline safety laws, the regulations and orders issued thereunder, or any other provision of Federal or State law.

9. This Consent Agreement does not waive or modify any Federal, State, or local laws or regulations that are applicable to Respondent's pipeline systems. This Agreement is not a permit, or a modification of any permit, under any Federal, State, or local laws or regulations. Respondent remains responsible for achieving and maintaining compliance with all applicable Federal, State, and local laws, regulations and permits.

10. This Consent Agreement does not create rights in, or grant any cause of action to, any third party not party to this agreement. The U.S. Department of Transportation is not liable for any injuries or damages to persons or property arising from acts or omissions of Respondent or its officers, employees, or agents carrying out the work required by this Agreement. Respondent agrees to indemnify and hold harmless the U.S. Department of Transportation, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of Respondent or its contractors in carrying out the work required by this Agreement.

## **II. Work to be Performed**

11. Restart Plan. Prior to resuming operation of the LAMEB-8 line from the Zachary Compressor station to Mainline Valve 8.1, FGT must develop and submit a written comprehensive restart plan for approval by the Director, Southwest Region, PHMSA for this line section. The restart plan must provide for adequate patrolling of the pipeline during the restart process, specify a daylight restart, include a hydrostatic test of the section, and detail advance communications with local emergency response officials. The restart plan must include actions taken by FGT to confirm the integrity of the section including any pipeline facilities that were damaged, or were suspected of being damaged as a result of the incident prior to restart.

12. Pressure Restriction. After receipt of approval from the Director to restart the line, the operating pressure for the pipeline segment running from the Zachary Compressor Station to the Franklinton Compressor Station must not exceed 80% of the actual operating pressure in effect immediately prior to the February 13, 2012 failure. Specifically, the discharge pressure at the Zachary Compressor Station must not exceed 772 psig. This pressure reduction requires any relevant remote or local alarm limits, software programming set-points or control points, and mechanical over-pressure devices to be adjusted accordingly. The pressure restriction must remain in effect until written approval to increase the pressure or return the pipeline to its pre-failure operating pressure is obtained from the Director. If the results of any action undertaken pursuant to this Agreement necessitate a reduction in the operating pressure permitted by the Agreement, FGT must further reduce the operating pressure accordingly and notify the Director.

13. Metallurgical Testing and Failure Analysis. FGT must arrange for the performance of third party mechanical and metallurgical testing and failure analysis of the section of pipeline that failed following the written guidance provided by the PHMSA inspector at the site on February 14, 2012.

14. Remedial Work Plan. Within 90 days after completing the metallurgical testing and analysis, FGT must develop and submit to the Director for approval a written remedial work plan that includes corrective measures as a result of the failure investigation. The plan must provide for the verification of the integrity of the segment of the LAMEB-8 pipeline running from the Zachary Compressor Station to the Franklinton Compressor Station (64.88 miles) and must fully address all known or suspected factors that caused or contributed to the February 13, 2012 incident. The work plan must include at a minimum:

- (A) The integration of the information developed from the actions required by this Agreement with all historical construction, operating, maintenance, testing, and assessment data for the Affected Segment including relevant system-wide data.
- (B) The performance of additional field testing, inspections, and evaluations to determine whether and to what extent the conditions contributing to the failure are present elsewhere on the Affected Segment. Make the results of the inspections, field excavations, and evaluations available to PHMSA or its representative;
- (C) The performance of repairs or other corrective measures that fully remediate the identified risk condition(s). Include provisions for continuing long-term periodic testing and integrity verification measures to ensure the ongoing safe operation of the pipeline considering the results of the analyses, inspections, and corrective measures undertaken pursuant to this Agreement; and
- (D) A proposed schedule for completion of the actions required by paragraphs (A), (B), and (C) of this Item.

15. Remedial Work Plan Revision. Revise the remedial work plan as necessary to incorporate new information obtained during the evaluations and associated remedial activities. Submit any such plan revisions to the Director for prior approval. The Director may approve plan elements incrementally. The remedial work plan shall become incorporated into this Agreement.

16. Respondent agrees to submit quarterly reports to the Regional Director that: (1) include all available data and results of the testing and evaluations required by this Agreement; and (2) describe the progress of the repairs or other remedial actions being undertaken. The first quarterly report for the period from February through March, 2012 shall be due by April 30, 2012.

17. Respondent agrees to maintain documentation of the costs associated with implementation of this Consent Agreement. Include in each quarterly report submitted pursuant to Item 16, the to-date total costs associated with: (1) testing, evaluations and information analysis; (2) revisions of procedures and additional monitoring and inspections; and (3) physical changes to pipeline infrastructure, including repairs, replacements and other modifications.

18. The Regional Director may grant an extension of time for completion of any of the work to be performed upon a written request timely submitted demonstrating good cause for an extension.

### **III. Review and Approval Process**

19. With respect to any submission under Section II of this Consent Agreement that requires the approval of the Regional Director, the Director may: (a) approve, in whole or in part, the submission, (b) approve the submission on specified conditions, (c) disapprove, in whole or in part, the submission, or (d) any combination of the foregoing. In the event of approval, approval in part, or approval upon conditions, Respondent will proceed to take all action required by the submission as approved by the Director, subject to Respondent's right to invoke the dispute resolution procedures in Section IV with respect to any conditions identified by the Director. In the event that the Director disapproves all or any portion of the submission, the Director will provide Respondent with a written notice of the deficiencies. Respondent will correct all deficiencies within the time specified by the Director and resubmit it for approval.

### **IV. Dispute Resolution**

20. The Regional Director and Respondent will informally attempt to resolve any disputes arising under this Consent Agreement. If Respondent and the Regional Director are unable to informally resolve the dispute within 15 days, Respondent may request in writing, within 10 days, a written determination resolving the dispute from the Associate Administrator for Pipeline Safety providing all information that Respondent believes is

relevant to the dispute. If the request is submitted as provided herein, the Associate Administrator will issue a determination in writing which shall be final. The existence of a dispute and PHMSA's consideration of matters placed in dispute shall not excuse, toll, or suspend any term or timeframe for completion of any work to be performed under this agreement during the pendency of the dispute resolution process except as agreed by the Regional Director or the Associate Administrator in writing.

## **V. Enforcement**

21. This Consent Agreement, as adopted by the Consent Order, is subject to all enforcement authorities available to PHMSA under 49 U.S.C. § 60101 *et seq.* and 49 C.F.R. Part 190, including administrative civil penalties under § 60122 of up to \$100,000 per violation for each day the violation continues, if PHMSA determines that Respondent is not proceeding in accordance with terms of the agreement, determinations made by the Regional Director, or if appealed, decisions of the Associate Administrator. All work plans and associated schedules set forth or referenced in Section II shall be automatically incorporated into this Consent Agreement and are enforceable in the same manner.

## **VI. Record Keeping and Information Disclosure**

22. Respondent agrees to maintain records demonstrating compliance with all requirements of this Consent Agreement for a period of at least five years following completion of all work to be performed. For any reports, plans, or other deliverables required to be submitted to PHMSA pursuant to this Consent Agreement, Respondent may assert a claim of business confidentiality or other protections applicable to the release of information by PHMSA, covering part or all of the information required to be submitted to PHMSA pursuant to this agreement in accordance with 49 C.F.R. Part 7. The claim of confidentiality shall be marked in writing on each page, and shall include a statement specifying the grounds for each claim of confidentiality. PHMSA shall determine release of any information submitted pursuant to this Consent Agreement in accordance with 49 C.F.R. Part 7, the Freedom of Information Act, 5 U.S.C. § 552, DOT and/or PHMSA policies, and other applicable regulations and Executive Orders.

## **VII. Effective Date**

23. The "Effective Date" as used herein is the date on which this Consent Agreement has been signed by both Respondent and PHMSA. Unless specified to the contrary, all deadlines for actions required by this agreement run from the Effective Date of this agreement.

## **VIII. Modification**

24. The terms of this Consent Agreement may be modified by mutual agreement of the parties. Such modifications shall be in writing and shall be signed by both parties.

**IX. Termination**

25. This Consent Agreement shall terminate upon the completion of all terms set forth in Section II (Work to Be Performed). Respondent may request written confirmation from PHMSA when this agreement is terminated. To the extent ongoing monitoring is required, PHMSA may terminate this agreement with respect to all other requirements with the exception of such monitoring. Nothing in this agreement prevents Respondent from completing any of the obligations earlier than the deadlines provided for herein.

**X. Ratification**

26. The parties undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Consent Agreement and to execute and legally bind such party to this document.

27. The Parties hereby agree to all conditions and terms of this Consent Agreement:

For PHMSA:

For Respondent:

\_\_\_\_\_  
R. M. Seeley  
Director, Southwest Region  
PHMSA

\_\_\_\_\_  
Thomas Stone  
Vice President, Chief Operations  
and Maintenance Officer  
Florida Gas Transmission  
Company, LLC

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date