

AUGUST 22, 2013

Mr. Ryan Coffey
Executive VP Operations
Transwestern Pipeline Company, LLC
800 E. Sonterra Blvd, Suite 400
San Antonio, TX 78258

Mr. Kelcy L. Warren
Chairman and Chief Executive Officer
Energy Transfer Partners, L.P.
3738 Oak Lawn Avenue
Dallas, TX 75219

Re: CPF No. 4-2013-1002

Gentlemen:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$53,200. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated February 27, 2013. This case is now closed. 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. Nathan Hlavaty, Director, Interstate Regulatory Compliance, Energy Transfer –
Transwestern Pipeline Company, LLC, 711 Louisiana Street, Suite 900, Houston, TX
Mr. R. M. Seeley, Director, Southwest Region, OPS

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

In the Matter of)	
)	
Transwestern Pipeline Company, LLC,)	CPF No. 4-2013-1002
a subsidiary of Energy Transfer)	
Partners, L.P.)	
)	
Respondent.)	
)	

FINAL ORDER

Between May 25 and December 2, 2011, 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 multiple units of Transwestern Pipeline Company, LLC's (Transwestern or Respondent) facilities in Arizona, New Mexico, and Texas. Transwestern is a subsidiary of Energy Transfer Partners, L.P.¹ Transwestern operates approximately 2,700 miles of natural gas transmission pipelines from the San Juan, Anadarko, and Permian Basins to markets in the Midwest, Texas, Arizona, New Mexico, Nevada, and California.²

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated January 23, 2013, a Notice of Probable Violation and Proposed Civil Penalty (Notice), which also included a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Transwestern violated 49 C.F.R. §§ 192.745(a) and 192.465(b) and proposed assessing a civil penalty of \$53,200 for the alleged violations. The warning item required no further action, but warned the operator to correct the probable violation.

Transwestern responded to the Notice by letter dated February 26, 2013 (Response). The company acknowledged the violations, provided information concerning the corrective actions it

¹ On December 1, 2006, Transwestern Pipeline Company, LLC became a new operating subsidiary of Energy Transfer Partners, L.P. See http://www.energytransfer.com/company_history.aspx.

² See http://www.energytransfer.com/ops_interstate_tw.aspx (last assessed July 6, 2013).

had taken and paid the proposed civil penalty of \$53,200, as provided in 49 C.F.R. § 190.227.³ Payment of the penalty serves to close the case with prejudice to Respondent.

FINDINGS OF VIOLATION

In its response, Transwestern did not contest the allegations 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(a), 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(a) by failing to inspect nine transmission line valves that might be required during any emergency at intervals not exceeding 15 months, but at least once each calendar year during the 2009-2010 period. Specifically, the Notice alleged that Transwestern's records demonstrated that the company had exceeded the required interval for inspection by 45 days for one valve, 32 days for three valves and 27 days for five valves, as more fully described in the Notice.⁴ Respondent acknowledged that it had not inspected the specified valves within the required interval. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.745(a) by failing to inspect nine transmission line valves that might be required during an emergency at intervals not exceeding 15 months, but at least once each calendar year.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.745(a), 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(a) by failing to partially operate three specified transmission line valves that might be required during any emergency at intervals not exceeding 15 months, but at least once each calendar year. Specifically, the Notice alleged that Transwestern did not partially operate valves #1101, #1108, and #1109, while performing its annual inspections for three consecutive years, 2009, 2010, and 2011.⁵ In its Response, Transwestern acknowledged its non-compliance.⁶ Accordingly, based upon a review

³ Response at 1.

⁴ Violation Report at Exhibit A.

⁵ Violation Report at Exhibits B and C.

⁶ Response at 2.

of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.745(a) by failing to inspect and partially operate three transmission line valves for three consecutive years, at intervals not exceeding 15 months, but at least once each calendar year.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.465(b), which states, in relevant part:

§ 192.465 External corrosion control: Monitoring.

(a) . . .

(b) Each cathodic protection rectifier or other impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2½ months, to insure that it is operating.

The Notice alleged that Respondent violated 49 C.F.R. § 192.465(b) by failing to inspect three specified rectifier facilities, six times each calendar year, but with intervals not exceeding 2½ months, to insure that they were operating during 2011. Specifically, the Notice alleged that Transwestern failed to inspect three rectifier facilities within the required interval and exceeded the required interval by 66 days, as fully described in the Notice.⁷ In its response, Transwestern acknowledged its non-compliance. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.465(b) by failing to inspect three rectifier facilities six times each calendar year, with intervals not exceeding 2½ months.

These findings of violation will be considered prior offenses 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. The Notice proposed a total civil penalty of \$53,200 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$15,200 for Respondent's violation of 49 C.F.R. § 192.745(a), for failing to inspect nine transmission valves that might be required during an emergency at intervals not exceeding 15 months and for exceeding the required intervals between 27 and 45 days. In its Response, Transwestern acknowledged its failure to inspect the nine transmission valves and stated that the company had revised its procedures to

⁷ Violation Report at Exhibit D.

prevent future occurrences. Respondent was cognizant of the requirement for the inspection and testing of valves but failed to do so. Performing annual valve inspections is a fundamental requirement for safely operating a pipeline. The purpose of performing periodic maintenance inspections is to ensure that all valves will be operational if the need to close them arises, such as during a spill, failure, or emergency. Transwestern paid the proposed penalty for the alleged violation, which serves to close the case with prejudice.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$15,200 for violation of 49 C.F.R. § 192.745(a), which has already been paid by Respondent.

Item 2: The Notice proposed a civil penalty of \$27,700 for Respondent's violation of 49 C.F.R. § 192.745(a), for failing to inspect and partially operate three transmission valves that might be used in an emergency, for three consecutive years, exceeding the requirement to inspect at intervals not exceeding 15 months, but at least once each calendar year.

In its response, Transwestern stated that the company is implementing smart forms that require personnel to populate required fields on the form during annual inspections, and prevent the closure or acceptance of a record as completed without populating the required fields to fully document valve inspections.

While maintaining complete and accurate records is very important to an operator's ability to make operating decisions, the violation in this case went beyond a paperwork deficiency. Performing annual valve inspections is a fundamental requirement for safely operating a pipeline. The purpose of performing periodic maintenance inspections is to ensure that all valves will be operational if the need to close them arises, such as during a spill or failure. 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. The company is fully culpable and acknowledged that it was unable to demonstrate compliance. Transwestern paid the proposed penalty for the alleged violation, which serves to close the case with prejudice.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$27,700 for violation of 49 C.F.R. § 192.745(a), which has already been paid by Respondent.

Item 3: The Notice proposed a civil penalty of \$10,300 for Respondent's violation of 49 C.F.R. § 192.465(b), for failing to inspect three cathodic protection rectifiers six times each calendar year, with intervals not exceeding 2½ months, to insure that they were operating.

In its Response, Transwestern stated that the valves had been examined prior to the OPS inspection, but acknowledged that the company was unable to demonstrate compliance and that its records provided to PHMSA did not show that it had conducted cathodic protection testing on the three rectifier facilities. The company also reiterated its plans to implement smart forms to prevent future reoccurrences.

The company acknowledged that it was unable to demonstrate compliance. Transwestern paid the proposed penalty for the alleged violation, which serves to close the case with prejudice.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$10,300 for violation of 49 C.F.R. § 192.465(b), which has already been paid by Respondent.

WARNING ITEM

With respect to Item 4, the Notice alleged a probable violation of 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. § 192.605(a) (**Item 4**) — Respondent’s alleged failure to follow its own manual of written procedures for conducting operations and maintenance (O&M) activities. Specifically, the Notice alleged that Transwestern failed to follow *its Operating and Maintenance Procedures, No. D.35-Buried Pipe Inspection, Section 7.1 Data Collection*, which required the technicians to document each inspection in the Pipe Inspection Database.⁸ PHMSA’s inspection revealed inconsistent and incomplete pipe inspection reports.⁹ Transwestern also failed to follow its *Valve Inspection and Maintenance Standard Operating Procedures, Section 8.0 Documentation Requirements*, which required personnel to record on the inspection form the valve position “As Found” and “As Left”.¹⁰ Respondent’s inspection forms had twenty (20) separate instances where the company had not followed its own procedures, as more fully described in the Notice.¹¹

Transwestern presented information in its Response showing that it has 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.

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

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued

⁸ Violation Report at Exhibit E.

⁹ Violation Report at Exhibit F.

¹⁰ Violation Report at Exhibit G.

¹¹ Violation Report at Exhibit H.