

December 1, 2016

Mr. Robert C. Skaggs, Jr.  
Chairman and CEO  
Columbia Pipeline Group, Inc.  
5151 San Felipe Street  
Suite 2500  
Houston, Texas 77056

**Re: CPF No. 4-2016-1001**

Dear Mr. Skaggs:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$33,100 against your subsidiary, Columbia Gulf Transmission, LLC. 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,

Alan K. Mayberry  
Acting Associate Administrator  
for Pipeline Safety

Enclosure

cc: Mr. Rodrick M. Seeley, Director, Southwest Region, OPS  
Mr. Tommy Kilpatrick, Vice President – Operations, Columbia Gulf Transmission,  
LLC, 1700 MacCorkle Avenue, SE, Charleston, West Virginia 25314  
Ms. Diane Neal, Assistant General Counsel, Columbia Pipeline Group, Inc.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED



**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 191.15(c), which states:

**§ 191.15 Transmission systems; gathering systems; and liquefied natural gas facilities: Incident report.**

(a) *Transmission or Gathering.* Each operator of a transmission or a gathering pipeline system must submit DOT Form PHMSA F 7100.2 as soon as practicable but not more than 30 days after detection of an incident required to be reported under § 191.5 of this part. . .

(c) *Supplemental report.* Where additional related information is obtained after a report is submitted under paragraph (a) or (b) of this section, the operator must make a supplemental report as soon as practicable with a clear reference by date to the original report.

The Notice alleged that Respondent violated § 191.15(c) by failing to make a supplemental report to PHMSA as soon as practicable after obtaining additional information about the circumstances surrounding an incident. Specifically, the Notice alleged that on April 25, 2014, CGT experienced an accident on its ML300 natural gas pipeline near Delhi, Louisiana, and filed an incident report (PHMSA Form F 7100.2) on May 22, 2014, as required by § 191.15(a). The Notice further alleged that in its initial report, CGT listed the cause of the Incident as “unknown/still under investigation.” Further, on April 7, 2015, CGT allegedly received a metallurgical analysis “that provided the necessary information to determine a probable cause of failure [but CGT] did not file a supplemental final report until receiving a request from the Southwest Region.” When CGT did file a supplemental report with PHMSA on September 30, 2015, it allegedly only listed the cause of the Incident as “Miscellaneous.” Finally, on November 29, 2015, after repeated requests from PHMSA, CGT allegedly filed a final supplemental report that properly listed the cause of the Incident as “fatigue.”

Respondent contested this allegation of violation. While it did not dispute the facts alleged in the Notice, CGT asserted that it filed the September 30, 2015 supplemental report “as soon as practicable” once “the metallurgical analysis report was finalized on April 7, 2015.”<sup>2</sup> First, the company argued that Part 191 does not define the phrase “as soon as practicable,” unlike 49 C.F.R. § 195.54(b), which requires operators to file supplemental accident reports on hazardous liquid pipelines within 30 days after receiving any changes in the information reported or additions to the original report.<sup>3</sup>

Second, CGT argued that while the September 30, 2015 supplemental report listed the cause of the accident as “Miscellaneous,” the report also provided an “additional description clearly

---

<sup>2</sup> Response, at 2.

<sup>3</sup> *Id.* Respondent argues that because the parallel provision in § 195.54(b) for hazardous liquid pipeline accidents specifies a 30-day deadline for submitting the same type of supplemental report but § 191.15(c) does not, this somehow suggests that time is not of the essence in filing supplemental reports on gas pipeline accidents. This is a distinction without a difference. If anything, the 30-day requirement in Part 195 reinforces the allegation here that CGT failed to file a supplemental report “as soon as practicable,” since CGT did not file a supplemental report until well past 30 days.

stating the cause was fatigue consistent with the metallurgical analysis report.”<sup>4</sup> Finally, CGT stated that it submitted the November 29, 2015 supplemental report to address requests from PHMSA – including PHMSA’s request that CGT list “fatigue” in Section G of the report and that it classify the cause of the Incident as coming under the category “Pipe, Weld or Joint Failure.”

Upon review of Respondent’s arguments, I find each of them unpersuasive. As for its first argument, CGT correctly notes that the phrase “as soon as practicable” is not defined in § 191.15(c). The Code does not set a prescribed number of days needed to meet the “as soon as practicable” standard since each situation is different. However, PHMSA’s prior enforcement decisions and a common-sense reading of the phrase dictate that once an operator has sufficient information to determine the cause of an accident, it must promptly convey that information to PHMSA through a supplemental report.

The facts in this case are strikingly similar to those in a previous PHMSA enforcement action, *In the Matter of El Paso Natural Gas Company*, CPF No. 4-2010-1005 (October 24, 2012).<sup>5</sup> In that case, PHMSA found that the company had violated § 191.15 by failing to file a supplemental incident report roughly eight months after receiving a detailed metallurgical analysis report on the probable cause of a failure.<sup>6</sup> In the present case, on April 7, 2015, Respondent received a metallurgical analysis listing the cause of the Incident as “fatigue” but did not submit any supplemental report to PHMSA containing this new information until September 30, 2015 – 176 days after receiving the metallurgical analysis and only after a request from the OPS Southwest Region. Further, Respondent did not file a final supplemental report listing the cause of the Incident as “fatigue” until November 29, 2015 – 236 days after receiving the metallurgical report.

One of the main purposes of DOT Form PHMSA F 7100.2 is to document an operator’s ongoing efforts to determine the cause of an accident. While the root cause of an accident may not be known immediately, § 191.15(a) places a responsibility on the operator to report an accident as soon as practicable, but not more than 30 days, following detection of the incident and to report what is known about its probable cause. Under paragraph (c), the operator also has an ongoing obligation to inform PHMSA as soon as the company becomes aware of “additional information” about the accident, including its cause. Fulfilling this obligation allows both the operator and PHMSA to take appropriate action to address any underlying issues relating to the cause of the incident, and the agency can use this critical information to assemble and analyze data from other reportable incidents so as to promote safety and prevent similar accidents throughout the industry. Therefore, this information-collection process cannot be accurate or achieve its purpose if the forms are not completed properly and updated as soon as practicable after new information is received.

---

<sup>4</sup> *Id.*

<sup>5</sup> See, [http://primis.phmsa.dot.gov/comm/reports/enforce/Actions\\_opid\\_0.html?nocache=2356](http://primis.phmsa.dot.gov/comm/reports/enforce/Actions_opid_0.html?nocache=2356).

<sup>6</sup> See also, *In the Matter of CenterPoint Energy Gas Transmission Company*, Final Order, CPF No. 4-2009-1001 (November 6, 2009) (available at [www.phmsa.dot.gov/pipeline/enforcement](http://www.phmsa.dot.gov/pipeline/enforcement)) (finding that CenterPoint violated 49 C.F.R. § 191.15(b) [now § 191.15(c)] by failing to file a supplemental report roughly six months after receiving a final metallurgical report determining the cause of a failure)

CGT has suggested in its Response that its failure to file a supplemental report that accurately and timely identified the cause of this incident was merely a technical violation and that the company did not need to include additional, or more accurate, information in its September 30, 2015 supplemental report or to file another report. This is incorrect. The September 30, 2015 supplemental report still listed the cause of the Incident as being “Miscellaneous,” when, in fact, the cause had been identified by the metallurgical report as “fatigue.”

Thus, the September 30, 2015 supplemental report was both late and factually incomplete. It was only after repeated requests from PHMSA that CGT eventually filed a proper supplemental report on November 29, 2015. Accordingly, after considering all of the evidence, I find that Respondent violated § 191.15(c) by failing to make a supplemental report to PHMSA as soon as practicable after obtaining additional information about the cause of the Incident.

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. 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; 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 \$33,100 for the violation cited above.

**Item 1:** The Notice proposed a civil penalty of \$33,100 for Respondent’s violation of 49 C.F.R. § 191.15(c), for failing to make a supplemental report to PHMSA on DOT Form PHMSA F 7100.2 as soon as practicable after obtaining additional information about the cause of the Incident. As discussed above, I found that Respondent filed a supplemental report approximately 176 days after receiving a critical metallurgical report that identified the cause of the Incident as fatigue and that such an extended period of time was not “as soon as practicable” after obtaining such additional information.

I further find the proposed penalty to be reasonable and assessed in accordance with the penalty assessment criteria outlined in 49 C.F.R. § 190.225. While the violation did not affect the integrity or safety of CGT’s pipeline, the requirement to file supplemental reports as soon as practicable after obtaining additional information is clear and unambiguous. Reporting requirements such as this are critical to ensure that PHMSA and the public promptly learn the causes of gas pipeline incidents and are able to take timely action to address them. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil

penalty of \$33,100 for violating 49 C.F.R. § 191.15(c).

In summary, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a total civil penalty of **\$33,100**.

Payment of the civil penalty must be made within 20 days of service. 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, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$33,100 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.

Under 49 C.F.R. § 190.243, Respondent has the 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 service of the 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. § 190.243. The filing of a petition automatically stays the payment of any civil penalty assessed but does not stay any other provisions of the Final Order, including any required corrective actions. 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.

December 1, 2016

---

Alan K. Mayberry  
Acting Associate Administrator  
for Pipeline Safety

---

Date Issued