



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Avenue SE
Washington DC 20590

DEC 20 2018

Mr. Alan S. Armstrong
President and Chief Executive Officer
Williams Partners
One Williams Center
Tulsa, OK 74172

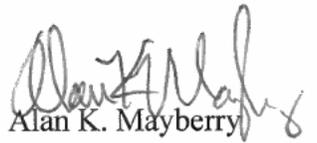
Re: CPF No. 4-2016-1008

Dear Mr. Armstrong:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$1,400,000, and specifies actions that need to be taken by Transcontinental Gas Pipe Line Company, LLC, a consolidated entity of Williams Partners, LP, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by certified mail is effective upon the date of mailing as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,


Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. David Nelson, Esq., Partner, Kean Miller, LLP, II City Plaza 400 Convention Street,
Suite 700, Baton Rouge, LA 70802
Ms. Stephanie Timmermeyer, Vice President of Safety and Regulatory Compliance
Mr. John Suchar, Williams Partners, LP, 525 Central Park Drive Oklahoma City, OK
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**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

_____)
In the Matter of)

Transcontinental Gas Pipe Line Company, LLC,)

Respondent.)
_____)

CPF No. 4-2016-1008

FINAL ORDER

From October 8, 2015 through May 26, 2016, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an investigation of an incident involving the pipeline system of Transcontinental Gas Pipe Line Company, LLC, a consolidated entity of Williams Partners, LP (Transco or Respondent) in Gibson, Louisiana. Transco is a wholly owned subsidiary of Williams Partners, LP, and operates a 9,700-mile natural gas pipeline system extending from the Gulf coast to the Eastern seaboard.¹

The investigation arose out of an explosion at Respondent's Station 62 Facility in Gibson, Louisiana. The explosion killed four men and injured two others.

As a result of the investigation, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated July 29, 2016, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Transco failed to accurately report the incident in a timely manner, in violation of 49 C.F.R. §191.5, committed various violations of 49 C.F.R. Part 192, and proposed assessing a civil penalty of \$1,600,000 for the alleged violations.

Williams Partners, LP responded to the Notice by letter dated August 25, 2016 (Response). Williams contested one of the allegations and the associated civil penalty, asked for withdrawal of the compliance order, and requested an informal meeting to discuss a consent order. Respondent also requested an in-person hearing, if a compromise settlement could not be reached.

A hearing was subsequently held on July 14, 2017, in Houston, Texas with an attorney from the Office of Chief Counsel, PHMSA, presiding. At the hearing, Respondent was represented by

¹ https://www.sec.gov/Archives/edgar/data/1483096/000148309616000021/wpz_20151231x10k.htm (last accessed on May 3, 2018).

counsel. After the hearing, Respondent provided a Post-Hearing Statement for the record, by letter dated January 30, 2018 (Closing).

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 191 and Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 191.5, which states:

§ 191.5 Immediate notice of certain incidents.

(a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in § 191.3.

(b) Each notice required by paragraph (a) of this section must be made to the National Response Center either by telephone to 800-424-8802 (in Washington, DC, 202 267-2675) or electronically at

<http://www.nrc.uscg.mil> and must include the following information:

- (1) Names of operator and person making report and their telephone numbers.
- (2) The location of the incident.
- (3) The time of the incident.
- (4) The number of fatalities and personal injuries, if any.
- (5) All other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages.

(c) Within 48 hours after the confirmed discovery of an incident, to the extent practicable, an operator must revise or confirm its initial telephonic notice required in paragraph (b) of this section with an estimate of the amount of product released, an estimate of the number of fatalities and injuries, and all other significant facts that are known by the operator that are relevant to the cause of the incident or extent of the damages. If there are no changes or revisions to the initial report, the operator must confirm the estimates in its initial report.

The Notice alleged that Respondent violated 49 C.F.R. § 191.5 by failing to give the required notice to the National Response Center (NRC) at the earliest practicable moment following discovery of the incident. Specifically, the Notice alleged that Transco deliberately withheld information regarding the number of known injuries and fatalities in its first report to the NRC.

At the hearing, the Respondent denied that it had withheld any information, and stated that it submitted all information known to it at the time.² Transco also submitted evidence demonstrating that it submitted an amended report to the NRC later the same day that correctly reported the number of injuries and fatalities. The Region countered that assertion by submitting a news article published online at 11:32 a.m. that reported various injuries and fatalities. The

² The first NRC report was submitted at 12:06 p.m. CST (October 8, 2015). Transco submitted an Amended Report at 3:23 p.m. that same day.

news article, however, was updated throughout the day, so it is unclear exactly when the information regarding fatalities and injuries was available.

This issue can only be decided by weighing the probity of the witness testimony, both at the time of the accident and at the hearing. Mr. Ross Sinclair, Manager of Pipeline Control, Transco, made the first report to the NRC, and stated that there were “no” fatalities and “unknown” injuries. Ms. Molly Atkins, OPS’ investigator, stated in the Violation Report that Mr. Shane Frasier, Engineer II, Williams, stated that “Williams Senior Leadership had not allowed the release of information during the preliminary stage of the incident response about injuries or fatalities.”³ I assessed the testimony of Mr. Ross Sinclair and Mr. Frasier given at the hearing, and I have since read both their written affidavits. Ms. Atkins was not available to testify at the hearing. OPS and the Respondent offer competing claims as to the timing and sequence of events on October 8, 2015. Therefore, the remaining question is whether there is *evidence* to support OPS’ contention that Transco violated 49 C.F.R. § 191.5.

Even if I were to accept OPS’ argument that Transco failed to provide the correct information “as soon as practicable” at the time of the first NRC report, Transco submitted an updated report. The second NRC report was submitted at 3:23 p.m., approximately three hours after the first NRC report. The Violation Report does not mention the second NRC report – and it appears that OPS did not consider the existence of this report when deciding to issue this NOPV.

In its Post Hearing Brief, Respondent makes much of the fact that its delay in reporting the totality of the circumstances did not obstruct the OPS investigation in any way. I disagree. The purpose of the reporting requirement in 49 C.F.R. § 191.5 is to remove any and all need for OPS to question an operator regarding certain facts. The Violation Report states that OPS, when turned away by Transco’s regulatory compliance personnel, had to reach out to field operations personnel onsite to learn the facts on the ground. The withholding of critical facts, including the number of fatalities, is unacceptable. OPS’ time is better served investigating, as opposed to prodding operators regarding facts that must be reported “as soon as is practicable.” However, there is not sufficient evidence to support a finding that Transco failed to give immediate notice of the number of injuries and fatalities.

Accordingly, after considering the evidence, I withdraw Item 1.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.751(b), which states:

§ 192.751 Prevention of accidental ignition.

Each operator shall take steps to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion, including the following:

- (a) ...
- (b) Gas or electric welding or cutting may not be performed on pipe or on pipe components that contain a combustible mixture of gas and air in the area of work.

³ Pipeline Safety Violation Report (Violation Report), (July 29, 2016)(on file with PHMSA), at 5.

The Notice alleged that Respondent violated 49 C.F.R. § 192.751 by failing to take adequate steps to minimize the danger of accidental ignition of gas in an area where the presence of gas during welding constituted a combustion hazard. Specifically, the Notice alleged that Transco proceeded with welding when a combustible mixture of gas and air was detected within the 42-inch liquids header of the slug catcher. Respondent questions the wording in Item 2, and vehemently denies that Transco failed to stop work after detecting a combustible mixture of gas and air inside the header. The NOPV states that “Transco failed to stop work when gas was detected inside the 42-inch liquids header and allowed welding to start when a combustible mixture of gas and air existed...” I do not read this statement as imputing actual knowledge of a combustible mixture to Transco; the title of the regulation is “Prevention of *accidental* ignition (*emphasis added*).” I read the pertinent sentence in the NOPV as properly stating that, prior to the beginning of welding, Transco detected some gas in the header. At some point, when welding started, a combustible mixture of gas and air was present, thus the ensuing explosion and fire. In any case, Transco violated § 192.751 because it failed to minimize the danger of accidental ignition of gas in any structure or area where the presence of gas constitutes a hazard of fire or explosion, including by performing gas or electric welding on a pipe or pipe components that contained a combustible mixture of gas and air in the area of work. Transco did not contest this allegation of violation “if prior knowledge is not required” - and it is not.

Accordingly, based upon a review of all the evidence, I find that Respondent violated 49 C.F.R. § 192.751 by performing gas or electric welding on pipe or on pipe components that contained a combustible mixture of gas and air in the area of work.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.605, which states in relevant part:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and subpart M of this part.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605 by failing to follow its own procedure for hot work, which requires training for all employees supervising or issuing hot work permits. Specifically, the Notice alleged that Transco’s contractor personnel were not properly trained, as required by its’ WILSOP Safety Manual Procedure 640.05 – Hot Work.

Respondent did not contest this allegation of violation.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605 by failing to prepare and follow its own manual of written procedures for conducting operation and maintenance activities.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.805, which states in relevant part:

§ 192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a) Identify covered tasks;
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;
- (c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;

The Notice alleged that Respondent violated 49 C.F.R. § 192.805 by failing to follow its written qualification plan. Specifically, the Notice alleged that Respondent failed to follow its Operator Qualification Plan by allowing unqualified personnel to perform covered tasks, failing to identify and verify applicable covered tasks for contractor personnel, failing to ensure the proper qualification of contractor personnel, and failing to have a covered task for vapor barriers.

Respondent did not contest this allegation of violation.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.805 by failing to prepare and follow its own manual of written procedures for conducting operation and maintenance activities.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.605, which states in relevant part:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1) Operating, maintaining, and repairing the pipeline in accordance with each of the requirements of this subpart and subpart M of this part.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605 by failing to follow its own procedure for operating, maintaining, and repairing its pipeline. Specifically, the Notice alleged that Respondent's WilSop Operations & Maintenance Manual Procedure 10.22.02- Gas Handling Plans, Section 2.40, required the development of a detailed purge plan for the complex purging of the slug catcher.

Respondent did not contest this allegation of violation.⁴

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605 by failing to follow its own procedure for operating, maintaining, and repairing its pipeline.

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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.⁴

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; 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 \$1,600,000 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$200,000 for Respondent's violation of 49 C.F.R. § 191.5, by failing to give the required notice to the National Response Center (NRC) at the earliest practicable moment following discovery of the incident. At the hearing and in its Post-Hearing Brief, the Respondent argued that the regulation does not require operators to speculate, and that Transco did report all information known to it at the time. As discussed above, I withdraw Item I. Based upon the foregoing, I also withdraw the associated civil penalty of \$200,000 for violation of 49 C.F.R. § 191.5.

⁴ These amounts are adjusted annually for inflation. See, e.g., Pipeline Safety: Inflation Adjustment of Maximum Civil Penalties, 82 Fed. Reg. 19325 (April 27, 2017).

Item 2: The Notice proposed a civil penalty of \$200,000 for Respondent's violation of 49 C.F.R. § 192.751, for failing to take adequate steps to minimize the danger of accidental ignition of gas in an area where the presence of gas during welding constituted a combustion hazard. As I discussed above, Transco's main point of contention involved whether or not actual knowledge of a combustible mixture was required in order to find a violation of this regulation. Transco neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$200,000 for violation of 49 C.F.R. § 192.751.

Item 3: The Notice proposed a civil penalty of \$400,000 for Respondent's violation of 49 C.F.R. § 192.605, for failing to follow its own procedure for hot work, which requires training for all employees supervising or issuing hot work permits. Transco neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$400,000 for violation of 49 C.F.R. § 192.605.

Item 4: The Notice proposed a civil penalty of \$400,000 for Respondent's violation of 49 C.F.R. § 192.805, for failing to follow its own written qualification plan. Transco neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$400,000 for violation of 49 C.F.R. § 192.805.

Item 5: The Notice proposed a civil penalty of \$400,000 for Respondent's violation of 49 C.F.R. § 192.605, for failing to follow its own procedure for operating, maintaining, and repairing its pipeline. Transco neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$400,000 for violation of 49 C.F.R. § 192.605.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1-5 in the Notice for violations of 49 C.F.R. §§ 191.5, 192.751, 192.605, 192.805 and 192.605, respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 192.751 (**Item 2**), Respondent has satisfied the terms of the Compliance Order.
2. With respect to the violation of § 192.605 (**Item 3**), Respondent has satisfied the terms of the Compliance Order.

3. With respect to the violation of § 192.805 (**Item 4**), Respondent has satisfied the terms of the Compliance Order.

4. With respect to the violation of § 192.605 (**Item 5**), Respondent has satisfied the terms of the Compliance Order.

With regard to the violation of § 191.5 (Item 1), Respondent argued that the compliance terms should be withdrawn given that, in its estimation, Transco complied with the regulation. As discussed above, I have withdrawn Item 1 and the associated compliance item.

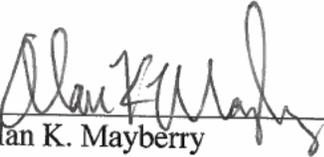
The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

It is requested that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. It is requested that these costs be reported in two categories: (1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and (2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$200,000, as adjusted for inflation (49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address, no later than 20 days after receipt of service of this Final Order by Respondent. Any petition submitted must contain a 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. The other terms of the order, including corrective action, remain in effect 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.



Alan K. Mayberry
Associate Administrator
for Pipeline Safety

DEC 20 2018

Date Issued