

October 24, 2017

Mr. Steven J. Kean
President and Chief Executive Officer
Kinder Morgan, Inc.
1001 Louisiana Street
Houston, TX 77002

Re: CPF No. 4-2016-1011

Dear Mr. Kean:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$131,000, and specifies actions that need to be taken by Natural Gas Pipeline Company of America, LLC, which is jointly owned by Kinder Morgan, Inc. and Brookfield Infrastructure Partners, LP, to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated December 14, 2016. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by certified mail is effective 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: Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Tom Martin, President, Natural Gas Pipeline Group, Kinder Morgan, Inc.
Mr. Kenneth W. Grubb, Chief Operating Officer, Natural Gas Pipeline Group, Kinder Morgan, Inc.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

transfer and agreed to complete the proposed compliance actions.³ In accordance with 49 C.F.R. § 190.208(a)(1), such payment authorizes the Associate Administrator to make findings of violation and to issue this final order. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

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

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b), which states:

§ 192.603 General provisions.

(a) . . .

(b) Each operator shall keep records necessary to administer the procedures established under § 192.605.

The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b) by failing to keep records necessary to administer the procedures established under § 192.605. Section 192.605(b)(1) requires that an operator's written manual include applicable procedures for "[o]perating, maintaining, and repairing the pipeline in accordance with each of the requirements of [subpart L] and subpart M of [Part 192]." Specifically, the Notice alleged that NGPL failed to document that valves necessary during an emergency were partially operated during NGPL's inspections of emergency valves.⁴ NGPL inspection forms include check boxes for inspectors to indicate whether valves were lubricated and operated. The Notice further alleged that Kinder Morgan's Operations and Maintenance (O&M) Procedure, *O&M 301, Inspecting and Servicing Emergency Valves*, directed personnel to "operate valves fully whenever possible; otherwise, partial operation is acceptable." In reviewing the valve inspection records, the PHMSA inspector noted there were 21 emergency valves that were not partially operated in 2013 and 12 emergency valves that were not partially operated in 2012. Additionally, there were two locations that did not indicate any operation of the valves in both 2012 and 2013.

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. § 192.603(b) by failing to keep records necessary to administer the procedures established under § 192.605.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b), which states:

§ 192.603 General provisions.

(a) . . .

(b) Each operator shall keep records necessary to administer the procedures established under § 192.605.

³ NGPL requested Item 2 be withdrawn from the Final Order. "An adjudication . . . to determine whether a violation occurred is not conducted for warnings." 49 C.F.R. § 190.205. Therefore, Item 2 is a Warning Item that requires no further action.

⁴ Operators are required to inspect emergency valves in accordance with 49 C.F.R. § 192.745.

The Notice alleged that Respondent violated 49 C.F.R. § 192.603(b) by failing to keep records necessary to administer the procedures established under § 192.605. Section 192.605(b)(5) requires that an operator's written manual include applicable procedures for "[s]tarting up and shutting down any part of the pipeline in a manner designed to assure operations within the [Maximum Allowable Operating Pressure (MAOP)] limits prescribed by [Part 192, subpart L], plus the build-up allowed for operation of pressure-limiting and control devices." Specifically, the Notice alleged that NGPL failed to document set points of pressure-limiting and control devices designed to assure operating pressures were within the MAOP limits prescribed in Part 192, plus the build-up allowed for operation of pressure-limiting and control devices. An inspection of overpressure protection devices was conducted on October 1, 2014, at NGPL Station 300. However, NGPL's work management system (MAXIMO) work order records did not include documentation of device set points.

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. § 192.603(b) by failing to keep records necessary to administer the procedures established under § 192.605.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

§ 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.

The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a) by failing to prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. Specifically, the Notice alleged that NGPL failed to perform the valve inspections in accordance with its own procedures. Kinder Morgan's O&M Procedure, *O&M 301, Inspecting and Servicing Emergency Valves*, states that personnel are to "inspect and service pipeline valves at least once each calendar year, at intervals not to exceed 15 months." *Section 5, Documentation*, of the same procedure directs personnel to "keep records indicating the servicing dates, and valve and components condition on O&M Form OM300-01 – Automatic Valve Service Report, O&M Form OM300-02 – Appurtenance Inspection Service Report, O&M Form 300-03 – Valve Inspection Report, or capture the same data in the I&M Program database as your documentation."

A review of the MAXIMO work orders for NGPL's Valve-Natural Gas Service did not show valve and components conditions on the form. The PHMSA inspector identified 553 valves records that did not have the valve and components condition noted on the form, as required by Kinder Morgan's own procedures.

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(a) by failing to prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response.

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.⁵ 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 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 \$131,000 for the violations cited above.

Item 3: The Notice proposed a civil penalty of \$27,900 for Respondent's violation of 49 C.F.R. § 192.603(b), for failing to keep records necessary to administer the procedures established under § 192.605. NGPL neither contested the allegation nor presented any evidence or argument justifying elimination or reduction of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$27,900 for violation of 49 C.F.R. § 192.603(b). Payment for this Item was received by wire transfer on December 14, 2016.

Item 5: The Notice proposed a civil penalty of \$103,100 for Respondent's violation of 49 C.F.R. § 192.605(a), for failing to prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. NGPL neither contested the allegation nor presented any evidence or argument justifying elimination or reduction of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$103,100 for violation of 49 C.F.R. § 192.605(a). Payment for this Item was also received by wire transfer on December 14, 2016.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 4 and 5 in the Notice for

⁵ 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).

violations of 49 C.F.R. §§ 192.603(b) and 192.605(a), 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. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.603(b) (**Item 4**), Respondent must provide training to field personnel to ensure inspections are properly and completely documented in accordance with procedures and the usage of the work management system (MAXIMO);
2. With respect to the violation of § 192.603(b) (**Item 4**), Respondent must provide documentation of the training personnel received. Respondent must also provide the dates of when the training was completed and the names of the individuals who would be performing and documenting the inspections of pressure-limited and control device set points;
3. With respect to the violation of § 192.605(a) (**Item 5**), Respondent must provide training to field personnel to ensure emergency valve inspections are properly conducted and documented, as per Kinder Morgan's O&M Procedure, *O&M 301 Inspection and Servicing Emergency Valves*;
4. With respect to the violation of § 192.605(a) (**Item 5**), Respondent must provide documentation of the training personnel received. Respondent must also provide the dates of when the training was completed and the names of the individuals who would be performing and documenting the inspections of emergency valves, and more specifically document valve and component conditions and whether the valve was partially or fully successfully operated; and
5. Complete Compliance Order Items 1 through 4 within 60 days following receipt of the Final Order.

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.

In addition, pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is requested (not mandated) to take the following action:

NGPL should maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. 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.

WARNING ITEMS

With respect to Items 1 and 2, the Notice alleged probable violations of Part 192 but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.605(a) (**Item 1**) — Respondent's alleged failure to follow its own manual of written procedures for conducting operating and maintenance activities and for emergency response. NGPL failed to follow Kinder Morgan's O&M Procedure, *O&M 1900, Emergency Response, 4. Training*, in that NGPL failed to document verification of personnel's knowledge of emergency procedures or verification of training effectiveness as required by the procedure; and

49 C.F.R. § 192.605(a) (**Item 2**) — Respondent's alleged failure to follow a manual of written procedures for conducting operating and maintenance activities and for emergency response. NGPL failed to follow Kinder Morgan's O&M Procedure, *O&M 159, Emergency Reporting and Investigation*, in that NGPL failed to document a review of employee activities for the purpose of determining whether the Emergency Plan procedures were effectively followed.

NGPL presented information in its Response showing that it will take certain actions to address the cited items. If OPS finds a violation of any of these items 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.

October 24, 2017

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued