

December 7, 2016

Mr. Kelcy L. Warren
Chief Executive Officer
Energy Transfer Partners, L.P.
8111 Westchester Drive
Dallas, Texas 75225

Re: CPF No. 4-2016-5009

Dear Mr. Warren:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$24,400. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated May 6, 2016. This enforcement action 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,

Alan K. Mayberry
Acting Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Rodrick M. Seeley, Director, Southwest Region, OPS
Mr. Nathan Hlavaty, Director, Interstate Regulatory Compliance, Energy Transfer Co.,
1300 Main Street, Houston, TX 77002

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)	
)	
Energy Transfer Partners, L.P.)	CPF No. 4-2016-5009
)	
Respondent.)	
)	

FINAL ORDER

On August 4 - 6, 2015, 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 the facilities and records of Energy Transfer Partners, L.P. (ETP or Respondent) in Jal, New Mexico. ETP’s unit ID 2444 has 34 miles of 6-inch hazardous liquids pipeline from New Mexico to Texas. There are 8 miles of pipelines located in New Mexico and 26 miles of pipeline in Texas.¹

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated April 11, 2016, 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 ETP had violated 49 C.F.R. § 195.505 and proposed assessing a civil penalty of \$24,400 for the alleged violations. The warning item required no further action, but warned the operator to correct the probable violation.

ETP responded to the Notice by letter dated April 29, 2016 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$24,400, as provided in 49 C.F.R. § 190.227. Payment of the penalty has been received and serves to close the case with prejudice to Respondent.

FINDING OF VIOLATION

In its Response, ETP did not contest the allegation in the Notice that it violated 49 C.F.R. Part 195, as follows:

¹ Pipeline Safety Violation Report (Violation Report), (Apr. 11, 2016) (on file with PHMSA), at 1.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 195.505, which states in relevant part:

§ 195.505 Qualification program.

(a)...

(b) Ensure through evaluation that individuals performing covered tasks are qualified...

The Notice alleged that Respondent violated 49 C.F.R. § 195.505 by failing to ensure through evaluation that individuals performing aerial patrols are qualified. Specifically, the Notice alleged that ETP did not provide records to demonstrate that their patrol pilot was qualified at the time when he conducted, as pilot and observer 13 aerial patrols on pipeline right-of-way from December 20, 2014 to May 17, 2015. 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. § 195.505 by failing to ensure through evaluation that individuals performing aerial patrols are qualified.

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; 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 \$24,400 for the violations cited above.

Item 2: The Notice proposed a civil penalty of \$24,400 for Respondent's violation of 49 C.F.R. § 195.505, for failing to ensure through evaluation that individuals performing aerial patrols are qualified. ETP did not contest the proposed penalty. With respect to the nature, circumstances, and gravity of this violation, failure to evaluate individuals performing aerial patrols may lead to unqualified individuals piloting flight crafts, and has the potential to impact safety. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$24,400 for violation of 49 C.F.R. § 195.505.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **\$24,400**. ETP has paid the proposed civil penalty.

WARNING ITEM

With respect to Item 1, the Notice alleged probable violations of § 195.404 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. §§ 195.404 and 195.402 (**Item 1**) — Respondent's failure to provide records for 2012 to 2015 demonstrating that it reviewed the work done by its personnel to determine the effectiveness of the procedures used in normal operation and maintenance, and had taken corrective action where deficiencies were found. At the time of the inspection, ETP did not have any indication on its inspection form that procedures performed during inspection activities were reviewed by the person who did the inspection or by any designated person and that changes to procedures were made, as per its procedures.

ETP presented information in its Response showing that it had 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.

December 7, 2016

Alan K. Mayberry
Acting Associate Administrator
for Pipeline Safety

Date Issued