

May 18, 2020

**VIA ELECTRONIC MAIL TO: msabel@ventureglobalng.com**

Mr. Michael Sabel  
Co-Chief Executive Officer and Co-Chairman  
Venture Global LNG, Inc.  
1001 19th Street North, Suite 1500  
Arlington, Virginia 22209

**Re: CPF No. 4-2019-3004**

Dear Mr. Sabel:

Enclosed please find the Final Order issued in the above-referenced case. It makes one finding of violation, assesses a reduced civil penalty of \$59,300, and specifies actions that need to be taken by Venture Global Calcasieu Pass, LLC, a subsidiary of Venture Global LNG, Inc., 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 electronic mail is effective upon the date of transmission 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 L. McDaniel, PE, Director, Southwest Region, Office of Pipeline Safety, PHMSA  
Mr. Keith Larson, General Counsel and Secretary, Venture Global LNG, Inc.,  
klarson@ventureglobalng.com  
Ms. Susan Olenchuk, Esq., Van Ness Feldman, sam@vnf.com  
Ms. Bryn Karaus, Esq., Van Ness Feldman, bsk@vnf.com

**CONFIRMATION OF RECEIPT REQUESTED**

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

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<b>In the Matter of</b>	)		
	)		
<b>Venture Global Calcasieu Pass, LLC,</b>	)		<b>CPF No. 4-2019-3004</b>
<b>a subsidiary of Venture Global LNG, Inc.,</b>	)		
	)		
<b>Respondent.</b>	)		
	)		

**FINAL ORDER**

From March 19 through May 23, 2019, 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 liquefied natural gas (LNG) facility and records of Venture Global Calcasieu Pass, LLC (Venture Global or Respondent) in Cameron, Louisiana. Venture Global, a subsidiary of Venture Global LNG, Inc., is developing a LNG export facility in Cameron Parish, Louisiana.<sup>1</sup>

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated November 4, 2019, 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 Venture Global violated 49 C.F.R. § 191.22 and proposed assessing a civil penalty of \$198,700 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

Venture Global LNG, Inc., on behalf of Venture Global, responded to the Notice by letter dated December 2, 2019 (Response). The company did not contest the allegation of violation but provided an explanation of its actions and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

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<sup>1</sup> Venture Global website, available at <http://venturegloballng.com/calcasieu-pass/#.XnkAONJKg2w> (last accessed May 5, 2020).

### **FINDING OF VIOLATION**

In its Response, Venture Global did not contest the allegation in the Notice that it violated 49 C.F.R. Part 191, as follows:

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 191.22, which states, in relevant part:

**§ 191.22 National Registry of Pipeline and LNG Operators.**

(a) *OPID request.* Effective January 1, 2012, each operator of a gas pipeline, gas pipeline facility, underground natural gas storage facility, LNG plant or LNG facility must obtain from PHMSA an Operator Identification Number (OPID). An OPID is assigned to an operator for the pipeline or pipeline system for which the operator has primary responsibility. To obtain an OPID, an operator must complete an OPID Assignment Request DOT Form PHMSA F 1000.1 through the National Registry of Pipeline, Underground Natural Gas Storage Facility, and LNG Operators in accordance with § 191.7.

(b) *OPID validation.* An operator who has already been assigned one or more OPID by January 1, 2011, must validate the information associated with each OPID through the National Registry of Pipeline, Underground Natural Gas Storage Facility, and LNG Operators at <http://opsweb.phmsa.dot.gov>, and correct that information as necessary, no later than June 30, 2012.

(c) *Changes.* Each operator of a gas pipeline, gas pipeline facility, underground natural gas storage facility, LNG plant, or LNG facility must notify PHMSA electronically through the National Registry of Pipeline, Underground Natural Gas Storage Facility, and LNG Operators at <http://opsweb.phmsa.dot.gov> of certain events.

(1) An operator must notify PHMSA of any of the following events not later than 60 days before the event occurs:

(i) ...

(iii) Construction of a new LNG plant or LNG facility;

The Notice alleged that Respondent violated 49 C.F.R. § 191.22(a) & (c)(1)(iii) by failing to obtain an operator identification number (OPID) from PHMSA and failing to timely notify PHMSA of construction of a new LNG facility. Specifically, the Notice alleged that on May 2, 2019, PHMSA informed Venture Global that it was required to request an OPID from PHMSA and to file a notification of construction with PHMSA of its new Calcasieu Pass LNG facility 60 days before commencing construction. PHMSA inspectors conducted a site visit on May 23, 2019, and discovered that construction activities on the new LNG facility had already commenced, despite Venture Global failing to obtain an OPID and to timely notify PHMSA of the start of construction.

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. § 191.22(a) & (c)(1)(iii) by failing to obtain an OPID from PHMSA and failing to timely notify PHMSA of construction of a new

LNG facility.

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.<sup>2</sup> 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 \$198,700 for the violation cited above.

**Item 1:** The Notice proposed a civil penalty of \$198,700 for Respondent's violation of 49 C.F.R. § 191.22(a) & (c)(1)(iii), for failing to obtain an OPID from PHMSA and failing to timely notify PHMSA of construction of a new LNG facility. In its Response, Venture Global requested a reduction of the proposed civil penalty for several reasons. First, it noted that this was the first violation by the company. Second, Venture Global stated that the violation was unintentional. Third, the company noted that the assumptions upon which the proposed civil penalty were calculated did not reflect the actual circumstances surrounding the violation.<sup>3</sup> I will address each argument separately below.

First, Venture Global states that this is the company's first violation of the federal Pipeline Safety Laws and therefore the penalty should be reduced. I find this argument unpersuasive. The Pipeline Safety Violation Report, which was relied upon in this case to calculate the proposed civil penalty, accounts for prior offenses, and accurately notes that there were no previous violations against the company in the last five years.<sup>4</sup> Therefore, I find no reason to reduce the penalty based on the fact that this is Respondent's first violation of the federal Pipeline Safety Regulations.

Second, Respondent states that the violation was unintentional. Specifically, it notes that PHMSA's May 2, 2019 email notifying the company that it must request an OPID and notify PHMSA of construction of the new LNG facility 60 days in advance of the start of construction,

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<sup>2</sup> These amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223.

<sup>3</sup> Response, at 1.

<sup>4</sup> Pipeline Safety Violation Report (Violation Report) at 2 (Oct. 31, 2019) (on file with PHMSA). PHMSA's statute of limitations is five years pursuant to 28 U.S.C. § 2462.

went to the “spam” email folder of the Venture Global employee. Therefore, Venture Global asserted that it did not “deliberately disregard the email,” and that it was simply an administrative oversight.<sup>5</sup>

In evaluating the penalty amount, I have reviewed the penalty assessment criteria in the Violation Report and how the “culpability” factor, in particular, was applied. In that section of the report, the Director selected the option alleging that the operator “made a deliberate decision not to comply with an applicable requirement.”<sup>6</sup> In her Region Recommendation, the Director noted that the Region had previously communicated with the Venture Global employee who received the May 2, 2019 email one month prior in April 2019.<sup>7</sup> Specifically, on April 8, 2019, PHMSA emailed this Venture Global employee with instructions on how to find information for obtaining an OPID and other LNG frequently asked questions on PHMSA’s website.<sup>8</sup> The Venture Global employee subsequently responded via email to PHMSA and said “got it.”<sup>9</sup> Additionally, on May 16, 2019, the PHMSA inspector who sent the May 2, 2019 email received a phone call from the same Venture Global employee, asking about obtaining an OPID.<sup>10</sup> None of these facts were challenged or refuted by Respondent.

Instead, the only issue here is the appropriate level of culpability to assign to this violation. Although Venture Global did not provide any evidence demonstrating that the May 2, 2019 email was inadvertently sorted to a spam folder, I also do not believe that there is any convincing evidence from PHMSA to prove a “deliberate” or willful failure to comply with the regulation. Demonstrating that an operator intentionally ignored its regulatory obligations is a high evidentiary threshold, and the record falls short in proving Venture Global deliberately avoided regulatory compliance. Even the PHMSA inspector who reminded Venture Global to obtain an OPID said that Venture Global “probably just forgot.”<sup>11</sup> I agree.

On the other hand, the facts of this case convince me that Venture Global’s conduct is more culpable than a mere failure “to comply with a requirement that was clearly applicable.” Although Venture Global’s culpability does not rise to the level of a deliberate decision to ignore a regulatory requirement, the company failed time and again to obtain an OPID and to provide an important construction notification to PHMSA, despite clear and direct instruction from PHMSA to do so. I find Venture Global’s approach to PHMSA’s regulatory requirements almost lackadaisical, especially considering that the Violation Report contains numerous exhibits

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<sup>5</sup> Response, at 1-2.

<sup>6</sup> Violation Report, at 11.

<sup>7</sup> In the Region Recommendation, the Director noted that “[t]his employee was the main point of contact between PHMSA’s Engineering Division and Calcasieu Pass for thermal radiation and flammable vapor gas evaluations during the facility siting process.” Region Recommendation, at 2 (Dec. 19, 2019) (on file with PHMSA).

<sup>8</sup> Violation Report, at Exhibit A.

<sup>9</sup> *Id.*

<sup>10</sup> Region Recommendation, at 2.

<sup>11</sup> *Id.*

evidencing Venture Global's strict compliance with FERC's regulations for its new LNG facility.

Therefore, based upon a review of the record, I find that Respondent's level of culpability is lower than a deliberate violation but higher than a simple failure to comply with a requirement that was clearly applicable. In addition to the normal penalty assessment criteria that comprise a proposed penalty, PHMSA may also consider such "other matters as justice may require." In this case, Part E10 of the Violation Report included information that is appropriate to consider here. It explained why this alleged violation should be considered more serious than many others.<sup>12</sup> It stated that the failure of an operator to request an OPID and to provide notice of construction of an LNG facility "results in PHMSA not having any official contact information or record of responsible individuals" and "deprives the agency of the opportunity to review and design and inspect the construction for compliance with the applicable regulations and standards needed to protect public safety and the environment."<sup>13</sup>

Without timely receiving these notifications from operators, PHMSA cannot plan and prepare for safety inspections. In this case, Venture Global began construction activity in March 2019, two months before PHMSA was able to conduct an onsite safety inspection.<sup>14</sup> Therefore, by failing to heed PHMSA's instruction to obtain an OPID and timely notify the agency of construction, Venture Global disregarded a critical safety requirement that warrants a higher penalty than a simple failure to follow an applicable requirement.

Finally, Venture Global stated that it acted in good faith. The good-faith assessment criterion is not targeted at the operator's system-wide approach to regulatory compliance, but instead focuses solely on the efforts taken by the operator to comply with the requirement.<sup>15</sup> Even though Venture Global called PHMSA on May 16, 2019, inquiring about an OPID, the company failed to take any substantive action to comply with § 191.22. Instead, I note above that PHMSA went above and beyond to remind the operator of its regulatory obligations under this section through email correspondence and phone calls, but Venture Global simply failed to take action. As a result, I find that Venture Global provided no reasonable justification for its non-compliance, and I will not further reduce the proposed civil penalty based on this assessment criterion.

Based upon the foregoing, I assess Respondent a reduced civil penalty of **\$59,300** for violation of 49 C.F.R. § 191.22(a) & (c)(1)(iii).

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

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<sup>12</sup> Violation Report, at 12.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*, at Exhibit E.

<sup>15</sup> *Id.*, at 12.

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, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$59,300 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.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 191.22(a) & (c)(1)(iii). Under 49 U.S.C. § 60118(a), each person 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 § 191.22(a) & (c)(1)(iii) (**Item 1**), Respondent must update its Operator Contact information with the correct contacts for DOT Compliance, the Emergency Contact 24-7, the Executive, the National Pipeline Mapping System (NPMS), and User Fee no later than 10 days of receipt of the Final Order. Respondent must also submit a construction notification to PHMSA for its Calcasieu Pass LNG facility within 10 days of 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.

It is requested (not mandated) 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, 2<sup>nd</sup> 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.

May 18, 2020

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued