

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 24, 2019

Greg McIlwain
Senior Vice-President Operations
Energy Transfer Company
1300 Main Street
Houston, TX 77002

CPF 4-2019-5019

Dear Mr. McIlwain:

Between October 14, 2018 and July 24, 2019, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code, conducted an investigation of your subsidiary, West Texas Gulf Pipe Line Company, regarding two releases on the West Texas Gulf Pipeline system (between Colorado City to Abilene, Texas) that occurred on October 14 and 20, 2018, in Nolan and Taylor County, Texas. The investigation included a review of records and procedures.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

1. §195.406 Maximum operating pressure.

(a) Except for surge pressures and other variations from normal operations, no operator may operate a pipeline at a pressure that exceeds any of the following:

(1) The internal design pressure of the pipe determined in accordance with §195.106. However, for steel pipe in pipelines being converted under §195.5, if one or more factors of the design formula (§195.106) are unknown, one of the following pressures is to be used as design pressure:

(i) Eighty percent of the first test pressure that produces yield under section N5.0 of Appendix N of ASME/ANSI B31.8 (incorporated by reference, *see* §195.3), reduced by the appropriate factors in §§195.106(a) and (e); or

(ii) If the pipe is 323.8 mm (12¾ in) or less outside diameter and is not tested to yield under this paragraph, 1379 kPa (200 psig).

(2) The design pressure of any other component of the pipeline.

(3) Eighty percent of the test pressure for any part of the pipeline which has been pressure tested under Subpart E of this part.

(4) Eighty percent of the factory test pressure or of the prototype test pressure for any individually installed component which is excepted from testing under §195.305.

(5) For pipelines under §195.302(b)(1) and (b)(2)(i), that have not been pressure tested under Subpart E of this part, 80 percent of the test pressure or highest operating pressure to which the pipeline was subjected for 4 or more continuous hours that can be demonstrated by recording charts or logs made at the time the test or operations were conducted.

West Texas Gulf Pipe Line Company (WTG) failed to establish a maximum operating pressure (MOP) for its WTG # 1 (Colorado City to Wortham, Texas) and WTG # 2 (Wortham to Nederville, Texas) pipelines in accordance with 49 CFR § 195.406. The pipeline has operated without an established MOP since 2002.

While reviewing two National Response Center reports, the PHMSA inspector found that WTG did not have records to validate the MOP for the WTG # 1 (Colorado City to Wortham, Texas) and WTG # 2 (Wortham to Nederland, Texas) pipelines. WTG could not produce pressure test records, operating pressure charts, logs or other supporting evidence to show that the MOP of its WTG Pipeline was set in accordance with 49 CFR §195.406(a).

Specifically, WTG did not perform hydrostatic tests on ten segments of the pipeline systems. Six segments were tested by 2018; however four segments remain untested, and include the Abilene to Ranger, Ranger to Blum and Blum to Wortham segments on the WTG #1 system, and Wortham to Longview on the WTG #2 system.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved for the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$64,600 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$64,600

Proposed Compliance Order

With respect to item 1 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to West Texas Gulf Pipeline Company. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2019-5019** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to West Texas Gulf Pipeline Company (WTG) a Compliance Order incorporating the following remedial requirements to ensure the compliance of WTG with the pipeline safety regulations:

1. In regard to Item 1 of the Notice pertaining to the operator's failure to have established a maximum operating pressure (MOP), WTG must submit operating pressure recording charts or logs to verify the maximum operating pressure (MOP) per § 195.406(a)(5), or perform a pressure test per the requirements of § 195.406(a)(3) to establish an MOP of its WTG # 1 (Colorado City to Wortham, Texas) and WTG # 2 (Wortham to Nederville, Texas) pipelines. WTG shall develop and provide Director with the detailed process and schedule by which it will complete hydrostatic pressure testing of all remaining pipeline segments.
2. It is requested (not mandated) that West Texas Gulf Pipeline Company maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, 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.