August 3, 2020

VIA ELECTRONIC MAIL TO: paul.brewer@enablemidstream.com

Mr. Paul Brewer
Executive Vice President of Operations
Enable Midstream Partners, LP
499 W. Sheridan Avenue, Suite 1500
Oklahoma City, Oklahoma 73102

Re: CPF No. 4-2020-1004

Dear Mr. Brewer:

Enclosed please find the Final Order issued in the above-referenced case to your subsidiary, Enable Gas Transmission, LLC. It makes findings of violation and assesses a civil penalty of $147,100. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated February 21, 2020. When the terms of the compliance order are 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 McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Cary Watson, Vice President, Safety, Environmental and Technical Programs, Enable Midstream Partners, LP, cary.watson@enablemidstream.com

CONFIRMATION OF 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	)	
Enable Gas Transmission, LLC,	)	**CPF No. 4-2020-1004**
a subsidiary of Enable Midstream Partners, LP,	)	
Respondent.	)	

FINAL ORDER

From June 3, 2019, through September 27, 2019, pursuant to 49 U.S.C. § 60117, representatives 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 Enable Gas Transmission, LLC's (Enable or Respondent) gas transmission pipeline system in Oklahoma, Arkansas, Texas, Mississippi, Tennessee, Missouri, and Kansas. Enable is one of two indirect, wholly-owned interstate pipeline subsidiaries of Enable Midstream Partners, LP.[1] Enable operates an approximately 5,890-mile interstate pipeline system located in Kansas, Missouri, Mississippi, Tennessee, Arkansas, Louisiana, Oklahoma, and Texas.[2]

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated January 22, 2020, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice), which also included warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Enable had committed five violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of $147,100 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The warning items required no further action, but warned the operator to correct the probable violations or face possible future enforcement action.

On behalf of Enable, Enable Midstream Partners, LP responded to the Notice by letter dated February 25, 2020 (Response). The company did not contest the allegations of violation but provided information concerning the corrective actions it had taken and requested a modification of the proposed compliance order. Respondent submitted payment of the total proposed penalty

[1] Enable Gas Transmission website, *available at* https://www.enablemidstream.com/html/pages/egt.html (last accessed July 212, 2020).

[2] Enable Gas Transmission, LLC, *Annual Report for Calendar Year 2019 - Natural or Other Gas Transmission and Gathering Systems*, on file with PHMSA.

amount by wire transfer on February 21, 2020. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

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

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.481(b), which states:

> **§ 192.481 Atmospheric corrosion control: Monitoring.**
> (a) ….
> (b) During inspections, the operator must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbanded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

The Notice alleged that Respondent violated 49 C.F.R. § 192.481(b) by failing to give particular attention to pipe in spans over water when conducting atmospheric corrosion (AC) inspections. Specifically, the Notice alleged that according to Enable's AC records, the company used binoculars in two locations to perform AC inspections for pipelines that span over water. The Notice alleged that certain areas, for example where the pipe segment is in contact with pipe supports and bridge housing, may not be visible from a distance using binoculars.

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. § 192.481(b) by failing to give particular attention to pipe in spans over water when conducting AC inspections.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.705(a), which states:

> **§ 192.705 Transmission lines: Patrolling.**
> (a) Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

The Notice alleged that Respondent violated 49 C.F.R. § 192.705(a) by failing to have a patrol program that ensured its right-of-way (ROW) conditions were acceptable to observe surface conditions on and adjacent to the transmission line ROW for indications of leaks, construction activity, and other factors affecting safety and operation. Specifically, the Notice alleged that Enable implemented an Integrated Vegetation Management Program (IVM), yet there were five locations where the amount of vegetation appeared unacceptable for observing surface conditions on and adjacent to the transmission line ROW.

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. § 192.705(a) by failing to have a patrol program that ensured its ROW conditions were acceptable to observe surface conditions on and adjacent to the transmission line ROW for indications of leaks, construction activity, and other factors affecting safety and operation.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.745(a), which states:

> **§ 192.745 Valve maintenance: Transmission lines.**
> (a) Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.

The Notice alleged that Respondent violated 49 C.F.R. § 192.745(a) by failing to ensure that each transmission line valve that might be required during an emergency is inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year. Specifically, the Notice alleged that Enable's Pipeline Block Valve Inspection records demonstrated that one valve had not been operated since March 6, 2018, exceeding the 15-month requirement by 16 months.

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. § 192.745(a) by failing to ensure that each transmission line valve that might be required during an emergency is inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b), which states:

> **§ 192.805 Qualification program.**
> Each operator shall have and follow a written qualification program. The program shall include provisions to:
> (a)….
> (b) Ensure through evaluation that individuals performing covered tasks are qualified; …

The Notice alleged that Respondent violated 49 C.F.R. § 192.805(b) by failing to ensure through evaluation that individuals performing covered tasks are qualified. Specifically, the Notice alleged that Enable records dated September 17, 2019, showed that two individuals were not qualified to perform AC inspections, a covered task. The Notice alleged further that these individuals performed AC inspections from March 2019 to May 2019.

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(b) by failing to ensure through evaluation that individuals performing covered tasks are qualified.

Item 7: The Notice alleged that Respondent violated 49 C.F.R. § 192.935(a), which states:

> **§ 192.935 What additional preventative and mitigative measures must an operator take?**
>
> (a) *General requirements.* An operator must take additional measures beyond those already required by Part 192 to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in a high consequence area. An operator must base the additional measures on the threats the operator has identified to each pipeline segment. (See §192.917) An operator must conduct, in accordance with one of the risk assessment approaches in ASME/ANSI B31.8S (incorporated by reference, see §192.7), section 5, a risk analysis of its pipeline to identify additional measures to protect the high consequence area and enhance public safety. Such additional measures include, but are not limited to, installing Automatic Shut-off Valves or Remote Control Valves, installing computerized monitoring and leak detection systems, replacing pipe segments with pipe of heavier wall thickness, providing additional training to personnel on response procedures, conducting drills with local emergency responders and implementing additional inspection and maintenance programs.

The Notice alleged that Respondent violated 49 C.F.R. § 192.935(a) by failing to take additional measures beyond those already required by Part 192 to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in high consequence areas (HCAs). Specifically, the Notice alleged that Enable identified, but failed to implement, two preventive and mitigative measures in its HCA segments: (1) line-of-sight markers and (2) additional pipeline patrols.

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. § 192.935(a) by failing to take additional measures beyond those already required by Part 192 to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in HCAs.

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.[3] 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

[3] These amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223.

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 $147,100 for the violations cited above.

Item 3: The Notice proposed a civil penalty of $51,100 for Respondent's violation of 49 C.F.R. § 192.705(a), for failing to have a patrol program that ensured its ROW conditions were acceptable to observe surface conditions on and adjacent to the transmission line ROW for indications of leaks, construction activity, and other factors affecting safety and operation. Enable neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $51,100 for violation of 49 C.F.R. § 192.705(a).

Item 6: The Notice proposed a civil penalty of $31,400 for Respondent's violation of 49 C.F.R. § 192.805(b), for failing to ensure through evaluation that individuals performing covered tasks are qualified. Enable neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $31,400 for violation of 49 C.F.R. § 192.805(b).

Item 7: The Notice proposed a civil penalty of $64,600 for Respondent's violation of 49 C.F.R. § 192.935(a), for failing to take additional measures beyond those already required by Part 192 to prevent a pipeline failure and to mitigate the consequences of a pipeline failure in HCAs. Enable neither contested the allegation nor presented any evidence or argument justifying a reduction in or elimination of the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $64,600 for violation of 49 C.F.R. § 192.935(a).

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 **$147,100**, which was paid in full by wire transfer on February 21, 2020.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 2, 3, and 5 in the Notice for violations of 49 C.F.R. §§ 192.481(b), 192.705(a) and 192.745(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. The Director has indicated that Respondent has taken the following actions to address some of the cited violations:

With regard to the violation of § 192.705(a) (**Item 3**), the Director has indicated that Enable addressed each of the identified locations and ROWs that needed improvement. The Director noted that all locations have been mowed and that pictures of the ROWs were provided. In addition, the Director indicated that Enable continues to implement its IVM program and

provided the requested lists of jurisdictional pipelines where the IVM program has been implemented, and those where it has yet to be implemented with estimated implementation dates. The Director acknowledged that Enable opted not to amend patrolling procedures; rather, Enable decided to maintain ROW conditions in a way that allows personnel to traverse them. Lastly, the Director stated that Enable provided a mowing schedule through 2025 to ensure ROW conditions are maintained.

With regard to the violation of § 192.745(a) (**Item 5**), the Director has indicated that Enable performed a complete valve inspection, fully operated valve BV34174, and provided PHMSA with the MAXIMO inspection records and pictures of the valve site and the surrounding containment area.

Accordingly, I find that compliance has been achieved with respect to these violations. Therefore, the compliance terms proposed in the Notice for Items 3 and 5 are not included in this Order.

With regard to the violation of § 192.481(b) (**Item 2**), the Notice proposed that Enable amend its procedures for conducting AC inspections and perform those inspections for pipelines that span over water and under bridges within 30 days following receipt of the Final Order. The Director indicated that Enable has revised its CC-280 *Atmospheric Corrosion Inspection and Control* procedure to specify the acceptable methods to be utilized for AC inspections on pipelines that span rivers and are located underneath bridges. However, Enable requested an extension of 365 days to allow enough time to evaluate its entire regulated pipeline system to identify all pipelines that span over water or are located under bridges. Enable argued that additional programs and procedures other than its *Atmospheric Corrosion Inspection and Control* procedure may need to be revised and/or created. Lastly, Enable reasoned that implementation of the new or revised procedures, training for those procedures, and physical inspection of such pipelines will exceed the 30-day allotment of time following receipt of the Final Order proposed in the Notice.

As noted above, Enable operates an approximately 5,900-mile interstate pipeline system. The inspection covered 3,437 pipeline miles and eight navigable crossings.[4] In consideration of the time it will take to implement and train personnel and to perform physical inspections across several states, I find that additional time to evaluate and inspect pipeline segments that span over water is warranted.

Therefore, the Compliance Order is modified as set forth below.

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 § 192.481(b) (**Item 2**), Respondent must conduct atmospheric corrosion inspections for pipelines that span over water and under bridges, and provide the Director with inspection records, including pictures that

[4] PHMSA Pipeline Safety Violation Report, page 1 of 64, on file with PHMSA.

document the condition of the pipeline in those areas within 180 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 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 4, the Notice alleged probable violations of Part 192 but identified them as warning items pursuant to § 190.205. The warnings were for:

> 49 C.F.R. § 192.481(a) **(Item 1) ─** Respondent's alleged failure to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months for onshore pipelines.
>
> 49 C.F.R. § 192.731(a) **(Item 4) ─** Respondent's alleged failure to inspect and test its pressure relieving devices at intervals not exceeding 15 months, but at least once each calendar year in accordance with § 192.739, § 192.743, and Respondent's Operating and Maintenance Plan, *Procedure No. 304: Inspection and Testing of Relief and Automatic Shutdown Devices Compressor Stations*.

If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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 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.

August 3, 2020

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued