

April 23, 2021

**VIA ELECTRONIC MAIL TO: mark.hewett@nngco.com**

Mr. Mark Hewett  
President and Chief Executive Officer  
Northern Natural Gas Company  
1111 South 103<sup>rd</sup> Street  
Omaha, Nebraska 68124

**Re: CPF No. 4-2020-1008**

Dear Mr. Hewett:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and specifies actions that need to be taken by Northern Natural Gas Company to comply with the pipeline safety regulations. 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 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. William J. Fehrman, President and Chief Executive Officer, Berkshire Hathaway  
Energy Company, wjfehrman@brkenergy.com  
Mr. Thomas Correll, Vice President of Pipeline Safety and Risk, Northern Natural Gas  
Company, thomas.correll@nngco.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	)	
Northern Natural Gas Company,	)	CPF No. 4-2020-1008
a subsidiary of Berkshire Hathaway Energy Company,	)	
Respondent.	)	
	)	

**FINAL ORDER**

From September 9, 2019, through February 2, 2020, 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 Northern Natural Gas Company’s (NNGC or Respondent) natural gas transmission pipeline system located in Texas, New Mexico, and Oklahoma. NNGC is a subsidiary of Berkshire Hathaway Energy Company, and operates 14,600 miles of pipe. NNGC’s natural gas transmission pipeline system is 1,381 miles long, originating in Bakersfield, Texas and traverses through New Mexico and Oklahoma, terminating at the Oklahoma-Kansas border.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated October 30, 2020, a Notice of Probable Violation and Proposed Compliance Order (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 NNGC had violated 49 C.F.R. § 192.935 and proposed ordering Respondent to take certain measures to correct the alleged violation. The warning item required no further action, but warned the operator to correct the probable violation or face possible future enforcement action.

**FINDING OF VIOLATION**

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 192.935(c), which states:

**§ 192.935 What additional preventive and mitigative measures must an operator take?**

(a)....

(c) *Automatic shut-off valves (ASV) or Remote control valves (RCV)*. If an operator determines, based on a risk analysis, that an ASV or RCV would be an efficient means of adding protection to a high consequence area in the event of a gas release, an operator must install the ASV or RCV. In making that determination, an operator must, at least, consider the following factors—swiftness of leak detection and pipe shutdown capabilities, the type of gas being transported, operating pressure, the rate of potential release, pipeline profile, the potential for ignition, and location of nearest response personnel.

The Notice alleged that Respondent violated 49 C.F.R. § 192.935(c) by failing to perform a risk analysis that considered the listed factors to determine whether automatic shut-off valves (ASVs) or remote control valves (RCVs) would be an efficient means of adding protection to high consequence areas (HCAs) in the event of a gas release. Specifically, the Notice alleged that NNGC's operating procedures failed to require any consideration of swiftness of leak detection and pipe shutdown capabilities, the type of gas being transported, the operating pressure, the rate of potential release, the pipeline profile, the potential for ignition, and the location of the nearest response personnel.

In its Response, NNGC stated that it had reviewed its position paper and study results for installing ASV/RCV in HCAs during three separate agency audits that occurred in 2019 and 2020, claiming that the paper and study results were consistent with NNGC's procedure and had been revised several times based on inspector feedback, and eventually completed without issue. NNGC claimed that after a subsequent PHMSA inspection, NNGC made several revisions to include the requirements of § 192.935(c). Because NNGC revised its ASV/RCV documents to address the issue, Respondent contended PHMSA should withdraw the violation.

Having reviewed the information submitted, I find Respondent failed to perform a risk analysis that satisfied § 192.935(c) because NNGC's operating procedures failed to require consideration of all the listed factors. I also find NNGC's revisions still fail to comply because they do not define effective preventative and mitigative measures and fail to identify HCAs subject to the evaluation under § 192.935(c). In addition, Respondent's actions to revise the procedures occurred after the violations had already been identified by PHMSA during the 2019-2020 inspection. Corrective action taken after PHMSA has discovered the noncompliance is not grounds for withdrawal.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.935(c) by failing to consider all the required factors in determining whether an ASV or RCV will be an efficient means of adding protection to HCAs in the event of a gas release.

This finding of violation will be considered a prior offense in any subsequent enforcement action taken against Respondent.

### **COMPLIANCE ORDER**

The Notice proposed a compliance order with respect to Item 2 in the Notice for the violation of 49 C.F.R. § 192.935(c). 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.

With regard to the violation of § 192.935(c) (Item 2), Respondent argued the compliance terms should be withdrawn. For all the reasons discussed above, I find the terms of the Proposed Compliance Order have not been satisfied, and therefore are not withdrawn.

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 § 192.935(c) (**Item 2**), Respondent must conduct a risk analysis of its pipelines to determine if ASVs or RCVs would be an efficient means of adding protection to each HCA in an event of a release of gas to reduce risk. This study must consider factors including swiftness of leak detection and pipe shutdown capabilities, the type of gas being transported, operating pressure, the rate of potential release, pipeline profile, the potential for ignition, and location of nearest response personnel. Respondent must also amend procedures to reflect or incorporate the findings or conclusion of the analysis.
2. Respondent must complete the above within 90 days following receipt of this Final Order and provide documentation and the resulting amended procedures to the Director.

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.

**WARNING ITEM**

With respect to Item 1, the Notice alleged probable violation of Part 191, but identified it as a warning item pursuant to § 190.205. The warning was for:

49 C.F.R. § 191.5(a) (**Item 1**) — Respondent’s alleged failure to notify the National Response Center (NRC) at the earliest practicable moment following discovery but no later than one hour after confirming discovery, following an incident as defined in § 191.3.

NNGC 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.

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 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.

April 23, 2021

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued