

March 31, 2022

**VIA ELECTRONIC MAIL TO: [rod.sailor@enablemidstream.com](mailto:rod.sailor@enablemidstream.com)**

Mr. Rodney J. Sailor  
President and Chief Executive Officer  
Enable Gas Transmission, LLC  
499 West Sheridan, Suite 1500  
Oklahoma City, Oklahoma 73102

**Re: CPF No. 4-2021-047-NOPV**

Dear Mr. Sailor:

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 Enable Gas Transmission, LLC, 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 e-mail is effective upon the date of transmission and acknowledgment of receipt 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, [cary.watson@enablemidstream.com](mailto:cary.watson@enablemidstream.com)  
Mr. Jimmy Cross, Senior Manager, Regulatory Compliance, Enable Midstream Partners,  
[jimmy.cross@enablemidstream.com](mailto:jimmy.cross@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**

<b>In the Matter of</b>	)	
	)	
<b>Enable Gas Transmission, LLC,</b>	)	<b>CPF No. 4-2021-047-NOPV</b>
<b>a subsidiary of Enable Midstream Partners, LP,</b>	)	
	)	
<b>Respondent.</b>	)	
	)	

**FINAL ORDER**

From December 21, 2020, through March 2, 2021, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an investigation of the operations and maintenance records and procedures of Enable Gas Transmission, LLC (Enable or Respondent), a subsidiary of Enable Midstream Partners, LP, following the report of a natural gas release on Enable’s 16-inch Line A-South in Caddo Parish, Louisiana. Respondent, along with Enable Mississippi River Transmission, LLC, another subsidiary of Enable Midstream Partners, LP, operates approximately 7,900 miles of interstate pipelines located in Arkansas, Illinois, Kansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas, as well as six storage facilities.<sup>1</sup>

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated October 21, 2021, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Enable violated 49 C.F.R. § 192.619(a) and proposed ordering Respondent to take certain measures to correct the alleged violation.

Enable Midstream Partners, LP, on behalf of Respondent, responded to the Notice by letter dated November 12, 2021 (Response). Enable contested the allegation, offered additional information in response to the Notice, and requested that the proposed compliance order be eliminated. Respondent did not request a hearing, but stated that it was submitting written comments “[w]ithout waiving its right to request a hearing.”

Pursuant to § 190.208, within 30 days of receipt of a notice of probable violation, a respondent must answer the Director in one of several ways. When a notice of probable violation contains a proposed compliance order, if the respondent is contesting the allegation of probable violation or

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<sup>1</sup> Welcome to the Enable Gas Transmission, LLC (EGT) Website, <http://pipelines.enablemidstream.com/EGT.html> (last accessed January 18, 2022).

compliance terms, but is not requesting a hearing under § 190.211, the respondent may object to the proposed compliance order and submit written explanations, information, or other materials in answer to the allegations in the notice. Alternatively, the respondent may request a hearing under § 190.211. On March 4, 2022, PHMSA contacted Respondent, seeking clarification as to whether they requested a hearing.<sup>2</sup> PHMSA contacted Respondent a second time regarding this matter on March 7, 2022.<sup>3</sup> On March 8, 2022, Respondent replied: “we did not want to waive our right to a hearing, but we were first seeking further clarification of the NOPV/PCO because of the confusion associated with the way it was drafted and claims made.”<sup>4</sup> As PHMSA has previously stated, where an operator does not request a hearing in accordance with §§ 190.208 and 190.211, a respondent “may not indefinitely reserve its right to a hearing.”<sup>5</sup> On March 10, 2022, PHMSA reiterated this long-standing position to Respondent, and informed Respondent it would treat its Response as a written response contesting the NOPV, noting the company had not explicitly requested a hearing under § 190.211. Since Respondent did not request a hearing as set forth in §190.208(b)(4), I find Respondent has waived its right to one.

### **FINDING OF VIOLATION**

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

**Item 1:** The Notice alleged that Respondent violated 49 C.F.R. § 192.619(a), which states, in relevant part:

**§ 192.619 Maximum allowable operating pressure: steel or plastic pipelines.**

(a) No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure (MAOP) determined under paragraph (c), (d), or (e) of this section, or the lowest of the following....

The Notice alleged that Respondent violated 49 C.F.R. § 192.619(a) by failing to establish an MAOP for its 16-inch Line A-South pipeline. Specifically, the Notice alleged that Enable was unable to provide records demonstrating the establishment of the MAOP for its pipeline.

In its Response, Respondent argued that the records it provided to PHMSA meet the

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<sup>2</sup> Email from PHMSA Attorney Advisory to Respondent Sr. Manager, Regulatory Compliance (March 4, 2022) (on file with PHMSA).

<sup>3</sup> Email from PHMSA Attorney Advisory to Respondent Sr. Manager, Regulatory Compliance (March 7, 2022) (on file with PHMSA).

<sup>4</sup> Email from Respondent Sr. Manager, Regulatory Compliance to PHMSA Attorney Advisory (March 8, 2022) (on file with PHMSA).

<sup>5</sup> Explorer Pipeline Co., Order Directing Amendment, CPF No. 4-2002-5005-M, 2003 WL 25429894 (Dec. 17, 2003).

requirements of § 192.619(a). In particular, Respondent noted that it had established its MAOP accordance with § 192.619(a)(4) using industry and agency guidance. Respondent stated that it had provided copies of that guidance, including INGAA Fitness for Service bulletins and a 2013 draft PHMSA integrity verification process flowchart, to the PHMSA inspectors. Respondent acknowledged these materials were originally produced to assist operators that did not have adequate records for MAOP, but that such efforts have since been superseded by PHMSA regulation § 192.624, which was adopted in 2019. Respondent also noted § 192.624 does not actually apply to its pipeline, so Respondent continues to rely on the guidance documents to establish an MAOP. Respondent further argued that the PHMSA inspection focused only on the failure location and that PHMSA never requested records for the entire A-South pipeline.

Section 192.619 states that no person may operate a segment of steel or plastic pipeline that exceeds an MAOP determined under paragraph (c), (d), or (e), or the lowest of the conditions established by paragraph (a), subparagraphs (1) through (4). Respondent asserted that it had established its MAOP pursuant to paragraph (a)(4), but § 192.619 requires that Respondent demonstrate such pressure is “the lowest” of all four calculations that would otherwise be established by paragraph (a), subparagraphs (1) through (4). Respondent did not produce pressure test records, logs, highest actual operating pressure data, material records, or supporting calculations to substantiate that it had appropriately established the MAOP for its 16-inch Line A-South in accordance with § 192.619(a). With regard to the industry and agency guidance that Respondent referenced, by its own admission those materials were intended for purposes that were superseded by PHMSA’s adoption of § 192.624, a regulation that is not applicable to Respondent’s pipeline. Moreover, such guidance documents, whether draft or final, and whether published by PHMSA or another entity, are not regulations and do not take the place of or act as a substitute for the requirements of § 192.619(a).

Finally, Enable contended that various state and PHMSA inspectors in the past found its records adequate, and that Enable is unclear how PHMSA determined that the MAOP for the entire 22.3 miles of Line A-South is not supported by adequate records. With respect to the first argument, the occurrence of prior inspections that did not result in a citation of § 192.619 does not rebut the allegation of violation. It is well established that the absence of a citation from a prior inspection does not guarantee a future inspection will not identify a violation.<sup>6</sup> Moreover, prior inspections do not relieve an operator from its ongoing obligation to maintain and provide documentation of compliance for subsequent periodic inspection or verification. Regarding the determination that the MAOP for the entire 22.3 miles of Line A-South is not adequately supported, PHMSA made multiple requests for documentation substantiating the MAOP for the entire Line A-South pipeline.<sup>7</sup> Respondent failed to provide such records in response to those requests. In addition, Respondent had ample opportunity to submit such records for the entire Line A-South pipeline in response to the Notice, but failed to do so.

Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.619(a) by failing to establish a MAOP for its 16-inch Line A-South pipeline.

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<sup>6</sup> National Fuel Gas Supply Corp., Final Order, CPF No. 1-2016-1005, 2019 WL 6840337, at \*4 (Apr. 18, 2019).

<sup>7</sup> PHMSA representatives requested MAOP records via email on February 4 and February 10, 2021, and verbally during the virtual meeting with Enable held on April 20, 2021.

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 1 for violation of 49 C.F.R. § 192.619(a). 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 § 192.619(a) (Item 1), Respondent argued the compliance terms should be withdrawn because Respondent complied with the regulation. For the reasons discussed above, I found that Enable violated 49 C.F.R. § 192.619(a) by failing to establish an MAOP for its 16-inch Line A-South pipeline. Consequently, the Compliance Order is 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 § 192.619(a) (**Item 1**), Respondent must establish an MAOP for Line A-South in accordance with 49 CFR § 192.619(a). Enable must submit its proposed plan for establishing the MAOP on Line A-South prior to execution for PHMSA's review and approval within 30 days of the issuance of the Final Order. Additionally, Respondent must establish the MAOP and submit corresponding documentation to PHMSA within 180 days of the issuance 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.

PHMSA requests 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 (*see* 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 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.

March 31, 2022

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Alan K. Mayberry  
Associate Administrator  
for Pipeline Safety

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Date Issued