

NOV 9 2009

Mr. Ross T. Parker
Regional Director
Gas Transmission Northwest Corporation
1400 SW 5th Avenue
Suite 900
Portland, OR 97201

Re: CPF No. 5-2006-1011

Dear Mr. Parker:

Enclosed is the Final Order in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$2,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Chris Hoidal, Western Region Director, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7009 1410 0000 2464 5768]

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

In the Matter of)	
)	
Gas Transmission Northwest Corporation,)	CPF No. 5-2006-1011
)	
Respondent.)	
)	

FINAL ORDER

On August 29 and September 2, 2005, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), inspected the 234-mile natural gas pipeline and related facilities of the Gas Transmission Northwest Corporation (Respondent or GTN) in the State of Idaho. GTN is a subsidiary of TransCanada Corp., a company that owns and operates a 36,500-mile network of natural gas pipelines in Canada, the United States, and Mexico.¹

As a result of that inspection, the Director, Western Region, OPS (Director), issued to GTN, by letter dated June 15, 2006, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that GTN violated Part 192 of the Pipeline Safety Regulations in several respects, assessing the company a civil penalty of \$2,000 for two of those violations, and issuing Respondent a warning for the remaining violations.

GTN did not respond to the Notice or request a hearing. It has, therefore, waived its right to contest the allegations of violation.

FINDINGS OF VIOLATION

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

Items 3a and 3b: The Notice alleged that GTN violated 49 C.F.R. § 192.709(c), which states:

¹ <http://www.transcanada.com/company/index.html> (accessed Nov. 4, 2009).

§ 192.709 Transmission lines: Record keeping.

Each operator shall maintain the following records for transmission lines for the periods specified:

(a) . . .

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

The Notice alleged that GTN violated § 192.709(c) by failing to retain a record of its inspection and testing of the pressure relief device on the fuel gas line in the Athol, Idaho compressor station for the 2004 calendar year. Specifically, the Notice indicated that GTN has an obligation under 49 C.F.R. §§ 192.731(a),² 192.739,³ and 192.743,⁴ to perform those inspections and tests at 15-month intervals, but at least once each calendar year. The Notice further stated that GTN also has an obligation under § 192.709(c) to retain a record of those inspections and tests for at least 5 years, or until the next round of inspections and testing occurs, whichever is longer. Respondent has not disputed any of these allegations. Accordingly, I find that GTN violated 49 C.F.R. § 192.709(c) by

² Section 192.731(a) states, in relevant part, that “[e]xcept for rupture discs, each pressure relieving device in a compressor station must be inspected and tested in accordance with §§ 192.739 and 192.743 . . .”

³ Section 192.739 states, in relevant part:

§ 192.739 Pressure limiting and regulating stations: Inspection and testing.

(a) Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is—

- (1) In good mechanical condition;
- (2) Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;
- (3) Except as provided in paragraph (b) of this section, set to control or relieve at the correction pressure consistent with the pressure limits of § 192.201(a); and
- (4) Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

⁴ Section 192.743 states, in relevant part:

§ 192.743 Pressure limiting and regulating stations: Capacity of relief devices.

(a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in § 192.739(b), the capacity must be consistent with the pressure limits of § 192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations.

failing to retain a record of its inspections and tests of the pressure relief device on the fuel gas line in the Athol, Idaho compressor station for the 2004 calendar year.

These findings 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 and 49 C.F.R. § 190.223, Respondent is subject to a administrative civil penalty not to exceed \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations.

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I 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; the Respondent's ability to pay the penalty and 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 \$2,000 for the violations cited above. That amount included a \$1,000 civil penalty for violating § 192.709(c) by not retaining a record of its 2004 inspection and testing of the mechanical condition and operational adequacy of the pressure relief valve on the fuel gas line in the Athol, Idaho compressor station, and an additional \$1,000 civil penalty for not retaining a record of its 2004 inspection and testing of the capacity of the pressure relief on the fuel gas line in the Athol, Idaho compressor station. Respondent has not disputed the appropriateness of either of these amounts.

Having reviewed the record and considered the pertinent assessment factors, I find that the proposed civil penalties are justified. With regard to the nature, circumstances, and gravity of GTN's violations, the OPS Violation Report noted that a malfunction of the pressure relief valve on the fuel gas line could disrupt or even disable the Athol, Idaho compressor, thereby compromising the integrity of Respondent's pipeline system and placing the safety of the public at risk.⁵ In requiring annual tests and inspections of the mechanical condition, operational reliability, and capacity of these devices, the Pipeline Safety Regulations aim to reduce or eliminate that risk. Similarly, in requiring that the results of those tests and inspections be retained for an appropriate length of time, the Pipeline Safety Regulations aim to ensure that any safety-related conditions are detected and that the tests and inspections which accomplish that objective are conducted in a timely manner. GTN's conduct in this case frustrated each of these purposes.

⁵ Pipeline Safety Violation Report (Violation Report), p. 6 (Jun. 14, 2006) (on file with PHMSA).

In terms of Respondent's prior history of offenses, the Violation Report notes that GTN received a Notice from OPS on May 29, 2003, for committing a similar violation, namely, failing to conduct inspections and testing of the pressure relief devices on its fuel gas lines as required by 49 C.F.R. § 192.739.⁶ The OPS inspector also interviewed John Plaster, the North Area Manager for GTN, about the company's compliance with the cited regulations, and Mr. Plaster did not assert that the pressure relief valve on the fuel gas line in the Athol, Idaho compressor station was actually inspected during the 2004 CY.

Finally, GTN has not presented any argument in favor of reducing the proposed civil penalties on the basis of the relevant statutory or regulatory criteria.

For these reasons, I find that a total civil penalty of \$2,000 for GTN's two violations of 49 C.F.R. §§ 192.709(c) is appropriate. Accordingly, I assess Respondent a total civil penalty of \$2,000.

Payment of the civil penalty must be made within 20 days of service. Payment may be made by sending a certified check or money order (containing the CPF Number for this case) payable to "U.S. Department of Transportation" to the Federal Aviation Administration, Mike Monroney Aeronautical Center, Financial Operations Division (AMZ-341), P.O. Box 269039, Oklahoma City, OK 73125.

Federal regulations (49 C.F.R. § 89.21(b)(3)) also permit this payment to be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$2,000 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 United States District Court.

WARNING ITEMS

Items 1, 2a, and 2b of the Notice alleged probable violations of 49 C.F.R. §§ 192.225, 192.603, and 192.605, but did not propose any accompanying civil penalty or Compliance Order. Therefore, these are considered Warning Items.

⁶ Violation Report at 6; see *In the Matter of Gas Transmission Northwest Corporation*, Final Order, CPF 5-2003-0006 (May 3, 2007) (finding that GTN violated 49 C.F.R. § 192.739).

49 C.F.R. § 192.225(a) and (b) (Notice Item 1) – Respondent’s alleged failure to conduct or have a record of conducting the destructive test needed to qualify the welding procedures used during the May 2004 installation of a pig launcher at Compressor Station 4; and

49 C.F.R. §§ 192.603(b), 192.605(b)(8) and (c)(4) (Notice Item 2a and 2b) – Respondent’s alleged failure to have an explicit record of its periodic review of the work done by its personnel to determine the adequacy of the company’s normal and abnormal operations and maintenance procedures.

Accordingly, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 49 C.F.R. §§ 192.225(a) and (b) and 192.603(b), 192.605(b)(8) and (c)(4) have occurred and Respondent is hereby advised to correct such conditions. If PHMSA finds a violation for any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent’s receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the Petition automatically stays the payment of the civil penalty assessed. However, if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to Petition for Reconsideration is waived. The terms and conditions of this Final Order are effective on receipt.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued