

JULY 27, 2012

Mr. Joe Sbranti
Executive Director
Pittsburg Power Company
65 Civic Avenue
Pittsburg, CA 94565

Re: CPF No. 5-2012-0001

Dear Mr. Sbranti:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and finds that Island Energy has completed the actions specified in the Notice to comply with the pipeline safety regulations. Therefore, this case is now closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided 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. Peter Guadagni, General Manager, Island Energy,
440 Walnut Avenue, Vallejo, CA 94592
Mr. Chris Hoidal, Director, Western Region, PHMSA
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

CERTIFIED MAIL - RETURN 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)

Pittsburg Power Company,)
d/b/a Island Energy,)
a division of the City of Pittsburg, California,)
a municipal corporation,)

Respondent.)
_____)

CPF No. 5-2012-0001

FINAL ORDER

On June 28, 2011, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site inspection of the Operator Qualification (OQ) program of Island Energy (Island or Respondent) at its office in Vallejo, California. Island Energy is a public utility that provides retail natural gas services to customers on Mare Island in Vallejo, California, through approximately 207 miles of pipeline.¹

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated January 19, 2012, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Island Energy had committed various violations of 49 C.F.R. Part 192 and proposed ordering Respondent to take certain measures to correct the alleged violations.

Island responded to the Notice by letters dated February 8, February 22, and May 21, 2012 (Response). The company did not contest the allegations of violation and provided information concerning the corrective actions it had taken. Respondent did not request a hearing and therefore has waived its right to one.

FINDINGS OF VIOLATION

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

¹ Pittsburg Power Company, doing business as Island Energy, is a “joint powers authority,” a public entity permitted under California law, and owned by the City of Pittsburg and the Redevelopment Authority of the City of Pittsburg. See <http://www.pittsburgpowerco.com>; <http://www.islandenergy.com> (last accessed July 23, 2012).

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.805(a), which states:

§ 192.805 Qualification program.

Each operator shall have and follow a written qualification program.
The program shall include provisions to:
(a) Identify covered tasks....

The Notice alleged that Respondent violated 49 C.F.R. § 192.805(a) by failing to include provisions in its written OQ program to identify covered tasks, as defined in § 192.801(b). Specifically, the Notice alleged that, while Island had a covered task list and a process for identifying covered tasks, the process did not apply the four-part test outlined in § 192.801(b) for identifying a covered task.

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(a) by failing to include provisions in its written OQ program to identify covered tasks as defined in § 192.801(b).

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.805(g), which states:

§ 192.805 Qualification program.

Each operator shall have and follow a written qualification program.
The program shall include provisions to:
(a) ...
(g) Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed....

The Notice alleged that Respondent violated 49 C.F.R. § 192.805(g) by failing to identify the intervals at which evaluation of an individual's qualifications is needed. Specifically, the Notice alleged that Island's written OQ program specified an evaluation interval of not more than three years, while Island's covered task list specified an evaluation interval of not more than two years. 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(g) by failing to identify the intervals at which evaluation of an individual's qualifications is needed.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.285(c), which states:

§ 192.285 Plastic pipe: Qualifying persons to make joints.

(a) ...
(c) A person must be requalified under an applicable procedure, if during any 12-month period that person:
(1) Does not make any joints under that procedure; or
(2) Has 3 joints or 3 percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under §192.513.

The Notice alleged that Respondent violated 49 C.F.R. § 192.285(c) by failing to include in its OQ program a requalification requirement for a person who, during any 12-month period, either does not make any joints under the applicable joining procedure or has 3 joints or 3 percent of joints made, whichever is greater, under that procedure found unacceptable by testing under § 192.513. Specifically, the Notice alleged that Island's OQ Program did not include these requalification requirements for a person qualified to make joints in plastic pipe. The re-evaluation interval for this covered task was simply listed as two years and did not reduce the interval to one year for individuals meeting these criteria.

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. § 192.285(c) by failing to include in its OQ Program a requalification requirement for a person who, during any 12-month period, either does not make any joints under the applicable joining procedure or has 3 joints or 3 percent of the joints made, whichever is greater, under that procedure found unacceptable by testing under § 192.513.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.805(h), which states:

§ 192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) ...

(h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities....

The Notice alleged that Respondent violated 49 C.F.R. § 192.805(h) by failing to provide appropriate training to ensure that individuals performing covered tasks had the necessary knowledge and skills to perform the tasks in a manner that ensured the safe operation of pipeline facilities. Specifically, the Notice alleged that Island's training for the covered tasks of welding and non-destructive testing, which consisted of a knowledge-based class, was inadequate.

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(h) by failing to provide appropriate training to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1, 2, 3, and 4 in the Notice for violations of 49 C.F.R. §§ 192.805(a), 192.805(g), 192.285(c), and 192.805(h), 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 indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 192.805(a) (**Item 1**), Respondent has analyzed its operations and maintenance activities to identify covered tasks using the four-part test in § 192.801(b). Respondent has also added a periodic review of its operations and maintenance activities to its OQ Program for the purpose of identifying covered tasks.
2. With respect to the violation of § 192.805(g) (**Item 2**), Respondent has updated the re-evaluation intervals listed in its OQ Program and the covered task list to ensure that they are consistent.
3. With respect to the violation of § 192.285(c) (**Item 3**), Respondent has revised its OQ Program to include the requalification requirement outlined in this regulation, and has also updated the re-evaluation interval for this task to reflect this requirement.
4. With respect to the violation of § 192.805(h) (**Item 4**), Respondent has revised its OQ Program training for the covered task of welding to meet the requirements in API 1104. Respondent has revised its OQ plan training for the covered task of non-destructive testing to require qualified individuals to have the American Society for Nondestructive Testing NDT Level II certification or equivalent qualifications.

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

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued