

August 8, 2019

Mr. Earl C. Austin, Jr.
President, CEO, and COO
Quanta Services, Inc.
2800 Post Oak Boulevard
Suite 2600
Houston, Texas 77056

Re: CPF No. 5-2019-0005E

Dear Mr. Austin:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$12,100 to NPC Energy Services, LLC, an operating company of Quanta Services, Inc. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated May 24, 2019. This enforcement action is now closed. Service of the Final Order by certified mail is effective upon the date of mailing, 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: Mr. Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA
Mr. Jason Hodges, President, Northern Powerline Constructions, Inc., 7941 Sandlewood
Place, Anchorage, Alaska 99507

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)

NPC Energy Services, LLC,)
an operating company of Quanta Services, Inc.,)

Respondent.)

CPF No. 5-2019-0005E

FINAL ORDER

From April 22 through May 3, 2018, 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 investigation of circumstances surrounding damage to a natural gas pipeline located near 3802 Parks Highway in Palmer, Alaska. The investigation determined that on July 22, 2017, NPC Energy Services, LLC (NPC or Respondent), was working as a sub-contractor for Knik Construction Company, Inc., excavating near underground utilities as part of a street light installation project for the Alaska Department of Transportation.¹ NPC is an electrical contractor² and a component of Northern Powerline Constructors, Inc., which is an operating company of Quanta Services, Inc. (Quanta).³

During the excavation, NPC hit an unmarked, 2-inch natural gas pipeline with a mini-excavator, and subsequently called ENSTAR Natural Gas Company (ENSTAR), the operator of the pipeline, at approximately 11:41 a.m. on July 22, 2017. When the operator arrived onsite, NPC informed ENSTAR that it had thought the pipeline was abandoned and had drilled a hole into the pipeline to determine whether gas was flowing.⁴ When gas began to vent from the drill hole, NPC patched the leak with a hose clamp and tape.⁵ ENSTAR subsequently repaired the pipeline and invoiced NPC for the damage and lost gas.⁶ At the time, NPC had not called 811 to open a one-call ticket for the planned excavation activities.

¹ Pipeline Safety Violation Report (Violation Report), (March 5, 2019) (on file with PHMSA), at 1.

² NPC Energy Services, LLC website, available at <https://npcesllc.com/about-npc/> (last accessed June 25, 2019).

³ Quanta Services, Inc. website, available at <https://www.quantaservices.com/entities/northern-powerline-constructors-inc/> (last accessed June 25, 2019).

⁴ Violation Report, Exhibits A, C, and D (on file with PHMSA).

⁵ *Id.*, at Exhibit C.

⁶ *Id.*, at Exhibit A.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated March 5, 2019, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that NPC had violated 49 C.F.R. §§ 196.103(a) and 196.109, and proposed assessing a civil penalty of \$12,100 for one of the alleged violations.

Respondent failed to respond within 30 days of receipt of service of the Notice. Under 49 C.F.R. § 190.208(d), such failure to respond constitutes a waiver of NPC's right to contest the allegations in the Notice and authorizes the Associate Administrator, without further notice, to find facts as alleged in the Notice and to issue this Final Order under § 190.213. In this case, the Notice was mailed to Respondent by certified mail (USPS Article No. 7018 1830 0000 5032 8459) on March 5, 2019, and was received by Respondent on March 11, 2019, as shown by the return receipt on file with PHMSA. On May 24, 2019, Quanta paid the proposed civil penalty of \$12,100. Under such circumstances, I find it reasonable and appropriate to enter this Final Order without further proceedings.

FINDINGS OF VIOLATION

NPC did not contest the allegations in the Notice that it violated 49 C.F.R. Part 196, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 196.103(a), which states:

§ 196.103 What must an excavator do to protect underground pipelines from excavation-related damage?

Prior to and during excavation activity, the excavator must:

(a) Use an available one-call system before excavating to notify operators of underground pipeline facilities of the timing and location of the intended excavation;

The Notice alleged that Respondent violated 49 C.F.R. § 196.103(a) by failing to use the available one-call system, Alaska Digline, Inc. (811 AK), before excavating to notify operators of underground pipeline facilities of the timing and location of the intended excavation. Specifically, the Notice alleged that NPC was excavating near underground utilities at the time of the incident, but did not call 811 AK. A review of one-call tickets opened in the previous year for the area near the incident revealed that NPC never contacted 811 AK.⁷

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. § 196.103(a) by failing to use the available one-call system.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 196.109, which states:

⁷ *Id.*, at Exhibit B.

§ 196.109 What must an excavator do if damage to a pipeline from excavation activity causes a leak where product is released from the pipeline?

If damage to a pipeline from excavation activity causes the release of any PHMSA regulated natural and other gas or hazardous liquid as defined in part 192, 193, or 195 of this chapter from the pipeline, the excavator must promptly report the release to appropriate emergency response authorities by calling the 911 emergency telephone number.

The Notice alleged that Respondent violated 49 C.F.R. § 196.109 by failing to report the release of natural gas to appropriate emergency authorities by calling 911 after its excavation activities damaged a pipeline and caused the release of gas. Specifically, the Notice alleged that NPC exposed a 2-inch natural gas pipeline during its excavation activities, and proceeded to drill a hole into the pipeline to determine whether gas was flowing. The damage to the pipeline caused the release of gas. NPC did not promptly call 911 following the damage to the pipeline and release of gas.

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. § 196.109 by failing to report the release of natural gas to appropriate emergency authorities by calling 911 after its excavation activities damaged a pipeline and caused the release of gas.

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.⁸ 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 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 \$12,100 for one of the violations cited above.

Item 1: The Notice proposed a civil penalty of \$12,100 for Respondent's violation of 49 C.F.R. § 196.103(a), for failing to use the available one-call system. NPC neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty.

⁸ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223; Revisions to Civil Penalty Amounts, 83 Fed. Reg. 60732, 60744 (Nov. 27, 2018).

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of **\$12,100**, which amount was paid in full by wire transfer on May 24, 2019.

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

August 8, 2019

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued