



A PROFESSIONAL CORPORATION
1050 Thomas Jefferson Street, N.W.
Washington, D.C. 20007-3877
(202) 298-1800 Telephone
(202) 338-2416 Facsimile

Seattle, Washington
(206) 623-9372

VIA E-MAIL AND UPS

February 23, 2011

Jeffrey D. Wiese
Associate Administrator for Pipeline Safety
Pipeline and Hazardous Materials Safety Administration
United States Department of Transportation
1200 New Jersey Avenue, SE
East Building, 2nd Floor
Washington, DC 20590

Susan A. Olenchuk
(202) 298-1896
sam@vnf.com

**RE: Petition for Reconsideration
CPF No. 1-2009-1006**

Dear Mr. Wiese:

Thank you for your January 24, 2011 letter granting Dominion Transmission Inc.'s ("DTI") request for additional time to submit a Petition for Reconsideration in the above-referenced case. DTI respectfully submits three (3) copies of the enclosed Petition for Reconsideration ("Petition"). DTI respectfully requests that PHMSA review and consider the Petition and withdraw the findings of violation in Item 5 of the Final Order and the associated \$27,800 civil penalty.

DTI appreciates the professional and courteous manner in which PHMSA has undertaken this case. Please do not hesitate to contact me if you have any questions.

Respectfully submitted,

Susan A. Olenchuk
Van Ness Feldman, PC
1050 Thomas Jefferson St. NW
7th Floor
Washington, DC 20007
(202) 298-1896
SAM@vnf.com
Counsel for Dominion Transmission Inc.

CC: Mr. Byron E. Coy, P.E., Director, Eastern Region, PHMSA
Mr. James M. Pates, Esq., PHMSA Office of Chief Counsel
Ms. Brianne Kurdock, Esq., PHMSA Office of Chief Counsel

Enclosure: Petition for Reconsideration

pursuant to 49 C.F.R. § 192.743, of certain over-pressure safety devices located at DTI compressor stations. DTI's request is predicated on PHMSA's interpretation of the scope of 49 C.F.R. § 192.743 that only primary over-pressure safety devices are subject to the relief capacity requirements in the regulation. This interpretation was unknown to DTI until receipt of the Final Order in late 2010, and is contrary to verbal guidance received from PHMSA during the 2008 inspection that gave rise to this matter. Had DTI been aware of PHMSA's interpretation before filing its July 29, 2009 response ("Response") to the Notice of Probable Violation, Proposed Compliance Order and Proposed Civil Penalty ("Notice"), it would have provided factual information to support elimination of all counts of violation alleged in Item 5 based on the fact that the devices identified in this item are either secondary, not primary, over-pressure safety devices, or do not provide any over-pressure protection.

C. PHMSA MUST WITHDRAW ITEM 5 AND THE ASSOCIATED CIVIL PENALTY BECAUSE 49 C.F.R. § 192.743 DOES NOT APPLY TO THE DEVICES AT ISSUE.

Section 192.743 of PHMSA's regulations requires that pressure relief devices at pressure limiting stations and pressure regulating stations have sufficient capacity to protect connected facilities. Except as provided in § 192.739(b), a pipeline operator must determine the capacity of such devices at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculation.¹ In the Notice, PHMSA alleged that DTI had failed determine the relief capacity of certain devices at five pressure limiting stations.² In its Response, DTI demonstrated that § 192.743 did not apply to the devices identified in counts 3, 4, and 5 because they are either tertiary devices or do not provide over-pressure protection. PHMSA agreed and in the Final Order withdrew the allegations of violation regarding these counts.³

DTI did not contest the alleged violations with respect to pressure relief devices at the Stateline Compressor Station, identified in Counts 1 and 2. In the Final Order, PHMSA found that DTI had violated § 192.743 with respect to these devices, and assessed a civil penalty of \$27,800.

The two devices at the Stateline Compressor Station identified in counts 1 and 2 of Item 5 are back-up or secondary over-pressure safety devices. Based on statements in the Final Order, and guidance that was not publically available when DTI submitted its Response, it is now clear

¹ 49 C.F.R. § 192.743 (2010).

² Notice at 4-5.

³ Final Order at 6.

that PHMSA does not apply the requirements of § 192.743 to back-up or secondary devices.⁴ Therefore, there is no basis for the finding of violation with respect to these two devices at the Stateline Compressor Station. DTI requests that PHMSA withdraw the findings of violation regarding counts 1 and 2 under Item 5 and eliminate the associated civil penalty.

The language of 49 C.F.R. § 192.743 does not distinguish between secondary and primary pressure relief devices. During the November 2008 inspection that gave rise to the Notice in this matter, DTI personnel asked a PHMSA inspection team member whether the relief capacity reviews required by § 192.743 applied to secondary over-pressure protection devices. The PHMSA inspector said yes. As a result, DTI admitted counts 1 and 2 alleged in Item 5 of the Notice regarding the lack of capacity reviews for two secondary devices at the Stateline Compressor Station.⁵

Upon receipt of the Final Order, DTI took note of the following language in PHMSA's discussion of Item 4:

“PHMSA has not interpreted § 192.739 to apply to set points and capacities of back-up or secondary over-pressure safety devices. See PHMSA's staff manual entitled ‘Operations and Maintenance Guidance 49 C.F.R. 192 (Subparts L & M),’ pages 121-122, which is posted in its electronic reading room at <http://www.phmsa.dot.gov/foia/e-reading-room>.”⁶

DTI then consulted the PHMSA staff manual, which was not publically available when DTI submitted its Response, and found that PHMSA's interpretation of § 192.739 regarding the capacities of secondary over-pressure safety devices also applies to § 192.743. The PHMSA staff manual guidance on § 192.743 provides “Set points and capacities of back-up or secondary over-pressure safety devices do not have to meet the code requirements, but the devices must be tested for functionality on an annual basis, not to exceed 15 months.”⁷ The manual also directs inspectors to “...see guidance for § 192.739,” which similarly excludes secondary devices from the capacity checking requirements.⁸ As observed by PHMSA in the Notice, DTI did physically

⁴ PHMSA's guidance is contained in a staff manual that was not posted to PHMSA's website until well after DTI filed its July 29, 2009 Response to the Notice.

⁵ Response at 6.

⁶ Final Order at 5, n. 4.

⁷ PHMSA Staff Manual at 132.

⁸ *Id.*

check the devices at issue in Item 5 for operation.⁹ Therefore, DTI complied with the requirements of § 192.743 and PHMSA's interpretation that secondary devices need only be annually tested for functionality.

Had DTI been aware of PHMSA's interpretation that the capacity determination requirements of § 192.743 do not apply to secondary over-pressure protection devices, it would have requested in its Response that PHMSA also withdraw the allegations and penalties associated with counts 1 and 2 of Item 5. With the benefit of PHMSA's interpretation, DTI offers the following information about the devices at issue in counts 1 and 2.

Regarding count 1, the device at issue in the Notice was a two-inch Welmark relief valve on DTI's LN-16 pipeline at the Stateline Compressor Station.¹⁰ The schematic attached as Exhibit A to this Petition demonstrates that this two-inch relief valve, labeled as "Device #1," is a secondary over-pressure protection device, because it is located downstream of the primary over-pressure protection provided by a regulator.¹¹ In light of PHMSA's interpretation of § 192.743 that capacity determinations are not required for secondary over-pressure safety devices, count 1 of Item 5 and the associated penalty must be withdrawn.

Regarding count 2, the device at issue in the Notice is an eight-inch relief valve on DTI's LN-24 pipeline at the Stateline Compressor Station.¹² The schematic in Exhibit A demonstrates that this relief valve, labeled as "Device #2," is a secondary over-pressure protection device, because it is located downstream of the primary over-pressure protection provided by three regulators operated in parallel.¹³ In light of PHMSA's interpretation of § 192.743 that capacity determinations are not required for secondary over-pressure safety devices, count 2 of Item 5 and the associated penalty must be withdrawn.

⁹ Notice at 4.

¹⁰ Notice at 4.

¹¹ Schematics of Stateline Compressor Station, attached hereto as Exhibit A. The first page of Exhibit A is an excerpt of the larger schematic found on page two. This excerpt shows the devices at issue in counts 1 and 2 of Item 5. The excerpt is color-coded to distinguish between primary and secondary devices, and should be printed and viewed in color. To demonstrate that this schematic reflects the configuration of the facility at and before the time of the 2008 inspection, DTI has also provided the larger schematic from which the excerpt was taken, dated August, 1980. The subsequent changes noted on the larger schematic do not affect the devices at issue in Item 5.

¹² Notice at 5.

¹³ Exhibit A at 1.

D. CLARIFICATION OF STATEMENTS IN FINAL ORDER

DTI offers a minor clarification for the record on PHMSA's factual findings in count 3 of Item 5 of the Final Order, related to the Oakford Region, Springdale Meter and Regulator (M&R) Station. In its Response, DTI explained that overpressure protection at the Springdale M&R station is not provided by the relief valve listed in the Notice, but rather, a "worker/monitor" regulator set.¹⁴ A worker/monitor regulator is a type of regulator arrangement that involves two separate regulators, and does not involve actual personnel. In the Final Order, PHMSA stated that DTI asserted that this facility is "protected manually by company personnel rather than a relief device."¹⁵ Although PHMSA properly withdrew this count in the Final Order, DTI wishes to clarify that overpressure protection at Springdale is provided by two regulators, not by company personnel. This clarification does not change the fact that the relief valve at issue in count 3 does not protect DTI facilities and is not covered by 49 C.F.R. § 192.743. For background, DTI has attached a schematic of the Springdale M&R Station showing the configuration of the worker/monitor regulators and the relief valve.¹⁶

DTI also offers similar clarification on PHMSA's factual findings in count 3 of Item 4 of the Final Order, related to the fuel gas bypass relief valve at the Stateline Compressor Station. In its Response, DTI explained that the fuel gas bypass relief valve is a tertiary protection device, downstream from a worker/monitor regulator set.¹⁷ DTI also explained that this valve serves as secondary protection during maintenance of the worker/monitor regulator set.¹⁸ DTI stated that during such maintenance activities a DTI employee is present.¹⁹

In the Final Order, PHMSA stated that DTI asserted that the relief device was "personally operated by DTI employees."²⁰ Although PHMSA properly withdrew this count in the Final

¹⁴ Response at 7.

¹⁵ Final Order at 6.

¹⁶ Attached hereto as Exhibit B. The first page of Exhibit B is an excerpt of the larger schematic found on page two. This excerpt shows the relief device at issue in count 3 of Item 5. To demonstrate that this schematic reflects the configuration of the facility at and before the time of the 2008 inspection, DTI has also provided the larger schematic from which the excerpt was taken, dated January 9, 1990.

¹⁷ Response at 5.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ Final Order at 5.

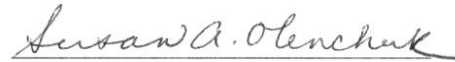
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Order, DTI wishes to clarify that the relief valve is not operated by company personnel. This clarification does not change the fact that the relief valve at issue in count 3 is never a primary over-pressure protection device and is therefore not covered by 49 C.F.R. § 192.739. For background, DTI has attached a photograph of the fuel gas regulators and relief valve at the Stateline Compressor Station.²¹

E. CONCLUSION

For the foregoing reasons, DTI requests that PHMSA grant reconsideration of Item 5 of the Final Order by eliminating the findings of violation and the associated \$27,800 civil penalty.

Respectfully submitted,



Susan A. Olenchuk
Van Ness Feldman, PC
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7th Floor
Washington, DC 20007
(202) 298-1896
SAM@vnf.com
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Dated: February 23, 2011

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Ms. Brianne Kurdock, Esq., PHMSA Office of Chief Counsel

²¹ Attached hereto as Exhibit C. This photograph reflects the configuration of the fuel gas line regulators and relief valve as of the time of the 2008 inspection.