



U.S. Department
of Transportation

Pipeline and Hazardous
Materials Safety
Administration

1200 New Jersey Avenue, SE
Washington, D.C. 20590

DEC 27 2012

Robert C. Skaggs, Jr.
President & CEO
NiSource, Inc.
801 East 86th Ave.
Merrillville, Indiana 46410

Re: CPF No. 1-2012-1012

Dear Mr. Skaggs:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$28,700. It further specifies actions that need to be taken by NiSource Gas Transmission and Storage Company to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order satisfied, as determined by the Director, Eastern Region, this enforcement action will be 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,

for: 
Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Byron E. Coy, Eastern Region Director, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. William T. Kilpatrick, Vice President Operations, NiSource Gas Transmission and Storage Company, 1700 MacCorkle Avenue, SE, Charleston, WV 25314

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

² NiSource Gas Transmission and Storage Home Page, <http://www.ngts.com/en/home.aspx> (last visited December 11, 2012).

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. § 192.481(b), which states:

§ 192.481 Atmospheric corrosion control: Monitoring.

(a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion...

(b) During inspections the operator must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbanded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

The Notice alleged that Respondent violated 49 C.F.R. § 192.481(b) by failing to give particular attention during atmospheric corrosion inspections to portions of the pipeline under thermal insulation. Specifically, the Notice alleged that NGTSC did not have general guidance or specified prescribed locations in its procedures advising staff where corrosion would likely occur on pipe under thermal insulation. In addition, the Notice alleged that when company records were reviewed for the period from 2008 through 2011, there were no records showing any insulation that had ever been removed to inspect for atmospheric corrosion. Finally, the Notice alleged that at the Easton and Hellertown Compressor stations, there was piping and other pipeline facilities encased in thermal insulation, and that company personnel acknowledge that they did not remove the insulation to inspect for atmospheric corrosion.

In its Response, NGTSC did not contest the allegation that it failed to give particular attention to the possibility of atmospheric corrosion under thermal insulation and conceded that its personnel did not remove the insulation during the atmospheric corrosion inspections at the Easton and Hellertown Compression Stations. NGTSC contended, however, that when NGTSC personnel "indicated that they do not remove insulation during the atmospheric inspection, they were specifically referring to the areas noted at Easton and Hellertown, and were not referring to a standard practice for all insulated pipe."³ NGTSC stated that the facilities in question at Easton and Hellertown were located in covered areas inside of buildings and not considered prone to corrosion; therefore, the insulation was not removed.

Section 192.481 requires that pipeline operators inspect each onshore pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion. During such inspections, an operator must give particular attention to certain pipeline features, such as pipe at soil-to-air interfaces, under thermal insulation, under disbanded coatings, and at pipe supports. *NGTSC's Procedure 70.001.001, Inspection – Atmospheric Corrosion, Section 2.5.1*, states that any insulation where corrosion has been found during the last inspection or where corrosion is likely to occur must be removed. However, the procedures did not contain general guidance or specific prescribed locations in the procedures advising staff of where corrosion would likely occur. Section 2.5.6 1 of the procedure states that NGTSC must record what insulation has been removed during the inspection. NGTSC, however, did not have any records of insulation that had ever been removed

³ Response at 2.

for the purpose of inspecting underneath for atmospheric corrosion, nor did the company produce any such records in its Response.

Contrary to NGTSC's assertion, the regulation does not somehow "exempt" an operator from removing thermal insulation during an inspection from portions of a pipeline that are located in covered areas that the operator has generally determined are not considered prone to corrosion. As PHMSA has previously explained, "local moisture conditions, chemicals in the environment, and air-soil interfaces may result in severe corrosion in areas where corrosion is not expected."⁴ In accordance with § 192.481 and its own procedures, NGTSC should have identified in its procedures that there was a need to give particular attention to facilities covered by thermal insulation and should have provided guidance on how to do that.

In summary, the record shows that NGTSC failed, in conducting its atmospheric corrosion program, to pay particular attention to pipe under thermal insulation. This conclusion is supported by the company's failure to include in its procedures any guidance on how to identify those locations where pipe under insulation might be particularly susceptible to corrosion, by the fact that there were no records of insulation ever having been removed during NGTSC inspections, and by the statements of company personnel who acknowledged that they had never removed insulation at the Easton and Hellertown Compressor Stations. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.481(b) by failing to give particular attention during atmospheric corrosion inspections to portions of the pipeline under thermal insulation.

This finding 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, Respondent is subject to an 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. 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; 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 \$28,700 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$28,700 for Respondent's violation of 49 C.F.R. § 192.481(b), for failing to give particular attention during atmospheric corrosion inspections to portions of the pipeline under thermal insulation. As discussed above, I found that

⁴ PHMSA Interp. No. PI-ZZ-092 (Feb. 14, 2003) (on file with PHMSA).

NGTSC failed to give particular attention during atmospheric corrosion inspections to portions of the pipeline under thermal insulation.

NGTSC requested withdrawal of the civil penalty associated with Item 1, citing the \$250,000 cost it would likely incur in meeting the terms of the proposed Compliance Order. Additionally, NGTSC asserted that it had taken various actions to improve its corrosion control program. Respondent completed atmospheric corrosion on inspections on the insulated piping on September 28, 2011, at Hellertown and on December 13, 2011, at Easton.

While I acknowledge the value of these various actions taken by NGTSC, the fact remains that most of them were performed after the inspection and were ones that any reasonable and prudent operator might take following an inspection to ensure compliance and to protect against atmospheric corrosion. I also find that the actions taken do not cure the violation itself or warrant a reduction in the civil penalty. Accordingly, having reviewed the record and considered the assessment criteria for the Item cited above, I assess Respondent a civil penalty of **\$28,700** for violation of 49 C.F.R. § 191.481(b).

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such 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, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$28,700 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 district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for violation of 49 C.F.R. § 192.481(b). 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 has indicated that Respondent has taken the following actions to address some of the cited violations:

With respect to the violation of 49 C.F.R. § 192.481(b) (**Item 1**), NGTSC provided an amended procedure titled 70.001.001 Inspection – Atmospheric Corrosion.

However, I find that compliance has not been achieved with respect to this violation. The amended procedure submitted by NGTSC remains inadequate because it provides no guidance as

to how company personnel should identify those areas where corrosion is likely to occur. Therefore, 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:

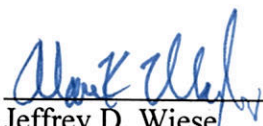
1. With respect to the violation of § 192.481 (**Item 1**), Respondent must:
 - a. In regard to Item Number 1 of the Notice, pertaining to atmospheric corrosion on piping under thermal insulation, NGTSC shall modify its written Procedure 70.001.001, Inspection – Atmospheric Corrosion, Section 2.5, to provide specific details on how it will give particular attention to monitoring atmospheric corrosion on piping under thermal insulation. The revised procedure shall provide guidance to its staff in identifying where atmospheric corrosion is more likely to occur. Subsequently, NGTSC must identify those locations at Easton and Hellertown Compressor Stations. The revised procedures must be submitted to PHMSA for review.
 - b. The revised written procedures shall be completed within 30 days of receipt of the Final Order. NGTSC shall provide documentation to demonstrate that the appropriate inspections have been completed in accordance with the revised written procedure within 120 days of receipt of the Final Order.
 - c. It is requested that NGTSC maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Byron Coy, Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. 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.

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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 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. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of

any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

for: 

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

DEC 27 2012

Date Issued