



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

August 16, 2021

VIA ELECTRONIC MAIL TO: jhartz@ugies.com

Mr. Joseph L. Hartz
President of UGI Energy Services, LLC
1 Meridian Blvd.
Wyomissing, PA 19610

CPF No. 1-2020-009-NOPSO

Dear Mr. Hartz:

Enclosed please find a Consent Order incorporating the terms of the Consent Agreement between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and UGI Energy Services, LLC (UGIES), which was executed on August 10, 2021. Service of the Consent Order and Consent Agreement by e-mail is deemed effective upon the date of transmission, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

ALAN KRAMER
MAYBERRY

Digitally signed by ALAN
KRAMER MAYBERRY
Date: 2021.08.13
16:13:12 -04'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosures: Consent Order
Consent Agreement

cc: Mr. Robert Burrough, Director, Eastern Region, Office of Pipeline Safety, PHMSA
Ms. Mary McDaniel, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Frank Markle, Senior Counsel, UGI Corporation, marklef@ugicorp.com
Mr. Keith Coyle, Babst Calland, Counsel for UGIES, kcoyle@babstcalland.com
Ms. Brianne Kurdock, Babst Calland, Counsel for UGIES, bkurdock@babstcalland.com

CONFIRMATION OF RECEIPT REQUESTED

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

In the Matter of

UGI Energy Services, LLC,

Respondent.

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CPF No. 1-2020-009-NOPSO

CONSENT AGREEMENT

On September 4, 2020, the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety, issued a Notice of Proposed Safety Order (Notice) to UGI Energy Services, LLC, a subsidiary of UGI Corporation (UGIES or Respondent).¹ PHMSA issued the Notice after it initiated an investigation into the safety of the liquefied natural gas (LNG) storage tank 1 at the Temple LNG Peak Shaving Plant (Temple 1).

The Notice alleged two conditions exist with Temple 1 that pose a potential pipeline integrity risk to public safety, property, or the environment. Those two conditions were identified as deformation at various anchor strap locations along the circumference of Temple 1's outer tank and natural gas migration between the tank floor and the foundation. The Notice proposed that Respondent take certain corrective actions to remedy the alleged conditions and ensure that the public, property, and the environment are protected from potential risk.

On September 20, 2020, UGIES responded to the Notice by timely submitting a written response and a request for an informal consultation. Two informal consultations were held on October 28, 2020 and November 12, 2020. After the informal consultations, pursuant to 49 C.F.R. § 190.239(b)(3), UGIES requested a hearing on January 19, 2021. A hearing was held virtually on April 6, 2021 before a PHMSA Presiding Official.

Following the hearing, PHMSA and UGIES (collectively, the Parties) reengaged in settlement discussions and have jointly determined that settlement of this proceeding will avoid further administrative proceedings or litigation and that entering into this Consent Agreement (Agreement) is the most appropriate means of resolving the issues raised in the Notice. Therefore, pursuant to 49 C.F.R. Part 190, without adjudication of any issue of fact or law, and upon consent and agreement of the Parties, UGIES and PHMSA agree to the terms and conditions set forth in this Agreement.

¹ UGIES is a wholly owned subsidiary of UGI Corporation, an international energy distribution and services company.

I. General Provisions

1. Respondent acknowledges that as the operator of Temple 1, Respondent is subject to the jurisdiction of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Agreement, Respondent acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. 60101, *et seq.*, and the regulations and orders issued thereunder.
2. Respondent agrees, for purposes of the Agreement, to address the integrity risks identified in the Notice by completing the actions specified in Section II of the Agreement (Corrective Measures) and to abide by the terms of this Agreement. This Agreement does not constitute a finding of violation of any Federal law or regulation and may not be used in any civil or administrative proceeding of any kind as evidence or proof of any fact, fault or liability, or as evidence of the violation of any law, rule, regulation or requirement, except in a proceeding to enforce the provisions of this Agreement.
3. After Respondent returns this signed Agreement to PHMSA, a PHMSA's representative will present it to the Associate Administrator for Pipeline Safety recommending that the Associate Administrator adopt the terms of this Agreement by issuing an administrative order (Consent Order) incorporating the terms of this Agreement. The terms of this Agreement constitute an offer of settlement until accepted by the Associate Administrator. Once accepted, the Associate Administrator will issue a Consent Order incorporating the terms of the Agreement.
4. Respondent consents to the issuance of the Consent Order, and hereby waives any further procedural requirements with respect to its issuance. Respondent waives all rights to contest the adequacy of notice, or the validity of the Consent Order or this Agreement, including all rights to administrative or judicial hearings or appeals, except as set forth herein.
5. This Agreement shall apply to and be binding upon PHMSA, and upon UGIES, its officers, directors, and employees, and its successors, assigns, or other entities or persons otherwise bound by law. Respondent agrees to provide a copy of this Agreement and any incorporated work plans and schedules to all of UGIES' officers, employees, and agents whose duties might reasonably include compliance with this Agreement.
6. For all transfers of ownership or operating responsibility of the Temple LNG Peak Shaving Plant, Respondent will provide a copy of this Agreement to the prospective transferee at least 30 days prior to such transfer and simultaneously provide written notice of the prospective transfer to the PHMSA Southwest Region Director (Director), with a copy to the Eastern Region Director, who issued the Notice.²
7. This Agreement constitutes the final, complete and exclusive agreement and understanding between the Parties with respect to the subject matter of the Notice and the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements or

² Although PHMSA Eastern Region Director issued this Notice for this matter, for the purposes of this Agreement, Director is defined as PHMSA Southwest Region Director.

understandings relating to settlement other than those expressly contained in this Agreement, except that the terms of this Agreement may be construed by reference to the Notice.

8. Nothing in this Agreement affects or relieves Respondent of its responsibility to comply with all applicable requirements of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder. Nothing in this Agreement alters PHMSA's right of access, entry, inspection, and information gathering or PHMSA's authority to bring enforcement actions against UGIES pursuant to the Federal pipeline safety laws, the regulations and orders issued thereunder, or any other provision of Federal or State law.

9. This Agreement does not waive or modify any Federal, State, or local laws or regulations that are applicable to Respondent's LNG or pipeline systems. This Agreement is not a permit, or a modification of any permit, under any Federal, State, or local laws or regulations. UGIES remains responsible for achieving and maintaining compliance with all applicable Federal, State, and local laws, regulations and permits.

10. This Agreement does not create rights in, or grant any cause of action to, any third party not party to this Agreement. The U.S. Department of Transportation is not liable for any injuries or damages to persons or property arising from acts or omissions of Respondent or its officers, employees, or agents carrying out the work required by this Agreement. UGIES agrees to hold harmless the U.S. Department of Transportation, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of Respondent or its contractors in carrying out any work required by this Agreement.

11. Upon issuance of the Consent Order, UGIES agrees to perform the Corrective Measures set forth below in Section II.

II. Corrective Measures

12. ***Temporary Gas Detection.*** Within 15 days of the Effective Date of the Consent Order, UGIES shall begin to implement and follow of its *Alarm Response LNG Tank Gas Detection Procedure*, including ordering any necessary gas detection equipment. *See* Appendix A. The gas detection equipment must be installed no later than 15 days after receipt of the equipment and must be continuously operated in place until approval is given by the Director for removal. UGIES must comply with the notification requirements in paragraph 16 if a gas leak is discovered at Temple 1. UGIES must obtain the Director's approval under paragraph 21 to modify the procedures referenced in Appendix A.

13. ***Heater Cable Replacement Project.*** Within 30 days of the Effective Date of the Consent Order, UGIES must begin installing the heater cable replacement project as described in the *Conduit Cleaning and Heater Tube Installation Procedure*. *See* Appendix B. UGIES must complete the heater cable replacement project within 120 days of initiating the work. UGIES must comply with the notification requirements in paragraph 16 when the heater cable replacement project is initiated, if issues (including unexpected events, such as the presence of natural gas, broken equipment or facilities, a fire, or inability to follow its procedures) are encountered during the project or while the facilities are readied for service. UGIES must also comply with the

notification requirements in paragraph 16 if any of the following events occur during the heater replacement project: (i) conduits 1, 3, 4, 6, 8, 10, 12, 14, 16, 17, or 19 are sealed and abandoned, (ii) more than 50 percent of the total number of conduits are sealed and abandoned, (iii) any adjacent conduits are sealed and abandoned, or (iv) additional engineering approval is sought from Matrix PDM to proceed with the project. UGIES will not use any of the facilities installed as part of the heater cable replacement project for more than five years from the in-service date. UGIES must obtain the Director's approval under paragraph 21 to modify the procedures referenced in Appendix B.

14. **Shell Deformation.** Upon the Effective Date of the Consent Order, UGIES will implement and follow the provisions in the *MP-65, LNG Tank Foundation Settlement Inspection* and *MP-108, LNG Tank Shell Deformation Assessment*. See Appendix C. UGIES must conduct an inspection of Temple 1 for foundation settlement and shell deformation at least once each calendar year, but at intervals not to exceed fifteen months. UGIES must comply with the notification requirements in paragraph 16 to provide the annual inspection results to PHMSA. UGIES must obtain the Director's approval under paragraph 21 to modify the procedures referenced in Appendix C.

15. **Long-Term Remediation Plan.** UGIES will promptly commence development of a plan to either: (i) temporarily remove Temple 1 from service in order to conduct an internal inspection of Temple 1, identify the root cause of the gas migration problem, and complete remediation; or (ii) decommission Temple 1, in which case UGIES may replace the LNG storage and/or deliverability of Temple 1 with other assets to be constructed at the Temple LNG Terminal or another location (Long-Term Remediation Plan). UGIES will complete the necessary analysis, select an option, and obtain management approval for the recommended (i) remediation or (ii) decommission and replacement, and provide the Director with the Long-Term Remediation Plan within twelve months of the Effective Date of the Consent Order. UGIES must include an implementation schedule in the Long-Term Remediation Plan that requires the completion of all necessary activities by no later than July 1, 2025. If UGIES elects to perform an internal tank inspection, the implementation schedule must require Temple 1 to be temporarily removed from service for the performance of that inspection by no later than July 1, 2023. The terms of the Long-Term Remediation Plan, except for provisions related to the replacement of Temple 1 or the construction of new LNG facilities, will be subject to the Director's approval. The replacement of Temple 1 or construction of any new LNG facilities would be governed by applicable law, including 49 C.F.R. Part 193. UGIES must comply with the notification requirements in paragraph 16 upon completion of the provisions in the Long-Term Remediation Plan.

16. **Notification.** UGIES must notify the Director within 48 hours of any of the following events:

- (1) a gas leak of any concentration discovered at Temple 1;
- (2) the heater cable replacement project is initiated in accordance with the procedures referenced in Appendix B;
- (3) any issues are encountered during the heater cable replacement project performed under the procedures referenced in Appendix B;

- (4) conduits 1, 3, 4, 6, 8, 10, 12, 14, 16, 17, or 19 are sealed and abandoned, more than 50 percent of the total number of conduits are sealed and abandoned, any adjacent conduits are sealed and abandoned, or additional engineering approval is sought from Matrix PDM to proceed with the project under the procedures referenced in Appendix B;
- (5) the facilities installed as part of the heater cable replacement project are ready for service under the procedures referenced in Appendix B;
- (6) the results of an annual foundation settlement or shell deformation inspection performed under the procedures referenced in Appendix C are complete; or
- (7) implementation of the Long-Term Remediation Plan referenced in paragraph 15 is complete.

17. ***Quarterly Reports.*** UGIES will submit quarterly reports to the Director that: (1) include analysis of all available data and results of the testing and evaluations required by this Agreement; and (2) describe the progress of the repairs and other remedial actions being undertaken as required by this Agreement. The first report will be due 45 days from the Effective Date of the Consent Order.

18. ***Referenced Procedures.*** UGIES must provide copies of the procedures referenced in this Agreement not previously provided to the Director for review and acceptance. No Corrective Measure shall be performed pursuant to a procedure referenced in this Agreement that has not be reviewed and accepted by the Director.

19. ***Extensions of Time.*** The Director may grant an extension of time for compliance with any of the terms of the Agreement upon a written request timely submitted demonstrating good cause for an extension. The Director shall respond in writing to any such request.

20. ***Appeals.*** Respondent may appeal any decision of the Director to the Associate Administrator for Pipeline Safety. Decisions of the Associate Administrator will be final.

III. Review and Approval Process

21. With respect to any submission under Section II (Corrective Measures) of this Agreement that requires the approval of the Director, the Director may: (a) approve, in whole or in part, the submission, (b) approve the submission on specified, reasonable conditions, (c) disapprove, in whole or in part, the submission, or (d) any combination of the foregoing. If the Director approves, approves in part, or approves with conditions, UGIES will take all action as approved by the Director, subject to Respondent's right to invoke the dispute resolution procedures in Section IV with respect to any conditions the Director identifies. If the Director disapproves all or any portion of the submission, the Director will provide UGIES with a written notice of the deficiencies. Respondent will correct all deficiencies within the time specified by the Director and resubmit it for approval.

IV. Dispute Resolution

22. The Director and UGIES will informally attempt to resolve any disputes arising under this Agreement. If Respondent and the Director are unable to informally resolve the dispute within 15

days of submittal of Respondent's invoking dispute resolution, UGIES may request in writing, within 10 days thereafter, a written determination resolving the dispute from the Associate Administrator for Pipeline Safety providing all information that Respondent believes is relevant to the dispute. If the request is submitted as provided herein, the Associate Administrator will issue a final determination in writing. The existence of a dispute and PHMSA's consideration of matters placed in dispute will not excuse, toll, or suspend any term or timeframe for completion of any work to be performed under this Agreement during the pendency of the dispute resolution process except as agreed by the Director or the Associate Administrator in writing.

V. Enforcement

23. This Agreement, as adopted by the Consent Order, is subject to all the enforcement authorities available to the PHMSA under 49 U.S.C. § 60101, *et seq.*, and 49 C.F.R. Part 190. All procedures set forth or referenced in Section II will be automatically incorporated into this Agreement and are enforceable in the same manner.

VI. Recordkeeping and Information Disclosure

24. Unless otherwise required in this Agreement, UGIES agrees to maintain records demonstrating compliance with all requirements of this Agreement for a period of at least five years following completion of all work to be performed. For any reports, plans, or other deliverables required to be submitted to PHMSA pursuant to this Agreement, UGIES may assert a claim of business confidentiality or other protections applicable to the release of information by PHMSA, covering part or all of the information required to be submitted to PHMSA pursuant to this Agreement in accordance with 49 C.F.R. Part 7. UGIES must mark the claim of confidentiality in writing on each page, and include a statement specifying the grounds for each claim of confidentiality. PHMSA determines release of any information submitted pursuant to this Agreement in accordance with 49 C.F.R. Part 7, the Freedom of Information Act, 5 U.S.C. § 552, DOT and PHMSA policies, and other applicable regulations and Executive Orders.

VII. Effective Date

25. The term "Effective Date," as used herein, is the date on which the Consent Order is issued by the Associate Administrator incorporating the terms of this Agreement. Unless specified to the contrary, all deadlines for actions required by this Agreement run from the Effective Date of this Consent Order.

VIII. Modification

26. The terms of this Agreement may be modified by mutual agreement of the Parties. Such modifications must be in writing and signed by both parties.

IX. Termination

27. This Agreement shall remain in effect until the Corrective Measures set forth in Section II are satisfied, as determined by the Director, or after UGIES decommissions Temple 1. Nothing in

this Agreement prevents UGIES from completing any of the obligations earlier than the deadlines provided for in this Agreement.

X. Ratification

28. The Parties' undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such party to this document.

29. The Parties hereby agree to all conditions and terms of this Agreement.

For Respondent:



Joseph L. Hartz
President of UGI Energy Services, LLC
8/10/21

Date

For PHMSA:

ROBERT
THOMAS
BURROUGH

Robert Burrough
Director, Eastern Region, Office of Pipeline Safety
08/10/2021

Date

Digitally signed by ROBERT
THOMAS BURROUGH
Date: 2021.08.10 12:52:42
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