



December 22, 2021

Via E-Mail and Overnight Delivery

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration
840 Bear Tavern Road, Suite 300
West Trenton, NJ 08628

RE: C.P.F. No. 1-2021-059-NOPV

Response to Notice of Probable Violation and Proposed Civil Penalty

Dear Mr. Burrough:

This letter constitutes the formal response of UGI Energy Services, LLC (UGIES or the Company) to the Notice of Probable Violation and Proposed Civil Penalty (NOPV) issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA) on November 24, 2021.

The NOPV alleged five probable violations of PHMSA's Part 195 regulations in connection with the procedures and records maintained for UGIES' intrastate hazardous liquid pipeline in Ohio (the NGL line). Specifically, PHMSA alleged a violation of §§ 195.402(a), 195.402(c)(13), 195.403(c), 195.420(b), and 195.452(b)(5). UGIES contests several of the alleged violations and provides the following information.

Item#1: Section 195.402(a)

In Item #1, PHMSA alleged that UGIES failed to prepare a complete operations, maintenance, and emergency manual before initial operations of the pipeline system commenced. PHMSA also asserted that UGIES failed to keep appropriate parts of the manual at locations where operations and maintenance activities are conducted.

UGIES' Response

Although UGIES acknowledges it did not have copies of those procedures available at the time of the inspection, PHMSA has not proven that the Company did not prepare "a complete operations, maintenance, and emergency manual" before initial operations of the pipeline system commenced.

UGIES acquired the NGL line on August 1, 2019. Between that date and March 2021, UGIES followed the TC Energy Operations and Maintenance (O&M) procedures. In March 2021, UGIES began implementing its own procedures for the NGL line. At no time did UGIES fail to have an O&M procedure in place for this NGL line. Therefore, UGIES respectfully requests that PHMSA rescind the portion of Item #1 related to failing to prepare a manual. UGIES also requests that PHMSA adjust the proposed civil penalty accordingly.

Item #2: Section 195.402(c)(13)

In Item #2, PHMSA alleged that UGIES failed to conduct an effectiveness review of the O&M procedure in 2019.

UGIES' Response

Section 195.402(c)(13) provides that an operator must review its procedures *periodically*, not annually. In 1994, as part of PHMSA's rulemaking to include an identical obligation for Part 192 operators, the Agency addressed the meaning of 'periodically'. The Agency stated that "[t]he regulation requires periodic review to allow operators flexibility in setting the intervals between reviews of their O&M procedures. As circumstances and job functions vary among operators, so would the frequency at which procedures are reviewed."¹

It is not reasonable to expect an operator who acquires assets to immediately conduct an effectiveness review of its procedures. The point of an effectiveness review is to determine whether the procedures are adequate. This is a process that takes time. It was not the intent of the code drafters for an operator to perform this review on Day 1 of ownership. Given that UGIES only owned the NGL line for five months in 2019, it is inappropriate to expect UGIES to have conducted an effectiveness review within such a short time frame in 2019. For these reasons, UGIES requests that PHMSA withdraw this warning item.

Item #3: Section 195.403(c)

PHMSA alleged that UGI failed to verify that its supervisors maintain a thorough knowledge of the emergency response procedures.

UGIES' Response

During the inspection, PHMSA requested records demonstrating emergency response training in 2019 and 2020. As stated above, UGIES only owned the NGL line for five months in 2019. However, the Company did run an emergency response tabletop exercise with local first

¹ Operation and Maintenance Procedures for Pipelines, Final Rule (PS-113), 59 Fed. Reg. 6,579, 6,582 (Feb. 11, 1994).

responders in the fall of 2019 at the Hickory Bend plant. As for training in 2020, UGIES did conduct a training and testing session for Hickory Bend employees (including the supervisor). UGIES has attached documentation of that training for the Agency's review.

Given that UGIES did not own the pipeline for the majority of 2019 and yet still made a concerted effort to comply with section 195.403(c), UGIES respectfully requests a civil penalty reduction based on good faith. UGIES took reasonable steps to verify knowledge of emergency response procedures during 2019.

Item #4: Section 195.420(a)

PHMSA alleged that UGIES failed to inspect each of its mainline valves at intervals not exceeding 7 ½ months, but at least twice each calendar year. Specifically, the Agency stated that UGIES did not inspect these valves in 2019. The Agency also alleged that UGIES did not inspect these valves within 7 ½ months of operating the pipeline.²

UGIES' Response

UGIES did not own the NGL line for 7 ½ months in 2019. However, the Company did conduct an inspection of these valves in October 2019. UGIES has attached documentation of these inspections for the Agency's review. Since the Company did conduct a valve inspection in 2019, UGIES respectfully requests that PHMSA withdraw this item.

Item #5: Section 195.452(b)(5)

PHMSA alleged that UGIES failed to follow section 9.4 of the *US-LIQ-HVL-IMP US Highly Volatile Liquid Integrity Management Program (Onshore) dated 07/02/2018* procedures. PHMSA stated that UGIES did not provide records of its integrity management effectiveness reviews for 2019 and 2020.

UGIES' Response

At the time of the inspection, UGIES was using TC Energy's Integrity Management (IM) procedures. Section 9.4 of that procedure required the Company to conduct an effectiveness review *annually*, not each calendar year.³ UGIES took ownership of the NGL line on August 1, 2019. Therefore, UGIES had until August 1, 2020 to conduct such a review for the first year of ownership.

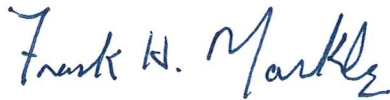
² NOPV, at 4.

³ Section 9.4 of the IM procedure provides that "the Management Review, as detailed in TEP-INT-MREV Pipeline Integrity Management Review Procedure (CDN-US-MEX) (EDMS No.: 006980169), is scheduled to occur **annually**." *US-LIQ-HVL-IMP US Highly Volatile Liquid Integrity Management Program (Onshore) dated 07/02/2018*.

In the Violation Report and Proposed Civil Penalty worksheet, PHMSA applies two instances of violation for this item. PHMSA also states that UGIES failed to conduct an effectiveness review for “two years.”⁴ This is incorrect. Per the provision laid out in the IM procedure, UGIES’ obligation was limited to one year (August 1, 2019-August 1, 2020). By March 2021, well in advance of the second deadline of August 1, 2021, UGIES had switched procedures. For these reasons, UGIES respectfully requests that PHMSA withdraw this allegation as it pertains to the 2019 timeframe and adjust the associated proposed civil penalty accordingly.

Please contact Keith Coyle at (202) 853-3460 or me at (610) 768-3625 with any questions or if you wish to discuss this matter further.

Very truly yours,

A handwritten signature in blue ink that reads "Frank H. Markle". The signature is written in a cursive, slightly stylized font.

Frank H. Markle
Senior Counsel
UGI Corporation

cc: Y. Ajoke Agboola, Counsel for PHMSA
Keith Coyle, Counsel for UGIES

⁴ Pipeline Safety Violation Report, at 21.