

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY**

VIA ELECTRONIC MAIL TO: jhartz@ugies.com

November 24, 2021

Mr. Joseph Hartz
Vice President Asset Management
UGI Energy Services
1 Meridian Boulevard
Wyomissing, PA 19610

CPF 1-2021-059-NOPV

Dear Mr. Hartz:

From March 29, 2021 to April 21, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) inspected UGI Energy Services' (UGI) procedures and records in New Middletown, Ohio.

As a result of the inspection, it is alleged that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§ 195.402 Procedural manual for operations, maintenance, and emergencies**
 - (a) ***General.*** Each operator shall prepare and follow for each pipeline system a manual of written procedures for conducting normal operations and maintenance activities and handling abnormal operations and emergencies. This manual shall be reviewed at intervals not exceeding 15 months, but at least once each calendar year, and appropriate changes made as necessary to insure that the manual is effective. This manual shall be prepared before initial operations of a

pipeline system commence, and appropriate parts shall be kept at locations where operations and maintenance activities are conducted.

UGI failed to prepare and follow a manual of written procedures for conducting normal operations and maintenance activities, and handling abnormal operations and emergencies before initial operation of its pipeline system commenced. UGI also failed to keep appropriate parts of the manual at locations where operations and maintenance activities are conducted.

During the inspection, PHMSA requested UGI's hazardous liquid operations, maintenance, and emergency manuals for 2019 and 2020. In response, UGI noted that it took ownership of the pipeline in August 2019 and did not have its own procedures prepared or in place at that time. Instead, UGI had adopted the previous operators' procedures, TC Energy. At the time of inspection, UGI no longer had access to, nor maintained at appropriate locations, many of TC Energy's operating procedures.¹ Further, UGI failed to review, at intervals not to exceed 15 months but at least once each calendar year, the TC Energy manuals they relied upon during 2019 and 2020. In addition, UGI utilized portions of its procedures for gas operations for its newly-acquired liquid assets. In March 2021, UGI completed operations, maintenance, and emergency manuals for its liquid assets.

Therefore, UGI failed to prepare a complete operations, maintenance, and emergency manual before initial operations of the pipeline system commenced, as required by § 195.402(a).

2. § 195.402 Procedural manual for operations, maintenance, and emergencies

(a) ...

(c) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following to provide safety during maintenance and normal operations:

(1) ...

(13) Periodically reviewing the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance and taking corrective action where deficiencies are found.

UGI failed to conduct periodic reviews of the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance, and take corrective action where deficiencies are found. Specifically, UGI failed to conduct an effectiveness review in 2019.

During the inspection, the PHMSA inspector requested effectiveness review records pertaining to § 195.402(c)(13) for 2019. UGI was unable to provide effectiveness review records or other documentation evidencing compliance for that year. UGI discussed that it did not conduct an effectiveness review in 2019 but that TC Energy had completed effectiveness reviews in 2019

¹ When the PHMSA inspector requested particular operations, maintenance, and emergency procedures utilized by UGI during 2019 and 2020, UGI was unable to provide nearly all of the procedures requested. Pipeline Safety Violation Report (Violation Report), at 3.

prior to the transfer to UGI.² However, an operator should not rely on a previous operators' effectiveness review since the implementation of procedural manuals can vary based on a variety of factors unique to each operator, including personnel.

Therefore, UGI failed to conduct periodic reviews of the work done by operator personnel to determine the effectiveness of the procedures used in normal operation and maintenance, as required by § 195.402(c)(13).

3. § 195.403 Emergency response training

(a) ...

(c) Each operator shall require and verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under 195.402 for which they are responsible to ensure compliance.

UGI failed to require and verify that its supervisors maintain a thorough knowledge of emergency response procedures for which they are responsible to ensure compliance in accordance with § 195.403(c). Specifically, UGI's procedures failed to include emergency response supervisor training or verification requirements.

During the inspection, PHMSA requested records or other documentation evidencing compliance for emergency response supervisor training for 2019 and 2020. UGI was unable to provide any records for 2019. For 2020, UGI provided *Emergency Management Institute – FEMA-Introduction to Incident Command System, dated 08/31/20* (Supervisor Record). However, the Supervisor Record did not mention any emergency response supervisor training, nor did it demonstrate verification that supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under § 195.402 for which they are responsible. When PHMSA asked if there were any additional training records for these timeframes, UGI stated that it was following TC Energy's procedure at the time and did not have further records on supervisor training.

Therefore, UGI failed to verify that its supervisors maintain a thorough knowledge of that portion of the emergency response procedures established under § 195.402 for which they are responsible to ensure compliance, as required by § 195.403(c).

4. § 195.420 Valve maintenance

(a) ...

² Violation Report at Exhibit A (UGI E-mail Correspondence, dated Apr. 28, 2021).

(b) Each operator shall, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly.

UGI failed to inspect each of its mainline valves at intervals not exceeding 7 1/2 months, but at least twice each calendar year, to determine they are functioning properly. Specifically, UGI failed to inspect each of its 10 mainline valves during 2019 and within 7 1/2 months of operating the pipeline.

During the inspection, PHMSA requested mainline valve records for 2019. UGI indicated that it did not have records for 2019, and that any potential records prior to August 2019 were held by TC Energy and not accessible to UGI.³ UGI was unable to provide any 2019 inspection records for its 10 mainline valves.

Additionally, after acquiring the pipeline in August 2019, UGI failed to inspect each mainline valve to determine that it was functioning properly within 7 1/2 months. The 2020 mainline valve inspection records UGI provided to PHMSA indicated that the 2020 inspections occurred in April and October of that year, exceeding the 7 1/2 month inspection interval.⁴

Therefore, UGI failed to, at intervals not exceeding 7 1/2 months, but at least twice each calendar year, inspect each mainline valve to determine that it is functioning properly, as required by § 195.420(b).

5. §195.452 Pipeline integrity management in high consequence areas.

(a) ...

(b) What program and practices must operators use to manage pipeline integrity? Each operator of a pipeline covered by this section must:

(1) ...

(5) Implement and follow the program.

UGI failed to implement and follow its integrity management program procedures. Specifically, UGI failed to follow its *US-LIQ-HVL-IMP US Highly Volatile Liquid Integrity Management Program (Onshore)*, dated 07/02/2018 (IMP Procedure) regarding conducting annual IMP effectiveness reviews.⁵

³ See 195.404(c)(3) (requiring operators to maintain “[a] record of each inspection and test required by this subpart for at least 2 years or until the next inspection or test is performed, whichever is longer.”).

⁴ The operator’s records did not specify the dates the inspections took place in the months of April and October. UGI should consider, however, requiring the date(s) of inspections be recorded on the appropriate forms, rather than simply the month(s). U.S. DEP’T OF TRANSP., PIPELINE & HAZARDOUS MATERIALS SAFETY ADMINISTRATION, OPERATIONS AND MAINTENANCE ENFORCEMENT GUIDANCE PART 195 SUBPART F 62–64 (last revised July 21, 2017).

⁵ § 195.452 Pipeline integrity management in high consequence areas

(a) ...

(k) *What methods to measure program effectiveness must be used?* An operator's program must include methods to measure whether the program is effective in assessing and evaluating the integrity of each pipeline segment and in protecting the high consequence areas. See Appendix C of this part for guidance on methods that can be used to evaluate a program's effectiveness.

During the inspection, PHMSA reviewed UGI's IMP Procedure, Section 9.4 which described an annual IMP Management Review process to determine the overall performance, continuing suitability, adequacy, and effectiveness of the IMP. PHMSA requested records for the IMP effectiveness reviews for 2019 and 2020.⁶ UGI did not provide any records for IMP effectiveness reviews for 2019 and 2020.

Therefore, UGI failed to follow its integrity management program written procedures for conducting annual IMP effectiveness reviews for 2019 and 2020, as required by § 195.452(b)(5).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022.

We have reviewed the circumstances and supporting documentation involved for the above probable violation and recommend that you be preliminarily assessed a civil penalty of \$150,100 as follows:

<u>Item number</u>	<u>PENALTY</u>
1	\$61,100
3	\$27,900
5	\$61,100

Warning Items

With respect to items 2 and 4, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct these items. Failure to do so may result in additional enforcement action.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Enforcement Proceedings*. Please refer to this document and note the response options. All

⁶ See § 195.452(l)(1) (requiring operators to “maintain, for the useful life of the pipeline, records that demonstrate compliance with the requirements of [195.452].”).

material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 1-2021-059-NOPV**, and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Robert Burrough
Director, Eastern Region, Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Pipeline Operators in Enforcement Proceedings*