

March 5, 2024

VIA ELECTRONIC MAIL TO: grichman@njresources.com

Ms. Ginger Richman
President
Adelphia Gateway, LLC
1415 Wyckoff Road
P.O. Box 1464
Wall, New Jersey 07719

Re: CPF No. 1-2023-008-NOPV

Dear Ms. Richman:

Enclosed please find the Final Order issued in the above-referenced case. It makes a finding of violation and assesses a civil penalty of \$56,600. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated July 14, 2023. It also finds that Adelphia Gateway, LLC, has completed the actions specified in the Notice to comply with the pipeline safety regulations. This enforcement action will close in 20 days. Service of the Final Order by e-mail is effective upon the date of transmission and acknowledgement of receipt as provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Robert Burrough, Director, Eastern Region, Office of Pipeline Safety, PHMSA
Mr. Aaron Bass, Director of Engineering, Integrity, and Compliance, Adelphia Gateway,
abass@njresources.com

CONFIRMATION OF RECEIPT REQUESTED

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

In the Matter of)	
Adelphia Gateway, LLC,)	
Respondent.)	CPF No. 1-2023-008-NOPV

FINAL ORDER

From June 1 to June 2, 2022, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), inspected Adelphia Gateway, LLC’s (Respondent or Adelphia) pipeline project in Montgomery County, Pennsylvania. Adelphia is an 84-mile-long interstate pipeline in eastern Pennsylvania that extends from Lower Mount Bethel Township in North Hampton County to Marcus Hook in Delaware County.¹ Respondent is owned and operated by NJR Midstream, also known as Storage and Transportation.²

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated June 15, 2023, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Adelphia had committed one violation of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$56,600 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

Adelphia responded to the Notice by letter dated July 14, 2023 (Response). Respondent did not contest the allegation of violation or the proposed compliance order, but did request that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

¹ *About Us*, ADELPHIA GATEWAY, <https://www.adelphiagateway.com/about/index.aspx> (last accessed October 24, 2023).

² *Id.*

FINDING OF VIOLATION

In its Response, Adelphia did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.707(c), which states:

§ 192.707 Line markers for mains and transmission lines.

(a)

(c) *Pipelines aboveground.* Line markers must be placed and maintained along each section of a main and transmission line that is located aboveground in an area accessible to the public.

The Notice alleged that Respondent violated 49 C.F.R. § 192.707(c) by failing to place line markers along sections of transmission line facilities located aboveground in an area accessible to the public. Specifically, the Notice alleged that Adelphia failed to place line markers noting the required content, including warnings, name of operator and contact telephone number at the Perkiomen main line valve (MLV) site and the East Perkiomen MLV site locations, which are located on Adelphia's 18-inch diameter southern portion mainline.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Adelphia violated 49 C.F.R. § 192.707(c) by failing to place line markers along sections of transmission line facilities located aboveground in an area accessible to the public.

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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for any related series of violations.³

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; any effect that the penalty may have on its ability to continue doing business; the good faith of Respondent in attempting to comply with the pipeline safety regulations; and self-disclosure or actions to correct a violation prior to discovery by PHMSA. 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.

³ These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223 for adjusted amounts.

Item 1: The Notice proposed a civil penalty of \$56,600 for Respondent’s violation of 49 C.F.R. § 192.707(c), for failing to place line markers along sections of transmission line facilities located aboveground in an area accessible to the public. In its Response, Adelphia requested a reduction of the civil penalty based on its “development and implementation of a comprehensive compliance program” and “enactment of damage prevention initiatives.” Adelphia’s Response included photos of newly installed line markers at the cited facilities (dated after the inspection), a list of locations of newly installed line markers, a purchase order evidencing line marker supply purchases, and a statement that it had either repaired, replaced, or added over 120 pipeline markers, including those required by the proposed compliance order. Respondent further stated that it “continues to execute a pipeline marker repair, replacement, remediation, and enhancement program.”

PHMSA appreciates respondent’s execution of “a pipeline marker repair, replacement, remediation, and enhancement program” and its other described initiatives, per the Response, however, those actions occurred after PHMSA’s inspection. The correction of pipeline safety violations identified during or after an inspection, but potentially prior to PHMSA’s issuance of a Notice of Probable Violation, is not a basis to reduce a civil penalty. Adelphia’s Response did not set forth any other argument indicating that any of the factors selected in the determination of the proposed civil penalty were incorrect, or that the points assigned for these factors in the civil penalty worksheet warrant adjustment.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$56,600** for violation of 49 C.F.R. § 192.707(c). This amount was paid in full by wire transfer on July 14, 2023.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for the violation of 49 C.F.R. § 192.707(c). 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 indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 192.707(c) (**Item 1**), Respondent has installed proper line markers in accordance with 49 C.F.R. § 192.707 at its Perkiomen and East Perkiomen sites and at all other aboveground natural gas facilities it owns and/or operates.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice are not included in this Order.

Under 49 C.F.R. § 190.243, Respondent may submit a Petition for Reconsideration of this Final Order to the 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. The written petition must be received no later than

20 days after receipt of the Final Order by Respondent. Any petition submitted must contain a statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.243.

The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

March 5, 2024

Alan K. Mayberry Date Issued
Associate Administrator
for Pipeline Safety