



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

1200 New Jersey Avenue, SE
Washington, DC 20590

VIA ELECTRONIC MAIL TO: paul.ruppert@bhegts.com

Mr. Paul Ruppert
President
Eastern Gas Transmission and Storage, Inc.
6603 West Broad Street
Richmond, VA 23200

Re: CPF No. 1-2023-028-NOPV

Dear Mr. Ruppert:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws the Notice of Probable Violation and terminates this enforcement proceeding, without prejudice, as a matter of administrative discretion. This enforcement action is now closed. 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,

for Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Robert Burrough, Director, Eastern Region, Office of Pipeline Safety,
robert.burrough@dot.gov
Ms. Brianne Kurdock, Counsel for EGT&S, Babst Calland, bkurdock@babstcalland.com

CERTIFIED MAIL - RETURN 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	)	
	)	
Eastern Gas Transmission	)	CPF No. 1-2023-028-NOPV
and Storage, Inc.	)	
	)	
Respondent.	)	
	)	

FINAL ORDER

From September 7 through November 10, 2022, pursuant to 49 U.S.C. § 60117, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), conducted an on-site pipeline safety inspection of the facilities and records of Eastern Gas Transmission and Storage, Inc. (EGT&S or Respondent) in and around Luthersburg, Pennsylvania. EGT&S operates approximately 3,600 miles of natural gas gathering and transmission pipelines in 6 states.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated May 25, 2023, a Notice of Probable Violation and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that EGT&S had violated 49 C.F.R. § 192.167(a)(4) and proposed ordering Respondent to take certain measures to correct the alleged violation.

EGT&S responded to the Notice by letter dated July 28, 2023 (Response). EGT&S contested the allegation and requested an informal hearing. EGT&S submitted additional written material on February 12, 2024 (Pre-hearing submission). A hearing was subsequently held on February 22, 2024, in West Trenton, New Jersey before a Presiding Official from the PHMSA Office of Chief Counsel. At the hearing, Respondent was represented by counsel. After the hearing, Respondent provided additional written material for the record by letter dated March 25, 2024 (Post-hearing submission). The Director provided a recommendation on April 24, 2024 (Recommendation) and EGT&S submitted a reply to the Recommendation on May 24, 2024 (Reply).

¹ PHMSA Violation Report at 1.

WITHDRAWAL OF 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. § 192.167(a)(4), which states:

§ 192.167 Compressor stations: Emergency shutdown.

(a) Except for unattended field compressor stations of 1,000 horsepower (746 kilowatts) or less, each compressor station must have an emergency shutdown system that meets the following:

(1)...

(4) It must be operable from at least two locations, each of which is:

(i) Outside the gas area of the station;

(ii) Near the exit gates, if the station is fenced, or near emergency exits, if not fenced; and

(iii) Not more than 500 feet (153 meters) from the limits of the station.

The Notice alleged that Respondent violated 49 C.F.R. § 192.167(a)(4) by failing to have an emergency shutdown (ESD) system for an attended compressor station that can be triggered from at least two locations that are near exit gates. Specifically, the Notice alleged that the minimum of two ESD triggers at the fenced South Bend compressor station were not located near the exit gates on the fence line as required by the regulation.

In its Response and at the hearing, EGT&S contested the allegation, primarily arguing that the two minimum ESD triggers at issue were positioned in a manner that met the regulatory requirement for location near the exit gates of the facility.

The facts in this case are undisputed. The South Bend compressor station, which is fenced, was originally constructed and placed into service in 1951. Beginning in 1961, modifications were made to the facility which included the installation of additional ESD triggers. These modifications also included alterations to the fence line of the facility and these alterations put the minimum of two ESD triggers at a further distance from the exit gates than was the case originally. Following these alterations, the closest of the two ESD triggers is now 145 feet from the nearest exit gate and the second closest is 171 feet from the nearest exit gate.²

Respondent disagreed with OPS that the locations of the two closest ESD triggers, at distances of 145 feet and 171 feet from the exits, were not near the exits for purposes of the cited regulation, and asserted that OPS' position was arbitrary and capricious.

I acknowledge that EGT&S is correct in its Response that § 192.167 is not a prescriptive

² There are now a total of five emergency shutdown triggers within the facility, the other three being located at distances greater than 171 feet from the respective exit gates nearest to each of them.

regulation that dictates exactly how many feet the ESD triggers must be from the exit gates, although the purpose of the regulation is clear—to ensure employees who are rapidly evacuating the facility due to a gas leak or fire emergency can hit the shutdown as soon as practicable after exiting through the gate and not be at any further risk or needing to do so further inside the facility.

In addition, it should be noted that the regulation does provide operators with a degree of flexibility to account for unique circumstances at a given facility that should be considered when determining the proximity of the required ESD trigger to a gate, and would justify a particular distance.

Accordingly, after considering all of the evidence and circumstances of this case, I hereby withdraw the alleged violation 49 C.F.R. § 192.167(a)(4), without prejudice, as a matter of administrative discretion. The decision to exercise enforcement discretion in this matter is specific to the facts of this incident. This case is now closed.

WITHDRAWAL OF COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 1 in the Notice for Respondent's alleged violation of 49 C.F.R. § 192.167(a)(4) for failing to have an emergency shutdown system for an attended compressor station that is operable from at least two locations that are near exit gates which is also withdrawn.

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 of the order, including corrective action, remain in effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

for Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued