EASTERN
GAS TRANSMISSION AND STORAGE
A BERKSHIRE HATHAWAY ENERGY COMPANY

Eastern Gas Transmission and Storage, Inc.
925 White Oaks Blvd
Bridgeport, WV 26330

July 28, 2023

Mr. Robert Burrough
Director, Eastern Region
Office of Pipeline Safety
Pipeline and Hazardous Materials Safety Administration
840 Bear Tavern Road, Suite 300
West Trenton, New Jersey 08628

Re: CPF 1-2023-028-NOPV

Dear Mr. Burrough:

Please find the Eastern Gas Transmission and Storage, Inc. (EGTS) response to Notice of Probable Violation and Proposed Compliance Order CPF 1-2023-028-NOPV, dated May 25, 2023.[1] Specifically, PHMSA noted the following alleged probable violation:

***1. § 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:**
**(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.**

*EGT&S failed to have an emergency shutdown system that is operable from at least two locations that are near exit gates for a fenced compressor station.*

*EGT&S' South Bend compressor station is an attended compressor station that is fenced and does not have at least two emergency shutdown system trigger valves that are near the exit gates. There are no emergency shutdown triggers located near an exit gate at this facility.*

*On October 20, 2022, the PHMSA inspector conducted field observations at the South Bend compressor station and noted the locations of the emergency shutdown system trigger valves. The PHMSA inspector did not observe any emergency shutdown system trigger valves at the fence line or near the man gates at the fence. In post-inspection communication with EGT&S, the PHMSA inspector requested documentation of the emergency shutdown system trigger valve locations at the South Bend compressor station. EGT&S provided a Google Earth screenshot with annotations indicating the locations of the trigger valves and the closest exit gates on the fence line. The documentation confirmed that there were no emergency shutdown system trigger valves near the exit gates.*

[1] This response is being provided in accordance with the extension granted by Mr. Robert Burrough on June 22, 2023.

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*Therefore, EGT&S failed to have an emergency shutdown system that was operable from at least two locations near exit gates at its South Bend compressor station pursuant to § 192.167(a)(4)(ii)*

**EGTS Response:**

EGTS appreciates PHMSA's pipeline safety audit of the South Bend compressor station but disagrees with the assertion that the station did not meet the intent and requirements of § 192.167(a)(4)(ii).

***The emergency shut down (ESD) trigger valves were purposely positioned to maintain the safety of EGTS's employees.***

There are six ESD trigger valves and four emergency exits at the station. Three of the ESD trigger valve locations are set outside of the gas area of the station and can easily be reached in route to an emergency exit location. In a previous enforcement case, PHMSA stated that the requirement for an ESD trigger valve to be located near the exit gates is "*intended to ensure that onsite personnel can activate the ESD System from a safe distance before leaving a compressor station in an emergency.*" The South Bend compressor station ESD trigger valves are located outside of the gas areas and are at a safe distance to allow employees to activate the ESD in route to safely evacuating the facility via exit gates. Additionally, there are three ESD trigger valve locations within the gas area of the station for prompt reaction if an employee were in or near the pumphouse and could be operated safely in route to an emergency exit gate.

***The regulation requires ESDs to be placed no more than 500 feet from the limits of the station and the agency does not define "near" differently in any guidance materials.***

PHMSA has acknowledged that the regulations do not specify the maximum distance between ESD activation and the fence gate exit. "Near" is not defined in § 192.167(a)(4)(ii) but the code requirement does specify a defined distance that the ESD trigger valves must not be more than 500 feet from the limits of the station. The South Bend trigger valves are not more than 500 feet from the limits of the station and therefore EGTS is in compliance with section 192.167(a)(4)(ii).

PHMSA's interpretation in this case that "near" means a distance closer to the exit gate could conflict with the requirement of 192.167(a)(4)(iii) if a facility is large and the fence line is on the outer bounds of the facility. If it is PHMSA's position that trigger valves should be closer than 500 feet from the limits of the station, the agency has to provide operators with fair notice of this requirement. Operators do not have the necessary direction or guidance to know how "near" should be interpreted in each unique situation.[2] PHMSA should define the required distance

[2] The South Bend compressor station has been audited numerous times from 1970 to current. The field inspection portion of the PHMSA audit specifically asks if the compressor station meets the requirements of 192.167, as shown below from a 2012 audit questionnaire and is still listed in the current IA protocol question set. The distance from ESD trigger valves to emergency exits has not been identified as an issue in any previous audits.

**15.** ***Does each compressor station have an emergency shutdown system that is capable of being operated from at least two locations which are: 1) Outside the gas area of the station, 2) Near the exit gates, if the station is fenced, or near emergency exits, if not fenced, 3) And not more than 500 feet (153 meters) from the limits of the station?*** (FS.CS.ESDLOCATION.O) 192.167(a)(4)

Field observation.

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between emergency gates and ESD trigger valves if these are going to be identified as violations so future PHMSA audits will not identify distance between emergency gate and ESD trigger valve as a concern due to a change in PHMSA internal interpretation of "near".

***Even if section 192.167 could be interpreted as including a specific distance requirement between the ESD and the fence, such a requirement cannot be applied to the South Bend compressor station, a pre-code facility.***

The South Bend compressor station and ESD trigger valves were installed prior to the codification of 49 C.F.R. 192. The Pipeline Safety Laws prohibit PHMSA from retroactively applying certain standards to existing pipeline facilities. Section 60104(b) provides that "[a] design, installation, construction, initial inspection, or initial testing standard does not apply to a pipeline facility existing when the standard is adopted." 49 U.S.C. 60104(b). Congress enacted this provision to protect the industry from potentially having to replace otherwise safe pipelines just to comply with a federal standard. PHMSA is time-barred from asserting an allegation of a design violation decades after a facility was constructed.

PHMSA's interpretation should not result in a NOPV when the agency's position 1) was not properly evaluated through notice and comment proceedings, 2) is contrary to the language in the regulations providing that the ESDs must be located "not more than 500 feet from the limits of the station, and 3) may create confusion within the industry. EGTS respectfully requests an informal conference to discuss and hopefully resolve this matter. In order to preserve its rights, EGTS also submits a Request for Hearing and Preliminary Statement of Issues. EGTS hopes that the hearing will be unnecessary and that the parties can resolve this matter informally.

If you have any questions, concerns, or should require additional information, please contact Dan Stahl at 681-842-3365 (office) or 304-266-6062 (mobile).

Respectfully,

John M. Lamb
Vice President, Eastern Pipeline Operations
Eastern Gas Transmission and Storage, Inc.
BHE Gas Transmission and Storage, Inc.