



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials
Safety Administration**

840 Bear Tavern Road, Suite 300
West Trenton, NJ 08628
609.771.7800

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED COMPLIANCE ORDER**

VIA ELECTRONIC MAIL TO: tina_faraca@tcenergy.com

December 4, 2023

Ms. Tina Faraca
President, US Natural Gas
TC Energy Corporation
700 Louisiana Street
Houston, Texas 77002

CPF 1-2023-047-NOPV

Dear Ms. Faraca:

From March 14 to November 3, 2022, 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.) performed an integrated inspection of ANR Pipeline Co's (ANR) inspection system #1168 in various locations throughout Mississippi, Tennessee, Arkansas, Louisiana and Kentucky.

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. **§ 192.707 Line markers for mains and transmission lines.**
 - (a) ***Buried pipelines.*** Except as provided in paragraph (b) of this section, a line marker must be placed and maintained as close as practical over each buried main and transmission line:
 - (1) ...
 - (2) Wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference.

ANR failed to place and maintain as close as practical pipeline markers described by § 192.707(d) over each buried main and transmission line wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference, as required by § 192.707(a)(2).

During field observation of PHMSA inspection system 1168 between the dates of September 19-September 30, 2022, PHMSA observed ANR's pipeline facilities located throughout Kentucky, Tennessee, and Mississippi. The bulk of the pipeline facilities are located below grade within defined pipeline right of ways that contained one (1) to three (3) pipelines. PHMSA observed multiple locations where ANR failed to follow the requirements of § 192.707(a)(2). Specific instances of failure for ANR to place pipeline markers as described by § 192.707(d)¹ were noted as follows in the areas listed below:

- PHMSA Inspection Unit 2002, MLV 501-43 Site, located near Dawson Springs, Kentucky: During the PHMSA inspection week of 09/19/2022 – 09/23/2022 the PHMSA inspector was unable to observe or ascertain the approximate location of the pipeline facilities by way of pipeline markers as required by § 192.707(a). The pipeline right of way stretched through a clear-cut section of trees in an area that was uncultivated, and to where no hindrances were observed that would make placement of markers impractical to meet the requirements of § 192.707(a), and to reduce the possibility of damage or interference as required by § 192.707(a)(2).
- PHMSA Inspection Unit 1062, MLV 501-30 site, located near Piperton, Tennessee: During the PHMSA inspection week of 09/26/2022 – 09/30/2022, the PHMSA inspector was unable to observe or ascertain the approximate location of the pipeline facilities by way of pipeline markers as required by § 192.707(a). The pipeline right of way stretched an area to where no hindrances were observed that would make placement of markers impractical to meet the requirements of § 192.707(a), and to reduce the possibility of damage or interference as required by § 192.707(a)(2).

The PHMSA inspector also observed on-going construction in an area where it was reported by the operator that there was no one-call placed by the excavator placed with the State's Damage Prevention system, which resulted in construction activities taking place across and near the pipelines in an open area where pipeline markers were absent and/or the approximate location of the pipelines could not be ascertained during unauthorized construction activities. The active construction equipment was observed crossing the

¹ § 192.707 Line markers for mains and transmission lines.

(a) ...

(d) *Marker warning.* The following must be written legibly on a background of sharply contrasting color on each line marker:

(1) The word "Warning," "Caution," or "Danger" followed by the words "Gas (or name of gas transported) Pipeline" all of which, except for markers in heavily developed urban areas, must be in letters at least 1 inch (25 millimeters) high with ¼ inch (6.4 millimeters) stroke.

(2) The name of the operator and telephone number (including area code) where the operator can be reached at all times.

pipeline(s) north of MLV 30 setting location with on-going construction that appeared to be located to the east of the multi-line pipeline ROW.

- PHMSA Inspection Unit 1052, Site 1: ANR MLV A501-29 site, located near Byhalia, Mississippi: During the PHMSA inspection week of 09/26/2022 – 09/30/2022 the pipeline right of way stretched through a clear-cut section of trees in an area that was uncultivated, and to where no hindrances were observed that would make placement of markers impractical to meet the requirements of 192.707(a), and to reduce the possibility of damage or interference as required by § 192.707(a)(2).
- PHMSA Inspection Unit 1052, Site 2: ANR Valve setting 501- 25 site located near Marks, Mississippi: during the week of 09/26/2022 – 09/30/2022. The PHMSA inspector observed a visible clear-cut pipeline ROW when facing south, but no pipeline markers were visible through uncultivated lands or at the tree lines where it may be practical to mark the line of sight of the pipelines to aid existing damage prevention program.

Therefore, ANR failed to place line markers wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference pursuant to § 192.707(a)(2).

2. § 192.731 Compressor stations: Inspection and testing of relief devices.

(a) Except for rupture discs, each pressure relieving device in a compressor station must be inspected and tested in accordance with §§192.739 and 192.743, and must be operated periodically to determine that it opens at the correct set pressure.

ANR failed to test and inspect relief valves in accordance with the interval prescribed by §§ 192.739(a)² and 192.743(a)³, as required by § 192.731(a). Section 192.731(a) requires that “ . . .each pressure relieving device in a compressor station must be inspected and tested in accordance with §§ 192.739 and 192.743”. Sections 192.739 and 192.743 specify intervals not exceeding 15 months, but at least once each calendar year, to conduct such inspections and tests. Specifically, ANR failed to test and inspect pressure relieving devices at intervals not exceeding 15 months, but at least once each calendar year.

² § 192.739 Pressure limiting and regulating stations: Inspection and testing.

(a) Each pressure limiting station, relief device (except rupture discs), and Pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is-

(1) In good mechanical condition;
 (2) Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;
 (3) Except as provided in paragraph (b) of this section, set to control or relieve at the correct pressure consistent with the pressure limits of §192.201(a); and
 (4) Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

³ §192.743 Pressure limiting and regulating stations: Capacity of relief devices

(a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in §192.739(b), the capacity must be consistent with the pressure limits of §192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations.

During the inspection week of August 15 – 19, 2022, the PHMSA inspector requested pressure relief valve testing and inspection records for safety relief valves located on tagged pipeline transmission equipment such as separators, scrubbers, gas line heaters and pulsation bottles. The equipment being protected from over pressure includes PHMSA-jurisdictional gas carrying pipeline facilities located at compressor stations subject to the requirements of Part 192. The equipment, and respective over pressure protection devices, commonly referred to as thermal relief valves, are typically designed and installed to ASME Boiler & Pressure Vessel Code Section VIII standards. PHMSA received the following records of select relief valves and their inspection dates:

- A listing of relief valves located on tagged interstate natural gas transportation equipment.

The document provided by ANR, dated 10/31/2022, tabulates safety relief valves located on tagged equipment that can be isolated bottle tight. The table contains columns titled “Notes” and “Capacity Notes” with details entered by ANR which declassify PHMSA-jurisdictional relief valves⁴, thereby avoiding the required inspection intervals prescribed by § 192.739(a) and § 192.743(a), as required by § 192.731(a).

- Compressor Station Relief Valve Work Orders.

A review of this work order list, titled Order Activity Report, dated 10/27/2022, illustrated that the following relieving devices described in the “Equipment – Oper” column failed to meet the testing and inspection requirements of § 192.731(a):

- Equipment – oper 10389992 shows that relieving device 2181-01-PD-02-001 was not tested and inspected in accordance the schedule prescribed by §§ 192.739(a) and 192.743(a), as required by § 192.731(a). An inspection was not performed in 2021.
- Equipment – oper 11300399 shows that relieving device *Valve Pressure Safety: On the Station FG Filter Assembly. Set at 883 psi* was not tested and inspected in accordance the schedule prescribed by §§ 192.739(a) and 192.743(a), as required by § 192.731(a). An inspection was not performed in 2021.
- Equipment – oper 11300480 shows that relieving device *Valve Pressure Safety: 30” Outlet 2” Relief Separator #3* was not tested and inspected in accordance the schedule prescribed by §§ 192.739(a) and 192.743(a), as required by § 192.731(a). An inspection was not performed in 2021.

Therefore, ANR failed to test and inspect relief valves in accordance with the schedule prescribed by § 192.739(a) and § 192.743(a), as required by § 192.731(a).

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$257,664 per violation per day the violation persists, up to a maximum of \$2,576,627 for a related series of violations. For violation occurring on or after March 21, 2022 and before January 6, 2023, the maximum penalty may not exceed \$239,142 per violation per day the violation persists,

⁴ E.g., stating the pressure safety valves at the compressor facility are “. . . only to relieve vessel, not vessel and associated piping; valve does not protect downstream MAOP.”

up to a maximum of \$2,391,412 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not 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 documents involved in this case, and have decided not to propose a civil penalty assessment at this time.

Proposed Compliance Order

With respect to Items 1 and 2, pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to ANR Pipeline Co. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

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 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 your receipt of this Notice, you have 30 days to respond as described in the enclosed *Response Options*. 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 receipt of this Notice. The Region Director may extend the period for responding upon a written request timely submitted demonstrating good cause for an extension.

In your correspondence on this matter, please refer to **CPF 1-2023-047-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

Cc: Daniel Cerkoney <dan_cerkoney@tcenergy.com>
Amy Willis <amy_willis@tcenergy.com>

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Enforcement Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to ANR Pipeline Co (ANR) a Compliance Order incorporating the following remedial requirements to ensure the compliance of ANR's with the pipeline safety regulations:

- A. In regard to Item 1 of the Notice pertaining to ANR's failure to place and maintain natural gas transmission pipeline markers pursuant to § 192.707(a)(2), ANR shall evaluate the pipeline rights of way at the locations identified in the Notice and install line markers in sufficient quantity and placement to identify the location of the transmission line(s) to reduce the possibility of damage or interference. ANR must submit documentation demonstrating its completion within 90 days of receipt of the Final Order.
- B. In regard to Item 2 of the Notice pertaining to ANR's failure to test and inspect relief devices within required intervals, ANR shall inspect and test these relief valves pursuant to § 192.739(a)(1)-(4) and § 192.743(a), as prescribed by § 192.731, and provide the Eastern Region Director with records demonstrating the completion of this requirement within one year of receipt of the Final Order.
- C. It is requested (not mandated) that ANR Pipeline Co maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Robert Burrough. Director, Eastern Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses, and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.