



Orrick, Herrington & Sutcliffe LLP

51 West 52nd Street  
New York, NY 10019-6142

+1 212 506 5000

orrick.com

Lisa Tonery

E ltonery@orrick.com

D +1 212 506 3710

F +1 212 506 5151

December 3, 2021

Gregory A. Ochs  
Director, Central Region, Office of Pipeline Safety  
Pipeline and Hazardous Materials Safety Administration  
901 Locust Street, Suite 480  
Kansas City, MO 64106

**Re: Enstor-Mississippi Hub  
CPF 3-2021-056-NOPV  
Response to Notice of Probable Violation and Proposed Civil Penalty**

Dear Mr. Ochs:

On October 7, 2021, the Department of Transportation, Pipeline and Hazardous Materials Safety Administration ("PHMSA") issued under CPF 3-2021-056-NOPV, a Notice of Probable Violation ("NOPV") and Proposed Civil Penalty (together, "Notice") to Mississippi Hub, LLC ("MS Hub").<sup>1</sup> On November 5, 2021, PHMSA granted Enstor an extension of time to respond to the Notice. Enstor appreciates the additional time granted to prepare its response in this matter, as well as the feedback provided during the inspection and during informal discussions. Enstor is not contesting the allegation in the NOPV, but is providing the explanation below and respectfully requests that PHMSA eliminate or reduce the proposed civil penalty in light of the circumstances.

**Background:**

Between November 2, 2020 and November 6, 2020, a PHMSA representative from the Office of Pipeline Safety ("OPS") inspected Enstor's Control Room Management procedures and records in Katy, Texas, pursuant to 49 U.S.C. Chapter 601. Based on the results of the inspection, PHMSA is alleging that Enstor has a probable violation of 49 C.F.R. § 192.631(e)(2)<sup>2</sup> with regard to Alarm Management:

***§ 192.631 Control room management.***

***(a) . . . .***

***(e) Alarm Management. Each operator using a SCADA system must have a written alarm management plan to provide for effective controller response to alarms. An operator's plan must include provisions to:***

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<sup>1</sup> MS Hub notes that the letter is addressed to "Enstor-Mississippi Hub." The MS Hub facility is operated by Enstor Gas, LLC ("Enstor"), an affiliate.

<sup>2</sup> 49 C.F.R. § 192.631(e)(2) (2020).



*(1) . . . .*

*(2) Identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities;*

**PHMSA NOPV:**

The PHMSA NOPV alleges that “Enstor failed to identify at least once each calendar month points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities for the years 2017, 2018, and 2019.”<sup>3</sup>

**Enstor Response to NOPV:**

***Background***

As noted above, while Enstor does not contest the allegation in the NOPV, certain mitigating factors should be accounted for in the instant proceeding. As an initial matter, from 2017 until August 2019, the prior owner, Sempra LNG & Midstream (“Sempra”), was operating the MS Hub facilities utilizing its Operating & Maintenance Procedures Manual 1111 – Alarm Management Plan, which addresses the requirements of 49 C.F.R. §192.631(e)(2), and completing Form OM1100-04 - Monthly Alarm Review (“Form OM1100-04”). While Form OM1100-04 did not directly record the four items set forth in §192.631(e)(2), it did include alarm statuses that could indicate concerns with SCADA functionality which could result in undue distractions for the Controller(s).

In August 2019, after MS Hub was acquired by Enstor, Enstor updated the form to clearly identify the four items set forth in §192.631(e)(2). Concurrently, the Remote Operations Center (“ROC”) began to perform control room functions for the MS Hub facilities and Enstor’s SCADA team provided the monthly alarm and event history to the ROC for review, and to utilize in completing its monthly alarm review.

In preparing for the November 2020 OPS inspection, it came to Enstor’s attention that there was a discrepancy between the definition of “Safety-Related Points” used by the ROC and the definition used by Enstor, in that only alarms were being considered. In this regard, prior to the inspection, Enstor updated its program to also include points affecting safety that have been taken off scan in the SCADA host, have had alarms inhibited, generated false alarms, or that have had forced or manual values for periods of time exceeding that required for associated maintenance or operating activities in the definition of “Safety-Related Points.”

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<sup>3</sup> Notice at 2.



During the Control Room Management inspection, it was determined that Enstor was not providing sufficient information to the ROC to clearly identify the four elements of §192.631(e)(2). In response, in the next reporting period, Enstor adjusted the content of its monthly communications to the ROC to include the necessary information. The revised procedures were discussed with PHMSA staff, and OPS agreed that the changes appeared to be acceptable.

### ***Reduction or Elimination of Proposed Civil Penalty***

Enstor respectfully requests that PHMSA reduce or eliminate the Proposed Civil Penalty. Pursuant to 49 C.F.R. § 190.225, (1) the nature, circumstances and gravity of the violation, including adverse impact on the environment; (2) the degree of the respondent's culpability; (3) the respondent's history of prior offenses; (4) any good faith by the respondent in attempting to achieve compliance; and (5) the effect on the respondent's ability to continue in business, each must be considered in determining what civil penalty should be imposed.<sup>4</sup> Additionally, (1) the economic benefit gained from violation, if readily ascertainable, without any reduction because of subsequent damages; and (2) such other matters as justice may require, may also be considered.<sup>5</sup>

In this regard, a civil penalty elimination or reduction is warranted in light of the circumstances surrounding the NOPV. As an initial matter, the alleged violation is a minor record-keeping issue that did not have any substantive impact on safety, had no adverse impacts on the environment, had no negative effects for safely operating the pipelines, and Enstor derived no economic benefit from the violation.

Second, it bears noting that Sempra was the operator of the MS Hub facilities for the vast majority of the 3-year period during which the violation is alleged to have occurred, with Enstor only operating the facility for four months at the end of 2019. Furthermore, as discussed above, Enstor was already making pro-active updates to its control room management procedures specifically with regard to 192.631(e)(2) at the time the violation was discovered, as discussed with PHMSA OPS Staff during the inspection.

Finally, and most importantly, Enstor has a history of consistent compliance and diligence in addressing any and all issues identified while operating the MS Hub facilities. In this regard, MS Hub has received no other NOPVs, nor any corrective action letters since Enstor acquired the facility. Furthermore, as demonstrated by Enstor's response to, and consultations with, PHMSA regarding the Notice of Amendment received from PHMSA on September 10, 2021 ("NOA") in connection with the same inspection that gave rise to the instant Notice, Enstor conscientiously worked to ensure its timely compliance with any issue raised by PHMSA at the MS Hub facilities. On November 10, 2021, Enstor submitted to PHMSA a comprehensive response to the NOA ("NOA Response") detailing how all issues raised in the NOA were fully addressed in consultation with PHMSA staff. In particular, the NOA lists as item 8 a similar issue with regard to

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<sup>4</sup> 49 C.F.R. § 190.225 (2020).

<sup>5</sup> *Id.*



§192.631(e)(2) as that raised in the instant NOPV—failure to define all points affecting safety. As noted therein in response to item 8, Enstor’s Alarm Management Procedure has been amended to identify the safety related points, safety related alarms and how to distinguish whether a point or alarm is safety related in the master SCADA database. As also noted in the NOA Response, the changes made to Enstor’s procedures in response to the NOA were discussed in detail with PHMSA Staff, who agreed that the proposed changes address the concerns raised by the agency. In this regard, on November 16, 2021, PHMSA issued a formal letter closing the matter, which indicated that agency staff had reviewed the NOA Response, and it appeared the issues in the NOA had been corrected.

Enstor takes its obligations to comply with all PHMSA regulations very seriously, and as always, remains committed to safe operations. In that regard, Enstor is committed to working collaboratively with PHMSA to resolve this matter in a similar manner as the NOA. Enstor requests that PHMSA consider the information provided herein in making findings and issuing its Final Order, as well as considering whether to reduce or eliminate the penalty amount proposed in the Notice.

Should you have any questions about the instant filing, please feel free to contact the undersigned at (212) 506-3710.

Respectfully Submitted,

/s/ Lisa M. Tonery  
Lisa M. Tonery  
Mariah T. Johnston  
*Attorneys for*  
*Enstor Gas, LLC*