December 21, 2022

VIA ELECTRONIC MAIL TO: matt@tallgrass.com

Mr. Matthew Sheehy
President and Chief Executive Officer
Rockies Express Pipeline LLC
370 Van Gordon Street
Lakewood, Colorado 80228

Re: CPF No. 3-2021-087-NOPV

Dear Mr. Sheehy:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a reduced civil penalty of $51,300, and specifies actions that need to be taken by Rockies Express Pipeline LLC to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Central Region, this enforcement action will be 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,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Gregory A. Ochs Director, Central Region, Office of Pipeline Safety, PHMSA
Ms. Jennifer Eckels, Manager, Compliance, Tallgrass Energy, jennifer.eckels@tallgrass.com
Ms. Crystal Heter, Chief Operating Officer, Tallgrass Energy, crystal.heter@tallgrass.com
Mr. Brad Armsbury, Compliance Engineer, Tallgrass Energy, brad.armsbury@tallgrass.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	)	
Rockies Express Pipeline LLC,	)	**CPF No. 3-2021-087-NOPV**
Respondent.	)	

FINAL ORDER

From May 10 through August 13, 2021, pursuant to 49 U.S.C. § 60117, a representative 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 Rockies Express Pipeline LLC (REX or Respondent) in Colorado, Nebraska, Kansas, and Missouri.[1] During the inspection, PHMSA reviewed records related to a special permit issued to REX on July 11, 2006.[2] Pursuant to the conditions in the special permit, REX operates the Rockies Express pipeline, a 715-mile gas transmission line that originates at Cheyenne Hub and terminates in Mexico, Missouri.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated December 13, 2021, 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 REX had violated Condition 33 of its special permit and 49 C.F.R. § 192.481(b) and proposed assessing a civil penalty of $52,400 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

Tallgrass Energy, LP, on behalf of REX, responded to the Notice by letter dated January 12, 2022 (Response). The company did not contest the allegations of violation but provided additional information and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

[1] A subsidiary of Tallgrass Energy Partners, L.P. (Tallgrass) owns 75 percent of REX, while a subsidiary of Phillips 66 owns the remaining 25 percent. Rockies Express Pipeline (REX): Company Overview, *available at* https://pipeline.tallgrassenergylp.com/Pages/Content.aspx?pipeline=501&type=SMRY (last visited Dec. 7, 2022)

[2] *See* PHMSA 2006-23998.

FINDINGS OF VIOLATION

In its Response, REX did not contest the allegations in the Notice that it violated its special permit and 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated Condition 33 of its special permit, which states:

> **PHMSA 2006-23998 - Condition 33.**
> Pipeline Markers: Rockies Express must employ line-of-sight markings on the pipeline in the waiver area except in agricultural areas, subject to Federal Energy Regulatory Commission permits or environmental permits and local restrictions.

The Notice alleged that Respondent violated Condition 33 by failing to employ line-of-sight markings on its pipeline in the waiver area at six locations. The Notice stated that after the inspection, REX placed markers at the six identified locations.

Respondent did not contest this allegation of violation, but provided additional information regarding the number of instances, which is addressed below in the Assessment of Penalty. Accordingly, based upon a review of all of the evidence, I find that Respondent violated Condition 33 of Special Permit: PHMSA 2006-23998 by failing to employ line-of-sight markings on its pipeline in the waiver area.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.481, which states:

> **§ 192.481 Atmospheric corrosion control: Monitoring.**
> (a) . . . .
> (b) During inspections the operator must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

The Notice alleged that Respondent violated 49 C.F.R. § 192.481(b) by failing to give particular attention during inspections to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water. Specifically, the Notice alleged that REX failed to inspect for atmospheric corrosion under thermal insulation at the Steele City compressor station and deck penetrations at the Turney compressor station in 2020.

Respondent did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.481(b) by failing to give particular attention during inspections to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water.

These findings of violation will be considered prior offenses 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. The Notice proposed a total civil penalty of $52,400 for the violations cited above.

Item 1: The Notice proposed a civil penalty of $20,700 for Respondent's violation of Condition 33 of its special permit, for failing to employ line-of-sight markings on its pipeline in the waiver area at six locations. In its Response, REX argued that three of the six locations identified in the Notice are not required to have line-of-sight markings pursuant to Condition 33. REX asserted that line segment Bertrand to Steele City - Steele City 2nd street is in an agricultural area and therefore excepted from Condition 33. In addition, REX argued that two other locations on the line segment Steele City to Turney (near the Southern Star Tap on Southeast Mt. Zion Road and Highway V and near Lost Creek, Agency, MO and Robin Drive) are not in the waiver area and therefore not subject to Condition 33.

In a recommendation for final action submitted pursuant to § 190.209(b)(7), the Director recommended reducing the proposed penalty to reflect the number of instances. Accordingly, with respect to gravity of the violation, I reduce the instances of violation from six to three because REX demonstrated that Condition 33 does not apply to three of the six locations specified in the Notice.

Based upon the foregoing, I assess Respondent a reduced civil penalty of $19,600 for violation of Condition 33 of Special Permit: PHMSA 2006-23998.

Item 2: The Notice proposed a civil penalty of $31,700 for Respondent's violation of 49 C.F.R. 49 C.F.R. § 192.481(b), for failing to give particular attention during inspections to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water. REX neither contested the allegation nor presented any evidence or argument justifying a reduction in the proposed penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil

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

penalty of $31,700 for violation of 49 C.F.R. § 192.481(b).

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **$51,300**.

Payment of the civil penalty must be made within 20 days after receipt of this Final Order. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to be made by wire transfer through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMK-325), Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 S MacArthur Blvd, Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a district court of the United States.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 2 in the Notice for violation of 49 C.F.R. § 192.481(b). 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. Pursuant to the authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.481(b) (**Item 2**), Respondent must, within **90** days of the Final Order:
   a. Evaluate all locations in the scope of the inspection for buildings with pipe penetrating building walls that have not been inspected adequately.
   b. Perform adequate visual inspection at all locations identified by the evaluation required by a. and document.
   c. Develop and implement training to ensure individuals who perform atmospheric corrosion inspections have necessary knowledge and skills to perform the atmospheric corrosion inspections in a manner required by § 192.481.
   d. Submit revised training and records of inspection upon completion to the Director of Central Region.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

PHMSA requests that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to the Director. 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.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed $200,000, as adjusted for inflation (*see* 49 C.F.R. § 190.223), for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

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 filing of a petition automatically stays the payment of any civil penalty assessed. The other 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.

December 21, 2022

_________________________________   _________________________

Alan K. Mayberry   Date Issued
Associate Administrator
for Pipeline Safety