

July 1, 2022

VIA ELECTRONIC MAIL TO: stan.horton@bwpipelines.com

Mr. Stanley C. Horton
Chief Executive Officer
Texas Gas Transmission, LLC
Boardwalk Pipeline Partners, LP
9 Greenway Plaza, Suite 2800
Houston, Texas 77066

CPF No. 3-2022-019-NOPV

Dear Mr. Horton,

Enclosed please find a Consent Order incorporating the terms of the Consent Agreement between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Texas Gas Transmission, LLC, which was executed on June 29, 2022. Service of the Consent Order and Consent Agreement by electronic mail is deemed effective upon the date of transmission and acknowledgement of receipt, or as otherwise provided under 49 C.F.R. § 190.5.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosures: Consent Agreement and Consent Order

cc: Mr. Gregory Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Ms. Tina Baker, Manager, Compliance Services, Boardwalk Pipeline Partners, LP,
tina.baker@bwpipelines.com
Ms. Susan Olenchuk, outside counsel for Texas Gas Transmission, LLC, sam@vnf.com

CONFIRMATION OF RECEIPT REQUESTED

	)	
In the Matter of	)	
	)	
Texas Gas Transmission, LLC,	)	CPF No. 3-2022-019-NOPV
a subsidiary of Boardwalk Pipeline	)	
Partners, LP,	)	
	)	
Respondent.	)	
	)	

By letter dated January 21, 2022, the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety, issued a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice) to Texas Gas Transmission, LLC (Texas Gas or Respondent), a subsidiary of Boardwalk Pipeline Partners, LP.

Accordingly, the Consent Agreement is hereby approved and incorporated by reference into this Consent Order. Texas Gas is hereby ordered to comply with the terms of the Consent Agreement, effective immediately. Pursuant to 49 U.S.C. § 60101, *et seq.*, failure to comply with this Consent Order may result in the assessment of civil penalties as set forth in 49 C.F.R. § 190.223. The terms and conditions of this Consent Order are effective upon service in accordance with 49 C.F.R. § 190.5.

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590**

	)	
In the Matter of	)	
	)	
Texas Gas Transmission, LLC,	)	CPF No. 3-2022-019-NOPV
a subsidiary of Boardwalk Pipeline	)	
Partners, LP,	)	
	)	
Respondent.	)	
	)	

CONSENT AGREEMENT

From February 5 through February 9, 2021, 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.), inspected the natural gas pipeline system records and facilities of Texas Gas Transmission, LLC (Texas Gas or Respondent), a subsidiary of Boardwalk Pipeline Partners, LP, in Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Texas, Ohio, and Tennessee.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated January 21, 2022, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice alleged that Respondent committed probable violations of nine provisions of 49 C.F.R. part 192 (Items 2, 3, 5, 6, 8, 9, 10, 11, and 13), proposed ordering Respondent to take certain measures to correct Items 2, 3, 6, 8, and 11, and proposed a civil penalty in the amount of \$474,300 associated with Items 5, 8, 9, 10, 11, and 13. Four other probable violations (Items 1, 4, 7, and 12) were brought as warnings, advising Respondent to correct them or be subject to potential future enforcement action.

In response to the Notice, Respondent provided a written response, requested a hearing, and asked for the opportunity to meet informally with PHMSA to discuss the allegations of violation for Items 5, 6, 8, 11, and 13 (Response). Texas Gas did not contest Items 1, 2, 3, 4, 7, 9, 10, and 12.

PHMSA and Respondent (the Parties) subsequently met to discuss the issues raised in the Response. As a result of those discussions and as explained in more detail below, Respondent, without admission, has agreed to withdraw its hearing request and accept the warning items and findings of violation for Items 1, 2, 3, 4, 6, 7, 9, 10, 11, 12, and 13 as alleged in the Notice, subject to the clarifications as set forth below, pay a civil penalty in the amount of \$237,800 for Items 9, 10, 11, and 13, and undertake certain corrective measures for Items 2, 3, 6, and 8. Further, as a result of those discussions and as explained in more detail below, PHMSA has

agreed to withdraw Items 5 and 8, as alleged in the Notice, including the proposed compliance order and proposed civil penalties associated with those items.

Having agreed that settlement of this enforcement action will avoid further administrative proceedings or litigation and will serve the public interest by promoting safety and protection of the environment, pursuant to 49 C.F.R. Part 190, and upon consent and agreement of Respondent and PHMSA, the Parties hereby agree as follows:

I. General Provisions:

1. Respondent acknowledges that as the operator of the pipeline facilities subject to the Notice, Respondent and its referenced gas pipeline facilities are subject to the jurisdiction of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Agreement, Respondent acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder.

2. After Respondent returns this signed Agreement to PHMSA, the Agency's representative will present it to the Associate Administrator for Pipeline Safety, recommending that the Associate Administrator adopt the terms of this Agreement by issuing an administrative order (Consent Order) incorporating the terms of this Agreement. The terms of this Agreement constitute an offer of settlement until accepted by the Associate Administrator. Once accepted, the Associate Administrator will issue a Consent Order incorporating the terms of this Agreement.

3. Respondent consents to the issuance of the Consent Order, and hereby waives any further procedural requirements with respect to its issuance. Respondent waives all rights to contest the adequacy of notice, or the validity of the Consent Order or this Agreement, including all rights to administrative or judicial hearings or appeals, except as set forth herein.

4. This Agreement shall apply to and be binding upon PHMSA and Respondent, its officers, directors, and employees, and its successors, assigns, or other entities or persons otherwise bound by law. Respondent agrees to provide a copy of this Agreement and any incorporated work plans and schedules to all of Respondent's officers, employees, and agents whose duties might reasonably include compliance with this Agreement.

5. This Agreement constitutes the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to settlement other than those expressly contained in this Agreement, except that the terms of this Agreement may be construed by reference to the Notice.

6. Nothing in this Agreement affects or relieves Respondent of its responsibility to comply with all applicable requirements of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder. Nothing in this Agreement alters PHMSA's right of access, entry, inspection, and information gathering or PHMSA's authority to bring enforcement actions against Respondent pursuant to the Federal pipeline safety laws, the regulations and orders issued thereunder, or any other provision of Federal or State law.

7. For all transfers of ownership or operating responsibility of Respondent's pipeline system referenced herein, Respondent will provide a copy of this Agreement to the prospective transferee at least 30 days prior to such transfer. Respondent will provide written notice of the transfer to the PHMSA Central Regional Director no later than 60 days after the transfer occurs.

8. This Agreement does not waive or modify any Federal, State, or local laws or regulations that are applicable to Respondent's pipeline systems. This Agreement is not a permit, or a modification of any permit, under any Federal, State, or local laws or regulations. Respondent remains responsible for achieving and maintaining compliance with all applicable Federal, State, and local laws, regulations, and permits.

9. This Agreement does not create rights in, or grant any cause of action to, any third party not party to this Agreement. The U.S. Department of Transportation is not liable for any injuries or damages to persons or property arising from acts or omissions of Respondent or its officers, employees, or agents carrying out the work required by this Agreement. Respondent agrees to hold harmless the U.S. Department of Transportation, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of Respondent or its contractors in carrying out any work required by this Agreement.

10. Except as otherwise specified below, Respondent neither admits nor denies any allegation or conclusion in the Notice or this Agreement but agrees for purposes of this Agreement to comply with the terms of this Agreement.

11. Upon issuance of the Consent Order, the Parties agree to the following terms.

II. Warning Items:

12. **Item 1: 49 C.F.R. § 192.481(a):** The Notice alleged that Respondent failed to inspect each onshore pipeline or portion of onshore pipeline that is exposed to atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months. This Item was brought as a warning and does not constitute a finding of violation. Respondent accepts the warning item as alleged in the Notice.

13. **Item 4: 49 C.F.R. § 192.605(a):** The Notice alleged that Respondent failed to follow its procedural manual for operations, maintenance, and emergencies by not originating or starting the test of the emergency shutdown devices (ESD) from a different source every time the ESD system was tested. This Item was brought as a warning and does not constitute a finding of violation. Respondent accepts the warning item as alleged in the Notice.

14. **Item 7: 49 C.F.R. § 192.619(a)(1):** The Notice alleged that Respondent operated a segment of steel pipeline at a pressure that exceeded the maximum allowable operating pressure (MAOP) established by the design pressure of the weakest element in the segment. This Item was brought as a warning and does not constitute a finding of violation. Respondent accepts the warning item as alleged in the Notice.

15. **Item 12: 49 C.F.R. § 192.907(a):** The Notice alleged that Respondent failed to follow its written Integrity Management Program (IMP) by neither tasking the Area Manager with the responsibility nor requiring them to have the knowledge and training to select preventative and mitigative (P&M) measures for high consequence areas (HCAs). The Notice

also alleged that Respondent failed to follow its IMP by requiring the Area Manager, and not the Manager of Pipeline Safety, to select P&M measures for HCAs. This Item was brought as a warning and does not constitute a finding of violation. Respondent accepts the warning item as alleged in the Notice.

III. Findings of Violation:

16. **Item 2: 49 C.F.R. § 192.481(b):** The Notice alleged that Respondent failed to give particular attention to pipe at soil-to-air interfaces during atmospheric inspections at two compressor stations, specifically at Petersburg Station and Covington Station. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.481(b). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

17. **Item 3: 49 C.F.R. § 192.603(b):** The Notice alleged that Respondent failed to keep records of maintenance activities required by its operations and maintenance procedures at the Oaktown and Wilfred operating areas. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.603(b). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

18. **Item 5: 49 C.F.R. § 192.605(a):** The Notice alleged that Respondent failed to follow its O&M procedure for the inspection of its gas detectors at Dillsboro compressor station in 2017. During the informal discussion, Respondent provided evidence showing that the gas detectors at Dillsboro compressor station were permanently removed in 2017 when compressor engines were removed from service for repairs and upgrades, and that when the compressor engines were put back into service in 2018, new gas detection units were installed and were inspected in accordance with the O&M procedure. Texas Gas asked that PHMSA withdraw the allegation of violation for Item 5. Based on this evidence, and for purposes of settlement, PHMSA agrees to withdraw Item 5 as alleged in the Notice.

19. **Item 6: 49 C.F.R. § 192.605(b)(8):** The Notice alleged that Respondent failed to determine the effectiveness and adequacy of its procedures based on a review of work performed during normal operations by its personnel, as required by its O&M procedure. Respondent neither admits nor denies the allegation of violation for this item, but, for purposes of settlement, agrees to accept the finding of violation. As such, PHMSA finds a violation of 49 C.F.R. § 192.605(b)(8). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

20. **Item 8: 49 C.F.R. § 192.619(a)(1)(ii):** The Notice alleged that Respondent determined a MAOP for its Bowling Green 4" station that exceeded the lowest pressure allowed under 49 C.F.R. § 192.619. During the informal discussion, Texas Gas presented records and argument demonstrating that its MAOP determination was based upon values and calculations permitted by the regulations. Respondent requested that PHMSA withdraw the allegation of violation for Item 8. Based upon these records and argument, and for purposes of settlement, PHMSA agrees to withdraw Item 8 as alleged in the Notice. Texas Gas shall comply with any regulatory MAOP reconfirmation requirements promulgated by PHMSA in 49 C.F.R. part 192 that apply to the pipeline.

21. **Item 9: 49 C.F.R. § 192.705(c):** The Notice alleged that Respondent failed to adequately patrol the right-of-way (ROW) on its GRK pipeline segment crossing the Natchez Forest near Kosciusko, Mississippi. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.705(c). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent.

22. **Item 10: 49 C.F.R. § 192.706:** The Notice alleged that Respondent failed to adequately survey its ROW for leaks in 2017, 2018, and 2019 for Class 1 and Class 2 locations in Dillsboro, Jeffersonton, Hardinsburg, and Leesville. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.706.

23. **Item 11: 49 C.F.R. § 192.706(a):** The Notice alleged that Respondent failed to use adequate leak detector equipment to conduct leakage surveys on Class 3 transportation lines that transported gas without an odor or odorant. The Notice alleged that this occurred in 92 instances for lines in 12 separate locations. During the informal discussion, Texas Gas presented new records pertaining to the leak detector equipment it used at these locations. Respondent, without admitting or denying the allegation of violation for this item, but, for purposes of settlement, agrees to accept the finding of violation. As such, PHMSA finds a violation of 49 C.F.R. § 192.706(a). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent. In light of the new records, PHMSA finds that the number of instances of violation should be reduced to 76.

24. **Item 13: 49 C.F.R. § 192.947(d):** The Notice alleged that Respondent failed to maintain records that support decisions made or analyses performed on P&M measures implemented in 2017, 2018, and 2019. Respondent neither admits nor denies the allegation of violation for this item, but, for purposes of settlement, agrees to accept the finding of violation. As such, PHMSA finds a violation of 49 C.F.R. § 192.947(d). This violation may be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent. During the informal discussion, Texas Gas presented argument and records supporting a reduction of the gravity of the offense. Based upon the argument and records presented at the informal discussion, PHMSA finds that the violation minimally affected public safety.

25. Items 2, 3, 6, 9, 10, 11, and 13, will be considered by PHMSA as prior offenses in any future PHMSA enforcement action taken against Respondent for the five (5)-year period following the **Effective Date** of this Agreement.

IV. Civil Penalty:

26. **Items 5 and 8:** The Notice proposed assessing civil penalties in the amount of \$29,000 for Item 5 and \$38,000 for Item 8. For the reasons set forth above, PHMSA withdraws the underlying allegations of violation for these Items. As such, PHMSA also withdraws the proposed civil penalties associated with Items 5 and 8.

27. **Items 9 and 10:** The Notice proposed assessing civil penalties in the amount of \$28,300 for Item 9 and \$45,200 for Item 10. Respondent does not contest the proposed civil penalties for these Items. As such, Respondent shall pay a civil penalty in the amount of **\$28,300** for Item 9 and **\$45,200** for Item 10.

28. **Item 11:** The Notice proposed assessing a civil penalty in the amount of \$138,100 for Item 11. This amount was based upon the finding of 92 instances of the alleged violation. For the reasons discussed above, PHMSA will reduce the number of instances of violation to 76, resulting in a civil penalty in the amount of \$131,700. As such, Respondent shall pay a civil penalty in the amount of **\$131,700** for Item 11.

29. **Item 13:** The Notice proposed assessing a civil penalty in the amount of \$195,700 for Item 13. This amount was based upon the finding that the alleged violation occurred in an HCA or could affect an HCA. For the reasons discussed above, PHMSA will reduce the gravity of the offense, resulting in a civil penalty in the amount of \$32,600. As such, Respondent shall pay a civil penalty in the amount of **\$32,600** for Item 13.

30. Respondent shall pay a total civil penalty in the amount of **\$237,800**, pursuant to the payment instructions at 49 C.F.R. § 190.227(a), to be paid in full no later than 30 days from the **Effective Date** of this Agreement.

V. Compliance Order:

31. **Item 2:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order (PCO) for Item 2. As such, Texas Gas shall, within **90** days of the **Effective Date** of this Agreement:

- a. Revise Boardwalk O&M Section 8040 – Atmospheric Corrosion Control to ensure that atmospheric inspections are performed at all pipe wall penetrations at buildings;
- b. Evaluate all locations in the scope of the inspection for buildings with pipe penetrating building walls that have not been inspected adequately: Bowling Green, Calvert City, Covington, Dixie, Hanson, Kenton, Petersburg, Midland 3, West Greenville, and Slaughters areas;
- c. Perform adequate visual inspection at all locations identified by the evaluation required by the above; and
- d. Submit revised procedures and summary of inspections to the Director, Central Region, upon completion.

32. **Item 3:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the PCO for Item 3. As such, Texas Gas shall, within **90** days of the **Effective Date** of this Agreement:

- a. Complete inspection and maintenance activities on emergency equipment at the Oaktown and Wilfred operating areas; and
- b. Furnish to the Director, Central Region, a report summarizing the results of the above within **120** days of the **Effective Date** of this Agreement.

33. **Item 6:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Without admitting or denying the allegation of this Item, Respondent has revised its procedures for reviewing work done by operator personnel to determine the effectiveness and adequacy of normal operations and maintenance procedures. Texas Gas shall:

- a. During calendar year 2022, complete a review of the adequacy of its revised procedures, and, by December 31, 2022, provide the revised procedure along with a written report summarizing the results of the review to the Director, Central Region. Thereafter, Respondent shall annually review one-third of its normal operations and maintenance procedures.

34. **Item 8:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. For the reasons set forth above, PHMSA withdraws the underlying allegation of violation for Item 8. As such, PHMSA also withdraws the PCO associated with Item 8.

35. **Item 11:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. During and following the Parties' informal discussion, Texas Gas presented new records and leak surveys conducted post inspection pertaining to the leak detector equipment it used for the Class 3 transportation line leakage surveys. Based upon these records, PHMSA finds that the terms of the compliance order action proposed in the Notice have been satisfied. Therefore, PHMSA withdraws the proposed compliance order associated with Item 11.

VI. Enforcement:

36. This Agreement is subject to all enforcement authorities available to PHMSA under 49 U.S.C. § 60101, *et seq.*, and 49 C.F.R. Part 190, including administrative civil penalties under 49 U.S.C. § 60122, of up to \$239,142 per violation for each day the violation continues and referral of the case to the Attorney General for judicial enforcement, if PHMSA determines that Respondent is not complying with the terms of this Agreement in accordance with determinations made by the Director, or if appealed, in accordance with decisions of the Associate Administrator. The maximum civil penalty amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223.

VII. Dispute Resolution:

37. The Director and Respondent will informally attempt to resolve any disputes arising under this Agreement, including but not limited to any decision of the Director. If Respondent and the Director are unable to informally resolve the dispute within 15 calendar days after the dispute is first raised, in writing, to the Director, Respondent may submit a written request for a determination resolving the dispute from the Associate Administrator for Pipeline Safety, PHMSA. Such request must be made in writing and provided to the Director, counsel for the Central Region, and to the Associate Administrator for Pipeline Safety, no later than 10 calendar days from the 15-day deadline for informal resolution referenced in this paragraph. Along with its request, Respondent must provide the Associate Administrator with all information Respondent believes is relevant to the dispute. Decisions of the Associate Administrator under this paragraph will constitute final agency action. The existence of a dispute and PHMSA's consideration of matters placed in dispute will not excuse, toll, or suspend any term or timeframe for completion of any work to be performed under this Agreement during the pendency of the dispute resolution process, except as agreed by the Director or the Associate Administrator in writing, or ordered by a court of competent jurisdiction.

VIII. Effective Date:

38. The term "Effective Date," as used herein, is the date on which the Consent Order is issued by the Associate Administrator, PHMSA, incorporating the terms of this Agreement.

IX. Modification:

39. The terms of this Agreement may be modified by mutual agreement of the Parties. Such modifications must be in writing and signed by both parties.

X. Ratification:

40. The Parties' undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such party to this document.

41. The Parties hereby agree to all conditions and terms of this Agreement.

[Signature Lines on Following Page]

For Texas Gas Transmission, LLC:

Jeffrey Sanderson

Sr. Vice President, Operations and Engineering
Boardwalk Pipelines, LP

Date:_____

For PHMSA:

Director, Central Region, Office of Pipeline Safety

Date:_____