

**Before the
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
Office of Pipeline Safety
Washington, D.C.**

In the Matter of)

Tallgrass Energy, L.P.)

Respondent.)

CPF No. 3-2022-040-NOPV

Notice of Probable Violation

NOTICE OF WITHDRAWAL OF REQUEST FOR HEARING

This notice is to advise that Tallgrass Energy, LP (Tallgrass) and the Pipeline and Hazardous Materials Safety Administration (PHMSA) Central Region have reached an agreement that resolves the above-referenced Notice of Probable Violation (NOPV). As a result, and as set forth in the Consent Order and Agreement issued by PHMSA on September 12, 2022, Tallgrass is, without admission, withdrawing its request for hearing.

PHMSA issued the NOPV to Tallgrass on February 17, 2022, alleging a single violation relating to class location changes under 49 C.F.R. § 192.611 from Class 1 to Class 2. The NOPV included a Proposed Compliance Order (PCO) requirement that sought to require Tallgrass to prepare a work plan to lower the pressure of the Rockies Express Pipeline (REX) to ensure that the corresponding hoop stress did not exceed 72% of the specified minimum yield strength (SMYS) in Class 2 locations. Tallgrass contested the alleged violation and requested a hearing, which was scheduled for September 14, 2022.

The NOPV relates to a special permit issued in 2006 that authorized portions of REX to operate at 80% specified minimum yield strength (SMYS). *Pipeline Safety: Grant of Waiver; Rockies Express Pipeline*, 71 Fed. Reg. 39141 (Jul. 11, 2006). As provided in its initial Response and Request for Hearing, Tallgrass maintains that it properly operated the REX pipeline, including Class 1 locations which became Class 2 locations due to population changes over the past fourteen years, at 80% SMYS pursuant to the terms of the 2006 special permit, and the “one-class bump” provision under the federal pipeline safety regulations, 49 C.F.R. § 192.611. Throughout the operation of REX, both Tallgrass and the prior operator of REX expressly and consistently notified PHMSA that portions of the pipeline located in Class 2 locations operated up to 80% SMYS. Tallgrass believes that PHMSA had acknowledged and approved Tallgrass’s operational practices and that these communications and the course of dealings, taken together, evidenced PHMSA’s approval of the Company’s operation of Class 2 locations pursuant to the “one-class bump” provision.

In addition to its communications and course of dealings with Tallgrass, PHMSA has indicated that it “was likely an oversight” that the 2006 REX special permit did not address instances where Class 1 locations changed to Class 2 locations and that “[s]ubsequent special permits (to other

entities) now address this issue.” *Letter to Tallgrass Energy, LP, from PHMSA (Sept. 24, 2021)*. When promulgating Alternative Maximum Allowable Operating Pressure (MAOP) regulations in 2008, PHMSA initially failed to address the use of Alternative MAOP in the context of class location changes and commenters “noted that without addressing operation at alternative MAOP in [§ 192.611], the regulations would effectively rescind the authorization provided by this rule to operate at higher pressure whenever there was a change in class location.” *Final Rule, Pipeline Safety: Standards for Increasing the Maximum Allowable Operating Pressure for Gas Transmission Pipelines*, 73 Fed. Reg. 62148, 62169 (Oct. 17, 2008). In the Final Rule, PHMSA responded by expressly reaffirming the use of the “one-class bump” allowance at 49 C.F.R. §§ 192.611 and 192.620(c)(8).

Tallgrass believes that it has operated Class 2 locations on the REX pipeline consistent with its 2006 special permit and the “one-class bump” provision as recognized by PHMSA and the federal pipeline safety regulations. In the spirit of cooperation and consistent with its commitment to pipeline safety, Tallgrass nevertheless sought to resolve this action through informal settlement in coordination with the PHMSA Central Region. Pursuant to those discussions, Tallgrass, without admission and for purposes of settlement only, entered into a Consent Agreement with PHMSA to resolve this matter. As a result, and as required by the terms of the Consent Order and Agreement issued by PHMSA, the Company is hereby withdrawing its request for hearing.

Respectfully submitted,



Bracewell, LLP
Catherine Little, Esq.
Annie Cook, Esq.
2001 M Street NW, Suite 900
Washington, D.C.
20036-3310
(202) 828-5800
Catherine.Little@Bracewell.com
Annie.Cook@Bracewell.com

Tallgrass Energy, LP
Nicole Longwell, Esq.
Associate General Counsel
(303) 763-3401
Nicole.Longwell@Tallgrass.com

Date: September 13, 2022