

June 6, 2023

VIA ELECTRONIC MAIL TO: cynthia.hansen@enbridge.com

Ms. Cynthia Hansen
Executive Vice President and President
Gas Transmission and Midstream
Enbridge Inc.
915 North Eldridge Parkway, Ste. 1100
Houston, Texas 77079

Re: CPF No. 3-2022-061-NOPV

Dear Ms. Hansen:

Enclosed please find the Final Order issued in the above-referenced case to Algonquin Gas Transmission, LLC, a subsidiary of Enbridge Inc. It makes findings of violation, assesses a civil penalty of \$193,700, and finds that the proposed actions to comply with the pipeline safety regulations have been completed. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid 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 (Final Order)

cc: Mr. Gregory A. Ochs, Director, Central Region, Office of Pipeline Safety, PHMSA
Mr. Nathan Atanu, Manager, Operational Compliance, Enbridge
nathan.atanu@enbridge.com

Mr. Garrett Wilkie, Director, Operational Excellence, Enbridge Inc.,
garrett.wilkie@enbridge.com

CONFIRMATION OF RECEIPT REQUEST

)	
In the Matter of)	
)	
Algonquin Gas Transmission, LLC,)	CPF No. 3-2022-061-NOPV
a subsidiary of Enbridge Inc.,)	
)	
Respondent.)	
)	

From May 24 through December 8, 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 inspection of Algonquin Gas Transmission, LLC's (AGT or Respondent) natural gas pipeline facilities in New Jersey, New York, Connecticut, Rhode Island, and Massachusetts. AGT operates an over 1,100-mile natural gas transmission pipeline system, delivering natural gas from the Gulf Coast to New England.

As a result of the inspection, the Director, Central Region, OPS (Director), issued to Respondent, by letter dated December 22, 2022, a Notice of Probable Violation (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that AGT committed three violations of 49 C.F.R. Part 192, proposed assessing a civil penalty of \$193,700, and proposed ordering Respondent to take certain measures to correct the alleged violations. The Notice also included three warning items pursuant to 49 C.F.R. § 190.205, which warned AGT to correct the probable violations or face possible future enforcement action.

Enbridge Inc. (Enbridge) responded to the Notice on behalf of AGT by letter dated January 20, 2023 (Response). The Response neither admitted nor denied the factual allegations described in the Notice, but did contest one of the items. The Response contained a description of the corrective actions taken by AGT to address the items cited in the Notice and requested consideration of a reduced civil penalty because those actions were taken prior to the issuance of the Notice. Respondent did not request a hearing and therefore has waived its right to one.

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

The Notice alleged AGT failed to periodically review and update its manual of written procedures for conducting operations, maintenance, and emergency response activities. Specifically, the Notice alleged AGT failed to review and update its Hubline Post Construction Operations and Maintenance Plan (Hubline O&M Plan) at intervals not exceeding 15 months, but at least once each calendar year.

In the Response, Enbridge did not contest this allegation and stated that following PHMSA's inspection, AGT incorporated the Hubline O&M Plan requirements into its Integrity Management Program (IMP) and Standard Operating Procedures (SOP), which are reviewed at intervals not exceeding 15 months, but at least once each calendar year.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.605(a) by failing to periodically review and update its Hubline O&M Plan at intervals not exceeding 15 months, but at least once each calendar year.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

The Notice alleged AGT failed to follow its manual of written procedures for conducting operations and maintenance activities and for emergency response. Specifically, the Notice alleged AGT failed to demonstrate that it performed required inspections or re-inspections at required intervals of its subsea pipeline located in Boston Harbor.

In the Response, Enbridge stated “AGT has performed the underwater surveys in accordance with the Hubline O&M Plan” and that AGT has now incorporated the Hubline underwater survey requirements into the IMP and SOP to ensure completion of subsequent surveys.¹ Enbridge stated surveys were completed on December 18, 2021, and September 12, 2022.

The Hubline O&M Plan includes requirements for depth of cover surveys as well as subsequent subsea surveys at intervals every five or ten years thereafter. It also includes subsea inspections to be performed every five years for six separate “Rock/Mat Backfill” structure locations. While Enbridge stated it performed subsea surveys on December 18, 2021, and September 12, 2022, in the Response, Enbridge did not provide evidence demonstrating that subsea inspections were conducted in accordance with the intervals required by the Hubline O&M Plan. Further, these inspections were conducted after the conclusion of PHMSA’s 2021 inspection that is the subject of the Notice.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.605(a) by failing to demonstrate that it performed required inspections of its subsea pipeline located in Boston Harbor.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

The Notice alleged Respondent failed to follow its manual of written procedures for conducting operations and maintenance activities and for emergency response. Specifically, the Notice alleged Respondent failed to comply with its SOP 1-6010 (rev. 11/15/2018), in calendar years 2018 through 2020 when it did not use leak detection equipment to conduct a leak-survey of a parking lot with areas exceeding 100 feet of paved cover at the intersection of Sebethe Drive and Berlin Road, in Cromwell, Connecticut.

In the Response, Enbridge stated AGT incorporated the instrumented leak survey into AGT’s work management system for the identified parking lot, establishing how the instrumented leak survey is planned, scheduled, executed, completed, and documented. Enbridge did not argue that surveys were conducted in calendar years 2018 through 2020 or present evidence demonstrating those surveys were completed. Enbridge stated leak surveys were completed in April and October 2022, with no indication of any leaks at this site.

¹ Response, at 3.

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 195.605(a) by failing to comply with its procedures when it did not conduct required leak surveys in calendar years 2018 through 2020.

These findings of violation will be considered prior offenses in any subsequent enforcement actions 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.²

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 \$193,700 for the violations cited above.

Item 2: The Notice proposed a civil penalty of \$76,300 for Respondent's violation of 49 C.F.R. § 192.605(a), for failing periodically review and update its Hubline O&M plan at intervals not exceeding 15 months, but at least once each calendar year.

Enbridge neither contested the allegation nor presented any evidence justifying a reduction in the proposed penalty, but did state it took actions to correct the noncompliance after PHMSA's inspection. While PHMSA appreciates Respondent's swift corrective measures to comply with the pipeline safety regulations, such actions do not warrant the reduction of a proposed civil penalty because they were taken after PHMSA had already identified the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$76,300 for violation of 49 C.F.R. § 192.605(a).

Item 3: The Notice proposed a civil penalty of \$58,700 for Respondent's violation of 49 C.F.R. § 192.605(a) for failing to demonstrate that it performed required inspections of its subsea pipeline located in Boston Harbor.

Enbridge contested the allegation but did not present any evidence justifying a reduction in the proposed penalty, but did state it took actions to correct the noncompliance after PHMSA's inspection. While PHMSA appreciates Respondent's swift corrective measures to comply with

² These amounts are adjusted annually for inflation. See 49 C.F.R. § 190.223 for adjusted amounts.

the pipeline safety regulations, such actions do not warrant the reduction of a proposed civil penalty because they were taken after PHMSA had already identified the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$58,700 for violation of 49 C.F.R. § 192.605(a).

Item 4: The Notice proposed a civil penalty of \$58,700 for Respondent's violation of 49 C.F.R. § 192.605(a) for failing to comply with its procedures when it did not conduct required leak surveys in calendar years 2018 through 2020.

Enbridge neither contested the allegation nor presented any evidence justifying a reduction in the proposed penalty, but did state it took actions to correct the noncompliance after PHMSA's inspection. While PHMSA appreciates Respondent's swift corrective measures to comply with the pipeline safety regulations, such actions do not warrant the reduction of a proposed civil penalty because they were taken after PHMSA had already identified the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$58,700 for violation of 49 C.F.R. § 192.605(a).

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 **\$193,700**.

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

COMPLIANCE ACTIONS

The Director has indicated that Respondent has already completed the actions proposed in the Notice to correct the violations described in **Items 3 and 4**. Therefore, it is not necessary to include the proposed compliance terms in this Final Order.

WARNING ITEMS

With respect to Items 1, 5, 6, the Notice alleged probable violations of Part 192 but did not propose civil penalties or compliance orders for these items. Therefore, these are considered to be warning items under § 190.205. The warnings were for:

49 C.F.R. § 192.19(b) **(Item 1)** - Respondent's alleged failure to submit required information for the Medway Station pipeline lateral to the National Pipeline Mapping System within the required timeframe;

49 C.F.R. § 192.605(a) **(Item 5)** - Respondent's alleged failure to provide inspection records for certain valves for calendar years 2018 through 2020; and

49 C.F.R. § 192.709(c) **(Item 6)** - Respondent's alleged failure to provide records of inspection associated with certain station inspections for calendar year 2020.

Enbridge stated in the Response that AGT has taken actions to address the cited warning items. Under § 190.205, PHMSA does not adjudicate warning items to determine whether a probable violation occurred. If OPS finds a violation of any of these items in a subsequent inspection, Respondent may be subject to future enforcement action.

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 any corrective actions, remain in effect unless the Associate Administrator, upon request, grants a stay.

The terms and conditions of this order are effective upon service in accordance with 49 C.F.R. § 190.5.

June 6, 2023

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued