



May 23, 2024

Mr. Gregory Ochs
Director – Central Region
U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
901 Locust Street, Suite 480
Kansas City, MO 64106
Gregory.Ochs@dot.gov

[Via Email]

Re: Tallgrass, LP
Notice of Probable Violation and Proposed Compliance Order
CPF No. 3-2024-035-NOPV
Request for Settlement Conference and Hearing

Dear Mr. Ochs:

The Pipeline and Hazardous Materials Safety Administration (PHMSA or the Agency) issued a Notice of Probable Violation (NOPV) and proposed compliance order (PCO) to Tallgrass, LP (Tallgrass or Company) on April 15, 2024. The NOPV was issued following PHMSA's inspection of Tallgrass records and procedures for new gas pipeline regulations at Tallgrass's offices in Lakewood, Colorado. The NOPV alleged a single probable violation of 49 C.F.R. § 192.607(c) related to the verification of pipeline material properties and attributes. Tallgrass's response to the allegations in the NOPV is due May 15, 2024. Therefore, this response is timely.

Tallgrass prioritizes safety and integrity, toward this end, the Company believes that the NOPV allegations require clarification in light of the facts at issue, documentation, and the applicable law. Tallgrass is optimistic that these issues are capable of resolution without the need to proceed to a hearing and respectfully requests an informal settlement meeting with the Central Region pursuant to 49 U.S.C. § 60117(b)(1)(B).

In the alternative, and to preserve its rights in the event the parties are unable to resolve this matter via an informal settlement conference, Tallgrass is filing this response pursuant to 49 C.F.R. §§ 190.208 and 190.211 to request a hearing to address the factual and legal issues presented by the NOPV and the terms of the PCO.

Tallgrass Response to NOPV and Preliminary Statement of Issues

Tallgrass contests the NOPV in its entirety, including the alleged violation of 49 C.F.R. § 192.607(c) and the associated PCO obligation. PHMSA alleges in NOPV Item 1 that,

Tallgrass did not opportunistically obtain material attributes for a line segment that was relocated and replaced as required by § 192.607 and its procedure for material verification. In 2023, a segment of the Doniphan to York line was relocated and replaced to remediate anomalies. In the area of this relocation project, Tallgrass had previously identified pipe attributes as missing in its MAOP-R database. Tallgrass' procedure entitled "OM_210G Material Verification" referenced SOP-A[1]9, which defined, in section 2.1.5, when opportunistic testing shall be done in accordance with § 192.607. Section 2.1.5(g) specifically called out excavations associated with replacements or relocations of pipeline segments that are removed from service as a condition for getting the attributes opportunistically. As this was a relocation, those attributes (Grade, Seam Type) should have been obtained. Thus, Tallgrass failed to meet the requirements of § 192.607.

PHMSA bases its allegation on a misunderstanding of the facts underlying the relocation and replacement of a segment from Doniphan to York as well as a misunderstanding of Tallgrass's Material Verification Plan (SOP-AI9) and related Tallgrass Operation & Maintenance procedures. In particular, Tallgrass did not replace and relocate the segment at issue as a means to remediate previously identified anomalies. In 2015 and 2016, Tallgrass completed evaluation and remediation of all anomalies on that segment requiring response in accordance with Tallgrass procedures and PHMSA regulations, prior to the issuance of 49 C.F.R. § 192.607. In compliance with its integrity management procedures, Tallgrass selected replacement and relocation of that segment as a form of integrity reassessment and there was no anomaly evaluation triggered as a result. The pipeline segment replacement removed the pipeline from the high consequence area (HCA) and applicability of the integrity management regulations, tying in to pipe located outside of any HCAs.

Separate and apart from the pipe replacement, the Company chose Method 5 for maximum allowable operating pressure (MAOP) reconfirmation in conformance with Tallgrass's procedures and PHMSA regulations, "Pressure Reduction for Pipeline Segments with Small Potential Impact Radius." 49 C.F.R. § 192.607(c)(5); OM209_G at 3.4.6. Method 5 requires the implementation of a pressure reduction in lieu of having traceable, verifiable, and complete (TVC) records to reconfirm the MAOP of the segment. As set forth in Tallgrass procedure OM210_G at 2.0, materials verification is required when segments do not meet TVC requirements provided under OM209_G – MAOP Reconfirmation or OM909_G – Predicted Failure Pressure and Cyclic Fatigue Analysis. Contrary to the characterization in the NOPV, only if such materials testing is required in accordance with OM210_G is SOP-AI9 triggered which was not the case here.

Tallgrass's SOP-AI9 procedure is not a standalone procedure. It includes "considerations" for opportunistic testing and cross-references more specific procedures that detail required testing (if any) to be followed based on the reconfirmation method employed under OM209_G MAOP Reconfirmation, such as OM_210G Material Verification. See e.g. SOP-AI9 at 1.1.2, 1.1.3, 2.1.1. Under OM209_G MAOP Reconfirmation, there are no material verification opportunistic testing requirements specific to Method 5. As such, SOP-AI9 is inapplicable in this case.

In the event the parties proceed to a hearing, Tallgrass intends to raise the following issues at the informal hearing:

1. Whether based on the facts and applicable law, PHMSA has met its burden to prove by a preponderance of the evidence that Tallgrass did not comply with 49 C.F.R. § 192.607(c) as alleged in NOPV Item 1.
2. Whether PHMSA provided due process and fair notice, as required by the U.S. Constitution and the Administrative Procedure Act, in issuing an alleged violation for NOPV Item 1 based on the facts and the applicable law.
3. Whether PHMSA's allegations of noncompliance under NOPV Item 1 are arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2).
4. Whether the issuance of NOPV Item 1 and the PCO obligations contradict PHMSA's Pipeline Safety Enforcement Procedures and prior enforcement precedent.

Tallgrass reserves the right to revise and/or supplement the above referenced preliminary statement of issues based on any new information or argument presented by PHMSA in this matter.

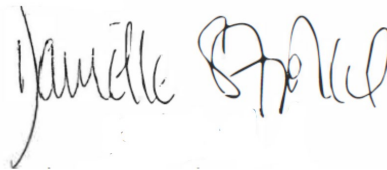
Request for Relief

As noted above, Tallgrass believes this issue is capable of resolution without the need to proceed to a hearing and respectfully requests an informal settlement meeting with the Central Region. In advance of the requested settlement meeting or hearing (should it be necessary), Tallgrass requests a copy of the

complete case file in this matter, beyond the Pipeline Safety Violation Report which has already been provided, pursuant to 49 C.F.R. § 190.209, 49 U.S.C. § 60117(b)(1)(C), to ensure a “fair and impartial hearing” in recognition of the powers and duties of the Presiding Official at 49 C.F.R. § 190.212(c). If the Central Region is amenable to an informal settlement conference, Tallgrass requests that the scheduling of a hearing be postponed to allow sufficient time for settlement meetings. In the event the parties proceed to a hearing, Tallgrass will be represented by in-house counsel as well as outside counsel with Bracewell LLP.

Please contact me if you have any questions,

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Danielle Stephens". The signature is fluid and cursive, with the first name "Danielle" written in a larger, more prominent script than the last name "Stephens".

Danielle Stephens
Director, PHMSA Compliance
Tallgrass Energy
370 Van Gordon Street
Lakewood, CO 80228-1519

cc: Matt Sheehy, Chief Executive Officer
Crystal Heter, Chief Operating Officer
Nicole Longwell, Associate General Counsel & CCO (Operations)
Kale Stanton, Vice President, Asset Integrity
Catherine Little, Esq. (Bracewell)