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By Email Only

November 12, 2024

Mr. Lawrence T. White
Presiding Official
Office of the Deputy Chief Counsel
Pipeline and Hazardous Materials Safety Administration
East Building, 2nd Floor
1200 New Jersey Ave., S.E.
Washington D.C. 20590

**Re: Texas Gas Transmission, LLC, CPF No. 3-2024-048-NOPV
Respondent's Pre-Hearing Submission**

Dear Mr. White,

Pursuant to 49 C.F.R. § 190.211(d) and the July 25, 2024 letter to the Parties, Texas Gas Transmission, LLC (Texas Gas) submits its Pre-Hearing Brief.

At the November 19, 2024 hearing, Texas Gas will be represented by Michael McMahon, Sr. Vice President and General Counsel, Boardwalk GP, LLC and Susan Olenchuk, Partner, Van Ness Feldman, LLP.

The following individual will testify on behalf of Texas Gas: Mr. Micheal Preuit, ILI Technology and Analytics, Boardwalk Pipeline Partners. In addition, the following individuals will attend the hearing on behalf of Texas Gas: Jeff Sanderson, Sr. Vice President Operations, Engineering & Construction, Boardwalk Pipeline Partners and Tony Rizk, P.E., Vice President, Technical Services, Boardwalk Pipeline Partners

As provided under § 190.211(f), Texas Gas will have the hearing transcribed. When the transcript becomes available (approximately 10 days after the hearing), Texas Gas will provide a copy of it to the Office of Pipeline Safety and its counsel, and to the Presiding Official.

Texas Gas reiterates its request that it be provided with all documents or communications from PHMSA pertaining to the case or the case file, which includes "all agency records pertinent to the matters

of fact and law asserted.”¹ This request encompasses, but is not limited to inspector notes or other materials the Region intends to rely on to support the Notice and Region Director’s “written evaluation of response material submitted by the respondent and recommendation for final action, if one is prepared.”² Texas Gas reserves the right to respond to such materials.

Please contact the undersigned if you have any questions.

Respectfully submitted,

Susan A. Olenchuk

Susan A. Olenchuk
Van Ness Feldman, LLP
Attorney for Texas Gas Transmission, LLC

Attachment

CC: Mr. Ryan McClure, Attorney Advisor, Office of Chief Counsel, PHMSA
(Ryan.McClure@DOT.gov)
Ms. Mia Petrucci, Attorney Advisor, Office of Chief Counsel, PHMSA
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Mr. Greg Ochs, Region Director, Central Region, PHMSA (Gregory.Ochs@DOT.gov)

¹ 49 U.S.C. § 60117(b)(1)(C).

² 49 C.F.R. § 190.209(b)(7) (2023).

**U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY**

In the Matter of	)	
	)	
	)	
Texas Gas Transmission, LLC,	)	CPF No. 3-2024-048-NOPV
	)	
Respondent.	)	

Pre-Hearing Brief of Texas Gas Transmission, LLC

Pursuant to § 190.211(d) of the regulations of the Pipeline and Hazardous Materials Safety Administration (PHMSA),¹ Texas Gas Transmission, LLC (Texas Gas) submits a Pre-Hearing Brief regarding the Notice of Probable Violation and Proposed Civil Penalty (Notice) issued on May 21, 2024. Texas Gas contests the alleged violation and the proposed civil penalty and requests that the Notice be withdrawn.

The issue presented in this proceeding is whether the Office of Pipeline Safety (OPS) met its burden of proving that Texas Gas did not follow the procedure in the Boardwalk Integrity Management (IM) Manual (IM Manual)² which requires that Texas Gas make a determination whether data from an in-line inspection (ILI) needs to be resubmitted to the ILI vendor so that the anomalies can be re-graded.³ Under the procedure, re-grading anomalies may be needed if severe discrepancies exist between the attributes of the anomalies predicted by the ILI vendor and the actual attributes of those anomalies found during an excavation. Here, the field data verified that the ILI vendor's as-called data regarding the location and attributes of each anomaly was within the specification between the actual anomalies and the predicted attributes. Texas Gas determined that re-grading the anomalies was not necessary. Evidence that Texas Gas actually made a determination is in the case file. That evidence also demonstrates that the determination made by Texas Gas was sound.

Other gouges that were identified when the pipe was excavated do not establish that Texas Gas did not make a determination as required by the IM Manual. These gouges did not meet the sizing or attribute specifications of the ILI tool and they would not have been reported by re-grading the data. The presence of these gouges did not undermine either the validity of the ILI results or the determination that Texas Gas made that re-grading the anomalies was not necessary.

¹ 49 C.F.R. § 190.211(d) (2023).

² Texas Gas is a wholly-owned operating subsidiary of Boardwalk Pipelines, L.P. (Boardwalk). Texas Gas operates its pipeline system pursuant to procedures that are maintained by Boardwalk on behalf of multiple Boardwalk-owned pipelines.

³ Notice at 2 ("Specifically, TGT failed to follow its own procedure.").

OPS has failed to meet its burden of proving that Texas Gas failed to follow its procedure as required by § 192.907(a).⁴ Texas Gas requests that the Notice be withdrawn.

I. PHMSA Has Failed to Prove That Texas Gas Did Not Make a Determination That Re-grading the Anomalies Was Not Necessary.

Section 192.907(a) of PHMSA’s regulations requires that an operator of a gas transmission pipeline segment subject to IM requirements “develop and follow a written integrity management program” that addresses the required IM program elements and the risks on each covered pipeline segment.⁵

The IM Manual states the following with respect to re-grading anomalies after an ILI tool run:

If the field data significantly varies with the vendor data regarding location and anomaly attributes, the MGR ILI Technology & Analytics will have to decide whether the vendor should resubmit the data. Severe discrepancies between the actual anomaly and the predicted attributes can be indicative of the data caliber in the entire report.

The company will determine whether this constitutes a need for the ILI vendor to re-grade all anomalies. If re-grading required, Steps 4-9 shall be repeated.⁶

OPS has the burden of proving that Texas Gas did not comply with the IM Manual and § 192.907(a).⁷

In 2021, Texas Gas ran an MFL-A/Caliper ILI on the EIS 18-2 pipeline segment and performed a total of 15 excavations to evaluate and remediate, if necessary, anomalies identified by the ILI tool. Texas Gas determined that there were no severe discrepancies between the anomalies’ attributes as predicted by the ILI vendor and the anomalies’ actual attributes found in the field. Texas Gas determined that re-grading the anomalies was not necessary and would not have changed the results of the ILI.

Texas Gas’s determination is documented in its “Completed Integrity Assessment Excavation Summary (Excavation Summary),” prepared after the excavations were completed. This Excavation Summary is contained in Exhibit B of the PHMSA Violation Report for this case.

The Excavation Summary contains a synopsis of each excavation performed on EIS 18-2 after the May 2021 ILI run. For each excavation, the Excavation Summary describes the nature and size of the anomaly as “called” by the ILI tool and as “found” during the excavation. The

⁴ 49 C.F.R. § 192.907(a).

⁵ *Id.* § 192.907(a).

⁶ IM Manual, App. 4, Step 2, Task 2: Anomaly Criteria (PHMSA Violation Report Exhibit H, p. 28 of 32).

⁷ 49 U.S.C. § 60117(b)(1)(F) (2018), as amended by The Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2020, Pub. L. No. 116-260, div. R, title I, § 108(a)(2), 134 Stat. 2221, 2223 (Dec. 27, 2020). *See* 49 C.F.R. § 190.213(a)(1) (2023). *See, e.g., ExxonMobil Pipeline Co.*, Final Order, CPF No. 4-2017-5027, 2019 WL 3734516, **4, 5 (Apr. 3, 2019) (withdrawing allegation because PHMSA’s evidence did not establish a violation).

Excavation Summary also describes the pipeline milepost number and ILI odometer (*i.e.* wheelcount) reading, how the anomaly was remediated and the date of the remediation, and whether other indications or gouges were identified on the excavated pipe.

The information contained in the Excavation Summary is extracted from the Anomaly Investigation Dig Packet (Dig Packet) prepared for each excavation performed on the pipeline. The Dig Packets for the excavations performed at the wheelcounts listed in the Notice are contained in Exhibit C, Exhibit D, and Exhibit E of the Violation Report. Information included in each Dig Packet includes the “dig sheets” that were prepared by the ILI vendor and provided to Texas Gas as part of the vendor’s final ILI report.⁸ Dig sheets contain the name of the ILI vendor (Entegra Solutions) and specific information about the anomaly as it was “called” by the ILI vendor after the tool run. Such information includes the type of feature and its dimensions, and its location and orientation on the pipeline.

Each Dig Packet also includes a document called a “Pipe Evaluation Information” form which documents details of each excavation, the dimensions of each called anomaly as found in the field.⁹ The Pipe Evaluation Information form also notes if other gouges were identified at the location of the called anomaly. This information also is carried over to the Excavation Summary.

Below, for the excavation at each wheelcount identified in the Notice, Texas Gas describes the information contained in the Excavation Summary regarding the anomaly that was “called” by the ILI tool and the anomaly that was “found” during the excavation:

Wheelcount 33387.19 (1 Year Scheduled Dig 2):¹⁰ The ILI vendor’s dig sheet reported a dent (1.1%) with volumetric deviation in the pipe wall.¹¹ The Pipe Evaluation Information form confirmed that the indication was gouging with a (1.5%) deviation in the pipe wall.¹² On January 27, 2022, the anomaly was repaired with a 32” Blue Star half-sole steel sleeve and coated with SPC-2888. Seven other gouges were found near the anomaly.

Wheelcount 142597.88 (1 Year Scheduled Dig 4):¹³ The ILI vendor’s dig sheet reported a dent (1.7%) with metal loss.¹⁴ The Pipe Evaluation Information form confirmed a 0.8% deformation (dent) with a gouge.¹⁵ On February 4, 2022, the anomaly was repaired with a 2-foot long Blue Star half-sole steel sleeve and coated with SPC-2888. Additional nearby gouges not related to the dent were found.

⁸ These dig sheets appear on pages 5-6 of each Dig Packet. The ILI Vendor final report (without dig sheets) is contained in Exhibit Q of the Violation Report.

⁹ The Pipeline Evaluation Information form appears on pages 10-15 of each Dig Packet.

¹⁰ Excavation Summary at 2 (Violation Report Exhibit B).

¹¹ Violation Report Exhibit C at 5 (Entegra Item Number 1050).

¹² *Id.* Exhibit C at 12 (Pipeline Evaluation Information, Form #6000-10, page 3 of 3). The Form reflects the “Dent length, width and depth” as 3.75” x 4” x 264 mils deep (264 mils = 0.264 inches). Divide this depth by the diameter of the pipeline ($0.264/18 = 0.0146$) to get 1.46% deviation in the pipe wall.

¹³ Excavation Summary at 3 (Violation Report Exhibit B).

¹⁴ Violation Report Exhibit D at 5 (Entegra, Item Number 4362).

¹⁵ *Id.* Exhibit D at 12 (Pipeline Evaluation Information, Form #6000-10, page 3 of 3). The Form reflects the “Dent length, width and depth” as 11.1” x 7.25” x 137 mils deep (137 mils = 0.137”). Divide this depth by the diameter of the pipeline ($0.137/18 = 0.0076$) to get a 0.8% deformation (dent).

Wheelcount 420933.73 (1 Year Scheduled Dig 10):¹⁶ The ILI vendor's dig sheet reported a 0.6% geometric variation with volumetric variation.¹⁷ The Pipe Evaluation Information form confirmed a 0.7% deformation (dent) with shallow gouging at 10 mils.¹⁸ On February 10, 2022, the anomaly was repaired with a 34" Blue Star Half-Sole Steel Sleeve and coated with SPC-2888. Two additional gouges were found near the anomaly.

In August 2022, after the anomalies called by the ILI tool were repaired, Texas Gas sent the excavation data to the ILI vendor for further evaluation. In October 2022, the vendor produced a unity plot which, as conceded by the Notice, verified the ILI tool's accuracy.¹⁹ The unity plot is reproduced in the Excavation Summary.²⁰ Unity plots are a long-standing and well-established method of measuring an ILI tool's accuracy in reporting the size of corrosion anomalies. PHMSA has long required that operators use unity plots to establish the validity and accuracy ILI tool runs. For example, the requirement to use a unity plot appears in no fewer than five regulations,²¹ at least one advisory bulletin,²² and PHMSA's Gas Transmission Integrity Management FAQs.²³ In addition, PHMSA has a long history of requiring as a condition of special permits that the operator "demonstrate ILI tool tolerance accuracy for each ILI tool run by using calibration excavations and unity plots that demonstrate ILI tool accuracy to meet the tool accuracy specification provided by the vendor (typical for depth within +10% accuracy for 80% of the time)."²⁴

¹⁶ Excavation Summary at 4 (Violation Report Exhibit B).

¹⁷ Violation Report Exhibit E at 5 (Entegra, Item Number 13604).

¹⁸ *Id.* Exhibit E at 12 (Pipeline Evaluation Information, Form #6000-10, page 3 of 3). The Form reflects the "Dent length, width and depth" as 5.25" x 5.75" x 128 mils deep (128 mills = 0.128"). Divide this depth by the diameter of the pipeline (0.128"/18" = 0.0071) to get a 0.7% deformation (dent).

¹⁹ Notice at 2 ("The original anomalies identified by the ILI vendor were included in the above-mentioned unity plot which illustrates data caliber.").

²⁰ Excavation Summary at 5 (Violation Report Exhibit B).

²¹ 49 C.F.R. § 192.632(c)(4) (requiring that, when performing an ILI as part of an engineering critical assessment, "[a]n operator must use unity plots or equivalent methodologies to validate the performance of the ILI tools in identifying and sizing actionable manufacturing and construction-related anomalies"). In addition, several regulations require that when performing an ILI to assess the integrity of a pipeline, the operator must account for uncertainties in reported results by using, among other things, unity chart plots in identifying and characterizing anomalies. 49 C.F.R. § 192.710(d) (assessments of transmission pipeline segments located outside of a high consequence areas (HCA)); 49 C.F.R. § 192.712(e)(1) (determining the predicted failure pressure and remaining life of a pipeline segment); 49 C.F.R. § 192.921(a)(1) (baseline assessment on an HCA pipeline segment); 49 C.F.R. § 192.937(c)(1)(iii) (reassessments of HCA pipeline segments).

²² Pipeline Safety: Ineffective Protection, Detection, and Mitigation of Corrosion Resulting From Insulated Coatings on Buried Pipelines, Advisory Bulletin, 81 Fed. Reg. 40,398, 40,400 (June 21, 2016) (Advising that, when developing procedures to operate, maintain, assess, and repair buried and insulated pipelines, operator must consider "ILI data, subsequent analysis of the data, and pipeline excavations that: . . . Confirm the accuracy of the ILI data to characterize the extent and depth of the external corrosion and ILI tolerances and unity charts").

²³ PHMSA, Gas Transmission Integrity Management: FAQs, FAQ-68 (dated Aug. 14, 2006, revised Aug. 12, 2021) <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2021-09/Final%20GAS%20IM%20FAQs%208-26-21.pdf> (stating that when performing an assessment using an ILI, an operator "must analyze and account for uncertainties in reported results" by using, among other things, "unity chart plots or equivalent for determining uncertainties and verifying actual tool performance" when identifying and characterizing anomalies).

²⁴ See, e.g., *Tennessee Gas Pipeline Co.*, Special Permit – Class 1 to 3 Location, PHMSA-2023-0001, Condition 8(a), (July 31, 2023); *Florida Gas Transmission Co.*, Special Permit – Class 1 or Class 2 to Class 3 Location, PHMSA-2020-0044, Condition 8(a) (Mar. 25, 2022); *Gulf South Pipeline Co.*, Special Permit – Class 1 to 3, PHMSA-2018-0099, Condition 19(a) (Apr. 2, 2019); *Tennessee Gas Pipeline Co.*, Special Permit, PHMSA-2016-0004, Condition 13 (Sept. 1, 2016); *NiSource Gas Transmission & Storage*, Special Permit, PHMSA-2008-0331, Condition 20(a) (Apr. 13, 2010).

The last page of the Excavation Summary documents the determination made by Boardwalk's ILI Technology & Analytics Group that no re-grade of the anomalies was necessary because, as demonstrated by dig sheets, the Pipe Evaluation Information forms, and the unity plot, and as recapped in the Excavation Summary, the location and attributes of the as-found anomalies were consistent with the location and attributes of the anomalies as they were called by the ILI tool.²⁵ The Excavation Summary identifies the Boardwalk personnel who reviewed the data from anomaly excavations and made the determination that re-grading the anomalies was not necessary.

Texas Gas has demonstrated that, not only did it make the determination required in the IM Manual, but the determination is supported by evidence in the case file. PHMSA has not met its burden of proving that Texas Gas failed to either follow its IM Manual or comply with § 192.907(a). Texas Gas requests that the Notice be withdrawn.²⁶

II. PHMSA Has Failed to Prove That the Additional Gouges Demonstrate That Texas Gas Failed to Make a Determination That Re-grading Was Not Necessary.

As noted in the Excavation Summary, at each of the excavation sites cited in the Notice, additional gouges were found near the anomaly identified by the ILI. The Notice alleges that “by not determining whether the anomalies discovered by field personnel during integrity assessment digs, but not detected by the ILI vendor, constituted a need for the ILI vendor to re-grade the anomalies and re-submit the data,” Texas Gas did not follow Appendix 4, Step 11, Task 2 of the IM Manual in violation of § 192.907(a).²⁷

PHMSA's allegation that the gouges discovered during the excavations were significant or represented severe discrepancies in the data is unsupported. The reason the ILI vendor did not report these gouges is that they did not meet sizing or attribute reporting parameters, which are limited by technology of the ILI tool. The gouges were not associated with a significant dent and they lacked attributes needed for the ILI tool to detect and size. The gouges would not have been reported even if the vendor had re-graded the anomalies. The existence of these additional gouges does not prove that Texas Gas failed to make a determination that the location and attributes of the anomalies called by the tool were consistent with the location and attributes of the anomalies found in the field.

PHMSA has not satisfied its burden of proving that Texas Gas failed to make a determination that re-grading the anomalies was not necessary, or that Texas Gas failed to follow the IM Manual as required under § 192.907(a). PHMSA has failed to “prove, by a preponderance

²⁵ Excavation Summary at 6 (Violation Report Exhibit B). Note that this page contains a typographical error. The November 4, 2021 date is incorrect. The correct date on which Boardwalk performed its final review of the excavations was November 3, 2022. Boardwalk could not have completed the final rule in November 2021 because most of the excavations documented in the Excavation Summary were performed in 2022.

²⁶ *ExxonMobil*, 2019 WL 3734516 at **4, 5 (ordering withdrawal of allegations where OPS failed to prove that Respondent engaged in conduct that would constitute a violation).

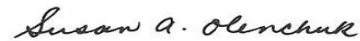
²⁷ Notice at 2.

of the evidence, that the facts necessary to sustain a probable violation actually occurred”²⁸ or that Texas Gas engaged in conduct that would constitute a violation.²⁹

III. Conclusion

PHMSA has failed to meet its burden of proving that Texas Gas failed to comply with the IM Manual or that Texas Gas violated § 192.907(a). Texas Gas requests that the Notice be withdrawn.

Respectfully submitted,



Susan A. Olenchuk
Van Ness Feldman, LLP
Attorney for Texas Gas Transmission, LLC

November 12, 2024

²⁸ *Alyeska Pipeline Serv. Co.*, Decision on Petition for Reconsideration, CPF No. 5-2005-5023, 2009 WL 5538655, *3 (Dec. 16, 2009) (quoting *Schaffer v. Weast*, 546 U.S. 49, 56 (2005)).

²⁹ *ExxonMobil*, 2019 WL 3734516 at **4, 5.