

FEBRUARY 28, 2013

Mr. David Devine
President
Natural Gas Pipeline Company of America, LLC
500 Dallas Street, STE 1000
Houston, TX 77002

Re: CPF No. 4-2012-1018

Dear Mr. Devine:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$122,700, and specifies actions that need to be taken by Natural Gas Pipeline Company of America, LLC, to comply with the pipeline safety regulations. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated November 29, 2012. When the terms of the compliance order have been completed, as determined by the Director, Southwest Region, this enforcement action will be closed. Service of the Final Order by certified mail is deemed effective upon the date of mailing, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Enclosure

cc: Mr. Rodrick M. Seeley, Director, Southwest Region, OPS
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS
Mr. M. Dwayne Burton, Vice President, Gas Pipeline Operations, Natural Gas Pipeline Company of America, LLC

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of

Natural Gas Pipeline Company of America, LLC,

Respondent.

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CPF No. 4-2012-1018

FINAL ORDER

Between January 11, 2011, and August 9, 2012, 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 on-site pipeline safety inspection of the facilities and records of National Gas Pipeline Company of America, LLC (NGPL or Respondent),¹ from South Texas to the Chicago metropolitan area. NGPL operates approximately 9,800 miles of natural gas pipelines that transport natural gas from production areas in Texas, New Mexico, Oklahoma and Louisiana to the Chicago area.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to NGPL, by letter dated October 3, 2012, a Notice of Probable Violation, Proposed Civil Penalty, Proposed Compliance Order (Notice), and a warning pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that NGPL had committed various violations of 49 C.F.R. Part 192 and assessing a civil penalty of \$122,700 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations. The warning item required no further action but warned the operator to correct the probable violation or face future potential enforcement action.

NGPL responded to the Notice by letter dated November 28, 2012 (Response). The company did not contest the allegations of violation and paid the proposed civil penalty of \$122,700, as provided in 49 C.F.R. § 190.227. Payment of the penalty authorizes PHMSA to make findings of violation as to those items. The findings are made with prejudice to Respondent.

¹ NGPL is jointly owned by Myria Holdings Inc., (80%), and Kinder Morgan Kansas, Inc. (20%). Kinder Morgan is the operator of the pipeline pursuant to an operations and reimbursement agreement between the owners.

FINDINGS OF VIOLATIONS

In its Response, NGPL did not contest the allegations in the Notice that it violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.479(a), which states:

§ 192.479 Atmospheric corrosion control: General.

(a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

The Notice alleged that NGPL violated 49 C.F.R. § 192.479(a) by failing to clean and coat each pipeline or portion of its pipeline that is exposed to the atmosphere. Specifically, the Notice alleged that NGPL failed to properly clean and coat portions of its pipeline within the Robstown Compressor Station 341. The OPS inspector observed disbonded coating, atmospheric corrosion, and severe pitting at flanged areas.

NGPL did not contest this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.479(a) for failing to properly clean and coat each pipeline or portion of its pipeline exposed to the atmosphere.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.481, which states, in relevant part:

§ 192.481 Atmospheric corrosion control: Monitoring.

(a) Each operator must inspect each pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion...

(b) During inspections the operator must give particular attention to pipe at soil-to-air interfaces, under thermal insulation, under disbonded coatings, at pipe supports, in splash zones, at deck penetrations, and in spans over water. . . .

The Notice alleged that NGPL violated 49 C.F.R. § 192.481 by failing to give particular attention to pipe at pipe supports during atmospheric corrosion inspections. Specifically, the Notice alleged that NGPL failed to properly inspect for atmospheric corrosion at the Wharton Compressor Station 301, since company personnel were physically unable to perform a thorough evaluation of pipe conditions underneath certain concrete pipe supports.

NGPL did not contest the proposed penalty for this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.481 by failing to give particular attention to pipe at pipe supports during inspections for atmospheric corrosion.

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

§ 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 one each calendar year. . .

The Notice alleged that NGPL violated 49 C.F.R. § 192.605(a) by failing to follow its own manual of written procedures for conducting operations and maintenance activities. Specifically, the Notice alleged that NGPL failed to document any continuing surveillance reviews conducted prior to January 2011 in District 201 and 311, in violation of its own Operations & Maintenance (O&M) *Procedure 218, Continuing Surveillance*, Section 5. Additionally, the company was unable to show that its continuing surveillance program had been properly reviewed by NGPL's Technical Services Manager for calendar years 2009, 2010, and 2011, as required by Section 3 of the same procedure.

NGPL did not contest the proposed penalty for this allegation of violation. 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 follow its own manual of written procedures for conducting operations and maintenance activities.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.611(d), which states:

§ 192.611 Change in class location: Confirmation or revision of maximum allowable operating pressure.

(a) ...

(d) Confirmation or revision of the maximum allowable operating pressure that is required as a result of a study under §192.609 must be completed within 24 months of the change in class location. Pressure reduction under paragraph (a)(1) or (2) of this section within the 24-month period does not preclude establishing a maximum allowable operating pressure under paragraph (a)(3) of this section at a later date.

The Notice alleged that NGPL violated 49 C.F.R. § 192.611(d) by failing to properly confirm or revise the maximum allowable operating pressure (MAOP) for a particular pipeline segment within 24 months of a change in the class location of such segment.² Specifically, the Notice alleged that on April 27, 2009, NGPL changed the class location of a certain segment of pipeline from Class 1 and 2 to Class 3. The Notice alleged that the OPS inspector was unable to determine whether NGPL had properly confirmed or revised the MAOP for this segment of pipeline. According to the Notice, the revision in MAOP was not completed until

² Under 49 C.F.R. § 192.609, whenever the population density of the area surrounding a continuous one-mile segment of pipeline increases beyond certain density levels set forth in § 192.5, an operator must determine whether additional safeguards should be taken to ensure public safety.

January 25, 2012, exceeding the 24-month deadline by nine months.

NGPL did not contest the proposed penalty for this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.611(d) by failing to properly revise the MAOP within 24 months of a change in the class location of a particular pipeline segment.

Item 6: The Notice alleged that Respondent violated 49 C.F.R. § 192.807, which states:

§ 192.807 Recordkeeping.

Each operator shall maintain records that demonstrate compliance with this subpart.

(a) Qualification records shall include:

(1) Identification of qualified individual(s);

(2) Identification of the covered tasks the individual is qualified to perform;

(3) Date(s) of current qualification; and

(4) Qualification method(s).

(b) Records supporting an individual's current qualification shall be maintained while the individual is performing the covered task. Records of prior qualification and records of individuals no longer performing covered tasks shall be retained for a period of five years.

The Notice alleged that NGPL violated 49 C.F.R. § 192.807 by failing to maintain certain records demonstrating compliance with Subpart N (Qualification of Pipeline Personnel) of Part 192. Specifically, it alleged that NGPL failed to maintain proper records under its operator qualification (OQ) program for a particular contract welder. While reviewing OQ records at the company's District 309 offices, an OPS inspector requested the qualification records for a particular contract welder who had performed certain "covered tasks"³ during a 2008 launcher/receiver upgrade project. NGPL was unable to produce the records during the inspection.

NGPL did not contest the proposed penalty for this allegation of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.807 by failing to properly maintain OQ records for a particular contract welder.

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

³ The covered tasks were Abnormal Operations (001.01.01), Welding Process (024.01.01) and Visual Inspection of Welds (024.02.01).

related series of violations.⁴ 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; and any effect that the penalty may have on its ability to continue doing business; and the good faith of Respondent in attempting to comply with the pipeline safety regulations. 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 \$122,700 for the violations cited above.

Item 3: The Notice proposed a civil penalty of \$60,300 for Respondent's violation of 49 C.F.R. § 192.605(a), for failing to follow NGPL's own manual of written procedures for conducting operations and maintenance activities. NGPL paid the proposed penalty, which authorizes PHMSA to make a finding of violation, with prejudice, regarding this item. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$60,300 for violation of 49 C.F.R. § 192.605(a).

Item 4: The Notice proposed a civil penalty of \$41,200 for Respondent's violation of 49 C.F.R. § 192.611, for failing to revise the MAOP of a particular pipeline segment within 24 months of a change in the segment's class location. NGPL paid the proposed penalty, which authorizes PHMSA to make a finding of violation, with prejudice, regarding this item. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$41,200 for violation of 49 C.F.R. § 192.611.

Item 6: The Notice proposed a civil penalty of \$21,200 for Respondent's violation of 49 C.F.R. § 192.807, for failing to retain OQ records for a certain contract welder who had performed covered tasks during a 2008 launcher/receiver upgrade project. NGPL paid the proposed penalty, which authorizes PHMSA to make a finding of violation, with prejudice, regarding this item. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$21,200 for violation of 49 C.F.R. § 192.807.

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 **\$122,700**, which has been paid in full by NGPL.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Items 1 and 2 for violations of 49 C.F.R. §§ 192.479(a) and 192.481, respectively. Under 49 U.S.C. § 60118(a), each person who engages in the transportation of gas or who owns or operates a pipeline facility is required to comply with the applicable safety standards established under chapter 601. Pursuant to the

⁴ The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011, Pub. L. No. 112-90, § 2(a)(1), 125 Stat. 1904, January 3, 2012, increased the maximum civil penalty liability for violating a pipeline safety standard to \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 for a related series of violations.

authority of 49 U.S.C. § 60118(b) and 49 C.F.R. § 190.217, Respondent is ordered to take the following actions to ensure compliance with the pipeline safety regulations applicable to its operations:

1. With respect to the violation of § 192.479(a) (**Item 1**), NGPL must evaluate the piping surface to ensure that pipe integrity is suitable for the MAOP of the pipeline at the Robstown Compressor Station. The areas must then be cleaned and coated according to 49 CFR Part 192 and NGPL procedures.
2. With respect to the violation of § 192.481 (**Item 2**), NGPL must thoroughly evaluate its pipelines at concrete pipe supports and determine if atmospheric corrosion is present. If atmospheric corrosion is present, NGPL must evaluate the piping surface to ensure that pipe integrity is suitable for the MAOP of the pipeline and clean and coat the affected areas according to 49 CFR and NGPL procedures.
3. Respondent must complete Items 1 and 2 within 90 days of receipt of the Final Order.
4. It is requested (not mandated) that Respondent maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R. M. Seeley, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. It is requested that these costs be reported in two categories: 1) total cost associated with preparation/revision of plans, procedures, studies and analyses; and 2) total cost associated with replacements, additions and other changes to pipeline infrastructure.

The Director may grant an extension of time to comply with any of the required items upon a written request timely submitted by the Respondent and demonstrating good cause for an extension.

Failure to comply with this Order may result in the administrative assessment of civil penalties not to exceed \$100,000 for each violation for each day the violation continues or in referral to the Attorney General for appropriate relief in a district court of the United States.

WARNING ITEM

With respect to Item 5, the Notice alleged a probable violation of Part 192 but did not propose a civil penalty or compliance order for this item. Therefore, this is considered to be a warning item. The warning was for:

49 C.F.R. § 192.615(b)(3) (**Item 5**) — Respondent's alleged failure to review employee activities to determine if the employees were properly following the company's procedures during an emergency.

If OPS finds a violation of this provision in a subsequent inspection, Respondent may be subject

to future enforcement action.

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

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued