

**NOTICE OF PROBABLE VIOLATION,
PROPOSED CIVIL PENALTY,
and
PROPOSED COMPLIANCE ORDER**

ELECTRONIC MAIL - RETURN RECEIPT REQUESTED

December 21, 2021

William T. Yardley
Executive Vice President and President
Gas Transmission and Midstream
Texas Eastern Transmission, L.P.
5400 Westheimer Court
Houston, Texas 77056

CPF 4-2021-034-NOPV

Dear Mr. Yardley:

Following two reportable incidents that occurred on Texas Eastern Transmission, L.P.'s¹ (TETLP) pipeline facilities located near Danville and Hillsboro, Kentucky in August 2019 and May 2020, respectively, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.), initiated an investigation and inspection of TETLP's facilities and records. The first incident occurred at approximately 1:23 am Eastern Daylight Time (EDT) on August 1, 2019, on TETLP's 30-inch diameter Line 15 near Danville, Kentucky. Line 15 transports natural gas from the Danville Compressor Station to the Tompkinsville Compressor Station in Kentucky. The line failed at mile post (MP) 423.3, resulting in the release of approximately 66 million cubic feet (MMCF) of natural gas. The release of natural gas ignited and resulted in the death of one person and the hospitalization of six others. First responders evacuated approximately 75 members of the public. The resulting fire destroyed multiple structures and burned vegetation over approximately 30 acres of land. TETLP estimated damages to exceed \$19 million.

PHMSA responded to the incident and initiated an inspection, and on August 8, 2019, issued a Corrective Action Order (CAO), CPF 2-2019-1002H, which required TETLP to take necessary corrective actions with respect to Line 15 and adjacent Lines 10 and 25 to protect the public, property, and the environment from potential hazards associated with the August 1, 2019 incident.

¹ TETLP is a wholly-owned subsidiary of Spectra Energy Partners, LP, which is, in turn, a wholly-owned subsidiary of Enbridge, Inc.

While PHMSA initiated an investigation of the incident, the National Transportation Safety Board (NTSB) is now leading investigation for the August 1, 2019 incident.

Approximately nine months after the August 1, 2019 incident, while the CAO remained open, TETLP experienced another incident on one of the lines subject to the CAO. At approximately 4:36 pm EDT on May 4, 2020, TETLP experienced a second incident on its 30-inch diameter Line 10 located near Hillsboro in Fleming County, Kentucky. Line 10, which transports natural gas from Wheelersburg Compressor Station to Owingsville Compressor Station in Kentucky, failed at MP 509.898. The failure resulted in a release of approximately 52 MMCF of natural gas, which subsequently ignited, burning a heavily wooded area on a hillside.² TETLP estimated damages for this incident at approximately \$12 million. The NTSB is also leading the investigation into the cause of this incident. As a result of this incident, PHMSA issued a Second Amended CAO on June 1, 2020, which required TETLP to take corrective actions to address the May 4, 2020 incident with respect to Lines 10, 15, and 25.³ The Second Amended CAO remains open as TETLP continues to work through the corrective measures.

Following the May 4, 2020 incident, and as part of its investigation, PHMSA OPS inspected TETLP's operation and maintenance procedures for selected locations related to Lines 10, 15, and 25 in Mississippi, Alabama, Tennessee, Kentucky, Ohio, and Pennsylvania. This inspection occurred from June 16, 2020 through November 11, 2020.

Based on the investigation and inspection, it is alleged that TETLP has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. **§ 192.613 Continuing surveillance.**

(a) Each operator shall have a procedure for continuing surveillance of its facilities to determine and take appropriate action concerning changes in class location, failures, leakage history, corrosion, substantial changes in cathodic protection requirements, and other unusual operating and maintenance conditions.

(b) If a segment of pipeline is determined to be in unsatisfactory condition but no immediate hazard exists, the operator shall initiate a program to recondition or phase out the segment involved, or, if the segment cannot be reconditioned or phased out, reduce the maximum allowable operating pressure in accordance with § 192.619 (a) and (b).

² PHMSA Accident Report, Form PHMSA F 7100.2 - 20200057-33836, dated June 6, 2020.

³ Prior to the May 1, 2020 incident and the issuance of the Second Amended CAO, PHMSA issued an Amended CAO on April 28, 2020, which updated the terms of the original CAO to address actions taken by TETLP.

TETLP failed to initiate a program to recondition, phase out, or reduce the maximum allowable operating pressure for segments of its pipeline systems subject to an unsatisfactory condition, specifically the adverse effects of geohazards. TETLP operates pipelines in areas across the United States that are subject to geohazards. During the inspection, PHMSA examined TETLP's methodology for managing its unusual operating conditions specific to the danger geohazards posed to over 2,000 miles of TETLP's pipeline system from the gulf coastal plains of Mississippi, northeast to the Appalachian range in Pennsylvania.

PHMSA's examination of TETLP's methodology revealed that prior to the May 4, 2020 incident, TETLP had not developed a program, to include comprehensive written procedures, for continuing surveillance of the pipeline system concerning other unusual operating and maintenance conditions relevant to geohazards.

Upon request, TETLP provided several procedures that, according to TETLP, together served as its Standard Operating Procedure intended to cover and address geohazard management for its pipeline systems. These were a combination of legacy procedures that were in affect prior to the May 4, 2020 incident and current procedures. However, whether considered individually or collectively, PHMSA found the 14 procedures presented at the time of the inspection failed to provide personnel with adequate guidance for detection, monitoring for changes, and appropriate actions needed to mitigate the hazardous effects from the ongoing threat of geohazards. Additionally, PHMSA's examination revealed that TETLP had been aware that a significant portion of its pipeline system was susceptible to the adverse effects of geohazards. For example, TETLP experienced an in-service failure on Line 10 located in Noble County, Ohio, in January 2019, due to a landslide. The investigation into this January 2019 failure found several deficient areas in the management of geohazards leading up to the failure. This incident occurred prior to the two incidents that are the subject of the Second Amended CAO (CPF 2-2019-1002H). In 2018, TETLP identified the eventual site of the Fleming County, Kentucky failure as having a higher probability of being affected by a landslide. Therefore, despite having this knowledge of the impact of geohazards on its pipeline, TETLP continued to operate its pipelines without initiating a program to recondition, phase out, or reduce the maximum allowable operating pressure for segments of its pipeline systems subject to the geohazards, which resulted in a second serious incident on May 4, 2020.

2. **§ 192.705 Transmission lines: Patrolling.**

(a) Each operator shall have a patrol program to observe surface conditions on and adjacent to the transmission line right-of-way for indications of leaks, construction activity, and other factors affecting safety and operation.

TETLP failed to patrol in order to observe the surface conditions on and adjacent to its transmission line rights-of-way for indications of leaks, construction activity, and other factors affecting safety and operation. Specifically, TETLP failed to maintain its rights-

of-way to allow for the observation of surface conditions on and adjacent to the transmission line rights-of-way when viewed via aerial patrols.

During PHMSA's geohazard inspections in the Fall of 2020, PHMSA inspectors observed the condition of at least five locations along the transmission lines on TETLP's pipeline system where TETLP failed to maintain its right-of-way in a manner to support an effective patrol program. The observed locations are:

TETL Segment	Site	State	County
BERN-HOLB	GH-2731	Ohio	Monroe
WHEE-ATHE	GH-1432	Ohio	Jackson
OWSV-WHEE	GH-3452	Kentucky	Lewis
GLAD-TOMP	GH-935	Tennessee	Macon
GLAD-TOMP	GH-5118	Tennessee	Macon

TETLP's written *Standard Operating Procedure 1-5010, Right-of-Way Maintenance* requires the right-of-way surface to be maintained so that personnel have sufficient visibility to observe the ground surface. At each of the locations identified above, PHMSA staff noted either dense vegetation, brush at varying heights, or large trees.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$225,134 per violation per day the violation persists, up to a maximum of \$2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed \$222,504 per violation per day the violation persists, up to a maximum of \$2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. We have reviewed the circumstances and supporting documentation involved for the above probable violations and recommend that you be preliminarily assessed a civil penalty of **\$640,300** as follows:

Item Number	Penalty
1	\$552, 900
2	\$ 87, 400

Proposed Compliance Order

With respect to Item 2 pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Texas Eastern Transmission, L.P. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. All material you submit in response to this enforcement action may be made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document, you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 CFR § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 4-2021-034-NOPV** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

Mary L. McDaniel, P.E.
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration

Enclosures:

Proposed Compliance Order
Response Options for Pipeline Operators in Enforcement Proceedings

cc: Michele Harradence, Senior Vice President and Chief Operations Officer, Enbridge,
michele.harradence@enbridge.com
Nathan Atanu, Manager, Operational Compliance, Enbridge,
nathan.atanu@enbridge.com

PROPOSED COMPLIANCE ORDER

Pursuant to 49 U.S.C. § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Texas Eastern Transmission, L.P. (TETLP) a Compliance Order incorporating the following remedial requirements to ensure the compliance of TETLP with the pipeline safety regulations:

- A. In regard to Item 2 of the Notice pertaining to TETLP's failure to patrol in order to observe the surface conditions on and adjacent to its transmission line rights-of-way for indications of leaks, construction activities, and other factors affecting safety and operation, TETLP must:
 - 1. Review right-of-way maintenance programs, to include personnel training across the TETLP system, to ensure surface conditions are maintained in a manner appropriate for observations during patrols. The review must examine instances that may have obstructed personnel in past maintenance efforts; and
 - 2. Develop and implement a program to identify and address locations of the TETLP system that impede personnel from observing the surface conditions on and adjacent to the right-of-way for indications of ground movement, indications of leaks, or other factors that may affect the safe operation of the pipeline. The program must define timeframes to complete all planned implementation.

- B. In regard to Item A of this Compliance Order, TETLP must submit the review and written program to Mary L. McDaniel, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration within 45 days of receipt of the Final Order.

It is requested (not mandated) that TETLP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Mary L. McDaniel, P.E., 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.