



By Electronic Mail

January 9, 2025

Mr. Bryan Lethcoe
Director, Southwest Region
Pipeline and Hazardous Materials Safety Administration
Office of Pipeline Safety
8701 S. Gessner Rd, Suite 630
Houston, Texas 77074

Via email: bryan.letthcoe@dot.gov

Subject: Transwestern Pipeline Company, LLC's Response to Notice of Probable Violation, Proposed Civil Penalty and Proposed Compliance Order CPF 4-2024-037-NOPV

Dear Mr. Lethcoe,

This letter constitutes the response of Transwestern Pipeline Company, LLC ("Transwestern" or "Company") to the Notice of Probable Violation ("NOPV"), Proposed Civil Penalty ("PCP"), and Proposed Compliance Order ("PCO"), CPF 4-2024-037, issued by the Pipeline and Hazardous Materials Safety Administration ("PHMSA") on October 4, 2024, and received by Transwestern on October 4, 2024. The PHMSA NOPV alleges seven (7) violations, one of which was issued as a warning item, includes a PCP in the amount of \$176,700, and includes a PCO requiring remedial actions to ensure compliance with the pipeline safety regulations.

On October 7, 2024, Transwestern requested PHMSA provide the Case File and Civil Penalty Worksheet as allowed by § 190.208(c) and § 190.209(b)(2) and Docket No. PHMSA 2016-0101. PHMSA provided these items via electronic mail on October 7, 2024.

By way of background, this NOPV was issued following an inspection of Transwestern's interstate natural gas transmission pipelines located in Arizona, Colorado, New Mexico and Texas, from April 11, 2023 through September 29, 2023. The NOPV provided for 30 days following receipt to submit written comments. On October 10, 2024 Transwestern requested an extension of time to respond until January 10, 2025. Approval for this extension was granted by PHMSA on October 11, 2024. Transwestern is providing this written response to explain Transwestern's position and efforts to resolve the underlying issues identified in the NOPV.

Please note that the attached exhibits to this submission contain confidential business information and confidential security information that is protected from public disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Should PHMSA receive a FOIA request for this information,



the Agency is required to notify Transwestern and provide Transwestern with an adequate opportunity to substantiate its claim, prepare redactions, and/or object, if warranted.

Transwestern appreciates PHMSA's review and consideration of this submission and shares PHMSA's commitment to pipeline safety, public safety and pipeline integrity. Should you have any questions in this regard, please contact Susie Sjulín at 405-557-5271 or at susie.sjulin@energytransfer.com

Due to the data size of several of the exhibits, an external Share Site has been established at the following link [Energy Transfer](#).

Respectfully,

A handwritten signature in blue ink, appearing to read 'Eric Amundsen', written over a light blue horizontal line.

Eric Amundsen
Senior VP, Operations

cc: Matt Stork, VP Technical Services
Toby Clark, VP Operations
Chris Lason, VP Asset Integrity
Susie Sjulín, Director DOT Compliance
Todd Nardozi, Director DOT Compliance
Carlos Vidal, Assistant General Counsel

1. § 191.5 Immediate notice of certain incidents.

(a) At the earliest practicable moment following discovery, but no later than one hour after confirmed discovery, each operator must give notice in accordance with paragraph (b) of this section of each incident as defined in § 191.3.

Transwestern failed to give notice in accordance with § 191.5(b) of each incident defined in § 191.3, at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery in accordance with § 191.5(a).² Specifically, Transwestern failed to notify the National Response Center (NRC) of four incidents at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery.

On April 7, 2020, at 7:00 a.m. (CDT), Transwestern identified a reportable incident at Maljamar Compressor Station on the West Texas pipeline segment due a stuck open relief valve. Transwestern notified the NRC at 2:03 p.m. (CDT), approximately 7 hours after Transwestern identified the incident.

On October 19, 2020, at 6:00 a.m. (CDT), Transwestern identified a reportable incident at WT-1 Carlsbad Compressor Station on the West Texas pipeline segment due to a malfunctioning relieve valve. Transwestern notified the NRC at 7:44 a.m. (CDT), approximately 1.75 hours after Transwestern identified the incident.

On June 19, 2021, at 11:50 p.m. (CDT), Transwestern identified a reportable incident at Compressor Station 6 on the Thoreau East pipeline segment due to a malfunctioning relief valve. Transwestern notified the NRC on June 20, 2021, at 5:44 a.m., approximately 6 hours after Transwestern identified the incident.

On December 18, 2022, at 7:30 p.m. (CDT), Transwestern identified a reportable incident at Compressor Station 5 on the Thoreau East pipeline segment due to a malfunctioning relief valve. Transwestern notified the NRC at 10:31 p.m., approximately 3 hours after Transwestern identified the incident.

Therefore, Transwestern failed to give notice of each incident defined in § 191.3, at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery in accordance with § 191.5(a).

Transwestern Response

Transwestern refutes the alleged inadequacy for failing to notify the National Response Center (“NRC”) of four incidents at the earliest practicable moment following discovery, but no later than one hour after confirmed discovery for Incident reports referenced above.as October 19, 2020



(original report date 11/17/2020), June 19, 2021 (original report date 7/19/2021) and December 18, 2022 (original report date 1/10/2023). For the past several years there have been inconsistencies on the time required to be documented in Form 7100.2 Part A, Line item A4, as directed by the PHMSA Accident Investigation Division ("AID"). On multiple occasions the Accident Investigators assigned to the incident have required time changes to represent when an incident began, versus the time when reporting criteria was met, to close out a report. For this reason, Transwestern has provided additional information and timelines in Part H, "narrative description of the incident", of Form 7100.2, to show when criteria for reporting was met and when NRC notification was made. Three of the incident reports mentioned above which were included in the provided case file from PHMSA, show that the one-hour notification criteria was met in Part H. The incident report referenced as occurring on April 7, 2020 (original report date May 1, 2020), and provided in the PHMSA case file, does not provide this timeline detail information but did require changes specified from AID. Part H of that the incident report for April 7, 2020 does provide that the initial notification of a possible release was made at 07:00, and then, sometime after that, field personnel arrived at the site and verified the release and blocked it in. Sometime after the field personnel completed the work on site, the analysis and calculation was made that reporting criteria was met and immediately reported to the NRC. So 07:00 was the probable time the incident began, based on direction from the AID inspector, not the time reporting criteria was met. All four reports are included as exhibits in this response. Additionally, to reinforce the importance of the one-hour notification requirement, a refresher training for incident reporting was assigned, and completed by the Transwestern employees in December.

See **Exhibit A1**: Incident report original date 11/17/2020

See **Exhibit A2**: Incident report original date 7/19/2021

See **Exhibit A3**: Incident report original date 1/10/2023

See **Exhibit A4**: Incident report original date 5/1/2020

2. § 192.467 External corrosion control: Electrical isolation.

(a)

(b) One or more insulating devices must be installed where electrical isolation of a portion of a pipeline is necessary to facilitate the application of corrosion control.

Transwestern failed to install one or more insulating devices where electrical isolation of a portion of pipeline is necessary to facilitate the application of corrosion control in accordance with § 192.467(b). Specifically, Transwestern failed to install an isolation kit at the line of demarcation at Dairy Concepts custody delivery transfer point to ensure electrical isolation.

The PHMSA inspector found that the isolation kit was installed further upstream on Transwestern's pipeline and not installed at the actual line of demarcation between Transwestern and Dairy Concepts pipelines. Because the isolation kit was not installed at the correct transfer point, Transwestern could not ensure electrical isolation of the portion of its pipeline between the actual line of demarcation and the isolation kit.



Therefore, Transwestern failed to install insulating device where electrical isolation of the pipeline is necessary to facilitate the application of corrosion control in accordance with § 192.467(b).

Transwestern Response

Transwestern is refuting this alleged inadequacy. When electrical isolation is necessary to facilitate the application of corrosion control, and insulating devices are installed, there is no code language or requirement on the specific location of insulating devices. At the Dairy Concepts Meter station there were four insulation kits installed. Two of the kits were installed at the meter run, which is a common location for current electronic meter technology, and the other two kits were installed at the points of demarcation, the bypass valve (Valve #2) and control valve (Valve #1). The photos included in the PHMSA violation report, which are the basis of the NOPV, have the points of demarcation mislabeled. Therefore, PHMSA's finding that Transwestern allegedly failed to install insulating devices where electrical isolation of the pipeline is necessary to facilitate the application of corrosion control in accordance with 192.467(b) is incorrect. Photos showing the actual location of the insulation kits and demarcation points are included as exhibits in this response.

See Exhibit B1: Dairy Concepts actual line of demarcation Valve #1

See Exhibit B2: Demarcation insulation kit

See Exhibit B3: Bypass Valve #2 Insulation kit

See Exhibit B4: Meter run insulation kits

3. § 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.

Transwestern failed to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere in accordance with § 192.479(a). Specifically, Transwestern failed to clean and coat the pipeline exposed to the atmosphere at the Dairy Concepts metering station.

PHMSA observed exposed pipe at the Dairy Concepts metering station that had not been cleaned and coated to protect against atmospheric corrosion. Therefore, Transwestern failed to clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere in accordance with § 192.479(a).

Proposed Compliance Order

In regard to Item 3 of the Notice pertaining to Transwestern's failure to provide protection against atmospheric corrosion, Transwestern must clean and coat the exposed pipe at its Dairy Concepts meter stations in accordance with the requirements of § 192.479(a), and provide records, including photographs, to the Director, Southwest Region, PHMSA within **90** days of receipt of the Final Order.



Transwestern Response

Transwestern is refuting this alleged inadequacy. PHMSA states in the violation report and the enforcement finding for Item 3 that Transwestern is in violation of section 192.479(a). Section 192.479(a) states the following:

“(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.”

Additionally, paragraph (c) of this section, which is referenced in the quoted section of part (a) above states:

“(c) Except portions of pipelines in offshore splash zones or soil-to-air interfaces, the operator need not protect from atmospheric corrosion any pipeline for which the operator demonstrates by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will—

- (1) Only be a light surface oxide; or
- (2) Not affect the safe operation of the pipeline before the next scheduled inspection.”

Atmospheric inspections completed at this location, with the pipe in question, show only surface oxides and no signs of pitting. The Corrosion Technicians that completed the atmospheric inspections, per SOP D.44 Atmospheric Corrosion Inspection, indicate by Classification of Case 1 or Case 2 that no remedial action is required, and further state that the existing pipeline conditions will provide adequate corrosion protection and will not affect the safety or integrity of the metallic asset before the next atmospheric inspection. Pipe that is exposed to the atmosphere does not have to be coated to meet the atmospheric corrosion control requirement if the pipeline operator can show that it has met the requirements of 192.479(c). As state above, Transwestern has performed the atmospheric corrosion inspections in satisfaction of section 192.479(c) and has therefore met the requirements of 192.479(a). Inspection reports have been included as exhibits in this response.

See Exhibit C1: Proactive Atmospheric Inspection P1 South 2021 & 2024

4. § 192.481 Atmospheric corrosion control: Monitoring.

(a) Each operator must inspect and evaluate each pipeline or portion of the pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

Pipeline type:	Then the frequency of inspection is:
(1) Onshore other than a Service Line	At least once every 3 calendar years, but with intervals not exceeding 39 months.

(2) Onshore <i>Service Line</i>	At least once every 5 calendar years, but with intervals not exceeding 63 months, except as provided in paragraph (d) of this section.
(3) <i>Offshore</i>	At least once each calendar year, but with intervals not exceeding 15 months.

(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.

Transwestern failed to inspect and evaluate each pipeline or portion of the pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months, paying particular attention to pipe under thermal insulation in accordance with § 192.481(a) and (b) and its procedure, *Standard Operating Procedure (SOP), Atmospheric Corrosion Inspection* (Rev. June 30, 2023). Specifically, Transwestern failed to inspect under thermal insulation at the Atoka 2 Compressor station in 2018 and 2021.

Transwestern's procedure, section 7.1 Coating Inspection, requires inspection under pipe insulation, including using proven and accepted methods to inspect under insulation if it is impractical to remove it, and consideration to establish permanent inspection ports to facilitate inspection without insulation removal. During the field inspection of the Atoka 2 Compressor station, PHMSA observed pipe that was thermally insulated pipe without inspection ports installed. Transwestern could not provide documentation showing that the pipe had been inspected for atmospheric corrosion under the insulation in 2018 and 2021, in accordance with § 192.479(a) and Transwestern's procedure.

Therefore, Transwestern failed to inspect each pipeline or portion of the pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, but with intervals not exceeding 39 months, paying particular attention to pipe under thermal insulation in accordance with § 192.481(a) and (b) and its procedure.

Proposed Compliance Order

In regard to Item 4 of the Notice pertaining to Transwestern's failure to inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion at least once every 3 calendar years, with intervals not exceeding 39 months, giving particular attention to pipe under

Transwestern Response

Transwestern refutes this alleged inadequacy as Transwestern has provided additional pipe inspection information regarding the Atoka 2 Atmospheric Corrosion concern to PHMSA, as noted in the violation report, based on inspection preliminary findings presented to Transwestern on November 15, 2023. Response to the Transwestern inspection preliminary findings was provided back to



PHMSA on December 15, 2023 and included additional data to address the Time Dependent Threats: Atmospheric Corrosion concern at Atoka 2. Transwestern's response included Photos of insulation removal and an atmospheric inspection report dated December 12, 2023. Records reviewed and documented in the Violation report included previous atmospheric inspections of the insulated pipeline as well as a photo of the associated inspection port. The proactive report summary information provides pipe case ratings but does not capture specific notation regarding the removal of insulation for pipe inspection or inspection through the associated port. To address this concern, Transwestern removed the pipe insulation and completed an additional atmospheric inspection with a special notation in the overall comments section that the insulation was removed with associated pictures included in Gform #546079 that was provided to PHMSA on December 12, 2023. The description of the violation in the PHMSA case file report, copied below, states that all this information was provided but it did not include a case rating or a technician name on the Gform. The case rating can be found on page 2 of the Gform #546079 under the "Piping Corrosion Section" where it states "Case Number; Case 2", no remedial action, as well as a description of the condition; "a few small areas of surface rust." The technician's name is included in the meta data of Gform #546079 which must be turned on when exported to be able to see this information. Transwestern received no correspondence from PHMSA after the preliminary concern response data was submitted indicating that a reprint of the report was needed to verify the technician's name. A copy of the previously submitted Gform #546079 with the meta data included has been attached to this letter as an exhibit.

PHMSA Violation Report Item 4

Transwestern conducted an atmospheric inspection on December 12, 2023, on Unit 837 discharge piping at the Atoka 2 Compressor Station after the PHMSA inspector identified this concern during the field inspection. Transwestern sent the PHMSA inspector GForm 546079 D.44.A Atmospheric Inspection Form. The comments on GForm 546079 state: "Special attention was paid to the piece of discharge piping coming from Unit 837 from which the insulation was recently removed. The pipe under the insulation is painted and the paint is in good condition with a couple small area of surface rust." The document also contains pictures of the pipeline where the insulation was removed which show the pipeline is not painted, it has a primer only, and with several areas of what the technician noted as "surface rust". The GForm did not give a case rating to classify the condition of the pipe after insulation was removed. The GForm did not list who performed this task.

For future inspections, insulation at the Atoka 2 Compressor Station has been permanently removed and all associated piping has been painted. The atmospheric inspection report for 2024, Gform #658471 and photos of the associated piping have been included as exhibits to this letter.

See Exhibit D1: Atoka 2 Painted A

See Exhibit D2: Atoka 2 Painted B

See Exhibit D3: Atoka 2 2024 Gform – 658471

See Exhibit D4: Atoka 2 2023 Gform with meta data - 546079

5. § 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.

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(1)

(8) Periodically reviewing the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found.

Transwestern failed to follow its manual of written procedures for conducting operations and maintenance activities and for emergency response in accordance with § 192.605(a). Specifically, Transwestern failed to periodically review the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modify the procedures when deficiencies are found in accordance with § 192.605(b)(8), section

4.0 of Transwestern's procedure, *Guiding Principles for Standard Operating Procedures, A-HLA.02* (effective, Sept. 1, 2023). Additionally, Transwestern provided its procedure, *Standard Operating Procedure (SOP) A.18, Operator Qualification Plan* (effective, June 1, 2013), which requires annual Work History Reviews for employees, including review of the adequacy and effectiveness of SOPs used in the performance of tasks, and provides that employees may recommend a change in accordance with section 7.6 of that procedure. Transwestern also provided records of previous Work History Reviews. However, the Work History Review records failed to show that Transwestern conducted a review of the work performed by its employees for the purpose of determining whether its procedures themselves were effective and adequate and modifying when necessary.

Therefore, Transwestern failed to provide records showing that periodic reviews of the work performed by personnel were conducted to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found in accordance with § 192.605(b)(8).

Proposed Compliance Order



In regard to Item 5 of the Notice pertaining to Transwestern's failure to periodically review the work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found in accordance with § 192.605(b)(8), Transwestern must conduct reviews of work performed by personnel to determine the effectiveness of the procedures used in normal operation and maintenance and take corrective action where deficiencies are found and provide documentation of the effectiveness reviews to the Director, Southwest Region, PHMSA within **60** days of receipt of the Final Order.

Transwestern Response

Transwestern (1) refutes the alleged inadequacy that Transwestern failed to provide records showing that periodic reviews of the work performed by personnel was conducted to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedures when deficiencies are found in accordance with § 192.605(b)(8), and (2) in the event PHMSA continues to find that Transwestern's records are inadequate, Transwestern respectfully requests that the alleged inadequacy should be withdrawn or placed in abeyance pending a final decision in the Panhandle case.

(1) Transwestern Refutes This Alleged Inadequacy

Transwestern reviews work of personnel, as well as procedure adequacy and effectiveness in the following ways:

- 1) Company Subject Matter Experts and Procedure document owners review all standard operating and maintenance procedures for technical effectiveness and regulatory completeness to current rule making on an annual basis per "ET Procedure A-HLA.02 Guiding Principles for Standard Operating Procedures, Section 4.0 Frequency and Section 7.2 Developing or Reviewing and SOP." This review is documented and maintained by the Organizational Excellence MOC group and includes all change requests initiated during the year by company employees and has been included as an exhibit in this response. This procedure also directs all company employees, in the performance of their daily tasks, to review their work to determine the effectiveness of the applicable procedures and to initiate a change if required.
- 2) An annual Work History review is completed between the Supervisor and Employee and covers tasks that the employee performed over the past 12 months. These could include tasks performed in normal operations and maintenance activities, and abnormal or emergency operations. This process is documented in the Energy Transfer Operator Qualification Manual Section 4.0 Frequency. Each of these tasks discussed and reviewed have specific Standard Operating Procedures identified as necessary to perform and complete the tasks and are documented on the Skill Evaluation Record. For example, covered task 205 – "Utilize Wet Magnetic Particle Inspection to Identify Surface Linear Indications (Not Welds)", requires the knowledge and execution of the following Procedures
 - a. D.35 Buried Pipe Inspections
 - b. D.45 Wet Magnetic Particle Inspection
 - c. D.36 Investigation of Pipeline Anomalies

d. I.06 Evaluating Pipe Defects

When this task is discussed in the annual work history review, it includes the effectiveness of these associated procedures. If inadequacies were found in any task associated procedure, it is documented on the Annual Work History Review form and a MOC change request is initiated per "ET SOP A-HLA.02 Guiding Principles of Standard Operating Procedures Appendix C." Annual Work History Reviews and a Skill Evaluation Records have been included as exhibits in this response.

- 3) Subject Matter Experts that have been trained and certified as covered task evaluators, observe the implementation and performance of procedures daily in the process of individual's qualifications. If any inadequacies or deficiencies are noted, they will submit a change request per "ET SOP A-HLA.02 Guiding Principles of Standard Operating Procedures Appendix C."
- 4) Quality Job Reviews are also completed as part of a company-wide safety program. These Quality Job Reviews involve supervisors, managers, and directors traveling out into the field to observe their employees conducting their work and documenting the implementation of all applicable safe work practices and procedures. Quality Job Reviews can be documented on a hard copy form or through uploads to an electronic database, known as Intelix. The results of conducting the Quality Job Reviews range from acknowledgement and recognition to the work team on a job well done, identification of an update to a procedure, the need for additional training, or other areas for improvement. A Quality Job Review has been included as Exhibit E6 of this response.

Transwestern also utilizes PHMSA enforcement guidance documents when developing new and reviewing existing Standard Operating Procedures and processes. The current PHMSA enforcement guidance gives the following information regarding 192.605(b)(8) –

- The operator must show that some analysis has been performed to determine the adequacy of a procedure and, if found to be inadequate, made appropriate modifications. The analysis may include incident data, near miss data, meetings to discuss the procedures, job safety analysis, etc., and should include documentation showing the analysis, discussions, etc., that determined the procedure was adequate or inadequate. A tie to the management of change process should show the procedure modification that was made in the response to the analysis.

PHMSA enforcement guidance documents also include references to ANSI GPTC Guide for Gas Transmission Distribution and Gathering Piping Systems. Guide material for 192.605 during the time of this inspection included the following

- 2.7 Periodically reviewing the work done by operator personnel. The operator should designate a timetable to review personnel performance to determine if the normal operating and maintenance procedures found in the manual are effective and adequate. The operator should determine if deficiencies exist in the procedures. If applicable, modification of procedures should be accomplished as soon as possible. Documentation should be maintained for all procedure modifications and retraining of personnel.



Transwestern believes the Annual Work History Reviews and documentation, Subject Matter Expert continuous procedure implementation observation, the annual SOP technical and compliance reviews and documentation, and Quality Job Reviews, currently meet or exceed the requirement of periodically reviewing work done by operator personnel to determine the effectiveness, and adequacy of the procedures used in normal operations and maintenance and modifying the procedures when deficiencies are found.

(2) Item 5 Should be Withdrawn or Placed in Abeyance

In the alternative, Item 5 should be withdrawn or placed in abeyance pending a final decision in the *Panhandle* CPF No. 4-2023-011-NOPV case. PHMSA brought the same claim as Transwestern Item 5 in the *Panhandle* case. PHMSA brought a similar claim, pursuant to Part 195, in the case *Sunoco Pipeline L.P.*, CPF No. 4-2024-027-NOPV (*Sunoco*).

The entire enforcement process which has based the issuance of multiple NOPVs upon the same evidence lacks fundamental fairness. In addition, it constitutes double jeopardy, as PHMSA is bringing multiple NOPVs related to the same processes, procedures, and facts. PHMSA recognized in its Final Order *ExxonMobil Pipeline Company*, CPF No. 5-2013-5007 (Jan. 23, 2015) that “some separately alleged violations may be so related that they constitute a single offense. . .” Quoting *Blockburger v. United States*, 284 U.S. 299, 304 (Jan. 4, 1932) PHMSA stated that “the test to be applied to determine whether there are two offenses or only one, is whether each provision requires proof of a fact which the other does not.”

PHMSA also recently acknowledged in the Final Order *Mid Valley Pipeline Company, LLC*, CPF No. 4-2023-034-NOPV (Sept. 11, 2024) that a parent company and its subsidiaries which “share a Safety Program Relationship. . . indicate a close, if not indistinguishable, relationship . . . as it concerns its program for compliance with the federal pipeline safety regulations.” PHMSA deemed appropriate consideration of a parent company’s history of prior offenses when determining whether its subsidiary company has a history of prior offenses for calculation of the civil penalty. PHMSA cannot on one hand deem a parent company and its subsidiary companies so closely related that their violations shall be considered one and the same for purposes of civil penalty calculation, but then on the other hand deem that a parent company and its subsidiary companies not so closely related when determining whether to bring the same violation against multiple subsidiary companies related to the same, shared safety program.

A hearing was held in the *Panhandle* case on April 24, 2024. Since that time, Panhandle submitted its Post-Hearing Brief, then its Response to Region Recommendation. Most recently, numerous due process concerns have arisen which have yet to be addressed. Once those due process concerns are addressed, a Final Order is expected.

Given that the *Panhandle* case will not be decided for months, if not a year or more, Item 5 should either be withdrawn or be placed in abeyance pending a final, unappealable decision in the *Panhandle* case. Adjudicating multiple claims, the first of which has been challenged and remains subject to



agency decision-making and possible Court review, does nothing more than burden both PHMSA and the respondents in those multiple cases. PHMSA should wait until *Panhandle* is decided by an unappealable decision, then evaluate whether its claims hold merit. At that time, PHMSA may either (a) lodge an NOPV similar to Item 5 in the event of withdrawal, or (b) remove Item 5 from abeyance and recommence adjudication of Item 5. To do otherwise is to burden Transwestern and other Energy Transfer operating entities with potentially unfounded claims and unnecessary defense costs.

Likewise, the *Sunoco* case should not be decided until the *Panhandle* final, unappealable order is issued.

See Exhibit E1: ET SOP A-HLA.02 Guiding Principles for Standard Operating Procedures

See Exhibit E2: 2023 SOP Annual Review Gas All Signed

See Exhibit E3: Annual Work History Review – Patrick Troncoso

See Exhibit E4: Skill Evaluation Record PLOQ205 – Patrick Troncoso

See Exhibit E5: ET SOP A.18 Operator Qualification Plan

6. § 192.736 Compressor stations: Gas detection.

(a) Not later than September 16, 1996, each compressor building in a compressor station must have a fixed gas detection and alarm system, unless the building is-

(1) Constructed so that at least 50 percent of its upright side area is permanently open; or

(2) Located in an unattended field compressor station of 1,000 horsepower (746 kilowatts) or less.

Transwestern failed to install fixed gas detection and alarm system in each compressor building in a compressor station in accordance with § 192.736(a). Specifically, Transwestern failed to install an alarm system at Atoka 1 and Atoka 2 Compressor station buildings that each have less than 50 percent of its upright side area permanently open.

PHMSA did not observe any alarm systems installed at Atoka 1 and Atoka 2 compressor station buildings. Transwestern stated that Atoka 1 & Atoka 2 compressor station buildings did not have any visual or audible alarm system in place that would warn persons about to enter or persons inside the compressor station buildings.³ Transwestern stated that it relies on calls from the control room in Houston, Texas, to notify of hazardous situations at the compressor stations in Artesia, New Mexico.

Therefore, Transwestern failed to install fixed gas detection and alarm system in each compressor building in a compressor station in accordance with § 192.736(a).

Proposed Compliance Order

In regard to Item 6 of the Notice pertaining to Transwestern's failure to install a fixed gas detection and alarm system at each compressor building in a compressor station in accordance with §



192.736(a), Transwestern must install a gas detector and alarm system at the Atoka 1 and Atoka 2 compressor station buildings, conduct testing of each gas detector and alarm system after installation for proper operation, provide records documenting installation and testing of the systems, and a copy of Transwestern's procedure for testing the alarm systems to the Director, Southwest Region, PHMSA within 60 days of receipt of the Final Order.

Transwestern Response

Gas detection has been installed and tested at Atoka 1 and Atoka 2 Compressor stations. Inspection records and videos showing that the gas detection alarm systems are functional, have been included as exhibits in this response. In light of the above efforts, Transwestern believes that the PCO provisions have already been satisfied and this matter can be closed upon receipt of a Final Order.

See Exhibit F1: Atoka 1 Gas Detection Inspection Report

See Exhibit F2: Atoka 1 Unit 719

See Exhibit F3: Atoka 1 Unit 720

See Exhibit F4: Atoka 1 Unit 794

See Exhibit F5: Atoka 2 Gas Detection Inspection Report

See Exhibit F6: Atoka 2 Unit 758

See Exhibit F7: Atoka 2 Unit 760

See Exhibit F8: Atoka 2 Unit 837

See Exhibit F9: Atoka 1 Unit 737

7. § 192.736 Compressor stations: Gas detection.

(a)

(b) Except when shutdown of the system is necessary for maintenance under paragraph (c) of this section, each gas detection and alarm system required by this section must-

(1) Continuously monitor the compressor building for a concentration of gas in air of not more than 25 percent of the lower explosive limit; and

(2) If that concentration of gas is detected, warn persons about to enter the building and persons inside the building of the danger.

Transwestern's gas detection and alarm system required by § 192.736 failed to warn persons about to enter the building and persons inside the building of a concentration of gas in air of not more than 25 percent of the lower explosive limit (LEL) in accordance with §192.736(b)(1) and (b)(2). Specifically, at a gas concentration of 25 percent LEL, the gas detection and alarm system at the West Texas-2 (WT-2) compressor building failed to actuate an audible or visual alarm.

During the field inspection at the WT-2 compressor station building, Transwestern performed a test of the gas detection and alarm system. The Transwestern technician isolated the gas detection system to allow for testing without service disruption and used calibration gas to trigger the alarm



system at 25 percent LEL. However, the test did not actuate an audible or visual alarm at a gas concentration of 25 percent LEL or less, or turn on any building ventilation fans and/or louvers. The gas detection and alarm system testing records for calendar years 2020 through 2022 failed to document proper functioning of the audible and visual alarms associated with gas detection.

Therefore, Transwestern's gas detection and alarm system failed to warn persons about to enter the building and persons inside the building of a concentration of gas in air of not more than 25 percent of the LEL in accordance with § 192.736(b).

Proposed Compliance Order

In regard to Item 7 of the Notice pertaining to Transwestern's failure to warn persons about to enter and persons inside a compressor station building of the danger of the concentration of gas in air of not more than 25 percent of the lower explosive limit (LEL) in accordance with § 192.736(b), Transwestern must repair or replace the gas detection and alarm system at the West Texas-2 (WT-2) compressor building, conduct a satisfactory alarm system test of the gas detection and alarm system in accordance with the requirements of § 192.736(b), and provide records documenting the repair or replacement and the results of the test to the Director, Southwest Region, PHMSA within **60** days of receipt of the Final Order.

Transwestern Response

Gas detection has been tested and is functioning properly at WT-2. Inspection records and videos showing the gas detection alarm system is functional, have been included as exhibits in this response. In light of the above efforts, Transwestern believes that the PCO provisions have already been satisfied and this matter can be closed upon receipt of a Final Order.

See Exhibit G1: WT2 Alarm

See Exhibit G2: WT-2 Gas Fire Detection 9-21-2023

See Exhibit G3: WT-2 Gas Fire Detection 6-26-2024

See Exhibit G4: WT-2 Gas Fire Detection 10-2-2024