

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

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

August 16, 2013

Mr. Gary Buchler
Vice President, Engineering/Operations
El Paso Natural Gas Company, L.L.C.
A Kinder Morgan Company
1001 Louisiana Street, Suite 1000
Houston, Texas 77002

CPF 5-2013-1012

Dear Mr. Buchler:

On April 23-25, 2013, a representative from the Arizona Corporation Commission, on behalf of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code, inspected El Paso Natural Gas, LLC (EPNG)'s, a Kinder Morgan Company, EPNG 2000 mainline pipe located near Milepost 391 in Western Arizona.

As a result of the inspection, it appears that El Paso has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are:

1. §191.5 Immediate notice of certain incidents.

- (a) At the earliest practicable moment following discovery, each operator shall give notice in accordance with paragraph**
(b) of this section of each incident as defined in §191.3.

EPNG failed to report to the National Response Center an incident involving pipeline damage as a result of an excavation activity. This incident occurred on April 23, 2013, near Milepost 391, 5901 South 515th Avenue, Harquahala Valley, Arizona. The total amount of gas released from both the leak and a blow-down of a 16-mile isolated segment to allow for repairs was 23,157,000 cubic feet. Pursuant to §191.3, an 'incident' includes any unintentional estimated gas loss of three million cubic feet or more. EPNG should have reported this incident at the earliest practicable moment following discovery.

2. §192.707. Line markers for mains and transmission lines.

- (a) Buried pipelines. Except as provided in paragraph (b) of this section, a line marker must be placed and maintained as close as practical over each buried main and transmission line:**
(1) At each crossing of a public road and railroad; and
(2) Wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference.

EPNG failed to place adequate line markers on the EPNG 2000 pipeline. Section 192.707 required EPNG to place line markers wherever necessary to identify the location of the transmission line or main to reduce the possibility of damage or interference. The EPNG 2000 line was struck and damaged by an excavator on April 23, 2013, causing a leak and the necessary blow down of 16 miles of 30-inch diameter pipeline in order to repair this leak. The total amount of released gas exceeded 23 million cubic feet. At the time of the incident, there were no line markers in the area identifying the location of the EPNG line. The line marker nearest to the damage site was located approximately ¼ to ½ mile west of the damage site. Following this incident EPNG personnel installed additional line markers along this pipeline. PHMSA previously issued EPNG a warning item (See CPF 5-2013-1003W, Item 3) for this same violation, § 192.707, for failure to place adequate line markers on its 2103 line in South Tucson, Arizona.

Proposed Civil Penalty

Under 49 United states Code, § 60122, you are subject to a civil penalty not to exceed \$200,000 for each violation for each day the violation persists up to a maximum of \$2,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation and has recommended that you be preliminarily assessed a civil penalty of \$31,200 as follows:

<u>Item number</u>	<u>PENALTY</u>
2	\$31,200

Warning Items

With respect to item number 1, we have reviewed the circumstances and supporting documents involved in this case and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to promptly correct this item. Failure to do so may result in additional enforcement action.

Proposed Compliance Order

With respect to item number 2, pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to El Paso. 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). 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.

In your correspondence on this matter, please refer to **CPF 5-2013-1012** and for each document you submit, please provide a copy in electronic format to PHP-WRADMIN@dot.gov whenever possible.

Sincerely,

Chris Hoidal
Director, Western Region
Pipeline and Hazardous Materials Safety Administration

Enclosures: *Proposed Compliance Order*
 Response Options for Pipeline Operators in Compliance Proceedings

cc: PHP-60 Compliance Registry
 PHP-500 T. Finch (#143558)
 Arizona Corporation Commission - Mr. Robert Miller

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to El Paso Natural Gas Company, L.L.C. (EPNG), a Kinder Morgan Company, a Compliance Order incorporating the following remedial requirements to ensure the compliance of El Paso with the pipeline safety regulations:

1. In regard to Item Number 2 of the Notice pertaining to the placement of adequate line markers for mains and transmission lines. EPNG must ensure that it has written procedures specifying that markers be placed wherever necessary to identify the location of transmission line or mains in order to reduce the possibility of damage or interference. Third-party damage occurred on April 23, 2013. Therefore, it is clear that the markers were not placed in an area to reduce the possibility of damage.
2. EPNG must complete Compliance Item #1 within 60 days of issuance of the Final Order.
3. It is requested (not mandated) that El Paso Natural Gas Company, L.L.C., a Kinder Morgan Company, maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Chris Hoidal, Director, Western 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.