



US Department
of Transportation

**Research and
Special Programs
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

MAR - 4 2005

Mr. Jeffrey L. Barger
Vice President, Pipeline Operations
Dominion Transmission, Inc.
445 West Main Street
Clarksburg, WV 26301-2450

Re: CPF No. 1-2004-1005

Dear Mr. Barger:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. The Final Order makes findings of violation and assesses a civil penalty of \$20,000. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

James Reynolds
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: Bill Gute, Director
Eastern Region

West Virginia Public Service Commission
201 Brooks Street
Charleston, WV 25301

New York Public Service Commission
3 Empire State Plaza
Albany, NY 12223-1350

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, DC 20590

In the Matter of)
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Dominion Transmission, Inc.,)
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Respondent.)
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CPF No. 1-2004-1005

FINAL ORDER

During the period from July 2002 to July 2003, pursuant to 49 U.S.C. § 60117, representatives of the Office of Pipeline Safety (OPS), West Virginia Public Service Commission and New York Public Service Commission conducted on-site pipeline safety inspections of Respondent's natural gas transmission facilities and associated records in Pennsylvania, New York, West Virginia, Virginia and Maryland. As a result of the inspections, the Director, Eastern Region, OPS, issued to Respondent, by letter dated June 15, 2004, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had violated 49 C.F.R. §§ 192.605(a), 192.736(c) and 192.745, and proposed assessing a civil penalty of \$20,000 for the alleged violations.

Respondent responded to the Notice on July 14, 2004 (Response). Respondent did not contest the allegations but submitted information to explain the allegations and to mitigate the proposed penalty. Respondent did not request a hearing, and therefore has waived its right to one.

FINDINGS OF VIOLATION

Item 1 in the Notice alleged that Respondent had violated §§192.605 and 192.736(c) because it had not followed its Operations and Maintenance (O&M) procedures for inspecting fixed gas detection and alarm systems at its State Line compressor station. Section 192.605 requires an operator to prepare and follow a manual of written procedures for conducting operations and maintenance activities on its pipeline. Section 192.736 requires an operator to maintain and test each gas detection and alarm system on its system to ensure the system is functioning properly. According to the Notice, Respondent's procedures required that the gas detection and alarm system continuously monitor the compressor building for a gas concentration of gas in air of not more than 10% of the Lower Explosive Limit (LEL) and warn personnel when a 10% LEL has been detected. However, Respondent's records showed that Respondent only inspected the gas detection system at the State Line compressor station for shut-down set points of 50% LEL.

In its response Respondent acknowledged that its personnel were not consistent in how they completed the Inspection Monitoring System (IMS) form. Respondent attributed this to a deficiency in the form because the form only had a block to document the reading for the 50% shutdown point. Respondent maintained that most of its personnel were verifying the 10% LEL alarm set point but only recorded the 50% shut down set point. Respondent noted that the 10% LEL alarm is not required by regulation, only by its procedures.

The regulations do not require a 10% LEL established set point. The regulations require the detection and alarm system monitor for a concentration of gas in air of not more than 25% of the LEL. However, if an operator establishes another set point in its procedures, the operator must follow its procedures. Respondent established the 10% LEL set point in its O&M procedures and therefore, must adhere to its procedures for verifying the alarm set point it established. Although Respondent said its employees were verifying the 10% LEL alarm set point, there is no record of this having been done. Furthermore, even if Respondent, had been using the 25% LEL set point established in the regulation, Respondent could not show that its personnel were verifying that LEL alarm set point, either. The forms only recorded that the 50% LEL shutdown set point was being verified. Accordingly, I find that Respondent violated §§192.605 and 192.736(c).

Item 3 alleged that Respondent had not inspected seven of its transmission line valves at the required interval, in violation of §192.745. Section 192.745 requires that any transmission valve that might be used in an emergency be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year. The Notice alleged that Respondent had missed two inspection cycles on Valves 140-A, B, D and E (March 2002 and May 2003), one cycle on valve 91F (April 2002), and had not inspected valves 694A and 633E in 2000. The Notice further alleged that Respondent had not identified the missed inspections as deficiencies requiring follow up before the next inspection cycle.

Respondent did not dispute that it had not inspected and partially operated Valves 140-A, B, D and E in March 2002 and May 2003, but noted that they were inspected and operated in July 2003. Respondent argued that although valves 140-A, B, D and E were not accessible during extremely wet weather, other valves that are positioned upstream and downstream could be used during an emergency. Furthermore, because the cited valves are located one mile upstream of another valve, and are in a class 1 location, they are only convenience valves that are not critical to the safe operation of the pipeline.

Respondent did not offer any information about the missed inspection on valve 91F. As for valves 694A and 633E, Respondent maintained that it had inspected and partially operated them prior to 2000 and then again each year from 2001-2004.

Respondent did not dispute the missed inspection cycles for the seven valves. The regulation provides an operator flexibility by allowing a 15-month window in which to inspect the valve. An operator's having done an inspection several months late or having conducted an inspection in the years prior to and after the missed year does not comply with the regulation. Although valves 140-A,

B, D and E may be redundant for emergency purposes, Respondent had identified the valves as emergency valves. Respondent therefore, had to follow the inspection requirements for emergency valves. If these valves are truly convenience valves that are not critical to Respondent's pipeline, then Respondent must change their designation.

Accordingly, I find that Respondent violated §192.745 because it did not inspect valves 140-A, B, D and E, 91F, 694A and 633E at the intervals required for emergency valves on a transmission line.

These findings of violation will be considered prior offenses in any subsequent enforcement action taken against Respondent.

PENALTY ASSESSMENT

Under 49 U.S.C. § 60122, Respondent is subject to a civil penalty not to exceed \$100,000 per violation for each day of the violation up to a maximum of \$1,000,000 for any related series of violations. The Notice proposed a total civil penalty of \$20,000 for violation of §§ 192.605, 192.736 and 192.745 (Items 1 and 3).

49 U.S.C. § 60122 and 49 C.F.R. § 190.225 require that, in determining the amount of the civil penalty, I consider the following criteria: nature, circumstances, and gravity of the violation, degree of Respondent's culpability, history of Respondent's prior offenses, Respondent's ability to pay the penalty, good faith by Respondent in attempting to achieve compliance, the effect on Respondent's ability to continue in business, and such other matters as justice may require.

The Notice proposed a civil penalty of \$5,000 for Respondent's violating 49 C.F.R. §§ 192.605 and 192.736 by not following its O&M procedures for inspecting fixed gas detection and alarm systems at the State Line compressor station. Respondent contended that the penalty should be reduced because the problem was due to a deficiency in the form, not the inspection process, and safety was not compromised. Respondent also explained that it was modifying its IMS form to record when personnel verified the 10% LEL alarm set point.

Although the problem may have been the lack of a section on the form to record that Respondent's personnel were verifying the 10% LEL set point, without the documentation, there is no way to confirm Respondent's assertion. Without the documentation, OPS inspectors could not confirm that the required performance tests took place (whether it was at the 10% LEL established by Respondent, or the 25% LEL established by the regulation). Without this documentation Respondent's assertion that the safety of personnel and equipment was not compromised cannot be confirmed. A gas detection and alarm system in a compressor building must be properly tested to ensure the system is functioning. Failure to test could mean a malfunction is not detected. A malfunctioning system could result in a dangerous accumulation of gas that results in fire and explosion. Although Respondent has shown good faith in amending its IMS form to address the problem, mitigation is not warranted.

The Notice proposed a civil penalty of \$15,000 for Respondent's violation of §192.745 for not inspecting seven emergency valves on its transmission line at the required interval. Respondent argued that the penalty should be reduced because it has modified its valve inspection form to detect deficiencies, such as when the valve is not partially operated during the inspection, and because several of the cited valves were only convenience valves. Respondent also pointed out that although it had not inspected valves 694A and 633E in 2000, it had inspected them before and after 2000.

I recognize Respondent took prompt action to modify its inspection forms, and that it generally has a good history of inspecting its emergency valves within the required intervals. Respondent designated which valves on its transmission line were emergency valves, and therefore, was responsible for ensuring they were inspected at the interval required for emergency valves. Emergency valves are needed to isolate a pipeline segment during an emergency. Because these valves are essential to the safe operation of a pipeline, they have to be inspected at least each calendar year. The requirement to inspect and partially operate an emergency valve each calendar year is to ensure the valve will perform as it should during an emergency. Missing inspections and failing to note that an inspection has been missed or that a valve could not be operated compromises the safety of the system. Respondent has not presented information that warrants mitigation.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$20,000. I do not find that Respondent will have any financial inability to pay this amount.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require this payment be made by wire transfer, through the Federal Reserve Communications System (Fedwire), to the account of the U.S. Treasury. Detailed instructions are contained in the enclosure. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the \$20,000 civil penalty will result in accrual of interest at the current annual rate in accordance with 31 U.S.C. § 3717, 31 C.F.R. § 901.9 and 49 C.F.R. § 89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be charged if payment is not made within 110 days of service. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Attorney General for appropriate action in a United States District Court.

WARNING ITEMS

The Notice did not propose a civil penalty or corrective action for Items 2 and 4 in the Notice; therefore, these are considered warning items.


Item 2 in the Notice warned Respondent that its emergency response outreach program with fire, police and other public officials did not include Huntingdon County, Pennsylvania, although Respondent PL-1 transmission pipeline crosses into this County. In its response, Respondent said that it has now included Huntingdon County officials in its meetings with emergency response officials.

Item 4 warned Respondent that it had not posted signs with the operator's name and emergency phone number at several aboveground locations along Respondent's pipeline in Pennsylvania. Respondent submitted photographs showing signs with the required information it has since installed at the cited locations.

Although Respondent indicated it has addressed the warning items, Respondent is again warned that if OPS finds a violation for any of these items in a subsequent inspection, enforcement action will be taken.

Under 49 C.F.R. § 190.215, Respondent has a right to submit a Petition for Reconsideration of this Final Order. The petition must be received within 20 days of Respondent's receipt of this Final Order and must contain a brief statement of the issue(s). The filing of the petition automatically stays the payment of any civil penalty assessed. However, if Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

The terms and conditions of this Final Order are effective on receipt.


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Stacey Gerard
Associate Administrator
for Pipeline Safety

MAR - 4 2005

Date Issued