

**DECEMBER 21, 2012**

Mr. Robert C. Skaggs, Jr.  
President & CEO  
NiSource, Inc.  
801 E. 86<sup>th</sup> Ave  
Merrillville, IN 46410

**Re: CPF No. 1-2012-1014**

Dear Mr. Skaggs:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation, assesses a civil penalty of \$197,900, and specifies actions that need to be taken by your subsidiary, NiSource Gas Transmission & Storage Company, to comply with the pipeline safety regulations. The penalty payment terms are set forth in the Final Order. When the civil penalty has been paid and the terms of the compliance order completed, as determined by the Director, Eastern 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. Jimmy D. Staton, Executive Vice President, & CEO, NiSource Gas Transmission & Storage Company, 5151 San Felipe, Suite 2500, Houston, TX 77056  
Mr. Perry M. Hoffman, Manager, System Integrity, NiSource Gas Transmission & Storage Company, 1700 MacCorkle Avenue, SE, Charleston, West Virginia 25314  
Mr. Byron Coy, Director, Eastern Region, OPS  
Mr. Alan Mayberry, Deputy Associate Administrator for Field Operations, OPS

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

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

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<b>In the Matter of</b>	)	
	)	
<b>NiSource Gas Transmission &amp; Storage Company,</b>	)	<b>CPF No. 1-2012-1014</b>
	)	
<b>Respondent.</b>	)	

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**FINAL ORDER**

Between July 12, 2008, and August 12, 2010, pursuant to 49 U.S.C. § 60117, a representative of the New York Public Service Commission (NYS-DPS), as agent for 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 Columbia Gas Transmission Company, a subsidiary of NiSource Gas Transmission & Storage Company (NGTSC or Respondent) in Binghamton, New York, and at the Port Jervis Operating Center in New York.<sup>1</sup> The Columbia Gas Transmission system consists of approximately 12,000 miles of pipeline transporting an average of three billion cubic feet of natural gas per day through 10 states.<sup>2</sup>

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated May 21, 2012, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that NGTSC had committed various violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of \$197,900 for the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violations.

NGTSC responded to the Notice by letter dated June 22, 2012 (Response). The company did not contest the allegations of violation but provided an explanation of its actions and requested that the proposed civil penalty be reduced or eliminated. Respondent did not request a hearing and therefore has waived its right to one.

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<sup>1</sup> NGTSC is a subsidiary of NiSource, Inc . See NiSource, Inc., Annual Report (Form 10K), at Exhibit 21 (February 24, 2012).

<sup>2</sup> NiSource Gas Transmission and Storage Home Page, <http://www.ngts.com/en/home.aspx> (last visited November 5, 2012).

## FINDINGS OF VIOLATION

In its Response, NGTSC 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. § 192.481(a), which states:

**§ 192.481 Atmospheric corrosion control: Monitoring.**

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

If the pipeline is located:	Then the frequency of inspection is:
Onshore .....	At least once every 3 calendar years, but with intervals not exceeding 39 months.
Offshore .....	At least once each calendar year, but with intervals not exceeding 15 months.

The Notice alleged that Respondent violated 49 C.F.R. § 192.481(a) by failing to inspect each portion of its pipeline that was exposed to the atmosphere at least once every three calendar years, but at intervals not exceeding 39 months. Specifically, the Notice alleged that NGTSC failed to inspect the valve set mainline group on its Route 202/Algonquin interconnect within the required interval.<sup>3</sup> During the NYS-DPS inspection, Respondent's records allegedly showed that atmospheric corrosion inspections on the subject valves occurred on February 13, 2007, but not again until June 16, 2010, thereby exceeding the required interval by 33 days.

Respondent 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. § 192.481(a) by failing to inspect each portion of its pipeline that was exposed to the atmosphere at least once every three calendar years, but at intervals not exceeding 39 months.

**Item 2:** The Notice alleged that Respondent violated 49 C.F.R. § 192.455(a)(2), which states:

**§ 192.455 External corrosion control: Buried or submerged pipelines installed after July 31, 1971.**

(a) Except as provided in paragraphs (b), (c), and (f) of this section, each buried or submerged pipeline installed after July 31, 1971, must be protected against external corrosion, including the following:

- (1) ...
- (2) It must have a cathodic protection system designed to protect the pipeline in accordance with this subpart, installed and placed in operation within 1 year after completion of construction.

The Notice alleged that Respondent violated 49 C.F.R. § 192.455(a)(2) by failing to have a

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<sup>3</sup> Pipeline Safety Violation Report, (Violation Report) (May 21, 2012) at 3, and Exhibit A-1.

cathodic protection (CP) system to protect its pipeline against external corrosion that had been installed and placed in operation within one year after completion of construction. Specifically, the Notice alleged that NGTSC did not complete the installation of its CP system to protect the entire length of its new 30-inch Millennium (East) Pipeline. It alleged that at the time of the NYS-DPS inspection, Respondent's CP system had only been partially installed, with missing test stations and rectifiers, and that pipe-to-soil readings on portions of the line indicated the CP system was not fully operational.

Respondent 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. § 192.455(a)(2) by failing to have a CP system to protect its pipeline that had been installed and placed in operation within one year after completion of construction.

**Item 3:** The Notice alleged that Respondent violated 49 C.F.R. § 192.171(d), which states:

**§ 192.171 Compressor stations: Additional safety equipment.**

(a) ...

(d) Each compressor station gas engine that operates with pressure gas injection must be equipped so that stoppage of the engine automatically shuts off the fuel and vents the engine distribution manifold.

The Notice alleged that Respondent violated 49 C.F.R. § 192.171(d) by failing to equip each compressor station gas engine that operates with pressure gas injection so that stoppage of the engine automatically shut off the fuel and vented the engine distribution manifold. Specifically, the Notice alleged that Respondent did not equip three temporary compressor units at its Sparrowbush compressor station to automatically shut off the fuel to the compressor engines and vent the engine distribution manifold during normal engine shutdowns.<sup>4</sup>

Respondent acknowledged that during normal shutdowns, when the fuel to the compressor unit engines was shut off, the compressor unit engine ignition system remained on for several seconds to allow the engine to burn the remaining fuel in the engine and did not vent the distribution manifold.<sup>5</sup>

Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.171(d) by failing to equip each compressor station gas engine so that the engine automatically shut off the fuel and vented the engine distribution manifold. The company further indicated in its Response that it was reviewing its compressor engine specifications to ensure in the future that when a unit stops running, the fuel would be automatically shut off and the manifold automatically vented.<sup>6</sup>

**Item 4:** The Notice alleged that Respondent violated 49 C.F.R. § 192.303, which states:

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<sup>4</sup> Violation Report at 13.

<sup>5</sup> Violation Report at Exhibit A-3.

<sup>6</sup> Response at 4.

**§ 192.303 Compliance with specifications or standards.**

Each transmission line or main must be constructed in accordance with comprehensive written specifications or standards that are consistent with this part.

The Notice alleged that Respondent violated 49 C.F.R. § 192.303 by failing to construct its transmission pipeline in accordance with comprehensive written specifications or standards consistent with Part 192. Specifically, the Notice alleged that Respondent failed to construct its pipeline in accordance with the company's written specification, *PLS-6.1.2*, which states:

Bending procedures and equipment shall not cause damage to external and/or internal coatings. If, in the opinion of the Company representative, coating protection is required, padded bending dies for bending machines shall be furnished at no additional costs.<sup>7</sup>

The Notice alleged that NYS-DPS inspectors had observed damaged pipe coating caused by a failure to follow *PLS-6.1.2* for proper bending and handling of the pipe. Inspectors photographed the pipe coating damaged during the bending process at Dean Creek Road and Jay Rumsey Road, as well as coating that had been damaged due to pipe mishandling near Parker Road.<sup>8</sup>

Respondent 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. § 192.303 by failing to construct its transmission pipeline in accordance with comprehensive written specifications or standards consistent with Part 192.

**Item 5:** The Notice alleged that Respondent violated 49 C.F.R. § 192.305, which states:

**§ 192.305 Inspections: General.**

Each transmission line or main must be inspected to ensure that it is constructed in accordance with this part.

The Notice alleged that Respondent violated 49 C.F.R. § 192.305 by failing to adequately inspect its pipeline to ensure that it was constructed in accordance with Part 192. Specifically, the Notice alleged six instances where the Respondent failed to inspect its pipeline during construction to ensure that it met the requirements for installation of pipe in a ditch, in accordance with § 192.319(a) and (b). During the inspection, the NYS-DPS inspectors walked approximately one mile of NGTSC's 30-inch pipeline on Spread I, station 10443, and observed instances of pipe coating that had been damaged when the pipe was installed in the ditch.<sup>9</sup>

Respondent 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. § 192.305 by failing to adequately

<sup>7</sup> Violation Report, Exhibit A-4-1.

<sup>8</sup> Violation Report, Exhibit A-4.

<sup>9</sup> Violation Report at 23 and Exhibit A-5.

inspect its transmission pipeline to ensure that it was constructed in accordance with Part 192.

**Item 6:** The Notice alleged that Respondent violated 49 C.F.R. § 192.241(a)(1) and (2), which states:

**§ 192.241 Inspection and test of welds.**

(a) Visual inspection of welding must be conducted by an individual qualified by appropriate training and experience to ensure that:

- (1) The welding is performed in accordance with the welding procedure; and
- (2) The weld is acceptable under paragraph (c) of this section.

The Notice alleged that Respondent violated 49 C.F.R. § 192.241(a)(1) and (2) by failing to have visual welding inspections conducted by an individual qualified by appropriate training and experience to ensure that the welding was performed in accordance with the welding procedure and was acceptable under § 192.241(c). Specifically, the Notice alleged that NGTSC did not have a qualified individual visually inspect the welding for two pipeline repairs performed on July 12, 2008, for Spread I on Moss Hill, and on August 1, 2008, for Spread II weld number ARX-482, Station 14033+03.

Respondent did not contest these allegations of violation. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.241(a)(1) and (2) by failing to perform visual welding inspections by an individual qualified by appropriate training and experience to ensure that the weld was performed in accordance with the welding procedure and was acceptable under § 192.241(c).

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

**ASSESSMENT OF PENALTY**

Under 49 U.S.C. § 60122, Respondent is subject to an administrative 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. 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; the Respondent's ability to pay the penalty 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 \$197,900 for the violations cited above.

**Item 1:** The Notice proposed a civil penalty of \$25,000 for Respondent's violation of 49 C.F.R. § 192.481(a), for failing to inspect the valve set mainline group on the Route 202/Algonquin interconnect for evidence of corrosion at least once every three calendar years,

but at intervals not exceeding 39 months. Respondent did not contest this allegation of violation but explained it had revised its procedures for assigning work orders for atmospheric inspections. Respondent requested a reduction or elimination of the proposed penalty.

An adequate level of cathodic protection of buried pipelines is required to arrest corrosion and prevent potential failures. While it is commendable that NGTSC may have taken action in the wake of the inspection to reduce the risk of future violations by amending its procedures, such actions do not serve to mitigate the violation or justify a reduction in the proposed penalty. Respondent is fully culpable for this violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$25,000 for violation of 49 C.F.R. § 192.481(a).

**Item 2:** The Notice proposed a civil penalty of \$43,100 for Respondent's violation of 49 C.F.R. § 192.455(a)(2), for failing to have a CP system that protected the entire length of its new Millennium (East) Pipeline. Respondent has requested a reduction or elimination of the proposed penalty based upon the numerous steps it claims to have taken since installation of the CP system to ensure that the entire Millennium Pipeline has adequate cathodic protection. As discussed above, any actions taken by NGTSC after December 2009 to complete the CP system are commendable but do not cure the violation, constitute good faith efforts to avoid noncompliance, or warrant a reduction in the civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$43,100 for violation of 49 C.F.R. § 192.455(a)(2).

**Item 3:** The Notice proposed a civil penalty of \$41,800 for Respondent's violation of 49 C.F.R. § 192.171(d), for failing to equip three temporary compressor units to shut off automatically the fuel to the compressor engines and vent the engine distribution manifold at its Sparrowbush compressor station. Respondent has requested a reduction or elimination of the proposed penalty. The company advises that its compressor engine specifications have undergone a review to ensure that the units automatically shut off the fuel to the compressor engines and vent the engine distribution manifold. As discussed above in Item 2, Respondent has not presented any evidence or arguments that would justify a reduction or elimination of the proposed civil penalty. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$41,800 for violation of 49 C.F.R. § 192.171(d).

**Item 4:** The Notice proposed a civil penalty of \$28,700 for Respondent's violation of 49 C.F.R. § 192.303, for failing to construct its pipeline in accordance with the company's written specification, *PLS-6.1.2*, which states that bending procedures and equipment must not cause damage to external and/or internal coatings. Respondent has requested a reduction or elimination of the proposed penalty based on the various measures it claims to have taken to confirm the integrity of its 30-inch pipeline, including addressing coating damage and anomaly indications.

As discussed above, actions taken by Respondent to achieve compliance following an inspection do not serve to cure the violation, constitute good faith efforts to avoid noncompliance, or warrant a reduction in the civil penalty. Respondent is fully culpable for its failure to construct its pipeline in accordance with the company's own written specifications. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of

\$28,700 for violation of 49 C.F.R. § 192.303.

**Item 5:** The Notice proposed a civil penalty of \$30,300 for Respondent's violation of 49 C.F.R. § 192.305, for failing to inspect its 30-inch pipeline during construction to ensure that it met the requirements of Part 192. Respondent did not contest the allegation but requested reduction or elimination of the proposed penalty based upon its implementation of several corrective measures, including the hiring of a third party to conduct construction inspections.

Such actions, while commendable, do not offset the company's failure to take effective action to inspect its pipeline during construction, a lapse that could have had catastrophic consequences. Respondent is fully culpable for the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$30,300 for violation of 49 C.F.R. § 192.305.

**Item 6:** The Notice proposed a civil penalty of \$29,000 for Respondent's violation of 49 C.F.R. § 192.241(a)(1) and (2), for failing to have a qualified individual visually inspect the welds on two pipeline repairs. As in Item 5 above, Respondent requested a reduction or elimination of the proposed penalty based upon its contention that it had hired a third party to inspect the pipeline during construction.

Such actions, while commendable, do not offset the company's failure to take effective action to inspect pipeline repairs, a lapse that could have had catastrophic consequences. Respondent is fully culpable for the violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$29,000 for violation of 49 C.F.R. § 192.241(a)(1) and (2).

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 **\$197,900**.

Payment of the civil penalty must be made within 20 days of service. Federal regulations (49 C.F.R. § 89.21(b)(3)) require such payment to 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-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, Oklahoma 73125. The Financial Operations Division telephone number is (405) 954-8893.

Failure to pay the \$197,900 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 district court of the United States.



## COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 2 in the Notice for violation of 49 C.F.R. § 192.455(a)(2). 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 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. Respondent must take the following actions:

1. With respect to the violation of § 192.455(a)(2) (**Item 2**), Respondent must, within 120 days of receipt of this Order, have a cathodic protection system designed, installed and placed in full operation for the entire length of the 30-inch Millennium (East) Pipeline.
2. It is requested that NGTSC maintain documentation of the safety-improvement costs associated with fulfilling the terms of this Compliance Order and submit the total to the Director. It is requested that 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.

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 sent to: Associate Administrator, Office of Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2<sup>nd</sup> Floor, Washington, DC 20590, with a copy sent to the Office of Chief Counsel, PHMSA, at the same address. PHMSA will accept petitions received no later than 20 days after receipt of service of this Final Order by the Respondent, provided they contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed. Unless the Associate Administrator, upon request, grants a stay, all other terms and conditions of this Final Order are effective upon service in accordance with 49 C.F.R. § 190.5.

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Jeffrey D. Wiese  
Associate Administrator  
for Pipeline Safety

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Date Issued