

Mr. Gary L. Sypolt
Senior Vice President
Dominion Transmission, Inc.
445 West Main Street
Clarksburg, WV 26301

Re: CPF No. 1-2001-1001

Dear Mr. Sypolt:

Enclosed is the Final Order issued by the Associate Administrator for Pipeline Safety in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$37,500. The penalty payment terms are set forth in the Final Order. Your receipt of the Final Order constitutes service of that document under 49 C.F.R. § 190.5.

Sincerely,

Gwendolyn M. Hill
Pipeline Compliance Registry
Office of Pipeline Safety

Enclosure

cc: Jeffrey L. Barger
Vice President
Pipeline Operations

New York Public Service Commission

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)
)
Dominion Transmission, Inc.,)
) CPF No. 1-2001-1001
Respondent.)
_____)

FINAL ORDER

On June 27-29, 2000, pursuant to 49 U.S.C. § 60117, a representative of the Office of Pipeline Safety (OPS) and a representative from the New York Public Service Commission conducted an investigation of the May 1, 2000, incident involving Respondent's pipeline in Woodhull, New York. As a result of the inspection, the Director, Eastern Region, OPS, issued to Respondent, by letter dated January 17, 2001, 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 committed three separate violations of 49 C.F.R. § 192.605(a) and proposed assessing a civil penalty of \$25,000 for each of the three alleged violations.

Respondent responded to the Notice by letter dated February 13, 2001 (Response). Respondent did not contest the third allegation, but asserted that both the first and second allegations arose out of the same, single omission. Respondent also provided information in mitigation of the proposed civil penalty. Respondent did not request a hearing and therefore, has waived its right to one.

FINDINGS OF VIOLATION

The Notice alleged that Respondent committed three separate violations of 49 C.F.R. § 192.605(a) -- failing to follow the manual of written procedures for conducting operations and maintenance activities and emergency response. All three alleged violations occurred during an annual test of the emergency shutdown system at the Woodhull station.

The first allegation concerned the failure of Respondent's personnel to notify Gas Operations of the operation of a numbered valve during an annual inspection of the emergency shutdown system. The second allegation concerned failure of Respondent's personnel to coordinate with Gas Control prior to the emergency shut down test. Respondent did not dispute that these notification failures had occurred. However, Respondent asserted that the two allegations arose from the same, single omission - failure to notify Gas Control prior to starting the emergency shutdown testing. Respondent explained that operating

the valve is a necessary component of conducting an emergency shutdown system test, and therefore, only one notification violation occurred.

Respondent's Operations and Maintenance (O&M Manual) has separate procedures covering each notification. The requirement for personnel to notify Gas Operations before stroking a valve is found in Respondent's O&M manual chapter 4, volume 4, section 2-c. The requirement for personnel to coordinate the emergency shutdown test with Gas Control is found in chapter 4, volume 4, section 5. Usually, each notification would be a separate act. In this case it is reasonable to assume that because operating the valve was a necessary step in conducting the emergency shutdown test, personnel would only have had to notify Gas Control once. However, each procedure also required the filing of a form: a Gate Operation Form (form TC-327-9-66) and an Emergency Shut Down System form. A Gate Operation Form had not been filled out when the valve was stroked. Although personnel generated an Emergency Shut Down System form, they did not follow the instructions on the form to coordinate the test with gas control. Thus, the required notification was not made and one of the required forms was not filled out. Each was a separate omission or act. Therefore, I find that Respondent committed two separate violations.

Allegation #3 concerned the failure of Respondent's Supervisory Control and Data Acquisition (SCADA) personnel to notify field personnel of the low pressure alarms. Respondent did not contest this allegation.

Accordingly, I find that Respondent committed three violations of 49 C.F.R. § 192.605(a). 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 a civil penalty not to exceed \$25,000 per violation for each day of the violation up to a maximum of \$500,000 for any related series of violations. The Notice proposed \$25,000 for each violation of § 192.605(a) for a total civil penalty of \$75,000.

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.

As discussed above, Respondent argued that because the first two violations are duplicative, only one civil penalty should be assessed for both. The Order discusses why these are two separate violations. With respect to the second violation, Respondent explained that although its field personnel were aware of the requirement to coordinate with Gas Control, they reasoned that there was no need to notify gas control if the station was not running. Respondent further contended that the absence of notice prior to the emergency shutdown test did not cause the outage and it would be speculative to say that the notification

failures contributed to the outage. Respondent said that it has since emphasized to its operations personnel that gas control must be notified during emergency shutdown tests, regardless of whether the station has been running.

Although Respondent disagrees, it is very likely that if Gas Control had been notified according to Respondent's procedures and the necessary forms filed and followed, the low pressure alarm that followed might have been acted upon. In any event, the failure to follow operating and maintenance procedures is not to be taken lightly, whether the failure was the actual cause of the incident or not.

Respondent has reviewed its procedures to identify and correct deficiencies, and has taken steps to ensure that in the future, its personnel notify gas control even if the compressor station is not operating. Respondent has demonstrated a good faith attempt to achieve compliance and has had no violations in at least ten years. Therefore, I mitigate the penalty for the first two violations to \$12,500 each.

With respect to the third violation, Respondent explained that it has not only modified its operating protocol to avoid a reoccurrence but, also, has contracted for a replacement of the entire SCADA system. This new SCADA system includes features designed to dramatically reduce the possibility of reoccurrence of an incident of the type that occurred on May 1, 2000. Therefore, I also mitigate the penalty for this violation to \$12,500.

Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a total civil penalty of \$37,500.

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**. After completing the wire transfer, send a copy of the **electronic funds transfer receipt** to the **Office of the Chief Counsel (DCC-1)**, Research and Special Programs Administration, Room 8407, U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590-0001.

Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-120), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 25770, Oklahoma City, OK 73125; (405) 954-4719.

Failure to pay the \$37,500 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 an United States District Court.

Under 49 C.F.R. § 190.215, Respondent has a right to 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. All other terms of the order, including any required corrective action, shall remain in full effect unless the Associate Administrator, upon request, grants a stay. The terms and conditions of this Final Order are effective upon receipt.

Stacey Gerard
Associate Administrator
for Pipeline Safety

Date Issued