

April 29, 2016

Mr. George L. Ebel
Chairman, President, and Chief Executive Officer
Algonquin Gas Transmission, LLC
Spectra Energy Partners, LP
5400 Westheimer Court
Houston, Texas 77056

Re: CPF No. 1-2016-1002

Dear Mr. Ebel:

Enclosed please find the Final Order issued in the above-referenced case. It makes one finding of violation and assesses a civil penalty of \$26,200. It further finds that Algonquin Gas Transmission, LLC, a wholly-owned subsidiary of Spectra Energy Partners, LP, has completed the actions specified in the Notice to comply with the pipeline safety regulations. When the civil penalty has been paid, 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. Byron Coy, P.E., Director, Eastern Region, OPS
Mr. Rick Kivela, Director, Operational Compliance, Spectra Energy Partners, LP,
5400 Westheimer Court, Houston, TX 77056

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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

In the Matter of)

Algonquin Gas Transmission, LLC)
a subsidiary of Spectra Energy Partners, LP,)

Respondent.)

CPF No. 1-2016-1002

FINAL ORDER

From October 16-28, 2015, pursuant to 49 U.S.C. § 60117, an inspector from the Connecticut Department of Energy and Environmental Protection (CT DEEP), acting as an 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 Algonquin Gas Transmission, LLC's (AGT or Respondent) main construction work along the pipeline right-of-way west of Milestone Road in Danbury, Connecticut. AGT, which is owned and operated by Spectra Energy Partners, LP, transports 2.74 billion cubic feet per day of natural gas through 1,129 miles of pipeline, located primarily in New England.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated January 12, 2016, 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 AGT had violated 49 C.F.R. § 192.227 and proposed assessing a civil penalty of \$26,200 for the alleged violation. The Notice also proposed ordering Respondent to take certain measures to correct the alleged violation.

AGT responded to the Notice by letter dated February 11, 2016 (Response). Respondent did not contest the allegations of violation but provided an explanation of its actions and requested that the proposed civil penalty be reduced. Respondent did not request a hearing and therefore has waived its right to one.

FINDING OF VIOLATION

In its Response, AGT did not contest the allegation in the Notice that it violated 49 C.F.R. Part 192, as follows:

¹ Pipeline Safety Violation Report (Violation Report), (January 12, 2016) (on file with PHMSA), at 1.

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.227(a), which states:

§ 192.227 Qualification of welders.

(a) Except as provided in paragraph (b) of this section, each welder must be qualified in accordance with section 6, section 12, or Appendix A of API Std 1104 (incorporated by reference, *see* § 192.7) or section IX of the ASME Boiler and Pressure Vessel Code (incorporated by reference, *see* § 192.7). However, a welder or welding operator qualified under an earlier edition than the edition listed in § 192.7 may weld but may not re-qualify under that earlier edition.

The Notice alleged that Respondent violated 49 C.F.R. § 192.227(a) by failing to qualify welders on a section of the main construction project in accordance with section 6, section 12, or Appendix A of API Std 1104 (incorporated by reference, *see* § 192.7), or section IX of the ASME Boiler and Pressure Vessel Code (incorporated by reference, *see* § 192.7).² Section 12 of API Std 1104, *Mechanized Welding with Filler Metal Additions*, applies to the welding process used on AGT's project. In particular, section 12.6 states: "Each welding operator shall be qualified by producing an acceptable weld using the qualified welding procedure."

Specifically, the Notice alleged that during the inspection, the CT DEEP inspector observed welders completing welds using procedure AIM-BMX-423.0 on pipe with a wall thickness of 0.938 inches. However, the welder qualification paperwork provided to the inspector to support the welding was for AIM-BMX-422.0, which is for a 0.720-inch wall pipe. As such, the inspector noted that the welders were qualified for a different welding procedure, and had not been qualified to weld using AIM-BMX-423.0, the qualified welding procedure.

Respondent did not contest this allegation of violation. In fact, AGT acknowledged that it failed to qualify welders on a 42-inch diameter, 0.938-inch wall pipe section in accordance with section 12 of API Std 1104. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.227(a) by failing to qualify welders on a section of the 42-inch diameter, 0.938-inch wall pipe project that was welded using a mechanical welding process, in accordance with section 12 of API Std 1104.

This finding of violation will be considered a prior offense 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 \$200,000 per violation for each day of the violation, up to a maximum of \$2,000,000 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; and any effect

² This section of the project was composed of a 42-inch diameter, 0.938-inch wall pipe that was welded using a mechanical welding process.

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 \$26,200 for the violation cited above.

Item 1: The Notice proposed a civil penalty of \$26,200 for Respondent's violation of 49 C.F.R. § 192.227(a), for failing to qualify welders on a section of AGT's construction project; specifically, a 42-inch diameter, 0.938-inch wall pipe that was welded using a mechanical welding process, in accordance with section 12 of API Std 1104. Although AGT did not contest the alleged violation, it did request that PHMSA eliminate the civil penalty, as well as reduce the probable violation to a warning item.

In its Response, AGT stated that, upon discovery and in anticipation of potential concerns from PHMSA, AGT proactively cut out and discarded 14 welds on the 42-inch diameter, 0.938-inch wall pipe made without welder qualifications in accordance with welding procedure AIM-BMX-423.0. AGT provided documentation indicating the removal of these welds. In addition, AGT reportedly qualified its welders to use welding procedure AIM-BMX-423.0. AGT argued that because the 14 welds were proactively cut out and discarded before being placed into service, the welds did not compromise pipeline safety. Furthermore, AGT stated that the total costs associated with the preparation and revision of the procedure, as well as the replacement of the 14 welds, was \$130,000. As such, AGT argues that it received no economic benefit from its actions.

I acknowledge that AGT willingly took immediate corrective actions following the discovery of the violation. However, these actions do not negate AGT's failure to comply with § 197.227(a), a requirement that was clearly applicable. In addition, AGT did not make a reasonable interpretation of § 197.227(a) when it did not properly qualify its welders. Finally, the CT DEEP inspector, not AGT, discovered the violation. As such, it is reasonable to conclude that AGT would have continued to be in violation of § 197.227(a) had the inspector not made the discovery.

In summary, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of **\$26,200** for violation of 49 C.F.R. § 192.227(a) for the Item cited above. Furthermore, given the assessment of the civil penalty, the violation is not reduced to a warning item.

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 (AMK-325), Federal Aviation Administration, 6500 S MacArthur Blvd., Oklahoma City, Oklahoma 79169. The Financial Operations Division telephone number is (405) 954-8845.

Failure to pay the \$26,200 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 1 in the Notice for violation of 49 C.F.R. § 192.227(a). 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. The Director indicates that Respondent has taken the following actions specified in the proposed compliance order:

1. With respect to the violation of § 197.227(a) (**Item 1**), Respondent has qualified welders in the AIM-BMX-423.0 welding procedure for the welding completed in Connecticut. Additionally, the 14 welds started on or completed before October 28, 2015, using welding procedure AIM-BMX-423.0, have been cut out and discarded.
2. Respondent has submitted documentation for the welder qualification and the 14 welds referenced in **Item 1** to PHMSA Eastern Region.
3. Respondent has maintained the requested documentation reflecting the safety improvement costs associated with the fulfilment of this Compliance Order, and provided said documentation to the Director, Eastern Region, PHMSA.

Accordingly, I find that compliance has been achieved with respect to this violation. Therefore, the compliance terms proposed in the Notice are not included in this Order.

Under 49 C.F.R. § 190.243, 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, 2nd 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. § 190.243. 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.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued

Payment Instructions

Civil Penalty Payments of Less Than \$10,000

Payment of a civil penalty of less than \$10,000 proposed or assessed, under Subpart B of Part 190 of the Pipeline Safety Regulations can be made by certified check, money order or wire transfer. Payment by certified check or money order (containing the CPF Number for this case) should be made payable to the "Department of Transportation" and should be sent to:

Federal Aviation Administration
Financial Operations Division (AMK-325)
ATTN: Shelby Jones
6500 S MacArthur Blvd.,
Oklahoma City, OK 79169

Wire transfer payments of less than \$10,000 may be made through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfer should be directed to the Financial Operations Division at (405) 954-8845, or at the above address.

Civil Penalty Payments of \$10,000 or more

Payment of a civil penalty of \$10,000 or more proposed or assessed under Subpart B of Part 190 of the Pipeline Safety Regulations must be made wire transfer (49 C.F.R. § 89.21 (b)(3)), through the Federal Reserve Communications System (Fedwire) to the account of the U.S. Treasury. Detailed instructions are provided below. Questions concerning wire transfers should be directed to the Financial Operations Division at (405) 954-8845, or at the above address.

INSTRUCTIONS FOR ELECTRONIC FUND TRANSFERS

(1) <u>RECEIVER ABA NO.</u> 021030004	(2) <u>TYPE/SUB-TYPE</u> (Provided by sending bank)
(3) <u>SENDING BANK ABA NO.</u> (Provided by sending bank)	(4) <u>SENDING BANK REF NO.</u> (Provided by sending bank)
(5) <u>AMOUNT</u>	(6) <u>SENDING BANK NAME</u> (Provided by sending bank)
(7) <u>RECEIVER NAME</u> TREAS NYC	(8) <u>PRODUCT CODE</u> (Normally CTR, or as provided by sending bank)
(9) <u>BENEFICIAL (BNF) = AGENCY LOCATION CODE</u> BNF = /ALC-69-14-0001	(10) <u>REASONS FOR PAYMENT</u> Example: PHMSA - CPF # / Ticket Number/Pipeline Assessment number

INSTRUCTIONS: You, as sender of the wire transfer, must provide the sending bank with the information for blocks (1), (5), (7), (9), and (10). The information provided in Blocks (1), (7), and (9) are constant and remain the same for all wire transfers to the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #1 - RECEIVER ABA NO. - "021030004". Ensure the sending bank enters this 9-digit identification number; it represents the routing symbol for the U.S. Treasury at the Federal Reserve Bank in New York.

Block #5 - AMOUNT - You as the sender provide the amount of the transfer. Please be sure the transfer amount is punctuated with commas and a decimal point. **EXAMPLE: \$10,000.00**

Block #7 - RECEIVER NAME - "TREAS NYC". Ensure the sending bank enters this abbreviation. It must be used for all wire transfers to the Treasury Department.

Block #9 - BENEFICIAL - AGENCY LOCATION CODE - "BNF=/ALC-69-14-0001". Ensure the sending bank enters this information. This is the Agency Location Code for the Pipeline and Hazardous Materials Safety Administration, Department of Transportation.

Block #10 - REASON FOR PAYMENT - "AC-payment for PHMSA Case # / To ensure your wire transfer is credited properly, enter the case number/ticket number or Pipeline Assessment number, and country."

NOTE: A wire transfer must comply with the format and instructions or the Department cannot accept the wire transfer. You as the sender can assist this process by notifying the Financial Operations Division (405) 954-8845 at the time you send the wire transfer.