

AUGUST 31, 2012

Mr. Gregory L. Ebel
President and Chief Executive Officer
Spectra Energy Transmission, LLC
5400 Westheimer Court
Houston, TX 77056-5310

Re: CPF No. 1-2012-1007

Dear Mr. Ebel:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$5,100. This is to acknowledge receipt of payment of the full penalty amount, by wire transfer, dated June 7, 2012. When the terms of the compliance order are 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. J. Andrew Drake, P.E. – Vice President, Asset Integrity – Spectra Energy
Transmission, LLC - 5400 Westheimer Court, Houston, TX 77056-5310
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**

In the Matter of)	
)	
Texas Eastern Transmission, LP,)	CPF No. 1-2012-1007
a subsidiary of Spectra Energy)	
Transmission, LLC)	
)	
Respondent.)	
)	

FINAL ORDER

During the week of November 29, 2010, pursuant to 49 U.S.C. § 60117, a representative of 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 Texas Eastern Transmission, LP (TETLP or Respondent) near South Plainfield, New Jersey. TETLP, a wholly owned subsidiary of Spectra Energy Corporation, operates a system of approximately 1,700 miles of gas transmission pipeline originating in the Gulf Coast region and terminating in Ohio, Pennsylvania, New Jersey, and New York.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated April 4, 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 TETLP had violated 49 C.F.R. § 192.709(c) and 192.745(a) and proposed assessing a civil penalty of \$5,100 for one of the alleged violations. The Notice also proposed ordering Respondent to take certain measures to correct the other alleged violation.

TETLP responded to the Notice by letter dated May 3, 2012 (Response). The company did not contest the allegations of violation but expressed its intent to comply with the proposed compliance order and paid the proposed civil penalty of \$5,100, as provided in 49 C.F.R. § 190.227.

¹ Spectra Energy Corp. 10-K, 2010, at 6. See, <http://www.spectraenergy.com/Operations/North-America-Transmission/Assets/>. (last assessed August 6, 2012)

FINDINGS OF VIOLATION

In its response, TETLP 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. § 192.709, which states:

§ 192.709 Transmission lines: Record keeping.

Each operator shall maintain the following records for transmission lines for the periods specified:

(a) ...

(c) A record of each patrol, survey, inspection, and test required by subparts L and M of this part must be retained for at least 5 years or until the next patrol, survey, inspection, or test is completed, whichever is longer.

The Notice alleged that Respondent violated 49 C.F.R. § 192.709(c), as quoted above, by failing to maintain a record of each patrol, survey, inspection, and test required by subparts L and M of this part. Specifically, the Notice alleged that TETLP's records indicated that three valves that might be used in an emergency had not been partially operated during its annual valve inspection.² During the inspection, Respondent stated that the valves had to be operated but acknowledged that its records contained incorrect codes.³ Respondent did not contest this allegation of violation. Without records of valve inspections, TETLP cannot demonstrate that the inspections occurred. Accordingly, based upon a review of all of the evidence, I find that Respondent violated 49 C.F.R. § 192.709(c) by failing to maintain a record that correctly documented whether three valves that might be used in an emergency had been partially operated during annual valve inspections, in accordance with subparts L and M of Part 192.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.745, which states:

§ 192.745 Valve maintenance: Transmission lines.

(a) Each transmission line valve that might be required during any emergency must be inspected and partially operated at intervals not exceeding 15 months, but at least once each calendar year.

The Notice alleged that Respondent violated 49 C.F.R. § 192.745(a) by failing to inspect and partially operate each transmission line valve that might be required during any emergency at intervals not exceeding 15 months, but at least once each calendar year. Specifically, the Notice alleged that TETLP failed to partially or fully operate four valves that might be used in an

² Pipeline Safety Violation Report, (Violation Report) (April 4, 2012) at 2 and Exhibit A.

³ Violation Report at 2.

emergency.⁴ 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. § 192.745(a) by failing to inspect and partially operate each transmission line valve that might be required during an emergency at intervals not exceeding 15 months, but at least once each calendar year.

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 \$5,100 for the violations cited above.

Item 1: The Notice proposed a civil penalty of \$5,100 for Respondent's violation of 49 C.F.R. § 192.709(c), for failing to maintain a record that correctly documented whether three valves that might be used in an emergency had been partially operated during annual valve inspections, in accordance with subparts L and M of Part 192. TETLP neither contested the allegation nor presented any evidence or argument justifying elimination of the proposed penalty. Although Respondent suggested that the valves had been operated, Respondent acknowledged that TETLP's records contained errors and the incorrect code to indicate that the valves had been operated. Respondent was cognizant of the requirement to maintain record for tests required under Subpart L and M but failed to do so. Sound record-keeping practices are critical to the safety of transmission lines. Improper record-keeping practices may enable pipeline problems to go unnoticed, ultimately leading to a pipeline failure. In addition to sound record-keeping practices, ensuring valves that might be used in an emergency are operable is vitally important to preventing a pipeline failure. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of \$5,100 for violation of 49 C.F.R. § 192.709(c), which has already been paid by Respondent.

COMPLIANCE ORDER

The Notice proposed a compliance order with respect to Item 2 in the Notice for violation of 49 C.F.R. § 192.745(a). Under 49 U.S.C. § 60118(a), each person who engages in the

⁴ Violation Report at 7 and Exhibit A3

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:

1. With respect to the violation of § 192.745(a) (**Item 2**), Respondent must review its entire inventory of valves within a 50-mile radius of South Plainfield, NJ to properly classify those valves that might be used in an emergency. TETLP must also revise its *Standard Operating Procedure 5-5010*, to specify those classifications of valves that might be used in an emergency, in accordance with §192.745(a). In addition, each valve must be identified and listed in Respondent's EAM Solution (Maximo) or other data base management system to schedule and document maintenance on applicable valves.
2. Within 120 days of the date of this Final Order, Respondent must complete all of the requirements in Item 1 above and submit evidence of completion to the Director.
3. It is requested (not mandated) that TETLP maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to Byron Coy, Director, Eastern 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

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.

The 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