

JUN 16 2010

Mr. Andrew Drake
Vice President, Transmission Services
Algonquin Gas Transmission LLC
5400 Westheimer Court
Houston, Texas 77056

Re: CPF No. 1-2010-1001

Dear Mr. Drake:

Enclosed please find the Final Order issued in the above-referenced case. It makes findings of violation and assesses a civil penalty of \$69,000. I acknowledge receipt of your wire transfer of \$69,000 on February 19, 2010, and accept it as payment in full of the civil penalty assessed herein. Therefore, this case is now 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, Director, Eastern Region, PHMSA

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0043 9450]

**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,)	CPF No. 1-2010-1001
)	
Respondent.)	

FINAL ORDER

On October 23, 2008, pursuant to 49 U.S.C. § 60117, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), investigated an unplanned outage of gas service that occurred at Algonquin Gas Transmission LLC (Algonquin or Respondent)'s M&R Station in Tiverton, Rhode Island. Algonquin, a subsidiary of Spectra Energy Transmission Corp., operates 1,100 miles of natural gas pipeline throughout Connecticut, Massachusetts, New Jersey, New York, and Rhode Island.¹

As a result of the inspection, the Director, Eastern Region, OPS (Director), issued to Respondent, by letter dated January 21, 2010, a Notice of Probable Violation and Proposed Civil Penalty (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Algonquin had committed five violations of 49 C.F.R. § 192.605(a) and proposed assessing a civil penalty of \$69,000 for the alleged violations. The Notice also proposed finding that Respondent had committed certain other probable violations of 49 C.F.R. Part 192 and warning Respondent to take appropriate corrective action or be subject to future enforcement action.

Algonquin responded to the Notice by letter dated February 18, 2010 (Response). Algonquin did not contest the allegations of violation and paid the proposed civil penalty of \$69,000, as provided in 49 C.F.R. § 190.227. Payment of the penalty serves to close the case with prejudice to Respondent.

¹ http://www.spectraenergy.com/what_we_do/businesses/us/assets/algonquin (last accessed April 12, 2010).

FINDINGS OF VIOLATION

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states, in relevant part:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual for written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted....

The Notice alleged that Algonquin violated 49 C.F.R. § 192.605(a) by failing to follow its written procedures for purging gas. Specifically, the operator failed to comply with its written procedure known as Standard Operating Procedure, 5-3010, Purging Gas-General Requirements (SOP #5-3010). This procedure required the operator's personnel to develop site-specific purging procedures as part of the pipeline shutdown process. The site-specific procedures are developed using the schematics of the specific facility and must identify the proposed valves to be operated, as well as the sequence of events personnel must follow.

In purging gas at the M&R station #33 in Tiverton, the operator's personnel failed to include all of the proposed valves pursuant to these procedures. A valve which was not included in the site-specific procedure was left in the closed position, resulting in an incomplete purge. This incomplete purge allowed for the subsequent entry of air into the local distribution system and caused a gas outage to 47 customers. Algonquin did not contest this allegation. Accordingly, I find that Algonquin committed a violation of § 192.605(a) by failing to follow its SOP #5-3010.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states, in relevant part:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual for written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted....

The Notice alleged that Algonquin violated 49 C.F.R. § 192.605(a) by failing to follow its SOP #5-3010, which required a review of the purging procedure by company technical staff prior to beginning the purging process. The purging procedures concerning the M&R Station #33 were not reviewed by company technical staff prior to the October 2008 purging event. This failure could have contributed to the October 23, 2008 unplanned gas outage since the Algonquin region technical staff may have detected the omission of the closed valve on the site-specific procedures. Algonquin did not contest this allegation but rather stated its intention to clarify its procedures and conduct enhanced training on the requirements of its purging procedures.² Accordingly, I find that Algonquin committed a violation of § 192.605(a) by failing to follow its SOP #5-3010 which required a review of the purging procedure by Algonquin technical staff.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states, in relevant part:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual for written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted....

The Notice alleged that Algonquin violated 49 C.F.R. § 192.605(a) by failing to follow its SOP #5-3010, specifically the “Notification” section. The procedure required company personnel to limit the purging of odorized gas to the hours of 6:00 a.m. to 7:00 p.m. unless otherwise authorized by the company’s Director of Pipeline Integrity. Algonquin personnel conducted the purging event at M&R Station #33 between the hours of 12:57 a.m. and 2:16 a.m. The company could not demonstrate that the timing of this event was otherwise authorized by Algonquin’s Director of Pipeline Integrity. Algonquin did not contest this allegation of violation. Accordingly, I find that Algonquin violated § 192.605(a) by failing to follow its SOP #5-3010, specifically the “Notification” section.

Item 4: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states, in relevant part:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual for written procedures for conducting operations and maintenance activities and for emergency response. For transmission

² Response, 1.

lines, the manual must include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted....

The Notice alleged that Algonquin violated 49 C.F.R. § 192.605(a) by failing to follow its SOP #5-3010, specifically the “Beginning Purge” section. The company’s procedures required its personnel to contact Gas Control and review the purge procedure as soon as the stringer bead in the last tie-in weld had been completed. The company procedures prohibited the purge from occurring until Gas Control had reviewed the site-specific purge procedure. If Respondent’s personnel had contacted Gas Control, the closed valve may have been identified before purging took place. The failure to follow this procedure could have been a contributing factor to the October 23, 2008 unplanned gas outage. Algonquin did not contest this violation. Accordingly, I find that Algonquin violated § 192.605(a) by failing to follow its SOP #5-3010 procedures which required personnel to contact Gas Control prior to beginning the purging operation.

Item 5: The Notice alleged that Respondent violated 49 C.F.R. § 192.605(a), which states, in relevant part:

§ 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual for written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted....

The Notice alleged that Algonquin violated 49 C.F.R. § 192.605(a) by failing to follow its SOP #5-3010, specifically the “Reporting to Gas Control” section. Pursuant to the procedure, company personnel were required to report to Gas Control at the beginning and end of the purge and every time a valve was checked. Algonquin could not demonstrate that these actions were taken. In fact, the section of the Site Specific Purging Procedures where the field staff would normally confirm that the Gas Control was contacted was left blank. The company did not contest this allegation. Accordingly, I find that Algonquin violated § 192.605(a) by failing to follow its procedures which required personnel to report to Gas Control each time a valve was checked and at the time the purge began and ended.

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

WARNING ITEMS

With respect to Items 6 and 7, the Notice alleged probable violations of 49 C.F.R. § 192.605(a) but did not propose a civil penalty or compliance order for these items. Therefore, these are considered to be warning items. The warnings were for:

49 C.F.R. § 192.605(a) (**Item 6**) — Respondent’s alleged failure to follow the “Reporting to Gas Control” section of the Purging Gas procedures (#5-3010), by neglecting to complete the Purge Report Form for M&R station #33 Form (Form #17-116); and

49 C.F.R. § 192.605(a) (**Item 7**) — Respondent’s alleged failure to follow the Site Specific Purging Section of the Purging Gas procedures (#5-3010), by neglecting to document the date, time, and individuals performing tasks during the shutdown and purge.

Accordingly, having considered the evidence, I find, pursuant to 49 C.F.R. § 190.205, that probable violations of 49 C.F.R. § 192.605(a) (Notice Item 6) and 49 C.F.R. § 192.605(a) (Notice Item 7) have occurred and Respondent is hereby advised to correct such conditions. In the event that OPS finds a violation of this regulation in a subsequent inspection, Respondent may be subject to future enforcement action.

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 penalty of \$13,800 for the violation of 49 C.F.R. § 192.605 (a) (Item 1), for Algonquin’s failure to develop site specific purging procedures as part of the pipeline shutdown process pursuant to its SOP #5-3010, Purging Gas-General Requirements. Algonquin did not contest this allegation of violation. I have reviewed the entire record, including, but not limited to, the circumstances of this violation, the culpability of the operator, the gravity of the harm, and this particular operator’s prior enforcement history. Accordingly, I find the proposed civil penalty amount justified and assess a civil penalty of \$13,800 for violation of 49 C.F.R. § 192.605(a).

The Notice proposed a penalty of \$13,800 for the violation of 49 C.F.R. § 192.605(a) (Item 2), for Algonquin's failure to have the site specific purging procedures reviewed by company technical staff pursuant to its SOP #5-3010, Purging Gas-General Requirements. Algonquin did not contest this allegation of violation. I have reviewed the entire record, including, but not limited to, the circumstances of this violation, the culpability of the operator, the gravity of the harm, and this particular operator's prior enforcement history. Accordingly, I find the proposed civil penalty amount justified and assess a civil penalty of \$13,800 for violation of 49 C.F.R. § 192.605(a).

The Notice proposed a penalty of \$13,800 for the violation of 49 C.F.R. § 192.605(a) (Item 3), for Algonquin's failure to limit the purging operation to certain hours pursuant to its SOP #5-3010, Purging Gas-General Requirements. Algonquin did not contest this allegation of violation. I have reviewed the entire record, including, but not limited to, the circumstances of this violation, the culpability of the operator, the gravity of the harm, and this particular operator's prior enforcement history. Accordingly, I find the proposed civil penalty amount justified and assess a civil penalty of \$13,800 for violation of 49 C.F.R. § 192.605(a).

The Notice proposed a penalty of \$13,800 for the violation of 49 C.F.R. § 192.605(a) (Item 4), for Algonquin's failure to contact Gas Control prior to beginning and ending the purge limit the purging operation to certain hours pursuant to its SOP #5-3010, Purging Gas-General Requirements. Algonquin did not contest this allegation of violation. I have reviewed the entire record, including, but not limited to, the circumstances of this violation, the culpability of the operator, the gravity of the harm, and this particular operator's prior enforcement history. Accordingly, I find the proposed civil penalty amount justified and assess a civil penalty of \$13,800 for violation of 49 C.F.R. § 192.605(a).

The Notice proposed a penalty of \$13,800 for the violation of 49 C.F.R. § 192.605(a) (Item 5), for Algonquin's failure to report valve checks to Gas Control pursuant to its SOP #5-3010, Purging Gas-General Requirements. Algonquin did not contest this allegation of violation. I have reviewed the entire record including, but not limited to, the circumstances of this violation, the culpability of the operator, the gravity of the harm, and this particular operator's prior enforcement history. Accordingly, I find the proposed civil penalty amount justified and assess a civil penalty of \$13,800 for violation of 49 C.F.R. § 192.605(a).

Therefore, I assess Respondent a total civil penalty of **\$69,000**, which Respondent has already remitted to PHMSA.

The terms and conditions of this Final Order shall be effective upon receipt of service.

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

Date Issued