

**NOTICE OF PROBABLE VIOLATION
PROPOSED CIVIL PENALTY
and
PROPOSED COMPLIANCE ORDER**

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 26, 2009

Mr. Walter Ferguson
Senior Vice President and Chief Operations Officer
Centerpoint Energy Gas Transmission
1111 Louisiana, Suite 1100
Houston, TX 77002

CPF 4-2009-1001

Dear Mr. Ferguson:

A representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) pursuant to Chapter 601 of 49 United States Code has reviewed the Centerpoint Energy Gas Transmission (Centerpoint) 7100.2 report for the Mountainburg, AR incident originally filed on January 28, 2008.

As a result of the review, it appears that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items reviewed and the probable violation are:

1. 191.15 Transmission and gathering systems: Incident report.

(a) Except as provided in paragraph (c) of this section, each operator of a transmission or a gathering pipeline system shall submit Department of Transportation Form RSPA F 7100.2 as soon as practicable but not more than 30 days after detection of an incident required to be reported under §191.5.

(b) Where additional related information is obtained after a report is submitted under paragraph (a) of this section, the operator shall make a supplemental report as soon as practicable with a clear reference by date and subject to the original report.

Centerpoint failed to make a supplemental report for the Mountainburg, AR incident as soon as practicable after the final metallurgical report was obtained that provided information on the probable cause of failure.

Centerpoint filed the original report for the Mountainburg, AR incident on January 28, 2008, and was assigned a report number of 20080008. The cause of the failure on the incident report was stated to be unknown pending the results of a metallurgical analysis. PHMSA requested and received a copy of the final metallurgical report for the failed pipe segment on April 15, 2008. On May 8, 2008 PHMSA requested Centerpoint update the RSPA 7100.2 Mountainburg, AR incident report to include the additional information contained in the final metallurgical analysis as required by §191.15. PHMSA placed a telephone call to Centerpoint on June 25, 2008, and left a message again requesting Centerpoint update the Mountainburg, AR incident report. PHMSA then issued a letter requesting Centerpoint update and finalize five incident reports dating back to 2004, including the Mountainburg, AR incident report number 20080008. The other incident reports included in this letter were report numbers 20040051, 20050080, 20050108, and 20080035. PHMSA then held a teleconference on October 14, 2008 with representatives of Centerpoint to discuss several recent incidents that had occurred in Arkansas and Texas. The Mountainburg, AR incident report was discussed in this meeting and PHMSA again requested the incident report be updated with the cause of failure. As of December 2, 2008, a supplemental report updating the cause of failure had still not been filed by Centerpoint despite the final metallurgical analysis being received by Centerpoint on April 15, 2008 and multiple requests by PHMSA for the operator to comply with the requirements of 49 CFR 191.15.

Proposed Civil Penalty

Under 49 United States Code, § 60122, you are subject to a civil penalty not to exceed \$100,000 for each violation for each day the violation persists up to a maximum of \$1,000,000 for any related series of violations. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violation(s) and has recommended that you be preliminarily assessed a civil penalty of \$18,800 as follows:

| <u>Item number</u> | <u>PENALTY</u> |
|--------------------|----------------|
| 1 | \$ 18,800 |

Proposed Compliance Order

With respect to item number 1 pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration proposes to issue a Compliance Order to Centerpoint Energy Gas Transmission. Please refer to the *Proposed Compliance Order*, which is enclosed and made a part of this Notice.

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Pipeline Operators in Compliance Proceedings*. Please refer to this document and note the response options. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b). If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order.

In your correspondence on this matter, please refer to **CPF 4-2009-1001** and for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,

R. M. Seeley
Director, Southwest Region
Pipeline and Hazardous
Materials Safety Administration

Enclosures: *Proposed Compliance Order*
Response Options for Pipeline Operators in Compliance Proceedings

PROPOSED COMPLIANCE ORDER

Pursuant to 49 United States Code § 60118, the Pipeline and Hazardous Materials Safety Administration (PHMSA) proposes to issue to Centerpoint Energy Gas Transmission a Compliance Order incorporating the following remedial requirements to ensure the compliance of Centerpoint Energy Gas Transmission with the pipeline safety regulations:

1. In regard to Item Number 1 of the Notice pertaining to failure to comply with the requirements of §191.15, Centerpoint must immediately file a supplemental RSPA 7100.2 report for number 20080008 specifying the cause of failure of the Mountainburg, AR incident and updating any other information obtained since the incident. If all of the information about the incident is known, this information must be included and the incident report filed as a final report. Centerpoint must also file supplemental reports for report numbers 20040051, 20050080, 20050108, and 20080035 where additional information has been acquired since the original report was made. If all of the information about these incidents is known, these reports must also be filed as final reports.
2. Centerpoint shall maintain documentation of the safety improvement costs associated with fulfilling this Compliance Order and submit the total to R.M. Seeley, Director, Southwest Region, Pipeline and Hazardous Materials Safety Administration. Costs shall 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.