U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

AUG 1 7 2010

Mr. Garry Worone
Vice President, Operations
Enbridge Offshore Gas Gathering L.L.C.
1100 Louisiana Street, Suite 3300
Houston, TX 77002

Re: CPF No. 4-2007-2001

Dear Mr. Worone:

Enclosed please find the Final Order issued in the above-referenced case. It withdraws one allegation of violation, makes findings of violation, and assesses a civil penalty of $29,000. The penalty payment terms are set forth in the Final Order. This enforcement action closes automatically upon payment. 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: Rod M. Seeley, Director, Southwest Region

CERTIFIED MAIL – RETURN RECEIPT REQUESTED [7005 1160 0001 0039 0805]

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

In the Matter of	)	
Enbridge Offshore Gas Gathering, L.L.C.,	)	**CPF No. 4-2007-2001**
Respondent.	)	

FINAL ORDER

On July 24-26, 2006, 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 Enbridge Offshore Gas Gathering L.L.C. (EOGG or Respondent) in Houma, Louisiana. EOGG's gas gathering system consists of approximately 99.5 miles of pipe and terminates in St. Mary's Parish, Louisiana.

As a result of the inspection, the Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated June 4, 2007, a Notice of Probable Violation and Proposed Civil Penalty (Notice).[1] In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent had committed various violations of 49 C.F.R. Part 192 and proposed assessing a civil penalty of $38,000 for the alleged violations.

Respondent responded to the Notice by letter dated June 29, 2007 (Response). EOGG contested the allegations and requested a hearing. An informal hearing was subsequently held via teleconference on March 11, 2009, with Larry White, Attorney, PHMSA Office of Chief Counsel, presiding. At the hearing, Respondent was represented by counsel. After the hearing, Respondent provided additional written material for the record by letter dated April 7, 2009.

FINDINGS OF VIOLATION

The Notice alleged that Respondent violated 49 C.F.R. Part 192, as follows:

Item 1: The Notice alleged that Respondent violated 49 C.F.R. § 192.477, which states:

[1] The caption in the Notice indicated that the proceeding involved a Proposed Compliance Order as well but this was a misprint.

§ 192.477 – Internal corrosion control: Monitoring

If corrosive gas is being transported, coupons or other suitable means must be used to determine the effectiveness of the steps taken to minimize internal corrosion. Each coupon or other means of monitoring internal corrosion must be checked two times each calendar year, but with intervals not exceeding 7 ½ months.

The Notice alleged that the "Garden City Nautilus 30-inch from SS207" internal corrosion coupon was not checked as required in 2005 based on records reviewed during the inspection indicating that coupon D9557 was installed on December 20, 2004 and not removed until December 20, 2005, exceeding the maximum interval by several months.

In its supplemental response following the hearing, EOGG provided documentation in the form of a report produced by Baker Hughes showing that coupon D9557 had actually been installed on April 8, 2005.[2] While the period from April 8, 2005 to December 20, 2005 is shorter than the 12 month period alleged in the Notice, it still exceeds the 7 ½ month maximum interval in the regulation by approximately one month. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.477 by failing to check the "Garden City Nautilus 30-inch from SS207" coupon two times in calendar year 2005, but with intervals not exceeding 7 ½ months.

Item 2: The Notice alleged that Respondent violated 49 C.F.R. § 192.481, which states in relevant part:

§ 192.481 – Atmospheric corrosion control: Monitoring

(a) Each operator must inspect each pipeline or portion of pipeline that is exposed to the atmosphere for evidence of atmospheric corrosion, as follows:

If the pipeline is located:	Then the frequency of inspection is:
Onshore	At least once every 3 calendar years, but with intervals not exceeding 39 months
Offshore	At least once each calendar year, but with intervals not exceeding 15 months

The Notice alleged that Respondent did not have records demonstrating that an atmospheric corrosion inspection had been performed for the offshore facilities in 2004. In its Response and during the hearing, EOGG explained that ownership of the offshore facilities had changed in 2004 and that following the inspection, it sought additional records from Marathon, the prior owner. In its Response, EOGG provided documentation it obtained from Marathon in the form

[2] Respondent's June 29, 2007 correspondence had indicated May 8, 2005 as the date Coupon D9557 was installed, but in its April 7, 2009 correspondence Respondent corrected the record and stated that April 8, 2005 was actually the relevant date as documented in the Baker Hughes report.

of an "ACC Database Master List-2005" showing that atmospheric corrosion inspections were performed on the offshore facilities by Marathon in June and July of 2004. Accordingly, after considering all of the evidence, I find that Respondent was in compliance with the cited requirement. Based upon the foregoing, I hereby order that Item 2 of the Notice be withdrawn.

It should be noted, however, that under § 192.491(c), operators are required to "maintain" corrosion control records for at least five years.[3] When ownership and operating responsibility of a pipeline is transferred to a new company, the new company must acquire and continue to maintain the existing records. In this case, EOGG did not comply with the requirement to maintain all corrosion control records. If § 192.491(c) had been cited in the Notice, EOGG would likely have been found in violation of this requirement despite later acquiring the records from the former owner.

Item 3: The Notice alleged that Respondent violated 49 C.F.R. § 192.745, which states in relevant part:

> **§ 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 did not have records demonstrating that required annual inspections had been performed for valve # 2010 in calendar years 2004 and 2005.

In its Response and during the hearing, EOGG acknowledged that it did not have records of documented annual inspections of the valve for the specified years, but contended that event logs from its Supervisory Control and Data Acquisition (SCADA) system showed that the valve was operated on one occasion during a restart in each of those two years. The fact that the valve functioned during pipeline operations, however, is not the same thing as performing a required annual valve inspection. While ensuring each valve remains operational is part of an operator's responsibility, compliance with the annual valve inspection requirement involves a physical inspection of the valve including, among other things, checking the condition of the seals and checking for the presence of water and the condition of the lubricant and documenting the findings. Respondent did not demonstrate that annual valve inspections had been performed for the valve for the specified years. Accordingly, after considering all of the evidence, I find that Respondent violated 49 C.F.R. § 192.745 by failing to perform documented annual inspections of valve # 2010 in calendar years 2004 and 2005.

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

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[3] Records related to §§ 192.465 (a) and (e) and 192.475(b) must be retained for as long as the pipeline remains in service.

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.

Item 1: The Notice proposed a civil penalty of $14,000 for Respondent's violation of 49 C.F.R. § 192.477 by failing to check the "Garden City Nautilus 30-inch from SS207" coupon two times in calendar year 2005, but with intervals not exceeding 7 ½ months.

Corrosion is one of the leading causes of pipeline leaks and failures. Timely inspection of corrosion coupons is a key part of protecting a pipeline from internal corrosion. Coupons must be checked on a regular basis to ensure an accurate understanding of corrosion rates and allow an operator to make appropriate judgments about the effectiveness of its corrosion control measures. Respondent exceeded the maximum interval for checking the specified corrosion coupon by a full month. Respondent did not present any evidence or argument justifying a reduction in or elimination of the penalty amount proposed in the Notice for this violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $14,000 for violation of 49 C.F.R. § 192.477.

Item 3: The Notice proposed a civil penalty of $15,000 for Respondent's violation of 49 C.F.R. § 192.745 by failing to perform documented annual inspections of valve # 2010 in calendar years 2004 and 2005. During the hearing, Respondent contended that the proposed penalty for this item should be reduced because EOGG viewed it as a paperwork deficiency. Maintaining complete and accurate records, however, is very important to an operator's ability to make operating decisions and to be able to evaluate the performance of its personnel. Moreover, the violation in this case went beyond a paperwork deficiency. Performing annual valve inspections is a fundamental requirement for safely operating a pipeline. The purpose of performing periodic maintenance inspections is to ensure that all valves will be operational if the need to close them arises, such as during a spill or failure. The fact that Respondent showed that the valve functioned on one occasion during each of those two years during post-hurricane restarts does not diminish the potential seriousness of the lack of two annual inspections, nor does a change in ownership. Respondent did not present any evidence or argument justifying a reduction in or elimination of the penalty amount proposed in the Notice for this violation. Accordingly, having reviewed the record and considered the assessment criteria, I assess Respondent a civil penalty of $15,000 for violation of 49 C.F.R. § 192.745.

In summary, having reviewed the record and considered the assessment criteria for each of the Items cited above, I assess Respondent a total civil penalty of **$29,000**.

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. Questions concerning wire transfers should be directed to: Financial Operations Division (AMZ-341), Federal Aviation Administration, Mike Monroney Aeronautical Center, P.O. Box 269039, Oklahoma City, OK 73125; (405) 954-8893.

Failure to pay the $29,000 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.

Under 49 C.F.R. § 190.215, Respondent has the right to submit a petition for reconsideration of this Final Order. Should respondent elect to do so, 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. A copy of the petition should also be sent to: Assistant Chief Counsel for Pipeline Safety, PHMSA, 1200 New Jersey Avenue, SE, East Building, 2nd Floor, Washington, DC 20590. The petition must be received no later than 20 days after service of this Final Order upon the Respondent and must contain a brief statement of the issue(s) and meet all other requirements of 49 C.F.R. § 190.215. The filing of a petition automatically stays the payment of any civil penalty assessed but does not stay any other provisions of the Final Order, including any required corrective actions. If Respondent submits payment for the civil penalty, the Final Order becomes the final administrative decision and the right to petition for reconsideration is waived.

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

Jeffrey D. Wiese
Associate Administrator
for Pipeline Safety

8/2/10
Date Issued