



Public Service Commission
State of North Dakota

COMMISSIONERS

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May 15, 2019

Daniel Werth, Chief Operating Officer, Caliber North Dakota LLC
1200 17th St. Suite 2100
Denver, CO 80202

Re: Case No. GS-18-396

Dear Mr. Werth:

On October 15-18, 2018, Public Service Commission staff (Staff) conducted an audit of the gas pipeline safety records for the jurisdictional natural gas transmission system in North Dakota operated by the Caliber North Dakota LLC (Caliber). On December 17, 2018, a Notice of Probable Violation (NOPV) was issued to Caliber. On January 16, 2019, Caliber responded with information regarding the December 17, 2018 NOPV. In response to a Staff request, on April 15, 2019, Caliber provided additional information concerning the location(s) of the company's gas pipeline safety records. Based on a review of all the information provided, I am issuing an Amended Notice of Probable Violation.

Respond, in the manner specified in the Response Options section of the NOPV, within 30 days of the date you receive this Amended Notice of Proposed Violation.

If you have any further questions or require additional information, please contact me.

Sincerely,

Patrick Fahn, Interim Program Manager
ND Gas Pipeline Safety Program
701-328-4077

Enclosure

4 GS-18-396 Filed: 5/15/2019 Pages: 5
Letter enclosing Amended Notice of Probable
Violation

Public Service Commission

Patrick Fahn

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Caliber North Dakota LLC.
Pipeline Safety Enforcement**

Case No. GS-18-396

AMENDED NOTICE OF PROBABLE VIOLATION

May 15, 2019

Under North Dakota Century Code section 49-02-01.2, Public Service Commission staff (staff) conducted an audit of the Caliber North Dakota LLC. (Caliber) gas pipeline safety records. Probable violation(s) of the Public Service Commission's (Commission's) gas pipeline safety regulations were identified.

DATE OF AUDIT:

October 15-18, 2018

TYPE OF AUDIT:

Standard Records

LOCATION OF AUDIT:

**Caliber North Dakota LLC. Office
Watford City, ND**

PSC STAFF:

Aaron Morman, Inspector

OPERATOR'S AUDIT CONTACT PERSON:

Carol Butero
720-630-2658

PROBABLE VIOLATION NO. 1

AUDIT FINDINGS:

Caliber appears to be in violation of its Operations and Maintenance Manual provision implementing 49 CFR 192.605(b) that requires construction, maintenance, inspection, corrosion, and operation records and data be available to appropriate operating personnel on the Caliber VPN and at the Watford City office.

PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:

49 CFR 192.605 Procedural manual for operations, maintenance, and emergencies.

(a) *General.* Each operator shall prepare and follow for each pipeline, a manual of written procedures for conduction operations and maintenance activities and for emergency response. ...Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

(b) *Maintenance and normal operations.* The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

(3) Making construction records, maps, and operating history available to appropriate operating personnel.

Caliber Midstream Operations and Maintenance Manual – Natural Gas Pipelines – Revision Date 8.20.2018, Section 1.2 Records

Sufficient records must be kept to administer the O&M Manual. These records are the construction, maintenance, inspection, corrosion, and operation records and data that are mandated by Part 192. The documentation records are maintained on the Caliber VPN and at the field location in files separate from the manual volumes.

EVIDENCE:

On January 16, 2019, Caliber provided documentation in response to the December 17, 2018 Notice of Probable Violation showing that pressure safety valve PSV 3070 had been inspected and tested as required under 49 CFR 192.739: Pressure limiting and regulating stations: Inspection and testing. Caliber personnel were unable to provide this documentation to Public Service Commission Staff from neither the Caliber VPN nor at the field location, the Watford City office, during the October 15-18, 2018 audit.

PROPOSED CIVIL PENALTY

Proposed Civil Penalty: \$1,000.00.

Under 49-07-05.1, any person who violates a rule or order of the commission pursuant to section 49-02-01.2 is subject to a civil penalty to be imposed by the commission of not to exceed two hundred thousand dollars for each violation for each day that the violation continues, except that the maximum penalty may not exceed two million dollars for any related series of violations.

Under 49-07-05.1, any person who violates a rule or order of the commission pursuant to section 49-02-01.2 is subject to a civil penalty to be imposed by the commission of not to exceed two hundred thousand dollars for each violation for each day that the violation continues, except that the maximum penalty may not exceed two million dollars for any related series of violations

RESPONSE OPTIONS

Within 30 days of receipt of a notice of probable violation, the respondent must answer to:

Patrick Fahn, Interim Program Manager
ND Gas Pipeline Safety Program
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

The respondent must answer in the following manner:

- (a) When the notice contains a proposed civil penalty--
 - (1) If the respondent is not contesting an allegation of probable violation, pay the proposed civil penalty by certified check or money order made payable to "North Dakota Public Service Commission," and advise the Manager of the payment. The payment authorizes the Commission to make a finding of violation and to issue a final order.
 - (2) If the respondent is not contesting an allegation of probable violation but wishes to submit a written explanation, information, or other materials the respondent believes may warrant mitigation or elimination of the proposed civil penalty, the respondent may submit such materials. This authorizes the Commission to make a finding of violation and to issue a final order.
 - (3) If the respondent is contesting one or more allegations of probable violation but is not requesting a hearing, the respondent may submit a written response in answer to the allegations; or
 - (4) The respondent may request an informal hearing with the Program Manager.

- (b) When the notice contains a proposed compliance order--
 - (1) If the respondent is not contesting an allegation of probable violation, agree to the proposed compliance order. This authorizes the Commission to make a finding of violation and to issue a final order.
 - (2) Request the execution of a consent order under.
 - (3) If the respondent is contesting one or more of the allegations of probable violation or compliance terms, but is not requesting an informal hearing with the Program Manager, the respondent may object to the proposed compliance order and submit written explanations, information, or other materials in answer to the allegations in the notice of probable violation; or
 - (4) The respondent may request an informal hearing with the Program Manager.

- (c) Before or after responding in accordance with paragraph (a) or, when applicable paragraph (b) the respondent may request a copy of the violation report from the Program Manager. The Program Manager will provide the violation report to the respondent within five business days of receiving a request.

- (d) Failure to respond in accordance with paragraph (a) or, when applicable paragraph (b) constitutes a waiver of the right to contest the allegations in the notice of probable violation and authorizes the Commission, without further notice to the respondent, to find the facts as alleged in the notice of probable violation and to issue a final order.
- (e) All materials submitted by operators in response to enforcement actions may be placed on publicly accessible Web sites. A respondent seeking confidential treatment

for any portion of its responsive materials must submit an application under North Dakota Administrative Code chapter 69-02-09.

COMMISSION ACTION

The Commission may issue an order without hearing if the operator contests a probable violation, contests a proposed compliance order, or contests a proposed civil penalty but does not request a hearing.

The Commission may issue an order after hearing.

A Commission order may:

- (a) Require the operator to complete compliance actions;
- (b) Impose a civil penalty; and
- (c) Suspend operation of the pipeline system.