



Public Service Commission

State of North Dakota

COMMISSIONERS

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January 27, 2021

Mr. Eric Bengtson, Vice President
Operations and Engineering
Liberty Midstream Solutions, LLC
1200 17th St. Ste 2200
Denver, CO 80202
Eric.Bengtson@lmsllc.com

Re: Case No. GS-20-461

Dear Mr. Bengtson:

On July 1, 2020, Staff completed a biennial inspection of Liberty Midstream Solutions, LLC Operations and Maintenance Records. The inspection was conducted remotely due to COVID-19 travel restrictions. As a result of the inspection, five probable violations were identified.

Liberty Midstream Solutions, LLC is required to respond in the manner specified in the Response Options section of the Notice of Probable Violation (NOPV), within 30 days of the date of receipt of the NOPV.

If you have any further questions or require additional information, I may be contacted by email at csimburger@nd.gov or by phone at 701-328-4056.

Sincerely,

A handwritten signature in blue ink, appearing to read "Caleb Simburger".

Caleb Simburger
Program Manager, Pipeline Safety Program

Enclosure

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Liberty Midstream Solutions, LLC
Pipeline Safety Enforcement**

Case No. GS-20-461

NOTICE OF PROBABLE VIOLATION(S)

January 27, 2021

Pursuant to North Dakota Century Code section 49-02-01.2, and North Dakota Administrative Code chapter 69-09-03, Public Service Commission Staff (Staff) conducted a Biennial Operations & Maintenance Records Inspection of Liberty Midstream Solutions, LLC (Liberty). As a result of that inspection, probable violation(s) of the Public Service Commission's (Commission) gas pipeline safety regulations were identified.

DATE OF AUDIT:

March 27, April 16, 17, 19, 20, May 20, 21, 28, 29, July 1, with follow-up information being received through October 27, 2020.

TYPE OF AUDIT:

Biennial Operations & Maintenance Records Inspection

LOCATION OF AUDIT:

This inspection was conducted remotely.

PSC STAFF:

Caleb Simburger, Program Manager/Inspector
Aaron Morman, Inspector

OPERATOR'S AUDIT CONTACT PERSON:

Eric Bengtson
Vice President, Operations and Engineering
303-886-7046

INSPECTION

A Biennial Operations & Maintenance (O&M) Records Inspection of Liberty was conducted remotely due to COVID-19 travel restrictions. The inspection was completed July 1, 2020 with follow-up information being received through October 27, 2020. Liberty operates 0.772 miles of regulated onshore transmission piping located in a Class 1 area and does not include highway or railway crossings. As a result of the inspection, it appears that Liberty has committed probable violations of pipeline safety regulations. The probable violations are:

PROBABLE VIOLATION NO. 1:

PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:

49 CFR Part 192.705 Transmission Lines: Patrolling.

- ...
- (b) The frequency of patrols is determined by the size of the line, the operating pressures, the class location, terrain, weather, and other relevant factors, but intervals between patrols may not be longer than prescribed in the following table:

Class location of line	Maximum interval between patrols	
	At highway and railroad crossings	At all other places
1, 2	7 ½ months; but at least twice each calendar year.	15 months; but at least once each calendar year.
3	4 ½ months; but at least four times each calendar year.	7 ½ months; but at least twice each calendar year.
4	4 ½ months; but at least four times each calendar year.	4 ½ months; but at least four times each calendar year.

INSPECTION FINDINGS:

Liberty O&M records indicated Right-Of-Way (ROW) surface condition patrols were not conducted at the frequency required by § 192.705(b) which states the maximum interval between Class 1 patrols for lines without highway and railroad crossings is 15 months, but at least once each calendar year. Records state a Class 1 patrol was conducted on August 29, 2019 which exceeded the code required interval by eight days (the preceding patrol was conducted on May 21, 2018).

VIOLATION(S):

As operator of the system, Liberty is responsible for complying with gas pipeline safety regulations.

Liberty failed to conduct patrolling on their regulated transmission pipeline at the frequency required by § 192.705(b).

EXHIBITS:

- Exhibit #1 – 2018-2019 Liberty ROW Patrol-Leakage Survey Records

PROPOSED CIVIL PENALTY:

Any person who violates a rule or order of the commission pursuant to N.D.C.C. § 49-02-01.2 and N.D. Admin. Code ch. 69-09-03, the company is subject to a civil penalty 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. The Proposed Civil Penalty is \$750.00.

PROBABLE VIOLATION NO. 2:

PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:

49 CFR Part 192.706 Transmission Lines: Leakage Surveys.

Leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year.

INSPECTION FINDINGS:

Liberty O&M records indicate leakage surveys were not conducted at the frequency required by § 192.706. The code states that leakage surveys of a transmission line must be conducted at intervals not exceeding 15 months, but at least once each calendar year. Records state a leakage survey was conducted on August 29, 2019 which exceeded the code required interval by eight days (the preceding leakage survey was conducted on May 21, 2018).

VIOLATION(S):

As operator of the system, Liberty is responsible for complying with gas pipeline safety regulations.

Liberty failed to conduct leakage surveys on their regulated transmission pipeline at the frequency required by § 192.706.

EXHIBITS:

- Exhibit #1 – 2018-2019 Liberty ROW Patrol-Leakage Survey Records

PROPOSED CIVIL PENALTY:

Any person who violates a rule or order of the commission pursuant to N.D.C.C. § 49-02-01.2 and N.D. Admin. Code ch. 69-09-03, the company is subject to a civil penalty 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. The Proposed Civil Penalty is \$750.00.

PROBABLE VIOLATION NO. 3:

PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:

49 CFR Part 191.29 National Pipeline Mapping System.

...

(b) The information required in paragraph (a) of this section must be submitted each year, on or before March 15, representing assets as of December 31 of the previous year. If no changes have occurred since the previous year's submission, the operator must comply with the guidance provided in the National Pipeline Mapping System (NPMS) Operator Standards manual available at www.npms.phmsa.dot.gov or contact the PHMSA Geographic Information Systems Manager at (202) 366-4595.

INSPECTION FINDINGS:

Liberty O&M records indicate that neither a NPMS Notification nor a NPMS No Change Notification for CY 2018 was submitted in 2019 as required by § 191.29. The code states that the NPMS notification must be submitted each year, on or before March 15, representing assets as of December 31 of the previous year.

VIOLATION(S):

As operator of the system, Liberty is responsible for complying with gas pipeline safety regulations.

Liberty failed to submit a NPMS Notification or a NPMS No Change Notification regarding their regulated transmission pipeline at the frequency required by § 191.29.

PROPOSED CIVIL PENALTY:

Any person who violates a rule or order of the commission pursuant to N.D.C.C. § 49-02-01.2 and N.D. Admin. Code ch. 69-09-03, the company is subject to a civil penalty 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. The Proposed Civil Penalty is \$1,000.00.

PROBABLE VIOLATION NO. 4:

PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:

49 CFR 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 pipe 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

INSPECTION FINDINGS:

Liberty O&M records indicate an inspection for evidence of atmospheric corrosion on each pipeline or portion of pipeline that is exposed to the atmosphere was not completed at the frequency required by § 192.481. The code states atmospheric corrosion inspections of onshore systems must be conducted at least once every 3 calendar years, but with intervals not exceeding 39 months. Documentation states an atmospheric corrosion inspection was conducted on July 31, 2020 which exceeded the code required interval by 145 days. This was the first atmospheric corrosion inspection conducted since Liberty’s regulated pipeline system went into service on December 8, 2016.

VIOLATION(S):

As operator of the system, Liberty is responsible for complying with gas pipeline safety regulations.

Liberty failed to conduct atmospheric corrosion inspections on their regulated transmission pipeline at the frequency required by § 192.481.

PROPOSED CIVIL PENALTY:

Any person who violates a rule or order of the commission pursuant to N.D.C.C. § 49-02-01.2 and N.D. Admin. Code ch. 69-09-03, the company is subject to a civil penalty 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. The Proposed Civil Penalty is \$1,000.00.

PROBABLE VIOLATION NO. 5:

PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:

49 CFR Part 192.465 External corrosion control: Monitoring.

...

- (b) Each cathodic protection rectifier or other impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2½ months, to ensure that it is operating.

INSPECTION FINDINGS:

Liberty O&M records indicate that each cathodic protection rectifier or other impressed current power source was not inspected at the frequency required by § 192.465. The code states each cathodic protection rectifier or other impressed current power source must be inspected six times each calendar year, but with intervals not exceeding 2½ months, to ensure that it is operating. Documentation states the rectifier was inspected on January 29, 2019, May 24, 2019, and July 17, 2019. In calendar year 2019 three of the six required interval inspections were not completed.

Prior to calendar year 2020, Liberty relied solely on a qualified contractor(s) to complete these inspections. Liberty now has employees who are Operator Qualified to perform the rectifier inspections if their contractor(s) is unavailable.

VIOLATION(S):

As operator of the system, Liberty is responsible for complying with gas pipeline safety regulations.

Liberty failed to inspect each cathodic protection rectifier or other impressed current power source on their regulated transmission pipeline at the frequency required by § 192.465.

EXHIBITS:

- Exhibit #1 – 2019 Liberty Rectifier Survey Record

PROPOSED CIVIL PENALTY:

Any person who violates a rule or order of the commission pursuant to N.D.C.C. § 49-02-01.2 and N.D. Admin. Code ch. 69-09-03, the company is subject to a civil penalty 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. The Proposed Civil Penalty is \$2,000.00.

TOTAL PROPOSED PENALTY:

Based upon review of the circumstances and supporting documentation involved in the above probable violations, the total Proposed Civil Penalty is: **\$5,500.**

RESPONSE OPTIONS:

The respondent may provide an answer or response addressed to the following:

Public Service Commission
Attn: Caleb Simburger
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

Within 30 days of receipt of a notice of probable violation, 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 Program 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 a hearing.
- (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;

- (3) If the respondent is contesting one or more of the allegations of probable violation or compliance terms, but is not requesting a hearing, 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 a hearing.
- (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. The violation report will be provided to the respondent within five business days of receiving a request.
- (d) Failure by the respondent 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 websites. 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.



Revision Date: 03/15/2017
Revision No: Rev 0

F-192.705: Right-of-Way Inspection

Patrolling of Pipeline System

System: County Line Plant Discharge

Location:

Date: 05/21/2018

Class 1 2 3 4

Areas Covered

Right-of-Way:

North and South side of 74th ST NW. Line located and marked with Permanent marker flags

Road Crossings:

74th ST NW. Line running north and south to PI on South side of 74th Ave NW. Line is north of CLP vehicle entrance.

Railroad Crossings:

NONE

Describe any unusual conditions, leakage indications, construction activity, or any other problems that exist: *NONE*

Comments (such as repairs, maintenance, or incident reports):

N/A

Was a leakage survey done while on this patrol? Yes No

Note: If so, complete the Leak Survey section of this form.

Was a class location survey done while on this patrol? Yes No

Note: If so, complete Form F-192.5: Class Location Survey.

Completed by:

Corley Taylor Courtney

Date: 5/21/2018



Revision Date: 03/15/2017
Revision No: Rev 0

F-192.705: Right-of-Way Inspection

Patrolling of Pipeline System

System: County Line Plant Discharge

Location: CLP Discharge line. Tioga ND

Date: 08/28/2019

Class 1 2 3 4

Areas Covered

Right-of-Way:

North and South on 74th ST NW. Pipeline is marked by marker flags/post

Road Crossings:

74th ST NW. Pipeline runs north and south. South side of 74th Ave NW. Than pipeline 90s and runs south.

Railroad Crossings:

NONE

Describe any unusual conditions, leakage indications, construction activity, or any other problems that exist: NONE

Comments (such as repairs, maintenance, or incident reports):

N/A

Was a leakage survey done while on this patrol? Yes No

Note: If so, complete the Leak Survey section of this form.

Was a class location survey done while on this patrol? Yes No

Note: If so, complete Form F-192.5: Class Location Survey.

Completed by: Sean Graham

Date: 8/29/2019



Revision Date: 03/15/2017
Revision No: Rev 0

F-192.705: Right-of-Way Inspection

N/A 5/21/2018

Leakage Survey

Pipeline: CLP Discharge Line

Location: LMS County Line Gas Plant. Tioga ND

Date: 5/21/2018

Class 1 2 3 4

Was gas detection equipment used? Yes No

What Type/Model:

Serial Number:

Leaks Found: No Yes

If YES, describe findings below and complete Form F-192.709: Leak Investigation/Repair and Exposed Pipe Report.

What Grade is the leak (See P-192.706: Leakage Survey)? 1 2 3

Completed by: *Corey Taylor* *Corey Taylor* Date: 5/21/2018



Revision Date: 03/15/2017
Revision No: Rev 0

F-192.705: Right-of-Way Inspection

Only visual inspect and patrol 8/29/2019

Leakage Survey

Pipeline: CLP Discharge Line

Location: LMS CLP. Tioga ND

Date: 8/29/2019

Class 1 2 3 4

Was gas detection equipment used? Yes No

What Type/Model:

Serial Number:

Leaks Found: No Yes

If YES, describe findings below and complete Form F-192.709: *Leak Investigation/Repair and Exposed Pipe Report.*

What Grade is the leak (See P-192.706: *Leakage Survey*)? 1 2 3

Completed by: Sean Graham

Date: 8/29/2019

