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DOCKETING DIVISION
Public Utilities Commission of Ohio**A Report by the Staff of the
Public Utilities Commission of Ohio**

In the Matter of the Investigation of
the Cobra Pipeline Company, Ltd.
Relative to its Compliance with
the Natural Gas Pipeline Safety Standards
and Related Matters

Case No. 14-1640-GA-GPS

September 23, 2014

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**


In the Matter of the Investigation of the :
Cobra Pipeline Company, Ltd. Relative : Case No. 14-1640-GA-GPS
to its Compliance with the Natural Gas :
Pipeline Safety Standards and Related :
Matters :

To the Honorable Commission:

Staff has conducted an investigation in the above matter and hereby submits its findings and recommendations in this Gas Pipeline Safety Staff Report.

The findings and recommendations reached in this Staff Report are presented for the Commission's consideration and do not purport to reflect the views of the Commission, nor should any party consider the Commission as bound in any manner by the findings and recommendations set forth herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter A. Chace", with a long horizontal flourish extending to the right.

Peter A. Chace, Chief
Gas Pipeline Safety Section
Service Monitoring and Enforcement Department

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I. Background

The Cobra Pipeline Company, Ltd. (Cobra) is a natural gas company subject to the jurisdiction of the Public Utilities Commission of Ohio (Commission) under Title 49 of the Ohio Revised Code (R.C.) and rules adopted by the Commission in the Ohio Administrative Code (O.A.C.).¹ Overall, the company consists of three distinct systems, one located in Holmes and Wayne Counties, a second in Washington County, and a third system located in Columbiana, Mahoning, Trumbull, Ashtabula, and Geauga counties in northeast Ohio. In total, the company operates approximately 92 miles of transmission and 131 miles of regulated gathering piping. This case was initiated after Gas Pipeline Safety Staff (Staff) conducted a pipeline safety inspection of the facilities and records at Cobra's operating center in Pleasantville, Ohio, from June 9, 2014 to June 11, 2014. As a result of this investigation, Staff issued Cobra a Notice of Probable Non-Compliance (Notice) on July 16, 2014 citing violations of 49 C.F.R. 192 Subpart O "Gas Transmission Pipeline Integrity Management".

II. Staff Investigation

The Gas Transmission Pipeline Integrity Management rule requires operators to identify segments of pipeline near populated areas called High Consequence Areas (HCA).² Operators are also required to review available pipeline data to determine how vulnerable covered segments (pipeline segments within a HCA) are to the defined threats to pipeline integrity such as internal or external corrosion, excavation damage, etc.³ Companies were required to identify covered segments within an HCA and develop a written Integrity Management (IM) program to address those vulnerabilities by December 17, 2004.⁴

The IM program is intended to collect missing data, and evaluate pipeline integrity by performing field assessments of the segments located in areas of highest risk for each defined threat. Operators were required to complete an initial baseline assessment of all

¹ Chapter 4901:1-16 Ohio Administrative Code, (Gas Pipeline Safety) and Title 49 of the Code of Federal Regulations (C.F.R.) Part 191 and 192 (the Pipeline Safety Regulations) as enabled through R.C. 4905.91 and Ohio Admin. Code 4901:1-16-03.

² 49 C.F.R. §192.905.

³ 49 C.F.R. §192.917.

⁴ 49 C.F.R. §192.907.

covered segments by December 17, 2012.⁵ Assessment methods include pressure testing, internal inspection tools, direct assessment of the pipeline, or other technologies that provide an equivalent understanding of the condition of the pipeline.⁶ The operator must take prompt action to address any threats to the safe operation of the pipeline that are discovered during the assessment.⁷

From June 9, 2014 to June 11, 2014, Staff performed a compliance inspection at Cobra's operating center in Pleasantville, Ohio. The purpose of the inspection was to assess the company's compliance with the requirements of the Gas Transmission Pipeline Integrity Management rule, and to review its progress towards completing its initial baseline assessment.

Through its investigation, Staff determined that Cobra operated two segments of pipeline identified as being located within a HCA and subject to the IM program requirements of Subpart O. These pipeline segments are both located in Trumbull County and have a combined length of approximately one mile. Since 2010, Cobra has consistently identified these pipeline segments as being located within an identified HCA in the company's annual reports to the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA).

Staff additionally determined that Cobra was not able to produce an IM program, nor could it produce any evidence that any work had been done to comply with the Gas Transmission Pipeline Integrity Management rule other than identifying the pipeline segment located within a HCA. Staff issued a Notice of Probable Noncompliance to Cobra on July 16, 2014 citing the following specific violations:

- A. 49 C.F.R. 192.907, "No later than December 17, 2004, an operator of a covered pipeline segment must develop and follow a written integrity management program that contains all the elements described in 192.911 and that addresses the risks on each covered transmission pipeline segment."

Cobra has not developed or followed a written IM program other than identifying high consequence areas. Cobra has not developed a baseline assessment plan, has not identified potential threats to each of its covered pipeline segments, and has not addressed the risks on its covered pipeline segments.

⁵ 49 C.F.R. 192.921.

⁶ 49 C.F.R. 192.921.

⁷ 49 C.F.R. §192.933.

- B. 49 C.F.R. 192.915, “What knowledge and training must personnel have to carry out an integrity management program?”

The IM program must provide that each supervisor whose responsibilities relate to the IM program possesses and maintains a thorough knowledge of the IM program and of the elements for which the supervisor is responsible.⁸ The IM program must also provide for the minimum qualifications of all personnel tasked with conducting, reviewing or making decisions during implementation the program⁹ or who implements preventive and mitigative measures to carry out the program.¹⁰

Cobra does not have trained supervisory personnel and/or staff qualified to carry out an IM program.

- C. 49 C.F.R. 192.921(d), “An operator must prioritize all the covered segments for assessment in accordance with 192.917(c) and paragraph (b) of this section. An operator must assess at least 50% of the covered segments beginning with the highest risk segments, by December 17, 2007. An operator must complete the baseline assessment of all covered segments by December 17, 2012.”

Cobra does not have records to demonstrate that it has conducted a baseline assessment.

III. Cobra Response

Cobra responded to the Notice issued by Staff on August 8, 2014. The company did not dispute the Staff findings, and offered no evidence or additional information to mitigate the violations alleged in Staff’s Notice of Probable Noncompliance. However, the company is currently in negotiations with an outside contractor to manage its IM program and once negotiations are complete the company states it will “create and carry out an IM program.”

⁸ 49 C.F.R. 192.915(a).

⁹ 49 C.F.R. 192.915(b).

¹⁰ 49 C.F.R. 192.915(c).

IV. Discussion of Violations

The Pipeline Safety Regulations require "Each operator of a transmission or a gathering pipeline system must submit an annual report for that system on DOT Form PHMSA 7100.2.1."¹¹ PHMSA first required operators to report the actual length of transmission lines located in HCA's that were subject to IM requirements in its annual reports for calendar year 2010.¹² Cobra was formed in February 2008 when it purchased lines from Columbia Gas Transmission. In its annual report for 2010, and all subsequent reports submitted to PHMSA, the company identifies one (1) mile of piping in HCAs. Cobra also represented in its annual reports that it was in fact using an IM program in accordance with the regulations. A box on the company's annual reports is checked stating "Portions of some or all of the pipelines and/or pipeline facilities covered by this OPID and Commodity Group are included in an Integrity Management Program subject to 49 Part 192." This clearly shows Cobra was on notice that its pipeline system contained covered segments within an identified HCA and an IM program was required under the law.

The IM rule has provisions for incorporating newly identified HCAs into an operators IM program, however the lines in question were in existence prior to 2004. PHMSA conducted an integrity management audit of Columbia Gas Transmission from July 17 – August 3, 2006, and audit results show that Columbia Gas Transmission had identified HCAs within the state of Ohio in accordance with Subpart O of the Pipeline Safety Regulations. In addition, a Staff field investigation showed that Cobra's covered pipeline segments within these identified HCAs were marked as high consequence areas with Columbia Gas Transmission line markers. It is evident to Staff that the HCA segments in question were identified prior to Cobra's formation and Cobra was aware or should have been aware of the existence of these HCAs upon taking possession of the pipeline.

Staff completed a compliance inspection of an IM program generated by Utility Technologies International Corp. in 2007. Documented results of the inspection dated October 8, 2007 indicate that this plan would be used by the Northeast Ohio Natural Gas Company (NEONG) as well as several other transmission pipeline operators in Ohio. At the time of its formation in 2008, Cobra shared a common gas pipeline safety compliance program with NEONG and it was the understanding of Staff that Cobra would continue to use the same written IM program as NEONG.

¹¹ 49 C.F.R. 191.17.

¹² See PHMSA's 7100.2-1 reporting instructions for 2009 and for 2010.

Since 2008, the transmission pipelines operated by Cobra were subject to five audits conducted by Gas Pipeline Safety Staff.¹³ These audits focused on compliance with construction, operation, and maintenance requirements of the Pipeline Safety Regulations and did not assess compliance with Subpart O. The audit performed in June, 2014 at Cobra was scheduled specifically to review progress made in carrying out its IM program and the required baseline assessment.

In order to comply with the IM requirements, Cobra should have completed a written IM program within one year of company formation, and should have completed a baseline assessment of all covered pipeline segments by December 17, 2012. Cobra was unable to provide any documentation or other evidence that any of this work had been done or was even planned at any time since the company came into existence in 2008.

V. Conclusions and Recommendations

The inspections performed by Staff show that Cobra was unable to demonstrate that any action had been taken to comply with the IM requirements of the Pipeline Safety Regulations other than identifying piping located in HCAs. The inspection history at Cobra as well as the Cobra Annual Reports acknowledging the existence of covered pipeline segments shows that Cobra was aware or should have been aware of the IM requirements, but still did not comply.

After consideration of the information summarized in this report, Staff offers the following recommendations:

1. Cobra must develop a written IM program not later than December 31, 2014. This program must conform to the requirements as defined in 49 C.F.R. 192.911, including the following elements:
 - a. Criteria for identifying HCAs that meet the requirements of 49 C.F.R. 192.905;
 - b. Criteria for the qualification of supervisory personnel and/or staff that meet the requirements of 49 C.F.R. 192.915;
 - c. An identification of potential threats to pipeline integrity, which must include data integration, a risk assessment, and actions to address particular threats, that meets the requirements of 49 C.F.R. 192.917;

¹³

The audits occurred in 12/08, 2/10, 11/11, 11/12, and 12/13.

- d. A schedule to assess covered segments based on the results of the risk assessment conducted in accordance with V.1.c; and
 - e. A plan to conduct a baseline assessment that meets the requirements of 49 C.F.R. 192.919.
- 2. After completion of a written IM program , Cobra must assess its system to determine if it operates any additional covered pipeline segments located within a HCA. Any newly-identified areas must be incorporated into the Cobra baseline assessment plan no later than July 1, 2015.
 - 3. Cobra must complete a baseline assessment of its known covered pipeline segment and any additional covered pipeline segment that may be identified in accordance with V.2 no later than December 31, 2015. This assessment must conform to the requirements for a baseline assessment as defined in 49 C.F.R. 192.921. Assessment methods must be chosen that are appropriate to address the threats to the covered pipeline segments identified in the baseline assessment plan.
 - 4. Finally, given the severity of the violations and time spent in non-compliance, Staff recommends that a forfeiture of \$10,000.00 be assessed¹⁴ against Cobra for failure to comply with the IM requirements of Subpart O of the Pipeline Safety Regulations.¹⁵
 - 5. Staff further recommends that an additional \$90,000.00 be assessed against Cobra, to be held in abeyance pending successful completion of IM program as identified in recommendation #1 through #3 by the dates listed. If these steps are completed by their respective deadlines, as determined by the Commission, the additional forfeiture should be waived.

¹⁴ Pursuant to authority granted the Commission under division (B)(1)(b) of R.C. 4905.95.

¹⁵ See Ohio Admin. Code 4901:1-16-03, enacting and enforcing 49 C.F.R 192 Subpart O.