Dynegy Kendall Energy, LLC
1401 County Line Road
Minooka, IL 60447

DYNEGY

February 11, 2015

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Illinois Commerce Commission
GAS PIPELINE SAFETY

Illinois Commerce Commission
527 East Capitol Avenue
Springfield, Illinois 62701

Attention: Mr. Darin R. Burk
Manager – Pipeline Safety

Re: Further Clarification Regarding Dynegy Kendall Energy's Notice of Probable Violation Letter (NOPV #'s 2014-V001-00057, 2014-V002-00057, 2014-V003-00057, 2014-V001-00058, 2014-V002-00058, and 2014-V003-00058), Inspection # 2014-P-00406

Dear Mr. Burk:

Dynegy Kendall Energy, LLC (Dynegy Kendall) submits this response to your above-captioned "Further Clarification Regarding Dynegy Kendall Energy's Notice of Probable Violation Letter" (Further Clarification Letter), dated January 23, 2015.

NOPVs 2014-V001-00057, 2014-V002-00057, and 2014-V003-00057

In issuing NOPVs 2014-V001-00057, 2014-V002-00057, and 2014-V003-00057, the ICC alleged that Dynegy Kendall failed to document annual emergency training, citing 49 CFR §192.603(b) (regarding recordkeeping) and 49 CFR §192.615(b)(2) (regarding emergency plan training). Dynegy Kendall disputed the requirement to conduct emergency training annually, given that the plain language of the regulations, including 49 CFR §192.605(a), does not mandate annual training. Nevertheless, Dynegy Kendall also agreed to perform the training annually and, in fact, completed that training in December 2014 for calendar year 2014, as documented in Attachment 1("Dynegy-Kendall Annual Emergency Exercise Training Documents").

The Further Clarification Letter explains that 49 CFR §192.605(a) requires a procedure to meet 49 CFR §192.615(b)(2) and quotes 49 CFR §192.605(a). Additionally, the Further Clarification Letter refers to PHMSA examples of probable violations or inadequate procedures in published guidance material instructing that a regulatory agency may consider it a violation or an inadequate procedure if an operator has not established a written, continuing training program and states that "PHMSA does not

consider the emergency training a one-time program, but the operator must continue training their emergency personnel." The Further Clarification Letter then concludes that "a Notice of Amendment ("NOA") will be issued to Dynegy Kendall Energy for a failure to include a procedure stipulating a time requirement for conducting emergency training. Your response letter states that training will be conducted annually regarding emergency procedures. A response to the NOA indicating, at a minimum, the one year time requirement would be considered acceptable."

On January 23, 2015, we received the ICC's Pipeline Inspection Report, Inspection # 2015-P-00012 (Pipeline Inspection Report), which states that "A NOA was issued to update the O&M to clarify the frequency for conducting emergency training." Specifically, the Pipeline Inspection Report states:

> ***Notice Of Amendment(s) Found:***
> **2015-A001-00001** (Code Part [192.605(a)][192.615(b) (2)]) - A review of the Operations and Maintenance ("O&M") Manual for Dynegy Kendall did not indicate a time requirement for emergency training. Additionally, the Pipeline and Hazardous Materials Safety Administration ("PHMSA") offers examples of probable violations or inadequate procedures in published guidance material instructing that a regulating agency, such as the ICC Pipeline Safety Program, may consider it a violation or an inadequate procedure if an operator has not established a written, continuing training program. PHMSA does not consider the emergency training a one-time program, but the operator must continue training their emergency personnel.

The Pipeline Inspection Report further states that these three NOPVs "[are] considered closed and a corresponding NOA will be issued to detail a procedure when the emergency training is required."

Dynegy Kendall will perform annual emergency training as stated in our initial response to the NOPV and as clarified by the Further Clarification Letter and NOA 2015-A001-00001. To that end, we have revised the O&M Manual to specify the annual emergency training requirement (see Attachment 2 "Item 14, page 118 of 133 of the Revised O&M Manual"). As noted previously, Dynegy Kendall performed this training in 2014 (see Attachment 1).

<u>NOPVs 2014-V001-00058, 2014-V002-00058, and 2014-V003-00058</u>

NOPVs 2014-V001-000158, 2014-V002-00058, and 2014-V003-00058 allege that Dynegy Kendall failed to document annual meetings with appropriate fire, police and other public officials, citing 49 CFR §192.603(b) and 49 CFR §192.615(c). Dynegy Kendall disputed these NOPVs based on the absence of plain language in 49 CFR §192.615 identifying that such liaison meetings must occur annually. The Further Clarification Letter explains that Kendall's O&M Manual (Item 16, on page 117 of 133) states that contact will be made annually with appropriate public officials.

As identified in our prior response, to correct this inadequacy, Dynegy Kendall held liaison meetings with the Kendall County Emergency Management Agency, Minooka Fire Department, and Kendall County Sheriff in November 2014 and the Minooka Police

Department in December 2014. Documentation of these meetings is included in Attachment 3 "Emergency Response Plan Liaison with Public Officials" for your convenience. Going forward, Dynegy Kendall will hold these liaison meetings regarding emergency plans annually and maintain documentation of each such meeting. We also note that our public awareness program contractor, Paradigm, communicates with interested stakeholder audiences (affected public, excavators, emergency responders, and public officials, as identified in API RP 1162), including holding public awareness meetings.

Finally, the Further Clarification Letter explains that an operator is required to determine the "public officials" along its pipeline route, citing American Petroleum Institute (API) Recommended Practice (RP) 1162, which includes a listing of possible public officials and is incorporated into 49 CFR 192 and 195 by reference. In prior communications with ICC Analyst Matt Smith concerning these three NOPVs, we asked whether any additional appropriate public officials -- beyond the Kendall County Emergency Management Agency, Minooka Fire Department, Minooka Police Department and Kendall County Sheriff, each of whom we met with in 2014 -- should be contacted for purposes of 49 CFR §192.615(c) liaison meetings. Mr. Smith did not identify any other appropriate public officials who would need to be contacted. Thus, we believe we have met the requirements of 49 CFR §192.615(c) to liaison with appropriate fire, police and other public officials (and we will continue to maintain those liaisons annually).

Thank you for the clarifications concerning the NOPVs. We believe this response and the actions outlined above (including our actions taken previously in response to the NOPVs) close the subject NOPVs and NOA. Should you require anything further, please contact me at 815-521-1000 ext. 50.

Sincerely,

Alan Bargender

Alan M. Bargender
Managing Director, Dynegy Kendall Energy

Enclosures

cc: Martin W. Daley/Ontelaunee
Andreas H. Leskovsek/Houston
Mitchell Lancaster/Houston