



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

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NOTICE OF PROBABLE VIOLATION
CERTIFIED MAIL – RETURN RECEIPT REQUESTED

January 17, 2020

D.P.U. 19-PL-16

Mark Prewitt, Vice President
Pipeline Safety & Compliance
National Grid
40 Sylvan Road
Waltham, MA 02451

Re: National Grid Temporary LNG Facilities

Dear Mr. Prewitt:

The Pipeline Safety Division (“Division”) of the Department of Public Utilities (“Department”) issues this Notice of Probable Violation (“NOPV”) to Boston Gas Company and Colonial Gas Company, each d/b/a National Grid (“Company” or “National Grid” or “Respondent”) pursuant to 220 CMR 69.03 and Delegation Order, D.P.U. 18-44-A (2018). This matter addresses National Grid’s mobile and temporary liquified natural gas (“LNG”) facilities. As discussed in further detail below, the Division has reason to believe that Respondent may have violated Section 193.2019(b) of 49 C.F.R. Part 193 (“Part 193”).

I. FINDINGS

On July 10, 2019, the Division commenced this matter by sending National Grid an information request (“IR”) concerning its use of mobile and portable LNG units between January 1, 2017, and July 1, 2019. The Division requested an Excel spreadsheet listing all such units, including the dates of use, and the notification letters submitted to the Division for each unit in operation during that period. On July 24, 2019, National Grid responded to the IR by providing the requested list (IR-PL 1-1, Att.) and seven notification letters (IR-PL 1-2, Att.).

Part 193, § 193.2019(b) provides as follows:

(b) The state agency having jurisdiction over pipeline safety in the State in which the portable LNG equipment is to be located must be provided with a location description for the installation at least 2 weeks in advance, including to the extent practical, the details of siting, leakage containment or control, fire fighting equipment, and methods employed to restrict public access, except that in the case of emergency where such notice is not possible, as much advance notice as possible must be provided.

Upon review of the IR responses, the Division issued National Grid an Exit Letter dated November 15, 2019, highlighting the following areas of concern:

- A. Location description for the installation is required at least two weeks in advance.¹

April 3, 2017 Notification letter

- Spencer Take Station ([REDACTED] Spencer, MA) – April 12 and 13, 2017
 - Notification date is less than two weeks before proposed date of installation.
 - Dates provided differ from those on the spreadsheet (April 19, 2017, April 22, 2017 and April 23, 2017).

¹ In response to a second IR, National Grid provided a copy of its Portable Vaporizer Program Policy, which requires two-weeks’ notice to the Department prior to set up of the portable system.

- Clinton ([REDACTED], Clinton, MA) – April 24, 25, and 26, 2017
 - Dates provided differ from that on the spreadsheet (April 22, 2017)
- Leominster ([REDACTED], Leominster, MA) – April 24, 25, and 26, 2017
 - Dates provided differ from those on the spreadsheet (April 10, 2017 and April 11, 2017).
- Norwood ([REDACTED], Norwood, MA) – June 22 and 27, 2017
 - Dates provided differ from those on the spreadsheet (June 19, 2017 and June 21, 2017).

September 25, 2017 Notification letter

- [REDACTED], Norwood - October 2 to 6, 2017
 - Notification date is less than two weeks before installation.
 - Dates provided differ from that on the spreadsheet (October 1, 2017).

October 18, 2017 Notification letter

- Clinton ([REDACTED], Clinton, MA) - October 24, 2017
 - Notification date is less than two weeks before installation.
 - Date provided differs from those on the spreadsheet (October 22, 2017 and October 23, 2017).
- Leominster ([REDACTED], Leominster, MA) - October 24, 2017
 - Notification date is less than two weeks before installation.
 - Date provided differs from those on the spreadsheet (October 22, 2017 and October 23, 2017).

December 4, 2017 Notification letter

- [REDACTED], Chatham, MA
 - No proposed date provided in notification letter.
 - First date of installation provided in spreadsheet (December 11, 2017) is less than two weeks after the notification date.

June 20, 2018 Notification letter

- Leominster ([REDACTED], Leominster, MA) – July 9 to July 19, 2018
 - Dates provided differ from that on the spreadsheet (July 8, 2019).
- Dorchester ([REDACTED], Dorchester, MA) – July 10 to July 18, 2018
 - No information provided on this location on spreadsheet.

December 27, 2018 Notification letter

- [REDACTED], Chatham, MA
 - No proposed date provided in cover letter .

April 12, 2019 Notification letter

- Norwood ([REDACTED] , Norwood, MA)
 - No proposed date provided in cover letter (Attachment IR – PL 1-2)
 - According to spreadsheet, work was done on April 16th, 21st, 24th, and 26th, 2019, which is less than two weeks after letter was sent.

B. Dates on Excel sheet with no corresponding cover letter:

- Leominster – June 28, 2018
- Chatham – December 11, 2018

C. Notification Letters Lacked Information

Section 193.2019(b) requires that the notification letters include, to the extent practical, the details of siting, leakage containment or control, firefighting equipment, and methods employed to restrict public access. In response to the IR, National Grid stated:

The notification letters do not specifically provide the detailed information referenced in 49 C.F.R. Part 193, § 193.2019(b) as that information is made available on site in a binder for inspection at each portable LNG location. Going forward the Company will provide the detailed documentation as required by 49 C.F.R. Part 193, § 193.2019(b) in advance, where practical.

II. ALLEGATIONS

Based on the inspection and investigation, the Division has reason to believe that Respondent failed to provide adequate records to demonstrate that it followed its portable and mobile LNG facilities notification procedures. This may be in violation of certain sections of federal pipeline safety regulations, specifically Part 193, § 193.2019(b). The Division further notes that it previously sent National Grid a warning letter, D.P.U. 09-PLW-03 (February 12, 2010), for the Company's failure to comply with this same code provision regarding a July 12, 2009 notification letter for a portable LNG vaporizer in Norwood.

III. PROPOSED CIVIL PENALTY

Under G.L. c. 164, § 105A, National Grid is subject to a civil penalty not to exceed \$200,000 for each violation for each day that the violation exists, up to a maximum of \$2,000,000 for any related series of violations.

In determining the amount of the civil penalty, the Division shall consider the following, pursuant to G.L. c. 164, § 105A: the appropriateness of the penalty to the size of the business of the person, firm, or corporation charged; the gravity of the violation; and the good faith of the person, firm, or corporation charged in attempting to achieve compliance, after notification of a violation.

In the present matter, the Division has reviewed the circumstances of the allegations and is prepared to resolve this matter upon National Grid's agreement to the terms in the attached Consent Order and payment of a civil penalty in the amount of \$75,000.

IV. RESPONSE TO THIS NOPV

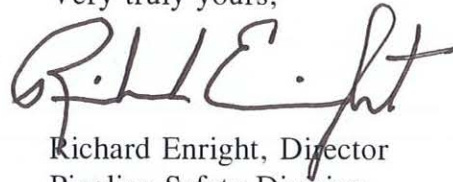
Within 30 days of receipt of this NOPV, National Grid shall respond to the Division in one of the following ways, pursuant to 220 CMR 69.04:

1. Sign and return the attached Consent Order, thus agreeing to remit payment of the civil penalty by check or money order made payable to the Commonwealth of Massachusetts;
2. Submit an offer in compromise of the proposed civil penalty under 220 CMR 69.04(2);
3. Request an informal conference under 220 CMR 69.05; or
4. Submit a written reply to the Division disputing the allegation(s) contained in the NOPV. The reply must include a complete statement of all relevant facts

and authority and full description of the reasons why the Respondent disputes the allegation(s) contained in the NOPV.

Failure to respond within 30 days of receipt of this NOPV will be deemed an admission to the allegations contained herein and a waiver of National Grid's right to contest the allegations. If National Grid fails to respond within 30 days, the Department may, without further notice, find the facts to be as alleged herein and issue a final Order, pursuant to 220 CMR 69.04(3).

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Enright", is written over the typed name and title.

Richard Enright, Director
Pipeline Safety Division

Enclosures: Consent Order
Compliance Agreement

Cc: Stephen M. Bell, National Grid
Thomas Kubilis, National Grid
Laurie Ellen Weisman, Division Counsel



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

CONSENT ORDER

January 17, 2020

D.P.U. 19-PL-16

In the matter of Boston Gas Company and Colonial Gas Company, each d/b/a National Grid

I. JURISDICTION

1. This document, with the attached Compliance Agreement, is a Consent Order entered into between the Pipeline Safety Division (“Division”) of the Department of Public Utilities (“Department”) and Boston Gas Company and Colonial Gas Company, each d/b/a National Grid (“Respondent”), and is executed in accordance with 220 CMR 69.08.
2. The Division has authority to enter into this Consent Order on behalf of the Department pursuant to Delegation Order, D.P.U. 18-44-A (2017).
3. Failure to comply with the terms of this Order may result in the assessment of civil penalties and referral of this matter to the Attorney General for appropriate action.
4. The terms and conditions of this Order become effective upon signing by the authorized representatives of the Respondent and the Department.
5. Respondent has stipulated and consented to the issuance of this Consent Order.

II. VIOLATIONS AND CIVIL PENALTY

1. Pursuant to G.L. c. 164, §§ 76 and 105A, and 220 CMR 69.02, the Division conducted a pipeline safety inspection of the Respondent’s facilities and records. As a result of the inspection, the Director of the Division issued to the Respondent a Notice of Probable Violation (“NOPV”), D.P.U. 19-PL-16, dated January 17, 2020, in accordance with 220 CMR 69.03. The NOPV is attached hereto and made a part hereof.
2. Based on information contained in the NOPV, the Division finds that the Respondent violated pipeline safety regulations contained in 49 C.F.R. Part 193 (“Part 193”), specifically:

Part 193, § 193.2019(b) – Mobile and temporary LNG facilities.

3. Pursuant to G.L. c. 164, § 105A, the Division hereby imposes upon the Respondent a civil penalty in the amount of \$75,000 for the above-noted violations.
4. The Respondent hereby agrees, upon signing and returning this Consent Order to the Division, to remit payment of the civil penalty by check or money order in the amount of \$75,000 made payable to the Commonwealth of Massachusetts, One South Station, Boston, MA 02110.

III. RESPONDENT REQUIREMENTS

1. **Respondent shall sign the Stipulation below and return this complete document to the Division.**
2. All submissions by Respondent in accordance with this Consent Order shall be addressed to:

Director
Pipeline Safety Division
Department of Public Utilities
One South Station
Boston, MA 02110

IV. STIPULATED TERMS

Pursuant to 220 CMR 69.08(1), the Respondent through the signature below, by the person to whom this Consent Order is issued or a duly authorized representative, acknowledges agreement to the terms contained herein without admitting or denying that a violation of any Department or federal pipeline safety law or regulation occurred in relation to the above-noted matters. Further, Respondent agrees to issuance of this Consent Order and stipulates to the following:

1. Respondent, by signing the Stipulation, hereby waives:
 - (a) All rights to informal review pursuant to 220 CMR 69.05;
 - (b) All rights to a hearing pursuant to 220 CMR 69.06;
 - (c) Any and all procedural rights available in connection with the issuance of the Consent Order;
 - (d) All rights to seek any type of administrative or judicial review of the Consent Order; and
 - (e) Any and all rights to challenge or contest the validity of the Consent Order.

2. Respondent expressly acknowledges that neither Respondent nor the Division has any intention to enter into a contract.
3. The terms and provisions of this Consent Order and Stipulation shall be binding upon, and inure to the benefit of, Respondent and the Division and their successors in interest.
4. Nothing in these Stipulated Terms shall preclude any proceedings brought by the Department to enforce the terms of the Consent Order, and nothing in these Stipulated Terms constitute, nor shall Respondent contend that they constitute, a waiver of any right, power, or authority of any other representative of the Commonwealth or an agency thereof to bring other actions deemed appropriate.

V. FINAL ORDER

1. This Consent Order and Stipulation is intended to be, and shall be construed to be, a final order of the Department issued pursuant to G.L. c. 25, § 5, having the force and effect of a remedial order, pursuant to 220 CMR 69.07(2), and expressly does not form, and may not be considered to form, a contract binding on the Division, the Department, or the Commonwealth of Massachusetts.

2. The terms of this Consent Order and Stipulation, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreement, or prior arrangements between the Division and the Respondent, whether oral or written.

By Order of the Division

_____ Date: _____
Richard Enright, Director
Pipeline Safety Division
Department of Public Utilities

The undersigned, duly authorized, stipulates to and acknowledges agreement to the terms herein.

Boston Gas Company d/b/a National Grid

_____ Date: _____
Mark Prewitt
Vice President, Pipeline Safety & Compliance

COMPLIANCE AGREEMENT
BETWEEN THE DEPARTMENT OF PUBLIC UTILITIES
AND BOSTON GAS COMPANY AND COLONIAL GAS COMPANY
D/B/A NATIONAL GRID

D.P.U. 19-PL-16

Boston Gas Company and Colonial Gas Company d/b/a National Grid (“National Grid”) agrees to take the following actions within the specified time periods:

1. Within 30 days of the effective date of this Order, National Grid shall review notification procedures required by Part 193, §193.2019 with appropriate personnel.
2. Within 60 days of the effective date of this Order, National Grid shall submit documentation that it has satisfied the requirements of Item 1.
3. Within 30 days of the effective date of this Order, National Grid shall pay a civil penalty of \$75,000 to the Commonwealth of Massachusetts.