



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

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NOTICE OF PROBABLE VIOLATION
CERTIFIED MAIL – RETURN RECEIPT REQUESTED

December 18, 2019

D.P.U. 18-PL-10

Mark Prewitt
Vice President – Pipeline Safety & Compliance
National Grid
40 Sylvan Road
Waltham, MA 02451-1127

Re: Northdale Road, West Roxbury (6-1-2016)

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 d/b/a National Grid (“National Grid” or “Respondent”) pursuant to 220 CMR 69.03. The Department has delegated the authority to issue NOPVs to the Division. Delegation Order, D.P.U. 18-44-A (2018).

On June 1, 2016, the Division inspected a main tie-in on Northdale Road, West Roxbury. The Division conducted the inspection pursuant to G.L. c.164, §§ 76 and 105A

and 220 CMR 69.02. On September 23, 2016, the Division issued an Exit Letter to National Grid regarding its concerns, and the company responded with further information on October 10, 2016. As discussed in detail below, the Division has reason to believe that Respondent may have violated 49 C.F.R. Part 192 (“Part 192”).

I. Findings

On July 1, 2016, the Division inspector performed a visual inspection of two [REDACTED] butt fusions and found that one fusion did not have a uniform bead and the other fusion had an unusual raised surface on the bead that was very difficult to examine. The fuser examined both fusions and declared that they met visual inspection requirements. The construction manager was made aware of the inspector’s concerns. The inspector and manager agreed to have the fusions fully excavated and examined on another day.

On June 3, 2016, the inspector met the construction manager onsite. The manager performed an inspection of the fusions and did not have any concerns. The inspector examined the fusions and determined that the surface of the fusions had been altered. After further discussion, the manager agreed that the fusions appeared to have been altered and suggested that they be sent to National Grid’s testing lab for analysis. The inspector agreed as long as the pipe segment was not destructively tested.

On August 23, 2016, National Grid presented the Division with the results of the test. The examination concluded that the six-inch butt fusion beads had been altered to visually correct unacceptable butt fusions. The inspector expressed concern to National Grid that its

employees would alter a pipe segment that was being investigated for potential violations of federal pipeline safety regulations.

National Grid's joining procedure, CNST05001(3/31/15) requires the following:

1) that fusers be qualified and trained; 2) that fusers conduct visual inspections of the completed fusion for acceptability; 3) that defective fusion joints cannot be repaired; and 4) that defective butt fusion joints shall be cut out.

II. Allegations

Based on the inspection, the Division has reason to believe that the Respondent failed to do the following: 1) perform acceptable fusions; 2) follow procedures; and 3) inspect the fusions. National Grid's failures may be a violation of federal pipeline safety regulations, Part 192. The alleged violations of Part 192 are as follows:

1. Part 192, § 192.13(c) - What general requirements apply to pipelines regulated under this part?

(c) Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part.

2. Part 192, § 192.273(b), (c) - General.

(b) Each joint must be made in accordance with written procedures that have been proved by test or experience to produce strong gas-tight joints.

(c) Each joint must be inspected to insure compliance with this subpart.

3. Part 192, § 192.303 - Compliance with specifications or standards.

Each transmission line or main must be constructed in accordance with comprehensive written specifications or standards that are consistent with this part.

4. Part 192, § 192.305 - Inspection: General.

Each transmission line or main must be inspected to ensure that it is constructed in accordance with this part.

The Division has reason to believe that may be in violation of Part 192, §§ 192.13(c), 192.273(b) and (c), 192.303, and 192.305.

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

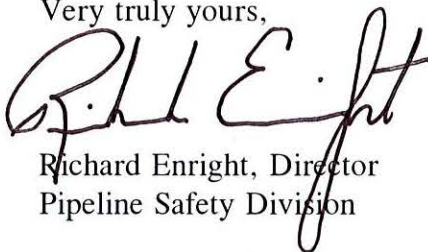
Within 30 days of receipt of this NOPV, National Grid shall respond to the Division in one of the following ways, pursuant to 220 CMR 69.04:

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).

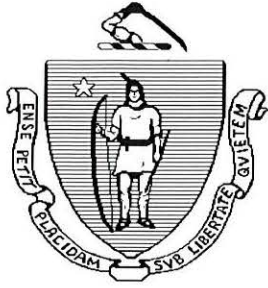
Very truly yours,



Richard Enright, Director
Pipeline Safety Division

Enclosures: Consent Order
Compliance Agreement

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



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

CONSENT ORDER

December 18, 2019

D.P.U. 18-PL-10

In the matter of Boston Gas Company 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 d/b/a National Grid (“National Grid” or “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 (2018).
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. 18-PL-10, dated December 18, 2019, 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 192 (“Part 192”), specifically:

Part 192, § 192.13(c) - What general requirements apply to pipelines regulated under this part

Part 192, § 192.273(b)-General

Part 192, § 192.273(c)-General

Part 192, § 192.303 - Compliance with specifications or standards

Part 192, § 192.305 - Inspection: General

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

Richard Enright, Director
Pipeline Safety Division
Department of Public Utilities

Date: _____

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

Boston Gas Company d/b/a National Grid

Mark Prewitt,
Vice President, Pipeline Safety & Compliance

Date: _____

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

D.P.U. 18-PL-10

Boston Gas Company d/b/a National Grid (“National Grid” or “Respondent”) 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 its CNST05001 Joining of Plastic Pipe procedure with appropriate company and contractor personnel.
2. Within 40 days of the effective date of this Order, National Grid shall provide documentation to the Department to verify that the National Grid has met 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.