



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. 19-PL-25

Mark Kempic  
President & Chief Operating Officer  
Columbia Gas of Massachusetts  
4 Technology Drive  
Westborough, MA 01581

Re: Keddy Street Outage (09/30/2019)

Dear Mr. Kempic:

The Pipeline Safety Division (“Division”) of the Department of Public Utilities (“Department”) issues this Notice of Probable Violation (“NOPV”) to Bay State Gas Company d/b/a Columbia Gas of Massachusetts (“Columbia Gas” 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 September 30, 2019, an inspector from the Division conducted an investigation in response to a natural gas outage occurring within Columbia Gas’s distribution system at the

intersection of Keddy Street and Holyoke Street in Easthampton. The Division conducted the investigation pursuant to G.L. c.164, §§ 76 and 105A and 220 CMR 69.02. As discussed in further detail below, the Division has reason to believe that Respondent may have violated 49 C.F.R. Part 192 ("Part 192").

I. FINDINGS

On September 30, 2019, the Division investigated a customer outage on a section of [REDACTED] distribution piping operated by Columbia Gas in the vicinity of Keddy Street and Holyoke Street in Easthampton. The outage affected a total of 51 customers and was reported to the Division via Telephonic Incident Notification at 1417 hours on September 30, 2019. The Division conducted its investigation during the outage event. The affected distribution mains included 1,041 feet of [REDACTED], 81 feet of [REDACTED], 1,534 feet of [REDACTED], and 1,090 feet of [REDACTED].

The Division inspector interviewed Columbia Gas' Incident Commander, Rich Oyler, and its Construction Specialist, Eric Shepard, regarding the scheduled tie-in procedure that resulted in the customer outage. Based on information gathered during the investigation, the activities leading up to the outage were as follows:

- On September 30, 2019, Columbia Gas distribution field personnel were executing a Project Specific Tie-In procedure (CMA Project ID 18-50349) that was written to instruct Columbia Gas personnel on how to safely and properly start up a new section of distribution main pipeline.
- During execution of the main tie-in procedures, a valve that was not identified in the Project Specific Tie-In procedure was operated from an open position to a closed position.

- The operation of this valve directly caused the 51-customer outage because this action isolated the sole source of gas supply to the distribution mains in the affected neighborhoods.

On October 4, 2019, the Division delivered an Exit Letter to notify Columbia Gas of the above-mentioned allegations. On November 4, 2019, Columbia Gas responded to the Exit Letter and verified that an additional valve not listed in the Project Specific Tie-in procedure had been mistakenly identified for closure by the project inspector. The identification and closure of this additional valve was the cause of the outage.

## II. ALLEGATIONS

Based on the investigation, the Division has reason to believe that Respondent failed follow its own written procedures, which failure may be a violation of federal pipeline safety regulations, Part 192. The alleged violations of Part 192 are as follows:

Part 192, § 192.605(a) – Procedural manual for operations, maintenance, and emergencies.

- (a) Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response.

## III. PRIOR CONSENT ORDER VIOLATIONS

Columbia Gas has signed the following Consent Order that pertains to a similar violation of Part 192, § 192.605(a): D.P.U. 11-PL-01.

## IV. PROPOSED CIVIL PENALTY

Under G.L. c. 164, § 105A, Columbia Gas 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 Columbia Gas's agreement to the terms in the attached Consent Order and payment of a civil penalty in the amount of \$75,000.

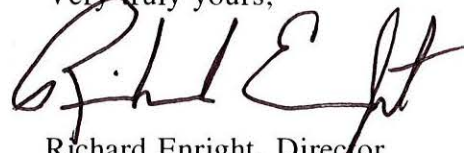
V. RESPONSE TO THIS NOPV

Within 30 days of receipt of this NOPV, Columbia Gas 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 Columbia Gas's right to contest the allegations. If Columbia Gas 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).

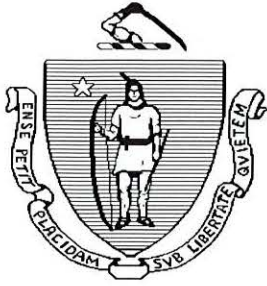
Very truly yours,



Richard Enright, Director  
Pipeline Safety Division

Enclosures: Consent Order  
Compliance Agreement

Cc: Katherine Silver, Columbia Gas of Massachusetts  
Meggan Birmingham, Columbia Gas of Massachusetts  
Shaela McNulty Collins, Columbia Gas of Massachusetts  
Laurie Ellen Weisman, Division Counsel



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

### CONSENT ORDER

December 18, 2019

D.P.U. 19-PL-25

In the matter of Bay State Gas Company d/b/a Columbia Gas of Massachusetts

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#### **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 Bay State Gas Company d/b/a Columbia Gas of Massachusetts (“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-25, 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, § 192.605(a) - Procedural manual for operations, maintenance, and emergencies.**



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.**

**Bay State Gas Company d/b/a Columbia Gas of Massachusetts**

\_\_\_\_\_ Date: \_\_\_\_\_  
Mark Kempic  
President & Chief Operating Officer



COMPLIANCE AGREEMENT BETWEEN  
THE DEPARTMENT OF PUBLIC UTILITIES AND  
BAY STATE GAS COMPANY D/B/A COLUMBIA GAS OF MASSACHUSETTS

D.P.U. 19-PL-25

Bay State Gas Company d/b/a Columbia Gas of Massachusetts ("Columbia Gas") agrees to take the following actions within the specified time periods:

1. Within 14 days of the effective date of this Order, Columbia Gas shall create a contact document that explicitly describes the actions taken by the responsible crew during the job leading up to the outage in Easthampton on September 30, 2019. This document needs to be designed with the intention of communicating the facts of this incident to all employees that have tie-in responsibilities. A copy of the completed document shall be sent to the Pipeline Safety Division of the Department of Public Utilities for review within the 14-day deadline.
2. Within 45 days of the effective date of this Order, Columbia Gas shall provide documentation to show that the document created in Item 1 has been communicated to all appropriate Columbia Gas personnel.
3. Within 30 days of the effective date of this Order, Columbia Gas shall pay a civil penalty of \$75,000 to the Commonwealth of Massachusetts.