



THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

KATHLEEN A. THEOHARIDES
SECRETARY OF ENERGY
AND ENVIRONMENTAL AFFAIRS

ONE SOUTH STATION
BOSTON, MA 02110
(617) 305-3500

MATTHEW H. NELSON
CHAIR

ROBERT E. HAYDEN
COMMISSIONER

CECILE M. FRASER
COMMISSIONER

NOTICE OF PROBABLE VIOLATION
ELECTRONIC MAIL – READ RECEIPT REQUESTED

April 16, 2020

D.P.U. 19-PL-34

Christopher LeBlanc
Vice President, Gas Operations
Unitil
325 West Road
Portsmouth, NH 03801

Re: [REDACTED] LNG Comprehensive Inspection

Dear Mr. LeBlanc:

The Pipeline Safety Division (“Division”) of the Department of Public Utilities (“Department”) issues this Notice of Probable Violation (“NOPV”) to Fitchburg Gas and Electric Light Department d/b/a Unitil (“Unitil” or “Respondent”) pursuant to 220 CMR 69.03 and Delegation Order, D.P.U. 18-44-A (2018).

From November 2019 to January 2020, the Division inspected Unitil’s liquefied natural gas (“LNG”) plant in [REDACTED] Massachusetts, pursuant to G.L. c.164, §§ 76 and 105A and 220 CMR 69.02. On November 22, 2019, the Division issued an Exit Letter outlining preliminary findings from the inspection, to which the company responded with further

information on December 19, 2019. As discussed in detail below, the Division conducted further investigation into the matter and has reason to believe that Respondent may have violated 49 C.F.R. Part 193 (“Part 193”).

I. FINDINGS

A. Plans and Procedures (Part 193, § 193.2017)

During the inspection, the Division found that the revision history sheet for procedures indicated only the year of the review with no additional details regarding revision history or a conclusion that no change was needed. This appears to be a violation of Part 193, § 193.2017(c)(2), which states:

(c) Each operator must review and update the plans and procedures required by this part— (2) At intervals not exceeding 27 months, but at least once every 2 calendar years.

In its response to the Exit Letter, Unitil acknowledged this finding and explained that it had conducted a comprehensive review and restructuring of its LNG Operating and Maintenance (“O&M”) procedures in August 2018, which resulted in its titling the new document “Revision 1” and failing to include the previous manual’s revision history. Unitil stated that it has the prior revisions archived and available for review, and has further modified the revision history for the new procedures to properly document all future reviews and revisions.

B. Cooldown (Part 193, §§ 193.2505 and 193.2521)

During the records audit, the Division found no recorded cooldowns. Inspection of cooldown operation is a requirement of Part 193, § 193.2505 – Cooldown, which states:

(a) The cooldown of each system of components that is subjected to cryogenic temperatures must be limited to a rate and distribution pattern that keeps thermal

stresses within design limits during the cooldown period, paying particular attention to the performance of expansion and contraction devices.

(b) After cooldown stabilization is reached, cryogenic piping systems must be checked for leaks in areas of flanges, valves, and seals.

In addition, record retention of such an inspection is a requirement of Part 193, § 193.2521 –

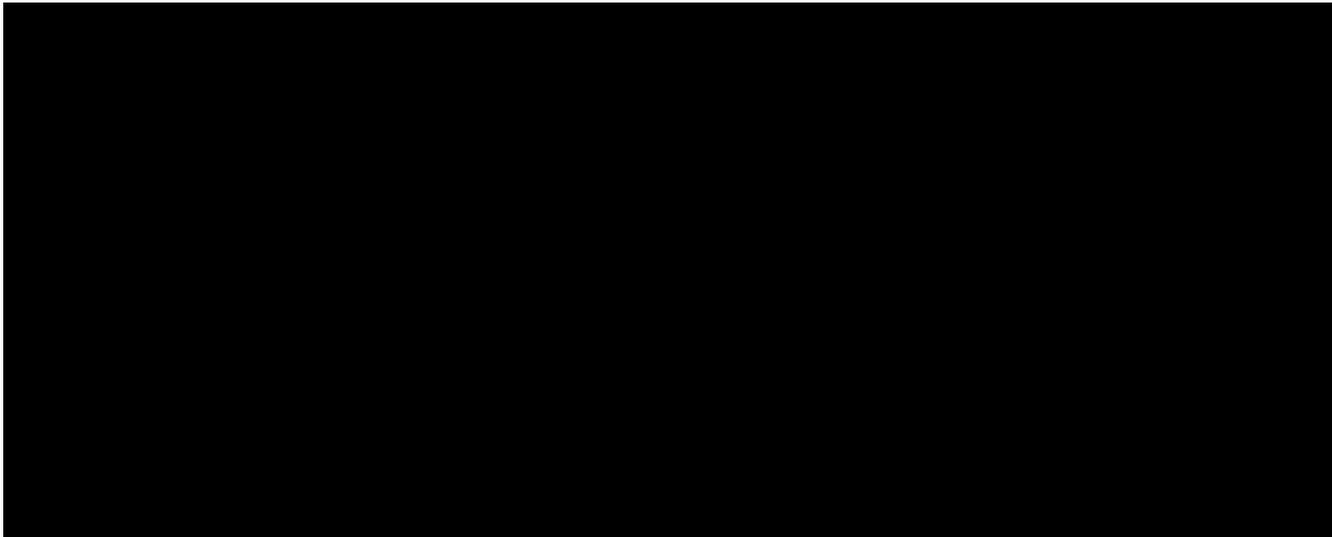
Operating records, which states:

Each operator shall maintain a record of results of each inspection, test and investigation required by this subpart. For each LNG facility that is designed and constructed after March 31, 2000 the operator shall also maintain related inspection, testing, and investigation records that NFPA-59A-2001 (incorporated by reference, see § 193.2013) requires. Such records, whether required by this part or NFPA-59A-2001, must be kept for a period of not less than five years.

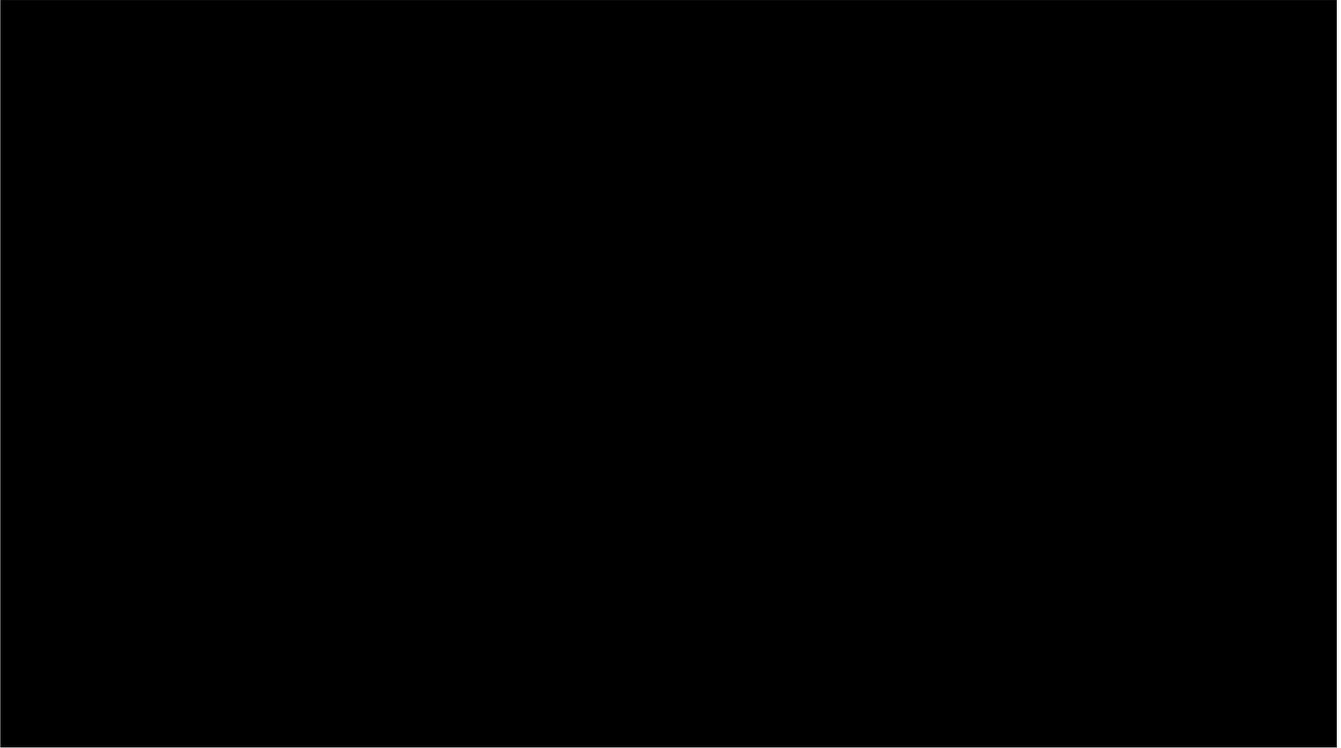
In its response, Unitil stated that the cooldown process for tanker unloading occurs only at the unloading station, and that the company has already revised the current “Unloading Checklist” to record key cooldown data and check for leaks.

C. Maintenance (Part 193, §§ [REDACTED], [REDACTED], [REDACTED], 193.2639)

1. [REDACTED]



2. [REDACTED]



3. [REDACTED]



4. Maintenance Records

Part 193, § 193.2639 – Maintenance records, provides in pertinent part:

(a) Each operator shall keep a record at each LNG plant of the date and type of each maintenance activity performed on each component to meet the requirements of this part. For each LNG facility that is designed and constructed after March 31, 2000 the operator shall also maintain related periodic inspection and testing records that NFPA-59A-2001 (incorporated by reference, see §193.2013) requires. Maintenance records, whether required by this part or NFPA-59A-2001, must be kept for a period of not less than five years.

A review of the maintenance records from 2014 to 2018 found a number of missing records, in particular: monthly operational test records of the generator during January 2018 and September 2018; seasonal testing of vaporizers occurring prior to the first use each year; “dry chem skid” inspections during the period between May 2018 and April 2019; and no record of what was being inspected during relief valve annual tests. Those inspections were tracked as a completed date in the maintenance tracking system with insufficient details to show compliance with the applicable sections of Part 193. This also indicates a violation of 220 CMR 112.12: Records, which states:

(1) Each operator shall keep records adequate to substantiate compliance with 49 C.F.R. Part 193 and 220 CMR 112.00.

In response, Unitil acknowledged these findings.

D. Security (Part 193, § 193.2907)

During the field inspection review, the Division identified a gap under a gate of the rear enclosure (chain link fence) that needed to be corrected. This indicates a violation of Part 193, § 193.2907, which states:

(a) Each protective enclosure must have sufficient strength and configuration to obstruct unauthorized access to the facilities enclosed.

(b) Openings in or under protective enclosures must be secured by grates, doors or covers of construction and fastening of sufficient strength such that the integrity of the protective enclosure is not reduced by any opening.

In response, Unitil stated that it had remediated this gap.

E. NFPA-59A-2001, 9.3.1—Fire and Leak Control

As part of the field inspection and review, the Division found that the [REDACTED] and [REDACTED] needs to be relocated. The operator did not provide evidence of any planned test of the UV/IR unit and did not experience a fire at this location to determine the operability of the unit. As such, it appears that Until is in violation of NFPA-59A-2001, 9.3.3, which states:

Those areas, including enclosed buildings, that have a potential for flammable gas concentrations, LNG or flammable refrigerant spills, and fire shall be monitored as required by the evaluation in 9.1.2.

In response, Unitil acknowledged this finding and stated that it was seeking to relocate the unit.

II. ALLEGATIONS

Based on the investigation, the Division has reason to believe that Respondent has failed to (1) maintain operating records of results of each inspection test and investigation, (2) retain operating records for a period of not less than five years, (3) develop cooldown procedures with sufficient field data/information capture, (4) [REDACTED]

[REDACTED] (5) [REDACTED] (6) [REDACTED]

[REDACTED] and (7) retain maintenance records (missing records) related to various maintenance

activities. Thus, Respondent may be in violation of certain sections of its procedures and federal pipeline safety regulations, as noted above.

III. PROPOSED CIVIL PENALTY

Under G.L. c. 164, § 105A, Unitil 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 Unitil's agreement to the terms in the attached Consent Order and payment of a civil penalty in the amount of \$30,000.

IV. RESPONSE TO THIS NOPV

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

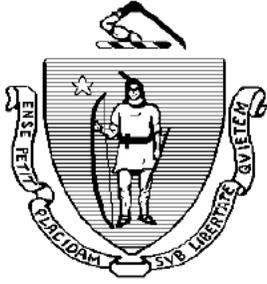
Very truly yours,

/s/

Richard Enright, Director
Pipeline Safety Division

Enclosures: Consent Order
Compliance Agreement

Cc: Dan Golden, Unitil
Ed Connors, Unitil
Michael Conkey, Assistant Director
Laurie Ellen Weisman, Division Counsel



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

CONSENT ORDER

April 16, 2020

D.P.U. 19-PL-34

In the matter of Fitchburg Gas and Electric Light Department d/b/a Until

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 Fitchburg Gas and Electric Light Department d/b/a Until (“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-34, dated April 16, 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, § 193.2017(c)(2)

Part 193, § 193.2505

Part 193, § 193.2521

Part 193, § [REDACTED]
Part 193, § [REDACTED]
Part 193, § [REDACTED]
Part 193, § 193.2639(a)
Part 193, § 193.2907
NFPA-59A-2001, 9.3.1
220 CMR 112.12(1)

3. Pursuant to G.L. c. 164, § 105A, the Division hereby imposes upon the Respondent a civil penalty in the amount of \$30,000 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 \$30,000 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.

FITCHBURG GAS AND ELECTRIC LIGHT DEPARTMENT D/B/A UNTIL

_____ Date: _____
Christopher LeBlanc
Vice President, Gas Operations
Unitil

COMPLIANCE AGREEMENT
BETWEEN THE DEPARTMENT OF PUBLIC UTILITIES
AND FITCHBURG GAS AND ELECTRIC LIGHT DEPARTMENT D/B/A UNTIL

D.P.U. 19-PL-34

Fitchburg Gas and Electric d/b/a Unitil (“Unitil”) agrees to take the following actions within the specified time periods:

1. Within 30 days of the effective date of this Order, Unitil shall submit a sample copy of the revised and reformatted O&M procedures for review by the Department. At a minimum, the revised procedure shall contain the previous and most current revisions to that specific procedure.
2. Within 70 days of the effective date of this Order, Unitil shall submit to the Department written cooldown procedures that include checking leaks on components exposed to cryogenic temperature, to comply with all the requirements of 49 C.F.R. § 193.2505.
3. Within 100 days of the effective date of this Order, Unitil shall submit to the Department pertinent records of results of each test and investigation required under 49 C.F.R. § 193.2521. The Respondent must also provide documentation demonstrating that the records retention period required under Part 193, § 193.2521 is being maintained.
4. Within 120 days of the effective date of this Order, Unitil shall revise all applicable LNG procedures, adding the procedure’s revision history, including revision numbers and revision dates (where applicable).
5. Within 125 days of the effective date of this Order, Unitil shall provide documentation that Item 4 was satisfactorily completed.
6. Within 30 days of the effective date of this Order, Unitil shall provide documentation and photographic evidence that all pipe supports have been remediated as described in the response to the December 19, 2019 Exit Letter.
7. Within 30 days of the effective date of this Order, Unitil shall pay a civil penalty of \$30,000 to the Commonwealth of Massachusetts.