



THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES

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**NOTICE OF PROBABLE VIOLATION**  
**ELECTRONIC MAIL – READ RECEIPT REQUESTED**

April 16, 2020

D.P.U. 19-PL-45

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

Re: D.P.U. 19-PL-45, [REDACTED] LNG Comprehensive Inspection

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,” “Company,” or “Respondent”) pursuant to 220 CMR 69.03 and Delegation Order, D.P.U. 18-44-A (2018).

During December 2019, the Division inspected the Columbia Gas liquefied natural gas (“LNG”) facilities in [REDACTED] pursuant to G.L. c.164, §§ 76 and 105A, and 220 CMR 69.02. On January 22, 2020 the Division issued an Exit Letter outlining preliminary findings from the inspection, to which the Company responded with further information on February 27, 2020. 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. Support Systems (49 C.F.R. § 193.2609)

Section 193.2609 states, “Each support system or foundation of each component must be inspected for any detrimental change that could impair support.” A field review found that two supports near the vaporizers had been cut, and the two pieces were resting on each other. A regular inspection should have identified and repaired this. The Company acknowledged these findings in its response to the Exit Letter and further stated that the supports have since been repaired.

B. Auxiliary Power Sources (49 C.F.R. § 193.2613)

Section 193.2613 states, “Each auxiliary power source must be tested monthly to check its operational capability and tested annually for capacity. The capacity test must take into account the power needed to start up and simultaneously operate equipment that would have to be served by that power source in an emergency.” A review of maintenance records revealed that Columbia Gas failed to test the capacity of auxiliary power equipment during 2017, with no tests documented between October 2016 and January 2018. The Company confirmed that its records do not specify if any of the monthly tests also addressed the capacity of its auxiliary power, and further stated that it has taken steps to improve its recordkeeping.

C. Transfer Hose Records (49 C.F.R. § 193.2621)

Section 193.2621(a) states, “Hoses used in LNG or flammable refrigerant transfer systems must be: (a) Tested once each calendar year, but with intervals not exceeding

15 months, to the maximum pump pressure or relief valve setting.” A review of maintenance records revealed that Columbia Gas failed to perform the annual pressure test of transfer hoses in 2014. The Company acknowledged that there is no record of a 2014 test.

D. Protective Enclosure Construction (49 C.F.R. § 193.2907)

Section 193.2907(b) states, “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.” A field review identified that the northwest fence has an opening that needs to be corrected. The Company verified this finding and attributed it to a washout under a small section of fence, further stating that it has since remedied the opening.

E. Security Lighting (49 C.F.R. § 193.2911)

Section 193.2911 states, “Where security warning systems are not provided for security monitoring under § 193.2913, the area around the facilities listed under § 193.2905(a) and each protective enclosure must be illuminated with a minimum in service lighting intensity of not less than 2.2 lux (0.2 ftc) between sunset and sunrise.” Though the plant is monitored by corporate security, daily logs show that four perimeter lights were recorded as needing maintenance every day of the five-year window reviewed during the inspection. Security lighting requiring maintenance was out of service from at least January 1, 2014, to December 31, 2018. The Company stated that it remedied the lighting situation in January 2020.

F. Fire protection field review (NFPA-59A-2001 9.2.5)

NFPA-59A-2001 9.2.5, incorporated by reference in 49 C.F.R. § 193.2013(g)(1), states, “Initiation of the [emergency shutdown (“ESD”)] system(s) shall be either manual, automatic, or

both manual and automatic, depending on the results of the evaluation performed in accordance with 9.1.2. Manual actuators shall be located in an area accessible in an emergency, shall be at least 50 ft (15 m) from the equipment they serve, and shall be marked distinctly and conspicuously with their designated function.” A field review found that the location of the ESD in the control room was not marked distinctly and conspicuously. It was hidden behind a desk and not immediately accessible in an emergency. The Company acknowledged that the ESD was not conspicuous when it was behind the desk, and further stated that the desk had been moved temporarily and has since been moved back. The Respondent’s failure to comply with NFPA-59A-2001 9.2.5 also indicates a violation of 220 CMR 112.23: Emergency Controls, which states:

Emergency controls shall be conspicuously marked with their designated function and located for ready access in emergencies.

G. Recordkeeping (220 CMR 112.12)

State regulation 220 CMR 112.12(1) states, “Each operator shall keep records adequate to substantiate compliance with 49 C.F.R. Part 193 and 220 CMR 112.00.” The Company failed to maintain records of coordination with local officials in preparation of an emergency evacuation plan, to show compliance with 49 C.F.R. § 193.2509(b)(3), which states:

To adequately handle each type of emergency identified under paragraph (a) of this section and each fire emergency, each operator must follow one or more manuals of written procedures. The procedures must provide for ...  
(3) Coordinating with appropriate local officials in preparation of an emergency evacuation plan, which sets forth the steps required to protect the public in the event of an emergency, including catastrophic failure of an LNG storage tank.

The Company also failed to maintain adequate maintenance records, to show compliance with 49 C.F.R. § 193.2639(a), which states:

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, including capacity tests of the auxiliary generator from October 2016 to January 2018, and testing of transfer hoses in 2014. In addition, there was inadequate detail of what was being inspected during LNG tank inspections, transfer hose inspections, and atmospheric corrosion inspections. Those inspections were tracked as a completed date in PMTS with minimal detail.<sup>1</sup>

## II. ALLEGATIONS

Based on the investigation, the Division has reason to believe that Respondent's failure to perform inspection, maintain records, and adhere to training intervals may be in violation of certain sections of federal pipeline safety regulations: Part 193, §§ 193.2609, 193.2613, 193.2621(a), 193.2907(b), 193.2911. The Division also has reason to believe that Respondent may be in violation of NFPA-59A-2001 9.2.5 and the following state pipeline safety regulations: 220 CMR 112.12(1) and 220 CMR 112.23.

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<sup>1</sup> The Division notes that one employee (who also works at the Company's Easton LNG facility) received refresher training in 2016 and 2019, thus exceeding the two-year interval. We address this in the NOPV regarding the Easton LNG facility, D.P.U. 19-PL-44.

III. PRIOR VIOLATIONS

The Division has previously issued a Consent Order to Columbia Gas, D.P.U. 00-PL-23, for similar violations regarding this LNG facility, and a Warning Letter, D.P.U. 18-PL-04, for similar violations regarding its [REDACTED] LNG facility.

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 \$50,000.

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).

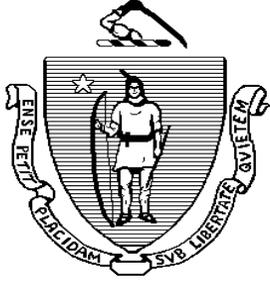
Very truly yours,

/s/

Richard Enright, Director  
Pipeline Safety Division

Enclosures: Consent Order  
Compliance Agreement

Cc: Katherine Silver, Columbia Gas  
Meggan Birmingham, Columbia Gas  
Shaella McNulty Collins, Columbia Gas  
Michael Conkey, Assistant Director, Pipeline Safety Division  
Laurie Ellen Weisman, Division Counsel, Pipeline Safety Division



# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

### CONSENT ORDER

April 16, 2020

D.P.U. 19-PL-45

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-45, 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”) and 220 CMR 112.00, specifically:

**Part 193, § 193.2609 – Support systems**

**Part 193, § 193.2613 – Auxiliary power supplies**

**Part 193, § 193.2621(a) – Testing transfer hoses**

**Part 193, § 193.2907(b) - Protective enclosure construction**

**Part 193, § 193.2911 – Security lighting**

**NFPA-59A-2001 9.2.5 – Fire protection field review**

**220 CMR 112.12(1): Records**

**220 CMR 112.23: Emergency controls**

3. Pursuant to G.L. c. 164, § 105A, the Division hereby imposes upon the Respondent a civil penalty in the amount of \$50,000 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 \$50,000 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-45

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 30 days of the effective date of this Order, Columbia Gas shall pay a civil penalty of \$50,000 to the Commonwealth of Massachusetts.
2. Within 30 days of the effective date of this Order, Columbia Gas shall provide the Division with evidence that the support systems, protective enclosure washout, plant perimeter lighting, and emergency shut down violations have all been remedied as stated in the Company’s February 27, 2020 response.
3. Within 180 days of the effective date of this Order, Columbia Gas shall self-audit and document areas where maintenance and training records are missing in accordance with the records retention requirements of 49 C.F.R. Part 193, § 193.2639 and §193.2719, and include such documentation in the records for future review.
4. Within 200 days of the effective date of this Order, Columbia Gas shall provide documentation to the Pipeline Safety Division showing that it has satisfied the requirements of Item 3.