

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

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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 – RETURN RECEIPT REQUESTED

March 1, 2022

D.P.U. 21-PL-23

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

Re: Bridge Crossings

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 and Delegation Order, D.P.U. 18-44-B (2020).

On March 1, 2021, the Division issued an information request (“IR”) to National Grid related to bridge crossings, pursuant to G.L. c.164, §§ 76 and 105A, and 220 CMR 69.02. On March 15, 2021, National Grid provided a response (“Response”) to the IR. 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 192 (“Part 192”).

I. FINDINGS

In its Response, National Grid identified 646 bridge crossings in its service area. Of those 646 bridge crossings, the Response identified 45 as being in poor condition as to their atmospheric corrosion condition. Of the bridge crossings listed in poor condition, 32 were identified as having been in poor condition for at least two cycles. 16 of the listed bridge crossings were identified as having been in poor condition for three or more cycles. To date, there is no evidence that the bridge crossings in poor condition have been remediated.

The Response shows the following deficiencies:

- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous four inspection cycles (2009-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous four inspection cycles (2009-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous four inspection cycles (2009-2020);

- The [REDACTED] has been evaluated as “poor” for the previous four inspection cycles (2009-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous three inspection cycles (2012-2020);
- The [REDACTED] has been evaluated as “poor” for the previous three inspection cycles (2012-2020);
- The bridge at [REDACTED] has been evaluated as “poor” for the previous five inspection cycles (2006-2020);
- The [REDACTED] has been evaluated as “poor” for the previous three inspection cycles (2012-2020);
- The [REDACTED] has been evaluated as “poor” for the previous five inspection cycles (2006-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous five inspection cycles (2006-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous three inspection cycles (2012-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);

- The [REDACTED] has been evaluated as “poor” for the previous five inspection cycles (2006-2020);
- The [REDACTED] has been evaluated as “poor” for the previous five inspection cycles (2006-2020);
- The [REDACTED] has been evaluated as “poor” for the previous four inspection cycles (2009-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous three inspection cycles (2012-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020);
- The [REDACTED] has been evaluated as “poor” for the previous two inspection cycles (2015-2020); and
- The [REDACTED] has been evaluated as “poor” for the previous three inspection cycles (2012-2020).

National Grid procedure COR02100 “Requirements for Corrosion Inspection, Testing and Repair” states the following:

5.2. Atmospheric Corrosion Inspection Program

- a. Pipelines, including pipe supports, that are exposed to the atmosphere shall be inspected for evidence of atmospheric corrosion a minimum once every 3 years with intervals not to exceed 39 months. This includes above grade onshore pipeline, however, National Grid has no above grade offshore pipelines.

b. Atmospheric corrosion inspections shall be documented and may include work order completion information from inspections and testing and shall indicate atmospheric corrosion condition.

1) If atmospheric corrosion is found during an inspection that cannot be repaired or remediated immediately, Corrosion and/or Engineering or Asset owner shall evaluate and determine corrective action and issue corrective action work orders as applicable.

c. Remediation time frames:

1) Services: Refer to Atmospheric Corrosion Inspection of Services COR02010 (NY and RI only) and COR02011 (MA only)

2) I&R maintained assets: Refer to Instrumentation & Regulation Corrosion Inspections INR09009 (NY only)

3) All other assets: Repairs for corrosion conditions found during atmospheric corrosion inspection shall be completed prior to the next inspection.

Based on its Response, it appears that National Grid failed to follow its own procedures.

Pursuant to COR02100 5.2(c)(3), National Grid is required to repair the bridge crossings found to be in poor corrosion condition prior to the next inspection, which it failed to do.

II. ALLEGATIONS

Based on the investigation, the Division has reason to believe that Respondent's failure to properly maintain bridge crossings in a satisfactory condition may be in violation of certain sections of its procedures and federal pipeline safety regulations, Part 192. The alleged violations of Part 192 are as follows:

1. 49 CFR §192. 479 – Atmospheric Corrosion: General

(a) Each operator must clean and coat each pipeline or portion of pipeline that is exposed to the atmosphere, except pipelines under paragraph (c) of this section.

(b) Coating material must be suitable for the prevention of atmospheric corrosion.

(c) Except portions of pipelines in offshore splash zones or soil-to-air interfaces, the operator need not protect from atmospheric corrosion any pipeline for which the operator demonstrates by test, investigation, or experience appropriate to the environment of the pipeline that corrosion will -

(1) Only be a light surface oxide; or

(2) Not affect the safe operation of the pipeline before the next scheduled inspection.

2. 49 CFR §192. 481 – Atmospheric Corrosion: Monitoring

(c) If atmospheric corrosion is found during an inspection, the operator must provide protection against the corrosion as required by §192.479.

3. 49 CFR §192. 605– Procedural manual for operations, maintenance, and emergencies.

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

III. PRIOR CONSENT ORDER VIOLATIONS

National Grid has signed the following Consent Orders that pertain to a similar violation of Part 192, §§ 192.481: D.P.U. 18-PL-30, D.P.U. 12-PL-01, D.P.U. 11-PL-12, and D.P.U. 04-PL-10.

National Grid has signed the following Consent Orders that pertain to a similar violation of Part 192, §§ 192.605: D.P.U. 12-PL-01, D.P.U. 11-PL-12, D.P.U. 04-PL-10, D.P.U. 20-PL-24, D.P.U. 20-PL-66, D.P.U. 21-PL-30 and D.P.U. 21-PL-47.

IV. 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 **\$1,600,000**.

V. 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.

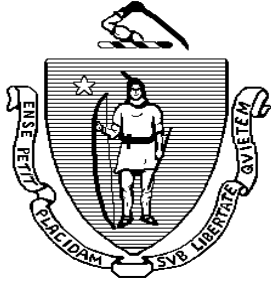
Failure to respond within 30 days of receipt of this NOPV will be deemed an admission to the allegations contained herein and a waiver of National Grid's right to contest the allegations. If National Grid fails to respond within 30 days, the Department may, without further notice, find the facts to be 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: Alexander Day, Director, Pipeline Safety & Compliance, National Grid
Thomas P. Kubilis, Manager, Pipeline Safety & Compliance, National Grid
Phillip Denton, Assistant Director, Pipeline Safety Division
Justin Evans, Assistant Director, Pipeline Safety Division
Janine D'Amico Vargas, Assistant General Counsel, Pipeline Safety Division
Keith Barclay, Public Utilities Engineer, Pipeline Safety Division
Emily Hamrock, Division Counsel, Pipeline Safety Division



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

CONSENT ORDER

March 1, 2022

D.P.U. 21-PL-23

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 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-B (2020).
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. 21-PL-23, dated March 1, 2022, 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, specifically:

Part 192, §192. 479 – Atmospheric Corrosion: General.

Part 192, §192. 481 – Atmospheric Corrosion: Monitoring.

Part 192, §192. 605 – 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 \$1,600,000 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 \$1,600,000 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. 21-PL-23

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 pay a civil penalty of \$1,600,000 to the Commonwealth of Massachusetts.
2. By the end of calendar year 2022, National Grid shall remediate all 32 bridges listed in poor condition and provide documentation to the Pipeline Safety Division showing that it has satisfied that requirement.