

THE COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF PUBLIC UTILITIES

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NOTICE OF PROBABLE VIOLATION
ELECTRONIC MAIL – RETURN RECEIPT REQUESTED

August 9, 2023

D.P.U. 21-PL-74

VIA EMAIL ONLY

Mr. William J. Akley
President of Gas Operations
Eversource Energy
157 Cordaville Road
Southborough, MA 01772

Re: D.P.U. 21-PL-74, 27 Park Street, Maynard (September 2, 2021)

Dear Mr. Akley:

The Pipeline Safety Division (“Division”) of the Department of Public Utilities (“Department”) issues this Notice of Probable Violation (“NOPV”) to NSTAR Gas Company d/b/a Eversource Energy (“Eversource” or “Respondent”) pursuant to 220 CMR 69.03 and Delegation Order, D.P.U. 18-44-B (2020).

On September 2, 2021, the Pipeline Safety Division (“Division”) of the Department of Public Utilities responded to a report of a gas-related reportable incident, (“Incident”) as defined in 49 CFR Part 191, §191.3, at the NSTAR Gas Company d/b/a Eversource Energy

(“Eversource”) facilities at 27 Park Street, Maynard. The Division began an investigation pursuant to G.L. c.164, §§ 76 and 105A, and 220 CMR 69.02. The investigation included incident response, service restoration, pipeline replacement, and materials testing. The Division collected a portion of the pipe which was brought to Massachusetts Materials Research (“MMR”) for analysis. The investigation also included a review of applicable Eversource records to ascertain the root cause of the Incident. On October 25, 2021, the Division issued an initial set of information requests to Eversource related to the Division’s investigation of the Incident. Eversource responded to that information request on December 1, 2021. The Division issued two subsequent information requests on April 6, 2022, and November 8, 2022. Eversource responded to these information requests on April 27, 2022, and November 22, 2022, respectively. On March 1, 2023, the Division issued an Exit Letter outlining preliminary findings from the investigation, to which the company provided a response on April 14, 2023. On June 6, 2023, the Division issued a fourth set of information requests. Eversource responded on June 23, 2023. 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. OVERVIEW OF INCIDENT

On September 2, 2021, the Division responded to a report of a gas-related Incident, as defined in 49 CFR Part 191, §191.3, at the Eversource facilities at 27 Park Street, Maynard. The Division had been notified by Telephonic Incident Notification (Exhibit 1) at approximately 7:38 pm that there was a suspected gas-related house explosion with one fatality. The two neighboring homes at 25 and 26 Park Street were also evacuated.

The Maynard fire department received a report of a strange odor in the house at 27 Park Street at 4:14 pm on the business line, not the emergency line. When the Maynard Fire Department arrived they found that the structure was on fire and materials from the home were scattered in the roadway and property. The fire was extinguished and did not spread to any neighboring structures. The resident of 27 Park Street was pronounced deceased at 4:52 pm by fire crews on the scene. The Massachusetts Fire District Fourteen Fire Origin and Cause Investigation Report (“Report”) determined he died as a result of the explosion / fire and was found against a door separating the finished basement from the dirt basement. The Report also concluded that the origin of the fire was the dirt basement, and the most probable source of ignition was a spark from the light in the dirt basement as the deceased entered to investigate the “strange odor” later determined to be natural gas.

The first Eversource service technician arrived on site at 5:12 pm, and a gas maintenance crew arrived at 6:15 pm. Eversource first responders made contact with the fire chief, cleared the curb valve, and shut off gas service to 27 Park Street. Eversource began a leak investigation with the help of the fire department and found significant readings inside the main valve, on the Sherman Street side of 27 Park Street, inside 25 Park Street, and inside 26 Park Street. Eversource established an Incident Command System (“ICS”) and began identifying the source of the leak, began purging out the ground which was saturated with gas around 25, 26 and 27 Park Street, and constructed a bypass to be able remove the leaking pipe without interrupting the supply of gas to customers. The crew quickly located the leak around the dresser coupling on Sherman Street, but delayed exposing the coupling to further contain the leak. At 2:50 am on

September 3, Eversource activated the 2 inch plastic bypass. At 3:02 am, Eversource uncovered the leaking 2 inch mechanical coupling. A length of pipe about three feet in either direction of the leaking coupling was cut out and removed from the trench. Eversource continued purging gas around the homes on Park Street until a zero percent gas reading was achieved on September 8, 2021.

The Division arrived to the scene at 8:25 pm on September 2, 2023. The Division stayed through Eversource building a bypass to maintain customers and removing the leaking coupling, and oversaw its delivery to the MMR on September 3, 2021.

II. FINDINGS

Operator Qualifications:

The Division reviewed Operator Qualification (“OQ”) records received as part of IR 1-18 and IR 1-21 to ensure compliance with 49 CFR Part 192 (“Part 192”) § 192.805(b). The Division has significant concerns about the qualifications of individuals performing covered tasks in response to the Incident. Specifically, several individuals had OQ failures on the same date as some of their qualification dates in violation of Eversource’s written qualification program, OQ-001. The Division addressed this issue in NOPV 22-PL-82, however six violations listed in response to IR 1-18 and four in response to IR 1-21 were not listed in IR 3-7, which was the basis for that NOPV.

Several of these violations were for the current qualifications of those individuals and for the covered tasks they were performing in response to the Incident. Specifically, the responses to IR 1-18 and IR 1-21 show several contractor employees without adequate OQs for Leak Investigation inside only (LM02), Leak Investigation outside only (LM03), Classifying Leaks-

LM-04), Properties of Natural Gas(G-01), Abnormal Operating Conditions (G-02), Inspecting for Atmospheric & Internal Corrosion(M-01), and Inspection of Meters and Regulators (MS-05). Several contractor employees failed these OQ tests and requalified on the same day, in violation of Eversource OQ-001, and they did not requalify until after the Incident.

According to OQ-001 Rev 2, the Revision current at the time of the Incident, Section I D. “No company employee, employee of a contractor or any other person may perform any covered task identified in this Plan unless the requirements of this Plan have been satisfied.” The above-mentioned contractor employees were not qualified in accordance with Eversource’s OQ plan and were performing covered tasks. In its Exit Letter Response, Eversource acknowledged omitting several contractor employees from its response to IR 3-7 and confirmed that six individuals performed covered tasks in violation of OQ-001 on or after the day of the Incident.

Unprotected Pipe Evaluations:

As required in Part 192, §192.465(e), every company must conduct a three-year evaluation of unprotected pipe to determine areas of active corrosion. The Division requested the last two unprotected pipe evaluations performed at Park and Sherman Streets. Eversource’s procedure, OM-160 ADM, states “Cathodically un-protected older steel pipelines must be routinely evaluated for active corrosion as required by regulations. The Gas Main Replacement Index (“GMRI”) analysis provides this analysis for NSTAR Gas.” The GMRI process calculates a score, known as an Index Value, to determine whether a pipeline is experiencing active corrosion. The written program, provided in response to IR 1-33, states “The Index Value is engineered so that active corrosion can exist without consideration of variables that have no

impact upon corrosion of a pipe. Similarly, the Index Value is engineered so that active corrosion cannot exist on a pipeline that is not experiencing corrosion.” In response to IR 2-4, Eversource stated it has not performed inspections per this code section because its pipe ranking system has not identified any areas of corrosion. Eversource has not provided documentation to support a three-year evaluation of the pipe on Park Street or review of ranking as required by 192.465(e). In response to the Exit Letter Eversource stated the following: “Unprotected pipe segments are evaluated through an annual review of the GMRI as the basis to prioritize pipe segments for replacement under the Company’s Gas System Enhancement Plan (“GSEP”). Once the list of projects is developed for the GSEP, the list is reviewed with subject matter experts including those in Operations to identify any pipe segments that should be included in the GSEP program due to the observed condition of pipe segments in the field. The development of the list of projects for the annual GSEP filing is the evaluation of unprotected pipe.”

The variables that Eversource uses to prioritize pipeline replacements under GSEP does not match up with the variables that would indicate active corrosion. Part 192.465 (e) elaborates “... However, on distribution lines and where an electrical survey is impractical on transmission lines, areas of active corrosion may be determined by other means that include review and analysis of leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment.” The GMRI process does include leak growth rate and leaks / 1000 feet of pipeline, both of which measure leak repair and inspection records. It also includes soil conditions which represents the pipeline environment. Eversource’s model does not include variables representing corrosion monitoring records or exposed pipe inspection

records. Furthermore, the remaining variables it does consider in the GMRI represent risk (location, service density, pipeline pressure, and material) or opportunities for cost reduction (utility construction). While these variables might serve well for the GSEP program in replacing leak prone pipe and minimizing rate payer expenses, they have no bearing on the presence of active corrosion.

Eversource also expressed that the scenarios outlined in the Exit letter, which specific values were chosen for some of the variables used by the GMRI is not in line with the construct of the GMRI ranking system. All variables must be considered based on actual data or SME knowledge to arrive at a determination of active corrosion. The Division would like to reiterate its concern here, with a different example. Taking the three variables identified above as being indicative of active corrosion (leak growth rate, leaks / 1000 feet, and soil conditions) and assigning them the highest possible values (13, 35, and 20 respectively) the GMRI Index Value is 68. Adding in the risk related variables will generate a GMRI Index Value somewhere between 71 and 91. The utility construction cost related variable can add between 0 and 30 points to that Index Value. This refutes Eversource's statement that "the Index Value is engineered so that active corrosion cannot exist on a pipeline that is not experiencing corrosion." It is very clear that the GMRI's over reliance on risk and cost make this tool less likely to identify active corrosion in rural and suburban areas, where risk is lower and the opportunities for joint trenching utilities are less frequent.

In the fourth set of IRs Eversource explained that in addition to leak information, a pipe segment may be updated in the GMRI whenever new information becomes available. Since

most of the other variables in the GMRI remain static over time, changes are most often associated with paving information from municipalities (R_Index), system reliability needs (F_Index), municipal or customer complaints (C_Index) and other construction in the area (U_Index). Pipe segments are also updated and marked as complete in the GMRI when a project that replaces the pipe segment is completed.

The Division also has concerns about the quality of the data being used in the GMRI. The Division asked about a segment of pipe featuring both bare steel and coated steel on Sherman Street, Maynard. In response to IR 4-5, Eversource acknowledged that they should have used the higher score, the bare steel, on this segment and an entry error led to an inaccurate GMRI score on the Sherman Street segment.

In response to the Exit Letter, Eversource reiterated the definition of active corrosion in Part 192.3: continuing corrosion that, unless controlled, could result in a condition that is detrimental to public safety. It further stated, “The Company’s active corrosion program and the manner in which it determines the presence of active corrosion is compliant with the federal pipeline safety regulations.” The Division does not believe the GMRI process, as written at the time of the Incident, meets the requirements of 192.465(e).

Replacement Ranking (IR-3-1)

As required in Part 192, §192.1007(e)(1)(i), every company must monitor the number of hazardous leaks eliminated or repaired. As stated in the response to IR 2-4, Eversource counts leaks by each unique leak event location and associated repair record. Each leak clamp does not

generate a record. For example, in response to IR 1-24(e) Eversource provided an activity report for a leak repair at 11 Sherman Street. The description identifies a need to extend the trench where four leak clamps were used on “very poor bare steel main.” Eversource counts this as one leak event, however, if this were counted as four separate leaks it would increase the GMRI Index Value of this segment of pipe.

In this particular case, that one repair record would have increased the leak index score of Sherman Street in the GMRI, provided in IR 2-4(b), by 10 points. The failure to count each installed leak repair clamp results in a ranking/leak index that is not representative of the number of leaks repaired and affects the ranking of pipe segments.

Eversource explained that there was one leak location found on a main in the area of 11 Sherman Street. The area of the main that needed to be exposed to make the repairs was less than 48 inches. In order to properly address the one identified leak, the Company had to install a total of four clamps. According to Eversource the four clamps are not indicative of four separate leaks. IR 1-33 documents the activity report that contains information on the four clamps. As noted in the activity report, Company personnel determined that 11 Sherman Street had one leak location, with one single cause corrosion failure. Eversource believes this is consistent with PHMSA’s Leak Cause classified as Corrosion Failure.

In Information Request 3-1, Eversource stated that leaks are counted by each unique leak event location and associated repair record. Therefore, each leak clamp installed does not generate a separate record. Multiple leak clamps may be required to repair a leak at a location. Based on this explanation the current replacement ranking does not adequately address a single

location where multiple leaks are repaired. The Division believes that if a pipe has corrosion so widespread as to require multiple clamps, each clamp should be counted as a separate leak.

Leak survey and repair:

The Division's investigation included an examination of Eversource's leak history, leak survey, and leak repair records near the Incident location. Upon the Division's request, Eversource provided documentation regarding all leak history from January 1, 2011 through September 2, 2021 for Sherman Street and Park Street in Maynard. The Division found several areas of concern regarding one leak record in particular, which is identified as leak #MA270688. The areas of concern include misclassification of leak, improperly tracking leaks, and inadequate leak response.

Misclassification of leak. Leak #MA270688 was initially identified on July 20, 2017 via walking survey and was incorrectly classified as a grade three leak, as stated by Eversource in its response to the Exit Letter on April 14, 2023. The leak was identified on the threads of the riser shut off valve, which is an above-ground location near the structure. Grade three leaks as defined in part by Eversource standard OM-120 are subsurface and at least 20 feet away from any structures in non-continuously paved areas. This misclassification triggered an inadequate leak response.

Furthermore, regarding the classification of leaks, in its response to the Exit Letter, Eversource stated that this leak should have correctly been classified as an "above-ground non-hazardous leak." In its response to Information Request 4-1, Eversource stated that "Eversource

procedure does not specifically define the classification and response criteria for above-ground non-hazardous leaks.”

Improperly tracking leaks. The leak identified as #MA270688 was updated to #MA276179 after a reevaluation on November 1, 2018 due to a maintenance management software update. The subsequent reevaluation conducted on October 16, 2019 found that there was no leak at the originally identified location, however, there was another leak located 43 feet away from the structure. A new leak number was not created for this newly identified leak. The next evaluation results on October 5, 2020 found that there was no underground leak, however, the originally identified leak at the riser was present. A new leak number should have been created for the underground leak discovered on October 16, 2019.

Inadequate leak response. Due to the misclassification of leak #MA270688, Eversource’s leak response was to follow standards for a grade three leak. Based on the evidence provided, the leak identified as #MA270688 should have been classified as an above-ground hazardous leak and repaired promptly.

Eversource standard OM-120 sets forth response criteria for grade three leaks. The recheck interval stated in Eversource standard OM-120-ADM calls for a reevaluation within twelve months of the last evaluation. In its response to IR 2-8, Eversource stated that the recheck interval of 12 months was exceeded for leak #MA270688. Additionally, OM-120 requires subsurface structures within 200 feet in all directions to be checked. Eversource was unable to provide any documentation that this was completed.

Public Awareness Program:

Part 192 §192.616(c) states “The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.” API RP 1162, First Edition, Section 3.3 identifies public officials as “Local, city, county or state officials and/or their staffs having land use and street/road jurisdiction along the pipeline route.” In Eversource’s response to IR 1-35, Eversource identifies the same individuals, the Fire Chief and the Police Chief, as the stakeholder audience for both emergency officials and public officials. Public safety chiefs are an appropriate stakeholder audience for emergency officials, however, it appears that Eversource did not correctly identify the audience for public officials and did not send the appropriate public awareness messaging. In its response to the Exit Letter, Eversource confirmed that annual public awareness notices was being addressed to public safety officials, but since November 2021 it has begun sending notices to public officials as defined in API RP 1162.

Corrosion Inspections:

Part 192, § 192.491(c) states “Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist.” Eversource’s procedure OM-66 -Corrosion Control addresses internal inspections performed between 2012-2016. The

procedure requires internal inspections and records to be maintained for the life of the pipe, however the procedure is silent as to how to document the internal inspections.

Eversource documents its internal corrosion inspections on its Daily Activity Reports which are completed by field personnel. The company provided records dating back 2011. Prior to 2018, Eversource did not document its internal corrosion inspections. OM-66 and §192.491(c)(1) require these records to be maintained for the life of the pipe. Eversource provided Daily Activity Reports records in response to IR 1-33 of external inspections of buried pipe when exposed from 2011 to present. The areas of concerns are noted below:

Date	Location	Concerns
10/9/12	Park@Sudbury	1) The Daily Report does not include the pipe material inspected. 2) The Daily Report does not state that Eversource performed an internal inspection. Eversource stated that the Daily Activity Report (“DAR”) in 2012 did not contain a specific placeholder for internal corrosion inspections or the pipe material inspected. The pipe material was understood, at that time, to be the existing pipe that was in the ground, as indicated by the GIS records or recorded elsewhere on the DAR.
9/14/19	26 Park St	1) The Daily Report did not state Eversource installed an anode. 2) The clamp manufacturer is not noted. Eversource further explained that when it converted from paper DARs to digital forms in 2018, the check box for ‘anode installation’ was not included. The pipe associated with the anode has since been retired. Clamp manufacturer is not a not a required field on the DAR, but the Company has identified Smith-Blair® as the clamp manufacturer.

Conclusions:

Several of the Division's findings, namely the Public Awareness Program and corrosion inspection record findings, had no direct bearing on the Incident. However, some of the findings address deficiencies by Eversource which could have contributed to the likelihood of a gas incident in this neighborhood. Eversource's leak records showed a number of issues in classifying, tracking, and responding to leaks on Sherman Street between 2017 and 2021. Additionally, as addressed in DPU 22-PL-82, and further addressed in this NOPV, Eversource failed to properly qualify a large number of individuals to perform leak investigation, classification, and related activities. Six of those individuals were contractors that responded to the Incident either the night of or in the days following the explosion. The Division also found flaws with the methodology and accuracy of data used to calculate a GMRI index score. Eversource uses this score both to assess pipeline segments for areas of active corrosion and as a system to identify risk when prioritizing projects for Gas System Enhancement Plan's submitted annually to the DPU. The segment on Sherman Street had a GMRI Index of 44. If Eversource had counted each leak clamp as a separate leak in the 2016 corrosion leak repair at 11 Sherman Street, as the Division believes it should have, and if Eversource had correctly identified the pipe material as bare steel when calculating a GMRI Index the value would have been 61. In Eversource's 2022 GSEP filing, 22-GSEP-06, the average GMRI Index value across its 279 projects was just under 49. Additionally, the Division has methodological concerns with the GMRI process itself being applied as both a tool to identify active corrosion and identify risk when prioritizing projects for GSEP. This dual use diminishes its effectiveness as a tool to identify active corrosion according to the requirements of 192.465(e), particularly in areas that

are less densely populated and where there are not opportunities with cost saving by joint trenching utilities.

III. ALLEGATIONS

Based on the investigation, the Division has reason to believe that Eversource's failure to properly follow its procedures may be in violation of certain sections of federal pipeline safety regulations, Part 192. The alleged violations of Part 192 are as follows:

1. 49 CFR §192.465(e) - External corrosion control: Monitoring and remediation.

After the initial evaluation required by §§192.455(b) and (c) and 192.457(b), each operator must, not less than every 3 years at intervals not exceeding 39 months, reevaluate its unprotected pipelines and cathodically protect them in accordance with this subpart in areas in which active corrosion is found. The operator must determine the areas of active corrosion by electrical survey. However, on distribution lines and where an electrical survey is impractical on transmission lines, areas of active corrosion may be determined by other means that include review and analysis of leak repair and inspection records, corrosion monitoring records, exposed pipe inspection records, and the pipeline environment.

2. 49 CFR §192.491(c)(1) - Corrosion control records.

Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years with the following exceptions:

(1) Operators must retain records related to §§ 192.465(a) and (e) and 192.475(b) for as long as the pipeline remains in service.

3. 49 CFR § 192.605(a) – Procedural manual for operations, maintenance, and emergencies.

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.

4. 49 CFR § 192.616(c) – Public Awareness.

The operator must follow the general program recommendations, including baseline and supplemental requirements of API RP 1162, unless the operator provides justification in its program or procedural manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

5. 49 CFR § 192.805(b) – Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to: (b) Ensure through evaluation that individuals performing covered tasks are qualified;

6. 49 CFR § 192.1007(e)(1)(i) What are the required elements of an integrity management plan?

Measure performance, monitor results, and evaluate effectiveness.

(1) Develop and monitor performance measures from an established baseline to evaluate the effectiveness of its IM program. An operator must consider the results of its performance monitoring in periodically re-evaluating the threats and risks. These performance measures must include the following:

(i) Number of hazardous leaks either eliminated or repaired as required by § 192.703(c) of this subchapter (or total number of leaks if all leaks are repaired when found), categorized by cause;

IV. PRIOR CONSENT ORDER VIOLATIONS

Eversource has signed the following Consent Orders that pertain to similar violations of Part 192, § 192.605(a): 14-PL-03, 14-PL-05, 14-PL-07, 16-PL-01, 20-PL-32, 21-PL-12, 21-PL-13, 21-PL-56, 21-PL-76, 22-PL-68, 23-PL-07
Part 192, §§ 192.805(b): 21-PL-13, 22-PL-82

V. PROPOSED CIVIL PENALTY

Under G.L. c. 164, § 105A, Eversource is subject to a civil penalty not to exceed \$500,000 for each violation for each day that the violation exists, up to a maximum of \$10,000,000 for any related series of violations. These dollar amounts shall be doubled if the department determines that the violator has engaged in one or more similar violations in the three years preceding the violation.

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 Eversource's agreement to the terms in the attached Consent Order and payment of a civil penalty in the amount of \$1,500,000.

VI. RESPONSE TO THIS NOPV

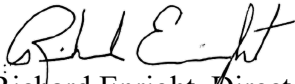
Within 30 days of receipt of this NOPV, Eversource shall respond to the Division in one of the following ways, pursuant to 220 CMR 69.04:

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.

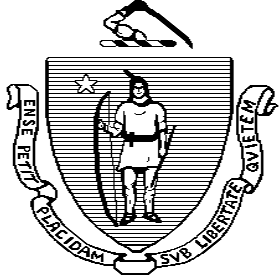
Failure to respond within 30 days of receipt of this NOPV will be deemed an admission to the allegations contained herein and a waiver of Eversource's right to contest the allegations. If Eversource fails to respond within 30 days, the Department may, without further notice, find the facts to be as alleged 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: Erin Engstrom, Director of Regulatory Affairs, Eversource
Laurie Pereria, Regulatory Gas Manager, Eversource
Kristen Gasparonis, Eversource
Karen Lane-Newell, Eversource
Rosmarvy Pena, Eversource
Katherine Silver, Eversource
Phillip Denton, Assistant Director, Pipeline Safety Division
Justin Evans, Assistant Director, Pipeline Safety Division
Janine Vargas, Assistant General Counsel, Pipeline Safety Division
Emily Hamrock, Division Counsel, Pipeline Safety Division



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

CONSENT ORDER

August 9, 2023

D.P.U. 21-PL-74

In the matter of NSTAR Gas Company d/b/a Eversource Energy

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 NSTAR Gas Company d/b/a Eversource Energy (“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-74, dated August 9, 2023, 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, § 192.465(e) External corrosion control: Monitoring and remediation.
Part 192, §192.491(c)(1) Corrosion control records.
Part 192, § 192.605(a) Procedural manual for operations, maintenance, and emergencies.
Part 192, § 192.616(c) Public Awareness.
Part 192, § 192.805(b) Qualification program.

Part 192, §192.1007(e)(1)(i) What are the required elements of an integrity management plan?

3. Pursuant to G.L. c. 164, § 105A, the Division hereby imposes upon the Respondent a civil penalty in the amount of \$1,500,000 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 \$1,500,000 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.

NSTAR GAS COMPANY D/B/A EVERSOURCE ENERGY

_____ Date: _____
William Akley
President of Gas Operations

COMPLIANCE AGREEMENT
BETWEEN THE DEPARTMENT OF PUBLIC UTILITIES
AND NSTAR GAS COMPANY D/B/A EVERSOURCE ENERGY

D.P.U. 21-PL-74

NSTAR Gas Company d/b/a Eversource Energy (“Eversource”) agrees to take the following actions within the specified time periods:

1. Within 30 days of the effective date of this Order, Eversource shall pay a civil penalty of \$1,500,000 to the Commonwealth of Massachusetts.
2. Within 60 days of the effective date of this Order, Eversource shall review the process it uses to identify Active Corrosion to verify that it meets all the requirements of 192.465(e) and determines whether a pipeline is experiencing active corrosion without considering cost of replacement.
3. Within 60 days of the effective date of this Order, Eversource shall begin counting each leak by number of leak clamps used to make repairs, and not the number of leak “events” with a single cause.