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STATE OF NEW HAMPSHIRE



PUBLIC UTILITIES COMMISSION

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March 26, 2015

Mr. Thomas Meissner
Chief Operating Officer
Northern Utilities
6 Liberty Lane
Hampton, NH 03842

RE: Northern Utilities, New Hampshire Gas Division
Notice of Violations of Natural Gas Pipeline Safety Act and
NH Code of Administrative Rules Part 500
Control# PS1501NU
Pipelines Affected:

1) Dover Low Pressure System (13.5 in w.c MAOP)

Dear Mr. Meissner:

Pursuant to the Natural Gas Pipeline Safety Act, 49 U.S.C. §60101 *et seq.*, applicable state law as set forth at RSA 370:2, and the relevant regulations of the New Hampshire Public Utilities Commission (Commission), N.H. Code Admin. Rules Part Puc 511, the Commission hereby serves upon Northern Utilities (Unitil) this formal Notice of Violation (NOV) pursuant to Puc 511.08 for conditions relating to operations that exceeded the maximum allowable operating pressure (MAOP) for a single gas pipeline distribution system. The gas pipeline system was identified as the Dover Low Pressure system that transports natural gas from five district regulator stations in Dover to an undisclosed number of customers located within the downtown Dover area. This system was inadequately designed and caused operations of the system not in accordance with minimum federal and state standards as a result of subsequent local flooding.

Records indicate that an annual regulator station inspection was performed on May 14, 2014, by Unitil crews. This NOV arises from the August 13, 2014, notification by Unitil to the Safety Division of a single occurrence when Unitil exceeded the MAOP for the entire Dover Low Pressure distribution system. The Unitil notifications were made in accordance with Puc 504.05 (c), *Emergency Notifications*. The Safety Division alleges that Unitil violated 49 CFR §192.619 and §192.195 for operating pipeline segments for approximately 50 minutes on August 13, 2014, in excess of identified and previously established Unitil MAOP for the system. Digital pressure recording devices confirmed that the 13.5 inch water column (w.c.) (MAOP) Dover Low Pressure system was raised above the maximum allowable operating pressure to a recorded level of approximately 32 inches w.c. The recorded pressure of 32 inches w.c represents a 237% over pressurization.

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The Safety Division alleges that Unitil did not adequately design the district regulator station equipment to be able to operate under submerged conditions within an underground vault, and thus subjected the system to potential pressures exceeding the MAOP which were subsequently realized. This caused a violation of operating a system above the MAOP as limited by CFR §192.619 and Puc 504.03. Please note that this NOV alleges a series of violations.

Violation No. 1

49 CFR §192.619. No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under subparagraph (c) or (d) of this section, or the lowest of four criteria listed in subparagraph (a), (b), (c) or (d).

The Safety Division alleges that Unitil allowed downstream piping to be subject to pressures above the MAOP. The federal code in 49 CFR §192.619 and 49 CFR §192.621 does not allow for the operation of a pipeline above the MAOP, including accidental overpressurizations. The Safety Division's position is that Unitil was "*operating*" because customers were connected to distribution gas piping and system loads caused flow through the pipeline. "*Operations*" are being conducted because gas is being "*transported*". See CFR §192.3. Puc 504.03 also precludes low pressure systems from operating above 13.5 in w.c.

Violation No.2

49 CFR §192.195. Failure to incorporate into Design of Pipeline Components pressure regulation devices having capability of meeting the pressure, load, and other service conditions that will be experienced in normal operation of the system, and that could be activated in the event of failure of some portion of the system; and be designed so as to prevent accidental overpressuring.

The Safety Division alleges that Unitil constructed and installed an underground vault that contained pipeline components that when configured make up a district regulating station. This vault was in place for many years and was located on Rutland Street in Dover. Rutland Street was being reconstructed with new drainage structures, sidewalks, and other roadway changes. This location and vault was subsequently subjected to a thunderstorm on August 13, 2014, which occurred over a brief period of time from approximately 4 p.m. to 8 p.m., and delivered a substantial amount of water over that period of time. Weather data recorded 2.49 inches of precipitation occurring over the 24 hour period with the majority of it falling after 4 p.m. Safety Division research showed that the flash flooding that occurred was well below that of a 10 year flood level, 25 year flood level, 50 year flood level, or 100 year flood level that are typical standards used in civil engineering projects for this region for rainfall intensities. The Safety Division's visit to the Rutland Street vault revealed that the gas pressure regulator's vents were not extended outside the vault as is customarily done by other operators in New Hampshire. The vents became filled with water which then resulted in the pressure regulators not operating correctly.

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The Safety Division alleges the distribution system over pressurization was avoidable with a proper design which can allow equipment being used in a submerged state. This is a design variable that should have been planned as a "service condition that could be experienced."

The Safety Division alleges that Unitil could not exclude the possibility of negative impacts of water. Its distribution system could be subject to intense natural precipitation, flooding due to broken water mains, flooding due to opened hydrants, flooding due to motor vehicle accidents involving hydrants, water trucks that roll over because of traffic accidents, etc. These considerations needed to be designed into equipment selection because both accidental and environmental conditions should be routinely considered within design parameters. Unitil's designs of equipment and component selection should take into consideration those factors that may be encountered in the geographic area in which they are required to safely supply natural gas service.

Results of the Informal Conference

An informal conference was conducted pursuant to Puc 511.07 at the Commission offices on March 24, 2015 during which Unitil provided a self-written copy of "Overview of Issues related to Maximum Allowable Operating Pressure and Notices of Probable Violation issued by the Safety Staff of the New Hampshire Public Utilities Commission" (Overview). This contained 11 attachments:

- Overview of MAOP Issues Related to NOPVs
- 1) Granite States Gas M&R Station Schematic
- 2) Copy of CFR Part 192.619 and 192.620
- 3) Highlighted copy of 192.195 Protection against accidental overpressuring
- 4) Copy of CFR Part 192.189 through 192.199
- 5) Highlighted Copy of CFR Part 192.199
- 6) Highlighted Copy of CFR Part 192. 201 and copy of 192.203
- 7) Copy of Unitil Sept 5, 2014 letter to Jeff Wiese of PHMSA
- 8) Copy of PHMSA Inspection Guidance 192.617, 192.619 pages 68-80
- 9a) PHMSA Interpretation 192.619 1 Oct 20 1971
- 9b) PHMSA Interpretation 192.619 48 March 31, 1983
- 9c) PHMSA Interpretation 192.605 9 Oct 24, 1994
- 9d) Interpretation 192.195 6 May 30 1974
- 10) Copy of 192.601, 192.603, and highlighted copy of 192.605
- 11) Unitil Internal Report Aug 13, 2014 of Dover Low Pressure System Overpressurization

Unitil went over the Probable Violation as written and did not have any questions about the basis of the notice of probable violation. Unitil went on to explain its rationale for why the Probable Violations are not cited properly by reviewing many of the documents of the Overview.

Unitil stated the pertinent section of the Overview began on page 7. On page 7 Unitil "denies that there was any violation of Sections 192.619 or 192.195. Overpressure protection

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was designed to withstand a single failure event, and the Company experienced a double-failure. Moreover, the Company has never experienced similar flooding of this regulator station (even in hurricane conditions), and had no reason to believe that this specific rain event would cause the vaults to flood. Since the occurrence, the Company has evaluated this risk pursuant to DIMP and has developed a remediation plan to retrofit stations with above-ground venting.”

Unitil emphasized the design was “reasonable” in that it took into account previous history of rain events and that the adjacent storm drain (catch basin) was not working properly which led to the underground vault being flooded. Unitil focused on a narrow cause such a clogged catch basin as a contributing factor which led to high flood levels. Unitil stated the vault was installed in 1996.

The Safety Division disagreed with Unitil’s assertion that flooding of underground vaults resulting in completely submerging pressure regulating equipment could not be predicted or “considered” as Section 192.195 requires. The Safety Division believes it is incumbent on the operator (Unitil) to incorporate within its design the possibility of the vault completely filling with water and that it would not be unusual to find many vaults within New Hampshire that have venting of pressure regulating equipment that extends above ground. The Safety Division stated it is unreasonable to expect an underground vault which is a concrete box below surface without floor drain installed to not fill with water.

The Safety Division believes that when the MAOP¹ is exceeded by 237% a violation occurs of Part 192.619. The Safety Division stated that Part 192 is a performance based code and when the performance of the gas system falls below the standards then Unitil is out of compliance.

The Safety Division emphasized that DIMP (distributed integrity management plan) is not the driving requirement to investigate failures, but rather Part 192.617 requires it. In fact Unitil’s O&M Procedure 1E which references 192.617 requires a failure investigation report be created to determine the cause although it inexplicitly fails to mention the secondary portion of 192.617 that the purpose of determining a cause is to minimize the possibility of reoccurrence within the system. The Safety Division believes a fundamental tenant of Integrity Management is that it is not acceptable to only identify threats that have occurred historically but the operator is required to consider threats that may occur and develop mitigation strategies.

The Safety Division did agree that DIMP plans should be modified by results learned from failures.

The Safety Division stated that they were familiar with and had previously reviewed the pertinent sections of the code as well as applicable interpretations provided by Unitil and had considered them prior to issuing the NOPVs. The Safety Division was not convinced by Unitil’s assertions.

¹ Staff notes that NOPV incorrectly listed Puc 504.03 limit as 13.5 in w.c, when it should be 13.8 in w.c which equates to 232% overpressuring

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In all other respects there was no agreement on the probable violations as written by the Safety Division.

The Safety Division could have alleged violations of other applicable parts of the pipeline safety regulations, including but not limited to 49 CFR §§192.13, 192.603, 192.479, 192.481, 192.623 and 192.739 and Puc 504.03.

Safety Division proposed conditions in addition to civil penalties

In researching Unitil's O&M about exceeding MAOP, the Safety Division would also impose the lone following condition:

1) Section 2 L, subsection 6, of Unitil's Operating and Maintenance Manual shall be amended within 30 days to specifically preclude setting of pressures of monitor regulators so that MAOP is not exceeded. Although Unitil's practice is to set monitor regulators so that they are below the MAOP, the manual should be clarified to specifically preclude the possible interpretation of the current language that a 10% buildup is allowable over the MAOP. Unitil shall notify the Safety Division of the amended language once completed, noting where the previous language and amended language has been modified.

Civil Penalties²

RSA 374:7-a, III and Puc 511.08(b) (2) require the Commission's Safety Division to set forth the factors relied upon by the Safety Division in making its determination of civil penalties. The factors are essentially identical to the factors of the federal Office of Pipeline Safety has long relied upon in assessing similar penalties under the National Gas Pipeline Safety Act. *See* 49 CFR §190.225. The Safety Division considered the severity of not appropriately applying the most minimal of federal safety regulations, possible affects upon the integrity of Unitil's pipeline. Consideration was given to the effects and proximity to customers along the pipeline and potential impacts to non-customers, associated safety hazards of not operating gas distribution pipelines in accordance with the pipeline safety regulations. It became apparent at the informal conference that Unitil does not agree with these basic code requirements as cited. The Safety Division also considered the prior history of offenses; the nature and circumstances of the above violations, Unitil's response to the offenses, as well as the effect the associated imposition of civil penalties will have on Unitil's ability to continue operations.

Respondent is fully culpable for this violation. In light of these factors, the Safety Division imposes civil penalties as follows:

Violation No. 1

\$ 10,000

(Non-compliance with 49 CFR §192.619, Maximum allowable operating pressure - Steel or plastic pipelines).

² Staff notes that Probable Violation incorrectly listed factors listed to determine civil penalties as Puc 511.08 b (2) when it should have been Puc 511.05 (c) (5) which has identical language.

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Violation No. 2

\$ 7,500

(Non-compliance with 49 CFR § 192.195, Inadequate design of pipeline components).

TOTAL CIVIL PENALTIES

\$17,500

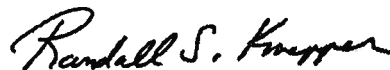
Pursuant to RSA 374:7-a, the company has the right to seek compromise of these penalties. Puc 511.09 requires the company to take one of the following steps within 10 days from receipt of the NOV:

- (a) Sign a consent agreement and remit the civil penalty; or
- (b) File a request in writing for a hearing before the commission:

Enclosed is a Consent Agreement that would resolve the civil penalty without need for a hearing. Unitil may execute the Consent Agreement and remit a check or money order payable to the State of New Hampshire, in the amount of \$17,500. Responses and payments relevant to this notice should reference the PS1501NU Dover Overpressurization, and be directed to the Safety Division Director at the Public Utilities Commission.

Alternately, Unitil may file with the Executive Director a request for a hearing before the Commission, within 10 days of receipt of this Notice of Violation in accordance with Puc 511.09.

Sincerely,



Randall S. Knepper
Director, Safety Division

cc: Chris Leblanc, Unitil
William Hewitt, Roach Hewitt Ruprecht Sanchez & Bischoff P.C.

enclosure

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March 26, 2015

Mr. Thomas Meissner
Chief Operating Officer
Northern Utilities
6 Liberty Lane
Hampton, NH 03842

RE: Northern Utilities, New Hampshire Gas Division
Notice of Violations of Natural Gas Pipeline Safety Act and
NH Code of Administrative Rules Part 500
Control# PS1502NU
Pipelines Affected:

1) Portsmouth Intermediate Pressure System (56 psig MAOP)

Dear Mr. Meissner:

Pursuant to the Natural Gas Pipeline Safety Act, 49 U.S.C. §60101 *et seq.*, applicable state law as set forth at RSA 370:2, and the relevant regulations of the New Hampshire Public Utilities Commission (Commission), N.H. Code Admin. Rules Part Puc 511, the Commission hereby serves upon Northern Utilities (Unitil) this formal Notice of Violation (NOV) pursuant to Puc 511.08 for conditions relating to operations that exceeded the maximum allowable operating pressure (MAOP) for a single gas pipeline distribution system. The gas pipeline system was identified as the Portsmouth Intermediate Pressure System that transports natural gas from district regulator stations in Portsmouth to multiple customers located within the Pease area. This system was improperly designed and improperly operated during an inspection in accordance with minimum federal and state standards.

Records indicate that the annual regulator station inspection was performed on May 14, 2014, by Unitil crews. This NOV arises from the June 25, 2014, inspection of Unitil by the Safety Division during which Unitil exceeded the MAOP for the Portsmouth Intermediate pressure distribution system. The Safety Division alleges that Unitil violated 49 CFR §192.619 and §192.195 for operating pipeline segments for approximately 1 to 2 minutes in excess of identified and previously established Unitil MAOP for the system. Digital pressure devices confirmed that the Portsmouth Intermediate pressure system was raised above its MAOP of 56 pounds per square inch gauge (psig) to a recorded level of approximately 57.2 psig. The recorded pressure of 57.2 psig represents a 2% over pressurization. A PHMSA representative and a Safety Division inspector were present when this occurred.

The Safety Division alleges that Unitil did not adequately design the district regulator station equipment when it selected and set its equipment in such a manner that it could be operated under

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conditions that allowed the MAOP to be exceeded. While this over pressurization is small by percentage, the Safety Division is concerned more about the philosophy of ever allowing the MAOP to be exceeded. Unitil's conduct caused an operating system violation by allowing its system to operate above the MAOP as limited by CFR §192.619. Please note that this NOV alleges a series of violations.

Violation No. 1

49 CFR §192.619. No person may operate a segment of steel or plastic pipeline at a pressure that exceeds a maximum allowable operating pressure determined under subparagraph (c) or (d) of this section, or the lowest of four criteria listed in subparagraph (a), (b), (c) or (d).

The Safety Division alleges that Unitil allowed downstream piping to be subject to pressures above the MAOP. The federal code in 49 CFR §192.619 and 49 CFR §192.621 does not allow for the operation of a pipeline above the MAOP, including accidental over pressurizations. The Safety Division's position is that Unitil was "operating" when customers are connected to distribution gas piping and system loads cause flow through the pipeline. "Operations" are being conducted because gas is being "transported". See CFR §192.3.

Violation No.2

49 CFR §192.195. Failure to incorporate into Design of Pipeline Components pressure regulation devices having capability of meeting the pressure, load, and other service conditions that will be experienced in normal operation of the system, and that could be activated in the event of failure of some portion of the system; and be designed so as to prevent accidental overpressuring.

The Safety Division alleges that Unitil designed, operated, and maintained an above ground gate station that contained pipe line components that, when configured, make up a district regulating station. This gate station was in place for many years and was located on New Hampshire Avenue in Portsmouth. It is referred to as the Pease Regulating Station. The Safety Division's inspection of the Pease Regulating Station revealed that the gas pressure regulator's control settings were set too close to the MAOP and did not account for pressure buildup that can be expected when monitor and worker regulators are configured in close proximity. Manufacturers often disclose the pressure buildup that can be expected.

The Safety Division alleges the distribution system over pressurization was avoidable with a proper design and settings that account for pressure buildup. This is a design variable that should have been planned "to prevent accidental overpressuring."

Results of the Informal Conference

An informal conference was conducted pursuant to Puc 511.07 at the Commission offices on March 24, 2015 during which Unitil provided a self-written copy of "Overview of Issues related to Maximum Allowable Operating Pressure and Notices of Probable Violation issued by the Safety Staff of the New Hampshire Public Utilities Commission" (Overview), which contained 11 attachments:

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Overview of MAOP Issues Related to NOPVs

- 1) Granite State's Gas M&R Station Schematic
- 2) Copy of CFR Part 192.619 and 192.620
- 3) Highlighted copy of 192.195 Protection against accidental overpressuring
- 4) Copy of CFR Part 192.189 through 192.199
- 5) Highlighted Copy of CFR Part 192.199
- 6) Highlighted Copy of CFR Part 192. 201 and a copy of 192.203
- 7) Copy of Unitil Sept 5, 2014 letter to Jeff Wiese of PHMSA
- 8) Copy of PHMSA Inspection Guidance 192.617, 192.619 pages 68-80
- 9a) PHMSA Interpretation 192.619 1 Oct 20 1971
- 9b) PHMSA Interpretation 192.619 48 March 31, 1983
- 9c) PHMSA Interpretation 192.605 9 Oct 24, 1994
- 9d) Interpretation 192.195 6 May 30 1974
- 10) Copy of 192.601, 192.603 and highlighted copy of 192.605
- 11) Unitil Internal Report Aug 13, 2014 of Dover Low Pressure System Overpressurization

Unitil went over the Probable Violation as written and had few questions about the basis of the notice of probable violation. Unitil explained its rationale for why the Probable Violations were not cited properly by reviewing many of the documents in the Overview.

Unitil stated that attachment 11 and pages 7 through 10 of the Overview were not applicable to the NOPV.

Unitil stated the pertinent section of the Overview began on page 1.

On pages 1 and 2 Unitil asserts "When the failure of the worker regulator was simulated, the station's monitor regulator assumed control of system pressure regulation within the expected operating parameters of the regulator. The temporary 'build-up' pressure during the failure simulation did slightly exceed MAOP at the station for a short duration, but that was not a violation of the Code. The monitor regulator at the Pease Station is a pressure limiting device as defined in Section 192.195 and 192.201, and at no time did the monitor allow system pressure to exceed the limits established by Section 192.201. Accordingly, there was no violation of either Section 192.619 or Section 192.195. Unitil's interpretation of the Code is supported by the plain language of the regulations, as well as interpretations by the federal agency with primary responsibility for federal pipeline safety regulations, the Pipeline and Hazardous Materials Safety Administration ('PHMSA'). Unitil has pending before PHMSA a request for formal interpretation of the applicable code provisions to obtain PHMSA's interpretation of its Code, and has been told by PHMSA that a response should be issued by the end of March, 2015."

Unitil went through the Overview to explain the summary listed above.

The Safety Division stated that they were aware of Unitil's September 5, 2014, letter to PHMSA for interpretation and is not waiting for a PHMSA response. The Safety Division believes that the letter will not give any meaningful interpretation because of the wording of the statements made within the letter. The Safety Division noted within the NOPV many of its observations made

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regarding the letter about Unitil's statements. The Safety Division also noted that PHMSA has no deadline as to when they respond to inquiries and interpretation requests in the past have taken up to 6 years to respond. The enforcement of the code is granted by the Safety Division's annual certification and that PHMSA within recent years encourages states to exercise strict adherence to the code.

The Safety Division disagreed with Unitil's assertions that MAOP exceedance is governed by 192.201. The Safety Division asserted it is clearly governed by 192.619 and Unitil is misapplying the section of the Code. The Safety Division disagreed with "*the plain language of the regulations*" as made by Unitil. The Safety Division stated they had sent three individuals to PHMSA's Training and Qualification course regarding pressure regulation over a period of time and taught on different dates by a different team of instructors, and PHMSA has never represented that MAOP can be exceeded.

The Safety Division emphasized again that Unitil is substituting Operations subparts of the code (Part 192) with Maintenance subparts of the code (Part 192) and misapplying it with sections with Design subpart of the code. The Safety Division understands it takes a thorough reading of the code to understand this nuance but regardless it is the Operator's responsibility to be in full compliance with the code.

The Safety Division stated that they were familiar with and had previously reviewed the pertinent sections of the code as well as applicable interpretations provided by Unitil and had considered them prior to issuing the NOPVs. The Safety Division was not convinced by Unitil's assertions.

In all other respects there was no agreement on the probable violations as written by the Safety Division.

The Safety Division could have alleged violations of other applicable parts of the pipeline safety regulations, including but not limited to 49 CFR §§192.13, and 192.603.

Safety Division proposed conditions in addition to civil penalties

In researching Unitil's O&M about exceeding MAOP, the Safety Division would also impose the lone following condition:

1) Section 2 L, subsection 6, of Unitil's Operating and Maintenance Manual shall be amended within 30 days to specifically preclude setting of pressures of monitor regulators so that MAOP is not exceeded. Although Unitil's practice is to set monitor regulators so that they are below the MAOP, the manual should be clarified to specifically preclude the possible interpretation of the current language that a 10% buildup is allowable over the MAOP. Unitil shall notify the Safety Division of the amended language once completed, noting where the previous language and amended language has been modified.

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Civil Penalties¹

RSA 374:7-a, III and Puc 511.08(b) (2) require the Commission's Safety Division to set forth the factors relied upon by the Safety Division in making its determination of civil penalties. The factors are essentially identical to the factors of the federal Office of Pipeline Safety has long relied upon in assessing similar penalties under the National Gas Pipeline Safety Act. *See* 49 CFR §190.225. The Safety Division considered the severity of not appropriately applying the most minimal of federal safety regulations, possible affects upon the integrity of Unitil's pipeline. Consideration was given to the effects and proximity to customers along the pipeline and potential impacts to non-customers, associated safety hazards of not operating gas distribution pipelines in accordance with the pipeline safety regulations. It became apparent at the informal conference that Unitil does not agree with these basic code requirements as cited. The Safety Division also considered the prior history of offenses, the nature and circumstances of the above violations, Unitil's response to the offenses, as well as the effect the associated imposition of civil penalties will have on Unitil's ability to continue operations.

Respondent is fully culpable for this violation. In light of these factors, the Safety Division imposes civil penalties as follows:

Violation No. 1	\$ 7,500
(Non-compliance with 49 CFR §192.619, Maximum allowable operating pressure - Steel or plastic pipelines).	

Violation No. 2	\$ 5000
(Non-compliance with 49 CFR §192.195, Inadequate design of pipeline components).	

TOTAL CIVIL PENALTIES	\$12,500
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Pursuant to RSA 374:7-a, the company has the right to seek compromise of these penalties. Puc 511.09 requires the company to take one of the following steps within 10 days from receipt of the NOV:

- (a) Sign a consent agreement and remit the civil penalty; or
- (b) File a request in writing for a hearing before the commission:

Enclosed is a Consent Agreement that would resolve the civil penalty without need for a hearing. Unitil may execute the Consent Agreement and remit a check or money order payable to the State of New Hampshire, in the amount of \$12,500. Responses and payments relevant to this notice should reference the PS1502NU Pease Overpressurization, and be directed to the Safety Division Director at the Public Utilities Commission.

¹ Staff notes that Probable Violation incorrectly listed factors listed to determine civil penalties as Puc 511.08 b (2) when it should have been Puc 511.05 (c) (5) which has identical language.

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Alternately, Unitil may file with the Executive Director a request for a hearing before the Commission, within 10 days of receipt of this Notice of Violation in accordance with Puc 511.09.

Sincerely,

A handwritten signature in black ink, reading "Randall S. Knepper". The signature is written in a cursive style with a large initial 'R'.

Randall S. Knepper
Director, Safety Division

cc: Chris Leblanc, Unitil
William Hewitt, Roach Hewitt Ruprecht Sanchez & Bischoff P.C.

enclosure