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PUBLIC UTILITIES COMMISSION  
21 S. Fruit St., Suite 10  
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January 23, 2015

<b>ORIGINAL</b>	
N.H. P.U.C. Case No.	DG 15-121
Exhibit No.	#3
Witness	Page # 1
<b>DO NOT REMOVE FROM FILE</b>	

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

Re: Northern Utilities, New Hampshire Gas Division  
Notice of Probable Violations of Natural Gas Pipeline Safety Act and  
NH Code of Administrative Rules Part 500  
Control# PS1502 NU  
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 Probable Violation pursuant to Puc 511.05 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 notice 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 is concerned 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 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 notice alleges a series of probable violations.

**Probable 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" 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.

**Probable 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. Staff'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.”

Unitil submission of interpretation to PHMSA

On September 5, 2014, Unitil submitted an interpretation request to PHMSA that summarized the events of this NOPV. The Safety Division reviewed Unitil’s submission and characterization of some of the events and makes the following observations:

- 1) Without knowing how far downstream from the regulator station the SCADA monitoring point and the customer loading are, it may well be possible that the downstream SCADA would not see 57.2 psig or any pressure above 56 psig under typical conditions because of the pressure drop associated with flow along the pipeline and because of customer usage.
- 2) Safety Division representatives witnessed manual intervention of the regulator on Run A. When the inspector saw that the pressure had climbed to 56.9 psig, he suggested manual intervention. The second test was on Run B which climbed to 57.2 psig and then settled on its own and went back to 55 psig setting. This was what Unitil described in its letter to PHMSA. The Safety Division believes that the 2.2 psig differential can be accommodated within the parameters of the station design by setting the worker regulator to be 52 psig and the monitor at 53.8 psig [approx. 54 psig]. The exact setting depends on how accurate in terms of sensitivity the response is of the regulators.
- 3) Unitil chooses the types of regulators and types of pilots that are installed from a variety of manufactures. Unitil also specifies the settings of each component for its technicians. Unitil seems to imply there is little flexibility in these selections and determinations.
- 4) CFR Part 192 does not mention “purposefully operates.” This appears to be a choice of words that Unitil has selected.
- 5) Unitil ignores CFR §192.195 (b) and only asks about CFR §192.195 (a).
- 6) CFR §192.605 (b)(5) only applies to pressures when “starting up and shutting down any part of the pipeline.” That is not applicable to the condition that was observed.
- 7) Unitil confuses an “emergency”, when pressures may rise above MAOP, and “abnormal operating condition,” when pressures may not rise above MAOP.

Unitil Response to Over Pressurization:

The Safety Division acknowledges that Unutil quickly responded since it was present and standing over the regulator and immediately adjusted the regulator components as was witnessed by the Safety Division inspector and a PHMSA representative.

Safety Division proposed condition in addition to civil penalties

In researching Unutil's O&M regarding exceeding MAOP, the Safety Division would also impose the following condition:

1) Section 2 L, subsection 6, of Unutil's O&M shall be amended within 30 days to specifically require setting of pressures of monitor regulators so that MAOP is not exceeded. Although Unutil's practice is to set monitor regulators so that they are below the MAOP, the manual should be clarified to specifically preclude the possibility that one could interpret that a 10% buildup over MAOP is allowable with the current language. Unutil shall notify the Safety Division of the amended language once completed, noting where the previous language and amended language has been modified.

Safety Division proposed civil penalties

RSA 374:7-a, III and Puc 511.08(b) (2) require the Safety Division to set forth the factors it relied upon in determining civil penalties. The factors are similar to the factors the federal Office of Pipeline Safety relies upon in assessing similar penalties under the Natural Gas Pipeline Safety Act. The Safety Division considered the severity of the potential consequences of not following Commission rules, the company's inability to follow company written procedures, and possible negative effects of overpressurization of the low pressure system. Consideration was given to the effects and proximity to customers along the affected pipelines, possible impacts to non-customers, associated safety hazards, and the design considerations implemented by Unutil. The Safety Division also considered the prior history of offenses, the nature and circumstances of the above violations, Unutil's response to the offenses, as well as the effect the civil penalties will have on Unutil's ability to continue operations.

The respondent is fully culpable for this violation. In light of the identified factors, the Safety Division proposes civil penalties as follows:

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

<b>Probable Violation No. 2</b>	<b>\$ 5,000</b>
(Non-compliance with 49 CFR §192.195, Inadequate design of pipeline components and settings).	

<b>TOTAL CIVIL PENALTIES</b>	<b>\$ 12,500</b>
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Pursuant to RSA 374:7-a, the company has the right to seek compromise of these penalties. Puc 511.06 requires the company to take one of the following steps:

- (a) Upon receipt of the NOPV the respondent shall either:
  - (1) Submit to the commission within 30 days, in writing, evidence refuting the probable violation referenced in the NOPV;
  - (2) Submit to the commission within 30 days, a written plan of action outlining action the respondent will take to correct the violations, including a schedule and the date when compliance is anticipated<sup>1</sup>;
  - (3) Execute a consent agreement with the commission resolving the probable violation and remit the civil penalty; or
  - (4) Request in writing within 30 days, an informal conference with the commission staff to examine the basis of the probable violation.
- (b) Any utility involved in the NOPV shall provide a representative for any informal conference or hearing scheduled relative to that NOPV.

Enclosed is a Consent Agreement that would resolve the civil penalty without need for an informal conference or 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 PS1502 NU Portsmouth System Over Pressurization, and be directed to the Safety Division Director at the Public Utilities Commission.

Alternately, Unitil may file with the Executive Director a request for an informal conference with the Commission Staff within 30 days of receipt of this Notice of Probable Violation in accordance with Puc 511.06.

Sincerely,



Randall S. Knepper  
Director, Safety Division

cc: Chris Leblanc, Unitil

Enclosure

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<sup>1</sup> This option may not apply to violations that are written after the violation has occurred. It usually applies only to forward looking violations.

## NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

### CONSENT AGREEMENT

**WHEREAS**, the New Hampshire Public Utilities Commission (Commission) received evidence that Northern Utilities (Respondent) committed a possible violation of the National Gas Pipeline Safety Act, 49 U.S.C. §60101 *et seq.*, New Hampshire state law and/or Puc 500 (the gas pipeline safety laws);

**WHEREAS**, after investigation the Commission then issued a Notice of Probable Violation (NOPV) pursuant to Puc 511.05 on January 23, 2015 against Northern Utilities alleging that on June 25, 2014 at New Hampshire Avenue Regulator Station (Pease) in Portsmouth the Respondent violated the gas pipeline safety laws; and

**WHEREAS**, the Respondent was afforded the opportunity pursuant to Puc 511.06 to, as applicable, refute the probable violation referenced in the NOPV, to submit a plan of action outlining action the Respondent will take to correct the violation, to execute a consent agreement to resolve the probable violation and remit any civil penalty, or request an informal conference to examine the basis of the probable violation.

**NOW, THEREFORE**, the Commission and the Respondent hereby agree as follows:

1. Northern Utilities violated the gas pipeline safety laws as described in NOPV PS1502NU.
2. A civil penalty of \$12,500 is imposed on the Respondent for the above violation[s], which civil penalty shall be received by the commission on or before February 26, 2015.
3. Respondent shall also take actions as outlined in NOPVPS1502NU section *Safety Division proposed conditions in addition to civil penalties*.
4. The Commission shall pursue no further action against the Respondent arising out of the facts alleged in the NOPV except as provided in paragraph 7 and in order to enforce this Agreement.
5. This Agreement shall not release the Respondent from any claims of liability made by other parties under applicable law.
6. This Agreement shall not constitute a waiver of the Respondent's right to pursue any other party or person for any claims based on facts alleged in the NOPV.

Consent Agreement  
Notice of Probable Violation  
Control #PS1502NU  
January 23, 2015

7. This Agreement shall be considered by the Commission in assessing any civil penalties for future violations, if any, of the gas pipeline safety laws.

8. This Agreement shall be construed in accordance with the laws of the State of New Hampshire and the Rules of the New Hampshire Public Utilities Commission.

Dated: 1/23/15 By: Randall S. Keegan  
For the New Hampshire Public Utilities Commission

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
For the Respondent