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STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

August 26, 2015 - 10:03 a.m.
Concord, New Hampshire

DAY 2

NHPUC SEP09'15 AM 8:42

RE: DG 15-121
NORTHERN UTILITIES, INC.:
Request for Hearing on Notices of
Violations PS1501NU and PS1502NU.

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Robert R. Scott
Commissioner Kathryn M. Bailey

Sandy Deno, Clerk

APPEARANCES: Reptg. Northern Utilities, Inc.:
William D. Hewitt, Esq. (Roach, Hewitt...)

Reptg. PUC Staff:
Michael J. Sheehan, Esq.

Court Reporter: Steven E. Patnaude, LCR No. 52

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JONATHAN R. PFISTER
RICK AHLIN

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E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
4	Document entitled "Part 192 - Transportation of Natural and Other Gas by Pipeline"	<i>premarked</i>
5	Document entitled "2-L Pressure Control O+M Unutil Pipeline Safety Procedures - Rev. 4.0 April 2014"	<i>premarked</i>

P R O C E E D I N G

1
2 CHAIRMAN HONIGBERG: We are here this
3 morning to finish the hearing in DG 15-121, which is
4 Northern Utilities' request for a hearing on notices of
5 violation. I think where we left off, the Company's panel
6 of witnesses was on the witness stand. Am I correct?

7 MR. HEWITT: I believe that's correct,
8 yes, Mr. Chairman.

9 CHAIRMAN HONIGBERG: So, even if there's
10 other business to transact, why don't we have those
11 witnesses retake their places.

12 And, is there any other business we need
13 to take care of this morning before we start?

14 MR. SHEEHAN: Counsel discussed a due
15 date for post-hearing briefs. Mr. Patnaude advised that
16 the transcript would be ready to two weeks from today at
17 the latest. And, we proposed, I think it's ten days after
18 that, September 23rd for a deadline. So, that would give
19 us the transcripts with a week or so before filing them.

20 CHAIRMAN HONIGBERG: Mr. Hewitt, that --

21 MR. HEWITT: That's acceptable to the
22 Company. Thank you.

23 CHAIRMAN HONIGBERG: All right. That's
24 acceptable to us then, too.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 (Whereupon **Christopher J. LeBlanc,**
2 **Jonathan R. Pfister,** and **Rick Ahlin** were
3 recalled to the stand, having been
4 previously sworn.)

5 CHAIRMAN HONIGBERG: Yes. Mr. Patnaude
6 reminds me to remind you that you are all still under
7 oath.

8 So, I think, Mr. Sheehan, I think you
9 have the floor.

10 MR. HEWITT: And, Mr. Chairman, I just
11 have the exhibits the witnesses will need. So, if I may,
12 please?

13 CHAIRMAN HONIGBERG: It will save you
14 the trip later.

15 MR. HEWITT: Thank you.

16 (Atty. Hewitt handing documents to the
17 witnesses.)

18 MR. HEWITT: Thank you.

19 MR. SHEEHAN: Good morning, gentlemen.

20 **CHRISTOPHER J. LeBLANC, Previously sworn**

21 **JONATHAN R. PFISTER, Previously sworn**

22 **RICK AHLIN, Previously sworn**

23 **CROSS-EXAMINATION (resumed)**

24 BY MR. SHEEHAN:

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. I was about to ask Mr. Ahlin -- is Ahlin --

2 A. (Ahlin) "Ahlin".

3 A. (LeBlanc) "Ahlin".

4 Q. Sorry. You tell me, and then I forget the next day.

5 CHAIRMAN HONIGBERG: How quickly they
6 forget.

7 BY MR. SHEEHAN:

8 Q. But I had just a couple clean-up questions for Mr.
9 Pfister and LeBlanc. And, of course, the map I was
10 going to refer to is up in my office and someone is
11 running to get it. But one other topic for Mr. Pfister
12 and Mr. LeBlanc. You testified last week and in your
13 prefiled testimony about the --

14 MR. HEWITT: I'm sorry. I thought we
15 had finished the examination of Mr. LeBlanc and
16 Mr. Pfister?

17 MR. SHEEHAN: I had expressed that I was
18 moving onto Mr. Ahlin. But there's no -- they're still
19 the same panel and --

20 CHAIRMAN HONIGBERG: Yes, Mr. Hewitt.

21 MR. HEWITT: Okay.

22 CHAIRMAN HONIGBERG: They're all up
23 there. It's not like we break and say "I can never come
24 back to a witness while they're all still up there."

{DG 15-121} {08-26-15/Day 2}

1 That's -- you know, if we called them up one at a time, it
2 might work that way. But that's not how this one got
3 structured.

4 MR. HEWITT: That's fine. Thank you.

5 BY MR. SHEEHAN:

6 Q. There was testimony about, if you had to set the
7 regulators at lower pressures, adopting Staff's view of
8 MAOP, the impact it would have on your system, and you
9 said some "high-level engineering", and the cost,
10 *etcetera*. Do you remember generically that --
11 generically that testimony?

12 A. (LeBlanc) Yes, I do.

13 Q. And, at Pages 23-24 of your testimony is where it is
14 discussed in particular. Top of 24, "Has the Company
15 developed detailed cost estimates and engineering
16 designs?" Your answer: "We have not. As a rough
17 estimate, the cost to provide additional capacity to
18 the three systems would cost millions of dollars." Do
19 you recall that?

20 A. (LeBlanc) Yes, I do.

21 Q. And, my question is, as I understand those "millions of
22 dollars", that is to, and, again, this is an estimate
23 and a high level, but that's to make changes to your
24 system to make sure service was good or appropriate, if

1 you had to operate at lower pressures?

2 A. (LeBlanc) That is correct. It would require system
3 improvements.

4 Q. And, those lower pressures are flowing from Staff's
5 position that you got to set those monitors a little
6 lower to avoid the MAOP issue that brings us here
7 today?

8 A. (LeBlanc) You would have to set the monitors lower,
9 and, in turn, you have to have separation between the
10 monitor and the worker. So, the workers would have to
11 be set lower in turn.

12 Q. And, my question is, isn't there another way, if that's
13 the problem, isn't there another way to solve it, and
14 that is use a monitor regulator that can be set at 55,
15 and that will not exceed 56, one with a smaller
16 tolerance, if you will, build-up?

17 A. (LeBlanc) The Company is not familiar with a regulator
18 that could perform with those tight of tolerances.

19 Q. Let me ask you the hypothetical first. If you had a
20 regulator that was set at 55, and that the build-up
21 before it worked, and I know I'm not using the proper
22 technical terms, was less than 1 pound. So, in this
23 situation, you had a 2 pound build-up. But, if you had
24 a monitor regulator that could do the same work within

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 1 pound, that monitor would allow you to continue
2 operating at your chosen set points of 55 and 52,
3 correct?

4 A. (LeBlanc) Theoretically, with our set points at 55, if
5 there's a regulator out there under all operating
6 conditions would limit the build-up pressure to 1 pound
7 or less, theoretically, that would -- that will
8 suffice.

9 Q. And, if I told you there is such a monitor regulator
10 made by the -- is it Becker? Beckett?

11 MR. KNEPPER: Becker.

12 BY MR. SHEEHAN:

13 Q. -- Becker Company? Are you familiar with the Becker
14 Company?

15 A. (LeBlanc) We are familiar with Becker.

16 Q. You actually have some of their monitor regulators in
17 your system, is that correct? I mean, pilots?

18 A. (LeBlanc) We have Becker pilots on the systems.

19 Q. Okay. And, you're not aware that they make a setup
20 that could keep the pressure within a 1 pound or less
21 tolerance build-up pressure?

22 A. (Pfister) I'm not -- I'm not familiar with a pilot that
23 would have that low of build-up pressure, given the
24 spring control range that we would need in the

1 regulator.

2 Q. Have you asked?

3 A. (Pfister) I haven't asked, specifically, no. But, in
4 the recent -- in the data sheets and spec sheets that
5 I've seen, I haven't seen that low a build-up pressure,
6 a lock-up pressure.

7 Q. Would you agree with me that, if you could, if one
8 existed, and you could install it in your system, that
9 would solve the problem that you testified would
10 otherwise cost millions of dollars?

11 A. (Pfister) Theoretically, yes.

12 Q. The other thing I wanted to ask you is I had blown up
13 the map that is Attachment A to your testimony. And,
14 your testimony last week about the pressures observed
15 at the SCADA points at different locations from New
16 Hampshire Ave. Do you recall that?

17 A. (LeBlanc) Yes.

18 Q. And, that testimony was that those SCADA points did not
19 reflect an increase in pressure above MAOP, and,
20 indeed, barely reflected an increase in pressure at
21 all. Do you recall that testimony?

22 A. (LeBlanc) Yes.

23 Q. And, my question last week was, is there any way that
24 gas, arguably overpressurized gas from New Hampshire

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Ave could find its way to those SCADA points without
2 going through another regulator station. Do you recall
3 that question?

4 A. (LeBlanc) Yes, I do.

5 Q. And, I think you said "it can". There is a route, from
6 Point A to Point B, that would bypass any other
7 regulator stations. Do recall that answer?

8 A. (LeBlanc) Yes, I do. That would depend on how the
9 system was flowing at the time of the
10 overpressurization.

11 Q. Can you actually, on that map, trace your finger from
12 New Hampshire Ave to Marcy Street, without going past
13 another regulator station?

14 A. (LeBlanc) Yes, we can.

15 Q. And, how do you do that?

16 MR. HEWITT: May I?

17 CHAIRMAN HONIGBERG: I'm not sure. I
18 think we're going to need to see it, too. So, how --

19 MR. SHEEHAN: I was going to have him
20 show me first, and then I can hold it up for everyone to
21 see.

22 CHAIRMAN HONIGBERG: All right. So, why
23 don't you show Mr. Sheehan and Mr. Hewitt, and then
24 someone can explain it to us.

1 **BY THE WITNESS:**

2 A. (LeBlanc) On Exhibit A in our testimony, the map that
3 we're showing doesn't show the Gosling Road Station on
4 it.

5 BY MR. SHEEHAN:

6 Q. Okay.

7 A. (LeBlanc) So, without the Gosling Road Station, there's
8 a clear path to the SCADA point at Marcy Street, as
9 well as Barberry Lane.

10 Q. Is the Gosling Road Station, as handwritten in, in the
11 right location?

12 A. (LeBlanc) That I'm not sure. I'd have to --

13 A. (Ahlin) Yes. That's Woodbury Ave and Gosling Road.

14 Q. So, Mr. Ahlin, you've just said that, where we have
15 written in "Gosling Road Station", with the red dot, is
16 in its right location?

17 A. (Ahlin) Correct.

18 Q. Assuming that, Mr. LeBlanc, is there a route from New
19 Hampshire Ave to Marcy without going past Gosling Road
20 Station?

21 A. (LeBlanc) No. Under this configuration, the gas would
22 have to flow past the Gosling Road Station.

23 MR. SHEEHAN: And, I'll hold up for all
24 to see, the Gosling Road Station was written in where my

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 finger is now, at this juncture in the pipes [indicating].
2 Here's the Gosling Road Station [indicating], here's New
3 Hampshire Ave [indicating], here's the Marcy Street point
4 [indicating].

5 BY MR. SHEEHAN:

6 Q. Do you have any further clarification on that,
7 Mr. LeBlanc, or anyone else?

8 A. (LeBlanc) No.

9 Q. So, with that information, is it fair to say that the
10 readings from the SCADA points were not affected at all
11 and could not be affected at all by what was happening
12 at the New Hampshire Ave Station?

13 A. (LeBlanc) I believe, and I can defer to Mr. Ahlin on
14 that, because he can probably better explain the
15 technical operation of how Gosling Road would function
16 in the event of an overpressurization, if that would be
17 permissible?

18 Q. Okay. Fine.

19 A. (Ahlin) At the time in question, Gosling Road was not
20 in operation. It was actually set 2 pounds lower than
21 what New Hampshire Ave is. And, the reason for that
22 being is, the metering that is on Gosling Road is
23 basically set up for winter flows. So, it was set up
24 as a backup station. So, in effect, it was not in

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 operation at the time. So, as a result, consider that
2 a straight piece of pipe, not a regulator station, at
3 the time that the test was conducted.

4 Q. Following up on that, Mr. Ahlin. So, if it's 2 pounds
5 lower, so, say 48 or 50 or whatever the number was,
6 does that mean gas can only go through there at that
7 pressure or less?

8 A. (Ahlin) That would be correct.

9 Q. So, if you had higher pressure gas coming from New
10 Hampshire Ave Station, it would not get through the
11 Gosling Road Station, because it was set lower?

12 A. (Ahlin) No. No, it doesn't run through the station.
13 It runs through a piece of pipe.

14 Q. Okay. So, you're saying it's bypassed?

15 A. (Ahlin) No, it's not bypassed. It just --

16 Q. I'm not trying to be difficult. I don't understand.

17 A. (Ahlin) No, no. There are several different delivery
18 points to that system. So, consider that just another
19 delivery point into the piece of pipe that runs by it.
20 So, it doesn't effectively run through the station
21 itself.

22 Q. Okay.

23 A. (Ahlin) If that makes any sense?

24 Q. So, maybe not a formal bypass, but, practically

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 speaking, you're saying it was just a bypass. It was
2 just going by the Gosling Road Station?

3 A. (Ahlin) It was going by, the station was not running.

4 Q. Fair enough. Now, I'll turn to you, Mr. Ahlin. On the
5 day that the New Hampshire Ave test was done with
6 Mr. Burnell, you gave Mr. Burnell a brief overview of
7 the station itself. What the pipes were, what was
8 coming in and what was going out, that kind of
9 information, is that correct?

10 A. (Ahlin) I believe that's correct, yes.

11 Q. And, you did not describe to Mr. Burnell any procedures
12 that Northern used with regard to that station in
13 general, is that correct?

14 A. (Ahlin) No. I was not asked.

15 Q. Okay. And, what do you recall Mr. Burnell's words for
16 what he wanted you to do that day with the regulators?

17 A. (Ahlin) I don't recall exactly.

18 Q. Okay. What --

19 A. (Ahlin) It was basically, "we were going to test the
20 overpressure protection."

21 Q. Okay. And, how did you communicate that to your staff,
22 your technicians?

23 A. (Ahlin) Well, as I had, you know, stated before, it was
24 what Mr. Burnell wanted, not what I wanted. And, he

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 wanted --

2 Q. Is it --

3 A. (Ahlin) He wanted to have the worker regulator failed.

4 Q. Is it correct that the -- first of all, is it correct
5 about the number of people there? Mr. Burnell, the
6 PHMSA representative, yourself, and two Northern techs?

7 A. (Ahlin) Yes. That's correct.

8 Q. And, is it correct that the communications to those
9 Northern techs were from you, and not from Mr. Burnell?

10 A. (Ahlin) That is correct.

11 Q. So, I understand it may be what Mr. Burnell wanted, but
12 what did you tell your techs to do?

13 A. (Ahlin) I told them to fail the regulator, the worker
14 regulator.

15 Q. And, does Northern have a procedure for doing that?

16 A. (Ahlin) To fail a worker regulator?

17 Q. Yes.

18 A. (Ahlin) There's only one way that I'm aware that you
19 can do that.

20 Q. And, does Northern have a procedure to do that?

21 A. (Ahlin) Not that -- not that I'm aware of. In the O&M,
22 it doesn't say specifically.

23 Q. Okay. Do you know if your techs had ever been trained
24 on how to simply "fail a worker regulator"?

{DG 15-121} {08-26-15/Day 2}

1 A. (Ahlin) Yes, they have.

2 Q. And, if I were to look to find what they were trained
3 to do, what they were supposed to do, where would I
4 find that?

5 A. (Ahlin) I don't believe there's anything specifically
6 written in any literature, it's because of experience.

7 Q. Okay. So, your testimony is that your technicians,
8 when they heard that, "fail the worker", they knew what
9 to do?

10 A. (Ahlin) That's correct.

11 Q. And, what they did that day was what they were trained
12 to do?

13 A. (Ahlin) Yes.

14 Q. You watched them, and, as far as you could tell,
15 everything went the way you thought it was supposed to
16 go?

17 A. (Ahlin) Yes.

18 Q. As far as the process of failing the worker regulator?

19 A. (Ahlin) Failing the worker regulator, yes.

20 Q. Do you know why -- do you know what Mr. Burnell was
21 trying to test when he asked you to fail the worker
22 regulators?

23 A. (Ahlin) He was trying to test the monitor, the
24 overpressure protection monitor regulator.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. Does Northern have another way of doing that, a written
2 procedure for doing that?

3 A. (Ahlin) Only what we have in our O&M at the time.

4 Q. Okay. And, does that contain a procedure for doing
5 that?

6 A. (Ahlin) Not in that regard, no.

7 Q. What do you mean "not in that regard"?

8 A. (Ahlin) If I am not mistaken, in the O&M, it requires
9 us to establish the set point. And, it was written in
10 my testimony that's how we would -- how we would do
11 that.

12 Q. How we would do what?

13 A. (Ahlin) How we would test the overpressure protection.

14 Q. And, is that something different than what Mr. Burnell
15 asked you to do?

16 A. (Ahlin) Yes, it is.

17 Q. Okay. So, he asked you to do one thing. Your manual
18 has a procedure for doing something similar, but
19 different?

20 A. (Ahlin) That's correct.

21 Q. And, what's the difference in the outcome of those? I
22 mean, what -- do you get different pieces of
23 information from those two procedures or do you get the
24 same information?

{DG 15-121} {08-26-15/Day 2}

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (Ahlin) Could you reword that?

2 Q. Sure. Mr. Burnell asked you to "fail the worker", and
3 you say that your technicians knew what to do, and that
4 was going to give you some information. You testified
5 that there's another procedure similar, but different,
6 and that's going to give you a piece of information.
7 Is it the same information? Do you get to the same
8 point through those two routes?

9 A. (Ahlin) Yes.

10 Q. So, when Mr. Burnell asked you to "fail the worker
11 regulator", you could have done what he asked or you
12 could have said, correct me if I'm wrong, "You know,
13 Mr. Burnell, we have a procedure for doing it a
14 slightly different way. Can we do that?"

15 A. (Ahlin) I guess I could have.

16 Q. Did you know what the MAOP was at that station at that
17 time?

18 A. (Ahlin) Yes, I did.

19 Q. And, it was 56?

20 A. (Ahlin) That's correct.

21 Q. And, do you know what the set point of the monitor
22 regulator was at that --

23 A. (Ahlin) Both monitors were set at 55.

24 Q. What did you expect to happen when your technicians

1 failed the worker regulators?

2 A. (Ahlin) I would expect there would be some build-up
3 pressure.

4 Q. And, explain what that means.

5 A. (Ahlin) It's the amount -- a regulator or the pilot of
6 a regulator is a mechanical function, as over on the
7 table you'll see a spring hanging underneath the pilot,
8 and it takes a certain amount of pressure in order to
9 have that spring operational. That's why it was
10 written in the O&M that we have the build-up pressure
11 allowance. And, that's what we've -- that's what we've
12 always done.

13 Q. And, that's the 2 pounds that we talked about last
14 week?

15 A. (Ahlin) That's correct.

16 Q. So, is it fair to say that you expected to see exactly
17 what did happen? That it went up to 57, and then back
18 down?

19 A. (Ahlin) Correct.

20 Q. So, you expected, I understand you don't agree that it
21 was a violation, but you expected the number to go over
22 MAOP?

23 A. (Ahlin) That is correct.

24 Q. And, you say "that is what we've always done". What do

1 you mean by that?

2 A. (Ahlin) That's the way I've -- in my experience in the
3 gas industry, that's the way I've always interpreted
4 the Code to have build-up pressure.

5 Q. Do you recall that Mr. Burnell told you to stop the
6 first run because it had exceeded MAOP?

7 A. (Ahlin) He said to stop the -- to stop the test, yes.

8 Q. And, did he say why?

9 A. (Ahlin) I don't recall that he did. He said that --
10 that we needed to stop the test.

11 Q. If he did not say why, did you understand why?

12 A. (Ahlin) No. Actually, I wasn't exactly -- exactly sure
13 why at that point.

14 Q. During the second test, when it went over 56, did
15 Mr. Burnell say anything then?

16 A. (Ahlin) We had a conversation at that point.

17 Q. What do you recall of that conversation?

18 A. (Ahlin) I believe that I talked to him about the
19 build-up pressure at that point, and asked if he was
20 okay if we continued on with it, and to see if we came
21 back to the set point below MAOP, which would have been
22 55 on that 56-pound system.

23 Q. And, that's what happened, as we know?

24 A. (Ahlin) Yes.

1 Q. In your testimony, Page 4, there's a question about
2 whether you "were concerned about this being an unsafe
3 condition?" Do you recall that question and answer?

4 A. (Ahlin) Yes.

5 Q. Line 8-9?

6 A. (Ahlin) Yes.

7 Q. And, your answer was "no"?

8 A. (Ahlin) "No."

9 Q. You testified that that "build-up pressure was normal"?

10 A. (Ahlin) That's correct.

11 Q. Then, you stated that the station is designed to handle
12 greater pressures?

13 A. (Ahlin) Correct.

14 Q. So, is it fair to say, you did not think this was an
15 emergency?

16 A. (Ahlin) No, I don't believe it was an emergency. A
17 simulated emergency.

18 Q. Why the qualification?

19 A. (Ahlin) Because we were asked to test the overpressure
20 protection under what would be considered "emergency"
21 -- "emergency conditions", which would have been the
22 failure of the worker. So, it's --

23 Q. You just told me -- go ahead.

24 A. (Ahlin) So, it's simulated. It was a simulated

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 failure, so, a simulated emergency.

2 Q. You just told me that, "when the worker was failed, it
3 did not create an emergency condition." And, you said
4 so in your testimony, "no, it was not unsafe", correct?

5 MR. HEWITT: Objection.

6 CHAIRMAN HONIGBERG: Yes. I'll sustain
7 that.

8 BY MR. SHEEHAN:

9 Q. Your testimony was, your written testimony, "were you
10 concerned that it was in an unsafe condition?" And,
11 you said "no", correct?

12 A. (Ahlin) That would be correct.

13 Q. And, you just said, when I asked you, you did not think
14 that was an emergency on that day?

15 MR. HEWITT: Objection.

16 CHAIRMAN HONIGBERG: Wait. Grounds?

17 MR. HEWITT: The witness provided an
18 answer that was clarified, and counsel isn't including the
19 clarification that the witness made in his answer. So,
20 he's really not accurately reflecting what the witness's
21 testimony was on the stand.

22 CHAIRMAN HONIGBERG: Mr. Sheehan.

23 MR. SHEEHAN: I'll ask a different
24 question.

1 BY MR. SHEEHAN:

2 Q. Did you consider what happened that day to be an
3 emergency?

4 MR. HEWITT: Objection. Asked and
5 answered.

6 CHAIRMAN HONIGBERG: He can answer
7 again.

8 **BY THE WITNESS:**

9 A. (Ahlin) A simulated emergency.

10 BY MR. SHEEHAN:

11 Q. So, is it your testimony that, if this worker failed,
12 without you standing there or anyone else, it just
13 failed, that would have been an emergency?

14 A. (Ahlin) At that point, yes.

15 Q. Even if the monitor regulator performed as it did that
16 day?

17 A. (Ahlin) It would have been considered -- it would have
18 been considered such, in that it would -- the monitor
19 would have taken over.

20 Q. "It would be considered such", you mean "an emergency"?

21 A. (Ahlin) Yes. Because, at that point in time, it would
22 have -- it would have raised alarms.

23 Q. What's your definition of an "emergency" in an
24 operating gas system?

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 MR. HEWITT: Objection. Is he asking
2 for -- can you just rephrase it, Michael? Are you asking
3 him in terms of the Code?

4 MR. SHEEHAN: I'll be more -- I'll ask
5 it specifically.

6 MR. HEWITT: Thank you.

7 BY MR. SHEEHAN:

8 Q. Is it fair to say the term "emergency" is a term that
9 is often used in the Code and in your operation of the
10 Northern system?

11 A. (Ahlin) I don't know about the Code, as far as that
12 goes. I know what -- I know what I know. But I'm not
13 a Code person.

14 Q. Fair enough. Northern has a whole manual just on
15 emergencies, correct?

16 A. (Ahlin) Yes, they do.

17 Q. And, you're familiar with that book?

18 A. (Ahlin) To a degree, yes. I don't know it verbatim.

19 Q. Is it -- have you ever heard of the "Unitil Gas
20 Emergency Response Plan"?

21 A. (Ahlin) Yes.

22 Q. Okay. So, that's a whole book that's talking about
23 emergencies, what they are, how to respond to them,
24 *etcetera*, correct?

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (Ahlin) Correct.

2 Q. So, in that context, what is your understanding of an
3 "emergency" that would trigger some response by the
4 Company, as outlined in its Response Emergency Plans?

5 MR. HEWITT: I'm going to object at this
6 point. He's asking the witness a question about the
7 Emergency Response Plan. The witness should be allowed to
8 at least review the Plan, before he's asked to testify on
9 its contents.

10 CHAIRMAN HONIGBERG: And, my sense is
11 that's about to happen.

12 MR. SHEEHAN: I don't have a hundred
13 copies of this. So, I will show the witness.

14 (Atty. Sheehan showing document to Atty.
15 Hewitt first, and then to Witness
16 Ahlin.)

17 BY MR. SHEEHAN:

18 Q. Did Mr. LeBlanc just give you some assistance in
19 answering this question, Mr. Ahlin?

20 A. (Ahlin) No.

21 Q. Okay. So, I've shown you the Northern Emergency Plan
22 that was filed with the Commission, I believe, in May
23 of 2014, is that correct? There's a cover letter
24 tucked in the front cover, if you want to check.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (Ahlin) Where was it stated? Is it stated --

2 CHAIRMAN HONIGBERG: Wait. Wait,
3 Mr. Ahlin. The question is, is the document that
4 Mr. Sheehan just gave you, the Emergency Response Plan
5 that the Company filed with the Commission on a particular
6 date that is on a cover letter tucked inside the front
7 cover?

8 WITNESS AHLIN: I believe it is, yes.

9 BY MR. SHEEHAN:

10 Q. And, I've opened the book and handed it to you on Page
11 82. And, then, on the left side of the page, there's a
12 highlighted definition of "emergency", is there not?

13 A. (Ahlin) Yes, there is.

14 Q. Could you read that for us please.

15 A. (Ahlin) "A gas emergency is a condition in which
16 extraordinary procedures, equipment or supplies must be
17 employed to protect the public, employees, contractors,
18 Unutil facilities or the facilities of others from
19 existing or potential gas-related hazards. An
20 emergency may be due to such conditions as gas detected
21 inside and near a building, a fire near or directly
22 involving a gas pipeline facility, a natural disaster,
23 such as tornadoes, landslide, earthquake, flood,
24 blizzard or hurricane that may affect gas pipeline

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1 facilities, a large volume of uncontrolled escaping
2 gas, underpressure, overpressure or no pressure in the
3 system, and an unplanned interruption of gas supply."

4 Q. Thank you. If you could read just the first phrase
5 again, because that's what I want to ask you a question
6 about, so, we have it all in our minds.

7 A. (Ahlin) "A gas emergency is a condition in which
8 extraordinary procedures, equipment or supplies must be
9 employed to protect the public, employees, contractors,
10 Unutil facilities or the facilities of others from
11 existing or potential gas-related hazards. An
12 emergency may be due to such conditions as" --

13 Q. Thank you. That's fine. Was this, on this day that
14 the test was done, a situation where "extraordinary
15 procedures must be employed"?

16 A. (Ahlin) No.

17 Q. If the worker regulator had failed the day after you
18 were there, and the monitor did its job and kept the
19 pressure as it happened that day, to 57, back to 55,
20 would that have been a situation in which
21 "extraordinary procedures must be employed"?

22 A. (Ahlin) We would consider that an emergency, yes.

23 Q. What extraordinary --

24 A. (Ahlin) As written -- as written here.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. What "extraordinary procedures" would you have to
2 employ if the day after this test the worker failed and
3 the monitor went to 57, and then assumed the control of
4 the pressure? What would you do?

5 A. (Ahlin) What would your -- what would your
6 interpretation be of "extraordinary"?

7 CHAIRMAN HONIGBERG: One of the cool
8 things about this process, Mr. Ahlin, is that he gets to
9 ask the questions, and you get to answer them.

10 MR. SHEEHAN: I have some ideas, but
11 they're probably not helpful or appropriate.

12 **BY THE WITNESS:**

13 A. (Ahlin) Well, extraordinary or not, we would, if, in
14 fact, that had happened, in our SCADA system and those
15 points that have been recognized before, that would
16 have alerted our gas control people that we had -- that
17 our overpressure protection kicked in, and we would
18 immediately send somebody out to address the situation,
19 to investigate the situation.

20 BY MR. SHEEHAN:

21 Q. So, you would investigate. But my -- a question. The
22 day you ran the test, the SCADA points didn't set off
23 any alarms, correct?

24 A. (Ahlin) That's correct.

1 Q. So, why do you think they would set off alarms in my
2 hypothetical failure the next day?

3 A. (Ahlin) Because, eventually, if that was the case,
4 depending on flow conditions, understanding that a gas
5 system is very fluid, and pressures go up and down,
6 that, if that had stayed at 55, under the right flow
7 conditions, you would have seen a high alarm
8 pressurizewise.

9 Q. When?

10 A. (Ahlin) I have no idea.

11 MR. HEWITT: Objection. Relevance. I
12 don't understand why we're going down this sort of line of
13 hypothetical questions. I question the relevance of this
14 line of questioning to whether there was a violation with
15 regard to the test that Staff asked the Company to
16 actually perform.

17 CHAIRMAN HONIGBERG: Mr. Sheehan.

18 MR. SHEEHAN: They requested a letter
19 from PHMSA. They represented to PHMSA that this was "an
20 emergency". We think that is incorrect. And, I'm trying
21 to establish that it is incorrect using their own
22 definition of "emergency".

23 CHAIRMAN HONIGBERG: Overruled.

24 BY MR. SHEEHAN:

- 1 Q. My question, Mr. Ahlin, was "when those alarms go off?"
2 And, I think your answer was "I don't know."
- 3 A. (Ahlin) I don't think anybody can predict that, sir.
- 4 Q. Could it be days?
- 5 A. (Ahlin) Depending on flow conditions, it is a
6 possibility. It's a multi-feed system.
- 7 Q. And, this test was at a time of low use, in the spring,
8 I believe, early summer?
- 9 A. (Ahlin) Yes, it was.
- 10 Q. And, that would contribute to an alarm less likely to
11 go off, correct?
- 12 A. (Ahlin) Not necessarily.
- 13 Q. And, so, if that alarm finally did go off, you say that
14 the steps you would take would be "an investigation",
15 is that correct?
- 16 A. (Ahlin) That would be correct. We would call a
17 technician out to investigate.
- 18 Q. And, the technician, I assume, would find out that the
19 worker isn't working?
- 20 A. (Ahlin) Correct.
- 21 Q. And, what would the technician do if he or she found
22 out the worker was not operating properly?
- 23 A. (Ahlin) Depending on what the issue was with the
24 regulator, they would try and -- first of all, they

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 would isolate that piece of equipment. And, then, they
2 would investigate to find out what happened.

3 Q. And they would fix it or replace it, is that a fair
4 assumption?

5 A. (Ahlin) I would say so, yes.

6 Q. And, during any of that process, would the public ever
7 be at risk?

8 A. (Ahlin) As long as the -- as long as the monitor
9 regulator was functioning, no.

10 Q. Are you familiar with the definition of "emergency
11 situation" in the PUC rules?

12 A. (Ahlin) No, I'm not.

13 Q. In your testimony at Pages 8 and 9, you list a 7-step
14 process described as "the procedure we use to set
15 regulator set points in a worker-monitor
16 configuration". Do you see that?

17 A. (Ahlin) Yes, I do.

18 Q. Does this 7-step procedure appear in the Company's O&M
19 anywhere?

20 A. (Ahlin) Not that I'm aware of, no.

21 Q. Is there any way that someone outside of the Company
22 would know that this 7-step procedure exists, other
23 than now reading your testimony?

24 A. (Ahlin) Anybody that was OQ'd in the Series 60 tests

1 from the NGA would understand this.

2 Q. And, to explain what the abbreviations you just said,
3 "OQ" is qualified?

4 A. (Ahlin) This is "Operate Qualifications", which has
5 been stated by Mr. LeBlanc that we are part of, and our
6 technicians are -- have been trained and tested to what
7 we refer to as a "Series 60s test", regulator --
8 regulator maintenance, bypass and --

9 (Court reporter interruption.)

10 **CONTINUED BY THE WITNESS:**

11 A. (Ahlin) Series 60. They're a series of tests, numbered
12 in the 60s for various --

13 BY MR. SHEEHAN:

14 Q. So, that's where we would find this procedure numbered
15 (1) through (7)?

16 A. (Ahlin) Not specifically, no. Everybody -- every
17 company, I would assume, has their own specific
18 regulations. This is developed in relation to our O&M,
19 to the specs of where we disagree again, to make sure
20 that we comply with 195.201.

21 Q. But you just told me it's not in your O&M?

22 A. (Ahlin) Just to meet those conditions. Every regulator
23 has a different -- there's a different configuration to
24 them. They're not, you know, they're not an

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 individual. Basically, they all operate the same, in
2 that they reduce pressure. So, anybody that's familiar
3 with regulators and pressure regulation would
4 understand this.

5 I wouldn't expect somebody or the
6 Commissioners to go and understand exactly what this --
7 what this meant.

8 Q. My question was, that these steps, (1) through (7) are
9 not in the Company's O&M?

10 A. (Ahlin) That's correct.

11 Q. And, do they appear -- well, strike that. I understand
12 there are five regulator stations that bring gas into
13 the Portsmouth intermediate pressure system?

14 A. (Ahlin) I believe that's correct, yes.

15 Q. And, that they all have roughly the same worker/monitor
16 arrangement as this New Hampshire Avenue Station, is
17 that correct?

18 A. (Ahlin) Approximately, yes.

19 Q. Is it the same equipment? The same regulator
20 equipment?

21 A. (Ahlin) Same regulators. I believe, possibly different
22 pilots.

23 Q. Are they set at the same set points?

24 A. (Ahlin) No.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. I think you just explained one that on this day wasn't
2 set at the same, because it was a supply point used
3 mostly for the winter, is that correct?

4 A. (Ahlin) That is correct.

5 Q. Can the Company change set points easily, for lack of a
6 better word? Let me ask it. What do you do to change
7 a set point? If I'm at a regulator station, what do I
8 actually do, if I want to go from 52 to 48?

9 A. (Ahlin) You would adjust the -- you would adjust the
10 set screw.

11 Q. And, that's it?

12 A. (Ahlin) That's -- well, no. No, actually, it isn't.
13 Without getting too deep into the weeds, there's more
14 that can go into that. Again, you're dealing with
15 fluid systems here. You have to be aware of what
16 customers you're affecting. Certain customers have
17 different pressure requirements. There are adjustments
18 on it to control the opening and closing of it, how
19 quickly you do that. So -- but, basically, to put it
20 in a high level, yes, you turn -- you turn the
21 adjustment screw, either out or in, to change the
22 pressure setting on the pilot.

23 MR. SHEEHAN: That's all I have. Thank
24 you, Mr. Ahlin.

1 CHAIRMAN HONIGBERG: Commissioner Scott,
2 do you have questions?

3 COMMISSIONER SCOTT: Yes. Thank you.
4 And, good morning. Thanks for coming back. My usual
5 caveat is, whoever feels is best to answer, please go
6 ahead.

7 BY COMMISSIONER SCOTT:

8 Q. I was curious, you just finished up a discussion, Mr.
9 -- well, again, whoever feels the best, regarding
10 testing the regulators. And, I saw your seven steps
11 you talked about, from Mr. Ahlin, on Page -- Page 8 of
12 your testimony. How do you know -- well, let me back
13 up. How does that testing protocol take into account
14 the build-up? Or, let me ask it another way. How do
15 you know what the ultimate pressure will be when you
16 include the build-up for the regulator?

17 A. (Ahlin) I will defer to Mr. Pfister on that.

18 Q. Great. Thank you.

19 A. (Pfister) When the regulators are set in the method
20 that's described in Mr. Ahlin's testimony, the pilot
21 screws are adjusted to bring the flow and to bring the
22 system pressure up to the set point of the regulator
23 that we're looking for. In this case, the monitor at
24 55, and the control regulator at 52 or 53 pounds.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Taking account for the build-up, that's based on
2 knowledge of the manufacturer's pilot performance. For
3 the given spring range in a pilot, the manufacturer
4 tells you what the build-up pressure will be, with a
5 restricter at a certain setting and with that spring
6 range.

7 Q. Do you test that also or is that, basically, just you
8 go with the manufacturer's specs?

9 A. (Pfister) We go with the manufacturer's specs. And,
10 when we -- when we do make that pressure adjustment on
11 the monitor regulator, we bring it up slowly to the set
12 point, and we leave it at the set point for a period of
13 time to observe that it is actually controlling the
14 system pressure at its set point.

15 Q. So, am I safe to assume that, including the build-up,
16 if you will, they're all -- put it this way, the
17 ones you -- all the regulators you have basically
18 are -- have a build-up pressure below 62 for the
19 emergency psi?

20 A. (Pfister) Yes. I would say that's true. This
21 particular pilot configuration that we use, this -- the
22 H2O pilot, it's documented as a 2-pound build-up for
23 lock-up. Other spring ranges have, you know, depending
24 on what the application is and what the pressure rating

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 of the system is, it may have a different spring in it,
2 and that would have -- also have a corresponding
3 lock-up pressure associated with that pressure range in
4 that spring. However, in our 56 pound systems, the
5 springs that we have in there limit the build-up and
6 limit the lock-up pressure to two pounds over, over set
7 point.

8 Q. Are you aware, again, this is whoever's best to answer,
9 of other utilities that operate within the MAOP in all
10 circumstances?

11 A. (Pfister) I would say, as a general rule, other
12 utilities operate -- operate normal operations within
13 their MAOPs.

14 Q. Okay. I guess that's fine.

15 A. (Pfister) I'm sorry, was that -- was that where you
16 wanted me to go or --

17 A. (LeBlanc) Maybe I could help clarify. Other utilities
18 that we're aware of would set their worker -- worker
19 regulators at or below MAOP. We're familiar with other
20 utilities that set their overpressure protection, i.e.,
21 their monitor regulators, we're aware of a few
22 utilities that set them at AOP -- at MAOP, and we're
23 familiar with a few other utilities that actually set
24 their monitors above MAOP, but within the bandwidth of

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 the build-up pressure allowed in case of a failure. I
2 mean, from my knowledge of the local utilities, Unitil
3 has the most conservative approach to set points of our
4 regulators. We're not aware of another utility in the
5 area that is as conservative as we are.

6 Q. Thank you. In testimony, and again this was talked --
7 questioned just now, too, the statement was made it
8 would be "millions of dollars to redesign the system to
9 meet MAOP at all times". That, if I, correct me if I'm
10 wrong, that was kind of a guess at the time, because
11 there hadn't been a study of that, is that correct?

12 A. (LeBlanc) Well, the Engineering group performed a
13 high-level analysis, and they did it on both the IP
14 systems, as well as the low pressure systems. And,
15 there's two different results. So, they actually
16 analyzed the systems, from the IP system is, if we had
17 to change our set points, to ensure that whenever we
18 have a failure of a worker regulator, and it went on
19 monitor, MAOP was never exceeded, including the
20 build-up pressure, obviously, we have to lower the set
21 points. Three systems in the IP system are -- the
22 pressure during winter conditions, when we're at our
23 highest flow, would fall below engineering design
24 criteria. And, that would trigger our Engineering

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 group to look for system improvements. That may be
2 additional supply points, it may be replacing smaller
3 diameter pipe with larger diameter pipe, or other types
4 of improvements on there.

5 So, they did the engineering analysis on
6 what the results would be. But, to actually come up
7 with a design on what system improvements were needed
8 to raise the pressures on that, they have not completed
9 yet.

10 And, that's the same with the low
11 pressure distribution system. And, low pressure would
12 be a little more pressing, because, if we had to change
13 our set points on our regulators in the low pressure
14 distribution system, during winter conditions, right
15 now, downstream pressure points are going to be getting
16 into the range where customers are going to start
17 having issues with their equipment functioning
18 properly. So, there will be more pressing of a need
19 for system improvements in that context.

20 Q. You just mentioned "the Engineering staff hasn't
21 completed that evaluation yet". Is that ongoing?

22 A. (LeBlanc) They haven't. That's a significant
23 undertaking, from an engineering perspective. So, they
24 haven't started doing those studies, pending the

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 outcome of this -- of this hearing. But, if we were
2 required to lower the set points on that, they would
3 actually have to start performing those designs, and
4 coming up with the changes that would have to be made
5 to the system, to ensure that we fell within design
6 parameters. And, more importantly, in the low pressure
7 distribution system, making sure that we had enough gas
8 in the winter months to make sure that the customers'
9 equipment functioned properly.

10 Q. Do you have an idea of what kind of time that would
11 take to have that evaluation done?

12 A. (LeBlanc) The engineering analysis, with their
13 current -- I would assume that type of analysis and
14 design point would probably take weeks or months, with
15 all the other activities that are going on at this
16 time.

17 COMMISSIONER SCOTT: Thank you. That's
18 all I have.

19 CHAIRMAN HONIGBERG: Commissioner
20 Bailey.

21 COMMISSIONER BAILEY: Let's start with
22 some -- I don't have a lot of questions, but some basics.

23 BY COMMISSIONER BAILEY:

24 Q. I understand the monitor regulator and the worker

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 regulator. But you've used the term "pilot". Can you
2 tell me how the pilot interacts with the regulators or
3 if it -- what that does?

4 A. (Pfister) The pilot actually is what operates the main
5 body of the regulator. Some people use the term
6 "amplifier". It amplifies and accentuates changes in
7 system pressure, to apply pressure to other parts of
8 the main regulator body to actually perform the
9 pressure control function.

10 Without getting too complicated,
11 basically, gas flows from a higher pressure through the
12 pilot, and the pilot, based on its set point, controls
13 how much of that upstream pressure is applied to a tube
14 that's inside the regulator, that closes the tube or
15 opens the tube. So, it's kind of -- it's the control.

16 A. (Ahlin) It's the brains.

17 A. (LeBlanc) Yes. And, if I could --

18 A. (Ahlin) It's basically the brains of the operation, the
19 pilot is.

20 Q. The brains of the regulator?

21 A. (Ahlin) It's the brains of the regulator. The main
22 body, the gray -- the big, gray part actually does the
23 work, and the piece that's mounted on the side is the
24 pilot.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) Right. So, if you look at it in layman's
2 terms, as Rick said, the regulator itself is actually
3 doing the work of pressure regulation on the system.
4 The pilot is actually the brain of that and is telling
5 the regulator to open or close to monitor, to regulate
6 pressure on that. So, the regulator itself is getting
7 its instructions for opening and closing the regulator
8 from the pilot. So, the pilot is the brain of that
9 operation, to use layman's terms.

10 Q. And, is there a set point on the pilot? And, is it
11 different than the set point that we're talking about?
12 Are there two set points?

13 A. (Ahlin) There's a range. The spring that's hanging on
14 the bottom there [indicating], Commissioner?

15 Q. Uh-huh.

16 A. (Ahlin) That's what would be located in the upper
17 portion of the pilot. That particular -- that
18 particular spring has a range that's manufactured at
19 the manufacturing facility, and that particular one has
20 a range of 25 to 90 psig. You can put any spring that
21 you want in there. They come in inches of water column
22 below one pound, they come as high as, in this
23 particular regulator, I believe you can get them as
24 high as like 450 pounds. So, depending on what spring

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 you put in the pilot is the range of pressure that you
2 can control. So, in a 56-pound system, you would
3 typically try to keep your spring range about in the
4 middle. So, a 25 to 90 pound spring would give you the
5 operating pressure of the system about in the middle of
6 the spring range.

7 Q. Okay. Thank you. We've talked a little bit about --
8 or, you've talked a little bit about what it would take
9 to reconfigure the system if it were determined that
10 you couldn't exceed the MAOP in your pressure build-up.
11 And, Staff asked you questions about a regulator that
12 only had a 1 pound pressure build-up, so, you could
13 keep it at 55, you could keep the monitor at 55, and
14 then you wouldn't have to redesign the system, and do
15 all those engineering studies that you just discussed,
16 correct?

17 A. (LeBlanc) That is correct.

18 Q. Okay. And, is the third option to change the MAOP?

19 A. (LeBlanc) Theoretically, you can do this. In this
20 system, the MAOP of this system is 56 pounds, and
21 that's based on the -- in accordance with 619, the
22 design pressure of the weakest element in that system.
23 So, we have pipeline components in there that have a
24 maximum design pressure of 56 pounds. So, that is the

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 limits of MAOP on the system. If we wanted to increase
2 MAOP on that system, we would have to replace all of
3 those components that had a design pressure limitation
4 of 56 pounds. So, it would require -- it would require
5 replacing facilities.

6 Q. So, if the maximum design pressure is 56 pounds on
7 certain elements in the system, isn't -- hang on. If
8 it goes above, if those elements go above 56 pounds,
9 have they exceeded the design capacity?

10 A. (LeBlanc) No, because the design pressure has a
11 built-in safety factor. And, so, these components
12 right here, the design pressure was 56 pounds. In 192,
13 they have a calculation that determines the design
14 pressure. MAOP is not established at the maximum --
15 the maximum safe pressure. So, if you go over that by
16 a little bit, you're going to have -- you're going to
17 have the risk of those components failing. So, the
18 design pressure has a safety factor. And, in this
19 instance, it's 32 percent. So, basically, and do the
20 math in my head, 175 pounds would be the pressure that
21 that component would see before we would start to see
22 defatation of the material or possibility of failure.
23 So, basically, they calculate that, and then they do a
24 safety factor of 32 percent, which brings the design

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 pressure down to 56 pounds. That's how we know, when
2 you have build-up pressure, that it's safe for the
3 components in there. So, they give you a build-up
4 pressure of 6 pounds in that system. We have
5 components in that system that have an MAOP of
6 56 pounds. But we know that those components can see
7 pressures up to approximately 175 pounds before they
8 would -- there would be defatation of the material or
9 possible failure. And, that's how we know, when we
10 actually install those components, we actually pressure
11 test them under static conditions at one and a half
12 times MAOP. And, it's safe to actually put pressures
13 above one and a half, at one and a half times in there,
14 and they're safe for that pressure.

15 Does that answer your question?

16 Q. It gives me some more information.

17 A. (LeBlanc) Oh.

18 Q. Thank you.

19 A. (LeBlanc) I'm sorry.

20 Q. That's fine. That's good. So, on the day of the test,
21 do you consider the period of time that it went to
22 57.2 pounds an "accidental overpressurization"?

23 A. (LeBlanc) I wouldn't consider it an "accidental
24 overpressurization".

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. So, in your testimony, Mr. LeBlanc, on Page 15, you
2 quote 192.195(b), which says that the distribution
3 systems must "be designed to prevent accidental
4 overpressurization."

5 A. (LeBlanc) That is correct.

6 Q. So, what is that regulation intended to cover?

7 A. (LeBlanc) 195 is -- establishes the parameters for
8 accidental overpressurization. So, 195(a), and I'll
9 refer to the Code, --

10 Q. But just tell me about 195(b).

11 A. (LeBlanc) 195(b), is to prevent -- so, in this system,
12 I'll try to do it in terms that are not too technical,
13 is the -- for accidental overpressurization, what
14 they're trying to prevent is the introduction of full
15 upstream pressure downstream. So, we have a worker
16 regulator in there that's regulating the pressure to
17 MAOP. We need to have a device in there to prevent
18 accidental overpressurization in the case of a failure
19 of the worker regulator. That monitor regulator is our
20 device that prevents accidental overpressurization,
21 which will prevent, in the case of a failure, full
22 upstream pressure being introduced to the downstream
23 distribution system. So, the monitor regulator itself
24 meets the requirements of 195(b).

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. So, overpressurization, from what you just said, means
2 when the full amount of pressure -- I'm sorry, I don't
3 know the term, but before the distribution system, --

4 A. (LeBlanc) Right.

5 Q. -- the feeder, or the supply, goes all the way through
6 to the distribution system, that's overpressurization?

7 A. (LeBlanc) So, the way it would work is, we have an
8 upstream -- we have an upstream pressure, and we have a
9 system downstream that has an MAOP less than -- less
10 than upstream inlet pressure.

11 Q. Right.

12 A. (LeBlanc) We need to have a regulator that regulates
13 pressure under normal operations to limit MAOP, plus we
14 must have some type of overpressure protection device,
15 195(b), to prevent accidental overpressurization of
16 that system, in case that monitor failed.

17 Q. I get that.

18 A. (LeBlanc) So, the monitor -- the monitor regulator
19 meets the requirements of 195(b), because when -- if
20 the worker failed, (b) meets the requirements of
21 accidental -- of accidentally overpressurizing that
22 system to full inlet upstream pressure.

23 Q. So, looking at the flow diagram in Tab B, --

24 A. (LeBlanc) Yes.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. -- you have incoming 492 psig?

2 A. (LeBlanc) That is correct.

3 Q. And, a regulator changes the pressure to 56 psig,
4 right? That's what --

5 A. (LeBlanc) Well, the set point of the worker is 52.

6 Q. Oh, right. Sorry.

7 A. (LeBlanc) But, yes.

8 Q. Yes. But not to go above 56, that's what --

9 A. (LeBlanc) That's correct.

10 Q. That's what this whole system is supposed to do?

11 A. (LeBlanc) Right. So, --

12 Q. So, the only time that you're ever going to have
13 overpressurization on the left-hand side is when
14 everything there fails, and you have 492 psig going
15 into the distribution system?

16 A. (LeBlanc) We would have to have a double failure. We'd
17 have to have a failure of the -- failure of the worker
18 regulator, and then a failure of the monitor regulator.

19 Q. In both runs?

20 A. (LeBlanc) Right. Which is why, if we -- if we weren't
21 at a station, and we have had alarm points when a
22 worker failed, we treat that as an emergency, because
23 we don't know the conditions of what caused that to
24 fail. And, so, basically, what you're doing is you're

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 eliminating your overpressurization and you're relying
2 on one regulator. So, we would respond and react as an
3 emergency, because, basically, you're down to one
4 regulator, and the SCADA point doesn't tell you why
5 that regulator failed. All we know as a company that
6 we had a failure, we only have one regulator now
7 between upstream pressure and downstream pressure. We
8 don't have technicians on the site that can easily
9 close a valve and control a situation. So, we're going
10 to respond as an emergency and take appropriate steps,
11 to ensure that whatever caused that first regulator
12 fail is not going to affect the second regulator,
13 because we're down to one piece of equipment now
14 between 492 and 56.

15 Q. Okay. So, if you were in charge of another gas company
16 who sets the monitor regulator at MAOP?

17 A. (LeBlanc) Yes.

18 Q. And, the distribution system was operating because the
19 monitor regulator was set to 57, say?

20 A. (Witness LeBlanc nodding in the affirmative).

21 Q. And, so, the distribution system now exceeded the MAOP
22 by just a pound, that's not overpressurization?

23 A. (LeBlanc) It would be -- we would have overpressurized
24 the system, yes.

1 Q. Okay.

2 A. (LeBlanc) Because the way the Code, and I think this is
3 in our PHMSA interpretation, the build-up pressure is
4 only allowed for the short duration while that monitor
5 regulator takes over. So, if you look at our PHMSA
6 interpretation, we have our set points below MAOP.
7 When we had a failure of the worker, the monitor is
8 taking over, the build-up pressure is allowed for the
9 short duration of time, and I think that's the language
10 they used in our interpretation, the short duration of
11 time it takes for the monitor regulator to take control
12 of the system and regulate pressure.

13 Q. Okay. Do you have a copy of Mr. Sher's testimony?

14 A. (LeBlanc) Yes, I do.

15 Q. Can we go to the PHMSA interpretation, --

16 MR. HEWITT: That's at Tab N. The
17 Company's PHMSA interpretation is Tab N to
18 LeBlanc/Pfister.

19 BY COMMISSIONER BAILEY:

20 Q. And, just hang on just a second. Well, I'm talking
21 about the passage in Mr. Sher's testimony. Let me see
22 if I can find it. Okay. I think it's on Page 19.
23 Yes.

24 MR. HEWITT: And, Commissioner, just to

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 be sure, we filed a corrected version of Page 19.

2 COMMISSIONER BAILEY: I have it.

3 MR. HEWITT: Okay. Terrific. Thanks.

4 COMMISSIONER BAILEY: Oh. Yes, I have
5 the corrected version.

6 MR. HEWITT: Okay. Good.

7 COMMISSIONER BAILEY: Yes.

8 MR. HEWITT: Thank you. Sorry to
9 interrupt.

10 COMMISSIONER BAILEY: That's okay.

11 Thanks.

12 BY COMMISSIONER BAILEY:

13 Q. Okay. So, this is an excerpt from the PHMSA
14 interpretation, right?

15 A. (LeBlanc) Is that the Q&A that starts on Line 5?

16 Q. Yes.

17 A. (LeBlanc) Okay.

18 Q. And, then, the single-lined text that's between Line 13
19 and Line 26, I think that's the question that you
20 asked or the Company asked PHMSA?

21 A. (LeBlanc) Yes. That's correct.

22 Q. Okay. Did one of you guys write this question?

23 A. (LeBlanc) Yes.

24 Q. Okay. So, this question asks if "does the operator

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 violate the design criteria if the system pressure does
2 not exceed 62 pounds?" And, PHMSA said "no, you don't
3 violate the design criteria."

4 A. (LeBlanc) Right.

5 Q. Did you ask if you violated the MAOP criteria, which is
6 192.619?

7 A. (LeBlanc) No, we did not. Because 619, if you look at
8 PHMSA's enforcement guidance, refers to "normal
9 operations". A failed worker regulator is an emergency
10 condition, which wouldn't be defined as "normal
11 operations". So, we asked the question on 201, because
12 where 619 refers to "normal operations", when we have
13 an emergency situation like a failed worker regulator,
14 the overpressure protection requirements would come
15 into play in 201.

16 Q. Right. Okay. So, what do you have to say about
17 Staff's position that this was "normal operations"?

18 A. (LeBlanc) If you look at the enforcement guidance for
19 619, it's clear that 619 refers to "normal operations".

20 Q. Right. But what is "normal operations"?

21 A. (LeBlanc) That would be --

22 Q. When customers are connected?

23 A. (LeBlanc) No. It would be when all of the system's
24 components and the system itself is functioning as

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 designed and within manufacturer's specifications.

2 Q. Okay. Can you show me where it says that, so I can see
3 it?

4 A. (LeBlanc) That is not defined anywhere in Code. But
5 that would be a common --

6 Q. Okay.

7 A. (LeBlanc) -- common interpretation. So, everything in
8 the system is performing as designed, and that all the
9 components in the system are performing within
10 manufacturer's specification and as intended. So,
11 everyday operations. When we have a failure of a
12 component or a failure of other part of the system,
13 that would be an abnormal operating condition and/or an
14 emergency condition as well, such as a failed working
15 regulator.

16 COMMISSIONER BAILEY: Okay. All right.
17 Thank you very much. And, I thank you for taking this so
18 seriously. I can tell that you guys really take the
19 safety aspect of this very seriously.

20 WITNESS LeBLANC: Thank you.

21 CHAIRMAN HONIGBERG: Good morning. I'm
22 going to pick up where Commissioner Bailey left off.

23 BY CHAIRMAN HONIGBERG:

24 Q. The word "abnormal" has been thrown around a couple of

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 times. I want to make sure I understand how many
2 universes of operational scenarios there are. There is
3 "normal", there is "abnormal", and there is
4 "emergency". Is there a Venn diagram where there's an
5 overlap there? Is all abnormal -- not all abnormal is
6 an emergency or is --

7 A. (LeBlanc) No. "Normal operations" is as I described.
8 "Abnormal operating conditions" and "emergency
9 condition" can be separate, but they also can be the
10 same. And, I can provide an explanation, if it might
11 help?

12 Q. It might.

13 A. (LeBlanc) All right. A gas leak, and I'll use a
14 concept that we all pretty much understand, a gas leak
15 is a "abnormal operating condition" on the system. We
16 have grading criteria for our gas leaks. A Grade 1 gas
17 leak is a gas leak that poses a immediate probable
18 hazard to persons, property, a contingency of the
19 system. So, a Grade 1 gas leak is an "abnormal
20 operating condition". It's also an "emergency". We
21 also have Grade 2 gas leaks that are not considered
22 hazardous at the time of detection. And, then, we have
23 Grade 3 gas leaks that are not considered hazardous.
24 They're still "abnormal operating conditions", but

1 they're not "emergencies".

2 So, abnormal operating conditions and
3 emergencies sometimes can be one in the same, such as a
4 failed -- a failed monitor regulator is an "abnormal
5 operating condition", the Company would also treat that
6 as an "emergency".

7 Q. So, not all -- not all "abnormal conditions" are
8 "emergencies"?

9 A. (LeBlanc) That is correct.

10 Q. Okay. So, the universe on which there's no overlap is
11 "abnormal" and "normal". You can't be in both?

12 A. (LeBlanc) That is correct.

13 Q. Once you're out of "normal", and in "abnormal", some of
14 them are "emergencies"?

15 A. (LeBlanc) That is correct.

16 Q. Is the failure of a worker regulator in and of itself a
17 an "emergency"?

18 A. (LeBlanc) We would consider it as such, yes. Because,
19 if you look at the definition of an "existing or
20 potential hazard to persons, property", the failure of
21 a worker, and we're on the monitor, may not be an
22 existing hazard, but the potential is there that
23 whatever caused that first regulator to fail, and we
24 don't have technicians on the scene to diagnose the

1 problem or understand it, the potential is there for
2 the failure of that second regulator. So, we would
3 treat that as an emergency, respond, and we would take
4 all actions to make it safe or correct the situation,
5 and we would not -- we would not leave that condition.

6 Q. And, the second regulator in that last answer that
7 you're referring to is the monitor regulator?

8 A. (LeBlanc) That is correct.

9 Q. Mr. Sheehan's questions of Mr. Ahlin touched on the
10 same topic. The hypothetical that he floated was "the
11 next day the worker regulator, in fact, failed."

12 A. (LeBlanc) That is correct, yes.

13 Q. And, "the monitor regulator performed as it was
14 designed."

15 A. (LeBlanc) Yes.

16 Q. To -- "the pressure floated up, and then was restored
17 to its set point."

18 A. (LeBlanc) Yes.

19 Q. I'm not sure I understood it, and it may be my faulty
20 hearing, how the Company would learn that the worker
21 regulator in that scenario failed?

22 A. (LeBlanc) Eventually, what would happen, and the
23 systems are fluid, and it all is depending on flow
24 rates, if we have very low flows on the system, we have

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 SCADA points on these systems. So, what would
2 happen -- and if the failure was for a longer duration
3 than what occurred in the test. I mean, downstream of
4 that, downstream of the regulator that they did the
5 simulated failure on, there is 84 miles of pipe, and
6 there's thousands of customers on that, on that system,
7 and they're drawing gas. So, the simulated failure was
8 very short duration. It was one to two minutes. It
9 wouldn't be expected that SCADA points downstream of
10 that, under flowing conditions, with 84 miles of pipe,
11 with a very -- and the failure wasn't catastrophic,
12 they failed it very slowly, that it's not unexpected
13 that the SCADA points would not see that type of
14 pressure.

15 If we had a catastrophic failure of that
16 regulator the next day, where we're not slowly
17 introducing pressure failing that, but it was just a
18 catastrophic failure, and we were immediately putting
19 pressures in there, the SCADA points that we do monitor
20 the system at would alarm at our gas control center in
21 Portsmouth, and they would go off. The timing on that,
22 on how long it would take for those SCADA points to go
23 off, that would depend on flow conditions and how many
24 customers, and I can't tell you how long that would

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 take. But the failure that we simulated was a very
2 slow failure of that worker, where wouldn't be -- would
3 not occur in, you know, under a realistic failed
4 emergency, where it would fail very quickly. They very
5 slowly brought the pressure -- they failed the
6 regulator very slowly.

7 Q. Okay. But the monitor regulator is what then would
8 take over?

9 A. (LeBlanc) That is correct.

10 Q. And, it would establish a new pressure level, a
11 slightly higher pressure level at the monitor regulator
12 set point, correct?

13 A. (LeBlanc) Yes.

14 Q. And, eventually, the SCADA readings downstream would
15 show the higher pressure at some point when demand on
16 the system showed that? Mr. Pfister, I think maybe you
17 want to help out here.

18 A. (Pfister) That's correct. That was exactly the point
19 that I was going to make. Over time, when the monitor
20 takes over control of the system at its set point of 55
21 pounds, you would eventually see that 55 pounds at the
22 extremities of the system, including the SCADA pressure
23 transmitter points, that would, in turn, alarm Gas
24 Control in Portsmouth, and that would be a high alarm

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 condition that would result in a call-out of a
2 technician to go -- to respond and investigate that
3 situation, because, at 55 pounds, you know you're above
4 what your normal set point is.

5 Q. And, what triggers the alarm?

6 A. (Pfister) There are set points established within the
7 SCADA system. And, I believe -- I believe, on this IP
8 system, I think our high alarm is 54, and the high-high
9 alarm I think is 56, right at the MAOP. Is that
10 correct, Rick?

11 Q. The specific numbers aren't significant. But it's the
12 pressure downstream. And, because the monitor
13 regulator was the one setting the pressure in the
14 system, it would float above one of those downstream
15 alarm pressure levels?

16 A. (Pfister) That's correct.

17 Q. And, that would cause you to take the steps in the
18 Emergency Plan to send people out to figure out what
19 had happened?

20 A. (Pfister) That's correct.

21 A. (LeBlanc) That's correct.

22 Q. Mr. Ahlin, in your testimony, on Page 5, the question
23 that is asked on 9 and your answer begins on 10. Let
24 me know when you're there.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (Ahlin) Would you repeat the lines again please.

2 Q. It's the question that begins on -- that is on Line 9,
3 and your answer begins on Line 10. And, I'm
4 particularly interested in the sentence that begins on
5 Line 12 with the word "because". Are you there?

6 A. (Ahlin) Yes. I am there, sir.

7 Q. I mean, I can read that, we could all read it out loud.
8 But was gas running through Run B when you simulated
9 the failure of the worker regulator on Run B?

10 A. (Ahlin) No. It was not.

11 Q. When you then simulated the failure, did gas begin to
12 flow through that run?

13 A. (Ahlin) It would, yes, sir.

14 Q. Not "would", did it?

15 A. (Ahlin) Yes.

16 Q. Okay. Did you have to disable Run A in order to run
17 the test on Run B?

18 A. (Ahlin) No.

19 Q. Okay. Walk me through that. How does that work? How
20 does the sentence that is on Lines 12 and 13, what then
21 makes it untrue, once you start running the test?

22 A. (Ahlin) Being a dual-run system, you have to keep your
23 set pressures separate. The same as you would with a
24 worker/monitor set point, with a dual-run system, you

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 need to keep your set points separate. So, Run A was
2 at 52; Run B was at 50. As you turn the adjustment in
3 on your pilot, you get to a point of 52. Now, you turn
4 it in a little bit more, you get to 53, now the A run
5 shuts down, because the 52 has been satisfied as you
6 continue to turn you set point in, now you are flowing
7 gas through -- through your Run B. That's why there
8 wasn't to begin with, but, eventually, there is.

9 CHAIRMAN HONIGBERG: Thank you. That is
10 very helpful. That's all I had.

11 Mr. Hewitt, do you have any further
12 questions for your witnesses?

13 MR. HEWITT: I do. Would this be a good
14 time for the reporter to take a break, then I can collect
15 and try and streamline. Or, if you just want me to go,
16 I'm happy to go. Whatever your preference is?

17 CHAIRMAN HONIGBERG: All right. Why
18 don't you go ahead.

19 MR. HEWITT: That's fine. I can get
20 started.

21 **REDIRECT EXAMINATION**

22 BY MR. HEWITT:

23 Q. Mr. Ahlin, I'd like to start with you please. During
24 your cross-examination, Mr. Sheehan asked you a couple

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 of questions about -- the gist of his questions were
2 "why is it that you just didn't use your set point
3 procedure that you've outlined in your testimony? Why
4 didn't you suggest that when you were asked by
5 Commission Staff to fail the worker regulator?" Do you
6 recall that line of questioning?

7 A. (Ahlin) Yes, I do.

8 Q. Okay. So, is it correct, sir, that using the 7-step
9 procedure in your testimony, the purpose of that is to
10 establish set points for the worker and the monitor
11 regulator, correct?

12 A. (Ahlin) Correct.

13 Q. Okay. Will that test demonstrate where that monitor
14 regulator will lock up, in the event there is a failure
15 of the worker regulator?

16 A. (Ahlin) No.

17 Q. Okay. And, I believe, was it Mr. LeBlanc -- well, let
18 me ask you this question without going to Mr. LeBlanc.
19 Then, why is it that you have comfort then that, when
20 you set that worker -- when you set that monitor
21 regulator, in this case at 55 pounds, that you're not
22 going to exceed the 6-pound allowance under 192.201?

23 A. (Ahlin) Could you rephrase that please.

24 Q. Sure. This blue spring that I'm holding up, right?

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 What's the significance of this blue spring when you
2 put it in the pilot on this regulator that's on the
3 table in front of me?

4 A. (Ahlin) That is the controlling -- the controlling
5 piece of it.

6 Q. Okay. And, what's the significance that it's blue in
7 color?

8 A. (Ahlin) It signifies a certain spring range of the
9 pressure rating for it.

10 Q. Okay. And, I think we've already had testimony that's
11 in the record. But the Company provided specification
12 materials for this particular model of pilot that was
13 on the regulator on the day of Staff's inspection,
14 correct?

15 A. (Ahlin) Correct.

16 Q. Okay. And, for the record, that's in Exhibit 2, Tab
17 15. And, if I go to Page NU 0194 of that, and
18 Mr. LeBlanc's getting that for you.

19 MR. SHEEHAN: What page?

20 MR. HEWITT: I'm sorry. It's "NU 0194"
21 in the lower right-hand corner of Tab 15.

22 BY MR. HEWITT:

23 Q. Are you there, Mr. Ahlin?

24 A. (Ahlin) Yes, I am.

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. And, if I look on that table that's about a little over
2 halfway down, there's a table that's called "Pilot
3 Performance". Are you with me?

4 A. (Ahlin) Yes, I am.

5 Q. Okay. And, then, if I go down, and there's a column
6 that says "Spring Range" on the left, and then the
7 column immediately to the right of that says "Color",
8 correct?

9 A. (Ahlin) Correct.

10 Q. And, if I find the line that says "blue" spring, what's
11 the lock-up psi for this blue spring?

12 A. (Ahlin) The lock-up psi is 2.0 psi.

13 Q. Okay. So, is that the piece -- and, is that the piece
14 of information that gives you comfort that, if you set
15 your monitor regulator at 55, and the pilot is equipped
16 with a blue spring, then you can expect that that
17 monitor will only allow system pressure to be
18 57 pounds, plus a little bit?

19 A. (Ahlin) Yes. That would be correct.

20 Q. Okay. And, the "plus a little bit" is -- well, what is
21 the "plus a little bit"? And, if you would feel more
22 comfortable with Mr. Pfister answering that question,
23 I'm fine with Mr. Pfister answering that question.

24 A. (Ahlin) I can.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (Pfister) Go ahead. Go. I'll jump in.

2 A. (Ahlin) As I explained a little bit earlier, the pilot,
3 besides the spring, you have other adjustments on it.
4 And, as a result, it could go a little bit higher than
5 that. Everything being given equal and being
6 mechanical, it may not be to within a tenth of a pound.

7 Q. So, is it fair to say that, at a fairly high level,
8 that although the spring is intended to allow that
9 pilot to lock up at 2 pounds over set point, due to the
10 mechanical function of this equipment, it could be a
11 little bit more than that?

12 A. (Ahlin) That's correct.

13 Q. Okay.

14 A. (Ahlin) There will be a certain response time to it.

15 Q. Okay. And, that response time allows the pressure to
16 build even just a small amount more?

17 A. (Ahlin) Correct.

18 Q. Okay. Now, let me ask Mr. Pfister. So, Mr. Pfister,
19 you had a line of questions from Mr. -- from the
20 Staff's counsel earlier today, and he asked you
21 questions about a "theoretical" pilot that would have a
22 1 pound lock-up, correct?

23 A. (Pfister) Correct.

24 Q. And, the theoretical question that he then asked you,

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 the hypothetical question that he asked you was "well,
2 you could just put one of those pilots on, and have
3 your set points at 55, and then you wouldn't have to
4 worry about exceeding MAOP, correct?"

5 A. (Pfister) That's correct. That's what he suggested.

6 Q. That was his line of questioning, right? Well, you've
7 got a 2 pound spring that went to 2.2 in the field,
8 correct?

9 A. (Pfister) Yes.

10 Q. Okay. So, is a manufacturer going to guarantee you
11 that, if you have a hypothetical pilot that you have
12 set as having a 1-pound lock-up, is the manufacturer
13 going to guarantee to you that, under all conditions
14 that that pilot could experience during the normal
15 operation of that regulator in that system, is the
16 manufacturer going to guarantee you that the lock-up
17 pressure would never exceed 1.000 pounds?

18 A. (Pfister) I don't believe so.

19 Q. And, why is that?

20 A. (Pfister) Because, as Mr. Ahlin explained, because of
21 the mechanical function, and the response time in the
22 pilot as it's locking up and loading the regulator and
23 actually effectively shutting down the regulator, there
24 is still a flowing condition that would allow some flow

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 in the system, until it totally locks up and loads the
2 main regulator body.

3 Q. Thank you very much. Mr. Ahlin, back to you. It was
4 your understanding that Staff wanted to see where that
5 monitor regulator was going to assume control over
6 system pressure after there was a failure of the
7 worker, correct?

8 A. (Ahlin) Correct.

9 Q. And, would your seven procedures that are -- 7-point
10 procedure that's on your testimony, on Pages 8 and 9,
11 if you had performed that test, would that have
12 answered the question that Staff was seeking an answer
13 to?

14 A. (Ahlin) I don't believe so, no.

15 Q. And, that's because your 7-point test won't explain
16 where the lock-up is going to be?

17 A. (Ahlin) Correct.

18 Q. Mr. Ahlin, a minor point, but one that I want to make
19 sure that we cover, just to ensure that there isn't
20 confusion on the record. The Staff has introduced a
21 series of photographs that, in that Exhibit 2, starts
22 at Tab 16. And, there was a photograph that we focused
23 on earlier, which is, in the lower right-hand corner,
24 it says "Page 40 of 48".

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (Ahlin) I'm there.

2 Q. And, that's an enlargement of the pilot on the
3 regulator, correct?

4 A. (Ahlin) Correct.

5 Q. And, I just want to be -- I just want to clear this
6 issue up. We were talking about a "blue spring"
7 earlier, right?

8 A. (Ahlin) That is correct.

9 Q. Is there any question in your mind that there were blue
10 springs in the pilots on the day of the test?

11 A. (Ahlin) No. No question at all.

12 Q. Okay. As I look at this photograph, though, it looks
13 like the line or the box for a purple spring has had
14 some sort of demarcation in it?

15 A. (Ahlin) Yes.

16 Q. Okay. And, then, there's also, if I look to the left
17 of that pilot, there's a gray shadow that's sort of,
18 oh, goes left to right and upward. Do you know what
19 I'm referring to there? Let me ask the question a
20 different way. How does someone who goes out into the
21 field know what kind of spring is in the pilot on a
22 regulator?

23 A. (Ahlin) Each one of the regulators is done with a -- it
24 has a tag on it. And, it looks like this one was

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 probably misidentified. It could have been put in
2 afterwards. It looks like here that it would show a
3 "60 to 200 pound" spring. Obviously, given the
4 circumstances, we could not -- they wouldn't be in the
5 pilot, because we couldn't set the pressure that low
6 if, in fact, that spring was in there. So, that is
7 misidentified.

8 Q. Okay. So, that's misidentified. But is there any sort
9 of other demarcation? Do you have like a steel
10 plate --

11 A. (Ahlin) Yes.

12 Q. -- or anything that is on the system that would
13 identify what the spring is?

14 A. (Ahlin) Each regulator has an --

15 (Court reporter interruption.)

16 **CONTINUED BY THE WITNESS:**

17 A. (Ahlin) It's called an "Impress-O tag". It's a small
18 metal tag. And, it will give the set point and the
19 initials and the date of when that regulator was set.

20 MR. HEWITT: Thank you, Mr. Ahlin. And,
21 I apologize for taking the time to clear up what's
22 probably a minor issue. But I didn't want there to be
23 confusion on the record.

24 BY MR. HEWITT:

1 Q. Mr. Ahlin, just a couple of more questions. You were
2 asked, I believe, whether you thought that it was --
3 that it was unsafe when Staff asked you to perform the
4 test of the failure of the worker regulator, and your
5 response was that you "didn't feel it was unsafe." Can
6 you explain why you thought it wasn't an unsafe thing
7 to do?

8 A. (Ahlin) Well, We had qualified people, including
9 myself, right there, that if, for some reason, the
10 monitor regulator hadn't taken over, that we could have
11 taken corrective action. We were well within the
12 build-up pressure. It appeared that everything, to my
13 estimation, that the regulator was performing as it was
14 supposed to.

15 Q. Okay. And, as Staff asked you to perform that test for
16 them during their inspection, did you have any reason
17 to think at that time that what they were asking you to
18 do was in violation of any gas safety code?

19 A. (Ahlin) I would assume not.

20 Q. Why is that your assumption?

21 A. (Ahlin) I wouldn't believe that they'd ask me to do
22 anything that they thought was going to violate code.

23 Q. Okay. And, if, by contrast, the Staff asked you to do
24 something, and you thought that it would not be a safe

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 thing to do, what would you do in that circumstance?

2 A. (Ahlin) I think we'd have some discussion about it.

3 And, if we didn't come to an agreement, then I would
4 have made a phone call to my manager, Mr. Pfister.

5 Q. So, if you thought they were asking you to do something
6 that was unsafe, you wouldn't have just blindly done
7 it, you would have discussed your concern with that?

8 A. (Ahlin) That's correct.

9 Q. Okay. Mr. LeBlanc and Mr. Pfister, just a couple of
10 clean-up questions. You were asked on
11 cross-examination by Mr. Sheehan some questions about
12 your OQ qualifications and how some of those
13 qualifications had lapsed in recent years. Do you
14 recall that line?

15 A. (LeBlanc) Yes.

16 Q. Okay. And, in your job capacity that you have today,
17 as you sit on the witness stand, is it necessary for
18 you to have OQ qualifications to perform your job
19 functions?

20 A. (LeBlanc) No, it is not. Operator Qualification is
21 required for field personnel actually performing the
22 tasks in the field. And, we also, in Unitil's business
23 model, require our frontline supervisors, who are
24 directly supervising people in the field, to be OQ'd as

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 well. In my current capacity, I don't perform those
2 functions. So, it's not a requirement.

3 Q. Mr. Pfister, if I asked you the same question, will you
4 provide generally the same answer?

5 A. (Pfister) Yes.

6 Q. Okay. And, Mr. LeBlanc, why is it then that you do
7 keep up with your OQs from time to time, even though
8 they're not necessary for your job function?

9 A. (LeBlanc) I believe, I mean, I've been OQ'd in all the
10 tasks prior to that. I think it's a good idea to -- we
11 pride ourselves with all of our management staff being
12 technically competent to perform the tasks. So, I
13 attempt to keep all my OQs up-to-date to demonstrate my
14 technical proficiency, not only from a management
15 standpoint, but the capability of actually performing
16 that in the field.

17 Q. Okay. Mr. Pfister, do you have a different view of
18 that matter?

19 A. (Pfister) No. No. My view would be the same.

20 Q. Okay. And, the fact that your OQ qualifications have
21 lapsed, does that affect your competence in your mind
22 to testify on the issues that you've been -- that
23 you've addressed both in your prefiled testimony, as
24 well as during the oral examination?

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) No, it does not. Since the expiration of my
2 OQs, regulatory technology has not changed. Code has
3 not changed in regards to pressure regulation. And,
4 there has been no substantial changes to the 60 Series
5 testing protocols that are administered by the NGA.
6 So, I would say "no".

7 Q. Thank you. Switching gears -- I'm sorry. The same
8 question for you, Mr. Pfister. If I asked you the same
9 question, would --

10 A. (Pfister) The same answer, essentially, yes.

11 Q. Thank you. And, changing gears just slightly. During
12 cross-examination the last time we were all together in
13 this hearing room, Mr. Sheehan asked you a series of
14 questions about your O&M procedures and the importance
15 of O&M procedures. Do you recall that line of
16 questioning?

17 A. (LeBlanc) That is correct.

18 Q. And, your -- attached to your testimony is a copy of
19 your O&M Procedure 2-L. And, I believe that is at
20 Attachment J of your testimony. Is that the version of
21 your O&M Procedure 2-L that was in place at the time of
22 Staff's inspection?

23 A. (LeBlanc) No, it is not. The version that was in
24 testimony is our current version, which is "5.1", which

1 was -- excuse me -- rolled out on May 30th, 2015.

2 Q. Okay. And, I placed before you, and I believe the
3 Clerk distributed to the Commissioners prior to the
4 hearing this morning, what has been marked as "Exhibit
5 5". And, can you please explain for the Commissioners
6 what Exhibit 5 is?

7 A. (LeBlanc) That is the O&M Procedure that was in place
8 at the time of the -- time of the test at the regulator
9 station. Excuse me. It's Version 4.0, which was
10 rolled out, it's the April 2014 version.

11 Q. Thank you. And, to the extent there are revisions, and
12 at just a very high-level answer, to the extent there
13 are differences between the two versions of the O&M
14 Manual that relate to set points for the monitor/worker
15 regulators, would you just please explain what the
16 basis for those changes was?

17 A. (LeBlanc) Shortly after rollout of this, it was in
18 April '14, I'm not sure of the exact timing on that,
19 but it was after we were prepared to roll out the
20 April 2014 version of the O&M procedures, the Company
21 had a discussion with Staff over the phone talking
22 about set points of regulators. We explained our
23 philosophy of set points for regulators, that monitor
24 regulators are always set below MAOP, and workers are

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 below that, to ensure the proper operation of the
2 system. Staff was concerned with the language in there
3 that the way that April 2014 version read that someone
4 could construe that as actually setting set points of
5 regulators above MAOP. We assured them that that
6 wasn't our interpretation, but we would take a long at
7 the language and try to tighten it up, to make it more
8 clear that we would never establish a set point of
9 either a worker regulator or a monitor regulator above
10 the MAOP of that system.

11 Q. Thank you. And, along those same lines, given the
12 importance that Mr. Sheehan has emphasized about the
13 O&M procedures and the quality of those, has the
14 Company received any recognition for the quality of its
15 O&M procedures?

16 A. (LeBlanc) Yes, we are. The Company participates in the
17 American Gas Association's "Best Practices Program",
18 where companies get together in a roundtable format and
19 present topics and ideas on things that they do. The
20 Company was recently recognized as having a "Best
21 Practice" award for our O&M procedures, our approach to
22 O&M procedures, and our approach to how we implement
23 O&M procedures in the field.

24 Q. Thank you, Mr. LeBlanc. There were also some questions

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 during cross about -- generally about "build-up
2 pressure", and I know we talked a little bit about that
3 today as well. This concept of build-up pressure, is
4 this a phenomenon that's addressed within Part 192, the
5 Federal Gas Safety Code?

6 A. (LeBlanc) Yes, it is.

7 Q. And, can you provide some examples of where it is?

8 A. (LeBlanc) In Section 192.195(a), which references
9 "201", which we've talked about multiple times in this
10 hearing, where it talks about the concept of "build-up
11 pressure".

12 In 192.739(a)(3), which is Attachment D
13 to our testimony, where that's -- that's in Subpart M,
14 our Maintenance function. And, that's when we're
15 actually in the field testing our overpressure
16 protection equipment, where -- and I'll refer to that,
17 I'll actually read that. Basically, 192,739(a)(3),
18 "Except as provided in paragraph (b) of this section,
19 set to control or relieve at the correct pressure
20 consistent with the pressure limits of 192.201." So,
21 when we're out in the field actually performing
22 maintenance and testing our overpressure protection
23 equipment, this is the provision that we would use.

24 And, incidentally, that, when Staff was

1 actually in the field performing their test, this was
2 the provision that they were checking on that. And,
3 the Staff's module referred to "739(a)(3)". And, the
4 only difference is that the module truncated the full
5 provision of the Federal Code, and eliminated the
6 portion that said "set to control or relieve at the
7 correct pressure consistent with the pressure limits of
8 192.201".

9 And, then, the last example is in 605,
10 which is in Subpart L - Operations, which I believe we
11 put into an exhibit today. And, that's titled
12 "Procedural Manual for Operations, Maintenance, and
13 Emergencies." And, 192.605 --

14 Q. Let me stop you right there, Mr. LeBlanc, just so we
15 can orient, because I don't believe we talked about
16 192.605 on the record previously. But Mr. Sheehan
17 provided what we have marked as "Exhibit 4", and that
18 is a collection of regulations that Staff has compiled.
19 And, if you go to Page 11 of that compilation, I
20 believe 192.605 starts in the lower left-hand corner?

21 A. (LeBlanc) Yes.

22 Q. Okay. And, you -- and I'm sorry to interrupt, but it
23 sounded like you were going to just start discussing
24 192.605.

1 A. (LeBlanc) Sorry.

2 Q. That's okay. I apologize. I interrupted you. So, was
3 there a portion in 192.605?

4 A. (LeBlanc) Yes. That would be in Section (b), Item
5 Number (5), where it refers to "Starting and shutting
6 down any part of the pipeline in a manner designed to
7 assure operation within the MAOP limits prescribed by
8 this part," again, 605 is in Subpart L, which would be
9 Operations, so that would be referring to "619". And,
10 then, it's "plus the build-up allowed for operation of
11 pressure-limiting and control devices."

12 So, again, the Procedure Manual for
13 start-up and shut-down is prescribed in 605. And,
14 again, that points back to 201, which is the section of
15 the Code that talks about "build-up pressure".

16 Q. So, let me see if I understand. You've just given us
17 examples of three different provisions in the Code that
18 generally discuss "build-up pressure", correct?

19 A. (LeBlanc) That is correct.

20 Q. Okay. And, at least some of those relate to build-up
21 pressure in a monitor regulator when it assumes control
22 of gas pressure on the system, presumably due to a
23 failure of the worker?

24 A. (LeBlanc) That is correct.

1 Q. Okay. But, then, you just introduced this last one,
2 192.605(b)(5). This one discusses or addresses
3 "build-up pressure" in the context of starting up a gas
4 system, correct?

5 A. (LeBlanc) That is correct.

6 Q. And, when you're starting up a gas system, it wouldn't
7 be the monitor regulator that is assuming control, it
8 would be the worker regulator that's assuming control,
9 right?

10 A. (LeBlanc) Correct.

11 Q. Because the worker regulator is set at a lower pressure
12 than the monitor?

13 A. (LeBlanc) Yes.

14 Q. Okay. So, you then have essentially different
15 provisions of the Code. Some that deal with the worker
16 regulator and some that deal with the monitor
17 regulator, but both address this concept of a "build-up
18 pressure" that's allowed?

19 A. (LeBlanc) Yes. Code recognizes the concept of
20 "build-up pressure" in a variety places in the Code.

21 Q. And, you know what the limit of that build-up pressure
22 is --

23 A. (LeBlanc) Yes.

24 Q. -- through which provision in the Code?

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) 201. 192.201.

2 Q. So, all roads lead to 201 in this particular
3 circumstance?

4 A. (LeBlanc) That is correct.

5 MR. HEWITT: No further questions.

6 Thank you.

7 CHAIRMAN HONIGBERG: All right. I think
8 we're done with these witnesses. Mr. Sheehan?

9 MR. SHEEHAN: If I may be -- if I may be
10 heard? They introduced a new exhibit today, the change in
11 their O&M policy, from what they say was in effect last
12 year to what was really in effect. And, I think there's a
13 question I have about "effective dates", *etcetera*, that I
14 haven't had a chance to clarify with my staff. But, if I
15 could --

16 CHAIRMAN HONIGBERG: If you were to
17 ask -- if I were to allow you to ask the question, what
18 would that question be?

19 MR. SHEEHAN: Well, I haven't -- I'm
20 trying to get to the effective date of the changes that
21 relate to this case. There's a the old -- well, there's a
22 version they initially filed that says "X", there's a
23 version they just filed today that says "Y". And, they
24 testified just now that the one they filed just today is

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 really the one that was in effect when this test took
2 effect. I'm not sure of that.

3 CHAIRMAN HONIGBERG: "When this test
4 took effect" --

5 MR. SHEEHAN: When the test happened
6 last year.

7 CHAIRMAN HONIGBERG: I'm not sure that
8 was the testimony. But let's -- Mr. Hewitt, can you
9 clarify?

10 MR. HEWITT: Certainly.

11 BY MR. HEWITT:

12 Q. So, Mr. LeBlanc, --

13 CHAIRMAN HONIGBERG: Wait.

14 MR. HEWITT: I'm sorry. Oh.

15 CHAIRMAN HONIGBERG: Let's assume for a
16 moment we're done asking these gentlemen questions.

17 MR. HEWITT: Yes.

18 CHAIRMAN HONIGBERG: Can you clarify or
19 would you need Mr. LeBlanc to clarify effective dates?

20 MR. HEWITT: I believe -- I believe it
21 is in the record. However, it's my understanding that
22 what has been marked "Exhibit 5" is, in fact, the version
23 of the O&M policy that was in effect on June the 25th,
24 2014, which is the date of Staff's inspection of the New

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Hampshire Avenue Regulator Station.

2 MR. SHEEHAN: And, as a very brief
3 background, the revisions to these O&Ms are documented,
4 there are logs of edits and when they were made just for
5 this reason. And, there's a question in my mind whether
6 this revision of 4.0 was April of 2014 or July of 2014,
7 after the test here. Again, I don't have the answers just
8 in front of me, and it's not clear for me to trace, track
9 lines when/what happened. So, and there is a significant
10 difference in the two policies. So, that's why I have the
11 question.

12 CHAIRMAN HONIGBERG: So, you're
13 hypothesizing another version of this procedure that would
14 have an earlier effective date. Because what you're
15 saying is that what's dated "April 2014" in front of us
16 actually might not have taken effect until July?

17 MR. SHEEHAN: Or maybe I have it the
18 other way around.

19 CHAIRMAN HONIGBERG: I think you do.

20 MR. SHEEHAN: So, the existing
21 Attachment J says at the top "Version 5.1 May of 2015".
22 The Exhibit 5 says "Revised 4.0 April '14". There's also
23 a Revision 4.1 July of '14. That's the confusion. I'm
24 not sure what was changed in April of '14 and what was

[WITNESS: Sher]

1 changed in July of '14. And, like I said, this morning we
2 went to the computer and tried to figure this out. And, I
3 don't have an answer myself, but it's a topic that I would
4 like to have five minutes to confer with Staff to see if
5 we can explore with Mr. LeBlanc, if, in fact, we think the
6 dates aren't as they just suggested.

7 CHAIRMAN HONIGBERG: All right. Mr.
8 Hewitt, is there some way you can clarify dates and
9 revisions with your witnesses, so we can close the loop on
10 this?

11 MR. HEWITT: I'm not prepared to -- I
12 haven't discussed this issue with my witnesses.

13 CHAIRMAN HONIGBERG: All right.

14 MR. HEWITT: So, I'm not comfortable
15 asking a question on the record that I don't know the
16 answer to.

17 CHAIRMAN HONIGBERG: I'm sympathetic to
18 that. So, let's take a ten-minute break, and then we'll
19 try and nail this down, so that everybody is satisfied and
20 the record is clear. Does that work for everybody?

21 MR. HEWITT: That's acceptable to the
22 Company.

23 CHAIRMAN HONIGBERG: All right.

24 MR. SHEEHAN: Thank you.

[WITNESS: Sher]

1 (Recess taken at 11:50 a.m. and the
2 hearing resumed at 12:07 p.m.)

3 CHAIRMAN HONIGBERG: Mr. Sheehan.

4 MR. SHEEHAN: Thank you. We were able
5 to retrace the steps and confirm that the document that
6 was filed originally, Attachment J, it's dated May of
7 2015, it was actually put into effect July of 2014, after
8 the test at issue, but, again, July of 2015 [2014?]. And,
9 that the policy in Exhibit 5 that was introduced today was
10 the policy in effect at the time of the test. So, thank
11 you for letting us sort through that.

12 CHAIRMAN HONIGBERG: My pleasure. Mr.
13 Hewitt, I see Mr. Sher is on the standard, but we'll let
14 Mr. Patnaude swear him in.

15 MR. HEWITT: Yes. Thank you.

16 (Whereupon *Philip Sher* was duly sworn by
17 the Court Reporter.)

18 MR. HEWITT: Mr. Sher, good afternoon.

19 WITNESS SHER: Good afternoon, sir.

20 **PHILIP SHER, SWORN**

21 **DIRECT EXAMINATION**

22 BY MR. HEWITT:

23 Q. For the record, will you please state your name, spell
24 your last name.

[WITNESS: Sher]

1 A. Philip Sher, S-h-e-r.

2 Q. And, Mr. Sher, do you have a copy of the testimony that
3 you have filed in this proceeding?

4 A. Yes, I do.

5 Q. Okay. And, this is testimony that you either prepared
6 or was prepared under your supervision?

7 A. That is correct.

8 Q. Okay.

9 MR. HEWITT: And, for the record, we
10 have -- the Company did file, and it has been marked as
11 "Exhibit 1A", a correction to Mr. Sher's testimony that
12 was filed with the Commission on August 13 of 2015.

13 BY MR. HEWITT:

14 Q. And, in addition to that correction that was filed with
15 the Commission, do you have any other corrections to
16 your prefiled testimony as you sit on the witness stand
17 today, sir?

18 A. Yes. In the footnote at the bottom of Page 9, it
19 references "192.619(2)", it should be "192.619(a)(2)".

20 Q. So, that would be on Page 9, Footnote 5?

21 A. That is correct.

22 Q. And, with that correction, sir, if I were to ask you
23 each of the questions that are in your prefiled
24 testimony today, would you provide responses on the

[WITNESS: Sher]

1 stand today that are substantively identical to the
2 answers that are in your prefiled testimony, sir?

3 A. Yes, I would.

4 Q. Thank you, Mr. Sher.

5 MR. HEWITT: Based on prior examination,
6 cross-examination both by the Commissioners and by
7 Commission Staff, I just have a short additional redirect
8 -- direct, if I may please?

9 CHAIRMAN HONIGBERG: I would have been
10 surprised if you hadn't. Let's go off the record for a
11 second.

12 (Brief off-the-record ensued.)

13 CHAIRMAN HONIGBERG: All right. Go
14 ahead, Mr. Hewitt. Thank you.

15 BY MR. HEWITT:

16 Q. Mr. Sher, I just have a few additional questions for
17 you. I noticed in reviewing your CV that you filed,
18 and is attached as Attachment A, I believe, to your
19 testimony, there's a reference to the "GPTC". Can you
20 just explain for the Commissioners, really at a very
21 high level, what the "GPTC" is and what the
22 significance of that is being on your resumé?

23 A. Well, very quickly and briefly, we go back to 1926,
24 when everybody was concerned about pressure piping, and

[WITNESS: Sher]

1 ASME started a committee called "B31". They issued a
2 tentative --

3 (Court reporter interruption.)

4 BY MR. HEWITT:

5 Q. So, I would like you to continue with your answer --

6 A. Slower.

7 Q. And, I'm sorry. Yes. And, I apologize to the court
8 reporter, because I'm interrupting your response. But
9 I've already noticed that I need you to speak much more
10 slowly, not only so that the Commissioners can
11 understand what you have to say, but also so that the
12 court reporter can get down every word.

13 A. Okay. What's the last thing you have, sir?

14 Q. How about if we just start over?

15 A. Fine. The history starts in 1926, when the American
16 Society of Mechanical Engineers decided there was a
17 need for a code to cover piping. Not just gas piping,
18 all kinds of piping, electric power plants, all kinds
19 of pressure piping. They issued a tentative standard
20 in '35. By 1952, they had separated out the chapters
21 and created what's called B31.8, which deals with gas
22 transmission and distribution piping systems. There
23 were additions up through '68, when we had the National
24 Gas Pipeline Safety Act passed. And, what that did is

[WITNESS: Sher]

1 put the responsibility with the federal government,
2 Department of Transportation. They had to write
3 regulations. And, what they did largely is took the
4 old B31.8, and made some minor changes, and said "these
5 are now the federal regulations." So, the B31.8
6 Committee was out of a job. The people from ASME
7 talked with the people in Washington and decided they
8 would create this new committee, "Gas Piping", at the
9 time, "Standards Committee", now "Gas Piping Technology
10 Committee", they would issue a book providing industry
11 with some guidance on how-to ways to comply with the
12 regulations. That's the committee that I'm on. It
13 just celebrated its 45th anniversary. I've been with
14 them for 40 years. And, that's what we do. Is we
15 review the regs, try to come up with industry practices
16 to comply, as well as comment on and suggest changes to
17 the regulations.

18 Q. And, sir, during the majority of your career, did you
19 work for state government in the State of Connecticut?

20 A. Yes, I did. I worked for the state PUC, it changed the
21 names a lot over the 33 years, in their Gas Engineering
22 Division, and then later on we separated out with Gas
23 Pipeline Safety Unit. And, I ran those units for that
24 period of time.

[WITNESS: Sher]

1 Q. And, for how many years?

2 A. Thirty-three years.

3 Q. Okay. And, is that essentially the equivalent of the
4 position that Mr. Knepper holds with this Commission?

5 A. The safety part, yes. There are other parts in
6 addition. I understand Mr. Knepper is strictly safety
7 here.

8 Q. Okay. Thank you. During the hearing last week, there
9 was some discussion or questions from the Commissioners
10 of the Commission staff relating to, and I believe it
11 was Commissioner Scott that raised the question, and I
12 think the way he posited it was he said "Well, when you
13 have two provisions in the Gas Safety Code that are in
14 conflict, how do you resolve that conflict?" And, he
15 asked that question of Mr. Knepper. And, I'm
16 paraphrasing, but I think Mr. Knepper's response was
17 "well, in this particular case, you apply 619, because
18 619 is the", I think "more stringent" was the phrase
19 that was used. Do you agree with -- well, first of
20 all, do you agree that there is a conflict between the
21 provisions of the Code that have been discussed during
22 the course of this hearing?

23 A. No. I do not believe they're in conflict. I think 619
24 deals with normal operations, and the sections of the

[WITNESS: Sher]

1 Code in 201 deal with what happens when we have a
2 failure of a piece of equipment. And, it's not just my
3 opinion. It was referenced in an enforcement manual
4 that the federal government has. And, when they say
5 "guidance information" and how to interpret 619, it
6 says, Item 7, "Operators may not design or set normal
7 pressure controlling devices such that any part of the
8 system exceeds the MAOP." Their word is "normal". So,
9 there, indicated clearly, they're talking about "normal
10 operating conditions".

11 It goes on in the guidance, under 13, to
12 say "For overpressure requirements" --

13 MR. SHEEHAN: May I object? I object.
14 This isn't a cleanup or a putting the testimony in
15 context. This is just having Mr. Sher launch into his
16 testimony. And, I don't think that was the purpose of a
17 introductory, if you will, direct.

18 CHAIRMAN HONIGBERG: And, if I'm not
19 mistaken, he's reading from something that is an exhibit
20 to -- that you've already submitted, am I right, Mr.
21 Hewitt?

22 MR. HEWITT: That is correct. And, for
23 the record, the witness is referring to Exhibit 2, Tab 9.

24 CHAIRMAN HONIGBERG: Which we have read.

[WITNESS: Sher]

1 MR. HEWITT: Which you have read and it
2 is -- and it is in the record.

3 BY MR. HEWITT:

4 Q. So, Mr. Sher, without having you, if I may just lead a
5 little bit, without reading that document, is it --
6 would it be fair to characterize your opinion as being
7 that the guidance material for 619 is significant in
8 terms of the opinions that you're offering in this
9 proceeding?

10 A. Yes. That is correct.

11 Q. Okay. And, we've covered the issue, I believe, that
12 Commissioner Scott raised in terms of conflict. Can
13 you also address then this issue of whether a provision
14 of the Code, specifically 619, is more "stringent" than
15 the other provisions in the Code that we're discussing?

16 A. Well, the Code has to be looked at holistically.
17 You've got to look at the entire Code. What are we
18 trying to accomplish? And, how are we trying to
19 accomplish it? It is not the perfect code, with every
20 word exactly perfect. It was written by a bunch of
21 engineers who knew what they meant. And, I think it's
22 important to try to gain the sense of "what do we have
23 here? What are we trying to do? 619 is normal
24 operation. We know it's a piece of mechanical

[WITNESS: Sher]

1 equipment. The thought process has to be, "If we only
2 had a worker, and no monitor, what might happen? We
3 might have almost 500 pounds going into the downstream
4 system. This we must prevent." So, we put in a
5 monitor.

6 Now, we can't set the monitor at the
7 same place we set the worker, it doesn't work that way.
8 The two pieces of equipment will fight each other. So,
9 we need to have some level above, and 192.201 tells us
10 how much above we can set the monitor. So, there isn't
11 a conflict. One is normal operation, the other is
12 "what happens if we have a failure?"

13 Q. So, then, when does -- so, then, when does, in your
14 opinion, 619 apply? What is the purpose of that
15 provision in the Code?

16 A. If you were to set the worker above the MAOP, you'd be
17 in violation, because that's your normal operation is
18 where your worker is set. That's not the case here.
19 The worker is set below the MAOP. But the monitor,
20 under the Code, can be set above it, in accordance with
21 201(a).

22 Q. And, if you were to read 619 as broadly as Staff
23 suggests, what are the implications of that with regard
24 to how the Code would be interpreted then?

[WITNESS: Sher]

1 A. Well, one of the things is, Subpart K, on uprating,
2 talks about increasing the maximum allowable operating
3 pressure. Now, what you do is you take your working
4 system and you increase the pressure above the MAOP.
5 If you can never go above the MAOP, you can never
6 uprate your system. Therefore, all of Subpart K has no
7 meaning.

8 The other thing is, if you take 619 as
9 being this bright line that you can't cross, 192.201
10 serves no purpose. Why would we design a station with
11 limits prescribed in 201, if we can never go over the
12 MAOP? So, 192.201 would serve no purpose. And, my
13 understanding of regulation is, we have to presume
14 there's a purpose for the regulation. Not "they put it
15 in, but it has no purpose." And, that's the problem
16 with drawing this bright line with 619.

17 MR. HEWITT: Thank you, Mr. Sher. I
18 have no further questions. The witness is available for
19 cross-examination.

20 CHAIRMAN HONIGBERG: Mr. Sheehan, I
21 assume you do?

22 MR. SHEEHAN: I do. Thank you. Good
23 afternoon, Mr. Sher.

24 WITNESS SHER: Good afternoon, sir.

[WITNESS: Sher]

CROSS-EXAMINATION

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BY MR. SHEEHAN:

Q. A couple background questions first, if I may?

A. Yes, sir.

Q. You wrote in your testimony that you had "previously testified at the Commission in Docket 11-196", is that correct?

A. No. I think I said "I filed prefiled testimony". I didn't actually testify.

Q. Okay. So, this is the first time you physically appeared as a witness in this Commission?

A. That is correct.

Q. I assume you are being paid for your work here today?

A. Yes, I am.

Q. And, on what basis are you being paid?

A. On an hourly basis.

Q. I see in your CV that your employment with the State of Connecticut ended in 2000 and what?

A. 2009.

Q. And, that you have been a consultant since 1990?

A. That's correct.

Q. So, for 19 years, you would both work for the State of Connecticut and acted as a consultant?

A. That is correct.

[WITNESS: Sher]

1 Q. And, did you consult for and on behalf of industry
2 during those 19 years as a consultant?

3 A. Yes. Some of my clients were industry, yes.

4 Q. And, you see no conflict between wearing the enforcers
5 hat on behalf of the State of Connecticut and also
6 consulting --

7 MR. HEWITT: I'm going to object at this
8 point, both to the relevance of this examination -- well,
9 let's start with the relevance objection.

10 CHAIRMAN HONIGBERG: I mean, are there
11 other grounds? You think about it. Mr. Sheehan, what's
12 the relevance?

13 MR. SHEEHAN: His expertise is what
14 brings us here, and his opinions that the Company relies
15 on to support what they did here. And, I think it's
16 important to know how Mr. Sher has worked in the past on
17 both sides of issues to possibly have some impact on
18 his -- the strength of his opinions and how the Commission
19 considers them.

20 CHAIRMAN HONIGBERG: Mr. Hewitt.

21 MR. HEWITT: And, I think questions
22 about what Mr. Sher's background may have been many years
23 ago has no bearing on the weight that should be given to
24 his testimony and his opinions as he sits in the witness

[WITNESS: Sher]

1 stand today.

2 CHAIRMAN HONIGBERG: Well, I actually
3 think I agree with the statement that Mr. Sheehan made,
4 but I'm not sure that that's necessarily relevant to the
5 question that was pending. Which had to do with "don't
6 you see a conflict between consulting for industry at the
7 same time that you are wearing the other hat of being a
8 regulator?" That's essentially the question you were
9 asking, was it not?

10 MR. SHEEHAN: Yes.

11 CHAIRMAN HONIGBERG: So, and I'm not
12 certain I get the relevance of that.

13 MR. SHEEHAN: Okay. I'll ask it
14 differently.

15 CHAIRMAN HONIGBERG: Okay.

16 BY MR. SHEEHAN:

17 Q. During those 19 years that you were both employed by
18 the State of Connecticut and had your consulting
19 business, you at times would represent on the same day,
20 in effect, the State of Connecticut and industry, is
21 that correct?

22 A. Well, let's be clear. I would represent the State of
23 Connecticut and industry not in any way involved with
24 the State of Connecticut. And, the Commissioners were

[WITNESS: Sher]

1 aware of what I was doing. And, as long as the clients
2 had nothing to do with Connecticut or any related
3 company in any way to any Connecticut company, they did
4 not have any problems. They did not see a conflict of
5 interest. I had discussed it, and there was no
6 problem. So, I'm very comfortable. My position has
7 always been with every client, "I will give you my
8 opinion. If it serves you to have me put it in writing
9 and testify, I will. You're not buying my opinion.
10 You're compensating for my time. I will give you my
11 best judgment as to what I think the facts indicate."

12 Q. Fair enough. When you give your opinion, as you are in
13 this case, on what the Code means, is it correct to say
14 the starting point is the plain actual words that the
15 Code uses?

16 A. I'm in the process of preparing an educational program
17 on the Code --

18 Q. Sir, I'm not --

19 A. I'm trying to answer you. And, I've reviewed a lot of
20 the court rulings, not that I'm a lawyer. And,
21 generally, that's one thing. But the courts have at
22 times said "we don't care what the words are." What I
23 do is I first look at the plain words, see if I can
24 understand them. I also look at other sources to see

[WITNESS: Sher]

1 what else there may be.

2 Q. If the plain words lead you to Conclusion A, is there
3 even a need to look to other sources?

4 A. Absolutely.

5 Q. And, you understand that's contrary to typical rules of
6 construction that courts apply to rules and statutes?

7 MR. HEWITT: I'm going to object on --

8 CHAIRMAN HONIGBERG: Sustained.

9 BY MR. SHEEHAN:

10 Q. Mr. Sher, define for me an "emergency" in the context
11 of gas pipelines.

12 A. An "emergency" is defined in 619 to include a variety
13 of things, it lists four, and says other things. And,
14 if you want, I'll pull out the exact quote in Section
15 615, and I will quote you exactly what the Code says.

16 Q. If I can just stop you for a moment, Exhibit 4 is a
17 table of contents of the Code with sections copied that
18 apply here. And, the Commission has those. So, we can
19 turn to 619. You do not need to read them. You can
20 simply tell us where they are and we can read for
21 ourselves.

22 A. All right. 615 --

23 Q. 15? I thought you said 19?

24 A. No, 615. You asked me about "emergencies".

[WITNESS: Sher]

1 Q. I do not have 615 in front of me. So, without reading
2 word-for-word, if you could just summarize what those
3 examples of "emergency" are that are in 615.

4 A. It says "Each type of emergency, including the
5 following: Gas detected inside or near a building;" --

6 CHAIRMAN HONIGBERG: Slow down. Slow
7 down.

8 **CONTINUED BY THE WITNESS:**

9 A. "Gas detected inside or near a building; fire located
10 near or directly involving a pipeline facility;
11 explosion occurring near or directly involving a
12 pipeline facility; natural gas [disaster?]." Those are
13 the four specific things in the emergency plan
14 regulation. However, in the letter of
15 interpretation, --

16 BY MR. SHEEHAN:

17 Q. I didn't ask you about the letter, sir. I asked you
18 for your definition of "emergency". You referred us to
19 615. Is there anything more of your definition of
20 "emergency"? A working definition that you use for
21 "emergency"?

22 A. My basic working definition would be, we have a
23 potential threat to the public, we don't necessarily
24 know what or why. That to me is an emergency, until we

[WITNESS: Sher]

1 find out what is going on. If we have endangered the
2 public or potentially endangered the public, that to me
3 is an "emergency".

4 Q. So, for you, if there's a potential danger, that rises
5 to the level of an "emergency"?

6 A. That is correct.

7 Q. Are you aware of the Emergency Response Plan that I
8 showed a witness this morning for Unitil's definition
9 of "emergency condition"? I'll show it to you. My
10 question is, are you aware of it?

11 A. I heard it discussed this morning.

12 Q. Had you seen it before?

13 A. No.

14 CHAIRMAN HONIGBERG: Mr. Sheehan, that's
15 the same thing that you showed this morning. So, Mr.
16 Hewitt, you're --

17 MR. HEWITT: I'm comfortable that
18 Mr. Sheehan is providing the same page that you showed me
19 this morning.

20 CHAIRMAN HONIGBERG: Thank you.

21 MR. SHEEHAN: It is.

22 BY MR. SHEEHAN:

23 Q. And, I pointed to the highlighted section on the left.
24 We don't need to read it again into the record. But

[WITNESS: Sher]

1 that is a definition of "emergency", is it not?

2 A. Yes, it is.

3 Q. And, it appears to be Northern's definition of an
4 "emergency", is it not?

5 A. Yes, it does.

6 Q. Are you aware of the Commission's definition of
7 "emergency" through its rules here?

8 A. I'd have to refresh my recollection. I know it's in
9 the 500 series, and I know I read it, but I don't know
10 it off the top of my head.

11 Q. It's in the 800 series. There is a definition --

12 A. Oh.

13 Q. -- applying to 802.04, if you have the rules in front
14 of you?

15 A. I don't have that set, no. I have the 500s here.

16 (Atty. Sheehan showing document to the
17 Witness.)

18 BY MR. SHEEHAN:

19 Q. That is another definition of "emergency", is it not?

20 A. Yes, it is.

21 Q. And, could you very slowly read it.

22 A. "Emergency situation means a sudden or unexpected
23 occurrence involving a clear and imminent danger
24 demanding immediate action to prevent or mitigate loss

[WITNESS: Sher]

1 of or damage to life, health, property or essential
2 public services."

3 Q. Thank you. And, the situation -- specific situation
4 we're confronted with today, that is the test at the
5 New Hampshire Avenue Regulator Station, do you agree
6 that that was not an emergency condition?

7 A. Well, under your statute that you just -- or,
8 regulations you just provided me, it says "a clear and
9 imminent danger". I think that's an extreme
10 definition. I would include things other than that --

11 Q. Sir, --

12 A. -- that fall within my mind in the definition in 615.

13 CHAIRMAN HONIGBERG: Mr. Sher, do you
14 remember the question?

15 WITNESS SHER: Maybe you should repeat
16 it please.

17 BY MR. SHEEHAN:

18 Q. If you could please, sir, answer my question. If you
19 need to explain, I will give you every opportunity to.
20 But it's difficult, if you start explaining before you
21 answer.

22 A. Okay.

23 Q. The question was, on the day that this test happened,
24 in June of '04 ['14?], do you agree that that was not

[WITNESS: Sher]

1 an emergency?

2 A. I can't agree, because the interpretation from
3 Washington says it's not an emergency. So, I'm forced
4 to go with their interpretation and say what happened
5 was not an emergency in their sense. I think, within
6 the Company's O&M plan or emergency plan, it is an
7 emergency. So, when you ask "is it emergency?"
8 There's several definitions. There's the federal
9 definition, there's your state definition, and then the
10 Company's O&M. To me, any time you have pressure
11 exceeding where we want it to be, it is a potential
12 emergency.

13 Q. If you could turn to Attachment B to your testimony,
14 which is response to Staff Data Request 1-9, and it
15 concerns the definitions that the Commission -- the
16 Chairman referred to between "normal", "abnormal", and
17 "emergency". Do you recall that data response?

18 A. I recall the question and I recall the data response,
19 yes.

20 Q. And, you were one of the witnesses listed as providing
21 this particular answer, along with Mr. LeBlanc, is that
22 correct?

23 A. That is correct.

24 Q. And, if you turn to the second page, the answer quotes

[WITNESS: Sher]

1 from a PHMSA document. First of all, can you tell me
2 the type of document that is quoted? What's the label
3 for that? "Interpretation" or "Guidance" or what is
4 it?

5 A. Which part were you talking about? The one that starts
6 "Abnormal"?

7 Q. Correct.

8 A. That is from Amendment 192-71 issued by the federal
9 government when they issued an amendment to 192. In
10 that document is contained this statement when they
11 issued their regulation.

12 Q. So, it's not the rule?

13 A. It's the preamble to the rule.

14 Q. That was my question. So, this is a preamble, it's
15 sort of a explainer of what the rule is. Is that a
16 fair characterization?

17 A. I believe that's what it is.

18 Q. And, there's a sentence there -- well, it begins to say
19 there's a difference between "abnormal" and
20 "emergency", correct?

21 A. That is correct.

22 Q. And, "abnormal" is "when design limits have been
23 exceeded", and you're now outside of that -- what the
24 design intended to be, whether it's pressure or flow

[WITNESS: Sher]

1 rates or the like?

2 A. Well, I have to interrupt you. "Abnormal operations"
3 -- I'm sorry, where is that you were reading from?

4 Q. The end of the very first line of that quote.

5 A. "Abnormal conditions", okay. I'm sorry. Go ahead.

6 Q. And, an abnormal condition exists when you're outside
7 of what you expect, and the precise language is "when
8 operating design limits have been exceeded", due to a
9 variety of events.

10 A. That would be an abnormal condition, right.

11 Q. And, they give an example that "an abnormal would exist
12 when pressure exceeds MAOP but is within the
13 differential", or the cushion that we've talked about
14 in this case, right?

15 A. That is correct.

16 Q. So, that's not an "emergency", that's an "abnormal
17 condition", right?

18 A. Well, in my mind, it certainly is an "abnormal
19 condition", but it could also be an "emergency". And,
20 when we talk about this "Venn diagram".

21 Q. Well, I'll agree -- or, will you agree, and I think I
22 agree, that some abnormal conditions can be
23 emergencies, as I think Mr. LeBlanc testified?

24 A. I agree with that.

[WITNESS: Sher]

1 Q. Some abnormal conditions can lead to emergencies?

2 A. I guess we go back to there's so many definitions of
3 "emergency". To me, any time we have a situation where
4 the public safety can be endangered, I would consider
5 that an "emergency".

6 Q. And, the two definitions I gave you, from the rule and
7 from Northern's manual, seems to disagree with you in
8 this way: They seem to say "imminent" threat, and you
9 seem to say "could possibly lead to". Is that a fair
10 distinction between what those documents say and what
11 you're saying is a definition of "emergency"?

12 A. I don't agree with your reading of the Company's
13 procedure.

14 MR. HEWITT: And, I'm starting to find
15 myself at a little bit of a disadvantage, because I don't
16 have a copy of the document that only the witness has and
17 that Mr. Sheehan is asking him questions about,
18 unfortunately.

19 MR. SHEEHAN: Right. That's fair, and I
20 will move off that document. And, if I come back to it,
21 we'll have copies after a break, because --

22 MR. HEWITT: Thank you.

23 MR. SHEEHAN: -- I don't have it in
24 front of me either.

[WITNESS: Sher]

1 BY MR. SHEEHAN:

2 Q. But the rule, the 804 [802.04?] rule does say
3 "imminent", correct?

4 A. Yes, it does.

5 Q. And, your definition doesn't have that element to a
6 definition of "emergency"?

7 A. It doesn't have that extreme element. That says
8 "imminent". I'm saying it also comes in before we get
9 quite that far.

10 Q. Okay.

11 A. For example, if we have a Grade 1 leak --

12 Q. I don't have a question in front of you, sir.

13 A. Okay.

14 Q. You testified in writing and also this afternoon that
15 619, the MAOP rule, applies to normal operation?

16 A. That is correct.

17 Q. You agree with me that the word "normal" does not
18 appear in 619, and the introductory sentence, where it
19 says you shall -- well, let me read it. "No person may
20 operate a segment of steel or plastic pipeline at a
21 pressure that exceeds MAOP." You agree with that
22 sentence of 619(a)?

23 A. That's what 619(a) says, yes.

24 Q. And, it does not say "normal" in that sentence,

[WITNESS: Sher]

1 correct?

2 A. It does not have any modification to the term
3 "operate".

4 Q. And, we know from testimony and from some questions
5 that the industry has a couple modifiers to "operate",
6 we have "normal" and we have "abnormal", correct?

7 A. "Normal" and "abnormal" what?

8 Q. Operation.

9 A. "Abnormal operation" is a specific term in the Code,
10 and only applies to transmission lines. This is not a
11 transmission line.

12 Q. Understood. But those -- okay. And, the other
13 "abnormal" and "normal" are conditions, is that what
14 you are suggesting?

15 A. Well, there's "normal" and then there's "abnormal
16 operating conditions", which are contained in the OQ
17 section, and it defines that term.

18 Q. We know in the Code that they know that the writers of
19 the Code knew how to use the word "normal" and
20 "abnormal", correct?

21 A. I know they have used the term "abnormal operating
22 condition", "abnormal operation". Off the top of my
23 head, I'm trying to remember where they used the term
24 "normal operation". I think it's in 605, I'd have to

[WITNESS: Sher]

1 check.

2 Q. Do you have the Code, I can tell you where it is?

3 A. Please do.

4 Q. 195(b)(1).

5 A. Right. Absolutely. They used the term "normal".

6 Q. 197(a)(5).

7 A. (5), right.

8 Q. 605(b).

9 A. Right.

10 MR. HEWITT: Objection. These questions
11 that are being asked, I just have counsel -- all I hear is
12 counsel. The witness is not being asked questions. The
13 witness is only being told Code provisions. And, --

14 CHAIRMAN HONIGBERG: I think the witness
15 understands that he is being asked "does that word" -- "is
16 that word in this Code provision?" And, he is saying
17 "yes". Now, I admit Mr. Sheehan is going quickly. But I
18 think the implied question is there in each one, and I
19 think the witness understands what's happening.

20 MR. HEWITT: Fair enough.

21 **BY THE WITNESS:**

22 A. Yes. They do use the word "normal" in certain places
23 in the Code.

24 MR. SHEEHAN: And, as a general rule,

[WITNESS: Sher]

1 Mr. Sher, if ever you don't understand my question, please
2 let me know.

3 WITNESS SHER: I certainly will.

4 MR. SHEEHAN: I'm not trying to play any
5 tricks on you.

6 BY MR. SHEEHAN:

7 Q. I counted that "normal operation" is used roughly a
8 dozen times in 192. I'm not asking you to count them.

9 A. I'll accept that.

10 Q. That make sense to you?

11 A. I'll accept that.

12 Q. And, similarly, "abnormal operations" is used roughly a
13 dozen times in the Code, in 192?

14 A. "Abnormal" -- I'm sorry, what?

15 Q. "Abnormal operations" is used roughly a dozen times in
16 192?

17 A. I'd be surprised about that. "Abnormal operations"?
18 Not "abnormal conditions"? "Abnormal operations"?

19 Q. Let me be frank. I'm not sure I made that distinction
20 when I did that search. So, why don't you and I go
21 through that. That's a fair comment.

22 A. Okay.

23 Q. 605(a). It certainly says the word "abnormal",
24 correct?

[WITNESS: Sher]

1 A. Just a second. Let me get 605(a).

2 Q. And, this is the requirements of a procedural manual,
3 is it not?

4 A. I have 605(a).

5 Q. And, roughly a third of the way through (a) it says
6 "the manual must also include procedures for handling
7 abnormal operations", doesn't it?

8 A. It says "For transmission lines, the manual must
9 include procedures" --

10 (Court reporter interruption.)

11 **BY THE WITNESS:**

12 A. It says "For transmission lines, the manual must
13 include procedures for handling abnormal operations."

14 BY MR. SHEEHAN:

15 Q. And, again, I understand that some of these sections of
16 the Code may not apply to Northern in this situation.
17 I'm just asking, the broad question is, the authors of
18 the Code knew how to write those terms, "abnormal
19 operations", "normal operations", and the like. Do you
20 follow that?

21 A. Well, I don't know what they knew. I know what they
22 wrote on the paper. What they were thinking, I don't
23 know.

24 Q. And, the only way we can determine what they're

[WITNESS: Sher]

1 thinking is what they wrote on the paper, correct?

2 A. No. There's other ways to determine it.

3 MR. HEWITT: Objection. He's really
4 asking the witness "how do you interpret a code?" And, --

5 CHAIRMAN HONIGBERG: That was not the
6 greatest question, Mr. Sheehan. I think you'd admit --
7 acknowledge that?

8 MR. SHEEHAN: Correct.

9 CHAIRMAN HONIGBERG: You don't really
10 want to argue with the witness on this, do you?

11 MR. SHEEHAN: No.

12 CHAIRMAN HONIGBERG: Okay.

13 MR. SHEEHAN: But I do respond to the
14 objection. He is here to help you, on behalf of Northern,
15 interpret the Code. So, I think these are appropriate
16 lines of questions to find out how he interprets the Code.

17 CHAIRMAN HONIGBERG: And, I think it's
18 eminently fair of you to point out and work with the
19 witness on the fact that the drafters of the Code used the
20 word "abnormal" numerous times. What they may have meant
21 by it, I'm not really sure you've asked. So, I think
22 establishing that with the witness is perfectly
23 reasonable, and I actually think you may already be there.
24 But I think Mr. Sher can probably -- doesn't need to argue

[WITNESS: Sher]

1 with you about that relatively simple point. So, let's
2 see if we can --

3 MR. SHEEHAN: That's fair.

4 CHAIRMAN HONIGBERG: -- finish up that
5 line and move on.

6 BY MR. SHEEHAN:

7 Q. If you turn to Section 3, the "Definitions" section,
8 and this is in the packet that I copied for Exhibit 4,
9 there is a specific definition of "MAOP", correct?

10 A. Yes, there is.

11 Q. And, just like 619, that definition does not include
12 the word "normal" or "abnormal", correct?

13 A. It does not modify the word "operate" in any way.

14 Q. And, if you look at the definition above it, "Maximum
15 actual operating pressure", it does use the word
16 "normal", does it not?

17 A. Yes, it does.

18 Q. And, as an interpreter of the Code, do you place any
19 significance in the fact that they inserted "normal
20 operation" in one definition and did not insert it in
21 another definition?

22 A. No.

23 Q. None at all?

24 A. No.

[WITNESS: Sher]

1 Q. If we were to look at 619(a), to the extent it applies,
2 and I understand we have a disagreement over how it
3 applies in this case, but, to the extent it applies,
4 does it allow going over MAOP in any amount? So, let
5 me ask -- let me ask you for a hypothetical. Give me a
6 situation that you say 619(a) would clearly govern.

7 A. I have a system that's operating on its normal basis,
8 and it's set to operate at 56 pounds, and that's the
9 MAOP. And, there's no equipment failure, there's no
10 anything else. And, I set the pressure too high and it
11 goes above 56, during normal operation, that would
12 violate 619.

13 Q. And, my question is, does it matter how much over MAOP
14 it goes?

15 A. No.

16 Q. So, any pressure above MAOP, assuming 619 applies, is a
17 violation?

18 A. Within the limits of measurement, yes.

19 Q. And, the same with time duration, is there any *de*
20 *minimis* amount of time that would excuse an MAOP
21 violation?

22 A. Well, if it's a violation, time is not a factor.

23 Q. Thank you. You'll agree with me that 619(d) was not
24 alleged in the NOV in this case, correct?

[WITNESS: Sher]

1 A. I believe that's the case.

2 Q. And, the NOV is, if you have it in front of you, is
3 Exhibit 28. Do you agree with that statement?

4 A. Yes.

5 MR. HEWITT: I'm sorry. May I have just
6 a minute to get there? I'm there. Thank you.

7 BY MR. SHEEHAN:

8 Q. The Code sections that we will discuss, and you have
9 discussed, use the following phrases that I'd like you
10 to distinguish for me: "Pressure limiting device",
11 "pressure regulating device", "pressure relieving
12 device". If you could give me your understanding of,
13 if there are, the differences between those three?

14 A. Well, let me make sure I've got the three that you want
15 me to discuss correct. What was the first one?

16 Q. Pressure limiting device.

17 A. Yes.

18 Q. Regulating and relieving.

19 A. All right. "Pressure limiting device" is any device
20 that limits the pressure. A regulator is one
21 particular type of device, the kind that we have there,
22 that regulates and controls pressure, based upon its
23 design and its setting.

24 "Pressure relief" is something that's

[WITNESS: Sher]

1 designed that, when a certain procedure is exceeded, it
2 vents the gas safely into the atmosphere. The other --
3 there are several other kinds of pressure limiting
4 devices.

5 Q. Okay.

6 A. There's a shut-off valve. There's rupture discs. But
7 the two -- well, the number one major one is a
8 regulator and a monitor. You can use relief, there are
9 certain times, but most people these days don't like
10 venting gas, they like to keep it in the system. So,
11 for the most part, it's regulators and monitors.

12 Q. So, for those three phrases I use, the "pressure
13 limiting device" is sort of a generic term under which
14 you have regulating devices and relief devices?

15 A. Yes.

16 Q. If you could turn to Code Section 201. And, if I may,
17 I'm going to draw a picture. Be warned.

18 A. Excuse me, I cannot see that from here.

19 Q. Okay. Is that better? Or, do I have to get closer to
20 you?

21 A. Yes. That I can see.

22 Q. So, what I've done is I've got a line across the top
23 with a "62" next to it, another line with "56" next to
24 it.

[WITNESS: Sher]

1 A. Yes, sir.

2 Q. And, 56, as we know, is the MAOP at issue in this case?

3 A. That is correct.

4 Q. Sixty-two (62) would be the limit of something under
5 Section 201, correct?

6 A. Correct.

7 Q. Because 56 plus the six. We know, in this case, that
8 the workers were set at 50 or 52, correct?

9 A. Okay.

10 Q. Do you disagree with that?

11 A. No.

12 Q. Okay. And, that's keeping the pressure at or below 50
13 or 52, correct?

14 A. If that's what they were set, yes.

15 Q. If they were --

16 A. That's my understanding of what they were set at, yes.

17 Q. And, we have -- I put a "W" next to "worker regulator"
18 at 52.

19 A. Uh-huh.

20 Q. I put an "R" next to a line at 55 -- I'm sorry. "MR",
21 monitor regulator, that's set at 55, correct?

22 A. Yes, sir.

23 Q. And, we know on the day in question, the pressure went
24 up to 57 for a short amount of time over the MAOP,

[WITNESS: Sher]

1 right?

2 A. Yes, sir.

3 Q. Fifty-six (56) is MAOP. And, we just read that an
4 operator "may not operate above MAOP", right?

5 A. I read it "under normal conditions".

6 Q. And, this range from this -- in this case, from 56 to
7 62, comes out of Rule 201, correct?

8 A. That is correct.

9 Q. All right. I've written "619" next to the "MAOP".

10 A. Okay.

11 Q. And, I'm going to write "201" next to the "6 pounds
12 range", or "cushion" we sometimes --

13 (Court reporter interruption.)

14 BY MR. SHEEHAN:

15 Q. "201" next to the "6 pound range". You look at 201 for
16 us, Section (a) says -- well, let me back up. 192 is
17 in what section of the Code? What category? The
18 "Design" category?

19 A. 192 is the Code.

20 Q. I'm sorry. 192 is within a certain part -- I'm sorry,
21 201 is within what -- is this within the "Design"
22 section of the Code, correct?

23 A. It's in Subpart D, "Design of Pipeline Components".

24 Q. And, MAOP is in the "Operating" section, is it not?

[WITNESS: Sher]

1 A. Yes, it is.

2 Q. And, so, 201, in the "Design" section, says "Each
3 pressure relief station", now there's a different word,
4 I had asked you about "devices", what's a "pressure
5 relief station"?

6 A. Again, it's undefined, but what it normally is is the
7 place where we install the pressure relief equipment or
8 the pressure control equipment.

9 Q. So, in this case, the New Hampshire Ave Station would
10 be this "pressure relief station" that begins 201(a)?

11 A. Pressure relief or pressure limiting. It's actually
12 "pressure limiting". It doesn't relieve.

13 Q. The end of that first phrase, that "each pressure
14 relief station...must have enough capacity, and must be
15 set to operate, to insure the following:" Did I read
16 that right?

17 A. Yes, you did.

18 Q. And, the "following" is the calculation for the 6 pound
19 range, is it not?

20 A. That is the 6-pound range that is contained under
21 (a)(2)(ii).

22 Q. And, the other provisions found there calculating that
23 range for different kinds or different size systems, is
24 it correct?

[WITNESS: Sher]

1 A. Different MAOP systems, yes.

2 Q. And, so, when this Code says "it shall have enough
3 capacity", what does that mean to you?

4 A. What it means to me is they were really thinking of
5 "relief". That's where capacity tends to be the key
6 issue. With the monitor, it's not capacity, it's
7 pressure control. So, when they say "each pressure
8 relief station must have enough capacity", that's fine.
9 But, when we're talking about a monitor, capacity is
10 not an issue. We've got plenty of capacity. The idea
11 is to control the pressure. So, this is, again, the
12 Code is not perfect the way it's written. We know what
13 they were getting at, we know what they were trying to
14 do. But there is no such thing as "capacity" related
15 to a limiting station, when you've got these
16 regulators. Capacity is not an issue.

17 Q. So, are you saying that 201 doesn't apply?

18 A. No, I didn't say that.

19 Q. Then, what does "capacity" mean in the context of this
20 case?

21 A. "Capacity" means "pressure".

22 Q. Okay. And, so, the station must have enough capacity?

23 A. Must have the capability to limit the pressures as
24 provided --

[WITNESS: Sher]

1 Q. Okay.

2 A. -- in (a)(2)(ii).

3 Q. And, that means it has the capability to keep it under
4 62, right?

5 A. That is correct.

6 Q. To keep the pressure. It doesn't say anything about
7 "operating", correct? Except for "set to operate", and
8 we'll get there in a minute. Sorry about that. Carve
9 out that phrase, we haven't said "operating" yet. We
10 said "has to have the capacity" to keep it under this
11 6-pound cushion?

12 A. It does say you have to keep it under the 6-pound
13 cushion.

14 Q. And, the "operate" is the device "must be set to
15 operate" at the 6-pound condition, correct?

16 A. No. It must --

17 MR. HEWITT: Objection. The witness can
18 answer. I'm sorry.

19 **BY THE WITNESS:**

20 A. No. It must be set to limit it to not exceed 62.

21 **BY MR. SHEEHAN:**

22 Q. Okay. Again, there's no word about the "normal
23 operations" of the system, right?

24 A. It does not modify "operate".

[WITNESS: Sher]

1 Q. Now, you talked a minute ago about "relief" -- "relief
2 valves" or "relief systems", what's the phrase?

3 A. Relief device, relief value.

4 Q. "Relief device". Okay. And, you were saying that the
5 language in this Code was probably written with a
6 relief device in mind, rather than a regulator in mind,
7 correct?

8 A. No. I think that's where they pulled the term
9 "capacity" from. They, once upon a time, had different
10 sections on reliefs and on monitors. And, when they
11 finally put them all together, this is what they came
12 up with. Would I have chosen that word? No, I
13 wouldn't.

14 Q. Okay.

15 A. But this is the code we have. And, I think the intent
16 is clear, "when you operate", whatever that means, and
17 we know that's in dispute, "these are the limits
18 period."

19 Q. But this is a "Design" section of the Code, not an
20 "Operation" section of the Code?

21 A. This is a "Design" section, yes.

22 Q. So, let's assume for a moment that, in this case, we
23 have a worker regulator and a relief device, and not a
24 monitor.

[WITNESS: Sher]

1 A. Yes, sir.

2 Q. This would say "the relief device has to be set to have
3 the capacity to 62"?

4 A. To not exceed 62. It could be set lower.

5 Q. Okay.

6 A. And, there's two factors in a relief valve. One is the
7 pressure setting, and the other is the capacity of the
8 relief device. If you've got this pipe in New Haven
9 Ave [New Hampshire Ave?], and you put a half-inch vent
10 on it, it would not have the capability to get rid of
11 enough gas to keep the pressure down within these kind
12 of limits. How big a vent would you need? I don't
13 know, I'd have to do calculations. But that's why
14 relief valves are two conditions; one is when do they
15 go off, and, number two, do they have the capacity to
16 dump enough gas to keep the pressure down.

17 In this case, with a monitor, we're not
18 dumping gas. We know the regulator has sufficient
19 capacity to handle the situation. The only question is
20 "what are the proper settings on the pressure?"

21 Q. Put that thought aside. Going back to the relief
22 device, they have a -- there's a point at which they
23 start to open, and it takes a bit of time for them to
24 fully open?

[WITNESS: Sher]

1 A. That is correct.

2 Q. And, that's this -- that's sort of addressed by having
3 this range. You have to have the capacity not to
4 exceed 62, but we understand they may start opening 58
5 or 60, 62, or something lower, right?

6 A. Or, it could be opening and never be able to limit it
7 to 62, if you don't have enough capacity.

8 Q. Right. So, we've got to make sure that opening in the
9 relief value is big enough, so that, again, we have
10 that catastrophic failure, we got 400 pounds of gas
11 coming down, it's all going into the atmosphere and not
12 to customers?

13 A. All that over the 62, yes.

14 Q. Right. And, so, when they talk -- 201 is saying "make
15 sure you have that capacity"?

16 A. Yes.

17 Q. And, the relief value is "make sure that the opening is
18 big enough that, in a catastrophe, everything goes in
19 the atmosphere", right?

20 A. Everything over the 62.

21 Q. Understood.

22 A. Yes.

23 Q. And, then, with a regulator, a monitor regulator,
24 again, as you say, maybe the lingo, the word isn't

[WITNESS: Sher]

1 quite accurate, because it's a leftover from relief
2 devices, it's saying "you have to have the capacity to
3 make sure nothing over 62 could ever get by that
4 regulator", correct?

5 A. Except in the case of a double failure. The Code does
6 not address that. But, assuming that the monitor
7 continues to operate properly, yes, that's the limit.

8 Q. And, again, you have to design the monitor, so that, if
9 it all else fails, worker fails, the monitor is not
10 working great, you've got some way to shut it off at
11 62?

12 A. I don't understand the last part, "the monitor is not
13 working great".

14 Q. The point of this, of the monitor, is to keep a
15 catastrophic event from happening, is it not?

16 A. Yes, it is.

17 Q. And, the catastrophic event, as applied here, is
18 anything over 62 pounds?

19 A. No.

20 Q. Okay. But you have to design it for 62 pounds?

21 A. Yes.

22 Q. And, that's what they did here, their monitor regulator
23 is designed to stay under 62 pounds, should it be
24 called on, is it not?

[WITNESS: Sher]

1 A. Well, substantially below the 62 it's set.

2 Q. Okay. So, it's fair to say that their design of their
3 regulator monitor satisfies 201, because it's going to
4 keep the pressure below 62?

5 A. That is a correct statement.

6 Q. Okay.

7 CHAIRMAN HONIGBERG: Mr. Sheehan, how
8 much longer do you think you have of Mr. Sher, because
9 we're probably going to need to take a break?

10 MR. SHEEHAN: Twenty minutes, give or
11 take.

12 CHAIRMAN HONIGBERG: Off the record.
13 (Brief off-the-record discussion
14 ensued.)

15 CHAIRMAN HONIGBERG: All right. Go
16 ahead, Mr. Sheehan.

17 BY MR. SHEEHAN:

18 Q. You'll agree with me that the NOV did not allege a
19 violation of 201?

20 A. No, it did not.

21 Q. No? You agree with me?

22 A. I agree. It did not.

23 Q. Thank you. Let's turn to 195. You understand that is
24 the other Code section that is the subject of the NOV?

[WITNESS: Sher]

1 A. Yes, sir.

2 Q. And, which part of 195 is it your understanding that
3 Northern was alleged to have violated?

4 A. As I understood it to be (a) and (b).

5 Q. Can you show me where in the NOV there's an allegation
6 of a violation of (a)?

7 A. Well, let me find the notice.

8 Q. Do you need a copy of the NOV, Mr. Sher?

9 A. Is it attached to testimony?

10 MR. HEWITT: It should be Attachment
11 Number 29, I believe.

12 WITNESS SHER: I'm sorry, what was that?

13 MR. SHEEHAN: Attachment --

14 MR. HEWITT: Attachment 29 to Exhibit 2,
15 which is the compilation of exhibits numbered 1 through
16 29.

17 WITNESS SHER: Yes, sir. I have the
18 document.

19 BY MR. SHEEHAN:

20 Q. So, you have the NOV in front of you?

21 A. Yes, I do.

22 Q. Second page, under "Violation Number 2", it cites
23 "195", correct?

24 A. Correct.

[WITNESS: Sher]

1 Q. And, the language -- the indented language is not a
2 direct quote of 195, correct?

3 A. That is correct.

4 Q. What it says is it's a "failure to incorporate into the
5 design of pipeline components devices", I'm
6 paraphrasing a little, "devices having the capability
7 of meeting pressure, load, and other conditions that
8 will be experienced in the normal operation of the
9 system"?

10 A. I see what it says in the violation, yes.

11 Q. Will you agree with me, and it concludes with "and that
12 could be activated in the event of a failure; and be
13 designed so as to prevent accidental overpressuring"?
14 Will you agree with me that the substance of that
15 allegation is a 195(b) allegation?

16 A. I thought he was referring to (a) as well.

17 Q. Will you agree with me -- do you agree with me, though,
18 that the substance of that allegation is what's
19 contained in the 195(b)?

20 A. If you're telling me the violation is strictly related
21 to 195(b), I'm fine with that. I'll go with that.

22 Q. Okay.

23 A. I didn't understand that to be. Since it said "195",
24 it didn't specify (a) or (b), and it didn't give the

[WITNESS: Sher]

1 exact Code language, I did not know it was intended to
2 apply to both (a) and (b). If you're telling me "it
3 only applies to (b)", I'm fine. I can go with that.

4 Q. Okay. Let's start at the bottom of that paragraph, the
5 last phrase, "and be designed so as to prevent
6 accidental overpressuring." That is a direct quote of
7 (b)(2), is it not?

8 A. Yes, it is.

9 Q. And, the phrase before that is a near exact quote of
10 (b)(1), is it not? At least part of it is?

11 A. Yes.

12 Q. There is no language in the NOV that tracks 195(a),
13 which requires that the device "have pressure relieving
14 devices that meet the requirements of 201", correct?

15 A. No. It doesn't say that language.

16 Q. And, if I were to say to you that we agree that the
17 regulator monitor in this case did meet the
18 requirements of 201, as a design matter, does that
19 change your opinion in this case at all?

20 A. No.

21 Q. Okay. Well, let's focus on (b).

22 A. Yes, sir.

23 Q. These are, as it starts, "additional requirements".

24 And, is it fair to say that means they're separate from

[WITNESS: Sher]

1 whatever is contained in (a)?

2 A. I don't know if I would say "separate from", they are
3 additional ones.

4 Q. Okay. The next sentence describes the situation we
5 have here, which is a distribution system that is
6 supplied from a source of gas that is at a higher
7 pressure than the MAOP of this system, correct?

8 A. That is correct.

9 Q. And, so, (b) applies to the New Hampshire Ave Station,
10 does it not?

11 A. Yes, it does.

12 Q. Number (1) says that that pressure regulation devices
13 have to meet the requirements of "normal operation",
14 does it not?

15 A. Yes.

16 Q. Okay. And, I will tell you that we do not dispute that
17 in this case. The next sentence is "that could be
18 activated in the event of a failure on some part of the
19 system". Do you see that?

20 A. Yes, I do.

21 Q. And, we will agree that Northern had a device that
22 could be activated in the event of a failure, namely
23 they had the monitor that could be activated in the
24 event of a failure of the worker?

[WITNESS: Sher]

1 A. That is correct.

2 Q. So, the focus is (2), "Be designed so as to prevent
3 accidental overpressuring". There's no preference to
4 "201" there, is there not?

5 A. There's no reference to "201" in paragraph (b).

6 Q. And, isn't the "overpressuring" that 201 -- I'm sorry,
7 195(b)(2) is talking about MAOP?

8 A. I'm sorry, what --

9 Q. Isn't the "overpressuring" that's in that last
10 sentence --

11 A. Uh-huh.

12 Q. -- talking about MAOP?

13 A. No. It's talking about "overpressuring" period, any
14 overpressuring. And, it goes back to the original idea
15 that, if you just had a working regulator, with no
16 monitor, we have to prevent that. I'm trying to find,
17 and I'm having trouble, it's in the case, where there's
18 a clear and specific interpretation of that by PHMSA.
19 And, they have -- ah. In Staff 1-10, they address that
20 specific point.

21 MR. HEWITT: And, just for the record,
22 Staff 1-10 is Tab 13 in Exhibit 2.

23 MR. SHEEHAN: Thank you.

24 **CONTINUED BY THE WITNESS:**

[WITNESS: Sher]

1 A. In there, PHMSA --

2 MR. SHEEHAN: Hang on a second, sir.

3 WITNESS SHER: Okay.

4 MR. HEWITT: Well, wait a minute. I
5 thought the witness was still trying to respond to the
6 question that was before him.

7 CHAIRMAN HONIGBERG: He was.

8 MR. SHEEHAN: Oh, I'm sorry.

9 **CONTINUED BY THE WITNESS:**

10 A. So, if we go to that response, and we're quoting in
11 there a PHMSA interpretation that says "when we say, in
12 (b), "that could be activated in the event of failure
13 or some portion of the system; and be designed so as to
14 prevent accidental overpressuring", we have in mind
15 either a series or monitor type of regulator set if one
16 of the two or more regulators in that series should
17 fail." So, (b)(2) means they're looking for a monitor.

18 BY MR. SHEEHAN:

19 Q. I'm not sure I understand. My question was, in (b)(2),
20 "accidental overpressuring", the pressure that's being
21 over is the MAOP pressure? And, you -- I'm asking if
22 that's -- you agree with that or not?

23 A. Well, it's to prevent accidental overpressuring. To
24 prevent the 492 pounds from going through into the

[WITNESS: Sher]

1 downstream system. That's the accidental
2 overpressuring that they're concerned about.

3 Q. Well, I -- go ahead.

4 A. That's the catastrophic thing that we're concerned
5 about. And, as explained in 1-10, and the
6 Commissioners have it, they can read it, it explains
7 the process, it explains the concepts. And, it talks
8 about 201 and what it's intended to do. And, it talks
9 about the -- going on with the PHMSA interpretation, it
10 says "a maximum of 1.1 times the MAOP". So, they're
11 talking about exceeding it. Back in '71, the regs said
12 "the MAOP limit was 1.1, because of pressure problems
13 and trying to deal with that in lower pressure". They
14 modified that, and said "over 60 pounds, it's 1.1, from
15 12 to 60 it's 6 pounds, and under 12 pounds it's
16 50 percent." But the rule, at the time this regulation
17 was issued, had "1.1 times the MAOP" as the requirement
18 from 201. So, they're saying "(b) means have monitors
19 that meet the requirements of 201, the 1.1 times MAOP."

20 Q. It doesn't say that though?

21 A. I think it does.

22 Q. Okay. They specifically mention "201" in the paragraph
23 just above, do they not?

24 A. I'm talking about the interpretation.

[WITNESS: Sher]

1 Q. I know. I'm talking about the Code. In the section
2 just above (b), in (a) it says "201"?

3 A. It does.

4 Q. It does not say it in (b)?

5 A. Not in the words of 201(b) [195(b)?], it does not have
6 "201". But the interpretation clearly says that was
7 their intent. Because the "1.1 times MAOP" is what the
8 201 used to say. That was the original --

9 CHAIRMAN HONIGBERG: Okay, Mr. Sher.
10 You've answered the question. And, I think Mr. Sheehan is
11 done asking you questions on this topic.

12 WITNESS SHER: Yes, sir.

13 BY MR. SHEEHAN:

14 Q. Your testimony, at Pages 10-11, talks about Code
15 Section 739.

16 A. Yes, sir.

17 Q. Again, the NOV does not allege a violation of 739,
18 correct?

19 A. No, it does not.

20 Q. 739 is in the "Maintenance" part of the Code, correct?

21 A. Yes, it is.

22 Q. And, it basically says "the Company shall inspect and
23 test their devices to determine whether they are set to
24 control or relieve the overpressuring", correct?

[WITNESS: Sher]

1 A. "Set to control or relief at the correct pressure
2 consistent with the pressure limits of 201(a)."

3 Q. It doesn't say you "can operate", it said it "should be
4 ready should it be called upon", correct?

5 A. It says it should be there and it has to be set so it
6 will operate to limit the pressure to those from
7 201(a).

8 Q. And, in your testimony, and what we were looking at
9 specifically was 739(a)(3), correct?

10 A. Yes, sir.

11 Q. "Set to control or relieve at the pressure" described
12 in 201?

13 A. "Pressure consistent with the pressure limits of
14 192.201(a)."

15 Q. This does not say "you may operate" in those, within
16 that range of -- described by 201, does it?

17 CHAIRMAN HONIGBERG: I think you asked
18 him that, Mr. Sheehan, a few minutes ago.

19 MR. SHEEHAN: Fair enough.

20 BY MR. SHEEHAN:

21 Q. If you turn to Page 17 of your testimony?

22 A. Yes, sir.

23 Q. This is a discussion of 201?

24 A. Yes.

[WITNESS: Sher]

1 MR. HEWITT: I'm sorry. Could I have
2 just a moment to get there? What page, Michael?

3 MR. SHEEHAN: One seven (17).

4 MR. HEWITT: Thank you. I'm there.

5 BY MR. SHEEHAN:

6 Q. And, you quote from an interpretation?

7 A. Yes, sir.

8 Q. And, you quote a paragraph that begins "The plain
9 language", and then you quote a paragraph that begins
10 "Section 192". Do you see that?

11 A. Yes, sir.

12 Q. You omitted the paragraph in between, did you not?

13 A. I don't know. I'd have to check.

14 Q. Let's go to Tab F.

15 A. I'm sorry. What is "Tab F"?

16 Q. It's attached to your testimony.

17 A. Oh, okay. Okay. Sorry. Attachment F.

18 Q. Attachment F.

19 A. Okay. Yes, sir. I have Attachment F.

20 Q. Now, the paragraph that you quoted is on the second
21 page of Tab F, the body of the interpretation,
22 immediately following -- I'm sorry. What you quoted
23 was the last two paragraphs, I apologize. The one you
24 did not put in was the preceding one. So, if you go to

[WITNESS: Sher]

1 the third page of Tab F, those are the two paragraphs
2 that you quoted in your testimony, correct?

3 A. Yes, sir.

4 Q. And, if you turn to the second page, you did not
5 include that bottom paragraph, that begins "The desired
6 maximum pressure". Do you see that?

7 A. Yes.

8 Q. Now, first, that phrase "desired maximum pressure" is
9 no longer in the Code, correct?

10 A. I don't believe it is in the Code.

11 Q. It was in the code. And, that's --

12 A. I will accept that.

13 Q. That's what this interpretation is about, is it not?

14 A. I would have to check and see.

15 Q. Okay.

16 A. If you want me to accept it, I'll accept it for
17 purposes of discussion.

18 Q. In talking about this "desired maximum pressure", the
19 second sentence there, "However, the operating pressure
20 of a pipeline may not exceed its maximum allowable
21 operating pressure or any lower pressure that might be
22 required". Do you see that?

23 A. Yes.

24 Q. "Thus, as long as these limits are not exceeded", and

[WITNESS: Sher]

1 then it goes on to talk about how we can calculate this
2 other pressure that's no longer in the Code, correct?

3 A. I'm sorry. Could you repeat the question.

4 Q. The discussion of this "desired maximum pressure" is
5 talking about a pressure that's beneath MAOP, correct?

6 A. I'd like to check and find out whether that was in the
7 Code or in the question that was asked. I'm not sure.
8 If you want, I can take a minute to look up an earlier
9 version and find out whether that was Code language or
10 that was the language in the question.

11 Q. I'm not sure that's critical. You agree with me it's
12 not in the Code now? The "desired maximum pressure"
13 that's a word that we do not see anymore, correct?

14 A. Without a complete search, --

15 Q. Fair enough.

16 A. -- I wouldn't make a statement on that.

17 CHAIRMAN HONIGBERG: It's certainly not
18 in any of the sections that have been put in play in this
19 proceeding, is it? That "desired" --

20 WITNESS SHER: It doesn't come to mind
21 as being in the Code. It comes to mind as having been in
22 other interpretations. But, without doing some research,
23 I'm not sure.

24 BY MR. SHEEHAN:

[WITNESS: Sher]

1 Q. If you can turn to Page 13 of your testimony?

2 A. Yes, sir.

3 Q. Never mind. Those are points we've made several times.
4 You testified that, if you were to accept Staff's
5 interpretation of MAOP, that "201 would no longer have
6 a purpose".

7 A. That is correct.

8 Q. Consider the following: Staff's interpretation of 619
9 holds, that is, the worker has to be under MAOP, the
10 monitor has to be under MAOP, and has to be set in a
11 way that the build-up stays below MAOP. You understand
12 that to be Staff's position?

13 A. Yes. That's my understanding of Staff's position.

14 Q. 201 would still say, whatever relief devices you have
15 or limiting devices, "have to have the capacity to keep
16 it below 62", correct?

17 A. Yes.

18 Q. So, it would still be in effect that, if you had a
19 relief valve, that valve still had to be ready to go to
20 keep the pressure at or below 62, correct?

21 A. No. You would design it that way, but you can't
22 operate it that way under Staff's interpretation,
23 because they say "you can't go over 56".

24 Q. Right.

[WITNESS: Sher]

1 A. So, why should I install capacity set to relieve to 62,
2 if I can't do it?

3 Q. Because --

4 A. So, 201 has no purpose, because I can't go up to those
5 points, why design it that way? The design has no
6 function.

7 Q. Let me give you a suggestion of why you design it that
8 way.

9 A. Okay.

10 Q. You want to operate under the broadest interpretation
11 of that phrase "under MAOP". If something goes wrong,
12 we want to be ready for pressure to go over MAOP. We
13 want to have the capability to handle those higher
14 pressures, if we were to have a problem.

15 A. Makes no sense. You're telling me "you must operate
16 under normal and under failure below the MAOP." Then,
17 why am I looking at capacity at any other level?

18 Q. To prevent a catastrophic failure.

19 A. But, if I can't go over the MAOP, I'm preventing the
20 catastrophic failure. That other thing serves no
21 purpose. I'm setting the monitor -- or, the regulator
22 at 50, whatever, 50, I'm setting the monitor so it
23 can't exceed 56. Why do I care about what happens at
24 62? You're limiting me to 56. If I can't go over 56,

[WITNESS: Sher]

1 that other stuff has no purpose.

2 Q. Okay. All right. I think I've made my point and
3 you've made yours.

4 A. Okay.

5 Q. Fair enough. You also say that -- well, let me ask you
6 this. Under that interpretation, your interpretation,
7 why even have 619?

8 A. Because I believe 619 is talking about "normal
9 operation". And, you've got to design your system so
10 that, during normal operations, when everything is
11 working properly, you don't exceed the MAOP. If the
12 regulator fails, we're no longer under normal. And, in
13 my opinion, 619 is no longer the applicable Code
14 section we deal with. We go to the Design of 201,
15 which tells us, also 739 and 743, in the Maintenance
16 sections, both refer us back to 201.

17 Q. But you know that PHMSA disagrees with you on that?

18 A. No, I don't think they do at all.

19 Q. Okay.

20 A. I think their interpretation says exactly what I just
21 said.

22 Q. Let's turn to that. That is Attachment M is the letter
23 from Northern and N is the interpretation.

24 A. Yes, sir.

[WITNESS: Sher]

1 Q. We don't really need to refer to the letter, unless you
2 have a specific need to, because most of it is repeated
3 or paraphrased in the PHMSA letter. So that the
4 request to PHMSA, and this is on Page 2 of their
5 letter -- I'm sorry, the requests are -- yes, 1 and 2
6 at the top of the page. "During normal operation, does
7 the operator violate", they quoted "621", but that's
8 the same, for all practical purposes, as "619"?

9 A. Yes.

10 Q. Okay. "During normal operations, is MAOP violated if
11 they operate over 56?" And, we all agree that's a
12 "yes", correct?

13 A. Yes, we do.

14 Q. Number 2 says "During a system emergency", and let's
15 look aside for the moment the next phrase, "such as a
16 failed worker regulator", I know that's a point of
17 discussion, "during a system emergency on a high
18 pressure system, does the operator violate 201 if the
19 system does not exceed 62?" Right?

20 A. That's the question. That's the --

21 Q. And, that's the design -- that's the design
22 requirement. So, is this a fair interpretation of that
23 question? "During an emergency, if the pressure stays
24 below 62, did the Company properly design its pressure

[WITNESS: Sher]

1 system?" Is that a fair --

2 A. Yes.

3 Q. Okay. It didn't say, by asking -- by referring to
4 "201", it's not asking "would you violate MAOP, 619,
5 if, in an emergency, it went up to 60 or 61", correct?

6 A. I cannot believe PHMSA, when they read this, would have
7 said "no", if they felt 619 was a violation. They
8 might have said "No. But, darn it, 619 doesn't let you
9 do it, so, you can't do it." I can't believe they, who
10 deal with the regs every day, would respond "no, it's
11 not a violation of this", and not say "but we think
12 it's a violation of something else", if that's what
13 they thought. I cannot accept that.

14 Q. But you accept all the other interpretations that you
15 presented to us?

16 A. I accept that's PHMSA's opinion.

17 Q. Okay.

18 A. And, sometimes I like them and sometimes I don't. But
19 they are PHMSA's opinion.

20 Q. But isn't the most important part of this letter the
21 very last paragraph?

22 A. It's a troubling part for me.

23 Q. Fair enough. Page 3.

24 A. Yes.

[WITNESS: Sher]

1 Q. "There may be confusion about the appropriate testing
2 and maintenance", and again I'll paraphrase, "of a
3 station for build-up and set point." And, they say
4 directly "Conducted a" -- "Conducting a simulated test
5 on a pressure limiting or regulator station that is not
6 isolated from the system does not constitute a system
7 emergency."

8 A. That's what they say.

9 Q. And, there's not much ambiguity there, is there?
10 They're saying, what happened on June whatever, 2014,
11 "was not an emergency", correct?

12 A. That's what they are saying.

13 Q. And, they make the next statement "it is a normal
14 operation".

15 A. That is their interpretation in this case.

16 Q. And, if it is a normal operation, and not an emergency,
17 then MAOP was violated on this day, correct?

18 A. Yes.

19 Q. And, then, they suggest that, if you want to do the
20 tests that were performed that day, you've got to do it
21 a different way, by "isolating the system" or some
22 other means, correct?

23 A. That's what they say.

24 Q. Okay.

[WITNESS: Sher]

1 A. Of course, I have no idea how you can do that. And,
2 this is the standard way it's been done throughout the
3 industry for many years. PHMSA has now thrown this new
4 wrinkle at us that we're going to have to deal with,
5 because that's the best, safest way to do it. PHMSA
6 has now said "don't do it". So, we're going to have to
7 all adapt to that change. Whether I like it or not,
8 that's PHMSA interpretation. I have to live with it.

9 Q. Do you hear the discussion this morning about my
10 suggestion that, instead of spending millions of
11 dollars to make changes to Northern's system, they
12 could get a better, different regulator monitor, do you
13 recall that?

14 A. Yes.

15 Q. And, do you know that there are monitors out there that
16 could keep the build-up pressure down to below 1 psi,
17 correct?

18 A. I heard that discussion earlier.

19 Q. And, my question is, you agree with me that those
20 monitor regulators do exist, or the pilots, I'm not
21 sure which piece?

22 A. I am not an expert of what's available out there to
23 limit it to one pound under what sets of conditions.
24 So, I'm hearing what you're postulating. I will handle

[WITNESS: Sher]

1 it as a hypothetical. I am not an expert at regulators
2 and what models have what different capacities.

3 Q. If I were to show you a spec sheet for a regulator,
4 would you be able to understand what it says?

5 MR. HEWITT: I'm going to object.
6 Counsel is trying to get his evidence in through my
7 witness. This witness has said that he's really not an
8 expert in this area. We haven't proffered him as an
9 expert in this particular area. And, so, I object to the
10 line of questioning and the approach that's being taken.

11 CHAIRMAN HONIGBERG: Mr. Sheehan.

12 MR. SHEEHAN: That's fair. We will just
13 offer the exhibit as a stand-alone, and we can have that
14 conversation when we're done with Mr. Sher. We have a
15 spec sheet for a monitor that will do exactly what I
16 suggested, and a brand that they have in their -- as they
17 testified before, they have that brand at least of the
18 monitor in their system now.

19 CHAIRMAN HONIGBERG: Okay.

20 BY MR. SHEEHAN:

21 Q. Mr. Knepper just pointed me to a portion of your
22 testimony that illustrates the point, you agree with
23 the fact that operators like Northern know about this
24 build-up pressure, they know that, if you set it at one

[WITNESS: Sher]

1 point, the pressure is going to go above it a certain
2 amount. I think we've heard a lot of testimony on that
3 today, correct?

4 A. That is correct.

5 Q. And, if you have to meet a certain limit, you have to
6 build that in to your set point calculation, correct?

7 A. That is correct.

8 Q. So, if, again, Staff's view of 619 holds, it would
9 require Northern to set the set point of their monitor
10 regulator a little lower to take into account that two
11 plus build-up?

12 A. Well, if you're talking just this system, yes. But,
13 then, you also have to look at their low pressure
14 system.

15 Q. I know. And, we have no evidence on that, other than
16 their high-level talk that "we've looked at it and it
17 might cost millions of dollars", right?

18 A. Yes. And, I'm not prepared to testify on the --

19 (Court reporter interruption.)

20 **CONTINUED BY THE WITNESS:**

21 A. I am not prepared to testify on the dollars, that's the
22 Company. I am prepared to say, if you force them to
23 lower the regulator settings on their low pressure
24 system, they will have a loss of capacity. Capacity

[WITNESS: Sher]

1 has been made for by the ratepayers for a long time
2 that's not going to be available to them anymore.

3 BY MR. SHEEHAN:

4 Q. But, if they put a different regulator in, they can
5 keep the pressure right where it is, right?

6 MR. HEWITT: Objection.

7 CHAIRMAN HONIGBERG: Sustained.

8 BY MR. SHEEHAN:

9 Q. You weren't hired to give that opinion, correct?

10 A. I was employed to give an analysis of the Code sections
11 that relate to this case.

12 MR. SHEEHAN: I think I'm done. One
13 second please.

14 (Short pause.)

15 BY MR. SHEEHAN:

16 Q. Oh. The last point is the O&M policy, O&M itself,
17 which is Attachment J and Exhibit 5. Are you familiar
18 with those documents?

19 A. I have Attachment J. What's the other document?

20 Q. Exhibit 5 is the different version of the same policy,
21 2-L.

22 A. Yes, sir.

23 Q. And, if you start with Attachment J, which is the
24 document that is dated "May 30, 2015", and I believe we

[WITNESS: Sher]

1 discussed off the record that it went into effect
2 sometime in the Summer of 2014. If up turn to Page 2,
3 under subparagraph (e). Do you see that?

4 A. Yes.

5 Q. (e)(2) says the "Monitor regulators shall be set to
6 ensure that the outlet of the pressure regulating
7 station does not exceed MAOP." Do you see that?

8 A. I see that.

9 Q. And, that would say, if I'm -- correct me if I'm wrong,
10 in this circumstance, under this policy, they shall set
11 their monitor regulators at something under 54,
12 correct?

13 A. Something such that they don't exceed 56.

14 Q. So, it would have to include the 2-pound build-up?

15 A. Assuming a 2-pound build-up, yes.

16 Q. Okay. And, that's the policy that's in effect now?

17 A. Yes.

18 Q. The next subparagraph, (b), about "relief valves",
19 again, we don't have relief valves in this case, but
20 that includes the language at the end "plus the
21 allowable build-up pressures in Table 2-L-1." Do you
22 see that?

23 A. Yes, I do.

24 Q. And, those pressures are basically the Code Section 201

[WITNESS: Sher]

1 calculations, correct?

2 A. Yes, they are.

3 Q. So, this says their policy allows their relief valves
4 have to have that capacity of 56 plus 6, correct?

5 A. That's what their current procedure says.

6 Q. Okay. And, we saw, in the Exhibit 5 submitted today,
7 that, at the time of this inspection, there was a
8 different policy, correct?

9 A. That is correct.

10 Q. And, that's, I think, at the very bottom of the first
11 page of Exhibit 5. They say "Control Regulator". Is
12 that another word for "worker regulator"?

13 A. I'm sorry. Where is that word you're talking about?

14 Q. The very bottom of Page --

15 A. Oh, in (1), "Control Regulator".

16 Q. Do you agree with me that that's another word for
17 "worker regulator"?

18 A. I believe so.

19 Q. And, the control regulator has to be under -- set under
20 MAOP, according to this policy?

21 A. That is correct.

22 Q. And, the monitor regulator, according to this policy,
23 can be set to keep it under 62?

24 A. That is correct.

[WITNESS: Sher]

1 Q. And, they changed that policy?

2 A. They changed the words in there, yes.

3 Q. Okay. And, the purpose of a operations manual like
4 this is to govern the Company's conduct, correct, in
5 the way they operate their system?

6 A. It describes how they're going to operate their system.

7 Q. And, it has to comply with all of the gas safety laws,
8 correct?

9 A. Yes.

10 MR. SHEEHAN: Thank you, sir. That's
11 all I have.

12 WITNESS SHER: Thank you.

13 CHAIRMAN HONIGBERG: Commissioner Scott,
14 do you have any questions?

15 COMMISSIONER SCOTT: I think just one.
16 Thank you.

17 BY COMMISSIONER SCOTT:

18 Q. Mr. Sher, I think I heard you say, regarding the -- and
19 I just want to clarify, so I don't take you out of
20 context please, that the test, if you will, that was
21 done, where the working regulator was set out-of-play,
22 so the monitor would then kick in, did I hear you
23 correctly, in that context, that that was -- that's a
24 standard test that's been done for many years? Is that

[WITNESS: Sher]

1 what you were referring to?

2 A. Yes, sir.

3 Q. Interesting. So, in that context, help me out here.

4 So, what's been discussed is the PUC Staff did an
5 inspection, said "please" -- "please do this", Northern
6 staff did that. And, I think the question is, "is that
7 an emergency condition or not an emergency condition?"

8 A. Well, PHMSA has said "it's not an emergency", and they
9 said "you're not supposed to do it that way." I
10 personally disagree, I think it's the best way. But
11 they have issued their interpretation.

12 COMMISSIONER SCOTT: Interesting. Thank
13 you.

14 WITNESS SHER: Yes, sir.

15 CHAIRMAN HONIGBERG: Commissioner
16 Bailey?

17 COMMISSIONER BAILEY: No questions.

18 BY CHAIRMAN HONIGBERG:

19 Q. What's been -- a phrase that's been going through my
20 mind throughout this entire hearing is a "simulated
21 emergency". That's essentially what we're doing here,
22 aren't we?

23 A. Yes, sir.

24 Q. That's what -- that's what Staff asked them to do,

[WITNESS: Sher]

1 "simulate an emergency"?

2 A. Yes, sir.

3 Q. And, you would have expected PHMSA to say "that's a
4 great way to simulate an emergency, a semi-controlled
5 condition." You wouldn't require the isolation, but
6 you'd say "Everybody's there. If it becomes a -- if it
7 looks like it's going to become a real emergency,
8 you're there and you can fix it", right?

9 A. Absolutely.

10 Q. But now they have come out and said "sorry, that's --
11 you do it that way, you're really, under normal
12 conditions, not emergency conditions, because it's not
13 a true emergency, it's just a simulated emergency"?

14 A. That's what they are saying, unfortunately. Because,
15 without doing this, you can't be sure what it was set
16 at. You can reset it, but you don't know what it was
17 set at, because you've never actually tested it.
18 Unfortunately, we're going to have to live with that,
19 given their interpretation. I don't always like
20 PHMSA's interpretations.

21 CHAIRMAN HONIGBERG: Okay. I don't have
22 any other questions.

23 Mr. Hewitt, do you have any further
24 questions for Mr. Sher?

[WITNESS: Sher]

1 MR. HEWITT: I do. Just to sort of pick
2 up on the last point that the Chairman made.

3 **REDIRECT EXAMINATION**

4 BY MR. HEWITT:

5 Q. Based on your reading of the Company's letter to PHMSA
6 requesting an interpretation, did the Company advise
7 PHMSA that it was performing this test at the request
8 of its state regulator?

9 A. No, it did not.

10 Q. Okay. So, PHMSA, on its own, came out and said "we
11 don't approve of this particular practice"?

12 A. That's what they said.

13 Q. And, I think you said earlier in your testimony --
14 well, strike that. I don't need to go there.
15 Mr. Sheehan asked you some questions in your testimony
16 about a PHMSA interpretation. And, I believe he was in
17 your testimony at around Page 17. And, are you there
18 at Page 17?

19 A. Yes, I am.

20 Q. Okay. And, then, that was a 1982 PHMSA interpretation,
21 correct?

22 A. Yes, it was.

23 Q. Okay. And, then, on the next page of your testimony,
24 on Page 18?

[WITNESS: Sher]

1 A. Yes, sir.

2 Q. The first question that you ask yourself, I guess, in
3 your prefiled testimony, is, you know, "Does that
4 indicate that your interpretation is incorrect?"
5 Meaning -- and that was referring to the prior -- to
6 the prior interpretation?

7 A. That is correct.

8 Q. So, in your testimony, you had raised this
9 interpretation that's on Page 17. And, then, you were
10 asked "well, that seems inconsistent with the opinions
11 that you're giving in this particular case", right?

12 A. Yes.

13 Q. And, then, you went on in your testimony to say "well,
14 you know, it might, that might cast some doubt on my
15 opinion, but the following year PHMSA actually went
16 ahead and they made a correction to that
17 interpretation"?

18 A. That is correct.

19 Q. They were asked to reconsider it, and they made a
20 correction, and that correction now brings that
21 interpretation in line with your opinions in this
22 proceeding?

23 A. Yes, they do.

24 Q. Thank you. Mr. Sher, going back to the Procedure 2-L

[WITNESS: Sher]

1 that is Attachment J to the LeBlanc/Pfister testimony,
2 do you have that with you?

3 A. Yes. Let me just --

4 Q. Mr. Sher [Sheehan?] asked you some questions about that
5 just a few minutes ago.

6 MR. SHEEHAN: I'm sorry, what page?

7 MR. HEWITT: Attachment J --

8 MR. SHEEHAN: Okay. Thank you.

9 MR. HEWITT: -- to LeBlanc/Pfister.

10 BY MR. HEWITT:

11 Q. And, that's the version of 2-L that is in place
12 currently?

13 A. Yes, sir.

14 Q. Correct? And, if you go to the second page of
15 Attachment J, where Mr. Sheehan asked you some
16 questions about Subpart (e), correct?

17 A. That is correct.

18 Q. At the end of that first clause of Subpart (e), there's
19 a citation to "192.201(a)(2)". Do you see that?

20 A. Yes, I do.

21 Q. So, what's your understanding of the purpose of placing
22 that citation at that point in that particular
23 provision of the O&M?

24 A. I think it's because they want to reference 201 for

[WITNESS: Sher]

1 monitors, as well as reliefs.

2 Q. Okay. And, that's all I have on that exhibit.

3 MR. HEWITT: May I approach the witness
4 please?

5 CHAIRMAN HONIGBERG: Sure.

6 MR. HEWITT: And, I'm sorry. I only
7 have this one copy.

8 (Atty. Hewitt showing document to the
9 witness.)

10 MR. HEWITT: Mr. Sher, I'm going to come
11 around to you, if that's okay?

12 WITNESS SHER: Okay.

13 BY MR. HEWITT:

14 Q. And, what I have, sir, is the Company's Gas Emergency
15 Response Plan that Mr. Sheehan referenced with you
16 early in your testimony. Do you recall that?

17 A. Yes, I do.

18 Q. Okay. And, there's a provision that's highlighted,
19 that a portion of which I believe he read. And, what I
20 would like to do is have you read that, and make sure
21 you read through the portion that talks about "existing
22 or potential gas-related hazards" in this definition of
23 "emergency" in this Response Plan. So, starting with
24 "A gas emergency" and ending with the word "hazards".

[WITNESS: Sher]

1 A. "A gas emergency is a condition in which extraordinary
2 procedures, equipment or supplies must be employed to
3 protect the public, employees, contractors, Unitil
4 facilities or the facilities of others from existing or
5 potential gas-related hazards."

6 Q. So, that particular definition isn't limited to "actual
7 hazards", is it?

8 A. No.

9 Q. So, it includes and encompasses "potential gas-related
10 hazards", correct?

11 A. Correct.

12 Q. Thank you. Mr. Sher, going back to the beginning of
13 your cross-examination, Mr. Sheehan asked you some
14 questions about your work as a consultant.

15 A. Yes, sir.

16 Q. And, generally, are you a consultant who works only for
17 industry?

18 A. No, sir.

19 Q. Okay. Could you allow the Commissioners to have just a
20 very brief, you know, insight into what you do as a
21 consultant that would be contrary to industry, as you
22 practice today?

23 A. Well, most of my work these days is as an expert in
24 explosions and accident investigations and litigation.

[WITNESS: Sher]

1 And, my time roughly is about one-third from
2 plaintiffs, one-third for companies, and one-third for
3 third party defendants.

4 Q. Thank you. I'd like to go please, sir, to a copy of
5 192.195, which is Attachment E, as in "echo", to the
6 testimony of Mr. LeBlanc and Mr. Pfister.

7 A. Yes, sir.

8 Q. And, Mr. Sher, 192.195(a), that provision is entitled
9 "General requirements", correct?

10 A. Yes, it is.

11 Q. And, then, if I go to 192.195(b) that's entitled
12 "Additional requirements for distribution systems",
13 correct?

14 A. Correct.

15 Q. And, what, in your mind, is the significance of the
16 phrase "Additional requirements for distribution
17 systems" as it's been used in 195(b)?

18 A. That you have to comply with (a), and, for distribution
19 systems, you have to also comply with (b).

20 Q. So, in other words, for a distribution system, would
21 Subpart (a) also apply?

22 A. Yes, it would.

23 Q. Okay. And, so, the fact that Section 192.201 is
24 limited in its reference to Subpart (a) of 192.195,

[WITNESS: Sher]

1 does that in any way affect your opinions in this
2 proceeding with regard to the applicability of 201 to
3 the facts at issue in this matter?

4 A. It again tells us we must go back to 201 in order to
5 determine compliance, and 201 has that same set of --
6 you know, the requirements to keep it under 62, 62 or
7 under. It's sending us always back to 201.

8 Q. Thank you. I only have one final question.

9 CHAIRMAN HONIGBERG: I will warn you
10 that I have a question based on something you've asked
11 him. So, the circle may continue. But why don't you go
12 ahead.

13 MR. HEWITT: Thank you.

14 BY MR. HEWITT:

15 Q. So, if the NOV, as Mr. Sher [Sheehan?] points out -- as
16 Mr. Sher [Sheehan?] points out only references 619 and
17 195, why do we have to talk about all these other
18 provisions of the Code?

19 A. The Code, as I said, is holistic. There are bits and
20 pieces of requirements throughout. You can't take one
21 and just look at it in a vacuum. You have to tie it
22 together. And, that's what the Code does. The
23 Maintenance sections tie back to Design. Operations
24 tie to different other places. You can't just take one

[WITNESS: Sher]

1 piece of the Code, look at it in its -- and block out
2 everything else, especially when we have, and I know I
3 was asked questions, I tried to review, the word
4 "operate" is used throughout the Code as an undefined
5 term. It's "operate", it's "normal operations", but it
6 never defines what it means by "operate". So, we've
7 got to look at the whole Code of what makes sense to
8 provide safe, adequate, and proper service at
9 reasonable rates. How do these codes tie into each
10 other? What's the intelligent approach to looking at
11 them? We can't look at any one reg, unless it is
12 absolutely, totally clear beyond any shadow of a doubt,
13 without looking at the entire world that we're dealing
14 with with the Code. Regulators are designed,
15 operation, and maintenance. And, to say they're all
16 isolated, and one has nothing to do with the other,
17 doesn't make sense.

18 Q. And, even if it does on its face appear perfectly clear
19 as Staff alleges, is it also prudent, when interpreting
20 this Code, to consider the context of this entire
21 approach to the regulation of gas safety when
22 interpreting that provision?

23 A. Yes, it does.

24 MR. HEWITT: I have nothing more.

1 CHAIRMAN HONIGBERG: I'm sorry. I'm
2 going to follow up on something that Mr. Hewitt asked you.
3 He was following up on my questions regarding the PHMSA
4 interpretation that was attached to Mr. LeBlanc's and Mr.
5 Pfister's testimony.

6 BY CHAIRMAN HONIGBERG:

7 Q. You're familiar with the process that companies can go
8 through to request interpretations, are you not?

9 A. Yes, I am.

10 Q. If a company is not satisfied with an answer it gets,
11 can it ask for a reconsideration, provide additional
12 information, along those lines, to get PHMSA to change
13 its mind?

14 A. Actually, it's a public document. I believe anybody
15 could ask for a reconsideration of it or a further
16 inquiry about it.

17 CHAIRMAN HONIGBERG: I have nothing
18 further. All right. Thank you, Mr. Sher. I think we're
19 done with you.

20 WITNESS SHER: Thank you.

21 CHAIRMAN HONIGBERG: There's no more
22 witnesses, correct?

23 (No verbal response)

24 CHAIRMAN HONIGBERG: We have a whole

1 slew of exhibits that were marked for identification.

2 Excuse me. Are their objections to any of them becoming
3 full exhibits?

4 MR. SHEEHAN: No, sir. Not from Staff.

5 MR. HEWITT: Nothing that has been
6 marked thus far. And, understanding that we had -- there
7 are some exhibits that we addressed the first day of the
8 hearing with regard to the other NOV, and we had sort of
9 clarified our position with regard to how those -- how we
10 believe those should come in.

11 So, aside from that clarification that
12 we made the last time we were here, no.

13 MR. SHEEHAN: I had threatened to mark
14 others, I will not. I think the manual we've quoted from,
15 the sections that's in the record. The tech sheet I have
16 is sort of a side issue. I made the point that there's
17 another alternative. I don't think it's critical to
18 decide the case. And, so, I have no other exhibits to
19 offer.

20 CHAIRMAN HONIGBERG: All right. So, we
21 will -- I guess I need clarification, Mr. Hewitt. I mean,
22 normally, at this point, we would strike the ID from all
23 the exhibits and they would be full exhibits. I have to
24 confess, I don't recall our exchange from the last time we

1 were here regarding those exhibits regarding the first
2 violation. So, --

3 MR. HEWITT: I recall it well, because I
4 believe it's --

5 CHAIRMAN HONIGBERG: You were
6 traumatized by it. It's seared in your brain.

7 MR. HEWITT: Well, no. It's one of the
8 first times that I've had a chairman characterize one of
9 my arguments as "how many angels can we get to dance on
10 the tip of this pin?" And, so, that is, however, seared
11 into my brain. I will try to avoid that in the future
12 when appearing before you.

13 The issue was simply, there is a dispute
14 as to whether the Commission should consider or entertain
15 the concept that Staff has raised with respect to the
16 Dover NOV, with regard to an increase in the potential
17 penalty. And, so, in order to make their argument that
18 they -- that the penalty should be increased, they have
19 provided with you -- they have provided to you certain
20 documents, as well as an offer of proof. Those documents
21 have been marked for identification. Okay?

22 The point that I was making is that
23 there's sort of a gating issue, as to whether, really,
24 it's appropriate for the Commission to even consider

1 increasing the penalties on an NOV literally at the time
2 of hearing.

3 So, if you were to decide that issue
4 that, "yes, as a Commission, we're not going to go down
5 that road", then, in theory, hence the "angels dancing on
6 heads of pins", those exhibits related to Dover have no
7 relevance to the other NOV, and they really shouldn't be a
8 part of the record.

9 However, if they're marked for purposes
10 of your consideration of that issue, just simply related
11 to Dover, I have no objection to that.

12 So, I, again, am getting into "dancing
13 angels", and I apologize.

14 CHAIRMAN HONIGBERG: Mr. Sheehan.

15 MR. SHEEHAN: You're lucky. I've been
16 accused of that many times in my career.

17 I think he states the issue well. That
18 I think, if you decide that we can't ask for more penalty
19 in Dover, or that you can't award, perhaps those exhibits
20 become irrelevant.

21 But, if you're going to look at those
22 exhibits to decide they're relevant, and, certainly, if
23 you let us make that argument, they're relevant.

24 CHAIRMAN HONIGBERG: Yes. I think I'm

1 refreshed. Thank you. I think that, effectively,
2 they're -- the ID is going to be struck, but they may
3 ultimately be deemed irrelevant and not be considered by
4 us, depending on how we resolve the issue that I think
5 you're probably both going to be filing memoranda on.

6 So, with that said, we'll be striking
7 the ID on the exhibits.

8 I know you gave me a date for the date
9 that you're going to be filing your post-hearing memos.

10 MR. SHEEHAN: Twenty-three. September
11 23.

12 CHAIRMAN HONIGBERG: Okay. Does either
13 of you want to ask for a page limit on the submissions?

14 MR. SHEEHAN: Mine will be less than
15 ten.

16 MR. HEWITT: I've got to cover a bit
17 more ground, because I need to make an offer of proof. My
18 own personal view of the world is, if I give you too much,
19 you're only going to read so much of it anyway, and I sort
20 of shoot myself in the foot if I put too many pages in
21 front of you. So, I tend to be as brief as I possibly
22 can.

23 CHAIRMAN HONIGBERG: We don't need to
24 put one in. It's fine. It's just, if someone felt they

1 wanted to ask for one, we would entertain it?

2 (No verbal response)

3 CHAIRMAN HONIGBERG: All right. Is
4 there any other business we need to transact, before we
5 wrap up? I mean, since you're going to be making written
6 submissions, I kind of assumed that you didn't want to
7 make an oral summation, but maybe I'm wrong.

8 MR. HEWITT: My sense is you have, from
9 the questions, you understand what the issues are and
10 where the differences lie. If you have questions, I have
11 no problem fielding any questions.

12 CHAIRMAN HONIGBERG: Do you have any
13 questions? Yes, you do. But go to Mr. Sheehan first.
14 Mr. Sheehan.

15 MR. SHEEHAN: I agree with Mr. Hewitt,
16 with a small caveat. There are just one or two comments
17 made at the close of this hearing that I would like to
18 address orally, just while they're fresh in everyone's
19 mind.

20 But, otherwise, we don't need to rehash
21 the merits of this, and we can certainly give the synopsis
22 in our written briefs.

23 CHAIRMAN HONIGBERG: I think
24 Commissioner Bailey has a question. So, we'll let her ask

1 that. And, then, if there's still an open thing you want
2 to say, Mr. Sheehan, we'll let you do that.

3 COMMISSIONER BAILEY: Mr. Hewitt, do you
4 remember Mr. Meissner's opening statement, I guess?

5 MR. HEWITT: I do.

6 COMMISSIONER BAILEY: Where he talked
7 about "Dover", and the fact that you had concluded that
8 the issues relevant to Dover shouldn't be addressed at
9 hearing, that it wouldn't -- that, in essence, it would be
10 kind of a waste of everyone's time, or "not appropriate
11 for hearing", I think that's what he said. Do you recall
12 that?

13 MR. HEWITT: Yes, generally.

14 COMMISSIONER BAILEY: Okay. Can you
15 tell me, isn't that the purpose of accepting an NOPV, when
16 you conclude that it would -- I mean, you're not disputing
17 the facts in that case, right? And, so, my question is,
18 why didn't you just pay the fine originally?

19 MR. HEWITT: And, I think it -- I think
20 it goes, in part, Commissioner, to the nature of that type
21 of a claim. I mean, what that particular claim really
22 came down to was engineering judgment, and, really,
23 whether the Company's design, in its judgment, was
24 appropriate for the circumstances, or whether -- or

1 whether Staff's suggestion that there should have been a
2 different design. That's really where that one was going
3 to sort of come down.

4 And, I think it was really an assessment
5 of the Company had taken remedial measures. The Company
6 took the remedial measures, frankly, without even being
7 requested by the Commission to do so.

8 And, so, I was in a very difficult
9 position coming into hearing, where I had a claim, where I
10 was saying, "You know what? My design was really good,
11 and it was appropriate for the circumstances." But Staff
12 could have paraded in with a bunch of photographs at
13 hearing that would have said "Well, your design was great,
14 right? Well, here's a station where you've done a
15 retrofit on that, to take all of those vents and raise
16 them above ground. And, here's where you retrofitted
17 another one. And, here's where you retrofitted another
18 one."

19 And, to be candid, that was one that I
20 did not want to bleed over to this particular matter.
21 Where I think it isn't about judgment. This one is not --
22 in fact, this one you can't really -- I'm putting on my
23 advocacy hat here for just a second. So, please excuse
24 me. In our view, this one, there isn't really room for

1 judgment. It's really the interpretation of the Code, and
2 there's a lot of interpretation by PHMSA that I think
3 supports the Company's position on this.

4 You can't go to a PHMSA interpretation,
5 by contrast, for Dover, and say "regulator vents, are they
6 better above ground or are they better below ground?"
7 And, as I got closer to hearing, the sense that I got was
8 that you could hand this to ten different engineers, and
9 you could probably get a 50/50 split, because you could
10 argue it in a vacuum, you could argue it either way.

11 And, so, it really was more of a, you
12 know, business decision, based on the recommendation of
13 counsel that the Company take that approach.

14 COMMISSIONER BAILEY: So, then, what are
15 we supposed to do with that NOPV -- it's the NOPV right
16 now, right? It's an NOV?

17 CHAIRMAN HONIGBERG: NOV.

18 MR. HEWITT: It's still an NOV. So, --

19 COMMISSIONER BAILEY: Okay. And, you
20 didn't accept -- I mean, you just said that perhaps Staff
21 could have made the case that the design wasn't prudent,
22 maybe, or within the Code. And, so, you chose not to
23 bring it to hearing, and you also chose not to pay the
24 fine. So, what are we supposed to do?

1 MR. HEWITT: I think you can accept the
2 NOV. So, what you have is you have an NOPV, there's some
3 process. And, if you can't agree at that point, then it
4 becomes an NOV. Okay? There was an NOV that we received
5 from Staff, along with a consent agreement. The consent
6 agreement does not -- does not compromise the claim, if
7 you will. The consent agreement has the exact same
8 provisions, in terms of civil penalty, as the NOV has.
9 And, I'll remind you, it also has this really problematic
10 condition in it that really relates more to the issues
11 we've been talking about for the last two days. It really
12 relates more to Portsmouth. It's a condition that the
13 Company set its regulators at a certain pressure point, so
14 that MAOP could never possibly be exceeded.

15 COMMISSIONER BAILEY: That's in the
16 Dover NOV?

17 MR. HEWITT: That's in both NOVs. So, I
18 couldn't accept the consent agreement, because,
19 essentially, I mean, there's essentially a hedging of the
20 bet, if you will, it appeared to us anyway. That
21 regardless -- if we had won -- if we had lost on either,
22 we would basically lose on Portsmouth, right? Because of
23 that condition that Staff inserted. So, if I lost on
24 Dover, if I signed the consent agreement on Dover, I may

1 as well give up on Portsmouth, because I then have to
2 set -- I would have to set my monitor set points at the
3 point that Staff is arguing I have to set them in this
4 proceeding.

5 COMMISSIONER BAILEY: Okay.

6 MR. HEWITT: So, I really didn't have a
7 choice. I mean, --

8 COMMISSIONER BAILEY: I understand.

9 MR. HEWITT: You understand where I'm
10 going?

11 CHAIRMAN HONIGBERG: Essentially, Mr.
12 Hewitt, I mean, I think this is essentially what you said
13 in your letter, that you admit the violation of the Dover,
14 and are willing to pay the fine that's set forth in the
15 NOV.

16 MR. HEWITT: Yes.

17 CHAIRMAN HONIGBERG: And, you've ask
18 that we not impose the other condition, because, in your
19 view, it's not relevant. And, that's -- I think we get
20 that.

21 So, Mr. Sheehan, what was it that you
22 wanted to say briefly?

23 MR. SHEEHAN: Two things. The thought
24 running through your head about a "simulated emergency" is

1 disputed. The PHMSA letter says that wasn't -- having
2 that event was simply "normal operations". It was not a
3 simulated emergency. It was normal. And, our position,
4 of course, is, even without the test, if the monitor -- if
5 the worker failed, that is normal operation.

6 Okay. I just wanted to not let that
7 thought continue to ruminate without our answer to it.

8 CHAIRMAN HONIGBERG: Oh. But you
9 understand, Mr. Sheehan, that if you hear the witnesses
10 who testified, both the Staff witnesses and the Company's
11 witnesses, that phrase leaps out from what everyone was
12 talking about. In plain English, they "simulated an
13 emergency". Now, that's not what some of the rules
14 contemplate. It's obviously not what PHMSA thinks is an
15 appropriate thing to do maybe. But, you know, just plain
16 English, laymen, which is what we are in this
17 circumstance, that's what they did. They "simulated an
18 emergency".

19 MR. SHEEHAN: Right. And, like I said,
20 we just disagree with the failure of a worker equaling an
21 emergency.

22 CHAIRMAN HONIGBERG: Uh-huh.

23 MR. SHEEHAN: That's all. And, so, it
24 really wasn't a simulated emergency. It was a simulated

1 failure of a worker, which can happen in the everyday
2 business, they go and they fix it and they move on.

3 So, that's just so that -- I got the
4 sense that you thought we all agreed with that phrase, and
5 we don't. That's all.

6 That's all. The rest we can put in
7 writing.

8 CHAIRMAN HONIGBERG: All right. Well, I
9 think we're done. I want to thank both sides for
10 well-presented arguments that I think crystallized the
11 issues. We will await the transcript and your
12 post-hearing filings. And, we'll issue a decision as soon
13 as we can thereafter. With that, we'll adjourn.

14 MR. HEWITT: Thank you very much.

15 **(Whereupon the hearing was adjourned at**
16 **2:01 p.m.)**