

July 24, 2015

Byron Coy, PE  
Director, Eastern Region  
Pipeline and Hazardous Materials Safety Division  
U.S. Department of Transportation  
Mountain View Office Park  
820 Bear Tavern Road, Suite 103  
West Trenton, NJ 08628

Re: Niagara Mohawk Power Corporation (Niagara) Liquefied Natural Gas (LNG) Facility in Providence, RI  
CPF 1-2015-3003

Dear Mr. Coy:

On July 9, 2015, the Pipeline and Hazardous Materials Safety Division ("PHMSA") of the U.S. Department of Transportation issued a Notice of Probable Violation ("NOPV") to Niagara Mohawk Power Corporation ("Niagara" or the "Company"). The NOPV relates to an alleged violation of title 49 of the Code of Federal Regulations observed during PHMSA inspections of the Niagara liquefied natural gas plant in Providence, Rhode Island between October 20 and October 24, 2014. In accordance with 40 CFR §190.209 (2), Niagara responds herein to the Department's allegations and requests that PHMSA conduct an informal hearing to review the allegations and civil penalty pursuant to 49 CFR §190.211. Niagara will be represented by counsel at the hearing, and respectfully requests that any relevant material in the PHMSA case file be provided no later than 30 days prior to the hearing.

As noted below, the Company believes that the factual basis for the allegations warrant further review and consideration by PHMSA. While the Company does not dispute the fact that minor procedural gap occurred, the company believes that the issuance of an NOPV is excessive considering that a number of mitigating factors occurred and were well documented. Finally, since the time of the inspection, the procedure in question had been modified to more appropriately demonstrate compliance with the applicable code requirement, without creating unnecessary steps and the Company believes that the proposed penalty is unnecessarily punitive in nature.

To facilitate the informal review process to be conducted under 49 CFR§ 190.211, the Company has prepared the following initial response to the NOPV allegation:

**§193.2605 Maintenance Procedures**

PHMSA alleges that Niagara did not follow its operations and maintenance procedures for C-1 Boil-Off Compressor Isolation and Purging.

During the inspection, the PHMSA inspector(s) reviewed Niagara's C-1 Boil-off Compressor Isolation and Purge maintenance procedure 4.PR-IP2 Rev 2 revised 7/2012, and the records required by the procedure. Section 5.0 "Instructions," of that procedure provides a checklist for isolating the equipment; Section 6.0 – "Records", provides documentation requirements. Section 6 states:

- 6.1 The completed, signed checklist is to be forwarded to the Plant Supervisor.
- 6.2 Updated the plant logbook with the status change of C-1.
- 6.3 Plant Management will review the submitted forms and logbook for accuracy and sign.
- 6.4 Records shall be retained on file at the Plant for a minimum of five (5) years."

PHMSA states that The PHMSA inspector requested the checklist required by section 5 of the procedure and Niagara provided a record that they indicated was for work performed on October 23, 2013. The PHMSA inspector reviewed the record and noted that portions were not signed and the record was not dated.

PHMSA also states that the PHMSA inspector discussed the record with Niagara's Plant Supervisor and Plant Manager. The Plant Supervisor stated that the record should have been completed and signed by Niagara's staff and then reviewed and signed by the Plant Supervisor.

Based on the above statements, PHMSA alleges a violation of:

49 CFR Part 193 §2605 Maintenance Procedures

(b) Each operator shall follow one or more manuals of written procedures for the maintenance of each component, including any required corrosion control. The procedure must include:

(1) the details of the inspections or tests determined under paragraph (a) of this section and their frequency of performance, and...

#### DISCUSSION

The alleged violation referenced in the letter sent by PHMSA's office on July 9, 2015 (CPF 1-2015-3003) pertain to Niagara's plant isolation procedure 4.PR-IP2 Rev 2 revised 7/2012 which is an isolation procedure for boil off compressor C-1. The purpose of this procedure is to take the boil off compressor out of service to perform required repair or maintenance work. Section 6.0 of this document references the four steps required in order to adequately record the plant's compliance with each of these steps as described above. The checklist (indicated in Section 5 of the procedure) was completed, signed and forwarded to the Plant Supervisor as required under 6.1; the entry into the plant logbook on October 23, 2013 stated, "we will be venting gas to purge Boil off compressor shutdown Boil off compressor #2. 0% LEL for purge points on C-1," and the record of this work was retained on file at the Plant from that point on. The third step, under 6.3, however, was only partially completed, to the extent that the logbook was reviewed and signed but the procedure checklist was not signed by the Plant Supervisor for work done that day.

The Company does not dispute the finding of PHMSA's inspection on October 20 through October 24, 2014, but respectfully and strongly believes that the essence of this procedure was closely followed by having the checklist otherwise completed, by having appropriate logbook entry done by the Plant

operating personnel and reviewed and signed by the Plant Supervisor, and by having this record readily available at the time of the inspection. Much of this inspection finding is due more to the Company having an overly restrictive procedure with some redundant criteria.

To further illustrate the Company's belief that some of the steps were unnecessary and provided minimal benefit, during the October, 2014 inspection, it was agreed that the steps within the procedure duplicated the logbook entries and maintenance records, and potentially added a source of confusion to plant personnel. As a result, in November 2014 the procedure was updated to remove these unnecessary steps.

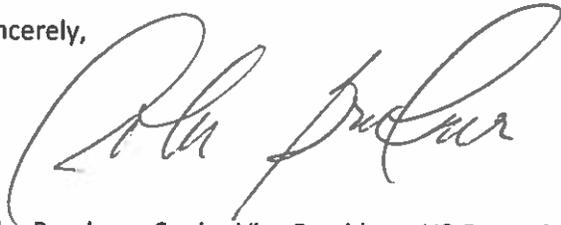
Lastly, upon receiving the letter sent by PHMSA's office on July 9, 2015 (CPF 1-2015-3003) describing this Notice of Probable Violation, the Company was somewhat confused by the finding. When the exit interview was given by the PHMSA inspectors, Robert Burroughs and Stanley Kastanasis to the Providence LNG personnel it was expressed to us that the missing Isolation procedure step did not present a problem because the documentation provided was adequate to prove that the work had been completed by the Plant Operators and overseen by the Plant Supervisor. Providence LNG management copied the log book, work order and a copy of the procedure with all the changes that were marked up for the work that day by the plant supervisor. The log book entry was completed by the LNG operator that performed the procedure and the log book was checked and initialed by the LNG Supervisor. In consideration of the requirements of §193.2605 "Maintenance Records", the Company believes that Niagara has sufficiently demonstrated compliance.

#### CONCLUSION

The safety and security of the Niagara Mohawk Power Company Liquefied Natural Gas (LNG) Facility's operations are of paramount importance to the Company, its customers and its neighbors. In that regard, the Company greatly appreciates the diligence and attention shown by PHMSA during its inspections. Because the Company places a high value on the safety and security of all its LNG facilities, it is important that it gain a better understanding of PHMSA's concerns, as described in the NOPV, and in particular, of the reason for issuing a proposed civil penalty of this level and severity, relative to the alleged violation for the reasons described above. To that end, the Company looks forward to the opportunity to resolve the issues raised in the NOPV through an informal hearing to be conducted by the Department's staff. We will be happy to arrange for a meeting at PHMSA's office in Washington, DC

Thank you for your attention and consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John Bruckner". The signature is fluid and cursive, with the first name "John" being larger and more prominent than the last name "Bruckner".

John Bruckner, Senior Vice President, US Operations<sup>(1)</sup>

Cc: Susan Fleck, Vice President, Gas Pipeline Safety and Compliance  
David Lodemore, Senior Counsel II, FERC Regulatory  
Fikret Su, Director LNG Operations  
Robert D. Wilson, Director Compliance and Strategy<sup>1</sup>

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<sup>1</sup> We kindly call your attention to the correct current senior leadership overseeing LNG Operations in the US.