

WARNING LETTER

OVERNIGHT EXPRESS DELIVERY

December 6, 2019

Ross Turrini
SVP Gas Process & Engineering
Niagara Mohawk Power Corp
25 Hub Drive
Melville, NY 11747

CPF 1-2019-3006W

Dear Mr. Turrini:

On October 21, 2019, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), pursuant to Chapter 601 of 49 United States Code (U.S.C.), reviewed Operator National Registry Notification J-20191021-22898 submitted by Niagara Mohawk Power Corp (Niagara).

As a result of the findings, it is alleged that you have committed a probable violation of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The item inspected and the probable violation is:

1. § 191.22 National Registry of Pipeline and LNG operators

(a) ...

(c) Changes. Each operator of a gas pipeline, gas pipeline facility, underground natural gas storage facility, LNG plant, or LNG facility must notify PHMSA electronically through the National Registry of Pipeline, Underground Natural Gas Storage Facility, and LNG Operators at <http://opsweb.phmsa.dot.gov> of certain events.

(1) An operator must notify PHMSA of any of the following events not later than 60 days before the event occurs:

(i) ...

(iii) Construction of a new LNG plant or LNG facility;

Niagara failed to notify PHMSA electronically through the National Registry of Pipeline, Underground Natural Gas Storage Facility, and LNG Operators not later than 60 days before construction activities began for a new LNG liquefaction facility at its Providence LNG plant.

Niagara began start up and construction activities for a liquefaction train at its Providence LNG plant on March 18, 2019. On October 21, 2019, a PHMSA inspector discussed the construction notice omission with Niagara. In an email, Niagara stated they, “Made several attempts to notify PHMSA of our intent to do construction at our Providence LNG plant but was ultimately unsuccessful in making the filing.” Additionally, Niagara stated that no emails were sent to PHMSA. Niagara stated to the PHMSA inspector that they had no email address to use for PHMSA. Instead, the telephone number shown on PHMSA’s website was called. The PHMSA phone number was called at least three times and messages were left each time explaining the problem with the website and asking for a callback. The calls were never returned. Following this correspondence with the PHMSA inspector, Niagara submitted a National Registry Notification dated October 21, 2019 for the liquefaction construction project. This notification was 276 days late.

Therefore, Niagara failed to notify PHMSA not later than 60 days before the construction of an LNG facility, per the requirements of § 191.22(c)(1)(iii).

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$218,647 per violation per day the violation persists, up to a maximum of \$2,186,465 for a related series of violations. For violation occurring on or after November 27, 2018 and before July 31, 2019, the maximum penalty may not exceed \$213,268 per violation per day, with a maximum penalty not to exceed \$2,132,679. For violation occurring on or after November 2, 2015 and before November 27, 2018, the maximum penalty may not exceed \$209,002 per violation per day, with a maximum penalty not to exceed \$2,090,022. For violations occurring prior to November 2, 2015, the maximum penalty may not exceed \$200,000 per violation per day, with a maximum penalty not to exceed \$2,000,000 for a related series of violations. Also, for each violation involving LNG facilities, and additional penalty of not more than \$79,875 occurring on or after July 31, 2019 may be imposed. For each violation involving LNG facilities, an additional penalty of not more than \$77,910 occurring on or after November 27, 2018 and before July 31, 2019 may be imposed. For each violation involving LNG facilities occurring on or after November 2, 2018 and before November 27, 2018, an additional penalty of not more than \$76,352 may be imposed. For each violation involving LNG facilities occurring prior to November 2, 2015, an additional penalty of not more than \$75,000 may be imposed. We have reviewed the circumstances and supporting documents involved in this case, and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time. We advise you to correct the item(s) identified in this letter. Failure to do so will result in Niagara Mohawk Power Corp being subject to additional enforcement action.

Be advised that all material you submit in response to this enforcement action is subject to being made publicly available. If you believe that any portion of your responsive material qualifies for

confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

No reply to this letter is required. If you choose to reply, please submit all correspondence in this matter to Robert Burrough, Director, PHMSA Eastern Region, 840 Bear Tavern Road, Suite 300, West Trenton, NJ 08628. Please refer to **CPF 1-2019-3006W** on each document you submit, and whenever possible provide a signed PDF copy in electronic format. Smaller files may be emailed to robert.burrough@dot.gov. Larger files should be sent on USB flash drive accompanied by the original paper copy to the Eastern Region Office.

Sincerely,

Robert Burrough
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration