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January 6, 2021

VIA ELECTRONIC MAIL TO: Alan K. Mayberry (c/o Heather.Myrga.CTR@dot.gov)

Alan K. Mayberry  
Associate Administrator  
Office of Pipeline Safety PHMSA  
1200 New Jersey Avenue, SE, East Building 2<sup>nd</sup> Floor  
Washington, DC 20590

RE: CPF No. 03-2019-0003

In response to the Final Order received for the above referenced subject matter, Suburban Propane respectfully submits a Petition for Reconsideration as it pertains specifically to item #4 of the Order.

The following items are the basis for our request for reconsideration:

- 1) On 2/12/2020 we submitted a letter to contest the allegations in the Notice of Probable Violations. We requested an informal conference and requested a copy of the civil penalty worksheet and a formal hearing. An informal conference was held on 5/20/2020. We believed that there was sufficient reason for item #4 violation to be removed entirely. During the Informal Conference it was presented to us that the violation would remain and the penalty would be removed. The agreement was deemed a sufficient compromise by all participants. We were instructed to submit in writing that we no longer contest the allegations and to withdraw our request for a hearing. We complied with this request based on the representations made to us at the time of the informal conference and subsequent emails (see attached). We are challenged to accept a Final Order which has changed from the terms of the informal conference. It is most likely that we would not have withdrawn our request for a formal hearing if we knew the outcome of the informal conference would not be reflected in the Final Order. As noted, we were seeking monetary relief for the penalties, but we were ultimately concerned about a violation on record, which indicates non-compliance.
- 2) Additionally, we disagree with the final assessment considerations for item #4 as outlined in the Final Order. Regarding nature and circumstances, the regulator manufacturer has established product specifications that vary from the markings on the regulator. Suburban demonstrated that their established inlet pressure was not an error or misinterpretation; rather a difference of choice and most importantly the safety of the system was not compromised. No equipment issue occurred as a result of the increased MAOP contrary to what is stated in the final order. In fact the manufacturer documentation previously provided to PHMSA clearly shows that the service regulators in question are more than capable of handling a 15 psi inlet pressure while still offering adequate relief protection downstream. Furthermore, the documentation also clearly shows that in the event



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of an emergency situation the service regulators in question are capable of handling inlet pressures greater than the documented 19-19.5 psi relief set points. The 10 psi stamping on the body of the regulator which PHMSA has solely focused on is predicated for UL certification requirement and not a determination of performance limitations of the regulator in question as evidenced by the Manufacturer's specifications. Regarding gravity, PHMSA notes that pipeline safety was minimally affected. We argue that based on the performance limitations of the regulators as previously explained, pipeline safety was not affected at all. Regarding culpability, it is our position that in determining MAOP, all documentation was thoroughly reviewed and a 15 psi MAOP was established. Utilizing the 15 psi MAOP and the requirements of 192.201(a)(2)(ii) reliefs were set between 19-19.5 psi. While we do not argue that culpability related to item #3 exists in regard to MAOP determination, we strongly believe that culpability related specifically to item #4 does not exist since the relief settings were compliant based on the established MAOP and 192.201(a)(2)(ii). In addition to the items discussed above, 192.225(a)(3) states that Associate Administrator will consider the respondents history or prior offenses, yet the Assessment of Penalty in the final order makes no mention of Suburban's positive history related to pipeline safety and compliance. We agreed to reset the inlet pressure to 10 psi based on the preference and interpretation of the Inspector. We should not be penalized for demonstrating proper procedure and not knowing prior to the inspection that the Inspector had a difference of opinion regarding which inlet pressure is "acceptable". There is also no mention or consideration for Suburban's good faith in attempting to achieve compliance as required by 192.225(a)(4).

In closing, we reiterate our position with regards to the safety of our systems and cooperative compliance with the authority having jurisdiction. Our hope remains to resolve these matters based on merit and without the need for a formal hearing. Thank you for your consideration.

Sincerely,

Keith Onderdonk  
Vice President – Operational Support

Attachments: Emails  
Regulator Cut Sheet

Cc: Office of Chief Counsel, PHMSA  
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