



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

12300 W. Dakota Ave., Suite 110
Lakewood, CO 80228

**NOTICE OF PROBABLE VIOLATION
and
PROPOSED CIVIL PENALTY**

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

March 5, 2019

Mr. Jason Hodges
President
NPC Energy Services, LLC
7941 Sandlewood Place
Anchorage, AK 99507

CPF 5-2019-0005E

Dear Mr. Hodges:

On April 22 through May 3, 2018, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), pursuant to Chapter 601 of 49 United States Code (U.S.C.) investigated circumstances surrounding the June 22, 2017 damage to a natural gas pipeline located near 3802 Parks Highway in in Palmer, Alaska.

Background

On July 22, 2017, at 11:41 am, NPC Energy Services, LLC (NPC) contacted ENSTAR Natural Gas stating NPC hit an unmarked gas line with a mini excavator. After arriving onsite, ENSTAR observed 8-feet of exposed 2-inch plastic main natural gas line. NPC informed ENSTAR they thought the pipeline was abandoned and they proceeded to drill a hole in the pipeline to verify. When the pipeline began to release natural gas, the NPC placed a hose clamp with tape to cover the drill hole.

Underground utilities locate markings existed on the ground near the excavation, but not at the location being excavated. NPC Energy Services acting as the excavator did not have a one-call ticket for the excavation location at the time the damage occurred to the 2-inch pipeline. Work was being performed for an Alaska DOT project. NPC Energy Services was acting as a sub-contractor to Knik Construction performing excavations to install street light pole bases.

Based on excavation activities investigated, it is alleged that you have committed probable violations in Part 196 of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (C.F.R.). The items investigated and the probable violations are:

1. **§ 196.103 What must an excavator do to protect underground pipelines from excavation-related damage?**

Prior to and during excavation activity, the excavator must:

(a) Use an available one-call system before excavating to notify operators of underground pipeline facilities of the timing and location of the intended excavation;

NPC Energy Services (NPC) did not use the available one-call system (Alaska Digline (811 One-Call Center)) prior to excavating. NPC was conducting excavations at the time the underground pipeline facility was damaged on July 22, 2017. Underground utilities were marked nearby, but not at the excavation location where the damage to the pipeline occurred. PHMSA reviewed the one-call tickets opened in the year prior to the incident near the incident location. That review revealed that no one-call tickets were opened by NPC.

2. **§ 196.109 What must an excavator do if damage to a pipeline from excavation activity causes a leak where product is released from the pipeline?**

If damage to a pipeline from excavation activity causes the release of any PHMSA regulated natural and other gas or hazardous liquid as defined in part 192, 193, or 195 of this chapter from the pipeline, the excavator must promptly report the release to appropriate emergency response authorities by calling the 911 emergency telephone number.

NPC failed to report the release after its excavation activities damaged the pipeline resulting in a release of natural gas to appropriate emergency response authorities by calling the 911 emergency telephone number. After exposing a portion of a 2-inch underground natural gas pipeline during excavation activities performed on July 22, 2017, an NPC employee drilled a hole in the pipeline to determine if it was active. The drilled holed caused a release of natural gas. Upon the natural gas release, the excavation company representative contacted the operator of the pipeline, but did not call 911 as required by the regulation.

Proposed Civil Penalty

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, you are subject to a civil penalty not to exceed \$213,268 per violation per day the violation persists, up to a maximum of \$2,132,679 for a related series of violations. For violations 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. The Compliance Officer has reviewed the circumstances and supporting documentation involved in the above probable violations and has recommended that you be preliminarily assessed a civil penalty of \$12,100 as follows:

<u>Item number</u>	<u>Proposed Penalty</u>
1	\$12,100

Response to this Notice

Enclosed as part of this Notice is a document entitled *Response Options for Third Party Excavators in Enforcement Proceedings*. Please refer to this document and note the response options. All material submit in response to this enforcement action may be 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).

Following the receipt of this Notice, you have 30 days to submit written comments, or request a hearing under 49 C.F.R. § 190.211. If you do not respond within 30 days of receipt of this Notice, this constitutes a waiver of your right to contest the allegations in this Notice and authorizes the Associate Administrator for Pipeline Safety to find facts as alleged in this Notice without further notice to you and to issue a Final Order. If you are responding to this Notice, we propose that you submit your correspondence to my office within 30 days from the receipt of this Notice. This period may be extended by written request for good cause.

In your correspondence on this matter, please refer to **CPF 5-2019-0005E** and, for each document you submit, please provide a copy in electronic format whenever possible.

Sincerely,



Chris Hoidal
Acting Director, Western Region
Pipeline and Hazardous Materials Safety Administration

Enclosure: *Response Options for Third Party Excavators in Enforcement Proceedings*

cc: Paul Lantz, General Manager, NPC Energy Services, LLC
PHP-60 Compliance Registry
PHP-500 J. Gano (#163983)