WARNING LETTER

ELECTRONIC DELIVERY VIA EMAIL TO JSSYVESTER@CHPK.COM

October 6, 2022

Mr. Jeff Sylvester
Senior Vice President and COO
Chesapeake Utilities Corporation
500 Energy Lane
Dover, DE 19904

CPF 2-2022-011-WL

Dear Mr. Sylvester:

Between July 19 and December 16, 2021, a representative of the Pipeline and Hazardous Materials Safety Administration (PHMSA) inspected Florida Public Utilities Company's[1] LP-Gas distribution systems in Alachua, Citrus, Hillsborough, Marion, and Polk counties, Florida, pursuant to Chapter 601 of 49 United States Code (U.S.C.).

As a result of the inspection, it is alleged that Florida Public Utilities Company (FPU) has committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations (CFR). The items inspected and the probable violations are:

1. § 191.22 National Registry of Operators.
(a) . . . .

[1] Florida Public Utilities Company is a wholly-owned subsidiary of Chesapeake Utilities Corporation. Chesapeake Utilities Corporation website, https://chpk.com/about-us/our-businesses/florida-public-utilities/, last retrieved 07/01/2022.

(b) Changes. Each operator of a gas pipeline, gas pipeline facility, UNGSF, LNG plant, or LNG facility must notify PHMSA electronically through the National Registry of Operators at *https://portal.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) . . . .

(ii) A pipeline converted for service under § 192.14 of this chapter, or a change in commodity as reported on the annual report as required by § 191.17.

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

(i) . . . .

(ii) A change in the entity (e.g., company, municipality) responsible for an existing pipeline, pipeline segment, pipeline facility, UNGSF, or LNG facility;

FPU did not meet the requirements of the regulation because it did not notify PHMSA through the National Registry of Operators of certain events that occurred at the Villas at Lake Smart apartments. Specifically, FPU did not meet the requirements of § 191.22(c)(1)(vi), because it did not notify PHMSA not later than 60 days prior to changing the commodity transported from LP-Gas to Natural Gas and § 191.22(c)(2)(iii), because it did not notify PHMSA not later than 60 days after a change in entity responsible for an existing pipeline.

On or about December 30, 2020, FPU changed the commodity transported at the Villas at Lake Smart apartments from LP-Gas to Natural Gas and changed the entity responsible for operation of the pipeline system from Florida Public Utilities (Operator ID 5330) to Central Florida Gas (Operator ID 2188). According to the Florida Public Utilities website[2], Central Florida Gas officially became a division of Florida Public Utilities in March 2011. Notwithstanding any relationship between the companies, they operate under separate PHMSA Operator IDs and are required to notify PHMSA of any changes in the entity responsible for operating an existing pipeline or pipeline segment.

FPU electronically notified PHMSA, through the National Registry of Operators, of these changes on or about August 10, 2021. The notifications were in response to a PHMSA inspection identifying that FPU had not notified PHMSA of these events.

2. § 192.11 Petroleum gas systems.

(a) . . . .

(b) Each pipeline system subject to this part that transports only petroleum gas or petroleum gas/air mixtures must meet the requirements of this part and of ANSI/NFPA 58 and 59.

FPU did not meet the requirements of the regulation because it did not meet the requirements of NFPA 58 (2004)[3] for each pipeline system subject to Part 192, as follows:

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[2] Florida Public Utilities website, https://fpuc.com/centralfloridagasinfo/, last retrieved 07/01/2022.

[3] The 2004 edition of NFPA 58, "Liquefied Petroleum Gas Code (LP-Gas Code)," is the edition currently incorporated by reference in § 192.7(i)(2).

A. __NFPA 58 § 6.7.2.4__

Rain caps or other means shall be provided to minimize the possibility of the entrance of water or other extraneous matter into the relief device or any discharge piping. Provision shall be made for drainage where the accumulation of water is anticipated.

__NFPA 58 § 6.7.2.5__

The rain cap or other protector shall be designed to remain in place, except during pressure relief device operation and shall not restrict pressure relief device flow.

FPU failed to meet the requirements of NFPA 58 §§ 6.7.2.4 and 6.7.2.5, which required it to protect the container relief device from the entrance of water or other extraneous matter by providing a rain cap or other protector and ensuring that the rain cap or other protector remained in place. The required protection serves to minimize the possibility of extraneous matter interfering with the relief device operation and to serve as an indicator that the pressure relief device had operated.

The PHMSA inspector observed and documented container relief devices with no rain cap or other protection in place at containers serving the Antigua Cove, Blackwater Oaks, Crescent Woods, Cypress Trace, Grandview Landings, Hawk Creek Reserve, and Highlands in the Woods LP-Gas distribution systems. Some of the relief devices with missing rain cap or other protection were found filled with extraneous matter and/or water.

B. __NFPA 58 § 6.7.4.4__

All regulators for outdoor installations shall be designed, installed, or protected so their operation will not be affected by the elements (freezing rain, sleet, snow, ice, mud, or debris).

FPU failed to meet the requirements of NFPA 58 § 6.7.4.4 because it did not protect regulators for outdoor installation, so their operation would not be affected by the elements, by enclosing the regulator in a housing, under a cover, or by mounting the regulator with the vent pointing vertically downward. In part, this requirement minimizes the possibility of pressure control failures caused by the regulator vent becoming blocked by ice, water entering the spring case and freezing or corroding internal parts, or debris entering the spring case and interfering with normal operation.

The PHMSA inspector observed and documented outdoor regulator installations with the regulator vent pointing horizontally and that were not protected by cover or housing at the Crescent Woods and Hawk Creek Reserve LP-Gas distribution systems.

3. § 192.491 Corrosion control records.

(a) . . . .

(b) Each operator shall maintain a record of each test, survey, or inspection required by this subpart in sufficient detail to demonstrate the adequacy of corrosion control measures or that a corrosive condition does not exist. These records must be retained for at least 5 years with the following exceptions:

(1) Operators must retain records related to §§ 192.465(a) and (e) and 192.475(b) for as long as the pipeline remains in service.

(2) Operators must retain records of the two most recent atmospheric corrosion inspections for each distribution service line that is being inspected under the interval in § 192.481(a)(2).

FPU did not meet the requirements of the regulation because it did not maintain records of external corrosion control examinations of exposed buried pipelines conducted pursuant to § 192.459. Specifically, FPU did not maintain records of external examinations conducted when it exposed and removed buried LP-Gas containers from service.

FPU exposed and removed four (4) 2,000-gallon LP-Gas containers from its Antigua Cove LP-Gas distribution system in August 2016, and six (6) 1,000-gallon LP-Gas containers from its Villas at Lake Smart LP-Gas distribution system between December 2020 and January 2021. FPU did not have records of any external examinations that were conducted when the containers were exposed and removed from their respective systems.

FPU agreed that it did not have records of the required inspections. After the inspector identified this issue, FPU revised various sections of its Operation and Maintenance manuals to include specific requirements that LP-Gas containers be examined and documented when buried containers are exposed.

4. § 192.725 Test requirements for reinstating service lines.

(a) . . . .

(b) Each service line temporarily disconnected from the main must be tested from the point of disconnection to the service line valve in the same manner as a new service line, before reconnecting. However, if provisions are made to maintain continuous service, such as by installation of a bypass, any part of the original service line used to maintain continuous service need not be tested.

FPU did not meet the requirements of the regulation because it did not test each service line temporarily disconnected from the main, from the point of disconnection to the service line valve, in the same manner as a new service line before reconnecting it.

FPU leak repair records showed seven (7) instances where FPU did not properly test service lines before reconnecting, as follows:

- October 2016 - 1 service line on NW 231st Way (Newberry Oaks system)
- February 2017 - 1 service line on NW 11th Rd (Newberry Oaks system)
- February 2018 - 2 service lines on NW 5th PL (Newberry Oaks system)
- February 2019 - 1 service line on Highlands in the Woods Dr (Highlands in the Woods system)
- June 2019 - 1 service line on Sea Grape Dr (Antigua Cove system)
- December 2020 - 1 service line on Sea Grape Dr (Antigua Cove system)

FPU acknowledged that it had not pressure tested the temporarily disconnected service lines from the point of disconnection to the service line valve in the same manner as a new service line before reconnecting. After the inspector identified this issue, FPU revised various sections of its Operation and Maintenance manuals to include pressure testing of temporarily disconnected service lines in accordance with the § 192.725 requirements.

5. **§ 192.739 Pressure limiting and regulating stations: Inspection and testing.**

(a) Each pressure limiting station, relief device (except rupture discs), and pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is -

(1) In good mechanical condition;

(2) Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;

(3) Except as provided in paragraph (b) of this section, set to control or relieve at the correct pressure consistent with the pressure limits of § 192.201(a); and

(4) Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

FPU did not meet the requirements of the regulation because it did not inspect and test each pressure regulating station and its equipment at intervals not exceeding 15 months, but at least once each calendar year.

Regulator station inspection records for the Antigua Cove system showed that FPU did not inspect all the regulators at its regulator station from 2018 to 2020. The regulator station at Antigua Cove consisted of two (2) regulator runs, a primary and secondary run. FPU records showed that only the primary run was inspected in calendar years 2018, 2019, and 2020, with notes indicating that the secondary run was not in service. FPU personnel stated that the secondary regulator run was not in use and left off due to lack of demand in the system.

FPU acknowledged that it did not inspect the secondary regulator run at Antigua Cove in 2018, 2019, and 2020. In response, FPU instructed its technicians to inspect all regulators at metering and regulating stations regardless of whether the regulators were on actively operating runs.

6. **§ 192.805 Qualification program.**

Each operator shall have and follow a written qualification program. The program shall include provisions to:

(a) . . . .

(b) Ensure through evaluation that individuals performing covered tasks are qualified;

FPU did not meet the requirements of the regulation because it did not ensure that its contractors, who performed covered tasks, were qualified when they allowed them to perform covered tasks. Specifically, in August and September 2019, FPU allowed two (2) contractors who were not qualified to perform covered task 419OP, Cathodic Protection Potential Measurement. FPU Service orders showed that:

- Contractor 1 performed covered task 419OP on or about August 20, 2019, on the Cypress Trace LP-Gas distribution system. Contractor 1's qualification records showed that the qualification for this task expired in January 2019 with no subsequent renewal or requalification prior to performing the task.

- Contractor 2 performed covered task 419OP on or about September 17 and 18, 2019, on the Blackwater Oaks, Crescent Woods, Cypress Trace, Grandview Landings, and Highlands in the Woods LP-Gas distribution systems. Contractor 2's qualification records showed that he had never been qualified to perform this covered task.

FPU acknowledged that in 2019 it used contract employees with expired or non-existent qualification and further explained that at the time it was transitioning all contractors from individual recordkeeping to storage with its current OQ service provider. Their current service provider "notifies FPU supervisors and managers of expiring and current qualifications via reports and e-mails to ensure a qualified workforce."

7. § 192.1015 What must a small LPG operator do to implement this subpart?
(a) General. No later than August 2, 2011, a small LPG operator must develop and implement an IM program that includes a written IM plan as specified in paragraph (b) of this section. The IM program for these pipelines should reflect the relative simplicity of these types of pipelines.

FPU did not meet the requirements of the regulation because it did not develop and implement an Integrity Management Plan for its Half Moon Station LP-Gas distribution system prior to the system becoming subject to the Part 192 requirements.

In general, for distribution systems placed into service after August 2, 2011, PHMSA expects operators to develop and implement their Integrity Management Plan prior to beginning operation. However, per § 192.1(b)(5), Half Moon Station, with no portion of the system located in a public place, was not subject to the Part 192 requirements when FPU began operating the system and did not become subject to the Part 192 requirements until the system started serving 10 or more customers. FPU estimated that it added the 10^{th} customer to the system sometime between June and December of 2018. Therefore, FPU should have developed and implemented its Integrity Management Plan for the Half Moon Station LP-Gas distribution system when it added the 10^{th} customer onto the system.

FPU acknowledged that it had not developed and implemented its Integrity Management Plan for Half Moon Station when it added the 10^{th} customer to the system. After the inspector identified this issue, FPU developed and implemented the required plan.

Under 49 U.S.C. § 60122 and 49 CFR § 190.223, Florida Public Utilities Company is subject to a civil penalty not to exceed $239,142 per violation per day the violation persists, up to a maximum of $2,391,142 for a related series of violations. For violation occurring on or after May 3, 2021 and before March 21, 2022, the maximum penalty may not exceed $225,134 per violation per day the violation persists, up to a maximum of $2,251,334 for a related series of violations. For violation occurring on or after January 11, 2021 and before May 3, 2021, the maximum penalty may not exceed $222,504 per violation per day the violation persists, up to a maximum of $2,225,034 for a related series of violations. For violation occurring on or after July 31, 2019 and before January 11, 2021, the maximum penalty may not 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.

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 items identified in this letter. Failure to do so will result in Florida Public Utilities Company being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 2-2022-011-WL.** 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).

Sincerely,

James A. Urisko
Director, Office of Pipeline Safety
PHMSA Southern Region