U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

February 1, 2024

VIA ELECTRONIC MAIL TO: esudduth@interiorgas.com

Elena Sudduth
General Manager
Interior Gas Utility
2525 Phillips Field Road
Fairbanks, Alaska 99709

CPF No. 4-2023-006-NOPV

Dear Ms. Sudduth:

Enclosed please find a Consent Order incorporating the terms of the Consent Agreement between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Interior Gas Utility (IGU), which was executed on January 22, 2024. Service of the Consent Order and Consent Agreement by electronic mail is deemed effective upon the date of transmission and acknowledgement of receipt, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

ALAN KRAMER MAYBERRY
Digitally signed by ALAN KRAMER MAYBERRY
Date: 2024.01.31 13:01:17 -05'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosure: Consent Order and Consent Agreement

cc: Mr. Bryan Lethcoe, Director, Southwest Region, Office of Pipeline Safety, PHMSA
Mr. Zane D. Wilson, Counsel for IGU, CSG, Inc., zane@alaskalaw.com

CONFIRMATION OF RECEIPT REQUESTED

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of	)	
Interior Gas Utility,	)	**CPF No. 4-2023-006-NOPV**
Respondent.	)	

CONSENT ORDER

By letter dated May 8, 2023, the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety (OPS), issued a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice) to Interior Gas Utility (IGU or Respondent).

In response to the Notice, Respondent requested a hearing on Item 1 and Item 2, contesting the underlying violations, the proposed civil penalty for Item 1, and the proposed compliance order for Item 1 and Item 2. Respondent also asked for the opportunity to meet informally with PHMSA to discuss Item 1 and Item 2 of the Notice. Respondent and PHMSA (the Parties) subsequently met to discuss the issues raised in the Response. As a result of those discussions, as explained in more detail below, the Parties have agreed to a Consent Agreement which revises the compliance order and reduces the civil penalty to **$52,200**.

Accordingly, the Consent Agreement is hereby approved and incorporated by reference into this Consent Order. Respondent is hereby ordered to comply with the terms of the Consent Agreement pursuant to its terms. Pursuant to 49 U.S.C. § 60101, *et seq*., failure to comply with this Consent Order may result in the assessment of civil penalties as set forth in 49 U.S.C. § 60122 and 49 C.F.R. § 190.223, or in referral to the Attorney General for appropriate relief in a district court of the United States.

The terms and conditions of this Consent Order are effective upon service in accordance with 49 C.F.R. § 190.5.

ALAN KRAMER MAYBERRY
Digitally signed by ALAN KRAMER MAYBERRY
Date: 2024.01.31 12:59:58 -05'00'

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

February 1, 2024

Date Issued

U.S. DEPARTMENT OF TRANSPORTATION
PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION
OFFICE OF PIPELINE SAFETY
WASHINGTON, D.C. 20590

In the Matter of	)	
Interior Gas Utility,	)	**CPF No. 4-2023-006-NOPV**
Respondent.	)	

CONSENT AGREEMENT

On November 21, 2021, Interior Gas Utility (IGU) experienced a rupture of its 8-inch natural gas distribution main at 2942 Tria Road in Fairbanks, Alaska. Consequently, 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.), evaluated IGU's liquified natural gas (LNG) Storage Site #3 (SS3) Main in Fairbanks, Alaska, via videoconference.

On December 20, 2021, IGU notified PHMSA of two reportable incidents after cold natural gas vapors from LNG SS3 entered the downstream gas distribution system causing a rupture of an 8-inch distribution pipeline that released 559 mcf of natural gas and a shutdown of IGU's LNG facility.[1]

The Director, Southwest Region, OPS (Director), issued to Respondent, by letter dated May 8, 2023, a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice). In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that Respondent violated two provisions of 49 C.F.R. Part 193, proposed ordering Respondent to take certain measures to correct the alleged violations, and proposed a civil penalty of $342,800.

IGU responded to the Notice by letter dated June 7, 2023 (Response). IGU requested a hearing and contested the underlying probable violations and the proposed civil penalty. IGU also requested to meet informally with PHMSA to discuss the issues raised in its Response.

PHMSA and Respondent (the Parties) subsequently met to discuss the issues raised in the Response. As a result of these discussions and as explained in more detail below, the Parties have agreed to a Consent Agreement which includes a finding of violation for Item 1, withdraws Item 2, includes a revised compliance order, and reduces the penalty to **$52,200**.

[1] IGU filed two separate incident reports for the emergency shutdown of its LNG facility and the rupture on its natural gas distribution line.

Having agreed that settlement of this proceeding will avoid further administrative proceedings or litigation and will serve the public interest by promoting safety and protection of the environment, pursuant to 49 U.S.C. § 60101, *et seq.* and 49 C.F.R. Part 190, and upon consent and agreement, the Parties hereby agree as follows:

I. General Provisions

1. Respondent acknowledges that as the operator of the pipeline facilities subject to the Notice, Respondent and its referenced pipeline facilities are subject to the jurisdiction of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and administrative orders issued thereunder. For purposes of this Consent Agreement (Agreement), Respondent acknowledges that it received proper notice of PHMSA's action in this proceeding and that the Notice states claims upon which relief may be granted pursuant to 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder.

2. After Respondent returns this signed Agreement to PHMSA, the Agency's representative will present it to the Associate Administrator for Pipeline Safety (Associate Administrator), recommending that the Associate Administrator adopt the terms of this Agreement by issuing an administrative order (Consent Order) incorporating the terms of this Agreement. The terms of this Agreement constitute an offer of settlement until accepted by the Associate Administrator. Once accepted, the Associate Administrator will issue a Consent Order incorporating the terms of this Agreement.

3. Respondent consents to the issuance of the Consent Order, and hereby waives any further procedural requirements with respect to its issuance. Respondent waives all rights to contest the adequacy of notice, or the validity of the Consent Order or this Agreement, including all rights to administrative or judicial hearings or appeals, except for the Dispute Resolution provisions set forth herein. Respondent agrees to withdraw its request for an administrative hearing regarding the Notice.

4. This Agreement shall apply to and be binding upon PHMSA and Respondent, its officers, directors, and employees, and its successors, assigns, or other entities or persons otherwise bound by law. Respondent agrees to provide a copy of this Agreement and any incorporated work plans and schedules to all of Respondent's officers, employees, and agents whose duties might reasonably include compliance with this Agreement.

5. This Agreement constitutes the final, complete, and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Agreement. The Parties acknowledge that there are no representations, agreements or understandings relating to settlement other than those expressly contained in this Agreement, except that the terms of this Agreement may be construed by reference to the Notice.

6. Nothing in this Agreement affects or relieves Respondent of its responsibility to comply with all applicable requirements of the Federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations and orders issued thereunder. Nothing in this Agreement alters

PHMSA's right of access, entry, inspection, and information gathering or PHMSA's authority to bring enforcement actions against Respondent pursuant to the Federal pipeline safety laws, the regulations and orders issued thereunder, or any other provision of Federal or State law.

7. For all transfers of ownership or operating responsibility of Respondent's pipeline system referenced herein, Respondent will provide a copy of this Agreement to the prospective transferee at least 30 days prior to such transfer. Respondent will provide written notice of the transfer to the Director no later than 60 days after the transfer occurs.

8. This Agreement does not waive or modify any Federal, State, or local laws or regulations that are applicable to Respondent's pipeline systems. This Agreement is not a permit, or a modification of any permit, under any Federal, State, or local laws or regulations. Respondent remains responsible for achieving and maintaining compliance with all applicable Federal, State, and local laws, regulations and permits.

9. This Agreement does not create rights in, or grant any cause of action to, any third party not party to this Agreement. The U.S. Department of Transportation is not liable for any injuries or damages to persons or property arising from acts or omissions of Respondent or its officers, employees, or agents carrying out the work required by this Agreement. Respondent agrees to hold harmless the U.S. Department of Transportation, its officers, employees, agents, and representatives from any and all causes of action arising from any acts or omissions of Respondent or its contractors in carrying out any work required by this Agreement.

10. Except as set forth herein, this Agreement does not constitute a finding of violation of any other federal law or regulation and may not be used in any civil proceeding of any kind as evidence or proof of any fact, fault or liability, or as evidence of a violation of any law, rule, regulation, or requirement, except in a proceeding to enforce the provisions of this Agreement or in future PHMSA enforcement actions.

II. Finding of Violation:

11. ***Item 1 - 49 C.F.R. § 193.2441(c)***: The Notice alleged that IGU failed to have personnel in continuous attendance in its control center or secondary control center while components under its control were in operation in accordance with § 193.2441(c). Specifically, the Notice alleged that due to the absence of continuous attendance in its control center, IGU failed to notice low temperature alarms in its control center that required an emergency shutdown of its LNG facility. This event constitutes a reportable incident. Due to this failure, cold gas and LNG entered a gas distribution system, which embrittled an 8-inch underground pipeline that subsequently ruptured and disrupted gas supply to 91 businesses and 144 residential homes. Therefore, PHMSA finds that IGU violated 49 C.F.R. § 193.2441(c).

12. Item 1 will be considered by PHMSA as a prior offense in any future PHMSA enforcement action taken against Respondent for the five (5)-year period following the Effective Date of this Agreement.

III. Withdrawal of Allegation:

13. ***Item 2 - 49 C.F.R. § 193.2515(b)***: The Notice alleged that IGU failed to take appropriate action to minimize recurrence of the incidents in accordance with § 193.2515(b). Due to the revised compliance order, and after review of additional information provided by IGU, PHMSA agrees to withdraw Item 2.

IV. Civil Penalty:

14. ***Item 1***: The Notice proposed assessing a civil penalty in the amount of $342,800 for Item 1. Respondent requested a reduction of the proposed civil penalty and PHMSA agrees to reduce the civil penalty to **$52,200**. The reduction is based on reconsideration of the gravity of the violation after consideration of additional information provided by Respondent and based on the specific circumstances in this case in consideration of Respondent's small business classification. Respondent agrees to pay a reduced civil penalty in the amount of **$52,200** for the violation in Item 1.

15. Respondent shall pay an adjusted civil penalty in the amount of **$52,200**, pursuant to the payment instructions at 49 C.F.R. § 190.227(a), to be paid in full no later than **20** days from the Effective Date of this Agreement.

V. Compliance Order:

16. ***Item 1***: The Notice proposed certain compliance order actions to address the non-compliance alleged in Item 1. In its Response, Respondent contested the Proposed Compliance Order for Item 1. As a result of the informal discussions and information provided by IGU regarding its efforts to hire and train sufficient control center operators, the Parties have agreed to the revised compliance order actions as follows:

(a) Respondent must provide monthly progress reports to the Director detailing its efforts to hire, train, and retrain control center personnel to be in continuous attendance in its control center while any components under its control are in operation in accordance with § 193.2441(c). Monthly reports must be submitted until adequate personnel are hired and trained. The information that should be detailed in these monthly progress reports includes, but is not limited to:

i. Updates to the training program, including:

1. Required qualifications and experience necessary for the position of Control Center Operator.

2. Establishment of shift lengths and schedule rotations that provide controllers off-duty time sufficient to achieve eight hours of continuous sleep between shifts.

ii. Updates to the training procedures for control center operators that must include specific training for:

1. Monitoring components in which a hazard to persons or property could exist in accordance with the requirement in § 193.2507.

2. Startup and shutdown performance testing.

3. Recognizing abnormal operating conditions.

4. Recognizing safety related conditions.

5. Maintaining proper vaporization rate, temperature, and pressure.

6. Cooling down components as prescribed by § 193.2505.

iii. Respondent's efforts to hire adequate personnel to maintain 24-hour (i.e., continuous) control center coverage.

iv. Along with monthly progress reports, IGU must provide records for completion of the Control Center Operator training program for each newly hired controller.

v. Respondent may hire a qualified third-party control center manager, approved by the Director, to satisfy this compliance action. If Respondent engages a third-party control center manager, IGU must ensure that the requirements of items (i) and (ii) are implemented into its control center management procedures, and items (iii) and (iv) will be adjusted to reflect the third-party context.

(b) IGU must review and submit its response for Item 1 to the Director within 90 days of the Effective Date.

17. ***Item 2***: The Notice proposed certain compliance order actions to address the non-compliance alleged in Item 2. In its Response, Respondent contested the Proposed Compliance Order for Item 2. As a result of the informal discussions and information provided by IGU regarding its actions in response to the incidents, the Parties have agreed to the revised compliance order actions as follows:

(a) IGU must engage a third-party firm, approved by the Director, to perform a full review of its equipment design and associated procedures, focusing on all equipment from the LNG tank to the metering system. The review must include an evaluation of the effectiveness of the equipment sensors and control systems, and the overall design of the facility. The review must also include an assessment of the operating procedures and the test records. Upon completion of the third-party review, IGU must present a plan to the Director detailing the strategy and timeline required to implement the resulting recommendations.

(b) IGU must submit its plan to implement the recommendations of the third-party design review to the Director within 180 days of the Effective Date.

VI. <u>Enforcement:</u>

18. This Agreement is subject to all enforcement authorities available to PHMSA under 49 U.S.C. § 60101, *et seq*., and 49 C.F.R. Part 190, including administrative civil penalties under 49 U.S.C. § 60122, of up to $257,664 per violation for each day the violation continues and referral of the case to the Attorney General for judicial enforcement, if PHMSA determines that Respondent is not complying with the terms of this Agreement in accordance with the determinations made by the Director, or in accordance with decisions of the Associate Administrator if resolved pursuant to the Dispute Resolution process herein. The maximum civil penalty amounts are adjusted annually for inflation. *See* 49 C.F.R. § 190.223. All work plans and associated schedules set forth or referenced in Section IV are automatically incorporated into this Agreement and are enforceable in the same manner.

VII. <u>Review and Approval Process</u>:

19. With respect to any submission under Section IV (Compliance Order) of this Agreement that requires the approval of the Director, the Director may: (a) approve, in whole or in part, the submission; (b) approve the submission on specified, reasonable conditions; (c) disapprove, in whole or in part, the submission; or (d) any combination of the foregoing. If the Director approves, approves in part, or approves with conditions, Respondent will take all actions as approved by the Director, subject to Respondent's right to invoke the dispute resolution procedures with respect to any conditions the Director identifies. If the Director disapproves all or any portion of the submission, the Director will provide Respondent a written notice of the deficiencies. Respondent will correct all deficiencies within the time specified by the Director and resubmit it for approval.

VIII. <u>Dispute Resolution</u>:

20. The Director and Respondent will informally attempt to resolve any disputes arising under this Agreement, including any decision of the Director under the terms of Section IV. If Respondent and the Director are unable to informally resolve the dispute within 15 calendar days after the dispute is first raised, in writing, to the Director, Respondent may submit a written request for a determination resolving the dispute from the Associate Administrator. Such request must be made in writing and provided to the Director, counsel for the Southwest Region, and to the Associate Administrator, no later than 10 calendar days from the 15-day deadline for informal resolution referenced in this paragraph. Along with its request,

Respondent must provide the Associate Administrator with all information Respondent believes is relevant to the dispute. Decisions of the Associate Administrator under this paragraph will constitute final agency action. The existence of a dispute and PHMSA's consideration of matters placed in dispute will not excuse, toll, or suspend any term or timeframe for completion of any work to be performed under this Agreement during the pendency of the dispute resolution process.

IX. Effective Date:

21. The term "Effective Date," as used herein, is the date on which the Consent Order is issued by the Associate Administrator, incorporating the terms of this Agreement.

X. Recordkeeping and Information Disclosure:

22. Unless otherwise required in this Agreement, Respondent agrees to maintain records demonstrating compliance with all requirements of this Agreement for a period of at least five (5) years following completion of all work to be performed. For any reports, plans, or other deliverables required to be submitted to PHMSA pursuant to this Agreement, Respondent may assert a claim of business confidentiality or other protections applicable to the release of information by PHMSA, covering part or all of the information required to be submitted to PHMSA pursuant to this Agreement in accordance with 49 C.F.R. Part 7. Respondent must mark the claim of confidentiality in writing on each page and include a statement specifying the grounds for each claim of confidentially. PHMSA determines release of any information submitted pursuant to this Agreement in accordance with 49 C.F.R. Part 7, the Freedom of Information Act, 5 U.S.C. § 552, DOT and PHMSA policies, and other applicable regulations and Executive Orders.

XI. Modification:

23. The terms of this Agreement may be modified by mutual agreement of the Parties. Such modifications must be in writing and signed by both parties.

XII. Termination:

24. This Agreement will remain in effect until the Civil Penalty is paid in full and the Compliance Order in Section IV is satisfied, as determined by the Director. The Agreement shall not terminate until the Director confirms, in writing, that the Agreement is terminated in accordance with this paragraph. Nothing in this Agreement prevents Respondent from completing any of the obligations earlier than the deadlines provided for in this Agreement.

XIII. Ratification:

25. The Parties' undersigned representatives certify that they are fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such party to this document.

26. The Parties hereby agree to all findings, conditions, and terms of this Agreement.

For Interior Gas Utility:

Elena Sudduth
General Manager

01/19/24
Date

For PHMSA:

BRYAN JEFFERY LETHCOE

Digitally signed by BRYAN JEFFERY LETHCOE
Date: 2024.01.22 11:56:30 -06'00'

Bryan Lethcoe
Director, Southwest Region, Office of Pipeline Safety

January 22, 2024
Date