

January 16, 2025

VIA ELECTRONIC MAIL TO: yves.brower@bueci.org

Yves Brower
General Manager
Barrow Utilities & Electric Coop., Inc.
PO Box 449
Barrow, Alaska 99723

Re: CPF No. 5-2023-046-NOPV

Dear Mr. Brower:

Enclosed please find a Consent Order incorporating the terms of the Consent Agreement between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and Barrow Utilities & Electric Cooperative, Inc (BUECI), which was executed on January 6, 2025. Service of the Consent Order and Consent Agreement by electronic mail is deemed effective upon the date of transmission and acknowledgment of receipt, or as otherwise provided under 49 C.F.R. § 190.5.

Thank you for your cooperation in this matter.

Sincerely,

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Enclosures: Consent Agreement and Consent Order

Cc: Dustin Hubbard, Director, Western Region, Office of Pipeline Safety, PHMSA
Gabrielle St. Pierre, Operations Supervisor, Western Region Office of Pipeline Safety, PHMSA
Ashley Brown, Counsel, Kemppe, Huffman & Ellis, P.C.

CONFIRMATION OF RECEIPT REQUESTED

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

	)	CPF No. 5-2023-046-NOPV
In the Matter of	)	
	)	
Barrow Utilities & Electric Cooperative, Inc,	)	
	)	
Respondent.	)	
	)	

CONSENT ORDER

By letter dated December 27, 2023, the Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (PHMSA), issued a Notice of Probable Violation, Proposed Civil Penalty, and Proposed Compliance Order (Notice) to Barrow Utilities & Electric Cooperative, Inc. (BUECI or Respondent).

In response to the Notice, Respondent contested the underlying violation of Item 16, the proposed civil penalty, and requested modifications to the proposed compliance order. Respondent also challenged the underlying proposed violations in Warning Items 9 and 20. Respondent asked for an opportunity to meet informally with PHMSA to discuss the Items in the Notice. Respondent and PHMSA (the Parties) subsequently met to discuss the issues raised in the Response. As a result of those discussions, the Parties have agreed to a Consent Agreement by which PHMSA makes findings of violation of nineteen (19) provisions of 49 C.F.R. §§ 191 and 192 (Items 1-8, 10-14, 16-19, 21-22), issues a warning for Items 2 and 5, assesses a civil penalty in the amount of **\$32,720**, and requires Respondent to complete specified compliance actions.

Accordingly, the Consent Agreement is hereby approved and incorporated by reference into this Consent Order. BUECI 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 additional 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.

January 16, 2025

Alan K. Mayberry
Associate Administrator
for Pipeline Safety

Date Issued

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

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In the Matter of	)	
	)	
Barrow Utilities & Electric Cooperative, Inc,	)	CPF No. 5-2023-046-NOPV
	)	
Respondent.	)	
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CONSENT AGREEMENT

From November 16 through November 18, 2022, 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.), conducted an on-site pipeline safety inspection of the facilities and records of Barrow Utilities & Electric Cooperative, Inc. (BUECI or Respondent) in Utqiagvik (Barrow), Alaska. Specifically, PHMSA inspected BUECI's distribution (Barrow distribution system) located in Utqiagvik, Alaska and the Naval Arctic Research Laboratory's (NARL) distribution system (NARL distribution system) located north of Utqiagvik, Alaska.

As a result of the inspection, the Director, Western Region, OPS (Director), issued to Respondent, by letter dated December 27, 2023, a Notice of Probable Violation and Proposed Compliance Order and Proposed Civil Penalty (Notice), which also included three (3) warnings pursuant to 49 C.F.R. § 190.205. In accordance with 49 C.F.R. § 190.207, the Notice proposed finding that BUECI committed violations of nineteen (19) provisions of 49 C.F.R. §§ 191 and 192 (Items 1-8, 10-14, 16-19, 21-22), proposed ordering Respondent to take certain measures to correct the alleged violations and a civil penalty of \$81,800. The other probable violations (Items 9, 15, and 20) were brought as warnings, advising the operator to correct the probable violations or face potential future enforcement action.

BUECI initially responded to the Notice on January 23, 2024, requesting a 30-day extension to submit an official response before responding to the Notice by letter dated February 25, 2024 (Response). BUECI contested the underlying violation of Item 16, the proposed civil penalty, and requested modifications to the proposed compliance order. BUECI also challenged the underlying proposed violations in Warning Items 9 and 20.

PHMSA and Respondent (the Parties) subsequently met to discuss the issues raised in the Response. As a result of those discussions and as explained in more detail below, the Parties agreed to findings of violation, a modified compliance order and a reduced civil penalty of **\$32,720** with a payment plan based on BUECI's status as a small nonprofit.

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, 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.

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. Findings of Violation:

11. *Item 1 - 49 C.F.R. § 191.11(a):* The Notice alleged BUECI failed to provide an accurate annual report for the year of 2021 as required. Specifically, the Notice alleged that BUECI's annual report for the year of 2021 was not consistent with the information PHMSA gathered during the inspection. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 191.11(a).

12. **Item 2 - 49 C.F.R. § 192.161(c):** The Notice alleged BUECI failed to support exposed pipeline with noncombustible material as required. Specifically, the Notice alleged that wood material, which is a combustible material, was observed supporting various portions of the BUECI & NARL distribution pipelines. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.161(c).

13. **Item 3 - 49 C.F.R. § 192.273(b):** The Notice alleged BUECI failed to demonstrate joints were made in accordance with written procedures that had been qualified as required. Specifically, the Notice alleged BUECI could not provide documentation demonstrating that plastic piping was constructed using a qualified plastic joining procedure. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.273(b).

14. **Item 4 - 49 C.F.R. § 192.287:** The Notice alleged BUECI did not have documentation demonstrating the inspection of joints in plastic pipe was conducted by a qualified person as required. Specifically, the Notice alleged that during inspection, BUECI could not provide training records or evidence of documented experience in evaluating the acceptability of plastic pipe joints for plastic pipe inspectors. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.287.

15. **Item 5 - 49 C.F.R. § 192.355(b)(2):** The Notice alleged BUECI failed to ensure each meter installed was protected from damage as required. Specifically, the Notice alleged that the NARL distribution system's metering and service-regulator box for the Ilisagvik College was installed in an inadequately vented box against a building, and was trapping natural gas fumes within the box, creating a hazardous environment. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.355(b)(2).

16. **Item 6 - 49 C.F.R. § 192.481(a) and (c):** The Notice alleged BUECI did not inspect each aboveground portion of the Barrow and NARL distribution systems for atmospheric corrosion at the required frequencies. Specifically, the Notice alleged that during inspection, records demonstrated that not all of the aboveground valve stations on distribution mains for the Barrow and NARL distribution systems had been inspected over a three-year period. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.481(a) and (c).

17. **Item 7 - 49 C.F.R. § 192.491(c):** The Notice alleged BUECI could not demonstrate the contents of its gas were non-corrosive because during inspection BUECI failed to provide records indicating gas quality sampling had taken place to ensure no corrosive gas was being transported by the Barrow and NARL distribution systems. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.491(c).

18. **Item 8 - 49 C.F.R. § 192.605(a):** The Notice alleged BUECI failed to review and update its O&M manual at intervals not exceeding 15 months, but at least once each calendar year as required. Specifically, the Notice alleged that there were no reviews of the operations and maintenance procedures documented prior to 2022. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.605(a).

19. **Item 10 - 49 C.F.R. § 192.605(b)(8):** The Notice alleged BUECI did not complete periodic reviews of work done by operator personnel to determine the effectiveness and adequacy of their procedures. Specifically, the Notice alleged that PHMSA observed issues during the inspection such as incorrect use of forms, inadequate leakage detection, and incorrect use of odorization equipment, which could have been discovered and addressed via this process of evaluation for effectiveness and adequacy of procedures. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.605(b)(8).

20. **Item 11 - 49 C.F.R. § 192.615(b)(2):** The Notice alleged BUECI did not complete documentation demonstrating the effectiveness of the emergency training. Specifically, the Notice alleged that BUECI could not provide records of the last personnel emergency training or emergency training effectiveness evaluations. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.615(b)(2).

21. **Item 12 - 49 C.F.R. § 192.615(b)(3):** The Notice alleged BUECI failed to complete the required documentation indicating a review of employee activities was accomplished following an emergency as required in BUECI's operations and maintenance manual. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.615(b)(3).

22. **Item 13 - 49 C.F.R. § 192.615(a)(c)(1):** The Notice alleged BUECI did not maintain liaison with appropriate entities as required. Specifically, the Notice alleged that during the inspection, BUECI could not provide records of meetings, training sessions, or other related activities to indicate liaison was maintained with appropriate fire, police, and other public officials and utility owners. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.615(a)(c)(1).

23. **Item 14 - 49 C.F.R. § 192.625(f):** The Notice alleged BUECI had several violations of § 192.625 regarding the odorization of gas. Specifically, the Notice alleged four (4) separate instances of violation. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.625(f).

24. **Item 16 - 49 C.F.R. § 192.707(c):** The Notice alleged BUECI failed to provide adequate signage for aboveground piping infrastructure as required. Specifically, the Notice alleged that during inspection, PHMSA observed that the Barrow pressure relief valve (PRV) station had incorrect signage at multiple locations. BUECI contested this Item, however after discussions during informal settlement conferences, both parties agree BUECI was in violation of this item. As such, PHMSA finds a violation of 49 C.F.R. § 192.707(c).

25. **Item 17 - 49 C.F.R. § 192.721(a):** The Notice alleged BUECI did not follow its procedure requiring patrols in business districts on a quarterly basis as required. Specifically, the Notice alleged that during inspection, BUECI could not provide any records documenting it had conducted the patrols as required by its procedures. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.721(a).

26. **Item 18 - 49 C.F.R. § 192.723(a) and (b)(1):** The Notice alleged BUECI failed to complete leakage surveys within business districts at intervals not exceeding 15 months but at least once each calendar year as required. Specifically, the Notice alleged that the records BUECI provided during the inspection documenting leakage surveys were incomplete and inadequate. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.723(a) and (b)(1).

27. **Item 19 - 49 C.F.R. § 192.747(a):** The Notice alleged BUECI failed to properly document annual valve inspections as required. Specifically, the Notice alleged that valve inspections were inadequately documented in multiple instances. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.747(a).

28. **Item 21 - 49 C.F.R. § 192.807:** The Notice alleged BUECI failed to ensure that qualifications for individuals performing covered tasks were verified through evaluation as required. Specifically, the Notice alleged that during inspection, PHMSA reviewed records that suggested there were multiple instances where operator qualification (OQ) records were inadequately documented. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.807.

29. **Item 22 - 49 C.F.R. § 192.1007(f):** The Notice alleged BUECI failed to re-evaluate its Distribution Integrity Management Plan (DIMP) every five years. Specifically, the Notice alleged that there were multiple instances of inadequate documentation regarding the re-evaluation of BUECI's DIMP plan. Respondent does not contest the allegation of violation as alleged in the Notice. As such, PHMSA finds a violation of 49 C.F.R. § 192.1007(f).

30. Items 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 16, 17, 18, 19, 21, and 22 will be considered by PHMSA as prior offenses in any future PHMSA enforcement action taken against Respondent for the five (5)-year period following the **Effective Date** of this Agreement.

III. Warning Items:

31. **Item 9 - 49 C.F.R. § 192.605(a):** The Notice alleged that BUECI failed to follow their own procedure to ensure supervisor/managerial staff acknowledged, evaluated, and properly filed PRV station regulator inspections as required. This Item was brought as a Warning Item and does not constitute a finding of violation.

32. **Item 15 - 49 C.F.R. § 192.625(/):** The Notice alleged BUECI's odorant test station environment was inadequate and failed to comply with the requirements of § 192.625. This Item was brought as a Warning Item and does not constitute a finding of violation. Respondent accepts the warning as alleged in the Notice.

33. **Item 20 - 49 C.F.R. § 192.751(a):** The Notice alleged that BUECI failed to minimize the danger of possible ignition within a building as required. . This Item was brought as a Warning Item and does not constitute a finding of violation.

34. For Warning Items 9, 15, and 20, if OPS finds a violation of these provisions in a subsequent inspection, Respondent may be subject to future enforcement action.

IV. Civil Penalty:

35. **Item 5:** The Notice proposed assessing a civil penalty in the amount of **\$35,300** for Item 5. Respondent requested a reduction of the proposed civil penalty. Regarding this Item, there is no reason based on the civil penalty factors indicating reconsideration of penalty amount is appropriate. It is determined that the proposed civil penalty for Item 6 was properly assessed based on the civil penalty factors.

36. **Item 6:** The Notice proposed assessing a civil penalty in the amount of **\$46,500** for Item 6. Regarding this Item there are no civil penalty factors indicating reconsideration of penalty amount is appropriate. It is determined that the proposed civil penalty for Item 6 was properly assessed based on the civil penalty factors.

37. Respondent requested a reduction of the proposed civil penalties for Item 5 and Item 6 and PHMSA has agreed to reduce the overall civil penalties based on BUECI's small business classification. PHMSA agrees to reduce the overall civil penalties by **\$49,080** based on the specific circumstances in this case in consideration of BUECI's small business classification, as BUECI is a small nonprofit utility cooperative.

38. Respondent shall pay an adjusted civil penalty in the amount of **\$32,720** for Item 5 and Item 6, pursuant to the payment instructions at 49 C.F.R. § 190.227(a). In further consideration of BUECI's status as a small business, the civil penalty is to be paid in full within 90 days of the Effective Date of this agreement.

V. Compliance Order:

39. **Item 1:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated that it had filed an amended 2021 annual report to include all 45 locates for that year. PHMSA has reviewed the amended report and finds this proposed compliance Item has been satisfied.

40. **Item 2:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and asserted it had commenced the process of replacing the wood pipeline supports with steel supports. BUECI has asked for an extension of time to complete this task. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item 2 pertaining to combustible material supporting pipeline infrastructure, BUECI must replace all combustible material pipeline supports with noncombustible material within **630** days of the **Effective Date** and submit documentation that this action was completed to the Director.

41. **Item 3:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it was in the process of updating its operations maintenance and emergency manual. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item 3 pertaining to plastic joining written procedures, BUECI must provide written procedures for plastic joint fabrications within **90** days of the **Effective Date** and submit documentation that this action was completed to the Director.

42. **Item 4:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it had made progress regarding documentation of inspector qualifications. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item 4 pertaining to the inspector qualification for inspecting plastic pipe, BUECI must provide training records of all currently qualified plastic joint inspectors as well as ensure all prior plastic joining inspections were completed by a qualified inspector or identify all plastic joints that were not inspected by a qualified inspector within **270** days of the **Effective Date** and submit documentation that this action was completed to the Director.

43. **Item 5:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it modified the ventilation for the metering and service-regulator box. PHMSA has not received documentation to review and determine if this compliance Item satisfied. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item 5 pertaining to the metering and service-regulator box for the Ilisagvik College, BUECI must provide adequate ventilation for the metering and service-regulator box within **30 days** of the **Effective Date** and submit documentation that this action was completed to the Director.

44. **Item 6:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order but requested an extension to complete the proposed compliance Item based on discussions with its contractor regarding timelines and in consideration of the constraints placed on the Respondent due to weather and ability to access the system. PHMSA acknowledges these obstacles and agrees to extend the deadline for compliance. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item 6 pertaining to atmospheric corrosion monitoring, BUECI must provide records demonstrating both the Barrow and NARL systems were completely and adequately inspected for atmospheric corrosion over the previous 3-year period as well as clean and coat all indicated instances of active atmospheric corrosion identified within **730 days** of the **Effective Date** and submit documentation that this action was completed to the Director.

45. **Item 7:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and attached what it stated was its current gas composition records. Following the issuance of the Notice, BUECI provided records from calendar years 2018-2024. PHMSA reviewed the records provided and determined that the records demonstrate compliance with the regulation. PHMSA has reviewed the provided records and finds this proposed compliance Item has been satisfied.

46. **Item 8:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it has made progress but not completed the proposed compliance Item. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item 8 pertaining to the operations and maintenance manual revisions, BUECI must conduct reviews of the operations and maintenance manual and provide the most recent revision log within 90 days of the **Effective Date**.

47. **Item 10:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it has made progress but not completed the proposed compliance Item. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item **10** pertaining to periodic reviews of work, BUECI must provide records demonstrating a recent review of the work done by personnel was conducted to determine the effectiveness and adequacy of its procedures or conduct a review of the work done by personnel to determine the effectiveness and adequacy of the procedures within **270** days of the **Effective Date** and submit documentation that this action was completed to the Director.

48. **Item 11:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it has made progress but not completed the proposed compliance Item. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item **11** pertaining to emergency procedure training, BUECI must provide records demonstrating employees are trained on emergency procedures or conduct an employee training on emergency procedures within **180** days of the **Effective Date** and submit documentation that this action was completed to the Director.

49. **Item 12:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it has made progress but not completed the proposed compliance Item. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item **12** pertaining to employee activities during an emergency, BUECI must provide records of the March 11, 2020, emergency response or conduct an emergency drill to determine whether employee activities during a simulated emergency are effective within **365** days of the **Effective Date** and submit documentation that this action was completed to the Director.

50. **Item 13:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it had contacted the Dispatch Supervisor with the North Slope Borough Police Department in December 2023 and was planning to meet with other entities in 2024. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item **13** pertaining to maintain liaison with appropriate public entities, BUECI must provide records of maintained liaison with public entities or conduct a meeting, training session, or other related activity to indicate liaison was made with appropriate public entities within **365** days of the ***Effective Date*** and submit documentation that this action was completed to the Director.

51. ***Item 14:*** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it was working to order two Odorator 2s, and that it intends to have a calibration schedule with alternating calibration dates for each of the new odorators. Additionally, BUECI stated it had reviewed its procedure with its crew and removed the chart that did not pertain to the Bacharach odorometer, as well as commencing with the use of the correct form. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item **14** pertaining to records for odorization of gas, BUECI must ensure the odorization records contain clear and objective data from this point forward and ensure the Bacharach Odorometer is properly calibrated within **365** days of the ***Effective Date*** and submit documentation that this action was completed to the Director.

52. ***Item 16:*** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order, except where it pertained to the NARL PRV station, and stated it has corrected the PRV station signage. PHMSA has not received documentation to review and determine if this compliance Item has been satisfied. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item **16** pertaining to line markers, BUECI must correct all signage of the PRV station to include the proper verbiage required by code within **30 days** of the ***Effective Date*** and submit photographic evidence documenting that this action was completed to the Director.

53. ***Item 17:*** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it has made progress but not completed the proposed compliance Item. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item **17** pertaining to patrolling, BUECI must conduct quarterly patrols within the business districts and semi-annually outside of business districts of the distribution systems, as defined in its procedures, from this point forward after the ***Effective Date***. BUECI must submit documentation demonstrating compliance with § 192.721 for calendar year 2025 no later than January 6, 2026. This documentation shall be submitted in one complete package and

must include the date of patrols, individuals performing the patrols, patrol location, and equipment utilized.

54. **Item 18:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it has made progress but not completed the proposed compliance Item. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item 18 pertaining to leakage surveys, BUECI must provide documentation demonstrating all locations within the business district were surveyed or conduct a survey which includes all locations within the business district within **365** days of the **Effective Date** and submit documentation that this action was completed to the Director.

55. **Item 19:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it has made progress but not completed the proposed compliance Item. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item 19 pertaining to valve maintenance, BUECI must document valve maintenance on the form, and as described in its procedures, with clear and objective data demonstrating each valve and each location were identified properly, from this point forward after the **Effective Date**.

56. **Item 21:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order and stated it has made progress but not completed the proposed compliance Item. PHMSA acknowledges BUECI's efforts in working towards satisfying this proposed compliance Item. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item 21 pertaining to operator qualifications, BUECI must provide documentation demonstrating all employees are currently qualified or conduct training to demonstrate all employees are currently qualified within **365** days of the **Effective Date** and submit documentation that this action was completed to the Director.

57. **Item 22:** The Notice proposed certain compliance order actions to address the non-compliance alleged in the Notice. Respondent did not contest the Proposed Compliance Order but requested an extension to come into compliance based on the limited number of employees available to work on all of the compliance Items. PHMSA acknowledges this obstacle and agrees to a modified timeline. As such, Respondent agrees to undertake the following corrective measures:

In regard to Item 22 pertaining to the DIMP manual, BUECI must review and update as necessary its DIMP manual and incorporate any new distribution systems within **90** days of the ***Effective Date*** and submit documentation that this action was completed to the Director.

VI. Enforcement:

58. 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 \$266,015 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 V are automatically incorporated into this Agreement and are enforceable in the same manner.

VII. Review and Approval Process:

59. With respect to any submission under Section V (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. Dispute Resolution:

60. 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 V, Compliance Order. 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 for Pipeline Safety, PHMSA. Such request must be made in writing and provided to the Director, counsel for the Western Region, and to the Associate Administrator for Pipeline Safety, 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:

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

X. Recordkeeping and Information Disclosure:

62. 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 confidentiality. 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:

63. 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:

64. This Agreement will remain in effect until the Compliance Order in Section V 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:

65. 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.

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

For BUECI:

Yves Brower General Manager

12-18-2024

Date

For PHMSA:

Director Western Region, Office of Pipeline Safety

January 6, 2025

Date