

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE NOTICE OF)
POTENTIAL VIOLATION OF 26 DEL.)
ADMIN. C. §8001 AND ASSOCIATED) PSC DOCKET NO. 391-13
CIVIL PENALTIES ASSESSED TO)
PETROLEUM EQUIPMENT, INC.)
(OPENED AUGUST 8, 2013))

ORDER NO. 8480

AND NOW, this 5th day of November, 2013, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, the Commission has qualified for federal certification to operate a state pipeline safety compliance program under 49 U.S.C. §60105(a) and has the authority under 26 Del. C. §821 to make and enforce rules required by the federal National Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. Chapter 601);¹ and

WHEREAS, the Commission is authorized by the Federal Pipeline Safety Regulations, 49 C.F.R., Parts 190-193 and 198-199, to order remedial actions and to impose civil penalties, where appropriate; and

¹ In addition, 26 Del. C. §821 provides, in pertinent part, that such rules shall incorporate the safety standards and penalty provisions (including injunctive and monetary sanctions) established under the federal Natural Gas Pipeline Safety Act of 1968, as amended [49 U.S.C. § 60101 et seq.], that are applicable to intrastate gas pipeline transportation and will apply to underground pipeline facility operators, as defined under 26 Del. C. §802(11).

WHEREAS, Petroleum Equipment, Inc. ("Petroleum") is an "Operator" as set forth in 26 *Del. Admin. C.* §8001-1.0² and 26 *Del. C.* §802(11)³ in that Petroleum acts as an operator of a buried pipeline facility used in the transportation of natural gas within the State of Delaware and therefore falls within the Commission's intrastate gas pipeline transportation jurisdiction; and

WHEREAS, on May 10, 2013, a member of the Commission's staff ("Staff") performed a standard inspection of Petroleum's records and facilities at Canary Creek, Lewes, Delaware, and noted his findings in a written report which stated that the Operator had failed to exercise its key valves at an interval not exceeding 15 months, but at least once each calendar year and had failed to follow its manual of written procedures for conducting operations and maintenance activities, specifically the valve maintenance interval not exceeding 15 months; and

WHEREAS, based on Staff's written report and findings dated May 22, 2013, the Program Manager of the Pipeline Safety Program

² Under 26 *Del. Admin. C.* §8001-1.0, an "Operator" means an "underground pipeline facility operator" as defined in 26 *Del. C.* §802(11).

³ 26 *Del. C.* §802(11) defines an "underground pipeline facility operator" as an operator of a buried pipeline facility used in the transportation of gas, such as propane and natural gas, subject to the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. §1671 et seq.) [repealed by Act July 5, 1994, P.L. 103-272], or used in the transportation of hazardous liquid subject to the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. § 2001 et seq.) [repealed by Act July 5, 1994, P.L. 103-272]; underground pipeline facility operators include, without limitation, natural gas, propane gas, master meter, LP gas and interstate and intrastate gas and liquid distribution facility operators as defined by these acts. **NOTE:** P.L. 103-272 amended and transferred to a new section of the U.S. Code the "Natural Gas Pipeline Safety Act of 1968" and the "Hazardous Liquid Pipeline Safety Act of 1979." See P.L. 103-272; 108 Stat. 745; 49 U.S.C. §§60101 through 60128.

for the State of Delaware sent a written letter of the Notice of Potential Violations ("NOPV") to Petroleum on August 8, 2013. A copy of the NOPV that Staff sent to Petroleum is attached as Exhibit "A". The NOPV noted as follows:

There were no records of the maintenance/exercising of the key/critical sectionalizing valves of the LPG distribution system on Canary Creek for calendar year 2012. Upon questioning Mr. Don Alexander about this issue, he acknowledged that the valves were not exercised in 2012 and said that he would have this done immediately. At a later date, he provided documentation that the valves were exercised on June 28, 2013. Records indicate this was the first time the valves were exercised since their installation on September 30, 2011. It was noted there are six (6) key/critical sectionalizing valves for this distribution system;

and

WHEREAS, the NOPV noted that Petroleum had already taken remedial action regarding exercising the valves in question and had provided documentation to show Petroleum performed this action; however, Staff recommended that the Commission impose on Petroleum civil penalties in the amount of \$200.00 for each of the six violations of 49 C.F.R. §192.747(a) and \$200.00 for the violation of 49 C.F.R. §192.605(a). Thus, the total amount of recommended civil penalties made by Staff was \$1,400.00; and

WHEREAS, on August 22, 2013, Petroleum responded to the NOPV in writing and recognized that its procedures for the Canary Creek System had not been followed regarding documentation in the company's system records of the valve check and service; and

WHEREAS, Petroleum and Staff subsequently entered into settlement negotiations and agreed to resolve the potential

violations and proposed civil penalties by entering into a consent agreement (the "Proposed Consent Agreement") which is attached as Exhibit "B". Both Staff and Petroleum agreed that the Proposed Consent Agreement would be subject to the Commission's review and final approval; and

WHEREAS, in the Proposed Consent Agreement, Petroleum admits that it failed to exercise six key/critical sectionalizing valves in calendar year 2012, which constitutes six violations of 49 C.F.R. §192.747(a), and it failed to exercise six key/critical sectionalizing valves in calendar year 2012, which is one violation of 49 C.F.R. §192.605(a); and

WHEREAS, pursuant to 26 *Del. Admin. C.* §8001-7.1.2, Petroleum has agreed to pay a civil penalty in the amount of \$1,400.00 within 20 days of the date of a final Commission order that approves the Proposed Consent Agreement; and

WHEREAS, the amount of the civil penalty is the total sum of \$200.00 for each of the six violations of 49 C.F.R. §192.747(a) and \$200.00 for one violation of 49 C.F.R. §192.605(a); and

WHEREAS, Staff and Petroleum believe that resolving this matter through a negotiated compromise, without the need for a formal evidentiary hearing, will serve the interests of the public. Both parties assert that this settlement yields a reasonable result. In addition, both parties assert that the civil penalties agreed to in the Proposed Consent Agreement are within the bounds of the allowable civil penalty amounts based on

circumstances unique to Petroleum, and this settlement will avoid further administrative and hearing costs;

**NOW, THEREFORE, IT IS ORDERED BY THE AFFIRMATIVE VOTE OF
NOT FEWER THAN THREE COMMISSIONERS:**

1. Pursuant to 26 Del. C. §512(c),⁴ the Commission finds that the Proposed Consent Agreement, which is attached as Exhibit "B", is in the public interest for the reasons set forth above and therefore approves such agreement in full.

2. For the reasons set forth above and pursuant to 26 Del. Admin. C. §8001-7.1.2, 49 U.S.C. 60122(a), and subpart B of Part 190 of the Federal Regulations, the Commission assesses a civil penalty against Petroleum in the amount of \$1,400.00.

3. Petroleum is hereby placed on notice that the costs of the proceedings will be charged to it under the provisions of 26 Del. C. §114(b)(1).

4. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Dallas Winslow
Chair

⁴ 26 Del. C. §512(c) provides that the Commission may upon hearing approve the resolution of matters brought before it by stipulations or settlements whether or not such stipulations or settlements are agreed to or approved by all parties where the Commission finds such resolutions to be in the public interest.

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Jeffrey J. Clark
Commissioner

Commissioner

ATTEST:

/s/ Alisa Carrow Bentley
Secretary

EXHIBIT "A"

Letter of the Notice of Potential Violations to
Petroleum Equipment, Inc. dated August 8, 2013, and
Attachment of Staff's Written Report

Docket NO. 391-13

Alisa
Donna
Jerry
Jo.



STATE OF DELAWARE
PUBLIC SERVICE COMMISSION

861 SILVER LAKE BOULEVARD
CANNON BUILDING, SUITE 100
DOVER, DELAWARE 19904

TELEPHONE: (302) 736-7500
FAX: (302) 739-4849

August 8, 2013

Mr. Michael Steiner
Petroleum Equipment, Inc.
3799 N. DuPont Hwy
Dover, DE 19904

RE: Written Notice of Potential Violation of 26 Del. Admin. C. §8001 – Canary Creek

Dear Mr. Steiner:

This letter serves as notice to Petroleum Equipment, Inc. (the "Operator") of potential violations of the State of Delaware's Rules to Establish an Intrastate Gas Pipeline Safety Compliance Program, 26 Del. Admin. C. §8001 (the "Regulations"). The Regulations, at a minimum, enforce the standards set forth in the Federal Pipeline Safety Regulations, Title 49, U.S. Code of Federal Regulations, Parts 190-193 and 198-199.

On May 10, 2013, Mr. Robert Schaeffgen, a member of the Commission Staff, performed a Standard Inspection of the records and facilities of the Operator for Canary Creek in Lewes, DE. Mr. Schaeffgen noted the following:

There were no records of the maintenance/exercising of the key/critical sectionalizing valves of the LPG distribution system on Canary Creek for calendar year 2012. Upon questioning Mr. Don Alexander about this issue, he acknowledged that the valves were not exercised in 2012 and said that he would have this done immediately. At a later date, he provided documentation that the valves were exercised on June 28, 2013. Records indicate this was the first time the valves were exercised since their installation on September 30, 2011. It was noted there are six (6) key/critical sectionalizing valves for this distribution system.

This represents six (6) potential violations of 49 C.F.R. §192.747(a): **Valve maintenance: Distribution systems**, which requires the following:

"Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year."

This also represents a potential violation of 49 C.F.R. §192.605(a): **Procedural manual for operations, maintenance, and emergencies**. These sections state the following:

Mr. Michael Steiner, Petroleum Equipment, Inc.
August 8, 2013
Page 2

"General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted."

The Commission Staff recognizes that the Operator has successfully exercised all of the valves in question since the inspection was conducted, and this documentation has been provided. So, there is no remedial action to be taken at this time. However, the Commission Staff is recommending that the Commission impose a civil penalty of \$200.00 per potential violation of 49 C.F.R. §192.747(a), which totals \$1,200.00, and impose a civil penalty of \$200.00 for the potential violation of 49 C.F.R. §192.605(a). Thus, the total amount of recommended civil penalties is \$1400.00. Additional penalties may also be imposed for any additional violations found in any ensuing investigations or hearings.

The Commission Staff is referring this matter to the Commission for a formal hearing so that the Commission can rule on this matter. A docket will be opened for this matter, and a notice of a hearing date will be sent to the Operator as soon as possible.

If you have questions regarding this matter, please don't hesitate to contact me at 302-736-7526.

Sincerely,



Gerald D. Platt, Program Manager

Enclosure: Copy of Violation Report for 5/10/13

cc: Julie Donoghue, Deputy Attorney General
Robert Schaeffgen, DE PSC Pipeline Safety Inspector

UNITED STATES DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION
OFFICE OF PIPELINE SAFETY
GAS PIPELINE SAFETY VIOLATION REPORT

1. <u>Inspector Name</u> Robert Schaeffgen	2. <u>Date of Inspection</u> 05/10/13	3. <u>CPF #</u>
4. <u>Pipeline Operator/Owner</u> Petroleum Equipment d/b/a Poores Propane		
5a. <u>Headquarters Address</u> 3799 N. DuPont Highway, Dover, DE 19904	5b. <u>Telephone No.</u> (302) 734-7416	
6. <u>Inspection Location</u> Canary Creek, Lewes	7. <u>Inspection Unit</u> No. <u>1</u> of <u>14</u>	
8. <u>Portion of System Inspected (Describe location & facility)</u> Lewes, DE		
9. <u>Nature and Size of Operator</u>		
9a. <u>Type of Operator</u>	9b. <u>Type of Pipe in System</u>	
<input type="checkbox"/> LNG (interstate)	<u>Inspected</u>	
<input type="checkbox"/> LNG (intrastate)	<input type="checkbox"/> Cast Iron	
<input checked="" type="checkbox"/> LPG	<input type="checkbox"/> Steel	
<input type="checkbox"/> Master Meter	<input checked="" type="checkbox"/> Plastic	
<input type="checkbox"/> Other Distribution	<input type="checkbox"/> Other -	
<input type="checkbox"/> Gathering	9c. <u>Size of Operator (No. of</u>	
<input type="checkbox"/> Transmission (interstate)	Miles/Customers/Storage	
<input type="checkbox"/> Transmission (intrastate)	Capacity <u>32.25 miles/</u> <u>/178000</u>	
10. <u>Nature of Probable Violations (Check as many as applicable)</u>		
<input type="checkbox"/> 1. Problem in Design/Materials		
<input type="checkbox"/> 2. Problem in Construction		
<input type="checkbox"/> 3. Welding or Joining		
<input type="checkbox"/> 4. Problem in LNG Equipment		
<input type="checkbox"/> 5. Test Requirements or MAOP Qualification		
<input type="checkbox"/> 6. Corrosion Control		
<input type="checkbox"/> 7. Pressure Control		
<input checked="" type="checkbox"/> 8. Other Maintenance/Monitoring		
<input type="checkbox"/> 9. Personnel Qualifications & Training		
<input type="checkbox"/> 10. Fire Protection		
<input type="checkbox"/> 11. Security		
<input type="checkbox"/> 12. Anti-Drug Program		
<input type="checkbox"/> 13. Other Operations		
<input type="checkbox"/> 14. Reporting Requirements		
<input type="checkbox"/> 15. Other _____		
<input type="checkbox"/> 16. Inadequate/No Procedures		
<input type="checkbox"/> A. Construction	<input type="checkbox"/> D. Training	
<input type="checkbox"/> B. Corrosion Control	<input type="checkbox"/> E. Maintenance	
<input type="checkbox"/> C. Operations		

Violation No. 1

Violated: 192.605 (a) Procedural Manual for Operations , Maintenance, and Emergencies

11b. Summarize what the regulation requires that operator did not do:

Operator did not follow their manual of written procedures for conducting Operations and maintenance Activities., specifically the Valve Maintenance interval not exceeding 15 months

12. Provide detailed information about violation:

Operator did not exercise their key valves (Valve Maintenance) at an interval not exceeding 15 months , but at least once each calendar year.

13. Public and/or environmental concerns in area of violation:

By not operating the key/critical/sectionalizing valves annually, not to exceed 15 months, a valve might not be able to be operated when needed in an emergency response, such as a hit line.

14a. Person Interviewed: Don Alexander Title: Superintendent

14b. Comments of person interviewed: He said that he would immediately have Charles Sockriter, one of his Operations and Maintenance personnel go out on 06/28/13 and exercise the six key valves. I spoke to Don on Thursday, June 27th, 2013.

Continuation Sheet

Violation No. 2

11a. CFR Violated: 192.747 (a) Valve maintenance: Distribution systems

11b. Summarize what the regulation requires that operator did not do:

Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.

12. Provide detailed information about the violation:

Operator had installed the valves (new) on September 30, 2011 and had scheduled or intended to exercise the valves on 09/30/12. Operator had installed 2000 feet of 3-inch high density poly main on Samantha Drive, Canary Creek in the City of Lewes as of October 20, 2011. The area where six 2000 gallon underground tanks are to be installed was marked out. The tanks were installed on 12/1/11

13. Public and/or environmental concerns in area of violation:

14a. Person Interviewed: Don Alexander Title: Superintendent

14b. Comments of person interviewed: E-mail sent to R. Schaeffgen on 01/19/12 We have installed the 6-2000 u/g tanks, but we have not installed the regulator station at Canary Creek, E-mail 05/22/12 The sectionalizing valves have not been exercised since we put them in 9/30/11 the scheduled exercising is 9/30/12 which is 12 months from date installed. If you want us to exercise them now let us know and we will get you the paperwork for them.

Continuation Sheet

Violation No. _____

11a. CFR , Violated: _____

11b. Summarize what the regulation requires that operator did not do:

12. Provide detailed information about the violation:

13. Public and/or environmental concerns in area of violation:

14a. Person Interviewed:

Title:

14b. Comments of person interviewed:

15. Supporting Documents/Materials

Item No.	Description (Include date)	Source of Documents	Remarks
1	Pipeline Safety Regulations Part 192	OPS/PHMSA	

16. Inspector's Signature:

Date:

17. Compliance History

Date	Place	Describe Violation/ Noncompliance	CPF No. Date WL	Outcome

18. Gravity of Offense

19. Degree of Culpability

Fair

20. Ability to Continue in Business

Excellent

21. Ability to Pay

Good

22. Good Faith in Attempting to Achieve Compliance

Excellent

23a. Proposed Remedy

- Warning Letter
 Civil Penalty: Recommended Amount \$ _____
 Compliance Order
 Hazardous Facility Order
 Notice of Amendment of O&M Plan

23b. Analysis of Proposed Remedy

24. Regional Director's Signature: _____

Date: _____

U.S. Department of Transportation
Office of Pipeline Safety
Eastern Region

EXHIBIT TAB
Name of Operator

Exhibit No.

Evidence	Obtained from	Identifying Witness

Investigator
Name

Title

EXHIBIT "B"

Proposed Consent Agreement
Fully Executed by the Commission Staff and
Petroleum Equipment, Inc.

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE**

IN THE MATTER OF THE NOTICE OF)
POTENTIAL VIOLATION OF 26 *DEL.*)
ADMIN. C. §8001 AND ASSOCIATED) PSC DOCKET NO. 391-13
CIVIL PENALTIES ASSESSED TO)
PETROLEUM EQUIPMENT, INC.)
(OPENED AUGUST 8, 2013))

PROPOSED CONSENT AGREEMENT

THIS PROPOSED CONSENT AGREEMENT is made this 16th day of October, 2013, between Petroleum Equipment, Inc. ("Petroleum") and the Delaware Public Service Commission Staff ("Staff").

WHEREAS, Petroleum is a Delaware corporation with offices located at 3799 North DuPont Highway, Dover, Delaware 19904, and with registered agent listed as Donald L. Steiner, 7 Lakelawn Drive, Milford, Delaware 19963; and

WHEREAS, Petroleum is an "Operator" as set forth in 26 *Del. Admin. C.* §8001-1.0¹ and 26 *Del. C.* §802(11)² in that such company acts as an operator of a buried pipeline facility used in the transportation of gas, such as propane and natural gas, within the State of Delaware; and

WHEREAS, the Delaware Public Service Commission (the "Commission") has qualified for federal certification of a state pipeline safety compliance program under 49 U.S.C. §60105(a), which relates to the regulation of intrastate gas pipeline transportation; and

WHEREAS, 26 *Del. C.* §821 provides, in pertinent part, that the Commission "shall have the authority to make and enforce rules required by the federal Natural Gas Pipeline Safety

¹ Under 26 *Del. Admin. C.* §8001-1.0, an "Operator" means an "underground pipeline facility operator" as defined in 26 *Del. C.* §802(11).

² 26 *Del. C.* §802(11) defines an "underground pipeline facility operator" as an operator of a buried pipeline facility used in the transportation of gas, such as propane and natural gas, subject to the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. §1671 et seq.) [repealed by Act July 5, 1994, P.L. 103-272], or used in the transportation of hazardous liquid subject to the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. § 2001 et seq.) [repealed by Act July 5, 1994, P.L. 103-272]; underground pipeline facility operators include, without limitation, natural gas, propane gas, master meter, LP gas and interstate and intrastate gas and liquid distribution facility operators as defined by these acts. **NOTE:** P.L. 103-272 amended and transferred to a new section of the U.S. Code the "Natural Gas Pipeline Safety Act of 1968" and the "Hazardous Liquid Pipeline Safety Act of 1979." See P.L. 103-272; 108 Stat. 745; 49 U.S.C. §§60101 through 60128.

Act of 1968, as amended (49 U.S.C. Chapter 601), to qualify for federal certification of a state pipeline safety compliance program under 49 U.S.C. § 60105(a)....”³ and

WHEREAS, as part of its duties as a certified state pipeline safety compliance program, Mr. Robert Schaeffgen, a member of Staff, performed a standard inspection on May 10, 2013, of Petroleum’s records and facilities for Canary Creek, Lewes, Delaware; and

WHEREAS, Mr. Schaeffgen prepared a written report which summarized his findings and which noted the following:

“There were no records of the maintenance/exercising of the key/critical sectionalizing valves of the LPG distribution system on Canary Creek for calendar year 2012. Upon questioning Mr. Don Alexander about this issue, he acknowledged that the valves were not exercised in 2012 and said that he would have this done immediately. At a later date, he provided documentation that the valves were exercised on June 28, 2013. Records indicate this was the first time the valves were exercised since their installation on September 30, 2011. It was noted there are six (6) key/critical sectionalizing valves for this distribution system;” and

WHEREAS, Petroleum’s failure to exercise six key/critical sectionalizing valves in calendar year 2012 represents six potential violations of 49 C.F.R. §192.747(a);⁴ and

WHEREAS, Petroleum’s failure to exercise six key/critical sectionalizing valves in calendar year 2012 also represents one potential violation of 49 C.F.R. §192.605(a);⁵ and

WHEREAS, based on Mr. Schaeffgen’s written report and findings dated May 10, 2013, Mr. Gerald D. Platt, Program Manager of the Pipeline Safety Program for the State of Delaware, sent a written letter of the Notice of Potential Violations (“NOPV”) to Petroleum on August 8, 2013. A copy of the NOPV that Staff sent to Petroleum is attached as Exhibit “A”; and

WHEREAS, the NOPV indicated that the Commission is authorized by the Federal Pipeline Safety Regulations, 49 C.F.R., Parts 190-193 and 198-199 (the “Regulations”), to order remedial actions and to impose civil penalties. The NOPV further indicated Staff recognized that Petroleum had already successfully exercised all of the valves in question since the inspection

³ 26 *Del. C.* §821 further provides, in pertinent part, that such rules shall incorporate the safety standards and penalty provisions (including injunctive and monetary sanctions) established under the federal Natural Gas Pipeline Safety Act of 1968, as amended [49 U.S.C. § 60101 et seq.], that are applicable to intrastate gas pipeline transportation and will apply to underground pipeline facility operators, as defined under 26 *Del. C.* §802(11).

⁴ 49 C.F.R. §192.747(a) deals with “Valve maintenance: Distribution systems,” and requires the following: “Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.”

⁵ 49 C.F.R. §192.605(a) deals with “Procedural manual for operations, maintenance, and emergencies” and states the following: “General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. For transmission lines, the manual must also include procedures for handling abnormal operations. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least once each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.”

had been conducted by Staff and had provided documentation to show this action had been taken by Petroleum. However, Staff recommended civil penalties in the amount of \$200.00 for each of the six violations of 49 C.F.R. §192.747(a) and \$200.00 for the violation of 49 C.F.R. §192.605(a). Thus, the total amount of recommended civil penalties made by Staff was \$1,400.00; and

WHEREAS, on August 22, 2013, Petroleum responded to the NOPV by sending Staff a letter recognizing that its procedures were not followed for the Canary Creek System and that it had failed to document the valve check and service in the system records. However, Petroleum also stated that, going forward, Petroleum would implement a procedure whereby as soon as a system within the Commission's jurisdiction is developed, Petroleum will add such system to its computerized regulations checklist so that nothing will be missed; and

WHEREAS, Petroleum and Staff entered into settlement negotiations and hereby propose to resolve all of the issues in this proceeding without recourse to a formal administrative hearing by entering into this Proposed Consent Agreement under the terms and conditions set forth herein; and

WHEREAS, Petroleum has been informed that it is entitled to an administrative hearing and to be represented by counsel and that its decision to waive a hearing and not to continue to retain counsel is a free and voluntary act made by Petroleum;

NOW, THEREFORE, upon the mutual consent and agreement of Petroleum and Staff (individually, a "Party," and collectively, the "Parties"), the Parties hereby propose a complete settlement of all issues in this proceeding as follows:

1. The Parties have conferred and have agreed to enter into this Proposed Consent Agreement on the terms and conditions contained herein because they believe that resolving the matter by stipulation will serve the interests of the public. The Parties also agree that the terms and conditions of this Proposed Consent Agreement will be presented to the Commission for the Commission's final approval.
2. Petroleum waives its right to an administrative evidentiary hearing for this proceeding.
3. Petroleum states that it fully understands all of the violations alleged by Staff, the facts relating to above-referenced potential violations, and all of the consequences of its consent to this Proposed Consent Agreement.
4. Petroleum admits to all the facts as set forth above and admits that it failed to exercise six key/critical sectionalizing valves in calendar year 2012, which constitutes six violations of 49 C.F.R. §192.747(a), and it failed to exercise six key/critical sectionalizing valves in calendar year 2012, which is one violation of 49 C.F.R. §192.605(a).
5. Pursuant to 26 *Del. Admin. C.* §8001-7.1.2, Petroleum agrees to pay a civil penalty in the amount of \$1,4000.00 within 20 days of the date of a final Commission order that

approves this Proposed Consent Agreement. This sum is the total of a civil penalty in the amount of \$200.00 for each of the six violations of 49 C.F.R. §192.747(a) and a civil penalty in the amount of \$200.00 for one violation of 49 C.F.R. §192.605(a). Pursuant to 26 *Del. C.* §116(b)(2), these civil penalties will be payable to and deposited into the General Fund of the State of Delaware.

6. If Petroleum fails to pay the sum of \$1,400.00 in civil penalties within 20 days of the date of a final Commission order approving this Proposed Consent Agreement, Petroleum agrees that it shall pay interest at the current annual rate in accordance with 31 U.S.C. §3717, 31 C.F.R. §901.9, and 49 C.F.R. §89.23. Pursuant to those same authorities, a late penalty charge of six percent (6%) per annum will be assessed if payment is not made within 110 days of service of a Notice of Late Payment. Furthermore, failure to pay the civil penalty may result in referral of the matter to the Delaware Attorney General for appropriate action.

7. Pursuant to 26 *Del. Admin. C.* §8001-7.1.3, Staff already requested that within 30 days of the date of the NOPV, Petroleum exercise all six valves or designate an alternative valve for the ones that could not be exercised. Staff further directed Petroleum to provide Staff with documentation of the action taken by Petroleum. Because Petroleum has fulfilled these directives, Staff does not request that Petroleum take any additional corrective actions regarding the alleged failure to exercise the six valves in a timely manner.

8. This Proposed Consent Agreement is the free and voluntary act of Petroleum and its terms are binding upon Petroleum and may be admitted into evidence in any judicial or administrative proceeding that may be required against Petroleum in order to enforce its terms.

9. This finding of violations will be considered a prior offense in any subsequent enforcement action against Petroleum.

10. Nothing in this Proposed Consent Agreement affects or relieves Petroleum 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 administrative orders issued thereunder. Nothing in this Agreement alters Staff's right of access, entry, inspection, and information gathering or Staff's authority to bring enforcement actions against Petroleum pursuant to the federal Pipeline Safety Laws, the regulations and administrative orders issued thereunder, Delaware's law or regulations, or any other provision of Federal or State law.

11. No change, amendment, or modification to this Proposed Consent Agreement shall be effective or binding unless it is in writing and is dated and signed by the Parties.

12. If Staff or the Commission fails to act on any one or more defaults by Petroleum, such failure to act shall not be a waiver of any rights hereunder on the part of the Staff or the Commission to declare Petroleum in default and to take such action as may be permitted by this Proposed Consent Agreement or by law.

13. This agreement shall survive Petroleum and be enforceable against its successors or assigns.

14. The provisions of this Proposed Consent Agreement are not severable.

15. The Parties agree that this Proposed Consent Agreement may be submitted to the Commission for its consideration and final decision and that no Party will oppose such a determination. Except as expressly set forth herein, neither of the Parties waives any rights it may have to take any position in future proceedings regarding the issues in this proceeding, including positions contrary to positions taken herein or in previous cases.

16. This Proposed Consent Agreement will become effective upon the Commission's issuance of a final order approving it and all of its terms and conditions without modification. After the issuance of such final order, the terms of this Proposed Consent Agreement shall be implemented and enforceable notwithstanding the pendency of any legal challenge to the Commission's approval of this Proposed Consent Agreement or to actions taken by another regulatory agency or Court, unless such implementation and enforcement is stayed or enjoined by the Commission, another regulatory agency, or a Court having jurisdiction over the matter.

17. The Parties may enforce this Proposed Consent Agreement through any appropriate action before the Commission or through any other available remedy. Any final Commission order related to the enforcement or interpretation of this Proposed Consent Agreement shall be appealable to the Superior Court of the State of Delaware, in addition to any other available remedy at law or in equity.

18. If a Court grants a legal challenge to the Commission's approval of this Proposed Consent Agreement and issues a final non-appealable order that prevents or precludes implementation of any material term of this Proposed Consent Agreement, or if some other legal bar has the same effect, then this Proposed Consent Agreement is voidable upon written notice by either Party to the other Party.

19. This Proposed Consent Agreement resolves all of the issues specifically addressed herein and precludes the Parties from asserting contrary positions during subsequent litigation in this proceeding or related appeals; provided, however, that this Proposed Consent Agreement is made without admission against or prejudice to any factual or legal positions which any of the Parties may assert (a) if the Commission does not issue a final order approving this Proposed Consent Agreement without modifications; or (b) in other proceedings before the Commission or another governmental body so long as such positions do not attempt to abrogate this Proposed Consent Agreement. This Proposed Consent Agreement is determinative and conclusive of all of the issues addressed herein and, upon approval by the Commission, shall constitute a final adjudication as to the Parties of all of the issues in this proceeding.

20. This Proposed Consent Agreement contains all of the terms and conditions agreed to by the Parties and constitutes the final agreement between Petroleum and Staff.

21. This Proposed Consent Agreement is expressly conditioned upon the Commission's approval of all of the specific terms and conditions contained herein without modification. If the Commission fails to grant such approval, or modifies any of the terms and

conditions herein, this Proposed Consent Agreement will terminate and be of no force and effect, unless the Parties agree in writing to waive the application of this provision. The Parties will make their best efforts to support this Proposed Consent Agreement and to secure its approval by the Commission.

22. It is expressly understood and agreed that this Proposed Consent Agreement constitutes a negotiated resolution of the issues in this proceeding.

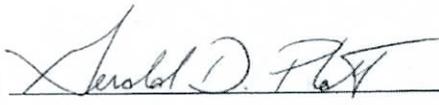
23. Each of the undersigned representatives of the Parties certifies that he or she is fully authorized by the Party represented to enter into the terms and conditions hereof and to execute and legally bind that Party to it.

24. This Proposed Consent Agreement may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. If either Party sends the other Party a signature on this Proposed Consent Agreement by facsimile transmission or by e-mail as a ".PDF" format file, such signature shall create a valid and binding obligation of the Party executing it (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".PDF" signature page were an original thereof. Petroleum agrees that an uncertified copy hereof shall be valid as evidence in any proceeding that may be required for purposes of enforcement.

[SIGNATURE PAGE TO FOLLOW]

The undersigned Parties, intending to bind themselves and their successors and assigns, have caused this Proposed Consent Agreement to be signed by their duly-authorized representatives and hereby agree to all of the conditions and terms set forth in this Proposed Consent Agreement.

DELAWARE PUBLIC SERVICE COMMISSION STAFF

By:  Date: 10/23/13
Printed Name: GERALD D. PLATT
Title: Pipeline Safety Program Manager

PETROLEUM EQUIPMENT, INC.

By:  Date: 10/16/13
Printed Name: R. C. Steiner
Title: President

EXHIBIT "A"

**COPY OF WRITTEN NOTICE OF POTENTIAL VIOLATION
OF 26 *Del. Admin. C.* §8001 DATED AUGUST 8, 2013, FROM
THE DELAWARE PUBLIC SERVICE COMMISSION STAFF
TO PETROLEUM EQUIPMENT, INC.**

**[PLEASE NOTE: THIS DOCUMENT IS ATTACHED TO THE
PROPOSED ORDER AS EXHIBIT "A"]**