



Public Service Commission

State of North Dakota

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October 2, 2020

Mr. Luke Litteken, Sr VP Gas
Xcel Energy Services Inc.
1800 Larimer St
Denver, CO 80202

Re: Case No. GS-20-412

Dear Mr. Litteken:

On August 31, 2020, Staff conducted an Operator Qualification (OQ) Field Inspection at 1309 11th St. North, Fargo, ND. As a result of that inspection, probable violation(s) were identified.

Respond in the manner specified in the Response Options section of the NOPV, within 30 days of the date you receive this Notice of Proposed Violation and Proposed Compliance Order.

If you have any further questions or require additional information, please contact me by email at csimburger@nd.gov or by phone at 701-328-4056.

Sincerely,

Caleb Simburger
Program Manager, Pipeline Safety Program

Enclosure

1 **GS-20-412** Filed: 10/2/2020 Pages: 14
Letter enclosing Notice of Probable Violation(s)

Public Service Commission
Caleb Simburger

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Northern States Power Company
Pipeline Safety Enforcement**

Case No. GS-20-412

NOTICE OF PROBABLE VIOLATION(S)

October 2, 2020

Pursuant to North Dakota Century Code section 49-02-01.2, and North Dakota Administrative Code chapter 69-09-03, Public Service Commission Staff (Staff) conducted an Operator Qualification (OQ) Field Inspection. As a result of that inspection, probable violation(s) of the Public Service Commission's (Commission) gas pipeline safety regulations were identified.

DATE OF AUDIT:

August 31, 2020

TYPE OF AUDIT:

Operator Qualification (OQ) Field Inspection

LOCATION OF AUDIT:

1309 11th St. North
Fargo, ND

PSC STAFF:

Aaron Morman, Inspector

OPERATOR'S AUDIT CONTACT PERSON:

Lisa Kallberg
651-229-2282

PROBABLE VIOLATION:

PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:

49 CFR Part 192.801 Scope.

- (a) This subpart prescribes the minimum requirements for operator qualification of individuals performing covered tasks on a pipeline facility.
- (b) For the purpose of this subpart, a covered task is an activity, identified by the operator, that:
 - (1) Is performed on a pipeline facility;
 - (2) Is an operations or maintenance task;
 - (3) Is performed as a requirement of this part; and
 - (4) Affects the operation or integrity of the pipeline.

49 CFR Part 192.805 Qualification Program.

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

- (a) Identify Covered tasks;
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;
- (c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;
- ...
- (h) After December 16, 2004, provide training, as appropriate to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

49 CFR Part 192.13 What general requirements apply to pipelines regulated under this part?

- ...
- (c) Each operator [a person who engages in the transportation of gas] shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part.

49 CFR Part 192.605 Procedural manual for operations, maintenance, and emergencies.

- (a) 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.

INSPECTION FINDINGS:

An Operator Qualification Field Inspection was conducted on August 31, 2020 at 1309 11th St N Fargo, ND. The covered task “CT-640 – Installation of Customer Meters and Regulators” was performed by Northern States Power Co of Minnesota/Xcel Energy’s (Operator) qualified service personnel/field technicians (Technician(s)), who performed a gas meter changeout. The individuals performing the covered task were qualified to perform the covered task being observed. The following procedure(s) were provided for the observation of the covered task(s) listed above (all procedures are from Xcel Energy’s Pipeline Compliance & Standards Manual – V. 2020-1 Issued January 1, 2020):

- 1.14 Operator Qualification Program
- 8.10 Meter Sets
- 8.12 Changing Gas Meters
- 14.6 House Heating Turn On Guidelines
- 14.8 Red Hazard Tag Procedure

The Technician completed the installation of the gas meter and returned service to the meter and customer piping via the gas meter service/supply valve (Service Terminal Valve). The Technician conducted a leak detection test and identified two leaks on the customer’s piping and subsequently removed service by placing the Service Terminal Valve in the closed position. The technician then completed the Operator’s Red Hazard Tag Procedure identifying and documenting the leaks on the customer piping.

The Commission’s Gas Safety Inspector (Inspector) noted that the Technician did not lock out the Service Terminal Valve after identifying two Red Tagged leaks on the customer’s piping. When the Inspector challenged the Technician on their decision to not lock out the Service Terminal Valve, the Technician responded by explaining the following process.

After the necessary repairs are completed on the customer’s piping by the customer’s repair personnel (such as a plumber), the customer’s repair service personnel will be the individual(s) who will operate/open the Operator’s Service Terminal Valve and restore gas service to the customer piping, as well as complete the Red Tag procedure by mailing the Red Tag(s) back to the Operator.

The Inspector informed the Technician that the Service Terminal Valve is part of the regulated piping system, and that it is a violation of federal law to allow non-operator qualified (non-OQ) personnel to operate this valve. The Inspector then directed the Technician to place an Operator’s lock on the Service Terminal Valve, and informed the Operator that the customer’s repair service personnel would need to contact the Operator to have the lock removed and the gas service restored to the residence by a qualified individual. The Technician then placed a lock on the Service Terminal Valve.

The Inspector asked the Operator’s Gas Pipeline Compliance Consultant (Compliance Consultant), who was also onsite, if allowing non-OQ personnel to operate regulated utility services was a common practice, the Compliance Consultant stated that the

procedure(s) are in the process of being updated. Currently their procedures (sections 8.1, 14.6, and 14.8) address how the Operator ensures that only qualified individuals are authorized to operate Service Terminal Valves after a leak or unsafe condition is identified downstream of the Service Terminal Valve, but only in specific scenarios. Other scenarios where a leak or unsafe condition is identified downstream of the Service Terminal Valve are also described but it is unclear how the Operator ensures that only qualified individuals are authorized to operate the Service Terminal Valve in those scenarios.

When pressed, the Compliance Consultant admitted that it was the company's practice to allow customer's repair service personnel (such as a plumber), to perform operation and maintenance tasks, such as operating Service Terminal Valves. When asked to acknowledge that this did not satisfy the requirements set forth in 192.801, they stated that they were not prepared to answer at this time.

VIOLATIONS:

As operator of the system, Northern States Power Co. of Minnesota/Xcel Energy is responsible for complying with gas pipeline safety regulations, including ensuring that all individuals performing covered tasks are fully qualified. The gas pipeline safety regulations 49 CFR section 192.801(b) defines a covered task for the purposes of an operator as one that:

- (1) is performed on a pipeline facility,
- (2) is an operations or maintenance task,
- (3) is performed as a requirement of this part, and
- (4) affects the operation or integrity of the pipeline.

When a customer's repair service personnel (such as a plumber), is authorized to operate a Service Terminal Valve and place a service line back into operation, this is an operation and maintenance activity that meets the four-part test in § 192.801(b). As a result, Northern States Power Co of Minnesota/Xcel Energy, as the operator of the service line, is responsible for ensuring that the individuals performing these tasks are qualified in accordance with the operator qualification program required by § 192.805.

Xcel Energy's Pipeline Compliance and Standards Manual (Version 2020-1 Issued January 1, 2020, Section 1.14 Operator Qualification Program) states "Xcel Energy requires that covered tasks be performed by qualified personnel. . ."

The Operator's representatives admitted that customer's repair service personnel (such as a plumber) were performing covered task without qualification or direct supervision in violation of 49 CFR Part 192 Subpart N.

The Operator's representatives admitted as a practice that the company fails to ensure through evaluation that individuals performing covered tasks are qualified and is therefore, in violation of 49 CFR 192.805.

The Operator failed to follow Xcel Energy Pipeline Compliance & Standards Manual Section 1.14 Operator Qualification Program (Version 2020-1 Issued January 1, 2020) and is therefore, in violation of 49 CFR 192.605(a).

The Operator's procedures are insufficient to ensure safe operation of the pipeline system. Their procedures need to ensure that covered tasks are only performed by qualified personnel in accordance with 49 CFR Part 192 Subpart N – Qualification of Pipeline Personnel, specifically the operation of the Service Terminal Valve after safety concerns have been identified.

EXHIBITS:

- Exhibit #1 – Xcel Energy Pipeline Compliance & Standards Manual (Version 2020-1 Issued January 1, 2020)
- Exhibit #2 – NDPSC's OQ Field Inspection Report from August 31, 2020 at 1309 11th St. North, Fargo, ND

PROPOSED CIVIL PENALTY

Any person who violates a rule or order of the commission pursuant to section 49-02-01.2 and N.D. Admin. Code ch. 69-09-03, the company is subject to a civil penalty not to exceed two hundred thousand dollars for each violation for each day that the violation continues, except that the maximum penalty may not exceed two million dollars for any related series of violations. The Proposed Civil Penalty is \$30,000.00.

PROPOSED COMPLIANCE ORDER:

With respect to the probable violation, Staff proposes to issue a Compliance Order to Xcel energy. Please refer to the Proposed Compliance Order, which is enclosed and made part of this Notice.

RESPONSE OPTIONS:

The respondent may provide an answer or response addressed to the following:

Public Service Commission
Attn: Caleb Simburger
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

Within 30 days of receipt of a notice of probable violation, the respondent must answer in the following manner:

- (a) When the notice contains a proposed civil penalty —

- (1) If the respondent is not contesting an allegation of probable violation, pay the proposed civil penalty by certified check or money order made payable to "North Dakota Public Service Commission," and advise the Program Manager of the payment. The payment authorizes the Commission to make a finding of violation and to issue a final order;
 - (2) If the respondent is not contesting an allegation of probable violation but wishes to submit a written explanation, information, or other materials the respondent believes may warrant mitigation or elimination of the proposed civil penalty, the respondent may submit such materials. This authorizes the Commission to make a finding of violation and to issue a final order;
 - (3) If the respondent is contesting one or more allegations of probable violation but is not requesting a hearing, the respondent may submit a written response in answer to the allegations; or
 - (4) The respondent may request a hearing.
- (b) When the notice contains a proposed compliance order—
- (1) If the respondent is not contesting an allegation of probable violation, agree to the proposed compliance order. This authorizes the Commission to make a finding of violation and to issue a final order;
 - (2) Request the execution of a consent order;
 - (3) If the respondent is contesting one or more of the allegations of probable violation or compliance terms, but is not requesting a hearing , the respondent may object to the proposed compliance order and submit written explanations, information, or other materials in answer to the allegations in the notice of probable violation; or
 - (4) The respondent may request a hearing.
- (c) Before or after responding in accordance with paragraph (a) or, when applicable paragraph (b), the respondent may request a copy of the violation report. The violation report will be provided to the respondent within five business days of receiving a request.
- (d) Failure by the respondent to respond in accordance with paragraph (a) or, when applicable paragraph (b), constitutes a waiver of the right to contest the allegations in the notice of probable violation and authorizes the Commission, without further notice to the respondent, to find the facts as alleged in the notice of probable violation and to issue a final order.
- (e) All materials submitted by operators in response to enforcement actions may be placed on publicly accessible websites. A respondent seeking confidential treatment for any portion of its responsive materials must submit an application under North Dakota Administrative Code chapter 69-02-09.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Northern States Power Company
Pipeline Safety Enforcement**

Case No. GS-20-412

PROPOSED COMPLIANCE ORDER
October 2, 2020

Pursuant to North Dakota Century Code 49-02-01.2. Staff proposes to issue to Northern States Power Company (Xcel) a Compliance Order incorporating the following remedial requirements to ensure the compliance of Xcel with the pipeline safety regulations:

1. With regard to the Probable Violation(s) specified in the Notice, pertaining to evaluation of individuals performing covered tasks, review all procedures as they relate to covered tasks and qualified individuals (§ 192.801 & 192.805) within Xcel's procedures.
2. By November 6, 2020, provide to the Commission documentation showing satisfactory correction of the deficiency provided in the Notice, including, at a minimum, the following:
 - a. Procedures providing that the operation of Service Terminal Valves is a covered task that will only be performed by qualified personnel as permitted in 49 CFR Part 192 Subpart N – Qualification of Pipeline Personnel.
 - b. Procedures providing that Service Terminal Valves closed by the Respondent as part of a Red Hazard Tag Procedure or due to a safety concern are locked in the closed position to secure them from operation by non-qualified individuals.
 - c. Documentation showing that all Service Terminal Valves that are currently closed as part of a Red Hazard Tag Procedure or due to a safety concern are locked by the Respondent in the closed position to secure them from operation by non-qualified individuals.
 - d. A Safety Training Bulletin addressing the Respondent's revised procedures regarding who is permitted to operate a Service Terminal Valve was created and reviewed by individuals who are qualified to operate a Service Terminal Valve.

PHMSA Form 15 – Operator Qualification Field Validation – January 2020

Notice: Question Considerations are included in this report. Considerations, and other forms of guidance, are not to be distributed outside state or federal pipeline regulatory organizations. See the report footnote (at the end of) for specific legal guidance.

Operator and General Audit Information

Company:	Name: Northern States Power Co of Minnesota		
	Mailing and Official Address (If different): 825 Rice Street, 1 st Floor, St. Paul, MN 55117-5459		
	Doing Business as or Affiliation: Xcel Energy		
PHMSA Operator Identification (OPID) No.	31636		
Unit ID Number/ Unit Name inspected	Red River Valley Unit		
Address:	State Capitol 12 th Floor, Dept 408 600 E. Boulevard Ave. Bismarck, ND 58505-0480	Lead Auditor or Inspector:	Name: Aaron Morman
			Agency: North Dakota Public Service Commission
		Date of Audit or Inspection:	August 31,2020

Company Representatives Participating

Key Persons	Name/Title/Mailing Address	Phone/Email Address
<p>Primary Operator or Representative Interviewed or Providing Information</p>	<p>Lisa Kallberg Gas Pipeline Compliance Consultant 825 Rice Street, 1st Floor St. Paul MN 66117-5459</p>	<p>651-229-2282 elisaeth.m.kallberg@xcelenergy.com</p>
<p>Others Interviewed, Providing Information or Present at Audit or Inspection:</p>	<p>Matthew Fowler NSP/Xcel Gas Specialist</p>	<p>matthew.t.fowler@xcelenergy.com</p>
	<p>Anthony Coronato NSP/Xcel Lead Gas Specialist</p>	<p>Anthony.coronato@xcelenergy.com</p>
	<p>Jade Brown NSP/Xcel Operations Manager</p>	<p>Jade.m.brown@xcelenergy.com</p>
	<p>Non-Operator Personnel Also In Attendance: David Applebaum - PHMSA Caleb Simburger – North Dakota PSC</p>	

Training and Qualification - OQ Protocol 9

1. Program Inspection Deficiencies

Have potential issues identified by the OQ plan inspection process been corrected at the operational level?

(TQ.PROT9.CORRECTION.O)

192.801(a) (192.809(a))

Sat+	Sat	Concern	Unsat	NA	NC

Notes:

An Operator Qualification Field Inspection was conducted on August 31, 2020 at 1309 11th St N Fargo, ND. The covered task "CT-640 – Installation of Customer Meters and Regulators" was performed by Northern States Power Co of Minnesota/Xcel Energy's (Operator) qualified service personnel/field technicians (Technician), who performed a gas meter changeout.

After the replacement gas meter, labeled XCEL ENERGY 20890062, was installed, gas was introduced into this gas meter and the customer piping by the Technician. When the Technician checked the customer piping for leaks, two were identified and "Red Tagged." The gas meter service/supply valve (Service Terminal Valve) was then placed in the closed position.

The Operator has a "Red Hazard Tag Procedure" (Section 14.8 in their Pipeline Compliance & Standards Manual) which provides guidelines to their gas service personnel for identifying and reducing risks of immediate gas safety hazards, and to their Customer Care personnel for notifying customers of gas safety hazards.

It was observed by the North Dakota Public Service Commission Inspector (Inspector) that the Technician did not lock out the Service Terminal Valve after the Technician confirmed that there were Red Tagged leaks on the customer piping system. The Inspector questioned the technician about whether or not the Service Terminal Valve would be locked-out by the Operator. It was communicated to the Inspector that the Service Terminal Valve was not going to be locked-out by the Technician. Operator personnel explained that when the customer's repair service personnel (such as a plumber) completed the repairs required to remedy the Red Tagged leaks found on the customer's piping, that the customer's repair service personnel would be the individual(s) who would open the Service Terminal Valve to restore gas back into the customer piping, and complete the Red Tag procedure by mailing the Red Tag back to the Operator.

The Inspector informed the Technician that according to code, only personnel who are Operator Qualified Individuals (working in compliance with 49 CFR Part 192 Subpart N) are authorized to perform covered tasks on a pipeline facility. This is stated in 49 CFR Part 192.801. By allowing an individual who is not working in compliance with 49 CFR Part 192 Subpart N to manipulate the Service Terminal Valve and supply gas to the residence, the Operator is in violation of this gas code section.

The Inspector advised the Technician to place an operator's lock on the Service Terminal Valve, and that the customer's repair service personnel would need to contact the Operator to have the lock removed and the gas service restored to the residence by a qualified individual. The Technician then placed a lock on the Service Terminal Valve.

When the Operator's compliance official and operations manager were asked about the procedure that would explain locking out the Service Terminal Valve, the official stated that the procedure(s) is in the process of being updated. When pressed, the Compliance Consultant confirmed that it was the company's practice to allow customer's repair service personnel (such as a plumber), to perform operation and maintenance tasks, such as operating Service Terminal Valves. When asked to acknowledge that this did not satisfy the requirements set forth in 192.801, they stated that they were not prepared to answer at this time.

While the inspection was in progress, the building facility owner/manager arrived at the location and was informed of the situation by the Technician.

PHMSA Form 15 – Operator Qualification Field Validation – January 2020

2. Covered Task Performance

Verify the qualified individuals performed the observed covered tasks in accordance with the operator's procedures or operator approved contractor procedures. (TQ.PROT9.TASKPERFORMANCE.O)

192.801(a) (192.809(a))

Sat+	Sat	Concern	Unsat	NA	NC

Notes:

Matthew Fowler and Anthony Coronato performed the covered task "CT-640 – Installation of Customer Meters and Regulators" as per the operator's procedures (8.10, 8.12, and 14.8). However, there is a concern with the procedures.

The procedures need to ensure that covered tasks are only performed by qualified personnel, specifically the operation of the gas meter service/supply valve (Service Terminal Valve) when gas leaks have been identified.

The Inspector strongly recommended that when the Operator closes a Service Terminal Valve due to a leak or unsafe condition downstream of the Service Terminal Valve that they lock the valve to prevent non-qualified individuals from operating the valve. The Operator has similar requirements located throughout their procedures, but they do not directly apply to these scenarios.

The Operator's Gas Pipeline Compliance Consultant (Compliance Consultant) stated that the procedures are in the process of being reviewed and updated. In a follow-up email the Compliance Consultant clarified that the changes being considered would affect procedure 8.10. The email stated, "We are pursuing 2 options when customer piping is not attached to the outlet of the meter or relights can't be completed for numerous reasons. 1. Lock the riser valve and a NSP employee will be dispatched to unlock the meter as requested. 2. Install a valve downstream of the outlet of the meter on customer owned piping. This valve will be locked and anyone can unlock as needed to establish service or relights are needed. The operation of the customer valve is not a covered task. The riser valve will remain open."

The covered task(s) being observed for this inspection are:

- **CT-640** - Installation and Protecting of Customer Meters and Regulators – Residential and small commercial

The individuals performing the covered task(s) listed above are:

- **Matthew Fowler** – CT-640 Qualification Expiration: 5/20/22 (Primary/Lead Technician)
- **Anthony Coronato** – CT-640 Qualification Expiration: 4/14/22

The following procedure(s) were provided for the observation of the covered task(s) listed above:

- **1.14** Operator Qualification Program – Pipeline Compliance & Standards Manual (Xcel Energy – V. 2020-1 Issued January 1, 2020)
- **8.10** Meter Sets – Pipeline Compliance & Standards Manual (Xcel Energy – V. 2020-1 Issued January 1, 2020)
- **8.12** Changing Gas Meters – Pipeline Compliance & Standards Manual (Xcel Energy – V. 2020-1 Issued January 1, 2020)
- **14.6** House Heating Turn On Guidelines – Pipeline Compliance & Standards Manual (Xcel Energy – V. 2020-1 Issued January 1, 2020)
- **14.8** Red Hazard Tag Procedure – Pipeline Compliance & Standards Manual (Xcel Energy – V. 2020-1 Issued January 1, 2020)

PHMSA Form 15 – Operator Qualification Field Validation – January 2020

3. Qualification Status

Verify the individuals performing the observed covered tasks are currently qualified to perform the covered tasks.
(TQ.PROT9.QUALIFICATIONSTATUS.O)

192.801(a) (192.809(a))

Sat+	Sat	Concern	Unsat	NA	NC

Notes:

The Operator's Compliance Consultant provided the Inspector with a summary of the Operator Qualifications for the Technicians performing the covered task (see below). The individuals performing the covered task are currently qualified to perform the covered task being observed.

The covered task(s) being observed for this inspection are:

- **CT-640** - Installation and Protecting of Customer Meters and Regulators – Residential and small commercial

The individuals performing the covered task(s) listed above are:

- **Matthew Fowler** – CT-640 Qualification Expiration: 5/20/22 (Primary/Lead Technician)
- **Anthony Coronato** – CT-640 Qualification Expiration: 4/14/22

4. Abnormal Operating Condition Recognition and Reaction

Verify the individuals performing covered tasks are cognizant of the AOCs that are applicable to the tasks observed.
(TQ.PROT9.AOCRECOG.O)

192.801(a) (192.809(a))

Sat+	Sat	Concern	Unsat	NA	NC

Notes:

Abnormal Operating Conditions, such as atmospheric corrosion/damaged coating and gas-piping leaks were explained by the qualified individuals during the meter changeout. When the technician found leaks on the customer piping, he also explained how they would use their Red Tag procedure to ensure that the leaks discovered on the customer piping would be repaired/corrected.

PHMSA Form 15 – Operator Qualification Field Validation – January 2020

5. Verification of Qualification

Observe in the field (job site, local office, etc.) that the foreman/supervisor/manager has verified the qualification of the individual performing the task, that the qualification records are current, and ensure the personal identification of all individuals performing covered tasks are checked, prior to task performance. (TQ.PROT9.VERIFYQUAL.O)

192.801(a) (192.809(a))

Sat+	Sat	Concern	Unsat	NA	NC

Notes:

The Operator’s Compliance Consultant provided the Inspector with a summary of the Operator Qualifications for the Technicians performing the covered task (see below). The individuals performing the covered task are currently qualified to perform the covered task being observed. The Inspector verified the identity of the individuals by viewing their company identification.

The covered task(s) being observed for this inspection are:

- **CT-640** - Installation and Protecting of Customer Meters and Regulators – Residential and small commercial

The individuals performing the covered task(s) listed above are:

- **Matthew Fowler** – CT-640 Qualification Expiration: 5/20/22 (Primary/Lead Technician)
- **Anthony Coronato** – CT-640 Qualification Expiration: 4/14/22

Except as required to be disclosed by law, any inspection documentation, including completed protocol forms, summary reports, executive summary reports, and enforcement documentation are for internal use only by federal or state pipeline safety regulators. Some inspection documentation may contain information which the operator considers to be confidential. In addition, supplemental inspection guidance and related documents in the file library are also for internal use only by federal or state pipeline safety regulators (with the exception of documents published in the federal register, such as advisory bulletins). Do not distribute or otherwise disclose such material outside of the state or federal pipeline regulatory organizations. Requests for such information from other government organizations (including, but not limited to, NTSB, GAO, IG, or Congressional Staff) should be referred to PHMSA Headquarters Management.