

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Montana-Dakota Utilities Co.  
Pipeline Safety Enforcement**

**Case No. GS-22-406**

**NOTICE OF PROBABLE VIOLATION**

**November 22, 2022**

Pursuant to North Dakota Century Code section 49-02-01.2, and North Dakota Administrative Code chapter 69-09-03, Public Service Commission (Commission) Gas Pipeline Safety Staff (Staff) conducted a Biennial Distribution Operations & Maintenance Records Inspection of Montana-Dakota Utilities Co. (MDU). As a result of the inspection, a probable violation of the Commission's gas pipeline safety regulations was identified.

**DATE(S) OF AUDIT:**

August 23 - 24, 2022

**TYPE OF AUDIT:**

Biennial Operations & Maintenance Records Inspection

**LOCATION OF AUDIT:**

MDU offices located at 400 North Fourth Street Bismarck, ND 58501.

**PSC STAFF:**

Caleb Simburger, Program Manager/Inspector  
Kevin Schmidt, Inspector  
Lakken Paulsrud, Inspector

**OPERATOR'S AUDIT CONTACT PERSON:**

Debbie Buck  
Manager, Compliance & Operations Programs  
[debbie.buck@mdu.com](mailto:debbie.buck@mdu.com)  
406-896-4210

## **INSPECTION**

A Biennial Distribution Operations & Maintenance (O&M) Records Inspection of MDU was conducted in-person at the MDU offices in Bismarck, ND. The inspection was completed August 24, 2022

As a result of the inspection, Staff believes that MDU committed a probable violation of pipeline safety regulations.

### **PROBABLE VIOLATION NO. 1:**

#### **INSPECTION FINDINGS:**

MDU O&M records indicate that the capacity of pressure relief devices at pressure limiting stations and pressure regulating stations was not determined at the frequency required by 49 CFR Part 192.743(a). MDU stated that the capacity of pressure relief devices at pressure limiting stations and pressure regulating stations is currently being determined, however only when the facilities are constructed or when equipment is changed or modified.

#### **PIPELINE SAFETY REGULATION IN EFFECT AT TIME OF PROBABLE VIOLATION:**

**49 CFR Part 192.743 Pressure limiting and regulating stations: Capacity of relief devices.**

- (a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in §192.739(b), the capacity must be consistent with the pressure limits of §192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations.

#### **VIOLATION:**

As operator of the system, MDU is responsible for complying with gas pipeline safety regulations. MDU failed to determine the capacity of pressure relief devices at pressure limiting stations and pressure regulating stations on their regulated distribution system at the frequency required by § 192.743(a).

#### **PROPOSED CIVIL PENALTY:**

Any person or entity who violates a rule or order of the Commission pursuant to N.D.C.C. § 49-02-01.2 and N.D. Admin. Code Chapter 69-09-03, 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 \$500.00.

**RESPONSE OPTIONS:**

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

Public Service Commission  
Attn: Caleb Simburger  
600 E. Boulevard Ave., 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 Gas Pipeline Safety 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.

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.

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.

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 in accordance with N. D. Admin. Code Chapter 69-02-09.