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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

August 19, 2015 - 10:06 a.m.  
Concord, New Hampshire



RE: DG 15-121  
NORTHERN UTILITIES, INC.:  
Request for Hearing on Notices of  
Violations PS1501NU and PS1502NU.

PRESENT: Chairman Martin P. Honigberg, Presiding  
Commissioner Robert R. Scott  
Commissioner Kathryn M. Bailey

Sandy Deno, Clerk

APPEARANCES: Reptg. Northern Utilities, Inc.:  
William D. Hewitt, Esq. (Roach, Hewitt...)

Reptg. PUC Staff:  
Michael J. Sheehan, Esq.

Court Reporter: Steven E. Patnaude, LCR No. 52

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| <b>EXHIBIT NO.</b> | <b>D E S C R I P T I O N</b>   | <b>PAGE NO.</b> |
|--------------------|--|-----------------|
| 1                  | Filing by Northern Utilities,<br>including the Testimony of<br>Christopher LeBlanc and<br>Jonathan Pfister, with attachments,<br>the Testimony of Rick Ahlin,<br>with attachments, and the Testimony<br>of Philip Sher, with attachments<br>(08-12-15) | premarked       |
| 1A                 | Corrected pages to the Direct<br>Testimony of Philip Sher<br>(08-13-15)  | premarked       |
| 2                  | Compilation of exhibits labeled<br>as "NUNH General", comprised of<br>Tabs 1 through 29  | premarked       |
| 3                  | PUC Staff letter to Thomas Meissner<br>containing the Notice of Probable<br>Violation (01-23-15)   | 155             |

**P R O C E E D I N G**

1  
2 CHAIRMAN HONIGBERG: We're here this  
3 morning in Docket DG 15-121, which is Northern Utilities'  
4 Notice of Violation -- two Notices of Violation issued by  
5 the Safety Division. The Company requested a hearing, and  
6 that's what we're here for. I know we do have some  
7 preliminary issues before that.

8 But, before we do anything else, let's  
9 take appearances.

10 MR. HEWITT: Good morning. My name is  
11 Bill Hewitt. I'm with the law firm of Roach, Hewitt,  
12 Ruprecht, Sanchez & Bischoff. And, I'm appearing this  
13 morning on behalf of Northern Utilities, Inc.

14 MR. SHEEHAN: Good morning. Mike  
15 Sheehan, for Commission Staff. With me is Mr. Knepper,  
16 Mr. Burnell, and Mr. Vercellotti, who will be our  
17 witnesses.

18 CHAIRMAN HONIGBERG: For preliminary  
19 issues, I think the only outstanding motion is the Staff's  
20 Motion to Strike one small piece of Mr. LeBlanc's  
21 testimony, I think it is. We did receive an objection to  
22 that motion from Mr. Hewitt. But I will tell you, Mr.  
23 Hewitt, for reasons not -- you're not responsible for, we  
24 got it about ten minutes ago. So, we've seen it, although

1 I don't know if any of us have read it very carefully. Do  
2 you want to say anything about the Motion to Strike beyond  
3 what's in your papers?

4 MR. HEWITT: Nothing in addition to  
5 what's in the papers. If, given the lateness in which it  
6 was received, if you would like a quick overview, I'm  
7 happy to provide that, if that would be helpful. But --

8 CHAIRMAN HONIGBERG: Well, let me see if  
9 I can help you. Part of your response was "Well, maybe,  
10 but Staff included statements like that in its Notice of  
11 Violation. So, you've either got to ignore one or  
12 ignore -- you could ignore none or ignore all." That's  
13 part of what you said. And, it strikes me that neither  
14 set of statements, neither the ones from the NOV, which  
15 refer to conversations that occurred in training, and your  
16 statement, which the essence of which is "we talked to a  
17 guy", are particularly persuasive.

18 So, does either of you think that those  
19 statements are significant that we should rely on them in  
20 any way? Mr. Sheehan.

21 MR. SHEEHAN: I don't have a problem  
22 with counsel's approach, that we agree that you will  
23 disregard both sets of statements. That seems a  
24 reasonable resolution of the issue.

1 CHAIRMAN HONIGBERG: Are we good?

2 MR. HEWITT: That's acceptable --

3 CHAIRMAN HONIGBERG: If we choose to  
4 ignore both sets of statements?

5 MR. HEWITT: That is acceptable to the  
6 Company.

7 CHAIRMAN HONIGBERG: Then, that's what  
8 we'll do. Are there any other outstanding issues?

9 MR. HEWITT: Well, there is the issue,  
10 your Honor, with regard to the Company's letter that it  
11 had filed with regard to the Dover NOV, which the Company  
12 is now willing to -- now willing to concede. So, we do  
13 not plan on putting on a defense with regard to that NOV  
14 today. I see that the NOV itself is listed as an exhibit  
15 for the hearing. We agree to that coming in as an  
16 exhibit. And, we consent to the Commission entering that  
17 against us, under the terms of the NOV as they have been  
18 presented by the Commission Staff.

19 CHAIRMAN HONIGBERG: Mr. Sheehan, I know  
20 you filed something in response to that. And, it seems to  
21 be the position that you're taking that you could seek  
22 higher fines than was in the Notice of Violation. That  
23 seems like a very difficult position for you to take,  
24 since the proposed fine is in the Notice of Violation. Do

1 you want to talk to me about that for a minute?

2 MR. SHEEHAN: Yes. The high-level  
3 basis, they have every right to concede the issue, of  
4 course. They don't have a right to take advantage of what  
5 was, in effect, a settlement offer when this was  
6 presented. We filed a Notice of Violation that says "You  
7 violated. Attached is a consent agreement. Your choice  
8 is either, by rule, your choice is either sign the consent  
9 agreement or request a hearing." Once they chose to  
10 request a hearing, our recommendation for a settlement is  
11 off the table. And, to be clear about that, I made that  
12 specific a couple weeks ago that, to the extent that  
13 consent agreement is an offer, it is withdrawn.

14 You have to find that they violated the  
15 rules, now that they have requested a hearing and it's  
16 before you. Obviously, you will find they violated the  
17 rules, because they are not going to put on a defense.  
18 You also have to make an independent determination of what  
19 the fine should be, not an offer of settlement prior to  
20 hearing, but your own determination. And, a lot of  
21 information has come to light since we filed that NOV that  
22 would change our recommendation, should you consider that.

23 CHAIRMAN HONIGBERG: Mr. Sheehan, I'm  
24 looking at the Notice of Violation. It says, on Page 5 of

1 6, near the bottom, "Respondent is fully culpable for this  
2 violation. In light of these factors, the Safety Division  
3 imposes civil penalties as follows: Violation Number 1,  
4 \$10,000; Violation Number 2, 7,500." How would I know  
5 that's an offer of settlement?

6 MR. SHEEHAN: Because the rule says,  
7 when presented with an NOV and a consent agreement, you  
8 have the choice to either accept the consent agreement and  
9 mail a check; or request a hearing. And, the consent  
10 agreement was attached to that NOV you just read, and it  
11 had the terms that they could have agreed to with those  
12 numbers.

13 The Commission -- the Safety Staff has  
14 the authority to impose a fine only if they accept it.  
15 And, if they don't accept it, they request a hearing. The  
16 hearing could have been on the merits of the violation.  
17 The hearing could have been on the fine recommended. It  
18 could have been on both. We are suggesting that there  
19 should be a hearing on the fine, because they're conceding  
20 the violation. And, again, there's facts that have come  
21 to light since that offer that changes Staff's position on  
22 that. And, we will make a similar argument on the  
23 Portsmouth NOV, when they get there, that our  
24 recommendation will change somewhat from what we had

1 initially offered in the NOV.

2 CHAIRMAN HONIGBERG: Mr. Hewitt.

3 MR. HEWITT: It strikes me as  
4 fundamentally unfair. That we appear today for a hearing,  
5 and although I did have some sense that Staff would be  
6 arguing that they wanted to move the numbers on Dover,  
7 this is certainly the first time this Company has heard  
8 that they also intend to argue during this hearing that  
9 they intend to move the number with respect to New  
10 Hampshire Ave.

11 So, what we have is two NOVs, plain on  
12 their face, make allegations as to certain violations of  
13 the Safety Code, and they also include, plain on their  
14 face, as the Chairman pointed out, what the fine is. Now,  
15 if Staff wanted to compromise, right, if Staff wanted to  
16 compromise and send a consent agreement, they could have,  
17 in compromise, lowered the amount that they offer in the  
18 consent agreement. The consent agreement isn't a -- I  
19 mean, they say it was "an offer that has been withdrawn",  
20 and that's fine. But, make no mistake about it, it's not  
21 a "compromise offer". It's just an offer that has been  
22 withdrawn. We're not accepting their offer. What we're  
23 saying is, we're willing to accept the NOV that has been  
24 placed before you.

1                   And, it's fundamentally unfair for Staff  
2                   to be coming in today and saying "Wait a minute. We want  
3                   to put on more evidence to raise the amount of the civil  
4                   penalty." I think, if they want to raise the amount of  
5                   the civil penalty, then we probably need to start back at  
6                   square one with an NOPV. I see nothing in the rule that  
7                   says you're allowed -- that Staff has the discretion to  
8                   either -- to change the NOV after it's been issued during  
9                   the hearing, or at any time after the NOV is issued.

10                   So, the NOV states what the fine is.  
11                   We're coming before you saying "We're willing to pay the  
12                   fine." And, now, Staff is saying, at the hearing, "We  
13                   want to change the numbers on the fine." Well, the  
14                   Company has no notice as to how much they intend to argue  
15                   that the fine should be changed. It's -- this seems to me  
16                   contrary to this process that your rules set up, of going  
17                   through an NOPV, and having a process after the NOPV, and  
18                   then having an NOV, and having, you know, very clear  
19                   statements in the NOV as to what the Company's exposure is  
20                   with regard to a fine.

21                   Now, I'm being told, when I come into  
22                   the hearing, "No, your exposure is going to be presumably  
23                   greater than what we gave you notice in the NOV that your  
24                   exposure would be.

1 CHAIRMAN HONIGBERG: And, is -- go  
2 ahead. I'm sorry, Mr. Hewitt.

3 MR. HEWITT: I'm sorry. There's also  
4 the issue of the condition that I don't want to -- don't  
5 want to forget. That's also an issue that relates to the  
6 NOV. So, I didn't want to let that go without mentioning  
7 that.

8 CHAIRMAN HONIGBERG: Right. That has a  
9 different set of concerns, not the notice and due process  
10 concerns, --

11 MR. HEWITT: Yes.

12 CHAIRMAN HONIGBERG: -- but different,  
13 that that condition, in your view, doesn't tie to the  
14 violation having been alleged.

15 MR. HEWITT: And, quite to the contrary.  
16 It ties to a different violation that has been alleged  
17 that is still in dispute.

18 CHAIRMAN HONIGBERG: Mr. Sheehan,  
19 briefly.

20 MR. SHEEHAN: Sure. You have to give  
21 effect to the rule. "Within ten days from receipt of the  
22 NOV, the respondent shall either: (a) Sign a consent  
23 agreement and remit the civil penalty; or (b) File a  
24 request in writing for a hearing before the Commission."

1 They chose the latter. Once they chose the latter, our  
2 NOV is akin to a complaint. And, we have to prove our  
3 complaint and they can defend the complaint.

4 They chose to plead guilty, pardon for  
5 the criminal analogy, and the question is what the  
6 sentence should. Now, they want to change that part of  
7 it, too. They think "Well, we're pleading to the NOV. We  
8 want the fine, but we don't want the condition." It sort  
9 of illustrates the fact that that wasn't what they  
10 represent it was on the fine.

11 It's an open case for you to decide.  
12 Did they violate the rules? And, what should the penalty  
13 be?

14 CHAIRMAN HONIGBERG: Okay. We're going  
15 to confer for just a moment.

16 (Chairman and Commissioners conferring.)

17 CHAIRMAN HONIGBERG: All right. We're  
18 not going to rule on this issue now, today. We're going  
19 to let Staff make its record as to why it believes its --  
20 whatever level is appropriate, and you'll have an  
21 opportunity to respond. I expect both of you will  
22 probably want to file post-hearing memoranda. And, it's  
23 an issue that should probably be briefed, because there  
24 are definitely some legal issues lurking in this question.

1 Does anyone have anything else they want  
2 to say about that or are we ready to move on?

3 MR. SHEEHAN: That's fine.

4 MR. HEWITT: We're ready to move on from  
5 that. I do have one other sort of housekeeping issue,  
6 when it -- at your convenience.

7 CHAIRMAN HONIGBERG: Go ahead.

8 MR. HEWITT: We are here today. And, I  
9 apologize, I did not introduce my team on the record,  
10 folks who are --

11 CHAIRMAN HONIGBERG: We probably  
12 wouldn't remember. But, go ahead, if you want.

13 MR. HEWITT: Okay. That's fine.  
14 Sitting to my immediate right is Christopher LeBlanc.  
15 He's Director of Gas Operations for Unitil. To his right  
16 is Thomas Meissner. Mr. Meissner is the Chief Operating  
17 Officer of --

18 MR. MEISSNER: Unitil.

19 MR. HEWITT: -- of Unitil. And, the  
20 gentlemen behind me, directly behind me is Philip Sher,  
21 and he is a consultant and also a testifying witness; and  
22 then the other two gentlemen are Jonathan Pfister, who is  
23 also a testifying witness for the Company; as well as Rick  
24 Ahlin, A-h-l-i-n, "Ahlin".

1 CHAIRMAN HONIGBERG: We were wondering  
2 about the pronunciation of that name as well.

3 MR. HEWITT: Yes. It threw me for a  
4 loop as well when I first saw it.

5 And, in addition to that, Mr. Meissner,  
6 if the Commission would allow, would like to make a brief  
7 sort of opening statement on behalf of the Company before  
8 we get started, if that would be acceptable to you?

9 CHAIRMAN HONIGBERG: I mean, I don't  
10 have an objection to parties making a brief opening. If  
11 you want to have Mr. Meissner make the opening, that's  
12 fine.

13 MR. HEWITT: Yes.

14 CHAIRMAN HONIGBERG: You don't have any  
15 objection to that, right?

16 MR. SHEEHAN: No, sir.

17 CHAIRMAN HONIGBERG: Go ahead,  
18 Mr. Meissner.

19 MR. MEISSNER: Thank you. Thank you for  
20 the opportunity just to offer a view brief remarks. Is  
21 this on?

22 CHAIRMAN HONIGBERG: I don't know. Is  
23 the red light on?

24 MR. MEISSNER: The red light is on.

1 CHAIRMAN HONIGBERG: Then, just move it  
2 uncomfortably close to your mouth.

3 MR. MEISSNER: How's that?

4 CHAIRMAN HONIGBERG: Better.

5 MR. MEISSNER: Okay. I appreciate the  
6 opportunity. And, before we start today, I would like to  
7 acknowledge that we find ourselves in a very uncomfortable  
8 position this morning. Appearing at this hearing is not  
9 really where we'd like to be as a company. As a company,  
10 we pride ourselves on being a regional leader in gas  
11 pipeline safety, maybe even a national leader. We  
12 frequently appear at national conferences on best  
13 practices. We've received awards for our safety programs.  
14 And, we've had contingents of managers from other  
15 companies, such as Con Edison and NSTAR, come to our  
16 company to see how we implemented some of our programs.  
17 So, safety, from our standpoint, is clearly number one,  
18 and it's a source of great pride to our employees and our  
19 management. This is not indicative of the situation we'd  
20 like to find ourselves in.

21 Despite our focus on safety, we have on  
22 occasion, I think, I would say rarely, been cited for a  
23 violation of State or Federal Code. That may be related  
24 to a deficiency in records that date back for decades, it

1 may be a training issue, it may be the inadvertent actions  
2 of an employee or other causes. It does happen.  
3 Thankfully, from our standpoint, it doesn't happen very  
4 often.

5 As a company, we always strive to ensure  
6 that our designs and our operating procedures are fully  
7 compliant with all state and federal regulations. And,  
8 we've implemented a compliance management system and  
9 quality assurance and quality control procedures to make  
10 sure that we identify and detect issues before they may  
11 occur.

12 On those occasions when we have received  
13 an NOPV or a violation, I think it's been our practice to  
14 evaluate the circumstances, confirm the facts, take  
15 action, where necessary, to remedy any deficiencies, and  
16 put procedures in place to make sure it doesn't happen  
17 again. So, you know, from our standpoint, if we feel  
18 we've fallen short on our obligation, we often will send a  
19 letter in with the consent agreement explaining the  
20 circumstances, why it happened, the actions that we've  
21 taken, and how we're going to ensure that it doesn't  
22 happen again. We then pay the civil penalty and we move  
23 on. So, that's our normal way of handling these.

24 The fact that we're here today I would

1 say is highly unusual. To my knowledge, it's never  
2 happened before ever. We've never disputed a violation  
3 and requested a hearing before the Commission. And, we  
4 certainly wouldn't do so without compelling reasons and  
5 strong convictions.

6 So, the reason we're here today is not  
7 about the civil penalty. It's not about paying a fine.  
8 It's much more important than that. From our standpoint,  
9 we're here because, if we can't understand how we're  
10 regulated, it's really about understanding the rules as  
11 they are written, how those are applied to gas operators,  
12 and our ability to understand those rules, so we can  
13 comply with them.

14 Clearly, understanding the Code is  
15 fundamental to the design of our operating procedures, our  
16 designs, and our training programs. So, if we can't  
17 understand the safety requirements and the legal  
18 obligations that we're under from a clear reading of the  
19 Code, and as clarified by the federal agency adopting that  
20 Code, then we're in a position of not really being able to  
21 put programs in place to comply. From our standpoint,  
22 it's fundamental that an effective safety program has to  
23 start first with a clear understanding of the rules.

24 In this case, we feel that the

1 regulations were clear, and we complied with them to a T.  
2 With regard to the New Hampshire Avenue NOPV, the facts of  
3 that are not in dispute. We agree with the facts as they  
4 have been laid out in the Joint Stipulation of Facts.  
5 However, we do not agree that those facts constitute a  
6 violation. And, in fact, we requested a written  
7 interpretation from PHMSA, in which we believe they  
8 confirmed that we understand the applicable provisions of  
9 the Code, and they confirmed that our regulator set points  
10 and the operation of those regulators in the event of a  
11 system emergency or failure is consistent with the set  
12 points laid out in Code. So, we believe our set points  
13 are not in violation of Code. Our designs and our  
14 operating procedures are sound. And, that there's no  
15 safety issue involved with the operation of these  
16 regulators.

17 So, coming here today, we're being told  
18 that our interpretation of the Code is wrong, that our  
19 regulator set points are in violation of Code, and  
20 therefore we need to change all the regulator set points  
21 on our system. As I said, this, for us, is really about  
22 understanding the rules as they are written, as clarified  
23 by PHMSA. And, if we can't understand the rules as they  
24 are written, then we feel we're not in a position to be

1 able to design our system adequately. That's really why  
2 we're here.

3 In terms of the other NOV, I'm not going  
4 to argue that in any way. I thought I would just offer  
5 our reason for withdrawing it, to the extent that you are  
6 wondering why we did withdraw it. And, I would say, in  
7 the case of the one we're hearing today, the reading of  
8 the Code, the facts and the arguments should be clear.  
9 And, I think a clear determination can be made by the  
10 Commission.

11 In the case of the other one, it really  
12 hinges on a determination of reasonable judgment, adequacy  
13 of engineering design. I don't think there's anything  
14 specific in Code that could be pointed to that says "our  
15 regulators were in some way in violation." I think a  
16 26-year operating history without incident is evidence  
17 that the designs were reasonable. But, to put that  
18 question before you and ask you to rule on the adequacy of  
19 our design seem to be not where we wanted to be with that  
20 violation.

21 We continue to believe our designs are  
22 reasonable and are adequate. We're not accepting a guilty  
23 plea on that one. We simply didn't feel that pushing it  
24 to hearing in this venue is appropriate under the

1 circumstances. And, it was inconsistent with our reason  
2 for being here. Our only reason for bringing that one  
3 forward would have been to avoid a civil penalty. Any  
4 other actions that we're going to take have already been  
5 taken and would be carried out irrespective of any finding  
6 on the NOV. So, that's why we withdrew that one.

7 But our reasons for bringing the other  
8 one to hearing is so we can get clarity on the plain  
9 language of the Code and how that Code's going to be  
10 interpreted and applied to natural gas operators.

11 CHAIRMAN HONIGBERG: Thank you,  
12 Mr. Meissner. Mr. Sheehan, do you want to do an opening  
13 now? Do you want to do an opening before you call your  
14 first witness? Or, how do you want to proceed?

15 MR. SHEEHAN: I would like to do a  
16 two-minute statement on the Portsmouth NOV. With regard  
17 to Dover, you mentioned that you would let Staff make its  
18 record, and I'm not sure what you were thinking. I can  
19 certainly give a five-minute description of the evidence  
20 that we would introduce to support what we thought was the  
21 appropriate course in that case. We've marked some  
22 exhibits that certainly will be subject to objection,  
23 if -- depending on how you rule on the Dover issue. But I  
24 could walk you through what our presentation would be,

1 what the exhibits we intend to introduce, and what our  
2 recommendation would be if that -- should you decide  
3 that's the course that we can go.

4 CHAIRMAN HONIGBERG: Well, I think you  
5 should make whatever record you feel is appropriate for us  
6 to be able to determine what the appropriate fine should  
7 be. And, if that involves exhibits or documents, we need  
8 to get them into the record. If it involves testimony,  
9 then you need to have somebody testify, I think. Because  
10 we're not going to be able to, if we agree with you that  
11 you are able to seek a larger penalty, we need to have a  
12 record that would support whatever we decide it should be.

13 MR. SHEEHAN: Okay.

14 CHAIRMAN HONIGBERG: And, I'm not sure  
15 if you want to -- if now is the appropriate time to do  
16 that or, I mean, maybe it is, actually, because that might  
17 give Mr. Hewitt the best opportunity to respond. So, --

18 MR. SHEEHAN: And, it also makes sense  
19 to separate the presentations between Dover and  
20 Portsmouth. So, my hesitation is whether I need to call a  
21 witness to do what -- to put the facts in. It's mostly  
22 based on documents. And, I can certainly articulate  
23 Staff's recommendation that a witness could say, because  
24 it's not evidence, it's just a recommendation. So, why

1 don't I do that.

2                   In the record, just as another aside,  
3 prior to the hearing, working with counsel and Sandy,  
4 we've agreed to the following exhibit numbering system.  
5 Northern filed its testimony in a single binder, and we  
6 have agreed that will be "Exhibit 1", the whole thing.  
7 And, we'll just have to refer to it as, you know, "Pfister  
8 Attachment A", and the like. Northern filed an correction  
9 to that testimony, which, because of docketbook  
10 limitations, we can't just put them together. That has  
11 been marked as "1A". What you can actually do is take the  
12 pages from that correction and insert it into 1. And,  
13 then, the pile that was awaiting you on your desk this  
14 morning is -- the whole thing is "Exhibit 2". And, that  
15 consist of exhibits that the Company intends to offer and  
16 that we intend to offer. And, the demarcation line is  
17 between -- the Company has marked were 1 through 15 and  
18 Staff's were 16 through 29. There has not been an  
19 agreement on all of those coming into evidence, but that  
20 they will be marked. And, depending on how the hearing  
21 goes, we may have a discussion on admissibility at the  
22 end. So, again, since that is all "Exhibit 2", we'll have  
23 to refer to them as "2-1" or "2-12", whatever the case may  
24 be.

1                   So, with that backdrop, a number of the  
2 exhibits that Staff put in that package relate to Dover.  
3 And, I'll go through those quickly. As for the underlying  
4 facts in the Dover event, they are not disputed. The  
5 Company has agreed that they are as alleged. And, so, for  
6 the record, we have put in the Dover NOV, which is  
7 Exhibit 2-28. And, we have put in the record the  
8 Company's report, its after action report of those events,  
9 which, as an aside, Staff finds to be a very  
10 straightforward and common sense description of what  
11 happened and their actions, and that is Exhibit 2-24, the  
12 Overpressure Event Investigation.

13                   And, very briefly, these are two  
14 underground vaults, each with a regulating device in it.  
15 And, you will hear a lot in the Portsmouth case, there is  
16 a worker regulator that does most of the day-to-day,  
17 keeping the pressure at the right levels. There is a  
18 monitor regulator, which is there as a backup, in case  
19 something goes wrong with first one or some other problem.  
20 And, that those vaults, they're side-by-side in the  
21 street, probably the distance from me to you, maybe  
22 closer. There was construction in that area. There was a  
23 brief severe, apparently downpour of rain that recorded  
24 two and a half inches of rain at a nearby airport. It

1 seems, and I don't think there is any dispute, that the  
2 storm drain, which is right next to one of the vaults,  
3 clogged with construction debris, and the water filled up  
4 both vaults.

5                   And, I'm getting a little beyond my  
6 expertise, but there is a vent on these vaults that is  
7 shaped like a candy cane. And, that vent needs to have  
8 access to air, in order for the regulators to work  
9 properly. And, these vaults, that candy cane, was  
10 underground, the top of it was some distance below the top  
11 of the vault. So, all the numbers are in the documents.  
12 But, roughly, the regulator itself is 20 or so inches off  
13 the floor. The candy cane is about 30 or 40 inches, and  
14 the top of the vault is 50 inches. Again, a rough  
15 estimation.

16                   When that vent, that candy cane, floods,  
17 it doesn't work anymore. It needs the air, the  
18 atmospheric pressure. And, when it floods, it doesn't  
19 work. In this particular case, because both vaults  
20 flooded, both regulators stopped working, and the pressure  
21 in this Dover system went to way above its maximum  
22 operating pressure, two or three times what it should have  
23 been for something around an hour. Alarms went off, the  
24 Company figured out what happened, they shut them both

1 down, they did leak surveys, and that's all in their after  
2 action report. Those basic facts are not -- they're not  
3 contesting them.

4 Based on what we knew, in the winter,  
5 when we wrote this NOV, this was a single failure, a  
6 single rainstorm. MAOP was exceeded, maximum allowable  
7 operating pressure. The Code does not ask for intent or  
8 reasons. It simply says "if you exceed, you violate the  
9 Code." So, Violation 1 was "you went over MAOP period."  
10 Violation 2 was, "you have an obligation to design your  
11 facility so that you don't exceed MAOP." And, here,  
12 Staff's position was, 'you had a situation where a vault  
13 could flood. And, if it floods, it wouldn't work. You  
14 should have thought of that. Therefore, you have a design  
15 violation." And, that's Violation Number 2. So far, so  
16 good. And, the Company has agreed with that. And, you  
17 heard Mr. Meissner's explanation to some degree.

18 What changed, from when we wrote the NOV  
19 until here, was discovery. There's not a lot of -- there  
20 is no formal discovery. There is an investigation by  
21 Staff. There's the report that you saw.

22 The initial defense by the Company to  
23 this NOV was "we had no reason to think something like  
24 this would happen." I think Mr. Meissner just said, "26

1 years and it's never flooded. So, therefore, we shouldn't  
2 have to plan for this vault flooding and causing this  
3 failure. Therefore, you shouldn't" -- you know, that was  
4 their initial defense, "our design was adequate based on  
5 our history."

6 What we learned in discovery was the  
7 following: Primarily, we asked for "five year history of  
8 when you've pumped out a vault period." What we got was,  
9 and these were marked as "Exhibit 17" and "18", we got a  
10 series of inspection reports that show occasions on which  
11 Northern pumped out any vault in its system over five  
12 years. I grouped them into two batches. The first,  
13 Exhibit 17, are all of the positive, meaning "pumped out"  
14 reports for the Rutland Street station that failed in this  
15 instance. There are 30 of them.

16 Exhibit 18 are similar reports for other  
17 regulating stations, but very few of what was actually  
18 produced in discovery. We received 600 reports of vaults  
19 being pumped over that five-year period in all of its  
20 system. The ones that I've marked as "Exhibit 18" are  
21 only those that contain some notation relevant to this  
22 case.

23 So, if you go to 17, for example, the  
24 very first one, you can see, in the upper left corner,

1 "Rutland Street Dover". That is the station we're  
2 concerned with. And, this is apparently a routine check  
3 that are in these vaults every so often, monthly or  
4 whatever the timeframe is. And, the Company gave us only  
5 the ones that referenced when it was pumped.

6 And, what you do is you go down the  
7 boxes on the left, and it says "Vault", and there's a  
8 "yes/no", and they circled "yes. "Inspected", "yes or  
9 no", they circle "yes". "Pumped", and there's a "yes or  
10 no". So, this is just an indication that, on this  
11 particular date, I believe it's "August 27, 2010", the  
12 Rutland Street regulator was pumped.

13 Now, if you look at that line where it  
14 says "Pumped", to the right of it there's a "W" and an  
15 "M", other forms show that they were both circled, and  
16 that's a "worker" and "monitor" regulator. Again, there's  
17 usually two vaults. So, the both of them are circled,  
18 it's an indication that both the worker vault was pumped  
19 and the monitor vault was pumped. And, as you flip the  
20 page, sometimes they're both circled, sometimes not.

21 These 30 Rutland Street forms don't have  
22 any notes saying how deep the water was, any other damage  
23 related to water, except for one, I believe.

24 On Page -- the Bates Page is "50 of 83",

1 it's about the fifth or sixth one in. It's a different  
2 looking form. And, on the bottom, it says "Checked vent -  
3 vault flooded". And, it's our understanding that the vent  
4 is the candy cane that we were talking about. And, it was  
5 checked because there was some concern that the flood may  
6 have caused it to become clogged with water. So, that's  
7 the one form in the Rutland package that indicates there  
8 was a substantial amount of water in the vault.

9 CHAIRMAN HONIGBERG: Mr. Sheehan, I  
10 can't find the page you just referenced.

11 MR. SHEEHAN: Okay. It's the eighth  
12 page, October 15, 2010.

13 CHAIRMAN HONIGBERG: Got it.

14 MR. SHEEHAN: And, what I read from is  
15 the very bottom, where it says "Other".

16 CHAIRMAN HONIGBERG: I see it. Thank  
17 you.

18 MR. SHEEHAN: So, as to Rutland Street,  
19 in particular, the Company knew that it would get enough  
20 water that they had to pump it, 30 times in the five  
21 years. Admittedly, a few of these may be -- some of these  
22 forms go to after the timeframe, because we asked for five  
23 years, and some of them come into the Fall of 2014 and  
24 early '15. But, in any event, they had pumped that

1 station dozens of times prior to the events of this case.  
2 So, to say they had "no knowledge that water could go in",  
3 and I'm not sure that was -- they did acknowledge it  
4 happened on occasion. But, to say they "had no idea that  
5 it could flood", at least on one occasion we know Rutland  
6 Street flooded.

7 Now, the next exhibit, which is 18,  
8 again, this is a selection of the 600 or so that were  
9 provided of all the other stations. Most of those 600  
10 were similar to what you just saw, where there wasn't any  
11 descriptive text, it was simply a "yes, we pumped", which  
12 was the question that Staff had asked. But I pulled these  
13 out, because they all have some reference to this case,  
14 indication of flooding. Of those that we have in  
15 Exhibit 18, about 15 -- well, exactly 15 of them indicate  
16 flooding. You can't always tell how flooded. But they  
17 reference "damage to equipment", which is substantially  
18 off the floor. There's a couple references to "completely  
19 flooded". One reference, they "came back the next day and  
20 had to pump it again, because it was completely flooded."  
21 And, there's a reference to "storm drain clogged", which  
22 is what happened in the Rutland Street situation. And,  
23 there's many references to "checking the vents", which  
24 says the vents were either unwater or close enough that

1 the Company was concerned that those vents may have gotten  
2 wet. Sometimes they were okay; sometimes they had to be  
3 cleared.

4 So, this is evidence that we did not  
5 have when we wrote the NOV. And, it undermines their  
6 defense that they had no idea that the design of these  
7 vaults, namely the vent being underground, would be a  
8 problem. They had every idea there was a problem. They  
9 were checking regularly, a couple times a week is what?  
10 Six hundred over five years. Yes, it's 100 a year. So,  
11 it's a couple times a week they are pumping a vault. And,  
12 at least several dozen times of looking at vents that are  
13 underwater or could be underwater. So, the easy remedy,  
14 and this -- so, anyway, that's Step 1. We have now  
15 knowledge that they knew full well these vents flooded.

16 The next exhibit is 19, and that just  
17 shows that there were -- it's a data response, there were  
18 1,036 services connected to this Dover station. So, when  
19 the pressure spiked to three or four times its allowable  
20 limit, it went toward 1,000 services and 1,900 meters, to  
21 show you the impact of this particular event.

22 Staff certainly knew roughly that this  
23 was a regulator that had many services. But this gives a  
24 precise number of how many services were affected. The

1 Company itself is well aware of the risk of such an event,  
2 because their report reflects that they immediately sent  
3 out leak patrols that night and ran the whole system for  
4 the next, I don't know, 12, 24 hours. Luckily, they found  
5 none. But it's an indication that this was a serious  
6 overpressure event.

7           The next relevant exhibit is 23. The  
8 Company has fixed some of these stations by moving the  
9 vent above ground. And, this is a data response that says  
10 it costs about \$15,000 to do that. It's not -- it's not a  
11 insubstantial amount of money. But, in the scheme of  
12 things, they're pumping these things all the time. Staff  
13 believes that the fix was relatively easy and relatively  
14 cheap. And, in fact, they have done that. I believe  
15 their report shows they fixed some already, and they plan  
16 to go through the rest of them and fix them on a  
17 prioritize, which ones would be most likely to flood, and  
18 they're in the process of fixing them. Off the top of my  
19 head, I can't recall if they have decided to fix all of  
20 them or just their higher priority ones.

21           And, then, as I mentioned earlier, 24 is  
22 their report. 25 is simply a data response where Staff,  
23 in essence, repeats the facts that they found, which is  
24 largely a repeat of the NOV, just so it's in the record.

1 And, this -- these regulator stations have a different  
2 measure of pressure than what you'll hear on the  
3 Portsmouth one. Portsmouth is all pounds per square  
4 inch. This one is inches of water column. I won't  
5 pretend to know what the means. The limit was 13.8 inches  
6 of water column, the pressure was over 32 inches on this  
7 particular event.

8 So, those are the facts that changed  
9 from the NOV until today. And, that's why, to the extent  
10 the consent agreement was out there as a settlement offer,  
11 Staff has every right to withdraw that and saw "This is a  
12 different animal than we thought we had back then, and we  
13 have factual support to increase it."

14 CHAIRMAN HONIGBERG: Mr. Hewitt, you  
15 want to say something?

16 MR. HEWITT: So, just so I'm clear on  
17 the process. That was an opening statement, but you're  
18 not accepting -- there was a lot of characterization of  
19 the exhibits that the Company would take issue with. And,  
20 understanding, it's not Mr. Sheehan's fault, I think he's  
21 just drawing some assumptions from the documents. But  
22 there is -- we're sort of getting into the merits of the  
23 NOV, in terms of there being disputes as to, you know,  
24 what these documents actually -- what these documents

1 actually mean. And, I've heard a characterization, and  
2 the Company, of course, has a very different view of that.  
3 I was not prepared to bring in documentation today and put  
4 on a full case related to this NOV. But it's feeling like  
5 that's really what I need to do in order to address these  
6 issues fully.

7 CHAIRMAN HONIGBERG: I hear you. I  
8 think I need to understand what your plan then is,  
9 Mr. Sheehan, for this? I'm not sure if what we're getting  
10 here is an offer of proof, as to what you expect witnesses  
11 will say about these documents? Or, is it your view that,  
12 if these documents that you've referenced so far, and  
13 maybe you'll be referencing some others, become full  
14 exhibits or part of the record, part of -- you'll be  
15 arguing, based on those documents, that the appropriate  
16 fine level should be something more than what's in the  
17 NOV?

18 MR. SHEEHAN: The latter. I don't think  
19 I need witnesses for these documents, because they -- I  
20 mean, I can, but they're documents that a witness would  
21 simply say "that was my answer to a data response."

22 CHAIRMAN HONIGBERG: Yes.

23 MR. SHEEHAN: I mean, I --

24 CHAIRMAN HONIGBERG: Am I correct, Mr.

1 Hewitt, that you won't actually be objecting to these  
2 documents becoming full exhibits in this proceeding? You  
3 may want to be supplementing or you might want to be  
4 making other exhibits part of the record that you don't  
5 have with you here, because you weren't prepared to make  
6 that kind of defense?

7 MR. HEWITT: That's precisely -- that's  
8 precisely correct. I mean, for example, and I'm not going  
9 to go sort of point-by-point, but this station did have an  
10 operating history for 26 years. The Company has always  
11 been very up front that these are concrete vaults, they're  
12 water tight. Well, they will hold water, okay? So, as  
13 part of normal maintenance, after a significant rainstorm,  
14 the vaults are checked and they're pumped, right? And,  
15 so, there is a lot of -- there's a lot of speculation  
16 being drawn as to what the meaning of certain words are in  
17 these documents, and why the Company does things like  
18 check vents from time to time.

19 And, I'm just not -- I'm not prepared  
20 today to put a case on that refutes all of these facts and  
21 assumptions, or to explain the myriad of, you know, much  
22 more significant rainstorms that this state has  
23 experienced, where, during this 26 years, the Company  
24 never had anything like this happen previously.

1                   CHAIRMAN HONIGBERG: I think the good  
2 news for you is that Mr. Sheehan is going to lay out the  
3 entire theory here, the argument that's based on these  
4 documents. And, you may be able to make an offer of proof  
5 today. You may be able to make it in the context of a  
6 post-hearing submission, that would be how you would  
7 respond if the Staff were allowed to seek higher  
8 penalties. Because I think that that's really, I mean, I  
9 understand exactly what you're saying about what you would  
10 be -- what you could be prepared to do today. But I think  
11 Mr. Sheehan needs to make at least his offer of proof.  
12 And, I suspect, based on what he said, it will be a  
13 documents-based record, from which he will then make  
14 arguments. So, he may, in fact, not need a witness,  
15 because you'll probably agree that those documents are  
16 what they are. You'll disagree about what they mean. But  
17 they're going to be exhibits, ultimately?

18                   MR. HEWITT: Yes.

19                   CHAIRMAN HONIGBERG: All right.

20                   MR. HEWITT: And, I would -- I would,  
21 just for the record, I would agree to them coming into the  
22 record for purposes of your assessment of them. But I  
23 understand you are also making a -- going to be making  
24 sort of a gating ruling as to whether we're even going to

1 go down this road.

2 So, do you see the distinction that I'm  
3 trying to draw? It's sort of, I don't want them to be  
4 part of the record, if you end up saying "No, we're not  
5 going to go down this road. The NOV is the NOV. And,  
6 we're not going to change -- we're not going to allow the  
7 NOV to be changed."

8 So, I think what I would prefer is just  
9 to just make an explanation on the record that we're fine  
10 with them being -- with those documents being a part of  
11 the record for the purposes that you have stated. But, if  
12 the Commission makes the determination that the NOV will  
13 not be changed, you wouldn't then address the merits of  
14 the argument. And, so, that shouldn't be evidence that's  
15 in the record.

16 CHAIRMAN HONIGBERG: I'm not sure I  
17 agree with you on that. Because in order, if this were to  
18 be reviewed by the next level up, they would -- they might  
19 need to know what was in the record, what exhibits were  
20 referenced.

21 MR. HEWITT: So, I guess -- and, I'm  
22 sorry to spend time on what is likely a procedural nuance.

23 CHAIRMAN HONIGBERG: There is an "angels  
24 on heads of pins" aspect to what you and I are talking

1 about right now.

2 MR. HEWITT: And, I apologize for taking  
3 up your time for doing that. I think you understand  
4 what -- sort of what my concern is, I understand what your  
5 concern is if this goes up beyond this forum. And, I'm  
6 just saying that I have no objection to these documents  
7 coming into the record for the purpose of determining  
8 whether a fine should be changed, in the event that the  
9 Commission decides that that is an issue that they will  
10 undertake in this proceeding.

11 CHAIRMAN HONIGBERG: Uh-huh. Okay.  
12 Mr. Sheehan, you want to continue?

13 MR. SHEEHAN: Just to finish on the  
14 factual side. The -- part of the NOV was the Company  
15 should know that (a) vaults flood, and (b) with  
16 construction going on, you should keep an eye on your  
17 vaults. Because this was -- it appears a flood resulting  
18 from construction debris blocking a storm drain. So, the  
19 fact that they had gone many years without a major flood  
20 in this vault isn't the end of the story. They have an  
21 obligation to monitor their vaults, especially when  
22 there's roadwork being done, and this was a job when  
23 they're replacing sidewalks and curbs and whatever they  
24 were doing. So, it's not just a "it's never rained" --

1 "it's rain harder before and didn't flood, end of story."  
2 There's a duty to keep an eye on your system, looking for  
3 things like construction projects and the like.

4 And, the last piece is, on the facts, if  
5 you will, is the Company has had notice of this whole  
6 presentation I'm making for a week. It was a week ago  
7 that I filed the letter that had stated in two pages what  
8 I have just stated in ten. So, they did have notice that  
9 at least I was going to try to go there. Certainly, your  
10 decision is the gate issue as to whether I will be able to  
11 finish with that higher recommendation.

12 Anyway, the -- part of this was, at  
13 our -- the process we follow is a Notice of Probable  
14 Violation, the Company can request an informal conference.  
15 This is all by rule. The informal conference is just  
16 that. We sit in a room. They get to ask us questions.  
17 And, as a result of that, they either then sign the  
18 consent agreement that's part of the NOPV. If we don't  
19 reach agreement, we file the NOV. At the NOPV, at this  
20 informal conference, the Company gave us a written  
21 presentation, and it said, and it's quoted in my letter  
22 from last week, "The Company has never experienced  
23 flooding in these regulator vaults. The vaults had  
24 occasionally required pumping out after a significant rain

1 event. But the level of water had not previously reached  
2 the regulators." Now, that may be true. But what it told  
3 us then was, what we understood then was, "water in vaults  
4 was rare, unusual, small." And, the discovery I just went  
5 through suggests otherwise, and I understand the Company  
6 may have a different take on what we just went through.

7 With all that said, the different  
8 recommendation we make, based on those facts, the change  
9 in the facts -- well, let me back up. The factors --

10 CHAIRMAN HONIGBERG: You had me on the  
11 edge of my seat.

12 MR. SHEEHAN: The factors that the  
13 Safety Division can consider when assessing a fine are  
14 both statutory and rule-based. And, they include, and now  
15 I'm quoting from RSA 374, but Puc 511.08 is similar, "The  
16 gravity of the violation, the cooperativeness of the  
17 respondent, the effect of the penalty on the utility, and  
18 any other identifiable factors which would tend to either  
19 aggravate or mitigate the violation."

20 So, they have a right to a hearing. But  
21 that is different than agreeing we violated and paying a  
22 fine. We have more facts that tend to aggravate the  
23 situation. And, so, based on these factors, and the  
24 cost -- the relatively low cost to fix the problem, the

1 number of services affected, we have decided to recommend  
2 that the NOV was two parts, the exceeding the pressure,  
3 and this one day on this one station was \$5,000, that  
4 stays, because we only have evidence of one violation on  
5 one day.

6 The other one, the design of these  
7 regulators with the underground vents exists in all of  
8 their vaults, or did at the time of this, and we have  
9 evidence from those documents of 15 times when they  
10 flooded. Now, we don't have evidence of what happened as  
11 a result of those floods. As a sidenote, the Company's  
12 obligation to report overpressure events is new. They  
13 didn't used to have tell us when that happened. So, we  
14 don't know on any of those whether there was one. But we  
15 have calculated the same design penalty that we imposed  
16 for this one day on this one occasion to all 15 times when  
17 the records show they flooded. And, they had the design  
18 problem of the underground vents was an issue. And, 15  
19 times 7,500 is \$112,500. So, that would be our revised  
20 recommendation, based on the 15 times we have some  
21 evidence of a similar design problem causing the  
22 malfunction or possible malfunction of the vents, plus the  
23 5,000 for the existing MAOP.

24 CHAIRMAN HONIGBERG: I was with you

1 until you said "causing". I understood what you meant  
2 until you said "causing". I think you just said you don't  
3 know if any of these -- and, actually, technically, there  
4 are times they pumped. You equate "times they pumped" and  
5 used the word "flood", and then you are then assuming that  
6 in each of those instances that caused the  
7 overpressurization situation?

8 MR. SHEEHAN: No. I misspoke. We have  
9 evidence of one overpressurization. That's the one at  
10 issue in the NOV. That stays as a \$5,000 recommendation.  
11 We have evidence of vaults flooding and putting the  
12 pressure devices at risk 15 times. And, that's exhibit --  
13 the exhibit that we went through earlier. We don't have  
14 evidence of what happened with pressure on those days,  
15 partly because most of those happened when they didn't  
16 have a duty to report that they were over, and maybe they  
17 didn't go over. We concede that. But those are 15  
18 occasions when vaults flooded, either completely,  
19 according to those notes, or enough that equipment was  
20 being damaged or vents were being checked. And, those are  
21 indications of a design flaw, and that's what the other  
22 NOV theory was. So, yes, if I -- I didn't mean to take  
23 that last step.

24 CHAIRMAN HONIGBERG: Okay. Do you want

1 to do an opening at all related to the other violation,  
2 the one that is still in dispute, or do you just want to  
3 wait?

4 MR. SHEEHAN: I have literally a  
5 30-second one on that.

6 CHAIRMAN HONIGBERG: Okay. The clock is  
7 running.

8 MR. SHEEHAN: Mr. Meissner said that he  
9 needs to know what the clear language of the Code means.  
10 The Code Section 619, which is the MAOP one, says "No  
11 person may operate a segment of steel or plastic pipeline  
12 at a pressure that exceeds a maximum allowable operating  
13 pressure determined under the Code." They set it at 56;  
14 they exceeded. End of story. Couldn't be any clearer.

15 Their defense tries to bring in other  
16 sections of Code in a very implicated Step A, Step B, Step  
17 C, Step D, to say "We get more than just the 56, we get  
18 the 56 plus." That's the confusing reading of the Code.  
19 So, if you want a clear reading of the Code, our NOV  
20 provides it.

21 Second, the design violation we allege  
22 there is similarly clear: "You shall design your system so  
23 you do not exceed MAOP. That's the 195.

24 MR. KNEPPER: 192.195.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 MR. SHEEHAN: 192.195. Here, they  
2 designed their system, which you will hear about set  
3 points, in such a way that it allowed the pressure to go  
4 over. So, can't be any clearer.

5 And, again, the arguments that they will  
6 raise in defense is a complicated view of the world, not  
7 the simple one. And, with that --

8 CHAIRMAN HONIGBERG: That was a minute  
9 and twenty seconds.

10 MR. SHEEHAN: Sorry.

11 CHAIRMAN HONIGBERG: So, with that, the  
12 scene having been set, I think, Mr. Hewitt, do you want to  
13 put your witnesses on the stand or is there something else  
14 we need to deal with first?

15 MR. HEWITT: My understanding was that  
16 Staff would be going first.

17 CHAIRMAN HONIGBERG: Fine. Go ahead.

18 MR. SHEEHAN: Staff has the burden of  
19 proof, and we expected to go first.

20 CHAIRMAN HONIGBERG: Go ahead.

21 MR. SHEEHAN: All three of you please  
22 take the stand. Staff calls Randall Knepper, Dave  
23 Burnell, and Joe Vercellotti.

24 (Whereupon **Randall S. Knepper,**

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

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**David T. Burnell**, and

**Joseph M. Vercellotti** were duly sworn

by the Court Reporter.)

**RANDALL S. KNEPPER, SWORN**

**DAVID T. BURNELL, SWORN**

**JOSEPH M. VERCELLOTTI, SWORN**

**DIRECT EXAMINATION**

BY MR. SHEEHAN:

Q. I'll start furthest away. Mr. Vercellotti, your name please.

A. (Vercellotti) Joseph M. Vercellotti.

Q. And, your employer?

A. (Vercellotti) New Hampshire Public Utilities Commission.

Q. And, how long have you been here?

A. (Vercellotti) A little over three years.

Q. And, your position?

A. (Vercellotti) I'm a Utility Engineer.

Q. And, your educational background?

A. (Vercellotti) I have a Bachelor's and Master's degree in Civil Engineering, and have completed 15 instructional courses through the U.S. DOT/PHMSA.

Q. And, those 15 instructional courses, each of them is roughly what? I mean, are they hour-long seminars?

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Vercellotti) Each course is approximately one  
2 week-long period.

3 Q. And, they were taken a week here, a week there?

4 A. (Vercellotti) That's correct. Over three years, about  
5 15 courses.

6 Q. And, in the course of your work here at the Commission,  
7 what do you do?

8 A. (Vercellotti) I conduct natural gas construction and  
9 records inspections.

10 Q. And, that requires you to leave the office and go to  
11 sites where construction is happening?

12 A. (Vercellotti) That's correct.

13 Q. And, do you review company records at their offices?

14 A. (Vercellotti) We typically review the company records  
15 at their offices. They also provide them when  
16 requested.

17 Q. And, when you're not doing one of those things,  
18 reviewing records, audits, inspections, what else do  
19 you do?

20 A. (Vercellotti) I provide the technical support to the  
21 Safety Division.

22 Q. Okay. And, you work on cases like this, when they go  
23 through the NOV process, right?

24 A. (Vercellotti) That is correct.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

- 1 Q. Mr. Burnell, your name.
- 2 A. (Burnell) David T. Burnell.
- 3 Q. And, you're here at the Commission as well?
- 4 A. (Burnell) Yes.
- 5 Q. And, your title?
- 6 A. (Burnell) Safety Specialist.
- 7 Q. And, how long have you been at the Commission?
- 8 A. (Burnell) Twelve years.
- 9 Q. And, have you taken training related to your duties at
- 10 the Commission?
- 11 A. (Burnell) Yes, I have. I've taken approximately 18
- 12 courses --
- 13 Q. Similar to --
- 14 A. (Burnell) -- at the DOT. Yes.
- 15 Q. Similar to what Mr. Vercellotti --
- 16 A. (Burnell) Yes.
- 17 Q. And, do you have any certifications through PHMSA or
- 18 qualifications?
- 19 A. (Burnell) I'm classified as a "Tech II", I believe.
- 20 Q. If you're not sure, that's fine. And, we're going to
- 21 talk about the Portsmouth NOV, and that was the NOV
- 22 that you were most involved with in the field, is that
- 23 correct?
- 24 A. (Burnell) Yes.

{DG 15-121} {08-19-15/Day 1}

1 Q. Mr. Knepper, your name please.

2 A. (Knepper) Randall New England Power.

3 Q. And, your title here at the Commission is what?

4 A. (Knepper) Director of Safety.

5 Q. And, how long have you been at the Commission?

6 A. (Knepper) A little over ten years.

7 Q. And, your -- an overview of your educational and  
8 experience?

9 A. (Knepper) I have a Bachelor's in Mechanical  
10 Engineering, a Master's in Civil Engineering. I've  
11 completed a majority of the PHMSA courses, I don't know  
12 what the exact number is, it's probably in the upwards  
13 of 20. There's also probably another 18 Web-based  
14 trainings that you do. I think I've just completed  
15 four or five this year. So, you go back from time to  
16 time, things get stale, you continue and go back.  
17 PHMSA constantly increases the requirements for  
18 certified agencies, such as ourself, and comes up with  
19 new courses and things to attend.

20 Q. And, what do you -- what do you mean by a "certified  
21 agency"?

22 A. (Knepper) The Public Utilities Commission is a  
23 certified agency through a federal/state partnership,  
24 the 60105 certification, that says we have the ability

1 to inspect and enforce pipeline safety on an  
2 interstate basis. And, that's what we have for natural  
3 gas lines.

4 Q. And, that's to enforce both state and federal rules?

5 A. (Knepper) Yes. The federal rules allow states to  
6 enforce more stringent ones, as long as they're  
7 somewhat compatible with the federal. A state is not  
8 allowed to have any standards that are less than the  
9 minimum. The federal is considered the minimum, the  
10 base.

11 Q. But the certification allows you, as a state agency, to  
12 enforce federal safety regulations?

13 A. (Knepper) That's correct.

14 Q. And, that's, in fact, what we have here today, is your  
15 enforcement action for violation of the federal safety  
16 regulations?

17 A. (Knepper) That's correct. The Public Utilities  
18 Commission has elected to do a 60105 certification,  
19 which we do the enforcement. There is an option to do  
20 a 60106 enforcement, where we just do the inspections,  
21 and PHMSA does the enforcement. Where we just do the  
22 work, and they do it. We have chosen not to do that.

23 Q. And, it's -- the number you're referring to is a  
24 statutory section or a Code section, is that right?

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Knepper) That is a -- yes. It is 60106 of the Federal  
2 Code, not meaning "regulations", it's a statute.

3 Q. Mr. Burnell, we're here, that the NOV that we're going  
4 to talk about is the one that happened at the New  
5 Hampshire Avenue Station in Portsmouth, New Hampshire,  
6 is that right?

7 A. (Burnell) Yes.

8 Q. And, you were present when the overpressure event  
9 occurred, is that right?

10 A. (Burnell) Yes. Correct.

11 Q. Can you tell me what you did that day to end up at the  
12 New Hampshire Ave Station? How did it come about? You  
13 know, what did you do before you got there?

14 A. (Burnell) Well, it was a regular inspection day. We  
15 started out in Portsmouth as a record inspection for  
16 the first half of the day, reviewed records for several  
17 regulator stations that the Company operates. They  
18 answered -- showed us records for maintenance records,  
19 operation records, and that type of stuff.

20 Q. How was this inspection day set up? Do you just show  
21 up unannounced? Do you call ahead and say "I want to  
22 do something on this particular day"?

23 A. (Burnell) This particular one was a scheduled  
24 inspection, because it was a -- I was being evaluated

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 by the DOT inspector that evaluates our program.

2 Q. Okay. And, so, did --

3 A. (Burnell) So, it was a scheduled inspection.

4 Q. And, did the Company know what you were going to  
5 inspect?

6 A. (Burnell) Yes. They knew that we were doing a  
7 regulator inspection.

8 Q. Did they know which stations in particular you're going  
9 to inspect?

10 A. (Burnell) I had identified three, and we only ended up  
11 going to see two.

12 Q. Okay. So, you make the arrangements ahead of time, you  
13 go to their office in the morning to look at records?

14 A. (Burnell) Yes.

15 Q. And, then you go out in the field?

16 A. (Burnell) Yes.

17 Q. When you're in the office, who is your contact at the  
18 Company? Who are you talking to? Who's providing you  
19 documents?

20 A. (Burnell) On that particular day, it was, I believe,  
21 Jon Pfister and Rick, Rick Ahlin.

22 Q. The two gentlemen here today?

23 A. (Burnell) Yes.

24 Q. And, is your communication with them about "I want to

1 see X", "I want to see Y", is that how it goes?

2 A. (Burnell) Yes.

3 Q. And, they --

4 A. (Burnell) They have their records electronically, and  
5 they were bringing them up electronically to review on  
6 a screen.

7 Q. Okay.

8 A. (Burnell) So, and then I made notes from those records.

9 Q. And, so, then you leave the office and go to the field?

10 A. (Burnell) Yes.

11 Q. Is New Hampshire Ave the first one you went to?

12 A. (Burnell) No. We went to Borthwick Avenue first, which  
13 is a higher pressure take station off of the Granite  
14 State line.

15 Q. Okay. And, briefly explain that, a "higher take  
16 station off the Granite State line".

17 A. (Burnell) That is the take station where they take gas,  
18 they drop it from 492, down to approximately 270, to  
19 feed another regulator station that is down the road  
20 few ways, rather than running the 492 all the way down  
21 Main Street.

22 Q. Okay. And, the "492" is a pressure, correct?

23 A. (Burnell) Yes. 492 psi.

24 Q. And, that's the pressure of the big pipe that --

1 A. (Burnell) Granite State.

2 Q. Okay. And, that's not Northern?

3 A. (Burnell) Right.

4 Q. And, Northern takes the gas off of that 492 pipeline to  
5 get into its system, is that right?

6 A. (Burnell) Yes.

7 Q. And, this regulator station is to transfer it from a  
8 higher pressure to a lower?

9 A. (Burnell) Yes.

10 Q. And, that's also true of New Hampshire Ave?

11 A. (Burnell) Yes, it is.

12 Q. And, the Borthwick Station, you did your inspection  
13 there?

14 A. (Burnell) Uh-huh.

15 Q. Who was present? You and who else?

16 A. (Burnell) Rick Ahlin and the two technicians, Andy  
17 and -- well, I'll have to look it --

18 Q. That's okay. So, two technicians and Mr. Ahlin,  
19 yourself --

20 (Court reporter interruption.)

21 **BY THE WITNESS:**

22 A. (Burnell) Jeff. Andy and Jeff.

23 BY MR. SHEEHAN:

24 Q. And, you mentioned a PHMSA person was with you?

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Burnell) Right. And, Glynn Blanton was also there  
2 observing me.

3 Q. Was he with you the whole day?

4 A. (Burnell) Yes, he was.

5 Q. So, any time you're talking about what happened on this  
6 day, he's literally standing next to you?

7 A. (Burnell) He's in the area, watching what's going on.  
8 Not right next to me, but close enough to see what's  
9 going on.

10 Q. Okay. So, when you get to the New Hampshire Ave  
11 Station, it's five people; you, Mr. Blanton, Mr. Ahlin,  
12 and the two techs?

13 A. (Burnell) Yes.

14 Q. Okay. You get to the station, they know it's going to  
15 be a inspection -- an inspection of that station,  
16 right?

17 A. (Burnell) Yes.

18 Q. Did they know anything more, as far as you know,  
19 obviously?

20 A. (Burnell) No. No. I mean, they really didn't have any  
21 idea. I mean, they knew we would be looking at the  
22 construction of the station, the maintenance of the  
23 station. But, at that point, that's what they were  
24 aware, that I would be verifying set points and stuff.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. Okay. Tell us what "set points" are.

2 A. (Burnell) "Set points" are where the regulators -- what  
3 level they are supposed to operate at.

4 Q. And, the regulator, apparently we have one on the desk  
5 over there *[indicating]*?

6 A. (Burnell) Yes.

7 Q. And, the regulator is the speed control, if you will,  
8 on the gas?

9 A. (Burnell) Right. It's the device that drops the --  
10 drop the pressure from one -- from a higher pressure to  
11 a lower pressure.

12 Q. And, the set points are that, obviously, the pressure  
13 that should be coming out of that regulator?

14 A. (Burnell) Yes.

15 Q. When you got to the station, what's the first that  
16 happened?

17 A. (Burnell) We did a quick overview of the station, and  
18 they inserted a gauge into -- on the downstream side to  
19 verify, to show us what the set pressure was at the  
20 station on what it was operating at.

21 Q. When you said "we did an overview", what does that  
22 mean?

23 A. (Burnell) Rick explained where the gas is coming from,  
24 the inlet, the design of the station, where the feed

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 was for the heater that was there, and how the gas  
2 flowed through the station itself.

3 Q. Okay. Do you have exhibits in front of you up there?  
4 If you could turn to number 16, there's some  
5 photographs.

6 A. (Burnell) Those are in my inspection, right?

7 A. (Knepper) Here they are, David.

8 A. (Burnell) Okay. Okay.

9 Q. And, in the top right corner, each -- the label is  
10 "Pease Photos 1 through 48". And, we just selected a  
11 few of those 48 for this exhibit, is that correct?

12 A. (Burnell) Yes.

13 Q. Okay. But we can refer to those page numbers on the  
14 upper right. This first one, which is Page 1, is what?

15 A. (Burnell) It is basically a picture of Run A at the  
16 regulator station. These stations -- this particular  
17 station had a Run A and a Run B. It was a dual-run  
18 station.

19 Q. And, again, I'm going to stop you and explain that.  
20 What do you mean a "dual-run station"?

21 A. (Burnell) They have a primary run, which does most of  
22 the work at a given set pressure that the Company  
23 picks. And, then they have a backup run, if the  
24 pressure gets -- drops below a certain point, that will

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 assist within that station.

2 Q. So, the second run would allow more gas to go through,  
3 if they needed it?

4 A. (Burnell) If it need to be, yes.

5 Q. Okay. And, they are next to each other?

6 A. (Burnell) Yes.

7 Q. Those two runs?

8 A. (Burnell) Yes.

9 Q. And, what we're seeing there is the first run, Run A?

10 A. (Burnell) Yes.

11 Q. Okay. And, starting on the extreme right bottom, where  
12 you have a pipe going right to left, and then, at the  
13 corner there, there's a pipe that goes down into the  
14 ground. Can you just tell us where the gas is flowing?

15 A. (Burnell) The gas is flowing from right to left, --

16 Q. Okay.

17 A. (Burnell) -- through the two regulators, and then down  
18 into the pipe, in that corner, that feeds the  
19 distribution system.

20 Q. Okay.

21 A. (Burnell) That is going into the distribution system.

22 Q. And, one regulator is to the right of that toolbox and  
23 above, and the other regulator is a little to the left  
24 of that toolbox?

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Burnell) Yes.

2 Q. And, is that Run B in the background?

3 A. (Burnell) Yes, it is.

4 Q. Okay. And, so, the pipe going down into the ground is

5 off to the Company's customers?

6 A. (Burnell) Yes.

7 Q. Okay. So, you get the overview of the station. He

8 explains the basic layout. Then what happens?

9 A. (Burnell) As you can see in here, he had already

10 inserted the gauge between the two runs.

11 Q. I can't see that, but where would that be?

12 A. (Burnell) That would be in that, to the right of the

13 pipe that goes down into the ground, that manifold that

14 goes across over to Run B.

15 Q. Okay.

16 A. (Burnell) There is a gauge inserted, an electronic

17 gauge inserted into that, sitting right there.

18 Q. We'll see a picture later. So, that's --

19 A. (Burnell) Yes.

20 Q. -- pretty far away from the photographer.

21 A. (Burnell) Yes. Yes.

22 Q. Okay. And, that's showing you what?

23 A. (Burnell) That will show what the operating pressure

24 going into the distribution system is.

{DG 15-121} {08-19-15/Day 1}

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. Okay. And, did you ask him to do that or is that  
2 something he did on his own?

3 A. (Burnell) They did that on their own, but we would have  
4 requested it.

5 Q. Okay. Did you direct Northern employees to do  
6 anything?

7 A. (Burnell) I did not direct Northern employees. All my  
8 conversations were with Rick Ahlin.

9 Q. Okay. So, we talked about the five people there, you,  
10 Mr. Blanton from PHMSA, Mr. Ahlin, and the two techs.

11 A. (Burnell) Yes.

12 Q. Did you ever tell any of the techs to do anything?

13 A. (Burnell) No, I did not.

14 Q. So, any conversations you had with the Company went  
15 through Mr. Ahlin?

16 A. (Burnell) Yes.

17 Q. Okay. Did you ask Mr. Ahlin to do anything when you  
18 first started this inspection, after he gave you the  
19 overview?

20 A. (Burnell) We verified the -- we talked about the outlet  
21 pressure was at 51.2, which is about a half a pound,  
22 maybe a little more than a half a pound below what the  
23 set pressure was for that regulator at that point.

24 And, then, after reviewing the rest of the station, I

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 asked Rick if he could put the worker regulator into a  
2 failure mode.

3 Q. Okay. "Worker regulator", that's -- what does that  
4 mean?

5 A. (Burnell) It's the primary regulator in the system that  
6 controls the pressure for the majority of the time.

7 Q. And, in this Run A that's closest to us, is it the one  
8 on the right or the one on the left?

9 A. (Burnell) It's the one on the left.

10 Q. So, in the one on the left you say is doing most of the  
11 work of regulating the pressure off to the system?

12 A. (Burnell) Yes.

13 Q. And, do you know what the worker regulator was set at?

14 A. (Burnell) Fifty-two (52) pounds, 52 psi.

15 Q. And, that's saying that the pressure leaving that  
16 regulator should be 52 or lower, is that correct?

17 A. (Burnell) Yes.

18 Q. And, you said it actually was at 51 something?

19 A. (Burnell) I believe it was 51.2.

20 Q. Okay.

21 A. (Burnell) It's in one of the following pictures, I  
22 believe.

23 Q. And, then you said you asked Mr. Ahlin to "put the  
24 worker regulator in failure mode", is that what you

1 said?

2 A. (Burnell) Yes.

3 Q. And, what does that mean?

4 A. (Burnell) It means to simulate the fact that it was no  
5 longer working, to get the monitor to kick in, so we  
6 could verify what that set pressure was in there.

7 Q. Okay. And, the monitor is the regulator on the right,  
8 is that correct?

9 A. (Burnell) Yes.

10 Q. And, what's the job of the monitor regulator?

11 A. (Burnell) That regulator is designed to oversee,  
12 monitor the outlet pressure of the primary regulator.  
13 So, if it fails and the pressure starts to increase, it  
14 will take over, so that the pressure will only go above  
15 what its set pressure is.

16 Q. And, is there a overall limit on the station, a  
17 pressure limit that you're concerned about?

18 A. (Burnell) The established labeled MAOP for this  
19 particular system was 56 psig.

20 Q. And, again, "MAOP" is maximum allowable --

21 A. (Burnell) Maximum allowable operating pressure.

22 Q. And, you said it's "56". How did you know it was 56?

23 A. (Burnell) It's labeled at the station. Plus that we  
24 had reviewed it earlier in the records.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. So, there are physical labels on these pipes that tell  
2 you it's 56?

3 A. (Burnell) Yes.

4 Q. And records. Okay. So, when you asked Mr. Ahlin to  
5 fail the worker regulator, you were asking, in effect,  
6 to see how the monitor regulator would perform?

7 A. (Burnell) Yes.

8 Q. And, what should have happened when they failed? How  
9 did they fail the worker regulator?

10 A. (Burnell) They removed the protection cap on the pilot  
11 regulator, which in that particular one is the little  
12 black cap on that, on the smaller regulator attached.  
13 And, you wind that pressure up in that so that it  
14 increases the output of that regulator that it's  
15 operating.

16 Q. So, you're raising the set point?

17 A. (Burnell) So, you're raising the set point.

18 Q. So, you're not failing anything. You're just allowing  
19 more pressure to go through?

20 A. (Burnell) Yes. Yes.

21 Q. Okay. And, is it possible to raise the set point of  
22 that regulator to really high pressures?

23 A. (Burnell) Yes, it is.

24 Q. All right. And, again, did you speak to the

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 technicians to tell them how to fail the worker  
2 regulator?

3 A. (Burnell) No, I did not.

4 Q. Did you tell Mr. Ahlin how you wanted them to actually  
5 do the work of failing the monitor -- the worker  
6 regulator?

7 A. (Burnell) No, I did not.

8 Q. Is all you said "I want to see you fail the worker"?

9 A. (Burnell) Right. Yes.

10 Q. And, you were trying to see what the monitor regulator  
11 would do?

12 A. (Burnell) Yes.

13 Q. And, in your understanding, what should the monitor  
14 regulator have done?

15 A. (Burnell) The monitor regulator should have taken over  
16 before the maximum allowable operating pressure was  
17 exceeded.

18 Q. So, before 56?

19 A. (Burnell) Yes.

20 Q. And, how do you know what the pressure is? Is it that  
21 gauge you were just --

22 A. (Burnell) Because that gauge was in the downstream  
23 portion, and we were observing that.

24 Q. Okay. What did happen? How did the -- I started to

1 ask you, how did the technician actually do it?

2 A. (Burnell) They removed the cap, started increasing the  
3 pressure on the worker regulator to a point where the  
4 monitor would take over the pressure. And, once  
5 they -- which did not happen before they reached the  
6 56 pounds, which is the maximum allowable operating  
7 pressure. They kept going. And, once they reached  
8 56.9, I says "You've exceeded you're MAOP. That's high  
9 enough. Don't go any higher." So, I had them stop  
10 that test on that run at that point.

11 Q. So, he's manipulating that worker regulator, raising  
12 the set point?

13 A. (Burnell) Yes.

14 Q. And, it got to 56.9, and you told them to stop?

15 A. (Burnell) Yes.

16 Q. And, did they?

17 A. (Burnell) Yes, they did.

18 Q. And, did the pressure come back down?

19 A. (Burnell) Yes. They adjusted it, so it would come back  
20 down.

21 Q. Do you know if that worker -- that monitor regulator  
22 would have let it go any higher or not?

23 A. (Burnell) No, I don't.

24 Q. Because you stop it?

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Burnell) I don't know how much. I had them stop. I  
2 have no idea when that would have taken over or done  
3 its job.

4 Q. Did anyone tell you what the set point for that monitor  
5 regulator was?

6 A. (Burnell) The set point on that regulator was 55 psig.  
7 It's labeled. They're all labeled.

8 Q. Okay. Then, what did you do?

9 A. (Burnell) I asked them if we could do the same thing to  
10 Run -- to the other run as well.

11 Q. And, that's the one in the back of this photograph?

12 A. (Burnell) And, that's the one on the other -- that's  
13 the one on the other side, yes.

14 Q. Is there any difference in those two, the setup of  
15 those two runs?

16 A. (Burnell) Other than the actual set pressure of the  
17 worker regulator, no.

18 Q. The same pipes, same monitors -- I mean, same  
19 regulators?

20 A. (Burnell) Same size piping, same monitors, same pilot  
21 regulators.

22 Q. Okay.

23 A. (Burnell) The only difference were the set pressures.

24 Q. Okay. And, what was your understanding of the set

1 pressures of Run B?

2 A. (Burnell) In Run B, what we call the "worker" was set  
3 at 50 psi, and the monitor was again set at 55.

4 Q. And, did you -- what did you tell Mr. Ahlin with  
5 regards to Run B?

6 A. (Burnell) I asked him if he could do the same thing  
7 with Run B, with the expectation that it not exceed,  
8 that it would take over before it reached the  
9 56 pounds.

10 Q. Again, did you have any -- did you give any direction  
11 to the technicians?

12 A. (Burnell) No, I did not.

13 Q. Did you tell Mr. Ahlin how he should simulate that  
14 failure?

15 A. (Burnell) No, I did not.

16 Q. That was -- you left that up to them to do?

17 A. (Burnell) Yes.

18 Q. And, do you know -- did you know then if they had a  
19 procedure for testing worker and monitor regulators?

20 A. (Burnell) I know they had -- they had a procedure to  
21 run their annual maintenance. I didn't know if they  
22 had a procedure to perform this function this exact  
23 way.

24 Q. When you saw the technician doing what he did, did you

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 know whether that was consistent or not consistent with  
2 whatever procedure they had?

3 A. (Burnell) No, I didn't.

4 Q. So, tell us what happened on Run B.

5 A. (Burnell) On Run B, they started to perform the same  
6 task in the same manner. It was still totally flowing  
7 into the downstream -- they had flow through the  
8 regulator. They wound the pressure up, adjusted the  
9 pressure up to a higher pressure, so that the monitor  
10 regulator would assume control over the worker.

11 Q. And, again, you're watching the --

12 A. (Burnell) Again, we were watching the gauge.

13 Q. What did you see?

14 A. (Burnell) It went -- when it went to 56 pounds, I  
15 suggested that they stop again, and Rick made the  
16 statement at that point "I wanted to see where it takes  
17 over."

18 Q. Meaning what? How did you interpret that?

19 A. (Burnell) That he was going to go until the monitor  
20 took over the control of the run.

21 Q. And, what did you see happen?

22 A. (Burnell) It went up to 57.9, I believe -- or, 2.

23 Q. And, then what happened?

24 A. (Burnell) And, then they backed it, they backed it back

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 down and said, you know, that -- well, once it did take  
2 over, the pressure came down to 55 psi, which was the  
3 set pressure for that regulator.

4 Q. Okay. So, is it your understanding that that monitor  
5 regulator on Run B did the job, but it just started at  
6 57?

7 A. (Burnell) Right. It didn't take over soon enough. It  
8 took over after it had exceeded the MAOP.

9 Q. And, then --

10 A. (Burnell) And, then it came back down under it.

11 Q. And, did you have any conversation with Mr. Ahlin of  
12 that?

13 A. (Burnell) A brief one, as to the fact that they  
14 exceeded the MAOP again, and that the pilot regulator  
15 may not have had a tight enough tolerance to do what  
16 they were doing, and we weren't sure what that was.

17 Q. What do mean a "tight enough tolerance"?

18 A. (Burnell) Took too much, the pressure differential was  
19 too high, so that it wouldn't activate quick enough to  
20 maintain the regulator below 56 psi.

21 Q. So, you understood it was set at 55?

22 A. (Burnell) Yes.

23 Q. And, you said there wasn't a "tight enough tolerance",  
24 meaning it took a little extra pressure for the monitor

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 to start working?

2 A. (Burnell) Yes.

3 Q. And, in this case, it took two plus pounds for it to  
4 start working?

5 A. (Burnell) Yes.

6 Q. And, it could have taken, if the equipment was  
7 different, maybe less?

8 A. (Burnell) Correct.

9 Q. Okay.

10 CHAIRMAN HONIGBERG: Mr. Sheehan, we're  
11 going to need to give Mr. Patnaude a break in a minute or  
12 two. So, --

13 MR. SHEEHAN: Okay. I'll be at a good  
14 stopping point when we finish Test 2.

15 CHAIRMAN HONIGBERG: Okay.

16 BY MR. SHEEHAN:

17 Q. So, did you have any conversation with Mr. Ahlin  
18 about --

19 MR. SHEEHAN: Is it "Ahlin" or "A-lin"  
20 [sic], I'm sorry?

21 MR. HEWITT: "Ahlin".

22 BY MR. SHEEHAN:

23 Q. -- Ahlin, about what had just happened?

24 A. (Burnell) Not much more, other than the fact that they

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1 had exceeded their MAOP again. Which was --

2 Q. Did Mr. Ahlin say anything about what he saw or what he  
3 expected or the like?

4 A. (Burnell) Nothing significant that I can remember.

5 Q. Throughout this process --

6 A. (Burnell) I'm not saying there wasn't a conversation.  
7 I just can't remember what it was.

8 Q. Sure. Throughout this process, did Mr. Blanton, the  
9 PHMSA person, say anything?

10 A. (Burnell) No, he did not.

11 Q. Was the PHMSA person, Mr. Blanton, what was his role  
12 throughout this whole process?

13 A. (Burnell) His role through this whole process was  
14 observe me doing my job and how I handled myself with  
15 the operator, and evaluate me on that process.

16 Q. And, did you get an evaluation at the end of this  
17 process?

18 A. (Burnell) Yes, we did.

19 Q. And, do you know what that was --

20 A. (Burnell) I believe I received six points out of --

21 MR. HEWITT: Objection. Relevance.  
22 Relevance, as well as hearsay.

23 CHAIRMAN HONIGBERG: Mr. Sheehan.

24 MR. SHEEHAN: They're going to criticize

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1 the PHMSA person for not stepping in and have evidence of  
2 his role in this process. So, I think it's important to  
3 know what his role was.

4 CHAIRMAN HONIGBERG: I think we got  
5 that.

6 MR. SHEEHAN: And that the job was to  
7 evaluate my client, and he did so, and my client received  
8 a score. And, that's not hearsay.

9 CHAIRMAN HONIGBERG: Oh, I think it is.

10 MR. HEWITT: It has no -- I'm sorry.

11 CHAIRMAN HONIGBERG: You also made a  
12 relevance objection, right?

13 MR. HEWITT: Yes, sir.

14 CHAIRMAN HONIGBERG: The actual score,  
15 how's that relevant? I'm assuming it's a good score,  
16 but --

17 MR. SHEEHAN: Yes. It's perfect. The  
18 Company suggested that my -- that Mr. Burnell is the one  
19 that caused the violation, because he told them to do  
20 something above MAOP. We disagree with that factual  
21 statement. And, if it were true that my client did  
22 something wrong to cause the MAOP, PHMSA would have not  
23 given him a perfect score, the argument goes.

24 CHAIRMAN HONIGBERG: I'm going to

1 sustain the objection.

2 MR. SHEEHAN: Okay.

3 BY MR. SHEEHAN:

4 Q. So, the second test is done. You've had these brief  
5 words with Mr. Ahlin. Did you have any words with the  
6 technicians?

7 A. (Burnell) No. Not directly to this, no.

8 Q. And, did -- and, Mr. Blanton was doing what he was  
9 doing, just watching. Did that end your session at New  
10 Hampshire Ave?

11 A. (Burnell) Yes, it did.

12 Q. And, when you left the scene, did you -- the same car?  
13 Different cars?

14 A. (Burnell) Same car.

15 Q. I mean, all five of you --

16 A. (Burnell) No.

17 Q. Okay.

18 A. (Burnell) Just Glynn and myself were in one car. They  
19 were in there.

20 Q. And, did that end your interaction with the Company  
21 that day?

22 A. (Burnell) Yes, it did.

23 Q. You came back to Concord?

24 A. (Burnell) Yes.

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1 MR. SHEEHAN: This is a good stopping  
2 point.

3 CHAIRMAN HONIGBERG: All right. We're  
4 going to break for ten minutes, and then we'll be back  
5 here about 20 minutes to 12:00.

6 (Recess taken at 11:29 a.m. and the  
7 hearing resumed at 11:46 a.m.)

8 CHAIRMAN HONIGBERG: Mr. Sheehan.

9 MR. SHEEHAN: Thank you. Thank you.

10 BY MR. SHEEHAN:

11 Q. And, Mr. Burnell, if you could get those photos in  
12 front of you, we'll just walk through the rest real  
13 quickly and identify them.

14 A. (Burnell) Okay.

15 Q. And, the first one we've already described. The next  
16 page, what is that?

17 A. (Burnell) That is a picture of one of the four  
18 regulators that were at that site. And, they are all  
19 the same.

20 Q. And, that plate on that has what kind of information?

21 A. (Burnell) It has the serial number, the make, the  
22 model, the flow capacities, and all that stuff on it.

23 Q. The next page?

24 A. (Burnell) That is a -- that's a picture of the

1 electronic gauge that was being used to record -- to  
2 observe the pressures.

3 Q. And, can you see, do you know what that gauge shows at  
4 that time?

5 A. (Burnell) "51.2".

6 Q. I'll take your word for it. The next page?

7 A. (Burnell) That is a configuration with the --

8 (Court reporter interruption.)

9 **BY THE WITNESS:**

10 A. (Burnell) Configuration of the regulators with the  
11 tubing to the pilots.

12 BY MR. SHEEHAN:

13 Q. And, do you know if that's Run A or Run B?

14 A. (Burnell) That looks like Run B, yes.

15 Q. And, again, they're the same?

16 A. (Burnell) They are both the same, yes.

17 Q. Next page?

18 A. (Burnell) That is a picture of a pilot regulator and  
19 the indication of what pressures it will operate at, is  
20 where the tag is, has been removed, the hole.

21 Q. So, the "pilot regulator" means what? We've used the  
22 word "worker regulator" and "monitor regulator".

23 What's the "pilot"?

24 A. (Burnell) The "pilot regulator" is the regulator that

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1 operates the bigger regulator. It's basically the  
2 amplifier. So that it senses the pressure, it's more  
3 accurate.

4 Q. They work in tandem?

5 A. (Burnell) Yes, they work in tandem.

6 Q. So, the pilot is a piece of, when we say "worker  
7 regulator", we --

8 A. (Burnell) It's a piece of the component.

9 Q. Okay. The next picture is what?

10 A. (Burnell) That is a picture of the gauge at the point  
11 where I asked them to stop, when they were testing Run  
12 A, which says "56.9".

13 Q. And, the last page?

14 A. (Burnell) That is a picture of the gauge again. It  
15 reads "57.2".

16 Q. Your intent was to take a picture of the second run  
17 when it was at "57"?

18 A. (Burnell) Yes.

19 Q. Okay.

20 CHAIRMAN HONIGBERG: Does that really  
21 say "57.2"? Can anybody read that?

22 MR. SHEEHAN: That was my question.

23 BY MR. SHEEHAN:

24 Q. I can't see it. My question to you is, did you take a

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1 picture of the gauge when it was at "57"?

2 A. (Burnell) Yes, I did.

3 Q. Okay.

4 CHAIRMAN HONIGBERG: Mr. Hewitt, do you  
5 have any --

6 MR. HEWITT: Yes. So, the Company is  
7 willing to accept that the pressure at the station, which  
8 is the pressure that is alleged in the NOV, achieved a  
9 maximum reading of "57.2". So, with my stipulation of  
10 that fact, I think we then no longer need to try and  
11 decipher exactly what the gauge says on the last page of  
12 what has been marked as "Exhibit 16".

13 CHAIRMAN HONIGBERG: Thank you.

14 MR. SHEEHAN: Stipulated Fact Number 7  
15 says "The second test resulted in a pressure reading of  
16 57.2."

17 CHAIRMAN HONIGBERG: I just --

18 MR. SHEEHAN: I know.

19 CHAIRMAN HONIGBERG: That picture  
20 doesn't show us that.

21 MR. SHEEHAN: Okay.

22 BY MR. SHEEHAN:

23 Q. So, as we left off before the break, Mr. Burnell, you  
24 went back to the office, and I assume reported to the

1 office what happened?

2 A. (Burnell) Right. I reported to Randy what we had seen  
3 during the day, and that's when we -- then we started  
4 our -- the process of whether or not we were going  
5 to -- you know, how we were going to pursue this.

6 Q. Now, Mr. Knepper, I'll turn to you for that process.  
7 If you could tell us quickly, in a high level, what  
8 happens when something comes into the office, not this  
9 one in particular, that may lead to an NOV/NOPV, what  
10 is the process Staff follows to get there?

11 A. (Knepper) May I insert what we did the rest of the day,  
12 though?

13 Q. Well, let's do that first.

14 A. (Knepper) Okay. I mean, when Dave comes into the  
15 office, the first thing is to say "write up your  
16 report." So, he tries to write up his report. He  
17 doesn't have to -- there's no deadline, there's no  
18 timeframe he has to have it done by. But, since the  
19 purpose of this inspection that he's doing is to be  
20 part of an evaluation for someone else, for them to  
21 complete their work, we wanted to make sure that, and  
22 for us, as a PUC, to complete our evaluation, we get  
23 evaluated on a bunch of other factors, that PHMSA  
24 representative, in this case, Glynn Blanton, needs to

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1 see that Inspection Report, how we write it up.

2 Q. Okay.

3 A. (Knepper) And, how it's --

4 Q. Put that aside for the moment, the PHMSA piece of this.  
5 Someone comes in from the field, something happened or  
6 an observation was made, Step 1, write a report. Then  
7 what?

8 A. (Knepper) Yes. So, typically, what happens is they'll,  
9 the inspectors, Dave's inspector, Joe's inspector, will  
10 give an indication that "I saw something that might  
11 potentially be a violation. I'm not sure. Let's do  
12 some review." That might mean review the Codes, it  
13 might mean review the records, it might mean going back  
14 to the company to get information and fill in things.  
15 And, if we have one, then we will tell them that we  
16 think there's a probable violation. Probable  
17 violations end up being a formal written thing that we  
18 issue here. I think, as Mr. Meissner said, not often,  
19 I don't think we issue them often to Unutil, and to  
20 many of the operators here, given the variety of the  
21 inspections and frequency of the inspections that we  
22 do. So, --

23 Q. Okay. So, there's a report. There's further factual  
24 investigation, if you need it?

{DG 15-121} {08-19-15/Day 1}

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Knepper) Yes.

2 Q. And, you start looking at Code to make --

3 A. (Knepper) So, it might -- it might involve some e-mail  
4 back and forth, you know, to "Are we looking at the  
5 right procedure? Is there an updated procedure?" You  
6 might need to know the installation date of a certain  
7 piece of equipment, because all these fits into the  
8 Codes in various different ways. And, so, we want to  
9 make sure of that. And, the next --

10 Q. And, is there a process before your name gets signed to  
11 an NOPV?

12 A. (Knepper) Yes. So, the process we have here at the  
13 Safety Division here is somewhat informal. The three  
14 of us, if we think one occurs, whether or not both  
15 people were at the scene or at the site, we will  
16 discuss it amongst ourselves. So, I welcome Joe's  
17 input, if Dave sees something, and as well as my input.  
18 We try to flush out, if we think there is not any  
19 violation. If we think that there is some sort of way  
20 that this can be misconstrued, if it's not clear, if  
21 it's not, I guess, in baseball terms, "tie goes to the  
22 runner", which would be the utility, if one of us. So,  
23 it's not necessarily a decision by me. We have a  
24 unanimous decision process here. It works well,

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1 because there's only three of us. So, --

2 Q. So, this process could take days, it could take weeks?

3 A. (Knepper) It could.

4 Q. Depending on --

5 A. (Knepper) But, typically, we'll spend probably a couple  
6 days, just to make sure. We don't take issuing a  
7 Notice of Probable Violation lightly. We think just  
8 kind of casting all kinds of allegations wastes the  
9 Company's time, wastes our time. We want to make sure,  
10 if it's something that we issue, that it's something  
11 that we can defend and it's something that is accurate.

12 So, to do that, we try to carefully  
13 craft the NOPV, so that we're citing the right Codes.  
14 We try to make sure that that utility has as much  
15 information, I think, when we write our Notice of  
16 Probable Violations. Was it part of an inspection?  
17 Or, was it part of an after action? Was it --

18 Q. Okay.

19 A. (Knepper) Whatever caused it. And, so, we try to put  
20 enough detail around the Code violation.

21 Q. So, you do your fact-gathering, you do your legal  
22 research, for lack of a better word. You have  
23 caucuses, and the three of you to say "yes, this is an  
24 NOPV." And, then you write the document itself, as you

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1 were just describing, and that goes out the door?

2 A. (Knepper) That is correct.

3 Q. Okay.

4 A. (Knepper) And, then goes under my signature.

5 Q. All right. And, in this particular case, it was a  
6 little different, as you were saying, because the PHMSA  
7 guy was there, and maybe there's a bit different  
8 timeframe, but the process, the basic process was the  
9 same, is that correct?

10 A. (Knepper) The basic process is the same.

11 Q. Okay. And, so, when the NOPV went out the door, you  
12 signed it, but it was the three of you were agreeable  
13 that that was the right course to take?

14 A. (Knepper) That's our informal process that we do here.  
15 It gives us comfort, because we have three people  
16 coming to the same conclusion from three different  
17 directions. Maybe one was there, maybe one who has a  
18 different background. And, we think that is a nice way  
19 of filtering out some, if you just can't see it and you  
20 say "I can't get there", then we won't issue it. And,  
21 the company would never see it. They would never know,  
22 they won't know that process.

23 Q. In this case, Mr. Burnell did prepare his report, and  
24 it's attached to somebody's testimony, I believe.

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1 MR. HEWITT: LeBlanc K.

2 MR. SHEEHAN: Thank you.

3 BY MR. SHEEHAN:

4 Q. LeBlanc K. If you could just pull that up, we went go  
5 over it, but that is Mr. Burnell's report of what  
6 happened that day, in some detail, correct?

7 A. (Knepper) Can you give me a minute to pull that up?

8 Q. Sure.

9 A. (Knepper) Let's see.

10 Q. I'll show you mine.

11 (Atty. Sheehan handing document to the  
12 witness.)

13 WITNESS KNEPPER: I'm in the exhibit.

14 Okay, that's great. That's part of it.

15 (Atty. Sheehan handing document to the  
16 witness.)

17 BY MR. SHEEHAN:

18 Q. I'm just asking you to look at K, which is an 8-page --  
19 a 10-page document. And, that is at least part of  
20 Mr. Burnell's report.

21 A. (Knepper) That's part of it. We did a two-part on this  
22 one. This was a inspection, overpressure protection  
23 inspection. So, we have a module, and we also have  
24 kind of a cover sheet that we put on top of that --

1 Q. Okay.

2 A. (Knepper) -- with his observations.

3 Q. Okay. And, we've heard, in I think lawyer argument,  
4 the process that followed from there. There was a  
5 informal conference. It was not resolved there. And,  
6 then you issued the NOV that brings us here today, is  
7 that correct?

8 A. (Knepper) Yes. There's a formal process dictated in  
9 the 500 rules of how that goes. The Company can accept  
10 it and go on or they can request an informal  
11 conference. That is what Unitil did. The informal  
12 conference is to examine the basis of our NOPV. And,  
13 that's why we try to make sure that NOPV has all the  
14 facts to, you know, to limit that basis. But -- and,  
15 then that, if there is no agreement, then we go to an  
16 NOV process. We issue an NOV. And, then, the rules  
17 dictate, as we've talked about earlier, that their  
18 choices are request a hearing or pay a fine, if there  
19 is a fine imposed.

20 Q. Okay. Exhibit 29 is the Portsmouth NOV. If you could  
21 get that in front of you. And, this is, of course,  
22 "2-29".

23 A. (Knepper) Yes. I have that in front of me.

24 Q. Okay. It's dated March 26. And, on Page 2, you list

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1 the two violations; one of Code Section 192.619 and one  
2 of 192.195. And, let's take the 619 version first.

3 MR. SHEEHAN: And, if I can help,  
4 Commissioners, LeBlanc C is a copy of Code Section 619.  
5 You can flip back and forth between the two.

6 WITNESS KNEPPER: I'm going to use a  
7 different reference.

8 MR. SHEEHAN: Sure.

9 BY MR. SHEEHAN:

10 Q. So, read very slowly the language in 619 that you claim  
11 in the NOV the Company violated.

12 A. (Knepper) So, in our violation, we state "192.619".  
13 192.619 is part of Subpart L for Operations. And, the  
14 words that we used pretty much mimic what is in  
15 192.619(a).

16 Q. Right. And, I want you to read the language from 619  
17 that you claim they violated.

18 A. (Knepper) "No person may operate a segment of steel or  
19 plastic pipeline at a pressure that exceeds a maximum  
20 allowable operating pressure determined under  
21 subparagraph (c) or (d) of this section, or the lowest  
22 of the four criteria listed in subparagraph (a), (b),  
23 (c) or (d)."

24 Q. And, here the MAOP was 56?

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1 A. (Knepper) That is correct. That is what Unitil had  
2 expressed to us.

3 Q. Right. And, as far as you know, there's no dispute  
4 that that was the MAOP that they were using?

5 A. We did nothing to verify it. We just accepted that  
6 they established the MAOP at 56.

7 Q. And, the violations were the obvious statements that,  
8 on those two occasions that Mr. Burnell described, they  
9 went above --

10 MR. HEWITT: Objection. Counsel's  
11 characterizing the NOV, and the NOV actually speaks for  
12 itself. The NOV states on its face, on Page 1, that it's  
13 based only on an exceedance of 57.2 pounds per square inch  
14 gauge. It does not say anything about -- so, it's the  
15 second test that the NOV expressly relates to, the -- on  
16 the face of the document. The NOV does not relate at all  
17 to the first test, where there was an alleged  
18 overpressurization.

19 CHAIRMAN HONIGBERG: Mr. Sheehan.

20 MR. SHEEHAN: Fair enough.

21 BY MR. SHEEHAN:

22 Q. So, the NOV alleges that, as Mr. Burnell described, the  
23 pressure went to 57.2 during that process, correct?

24 A. (Knepper) That's correct.

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1 Q. And, that's higher than 56, thus the violation?

2 A. (Knepper) Correct. That would exceed the maximum  
3 allowable operating pressure.

4 Q. The second violation is Code Section 195.

5 MR. SHEEHAN: And, for the  
6 Commissioners' benefit, that is at E. LeBlanc E is a copy  
7 of 195.

8 BY MR. SHEEHAN:

9 Q. And, again, Randy, if you could point to us the precise  
10 language of 195 that you claim was violated in this  
11 NOV.

12 A. (Knepper) In our NOV, we are pointing to 192.195,  
13 particularly Section (b). We use the words "Failure to  
14 incorporate into the Design of Pipeline Components  
15 pressure regulation devices having the capability of  
16 meeting the pressure, load, and other service  
17 conditions that will be experienced in normal operation  
18 of the system, and that could be activated in the event  
19 of failure of some portion of the system; and be  
20 designed so as to prevent accidental overpressuring."

21 Q. Were you reading from 195 or from the NOV?

22 A. (Knepper) I was reading from the NOV.

23 Q. And, that language tracks closely (b)(1) and (2),  
24 correct?

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1 A. (Knepper) That's correct.

2 Q. And, that was part of 195 that you were -- you alleged  
3 they violated was 195 (b)(1) and (2)?

4 A. (Knepper) That's correct.

5 Q. Okay. And, the -- let me back up. 195 is from a  
6 different part of the Code than 619, is that correct?

7 A. (Knepper) That's correct. It is from the Design of  
8 Pipeline Components.

9 Q. And, the other one was from what part of the Code?

10 A. (Knepper) Subpart L - Operations.

11 Q. And, there are apparently a whole bunch of subparts of  
12 190 -- of the Code, is that correct?

13 A. (Knepper) Yes. 192 is divided into basically 16  
14 subparts, labeled "A" through "P". They each have  
15 subsections within those subparts, and subsections  
16 within those sections. That's the framework of the  
17 Code. So, we cited one from Subpart L, which is the  
18 192.619.

19 Q. Operations?

20 A. (Knepper) Operations. And, we cite -- we cited one  
21 from the Design of Pipeline Components, Subpart D,  
22 192.195.

23 Q. And, tell us, as applied to this situation, what was  
24 the design of the Run B, which is the one that went to

1 57 pounds, what was the design that you said  
2 constituted a violation?

3 A. (Knepper) We believe the design did not prevent the  
4 accidental overpressuring from occurring. And, that  
5 the Company, Unitil, gets to configure the monitor  
6 regulator, and choosing the manufacturer, the  
7 distances, how big, the sizing, the set points, and  
8 those parameters, design variables into and together  
9 they all form a design.

10 Q. And, what part of that design do you claim was  
11 deficient?

12 A. (Knepper) I believe the design variable that Dave was  
13 looking at was this rise in pressure that's occurring  
14 did not prevent the accidental overpressurization, and  
15 that could be taken into account as a design variable.

16 Q. And, you lost me there. What should have been taking  
17 into consideration as a design criteria?

18 A. (Knepper) The response rate of that pilot operator, the  
19 accuracy of it, the restrictions of it, all those  
20 things are part of that selection process on how fast  
21 things are or respond to, so that we don't get into  
22 accidental overpressurization.

23 Q. And, is that referring to the lag, if you will, between  
24 the set point of the monitor regulator and when it

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1 actually took control of the gas?

2 A. (Knepper) Yes.

3 Q. And, the set point, as we understand, was 55?

4 A. (Knepper) 55 psig.

5 Q. And, I think Mr. Burnell testified "it went to 57, and  
6 then the monitor did take control and return it to 55",  
7 is that correct?

8 A. (Knepper) I believe so.

9 Q. And, what you're faulting is that there was not -- they  
10 did not consider that 2 pound plus build-up or rise  
11 into its set points and selection of equipment,  
12 *etcetera*?

13 A. (Knepper) Yes. We would call that a "pressure  
14 build-up".

15 Q. Okay.

16 A. (Knepper) And, we believe that that could have been  
17 easily incorporated in, so we did not have to have an  
18 overpressurization.

19 Q. And, that's the gist of the NOV. 619 exceeded MAOP on  
20 that Run B, and 195, the design was such that the  
21 monitor was allowed to go over MAOP?

22 A. (Knepper) That's correct.

23 Q. You are aware, through prefilled testimony, of some of  
24 the arguments that the Company will be making today,

1 correct?

2 A. (Knepper) Yes.

3 Q. I want to ask you just about a couple briefly. One  
4 discussion we will hear from their witnesses or is  
5 filed in their testimony already is distinction  
6 between, if there is any, "operation", "abnormal  
7 operation", and "emergency". Are you familiar with  
8 those terms?

9 A. (Knepper) Yes.

10 Q. Can you tell us what your understanding of the  
11 difference between "operation" and "abnormal  
12 operation"?

13 A. (Knepper) So, to me, "operations" is the umbrella, is  
14 the oversight. If you were to go underneath that, we  
15 have "normal operations", which you would experience in  
16 typical operation of everyday. You have those that are  
17 "abnormal operations". And, then, you also have those,  
18 sometimes those "abnormal operations" can lead to  
19 "emergencies". Not all abnormal operations are  
20 emergencies. Some are. It all depends upon --

21 Q. Let's get to "emergency" in a minute.

22 A. (Knepper) -- other things.

23 Q. Tell me what you -- yes, you understand the difference  
24 between -- what's the difference between "normal" and

1 "abnormal operations"?

2 A. (Knepper) An "abnormal operation" is one where  
3 something doesn't function the way you would expect it  
4 to. It is -- it could be because of an equipment  
5 failure, it could be because of operator error, it  
6 could be because of many factors. But it is not  
7 functioning or doing the activity in which it's been  
8 chosen to do. This is under "Operating".

9 Q. Right. And, I was going to ask you the next question.

10 A. (Knepper) Yes.

11 Q. As applied to MAOP, does it matter whether the MAOP --  
12 the exceeding MAOP was caused by normal or abnormal  
13 operating?

14 A. (Knepper) I don't see that listed in 192.619.

15 Q. Meaning that the Code section that says MAOP doesn't  
16 distinguish between "normal" and "abnormal", is that  
17 correct?

18 A. (Knepper) That's correct.

19 Q. And, is -- it's Staff's position that it applies to  
20 both?

21 A. (Knepper) Correct.

22 Q. So, if you have an abnormal operating event, it is  
23 still subject to the MAOP limit?

24 A. (Knepper) Correct.

1 Q. Okay. And, then you started to describe "emergency".  
2 And, what is a working definition of "emergency", as  
3 you understand it?

4 A. (Knepper) "Emergency" is listed indirectly through the,  
5 again, Subpart L in the Operations part of the Code. I  
6 can give you a definition that PHMSA would use. I  
7 think there's some in their testimony that they talk  
8 about. There's also a separate definition that each  
9 company, Unitil might use, and we also have one here at  
10 the Public Utilities Commission of what an "emergency"  
11 is. They are all not "exactly identical language", but  
12 I believe they all --

13 Q. What is a common element or a common phrasing?

14 A. (Knepper) The common element is that there is an  
15 "immediate danger or hazard to the public", that in our  
16 language here that we use at the PUC is an "imminent  
17 and hazard to the public", and that life and property  
18 need to be taken into consideration for the next  
19 actions.

20 Q. As applied to the overpressurization in Portsmouth,  
21 would you characterize the failure of the worker,  
22 admittedly a intentional failure, but a failure of the  
23 worker regulator to be an "abnormal", a "normal", or an  
24 "emergency"?

1 A. (Knepper) I would characterize it as an "abnormal  
2 operation".

3 Q. And, as an abnormal operation, you obviously believe  
4 it's still subject to MAOP?

5 A. (Knepper) I do believe that.

6 Q. You're also aware that there's another section of the  
7 Code, 201, make sure, for the Commission's benefit, is  
8 at Tab H, that talks about some ability or some range  
9 above MAOP. And, it depends on the size -- or, it  
10 depends on the MAOP how much of this band above MAOP  
11 exists, whether it's 10 percent or 6 psi, you're aware  
12 of that section of the Code?

13 A. (Knepper) Yes. It's 192.201. The title of it is  
14 "Required Capacity of Pressure Relieving and Limiting  
15 Stations". I emphasize the word "Capacity".

16 Q. All right. Let me just -- we'll go through this in  
17 baby steps. The extra, the extra whatever above MAOP,  
18 as applied to this pipe, because it's 56, is 6, is that  
19 right?

20 A. (Knepper) That's correct.

21 Q. So, whatever this range is, whatever can or cannot be  
22 done in this range, it's the range from 56 to 62 psi?

23 A. (Knepper) That's what it boils down to when you go  
24 through the Code.

1 Q. Right. And, different numbers would apply to different  
2 kinds of pipes.

3 A. (Knepper) Different pressures.

4 Q. Okay. Tell us your understanding of what 201 means,  
5 this extra 6 psi is applied to this particular pipe?

6 A. (Knepper) We believe that this is a design standard,  
7 okay, not an operation standard. It's a design  
8 standard, to determine the capacity of the device, so  
9 that you can limit what that overpressurization is.  
10 So, we believe the purpose of it is to prevent  
11 catastrophic failures. That's not to say that a  
12 failure can't occur. It's to prevent those  
13 catastrophic failures. So, by doing it, it is limiting  
14 that type of emergency and the hazard to the public.

15 Q. What kind of device is out there in the pipeline world  
16 that is often used to prevent catastrophic  
17 overpressurizations?

18 A. (Knepper) They use regulators, they use relief devices,  
19 and what they call "pressure-limiting stations".

20 Q. And, what is a "relief device"?

21 A. (Knepper) A "relief device" is, again, another valve,  
22 another type of valve, where it is activated, needs a  
23 rise in pressure to be activated, and it will, if it's  
24 sized properly, it will vent gas into the atmosphere to

1 keep that downstream pressure from exceeding that, a  
2 certain rise.

3 Q. So, a relief valve, for example, would be, my word, a  
4 sort of "last gasp" device to prevent that three or  
5 four or five hundred pound pressure from going down  
6 towards customers?

7 A. (Knepper) Yes. I believe the Code would refer to those  
8 three things as "overpressure protection devices".

9 Q. Okay. This Portsmouth facility does not have a relief  
10 valve?

11 A. (Knepper) It does not.

12 Q. And, it doesn't need to, correct?

13 A. (Knepper) It does not need to.

14 Q. And, can you explain for us the relationship between  
15 the 201 language we just looked at, if there is any,  
16 and a relief valve kind of device? Does that -- do  
17 those two go together at all?

18 A. (Knepper) Well, relief devices are one of the ways  
19 to -- or, one of the choices to use as an overpressure  
20 protection device. Many companies don't, but many  
21 companies do. And, so -- can you repeat the question?  
22 I just need to make sure of what the question was  
23 again.

24 Q. Sure.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Knepper) I've lost my train of thought.

2 Q. I'll take a step back.

3 A. (Knepper) Yes.

4 Q. You understand that the Company argues that they have  
5 "that 6 pounds -- extra pounds to work in when we have  
6 a failure of a monitor" -- I mean, "a worker, the  
7 monitor kicks in." They say they can go into that  
8 6 pound cushion, if you will, and that's okay. You  
9 obviously disagree. So, my question for you is, does  
10 that 6 pound cushion talk to relief devices? You know,  
11 where does it fit into -- why doesn't it apply to this  
12 situation? Why can't they take advantage of that 6  
13 when the worker fails?

14 A. (Knepper) Well, again, it's to the size of the  
15 capacity. And, it is applicable, it's just not  
16 something we cited. We did not cite the design in 201,  
17 which is somewhat incorporated in 195(a). That was not  
18 the portion of 195 that we cited.

19 So, our philosophy is, you've  
20 overpressurized. Subpart L, 619, clearly doesn't allow  
21 that. But you also have responsibilities as an  
22 operator is to have the design so it doesn't  
23 overpressurize by any amount, as far as, you know, if  
24 you did not have a limitation in the code, that

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[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1           6 pounds could be chosen by an operator and be  
2           50 pounds or 100 pounds or any number that they desire.  
3           So, I believe the Design section is doing that, so that  
4           we limit the catastrophic and types of  
5           overpressurizations that occur.

6   Q.   And, can the same device do both? Can the same device  
7       be primarily intended to keep you under MAOP, but also  
8       serve as that catastrophic check?

9   A.   (Knepper) Oh. Well, absolutely. I mean, there's  
10       nothing that says that these worker and monitor  
11       regulators have to be run very close to MAOP.

12                   MR. SHEEHAN: One minute please.

13                   WITNESS KNEPPER: I can give you an  
14       example, if you want --

15                   MR. SHEEHAN: That's okay.

16                   MR. HEWITT: Objection.

17                   (Short pause.)

18                   MR. SHEEHAN: Those are all the  
19       questions I have. Thank you, Mr. -- Thank you, panel.

20                   CHAIRMAN HONIGBERG: Mr. Hewitt. Just  
21       as we're planning for the next period of time, some  
22       logical breaking point in 20 minutes or so will probably  
23       get us to the lunch break. And, we'll have a 45 minutes  
24       or an hour lunch break and then come back. So, work with

1 that, if you can.

2 MR. HEWITT: Sure. And, if I get on a  
3 roll, please don't hesitate to hold up the stop sign for  
4 me, okay?

5 CHAIRMAN HONIGBERG: We'll look  
6 carefully and see how you're rolling.

7 MR. HEWITT: Gentlemen, good afternoon,  
8 at this point.

9 **CROSS-EXAMINATION**

10 BY MR. HEWITT:

11 Q. I want to start with you please, Mr. Knepper, on the  
12 line of questioning that your counsel just finished  
13 with you relating to some of the Code provisions, if we  
14 may do that please. And, if you would, would you turn  
15 please to 192.195, which again, for the record, is  
16 Attachment E to the LeBlanc/Pfister testimony. And,  
17 just look up at me please when you're there.

18 A. (Knepper) Does it have a number here?

19 Q. Yes. It's "NU 0034" in the lower right-hand corner, if  
20 that's helpful?

21 A. (Knepper) I was looking for an exhibit number. I guess  
22 it's -- we have lots of number. I'm sorry.

23 Q. So, just for clarification, Exhibit 1 --

24 A. (Knepper) One?

1 Q. -- is the compilation of Company testimony.

2 A. (Knepper) Okay. And, it's one of Pfister's  
3 attachments.

4 Q. Yes. So, Mr. LeBlanc and Mr. Pfister filed a joint  
5 piece of testimony. And, Attachment E to that  
6 testimony is 192.195 -- 192.195. It's the same 192.195  
7 that you were just discussing with your counsel. So,  
8 if you have it in a more convenient place where you can  
9 access it --

10 A. (Knepper) Is it any different than it's in the Code  
11 book?

12 Q. It is not any different than what's in the book, yes.

13 A. (Knepper) Thank you.

14 Q. So, do you have that with you?

15 A. (Knepper) I have 192.195, yes.

16 Q. Okay. And, you made a point during your direct  
17 examination that you were really focusing your  
18 violation on Subpart (b) to 192.195, correct?

19 A. (Knepper) That's correct.

20 Q. Okay. So, there is a 192.195 Subpart (a), correct?

21 A. (Knepper) That's correct.

22 Q. Okay. And, that is called "General requirements",  
23 right?

24 A. (Knepper) It's -- yes. It's labeled "General

1 requirements".

2 Q. Yes. And, at the end of that, the last portion of  
3 192.195(a) states -- it uses the phrase "must have  
4 pressure relieving or pressure limiting devices that  
5 meet the requirements of Sections 192.199 and 192.201",  
6 correct?

7 A. (Knepper) That's correct.

8 Q. Okay. And, then, when we go down to the portion of the  
9 reg. that you're citing, 192.195(b), that's -- that is  
10 named "Additional requirements for distribution  
11 systems", correct?

12 A. (Knepper) That's correct.

13 Q. Okay. Thank you. Mr. Burnell, I'd like to ask you a  
14 few questions about the events that you described when  
15 the -- when you were at the Company's New Hampshire  
16 Avenue Station performing your inspection. And, thank  
17 you for your careful walk-through of the topography of  
18 the -- or, of the design of the regulator station.  
19 And, we have provided, in Exhibit A, which is the  
20 Company's testimony, behind the "LeBlanc/Pfister" tab,  
21 Attachment B, that's a one-line diagram that's been  
22 sort of simplified for the station. Would you agree  
23 that that, at a high level, accurately portrays the  
24 general configuration of the New Hampshire Avenue

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Station on the date that you performed your  
2 investigation or your inspection?

3 A. (Burnell) Yes.

4 Q. Okay. And, they're -- each run is comprised of a  
5 worker regulator and a monitor regulator. And, in your  
6 experience, sir, a monitor regulator is a commonly used  
7 means for overpressure protection?

8 A. (Burnell) Yes.

9 Q. Now, when you went to the station that day to perform  
10 your inspection, there were actually two tests that you  
11 referred to, correct?

12 A. (Burnell) Two?

13 Q. I'm sorry. Let me break it down. So, you had  
14 explained that first you asked the Company to simulate  
15 a failure of the worker regulator on Run A, correct?

16 A. (Burnell) Yes.

17 Q. And, then, you saw what the technician did, in terms of  
18 manipulating the set point on the worker regulator  
19 pilot, correct?

20 A. (Burnell) Yes.

21 Q. And, then -- so, you were very clear what steps the  
22 Company's technician took in order to simulate the  
23 failure that you had requested, correct?

24 A. (Burnell) Yes.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. And, then, after the first test that you called to a  
2 halt, you then asked the Company to perform a second  
3 test on Run B, correct?

4 A. (Burnell) Uh-huh. Yes.

5 Q. So, you didn't ask for just one test, you asked for two  
6 tests that day?

7 A. (Burnell) Yes.

8 Q. And, I think we've already established that the Notice  
9 of Violation that Staff has brought, and that we're all  
10 here today on, really is based on the second of those  
11 two tests, correct?

12 A. (Burnell) Could we assume that, yes.

13 Q. I'm sorry, I didn't hear you?

14 A. (Burnell) Yes. Could be.

15 Q. Well, it could be. Actually, --

16 A. (Burnell) Yes. Because that was the higher pressure of  
17 the two.

18 Q. Okay. Well, why don't we, just so there's no  
19 ambiguity, why don't we go to the exhibit, okay? So,  
20 let's go to Exhibit -- this is going to be in Exhibit  
21 2, which is a compilation of just exhibits, okay? So,  
22 if you go to Exhibit 2, and you go to Tab 29, that is  
23 the NOV for the New Hampshire Avenue Station. And,  
24 just look up at me when you have that exhibit in front

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 of you please.

2 A. (Knepper) We're going to help each other out here.

3 Q. That's fine. I have no objection to that whatsoever.

4 A. (Burnell) Okay.

5 Q. Are you with me?

6 A. (Burnell) Uh-huh.

7 Q. Terrific. Okay. So, the first page of Exhibit 2-29,  
8 in the second paragraph, there is a sentence six lines  
9 down that starts "Digital pressure devices".

10 A. (Burnell) Yes.

11 Q. And, that states "Digital pressure devices confirmed  
12 that the Portsmouth Intermediate pressure system was  
13 raised above its MAOP of 56 pounds per square inch" --

14 CHAIRMAN HONIGBERG: Slow down. Slow  
15 down. Mr. Patnaude's got to get it. If he doesn't get  
16 it, it didn't happen.

17 MR. HEWITT: Thank you for the reminder.

18 BY MR. HEWITT:

19 Q. -- "above its MAOP of 56 pounds per square inch gauge  
20 to a recorded level of approximately 57.2 psig." Did I  
21 read that correctly?

22 A. (Burnell) Yes.

23 Q. So, the NOV that Staff has alleged relates to the  
24 second of the two failures that you asked the Company

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 to perform, correct?

2 A. (Burnell) Yes.

3 Q. Thank you. And, I believe you observed that the  
4 pressure, in fact, did come back to the monitor set  
5 point of 55 pounds gauge?

6 A. (Burnell) Yes, it did.

7 Q. And, the pressure was above MAOP during that second  
8 test for approximately one to two minutes?

9 A. (Burnell) I didn't record the time.

10 Q. Okay.

11 A. (Burnell) I'm not going to make that statement.

12 Q. But you would defer to any statements, in terms of  
13 timing, that are in the -- that are in the NOV,  
14 correct? Actually, do you have the sentence where we  
15 just read from the NOV?

16 A. (Burnell) Yes.

17 Q. And, for the record, this again is Exhibit 2, Tab 29.  
18 So, the sentence that preceded the one that we just  
19 read a moment ago, that one states "The Safety Division  
20 alleges that Unitil violated fine 49 C.F.R.  
21 Section 192.619 and Section 192.195 for operating  
22 pipeline segments for approximately one to two minutes  
23 in excess of identified and previously established  
24 Unitil MAOP for the system." Did I read that

1 correctly?

2 A. (Burnell) Yes.

3 Q. And, does that refresh your recollection as to whether  
4 it was one or two minutes?

5 A. (Burnell) Yes.

6 Q. Now, the observed pressures that you have stated in the  
7 Notice of Violation with regard to New Hampshire Avenue  
8 Station, those were pressures that you observed within  
9 the station while the -- while you were performing your  
10 evaluation, correct?

11 A. (Burnell) Yes.

12 Q. You weren't sampling pressures on the distribution  
13 system downstream, outside of that regulator station at  
14 the time, were you?

15 A. (Burnell) The gauge was installed just before it went  
16 underground outside the -- through the outside of the  
17 station.

18 Q. Okay. So, let me ask you the question again. So, you  
19 were not monitoring pressures anywhere else on the  
20 system downstream of the pressure regulating station  
21 during your evaluation, were you?

22 A. (Burnell) No.

23 Q. And, no one else on the Commission Staff was measuring  
24 pressures on the system downstream of the station?

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Burnell) No.

2 Q. And, just to confirm, your counsel asked some questions  
3 about the "56 pounds plus 6 pounds that's allowed under  
4 192.201." Do you recall that line of questioning?

5 A. (Burnell) Yes.

6 Q. And, during the time that you were performing your  
7 inspection of the station, at New Hampshire Avenue, the  
8 pressure never exceeded that 62 pounds, correct?

9 A. (Burnell) Correct.

10 Q. Thank you, Mr. Burnell. Mr. Knepper, I'd like to ask  
11 you some questions next, if I may. So, do you have in  
12 front of you what we have marked as "Exhibit 2", which  
13 is the compilation of exhibits that aren't attached to  
14 anyone's testimony. And, those would be numbered --  
15 they would have numbered Tabs 1 through 29.

16 A. (Knepper) I believe I have them somewhere in my pile  
17 here, I do have them.

18 Q. If you need a moment, I'll be asking you questions  
19 related to several of those. So please --

20 (Atty. Sheehan handing document to  
21 Witness Knepper.)

22 BY MR. HEWITT:

23 Q. Please just look up to me when you have your hands on  
24 those.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Knepper) I have the exhibits here that are one. So,  
2 if you refer to them by exhibit numbers, that's the  
3 best way I can quickly --

4 Q. Sure. And, for the record, what I'm going to try to do  
5 is refer to them by tab numbers, because they're  
6 already in Exhibit 2 as a compilation. So, Exhibit 2  
7 is comprised of documents behind a number of different  
8 tabs, and those tabs are numbered "1" through "29".

9 A. (Knepper) That works for me.

10 Q. Terrific. I'll try to use the tab nomenclature today.  
11 So, if we go to Tab 1 in Exhibit 2, could you flip to  
12 that one for me please?

13 A. (Knepper) Sure.

14 Q. And, you're aware that the Company had requested --  
15 that the Company requested a formal interpretation from  
16 PHMSA related to the events surrounding your -- the  
17 Staff's inspection of the New Hampshire Avenue Station,  
18 correct?

19 A. (Knepper) That's correct.

20 Q. Okay. And, then, what I'd like to do is start at sort  
21 of the bottom of this first page of Tab 1. And, this  
22 is an e-mail dated "September 5, 2014", from  
23 Mr. LeBlanc to you, correct?

24 A. (Knepper) That's correct.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. And, September 5 is the same date that appears on the  
2 Company's letter to PHMSA requesting the formal  
3 interpretation?

4 A. (Knepper) Yes.

5 Q. Okay. So, Mr. LeBlanc sends you an e-mail. And, his  
6 e-mail says "Randy, I hope all is well and I have  
7 attached a copy of the PHMSA interpretation on MAOP and  
8 overpressure protection. Have a great weekend.  
9 Thanks." So, that's Mr. LeBlanc's e-mail to you, where  
10 he sent you a copy of the Company's request to PHMSA  
11 for an interpretation, correct?

12 A. (Knepper) That's correct.

13 Q. Okay.

14 A. (Knepper) There's an attachment that was --

15 Q. It probably doesn't show up, because this was Mr. --  
16 apparently, this particular exhibit was printed from  
17 Mr. Burnell's e-mail account.

18 So, you received the e-mail from  
19 Mr. LeBlanc September 5, at 1:26 p.m. And, then, the  
20 e-mail directly above that is an e-mail from you to  
21 Mr. Burnell the same day, at 1:40 p.m., correct?

22 A. (Knepper) Yes. That would be about 14 minutes later.

23 Q. Yes. And, in your e-mail to Mr. Burnell, you asked him  
24 to "Please let me know if this letter is accurate and

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 depicts what you observed." Correct?

2 A. (Knepper) That's what I read.

3 Q. Okay. And, then, Mr. Burnell got back to you on  
4 September the 10th, at about 8:23 in the morning,  
5 correct?

6 A. (Knepper) That's what that e-mail says.

7 Q. Yes. And, Mr. -- and, Mr. Burnell confirmed that "yes,  
8 this is a good description of what I observed"?

9 A. (Knepper) That's what I read.

10 Q. Okay. And, you received this e-mail from Mr. Burnell?

11 A. (Knepper) Yes.

12 Q. Okay. That's all I have on Tab 1. Tab 2. Now, Tab 2  
13 looks similar to the document in Tab 1, at least it  
14 starts at the bottom the same way, right?

15 A. (Knepper) That's correct.

16 Q. And, that's the e-mail from Mr. LeBlanc to you dated  
17 "September 5"?

18 A. (Knepper) Yes.

19 Q. And, then, immediately above that, there's an e-mail  
20 from you to Mr. Glynn Blanton of PHMSA, correct?

21 A. (Knepper) Correct.

22 Q. And, Mr. Blanton is the gentleman who, from PHMSA, who  
23 accompanied Mr. Burnell on the date of the inspection  
24 of the New Hampshire Avenue Station, correct?

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Knepper) That's correct.

2 Q. Okay. And, so, you sent an e-mail to Mr. Blanton, and  
3 you asked Mr. Blanton to please let you know if the  
4 Company's letter accurately portrays what Mr. Blanton  
5 witnessed that day, correct?

6 A. (Knepper) Correct.

7 Q. And, then, Mr. Blanton got back to you on September the  
8 8th, and he confirmed that this information reflects  
9 what he observed?

10 A. (Knepper) That's correct.

11 Q. Okay. That's all I have on Tab 2. So, that exchange  
12 was back in September, when the Company sent its letter  
13 into PHMSA, correct?

14 A. (Knepper) Yes. It was immediately the day of or there  
15 was a weekend in between, I think, September 8th. So,  
16 yes.

17 Q. So, it's early September 2014?

18 A. (Knepper) Yes.

19 Q. And, then, Notice of Probable Violation had not issued  
20 by Staff at that point, correct?

21 A. (Knepper) That's correct.

22 Q. And, so, what I'd like you to do now is turn to Tab 3  
23 in that compilation, if you would please. And, again,  
24 I'd like to start at the bottom, which here is Page 2

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 of 3 of Tab 3, where you send an e-mail to Jim Anderson  
2 at PHMSA on January 9, 2015. Do you see that?

3 A. (Knepper) I do.

4 Q. Okay. And, that e-mail, the subject line says  
5 "Emailing: Unitil PHMSA Interpretation.pdf", correct?

6 A. (Knepper) Correct.

7 Q. So, you had attached a copy of Northern's September 5  
8 request for interpretation to your e-mail?

9 A. (Knepper) I don't know if I attached it, the  
10 interpretation, or not.

11 Q. Okay. So, --

12 A. (Knepper) I believe I just sent it to Jim saying that  
13 there -- eh, it might be. I don't -- it says ".pdf",  
14 so it might have been.

15 Q. So, as you sit here today, you don't recall whether you  
16 had actually attached the Company's letter?

17 A. (Knepper) I don't.

18 Q. Okay. That's fair. But you say, in the first sentence  
19 in this e-mail to Mr. Anderson, "Jim there are many  
20 incorrect statements made in this letter", correct?

21 A. (Knepper) That's correct.

22 Q. And, you're referring, when you say "this letter",  
23 you're referring to the Company's letter to PHMSA  
24 requesting an interpretation?

1 A. (Knepper) That's what I'm referring to.

2 Q. Okay. And, then you go on in that e-mail to say "Since  
3 no one at PHMSA has contacted the New Hampshire Program  
4 can you track down who at PHMSA is going to respond and  
5 when." Correct?

6 A. (Knepper) Correct.

7 Q. And, then, in the next paragraph of your e-mail, you  
8 explain that you believe that there were two Code  
9 violations, and that you're going to be "sending out  
10 the violation letter on Monday, January 12, 2015",  
11 correct?

12 A. (Knepper) That's correct.

13 Q. And, then, in the third paragraph, you pass along that  
14 Mr. Blanton, from PHMSA, "witnessed the event"?

15 A. (Knepper) That's what it says.

16 Q. Okay. And, so, you sent this to Mr. Anderson on  
17 January 9, 2015, and that's about four months after the  
18 Company had sent you their interpretation -- or, their  
19 request for interpretation, correct?

20 A. (Knepper) That is correct.

21 Q. Okay. And, so, the next e-mail up the page is one from  
22 Jim Anderson at PHMSA to John Gale at PHMSA, and you're  
23 copied on that e-mail, correct?

24 A. (Knepper) I see that.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. Okay. And Mr. Gale, at PHMSA, he's actually the person  
2 who signed the interpretation that PHMSA issued at the  
3 Company's request, correct?

4 A. (Knepper) That's what he eventually did, yes. At the  
5 time, I didn't know who was going to do it.

6 Q. Yes. And, I'm sorry. I didn't mean -- I was not  
7 asking you what you knew at the time, because the --  
8 well, eventually, he was the person who ended up  
9 signing the interpretation letter, correct?

10 A. (Knepper) Yes. I don't even know who Cameron  
11 Satterthwaite is at the time. Jim basically just  
12 forwarded an e-mail to somebody.

13 Q. Yes. You've answered my question. Thank you. So, the  
14 remainder of the e-mails, as you sort of go from the  
15 bottom of Page 1 of Tab 3 up to the top, are a series  
16 of e-mails that some on which you're copied, some on  
17 which you are not. But the e-mail at the top of Page 1  
18 of Tab 3 is an e-mail from a gentleman Tewabe Asebe at  
19 PHMSA, to you, correct?

20 A. (Knepper) Correct.

21 Q. And, that's an e-mail dated "January 15, 2015", where  
22 Mr. Tewabe Asebe advises you that the "request is under  
23 internal review" by PHMSA, correct?

24 A. (Knepper) Correct.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. And, he tells you, you know, the timing, he expects "a  
2 couple of months" to get the interpretation out, right?

3 A. (Knepper) That's what he said.

4 Q. Okay. So, the exhibits that we have discussed during  
5 your cross-examination thus far were all produced from  
6 Staff during discovery. And, we had asked for the  
7 communications between Staff and PHMSA related to the  
8 New Hampshire Avenue NOV. And, you've produced all of  
9 the e-mails and all the communications that Staff has  
10 had with PHMSA on that subject matter, correct?

11 A. (Knepper) Yes. All the ones that I have.

12 Q. Okay. So, there were, and I'll just represent this to  
13 you, we did not receive any e-mails that were written  
14 to PHMSA that explained the -- what you referred to,  
15 the "many incorrect statements made in this letter".  
16 Other than this e-mail that we just referenced on Tab 3  
17 to Mr. Anderson, did you send any other e-mails to  
18 PHMSA explaining what the "many incorrect statements  
19 made in this letter" were?

20 A. (Knepper) No. But -- well, I'll leave it there.

21 Q. Thank you.

22 CHAIRMAN HONIGBERG: Is this a good  
23 breaking point, Mr. Hewitt?

24 MR. HEWITT: I'm on a roll. No, it's

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 perfectly fine, Mr. Chairman.

2 CHAIRMAN HONIGBERG: Okay. We're going  
3 to break. We're going to try to come back at 1:30.

4 MR. HEWITT: Thank you.

5 (Lunch recess taken at 12:42 p.m. and  
6 the hearing resumed at 1:43 p.m.)

7 CHAIRMAN HONIGBERG: All right. We're  
8 back. Mr. Hewitt, I think you have the floor.

9 MR. HEWITT: Thank you, Mr. Chairman.

10 BY MR. HEWITT:

11 Q. Mr. Knepper, I'd like to start back in with your  
12 cross-examination, if I may. But just switch gears for  
13 a moment from the prior line I was on. You had  
14 testified, in part of your direct, about operator --  
15 or, not about operators, but about states and state  
16 certifications under the federal statute, correct?

17 A. (Witness Knepper nodding in the affirmative).

18 Q. Do you know how many states are certified today by  
19 PHMSA under I believe it's 60105(a)?

20 A. (Knepper) I don't know the exact number, no.

21 Q. Would it surprise you that it's 50 states, as well as  
22 Puerto Rico?

23 A. (Knepper) I don't know. I know Delaware at one time  
24 was a 60106.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. Okay. And, so, would you defer to information on  
2 PHMSA's publicly accessible website that describes the  
3 number of states who are -- have a certification  
4 program similar to what New Hampshire has?

5 A. (Knepper) Yes. Some of them have dual certifications.  
6 So, they might do their transmission under 60106 and  
7 their state stuff, intrastate, under 60105.

8 Q. Yes. Thank you. And, the interpretation request that  
9 the Company filed with PHMSA in this particular case,  
10 PHMSA, by rule, is allowed to provide those  
11 interpretations by federal regulation -- strike that.  
12 Let me clean up the question. By federal regulation,  
13 PHMSA is allowed to provide those formal  
14 interpretations of their regulations, correct?

15 A. (Knepper) I think they're published in the Federal  
16 Register.

17 Q. Yes. I'm sorry. My question is, though, they have  
18 authority to consider and issue those interpretations  
19 by their own regulations as part of Part 190, correct?

20 A. (Knepper) I don't know.

21 Q. Okay. But you are aware that operators, and when I use  
22 the term "operators", I'm referring to utilities, such  
23 as Northern, operators commonly request those  
24 interpretations of PHMSA of the regulations?

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Knepper) Yes. They're published on their website. I  
2 don't know what you mean by "commonly". But there's a  
3 frequency that's there, and it varies from year to  
4 year.

5 Q. Okay. And, operators request interpretations from  
6 PHMSA, as do the state regulatory agencies request  
7 interpretations, don't they?

8 A. (Knepper) States can.

9 Q. Yes. And, they do?

10 A. (Knepper) Yes. Some states do.

11 Q. Okay. So, now, I'd like to go back to the exhibits, if  
12 we may please. And, before the lunch break, we were on  
13 a line of questioning that related to communications  
14 between the Staff and PHMSA, relating to Unitil's  
15 request for interpretation. Do you recall that?

16 A. (Knepper) Yes. I believe we're on Exhibit 4, is that  
17 where we left off? Tab 4, sorry.

18 Q. Yes. I'd like to start with Tab 4, if we may, please.  
19 So, when you have Tab -- do you have Tab 4 in front of  
20 you?

21 A. (Knepper) I have Tab 4 in front of me.

22 Q. Terrific. And, Tab 4 is an e-mail from someone by the  
23 name of Horace Bethea, B-e-t-h-e-a, at PHMSA, correct?

24 A. (Knepper) I don't see that. Oh, I'm under 3. I'm

1           sorry.

2   Q.    You know what, I'm sorry.

3   A.    (Knepper) Yes.  I'm looking at the one that says "Tab  
4           4".  Yes, I see Tab 4.  And, I see "horace.bethea".

5   Q.    Okay.  And, the bottom portion of Page 1 of Tab 4 is an  
6           e-mail from Mr. Bethea to you, dated "April 10, 2015",  
7           correct?

8   A.    (Knepper) That's correct.

9   Q.    And, Mr. Bethea says in his e-mail that he's "working  
10           on an assignment for Byron Coy", and that Mr. Coy  
11           suggested that Mr. Bethea reach out to you, correct?

12  A.    (Knepper) Correct.

13  Q.    And, he goes on to say that he's "looking to obtain any  
14           compliance action history against Northern Utilities,  
15           Inc. related to over-pressure or MAOP.  Any information  
16           you have will be greatly appreciated."  Did I read that  
17           correctly?

18  A.    (Knepper) That's correct.

19  Q.    Okay.  And, you got back to Mr. Bethea the same day,  
20           Friday, April 10, at 5:02 p.m., correct?

21  A.    (Knepper) That's what I read.

22  Q.    Okay.  And, your e-mail is on the top portion of Page 1  
23           of Tab 4, correct?

24  A.    (Knepper) Yes.

1 Q. All right. And, you attached a number of documents in  
2 your return e-mail to Mr. Bethea. And, those include a  
3 file named "PS1501NU NOV & CONSENT AGREEMENT", correct?

4 A. (Knepper) Yes.

5 Q. All right. And, if you were to read on the remaining  
6 list of attachments, the attachments that you sent to  
7 Mr. Bethea included both of the NOPVs that were issued,  
8 and that we have discussed during the course of this  
9 hearing today, as well as both of the NOV's that were  
10 issued with regard to Northern in 2015 that we've been  
11 discussing today, correct?

12 A. (Knepper) That's correct.

13 Q. Okay. Thank you. And, if you look at the next page of  
14 Tab 4, which is Page 2 of 3, again, the e-mail from Mr.  
15 Bethea to you is at the bottom of that page. It's the  
16 same as Page 1, correct?

17 A. (Knepper) I've got to flip back. Looks like the same  
18 date and time.

19 Q. Okay. And, then, immediately above that is your  
20 response to Mr. Bethea?

21 A. (Knepper) And, that looks like the 5:02 that we had  
22 referenced earlier.

23 Q. Okay. And, then, at the very top -- well, let me  
24 not -- I won't skip to the top. The immediately next

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 e-mail in the chain is an e-mail from Mr. Bethea, where  
2 you're copied, and it's an e-mail to Mr. Coy, correct?

3 A. (Knepper) Yes.

4 Q. And, Mr. Bethea sends an e-mail to Mr. Coy saying  
5 "Please see Randy Kneppers attached findings regarding  
6 Unitil Corporation/Northern Utilities." And, he asks  
7 "Should I forward same to Tewabe." Correct?

8 A. (Knepper) Yes. That's what I read.

9 Q. And, "Tewabe" is Tewabe Asebe at PHMSA, the gentleman  
10 who you had e-mail communications with, correct?

11 A. (Knepper) I had at that time received an e-mail from  
12 him, yes.

13 Q. Okay. And, then, the top e-mail in that chain on Page  
14 2 of 3 is an e-mail from Mr. Coy to Mr. Bethea,  
15 explaining that he had forwarded them to Tewabe,  
16 correct?

17 A. (Knepper) Yes. "I forwarded to Tewabe" is written by  
18 Byron Coy to Horace Bethea.

19 Q. Okay. So, would you turn now please, Mr. Knepper, to  
20 Tab 5 in Exhibit 2.

21 A. (Knepper) Yes. I'm sorry. Go ahead. Tab 5. All  
22 right.

23 Q. I'm sorry, are you ready?

24 A. (Knepper) Yes.

1 Q. Okay. So, Tab 5 is two e-mails. The first e-mail  
2 starts about the third of the way down on Page 1 of Tab  
3 5. And, that's an e-mail from Tewabe Asebe at PHMSA,  
4 to you, dated "April 16, 2015", correct?

5 A. (Knepper) April 16th, 2015, correct.

6 Q. And, Mr. Asebe asks in his e-mail for you to "Please  
7 respond to the below response." Correct?

8 A. (Knepper) Yes.

9 Q. And, the "below response" that has been included in  
10 Mr. Asebe's e-mail is the conclusions that PHMSA  
11 reached that are included in their interpretation  
12 letter that they provided to Northern, correct?

13 A. (Knepper) I believe those end up eventually at that  
14 state, yes.

15 Q. Yes.

16 A. (Knepper) Maybe not at that time, I don't know.

17 Q. Okay. But, eventually, the portion of his e-mail that  
18 starts "Based on the above information", through the  
19 end of his e-mail, is what eventually ends up in the  
20 interpretation letter that PHMSA issued to Northern  
21 Utilities, correct?

22 A. (Knepper) I didn't check it word-for-word, but I  
23 believe it probably did.

24 Q. Okay. If you'd like to, you may. I will represent to

1 you that I have done at least an inspection, and have  
2 compared the two, and the two do tie out. Okay?

3 A. (Knepper) I trust your --

4 Q. Terrific.

5 A. (Knepper) That you did that.

6 Q. All right. So, Mr. Asebe first asked you to "Please  
7 respond to the below response." And, then he asked you  
8 "If you have any comments, please forward them to me."  
9 Correct?

10 A. (Knepper) Correct.

11 Q. Okay. And, then, you responded back to Mr. Asebe the  
12 same day, a little shy of an hour later on that  
13 afternoon, correct?

14 A. (Knepper) Correct.

15 Q. And, your response back to him was "I have no  
16 comments." Right?

17 A. (Knepper) Correct.

18 Q. And, after this exchange that you had with Mr. Asebe,  
19 it was about five days later, on April the 21st, that  
20 PHMSA issued its interpretation letter to Northern?

21 A. (Knepper) Is it dated five days later than this e-mail?

22 Q. Yes. It's dated "April 21".

23 A. (Knepper) Okay.

24 Q. I think we've already -- well, at no time -- strike

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 that. Has Staff requested any sort of reconsideration  
2 from PHMSA with regard to the interpretation letter  
3 that it provided to Northern?

4 A. (Knepper) No.

5 Q. So, I'd next like to move on to Tab 6 please, if we  
6 way, in Exhibit 2, Mr. Knepper. And, Exhibit 2 [2-6?]  
7 is a copy of Staff request -- or, I'm sorry, Staff's  
8 response to Request Number 1-29, is that correct?

9 A. (Knepper) Yes.

10 Q. Okay. And, the request asked for Staff to "please  
11 provide copies of all decisions, orders,  
12 interpretations or other documents that you believe  
13 support the position Staff is taking in NOV 2",  
14 correct?

15 A. (Knepper) That's correct.

16 Q. And, "NOV 2" was the shorthand that we had been using  
17 to refer to the New Hampshire Avenue Station NOV,  
18 correct?

19 A. (Knepper) Correct.

20 Q. And, you identified in your response three separate  
21 authorities, correct?

22 A. (Knepper) I presented three, three responses.

23 Q. Okay. So, you identified three items, --

24 A. (Knepper) Yes.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. -- right? And, the first item that you identified is a  
2 "Liberty NOV" [NOPV?], correct?

3 A. (Knepper) Correct.

4 Q. Okay. And, the second item that you identified is a  
5 "PHMSA Interpretation"?

6 A. (Knepper) Correct.

7 Q. And, I think, through an exchange of counsel, after we  
8 received your response to 1-29, we were able to clarify  
9 that the "February 23, 1973" date is a typographical  
10 error, and it is actually a "February 13, 1973  
11 Interpretation", correct?

12 A. (Knepper) I believe there's a bunch of e-mails going  
13 back and forth between counsel that said that.

14 Q. Okay. Thank you. And, then, the third item is a  
15 "Guidance Material" dated "November 24, 2014". And,  
16 you're referring to "Statement 7" in that Guidance  
17 Material, correct?

18 A. (Knepper) Yes.

19 Q. Okay. And, the Guidance Material is an enforcement  
20 guidance that PHMSA publishes, correct?

21 A. (Knepper) Yes. They put it on their website, I  
22 believe.

23 Q. So, they make it available to the public?

24 A. (Knepper) I believe they have gotten many right-to-know

1 requests for it. So, they do.

2 Q. Okay. Terrific. So, I just want to take a quick --  
3 just want to make sure I have the correct authorities  
4 behind the next couple of tabs or the correct items  
5 under the next couple of tabs. So, the first item that  
6 you identified is the "Liberty NOPV". And, if you take  
7 a look real quick at Tab 7, which is the next tab in  
8 the binder?

9 A. (Knepper) Yes.

10 Q. Is that the "Liberty NOPV" that you were referring to?

11 A. (Knepper) "Notice of Probable Violation", "1402". It  
12 appears to be.

13 Q. Okay. And, then, the second item that you reference on  
14 Tab 6 is a "PHMSA" -- the "PHMSA Interpretation". And,  
15 is the "PHMSA Interpretation" that you are referencing  
16 in that exhibit the interpretation that can be found at  
17 Tab 8 of Exhibit 2?

18 A. (Knepper) Yes.

19 Q. And, then, the third item, the Guidance Material for --  
20 and, it's the Guidance Material for 192.619, I believe.  
21 That's at Tab 9 of Exhibit 2, correct?

22 A. (Knepper) Yes.

23 Q. Okay. So, let's then flip to Tab 9 of Exhibit 2, if we  
24 could please. So, this is the Enforcement Guidance

1 that you had identified in the discovery response that  
2 we were just discussing that's at Tab 6. And, you're  
3 familiar with this Enforcement Guidance?

4 A. (Knepper) Yes.

5 Q. And, this is the guidance for Section 192.619?

6 A. (Knepper) Yes.

7 Q. And, 192.619 is one of the Code provisions that Staff  
8 has alleged in the NOV for the New Hampshire Ave  
9 Station, correct?

10 A. (Knepper) Yes.

11 Q. Okay. And, just sort of staying at a high level in  
12 this Enforcement Guidance that PHMSA publishes, it  
13 provides, for example, on the first page, a statement  
14 of the Code provision, correct?

15 A. (Knepper) Yes.

16 Q. Okay. And, then, it goes on and provides  
17 interpretation summaries, you can see those on Page 3  
18 of 11 through -- oh, I guess the top of Page 10 of 11?

19 A. (Knepper) Yes.

20 Q. Okay. And, then, further down the page, in the  
21 left-hand column, they provide some "Guidance  
22 Information"?

23 A. (Knepper) Yes.

24 Q. And, then, on the following page, which would be

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Page 11 of 11, "Examples of Probable Violation or  
2 Inadequate Procedures", correct?

3 A. (Knepper) Yes.

4 Q. Okay. And, so, in your response to Staff 1-29, which  
5 is at Tab 6, you had identified the Statement 7 of the  
6 Guidance Information?

7 A. (Knepper) Yes.

8 Q. And, that specifically is on Page 10 of 11 of Tab 9,  
9 right?

10 A. (Knepper) Yes.

11 Q. Okay. And, the Guidance Information actually has 13  
12 separately enumerated items, correct?

13 A. (Knepper) Thirteen.

14 Q. And, you identified Item Number 7, which states  
15 "Operators may not design or set normal pressure  
16 controlling devices such that any part of any pipeline  
17 segment exceeds its prescribed MAOP." Correct?

18 A. (Knepper) Yup.

19 Q. Is that a "yes"?

20 A. (Knepper) Yes.

21 Q. Okay. Thank you. And, then, if you look up in that  
22 same segment on "Guidance Information", and you look at  
23 the paragraph that's numbered number "2", that Guidance  
24 Information states that "An operator must have some

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 means that will ensure that MAOP is not exceeded during  
2 normal operations." Correct?

3 A. (Knepper) That's correct.

4 Q. Okay. And, then, if you look at Item Number 13 of the  
5 Guidance Information, which is on the following page,  
6 Page 11 of 11, that states "For overpressure  
7 requirements, see 192.201 and Section 192.739." Is  
8 that right?

9 A. (Knepper) That's what it says.

10 Q. Okay. And, 192.201, that one is entitled "Required  
11 capacity of pressure relieving and limiting stations",  
12 right?

13 A. (Knepper) "Required capacity of pressure relieving and  
14 limiting stations", yes.

15 Q. And, then, 739 is entitled "Pressure limiting and  
16 regulating stations: Inspection and testing."  
17 Correct?

18 A. (Knepper) To speed it along, I'll say "yes".

19 Q. Okay. And, Section 739 is located in Subpart M of the  
20 Code?

21 A. (Knepper) That is correct. Subpart M - Maintenance.  
22 Yes.

23 Q. That was my next question. Thank you. And, then,  
24 after the section on Guidance Information, in Tab 9,

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 there is a block that covers "Examples of a Probable  
2 Violation or Inadequate Procedures". Do you see that?

3 A. (Knepper) Yes.

4 Q. Okay. And, Item Number 3 under that category states  
5 "Actual operating pressure exceeded MAOP, without the  
6 occurrence of an equipment malfunction or failure."

7 Correct?

8 A. (Knepper) That's what that says.

9 Q. All right. And, again, that's under the heading of  
10 "Examples of a Probable Violation or Inadequate  
11 Procedures", right?

12 A. (Knepper) Yes.

13 Q. Thank you, Mr. Knepper. Mr. Burnell, I have some  
14 questions for you now, if I may please. Do you have  
15 available the Pressure Regulation & Relief Module that  
16 you had prepared, that I think you referred to during  
17 your direct examination? And, that can be found as an  
18 attachment to the Testimony of Mr. LeBlanc and  
19 Mr. Pfister as "Attachment K", as in "Karen". And,  
20 please let me know when you have located that document,  
21 sir.

22 A. (Burnell) Yes.

23 Q. Do you have that?

24 A. (Burnell) Uh-huh.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. Okay. And, this is a document that you prepared?

2 A. (Burnell) Yes.

3 Q. And, it's prepared on a form that the Commission has  
4 adopted?

5 A. (Burnell) Yes.

6 Q. All right. And, if I look at the first page of Tab --  
7 of Tab -- or, of Attachment K, it says it's "Puc Form  
8 Number 5", correct?

9 A. (Burnell) Yes.

10 Q. And, it bears -- this document bears the date of  
11 "June 25, 2014", right?

12 A. (Burnell) Yes.

13 Q. And, then, in the segment just below the caption, where  
14 it asks to "Briefly describe the purpose of the  
15 station", you've listed three stations that include the  
16 New Hampshire Ave Gate Station that you inspected that  
17 afternoon?

18 A. (Burnell) Yes.

19 Q. And, toward the latter part or the bottom of that page,  
20 you provide some of the basic information, such as the  
21 "MAOP of the Inlet System", the "MAOP of the Outlet  
22 System", and the "Method of Over-Pressure protection",  
23 correct?

24 A. (Burnell) Yes.

1 Q. And, for the New Hampshire Avenue Station, you noted  
2 that a monitor regulator was being used, correct?

3 A. (Burnell) Yes.

4 Q. Okay. And, then, if you turn the page, and starting at  
5 Page 3 of 12 of Attachment K, there is a document that  
6 is -- or, the next portion of the document is broken up  
7 into discrete sections, correct?

8 A. (Burnell) Yes.

9 Q. All right. And, Section A has columns that include  
10 "Code", "Description", and then a series of letters,  
11 correct?

12 A. (Burnell) Yes.

13 Q. And, the series of letters are, and let me see if I can  
14 get this, "S" would stand for "satisfactory"?

15 A. (Burnell) Yes.

16 Q. "U" is for "unsatisfactory".

17 A. (Burnell) Uh-huh.

18 Q. Is that a "yes"?

19 A. (Burnell) Yes.

20 Q. "NA" is "not applicable"?

21 A. (Burnell) Correct.

22 Q. And, then, "NC" was the stumper. But is that "not  
23 checked"?

24 A. (Burnell) Correct.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. Okay. So, is the way this document is designed, is  
2 this used to allow you to sort of use it as a guide as  
3 you go through and do your inspection, use it as a  
4 checklist of sorts?

5 A. (Burnell) Yes.

6 Q. Okay. And, did you have this with you when you  
7 performed the inspection of the New Hampshire Ave  
8 Station?

9 A. (Burnell) I had it with me when I performed the records  
10 inspection --

11 Q. Okay. But you didn't --

12 A. (Burnell) -- in the office.

13 Q. I'm sorry, I didn't mean to cut you off. I cut you  
14 off.

15 A. (Burnell) In the office, yes.

16 Q. Okay. But you didn't have a copy of this when you went  
17 out into the field?

18 A. (Burnell) Well, I had it with -- I wasn't using it  
19 directly, no.

20 Q. But you had a copy of it with you in the field?

21 A. (Burnell) Because it was with me all day, so --

22 Q. Okay. So, as I see this, when you have a code  
23 provision, and let's just take the first line, you have  
24 a Code Provision "192.739(a)", and then there's a

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 description. And, the portion of the text under the  
2 "Description" is the Code Provision itself, correct?

3 A. (Burnell) Yes.

4 Q. And, then, next to that, you place your evaluation?

5 A. (Burnell) Yes.

6 Q. Okay. And, do you have a copy of 739(a) with you  
7 that's not in the -- not in the testimony?

8 MR. HEWITT: And, if I may, we have 739  
9 as an attachment, but you're going to have to flip back  
10 and forth. So, if you'd like a copy to follow along?

11 CHAIRMAN HONIGBERG: I think that would  
12 be very helpful. Mr. Sheehan?

13 MR. SHEEHAN: No problem.

14 MR. HEWITT: May I approach?

15 (Atty. Hewitt distributing documents.)

16 CHAIRMAN HONIGBERG: Just so we're  
17 clear, Mr. Hewitt. This is a document that is elsewhere  
18 in the exhibits that have been marked. You're just  
19 providing this to us for ease of reference?

20 MR. HEWITT: That's correct, Mr.  
21 Chairman. To keep you from having to flip through  
22 multiple pages in multiple binders. What I've provided is  
23 a copy of what is included already in Exhibit 1 as  
24 Attachment D to the Testimony of Mr. LeBlanc and

1 Mr. Pfister.

2 CHAIRMAN HONIGBERG: Okay. Thank you.

3 MR. HEWITT: You're welcome. And, it is  
4 a copy of Section 192.739.

5 BY MR. HEWITT:

6 Q. And, so, what I'd just like to do is check and go  
7 through a few of these with you. So, on that first  
8 line, you have the Code Provision of 192.739(a). And,  
9 it states what the provision is in the Code, under  
10 739 -- under 739(a). I think it also includes a (1),  
11 which deals with "in good mechanical condition",  
12 correct?

13 A. (Burnell) Yes.

14 Q. Okay. And, you found that that was "satisfactory"?

15 A. (Burnell) Yes.

16 Q. Correct? And, the guidance for that is to "check  
17 previous and current inspection dates for compliance,  
18 if specified times are exceeded a violation exists",  
19 right? That's the guidance that you use when you're  
20 evaluating that particular provision?

21 A. (Burnell) Yes.

22 Q. And, you gave that a "satisfactory". And, then, the  
23 next one, for "739(a)(2)", and if you compare the  
24 language in 739(a)(2) to the Code, it says "adequate

1 from the standpoint of capacity and reliability of  
2 operation for the service in which it is employed".  
3 And, that's the same thing that it says in 739(a)(2)  
4 over in the Code, correct?

5 A. (Burnell) Yes.

6 Q. And, then, in the Guidance, it says the "Operator  
7 should be able to provide evidence that the device is  
8 adequate by calculation, and demonstrate that the  
9 equipment is designed for gas use. Manufacturer specs  
10 and load calculations will suffice." Right? And,  
11 that's your Guidance?

12 A. (Burnell) Yes.

13 Q. And, you scored that a "satisfactory"?

14 A. (Burnell) Yes.

15 Q. And, then, the other "satisfactory" that you gave,  
16 under 192.739, is under (a)(4), right? That's a little  
17 bit further down that page?

18 A. (Burnell) Uh-huh. Yes.

19 Q. Thank you. And, under 739(a)(4), the language in the  
20 Code reads "Properly installed and protected from dirt,  
21 liquids, or other conditions that might prevent proper  
22 operation." Correct?

23 A. (Burnell) Yes.

24 Q. And, the provision in the Code is mirrored in your

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1 module that you have, correct?

2 A. (Burnell) Correct.

3 Q. Okay. And, the Guidance there states "Have operator  
4 produce manufacture specs on proper operation, and  
5 explanation of how it is -- how it is, this says  
6 "protection", but I think you probably meant "protected  
7 from climate and exterior conditions." Correct?

8 A. (Burnell) Yes.

9 Q. All right. And, you gave a "satisfactory" on that as  
10 well?

11 A. (Burnell) Yes.

12 Q. Now, the one that you gave an "unsatisfactory" on is  
13 192.739(a)(3), right?

14 A. (Burnell) Yes.

15 Q. And, the Guidance there says the "Operator should  
16 provide system pressures and manufacturer specs to  
17 ensure correct regulatory pressures." Correct?

18 A. (Burnell) Uh-huh.

19 Q. All right. And, you included some remarks, and I'm not  
20 going to read the remarks, but the remarks that are  
21 listed there are the remarks that you make that would  
22 support your "unsatisfactory" conclusion, correct?

23 A. (Burnell) Yes.

24 Q. Okay. Now, what I'd like to do is compare the Code

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1 Provision to the provision in the module. So, the  
2 provision in the module says "Set to function at the  
3 correct pressure". Correct?  
4 A. (Burnell) Yes.  
5 Q. Mr. Burnell?  
6 A. (Burnell) Yes.  
7 Q. Yes. But, if we go over to the Code Provision that is  
8 739(a)(3), that says "Except as provided in paragraph  
9 (b) of this section, set to control or relieve at the  
10 correct pressure consistent with the pressure limits of  
11 192.201(a)." Correct?  
12 A. (Burnell) Yes.  
13 Q. So, the module that Staff has used is -- ties out to  
14 192.739 in all of the respects that we have covered,  
15 except for the provision in 192.739(a)(3), correct?  
16 A. (Burnell) Yes. I guess.  
17 Q. Well, I'm sorry, you said --  
18 A. (Burnell) Can you repeat that again?  
19 Q. Sure. What you and I have done is we've just walked  
20 through each of the Code Provisions in 739(a).  
21 A. (Burnell) Right.  
22 Q. And, we walked through (a)(1). And, we confirmed  
23 together that 739(a)(1) in the Code ties out to  
24 739(a)(1) in your module, right?

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1 A. (Burnell) Yes.

2 Q. And, we did the same thing for 739(a)(2). Your module  
3 ties out to the Code, right?

4 A. (Burnell) Uh-huh.

5 Q. And, 739(a)(4), your module ties out to the Code?

6 A. (Burnell) Yes.

7 Q. Where your module doesn't tie out to the Code is in  
8 739(a)(3)?

9 A. (Burnell) Yes.

10 Q. Okay. So, let's take a look at the Code Provision on  
11 739(a)(3), right?

12 A. (Burnell) Okay.

13 Q. That says -- it starts out, and I want to chunk this  
14 out a little bit, that starts out "Except as provided  
15 in paragraph (b) of this section", right? And, so, if  
16 we jump down to paragraph (b), paragraph (b) says "For  
17 steel pipelines whose MAOP is determined under  
18 192.619(c)". Now, as you sit here, do you know whether  
19 this was a "steel pipeline whose MAOP is determined  
20 under 192.619(c)"?

21 A. (Burnell) No.

22 Q. Okay. But do you know what the MAOP is of the  
23 Portsmouth IP system?

24 A. (Burnell) Yes.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. And, that's 56 pounds, right?

2 A. (Burnell) Yes.

3 Q. Okay. So, that's important because of the next clause  
4 in 739(b). The next clause in 739(b) says "if the MAOP  
5 is 60 psi gauge or more", correct?

6 A. (Burnell) Yes.

7 Q. So, in this case, the downstream pressure is not "60  
8 psi gauge or more", is it?

9 A. (Burnell) Correct.

10 Q. So, 739(b) doesn't apply then by its express language,  
11 correct?

12 A. (Burnell) Correct. Correct.

13 Q. Okay. So, then, we can go back up to 739(a)(3), where  
14 it says "Except as provided in paragraph (b) of this  
15 section", and we just concluded that (b) doesn't apply,  
16 correct?

17 A. (Burnell) Uh-huh.

18 Q. Okay. And, that's a "yes"?

19 A. (Burnell) Yes.

20 Q. Okay. So, 739 doesn't apply -- 739(b) doesn't apply.  
21 So, the exception doesn't apply. So, 739(a)(3) then  
22 can be read to say "set to control or relieve at the  
23 correct pressure consistent with the pressure limits of  
24 192.201(a)", correct?

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1 A. (Burnell) Yes.

2 Q. Thank you. And, just sort of as I -- as I just sort of  
3 flipped through the rest of your module that's been  
4 included as Attachment K to Mr. LeBlanc and  
5 Mr. Pfister's testimony, I didn't see any other  
6 "unsatisfactory" scores in your -- in your evaluation  
7 of the New Hampshire Ave regulator station. Is that  
8 consistent with your review of that document, sir?

9 A. (Burnell) Yes.

10 Q. Okay. That's all I have on that document. What I  
11 would like to do next with you please, Mr. Burnell, is  
12 if you have Exhibit 2, which, again, is the compilation  
13 of just loose individual exhibits. Do you have that?

14 A. (Burnell) Is that the one that you provided us before?

15 Q. Yes. It would be numbered 1 through 29, I believe.

16 A. (Burnell) Okay. Yes.

17 Q. And, could you go to Tab 10 in that compilation please.

18 A. (Burnell) Okay.

19 Q. And, Tab 10 in that compilation is, again, a PHMSA  
20 Enforcement Guidance, but this time it's for  
21 Section 192.739, correct?

22 A. (Burnell) Correct.

23 Q. Okay. And, it has a similar structure to the  
24 Enforcement Guidance for 192.619 that I reviewed with

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1 Mr. Knepper, correct?

2 A. (Burnell) Yes.

3 Q. Okay. And, included in that, if you turn to Page 5 of  
4 8 of Tab 10 in Exhibit 2, you will see the "Guidance  
5 Information" toward the bottom of that page.

6 A. (Burnell) Okay.

7 Q. Are you there?

8 A. (Burnell) Yes.

9 Q. Okay. And, the Guidance Information, Paragraph 2 says  
10 "Set pressures for pressure protection/relief devices  
11 must be set so as to prevent system pressures from  
12 exceeding the pressure limits of either 192.201(a) or  
13 Section 192.739(b), whichever is applicable." Correct?

14 A. (Burnell) Yes.

15 Q. And, we concluded just a few moments ago that 739(b)  
16 doesn't apply here, right?

17 A. (Burnell) Right.

18 Q. So, then, we're talking about 192.201(a), right?

19 A. (Burnell) Uh-huh. Yes.

20 Q. Okay. And, under 192.201(a), you would be, for a  
21 system with a 56 pound MAOP, you would be at MAOP plus  
22 6 pounds, correct?

23 A. (Burnell) To comply with 201(a), yes.

24 Q. Thank you.

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1 MR. HEWITT: May I have just a moment  
2 please, Mr. Chairman?

3 CHAIRMAN HONIGBERG: You may.

4 MR. HEWITT: Thank you.

5 (Atty. Hewitt conferring with Company  
6 representatives.)

7 MR. HEWITT: We have no further  
8 questions. Thank you.

9 CHAIRMAN HONIGBERG: Commissioner Scott.

10 COMMISSIONER SCOTT: Thank you. I  
11 will -- my questions are for Mr. Knepper. But, again, if  
12 anybody on the panel can answer better, then feel free.

13 BY COMMISSIONER SCOTT:

14 Q. I want to start with Exhibit Number two, Tab 5.

15 A. (Knepper) Yes.

16 Q. And, on the second page of that, I'll get to the point  
17 here. So, can you give me some context of this? And,  
18 I think it's where the question just left off of the  
19 "56 plus 6". Where does that apply? Because, if I  
20 understand correctly, you're suggesting that the MAOP,  
21 there's a prohibition in the Code that says "you can't  
22 exceed it period", is that correct?

23 A. (Knepper) Correct.

24 Q. So, where does this "plus 6" come in? At what point

1 does that trigger?

2 A. (Knepper) Well, the question is, where it says number  
3 1, that's basically the -- I'm not sure if it's  
4 exactly, but Unitil asked two questions of PHMSA. So,  
5 PHMSA is answering Unitil's questions. So, they asked  
6 if 620(a) [621(a)?], which I would say is, for all  
7 intents and purposes in this case, is equivalent to the  
8 619, both reference MAOP. 619 is for transmission  
9 lines, whereas 621 is only for distribution systems;  
10 619 could be applicable to both. So, the question was  
11 asked by Unitil about 621(a). And, the second question  
12 they asked -- and, so, that would be equivalent to the  
13 MAOP that we had cited, 619(a).

14 The second one was they asked the  
15 question "During a system emergency, such as a failed  
16 worker regulator", so, this is -- this, again, this is  
17 Unitil's words, "on a high pressure distribution system  
18 with a properly established MAOP, does the operator  
19 violate 201(a) if it exceeds 62" -- "if the pressure  
20 does not exceed 62 pounds", "psig", gauge pounds, per  
21 square inch gauge.

22 And, so, I think PHMSA is answering the  
23 first question with "yes, you do violate the MAOP, if  
24 you exceed the MAOP during normal operating

1 conditions." They add more words, but first answer is  
2 "yes".

3 The second one is, the way the question  
4 is phrased, they also answered "no, you're not  
5 exceeding 201, because, as long as the MAOP limits are  
6 met during a system emergency, and the pipeline meets  
7 Subpart D - Design." So, I believe they're answering  
8 both questions as asked.

9 Q. And, the testing of the regulators that was done, is  
10 that a normal -- would that be considered "normal  
11 operating conditions"?

12 A. (Knepper) I believe PHMSA answers that question.  
13 "Conducting", if you read the very second to last --  
14 third to last sentence, "Conducting a simulated test on  
15 a pressure limiting or regulator station that is not  
16 isolated from the system does not constitute a system  
17 emergency." So, "it is a normal operation subject to  
18 the limitations described above." If you continue  
19 that, "pressure limiting or regulator station should be  
20 isolated from the system prior to any testing of  
21 build-up and set points."

22 So, if you're in the operations mode,  
23 you haven't isolated, customers are connected, you are  
24 subject to 621, that doing this "test", as part of

1 maintenance, is considered a "normal" activity.

2 Q. Okay. Thank you. That's helpful. My other question,  
3 and I apologize, I don't have the reference, but maybe  
4 you may remember. In some of the correspondence back  
5 and forth between either you or your staff and the  
6 Company, there was a discussion in one of the e-mails  
7 about "the SCADA system not registering above 56"? Do  
8 you remember that?

9 A. (Knepper) Yes. I have to look at the exact e-mail, but  
10 I recall one of these e-mails said something to that  
11 effect.

12 Q. Is that an indication of that, and I'm making an  
13 assumption based on the NOV, but -- so, is that a case  
14 where the SCADA system is reading one thing, but the  
15 exact gauge that was seen during the test is reading  
16 something else, are you using the gauge as the  
17 determining factor in this case?

18 A. (Knepper) Well, the question is "where is that in  
19 relationship to this regulator station?" You have to  
20 know where it is. Are there any other outside  
21 influences? Is that a true indicator of the  
22 performance of the worker and monitor? So, I can't say  
23 it's a "yes" or "no" answer.

24 Q. But I guess implied in your response is that your --

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1 you have a gauge that said above 56, so that's your --  
2 despite maybe downstream the SCADA system is saying  
3 something different, you're saying at least that --

4 A. (Knepper) Yes. We see downstream of the regulator a  
5 gauge that says "57.2". So, to us, that is  
6 documentation, whether it be on a strip chart, a  
7 digital chart, whatever, I have a record that says it's  
8 "57.2". I view that as exceeding the MAOP.

9 COMMISSIONER SCOTT: Thank you. That's  
10 all I have.

11 CHAIRMAN HONIGBERG: Commissioner  
12 Bailey.

13 COMMISSIONER BAILEY: Thank you. I  
14 think I only have one question. Probably for you,  
15 Mr. Knepper.

16 BY COMMISSIONER BAILEY:

17 Q. If the same conditions occurred during an emergency,  
18 and the gauge happened to be installed where it was,  
19 downstream, but not too far downstream of the  
20 regulator, and everything operated the way it did, and  
21 it went to 57.2, and then the pressure got backed off  
22 by the monitor, and it went back down to 55, would  
23 there have been a Code violation?

24 A. (Knepper) Yes. I still think 619(a) applies. The

1 question that was asked was not 619(a), the question  
2 that they asked was "does it have the capacity to  
3 relieve?" You can have the capacity to relieve, but  
4 the Operations section limits you to not exceeding the  
5 MAOP.

6 Q. So, what is 201(a) about emergency --

7 A. (Knepper) It's something that, and I don't want to put  
8 words in Unitil's mouth, but it's not something that we  
9 cited. It is something that Unitil feels is very  
10 critical to their understanding of the Code.

11 Q. Well, it's part of the Code, right?

12 A. (Knepper) Yes.

13 Q. So, how does it apply?

14 A. (Knepper) I don't see how 201 applies to 619 at all. I  
15 don't see that, those words in there. I would have to  
16 see "as referenced in 195", which then brings in 201.  
17 If you went to 619(b), PHMSA actually does reference  
18 "195". But they don't --

19 Q. And, 195 references "201"?

20 A. (Knepper) But 619(a) does not. They specifically did  
21 not use that language in 619(a). That's all we're  
22 looking at is the language that exists in 619(a).  
23 We're not adding words or subtracting words. We're  
24 just reading 619(a).

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 Q. Was it your testimony that you have to read the Code as  
2 a whole or was that somebody else's testimony?

3 A. (Knepper) We did not have any testimony. We just had  
4 the Notice of the Violations.

5 Q. Did the Notice of Violations?

6 A. (Knepper) I believe it probably would have been someone  
7 else's.

8 COMMISSIONER BAILEY: Okay. All right.  
9 Thank you.

10 BY CHAIRMAN HONIGBERG:

11 Q. I want to ask about the last sentence of the document  
12 that's in Exhibit 2, Tab 5. It's also the language  
13 that appears at the end of PHMSA's letter that is Tab N  
14 to the LeBlanc testimony. The last sentence says "The  
15 pressure limiting or regulator station should be  
16 isolated from the system prior to any testing of  
17 build-up and set points." Could one of you describe  
18 how one would isolate the relevant section? What is it  
19 you would need to do?

20 A. (Knepper) You could do it a number of ways. You could  
21 physically add pieces of piping or components in there,  
22 so that they are isolated, so that you could do the  
23 test -- you don't have to do the test with gas. You  
24 can do it with air. And, if you're doing it with air,

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1 so that you're not transporting gas, that means you're  
2 not doing "operations". You can do it with a bypass,  
3 with bypass valves and bypass around it. So, what  
4 they're saying is, in my opinion, I want to couch it,  
5 because I believe Unutil doesn't agree with it, but  
6 they're saying is, "if you're doing the test with  
7 customers attached to your testimony, then you're  
8 operating." And, so, if you did the test when they  
9 weren't attached to it, and PHMSA doesn't tell you how  
10 to do the test, they don't tell you whether you do it  
11 with or without customers attached. They leave that up  
12 to the operator; and so do we.

13 Q. Am I correct in my memory that the test that produced  
14 the unsatisfactory result was on Run B, is that right?

15 A. (Knepper) I think I'll let Dave answer that one.

16 A. (Burnell) The one we cited was from Run B. They both  
17 exceeded MAOP.

18 Q. But, I think, as you went through with Mr. Hewitt, --

19 A. (Burnell) Yes.

20 Q. -- the Notice of Violation refers to one --

21 A. (Burnell) Right. Referenced Run B.

22 Q. Okay. Was Run B connected to the system at that time?

23 A. (Burnell) Yes, it was.

24 Q. Was it the run feeding gas into the system or was it

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 just connected?

2 A. (Burnell) It was feeding gas into the system.

3 Q. Did they have the ability, do you know, to flip a  
4 switch and stop Run B from feeding gas into the system,  
5 so they could have run that test without it being  
6 connected?

7 A. (Burnell) Yes. There are shutoffs.

8 Q. So, when you asked them to fail that side of the  
9 system, if they had said "wait, we need to shut  
10 something off, so we can test it", you would have said  
11 "that's fine"?

12 A. (Burnell) Yes.

13 Q. Understanding that's a hypothetical, that did not take  
14 place?

15 A. (Burnell) That did not take place.

16 Q. All right.

17 A. (Burnell) But I would have been fine with that.

18 CHAIRMAN HONIGBERG: Okay. I don't have  
19 any other questions.

20 Mr. Sheehan, do you have any further  
21 questions for these witnesses?

22 MR. SHEEHAN: I do have some follow-up  
23 based on the cross-examination, if I may.

24 **REDIRECT EXAMINATION**

1 BY MR. SHEEHAN:

2 Q. Mr. Knepper, I'm going to reask Commissioner Bailey's  
3 question, because I didn't hear an answer, and maybe I  
4 can help with a better -- a different approach to it.  
5 She asked, "what's the purpose of 201, if you've got  
6 MAOP drawing a line below that extra 6 pounds?" Why do  
7 we have 201 in the Code?

8 A. (Knepper) I believe 201 is to prevent catastrophic  
9 failures from occurring.

10 Q. And, is there a distinction in what part of the Code  
11 201 is that needs to be --

12 A. (Knepper) It's in the Design section.

13 Q. And, does 201 apply to how the system is operated?

14 A. (Knepper) 201 does not apply to 619.

15 Q. Which is Operation?

16 A. (Knepper) Or, Operations.

17 Q. So, is it --

18 A. (Knepper) So, it's in a separate section of the Code.

19 Q. So, is it fair to say that the cushion, which is my  
20 word, that is part of 201 is a requirement that they  
21 design for that extra pressure?

22 A. (Knepper) That's correct.

23 Q. And, that the 619 is, even though you have that design  
24 built in, you -- MAOP says "you can't go there"?

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 A. (Knepper) MAOP says "it will be a violation". So, in  
2 my opinion, if you also don't have the design and you  
3 go above that 6 pounds, you are also now a violation of  
4 201 as well.

5 Q. Because your design didn't limit it?

6 A. (Knepper) Because now your design isn't limiting that  
7 downstream pressure above the MAOP, first of all, under  
8 Operations, you got to stay within the MAOP. But, if  
9 you do go above it, 201, there's another provision that  
10 they have in the Design. I better have relief  
11 "sizing", and the key word is "capacity". This is all  
12 about "capacity" of that relief valve or worker  
13 regulator to be able to do those things.

14 Q. Thank you. Mr. Burnell, you were asked a bunch of  
15 questions about your report, the satisfactories and  
16 unsatisfactories, and quotations from Section 739. Do  
17 you recall that?

18 A. (Burnell) Yes.

19 Q. Ultimately, of course, the NOV did not allege any  
20 violations of 739, is that right?

21 A. (Burnell) Correct.

22 Q. And, did that change from what you had put in your  
23 report, discussion of 739, to the NOV, which was to the  
24 others, is that part of that review and discussion

1 process that we talked about? Meaning, you brought  
2 back your report, you talked about it, and a NOV came  
3 out of the process?

4 A. (Burnell) Yes.

5 Q. Mr. Knepper, there's been testimony highlighting the  
6 fact that the violation was from the MAOP of 56 to  
7 57.2, and suggesting that was a "minor overpressure".  
8 Do you recall that, those kinds of questions?

9 A. (Knepper) Yes.

10 Q. Can you explain to us why -- let me back up. Does  
11 MAOP -- does 619 that sets -- that prohibits exceeding  
12 MAOP give any room for "small violations"?

13 A. (Knepper) No, it does not. Size, how much that you go  
14 over. It doesn't say for what duration. It just says  
15 "you shall not exceed".

16 Q. Does that provision that prohibits exceeding MAOP ask  
17 why, the intent behind the overpressure? Whether it  
18 was on purpose? Whether it was this kind of mistake or  
19 that kind of mistake?

20 A. (Knepper) I do not see that language there.

21 Q. Can you tell us why Staff's position is that this is  
22 worthy of an NOV, "even though it was only 1.2 over  
23 MAOP"? Why is that bright line so important to Staff?

24 A. (Knepper) I believe that the MAOP is a bright line,

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1 that you should not exceed it, because you would be  
2 infringing upon the safety factors built into the Code.  
3 And, so, if you step over it, you, in fact, are  
4 diminishing that safety factor. I don't believe that's  
5 a good practice to do. 630 says "you shall not  
6 operate". It's very clear. There's lots of language  
7 in the Code that talks about "coulds" and "shoulds" and  
8 stuff like that that we can't use in our state rules,  
9 they do. This one says "shall not" or "must not", I'd  
10 need to look to see if it says "must" or "shall", but  
11 it was -- it's pretty explicit.

12 Q. There was a question about the location of a sensor  
13 that read 6 -- 57.2, and the other points on the system  
14 that did not read numbers over 56. My question is,  
15 does it matter for an MAOP violation where in the  
16 system the pressure exceeded MAOP?

17 A. (Knepper) No. To me, the system is starting after the  
18 point that the regulator is at. So, downstream,  
19 whether it's one foot, two foot, five miles, ten miles,  
20 the Code doesn't say. It doesn't put those kind of  
21 restrictions or limitations. Doesn't talk about the  
22 size of the pipe. It just says, let me read it, "No  
23 person may operate a segment of steel at a pressure  
24 that exceeds the MAOP." And, so, it's not really

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1 "shall not", it's not "must not". It says "No person  
2 may operate a segment". So, you look at that as a  
3 definitive absolute under 619(a).

4 Q. Finally, there were a number of questions about the  
5 e-mails and the communications with PHMSA over  
6 Northern's letter. And, you received a copy of  
7 Northern's letter, you forwarded to Mr. Burnell, and  
8 you asked him if that was consistent with what he  
9 observed, and the same with Mr. Blenton -- Blanton.  
10 And, then, counsel pointed out your later e-mail in  
11 January, when you had, I forget the word, but concerns  
12 or problems with some of the information in Northern's  
13 letter. Do you recall those exchanges?

14 A. (Knepper) Yes.

15 Q. This morning. Okay. Did you document anywhere what  
16 your concerns with Northern's letter to PHMSA were?

17 A. (Knepper) We documented, basically -- so, you have to  
18 always remember the timing of these e-mails, and when  
19 things were issued and things like that. That's all  
20 important. But we've documented within the Notice of  
21 Probable Violation, I believe I said "Here are some of  
22 my observations of that letter."

23 MR. SHEEHAN: If I may, I've got a copy  
24 of that Notice of Probable Violation. If I could have it

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 marked for identification, number "3", I believe.

2 CHAIRMAN HONIGBERG: This will be  
3 "Exhibit 3".

4 (The document, as described, was  
5 herewith marked as **Exhibit 3** for  
6 identification.)

7 BY MR. SHEEHAN:

8 Q. And, this is the NOPV for the Portsmouth station,  
9 correct?

10 A. (Knepper) Yes. It says "Notice of Probable Violation",  
11 correct.

12 Q. And, this is a document where you listed those concerns  
13 that you had about the Northern letter?

14 A. (Knepper) They're listed under "Unitil submission of  
15 interpretation to PHMSA".

16 Q. The third page?

17 A. (Knepper) Correct.

18 Q. And, I'm not going to go through them in detail, but  
19 these are the concerns that you had that you reference  
20 in your e-mail that counsel went over with you this  
21 morning?

22 A. (Knepper) These are the ones that I wrote that I don't  
23 believe that they were accurately characterized.

24 Remember, this is not our letter. This is Unitil's

1 letter to PHMSA.

2 Q. None of these observations, comments, whatever you want  
3 to call them, challenge the accuracy of the events as  
4 Mr. Burnell observed them and as Mr. Blanton observed  
5 them, correct?

6 A. (Knepper) Correct.

7 Q. So, when Mr. Burnell says "The letter looks good based  
8 on what I observed", you're not undercutting that  
9 statement here, correct?

10 A. (Knepper) Correct.

11 Q. And, the same with regard to Mr. Blanton?

12 A. (Knepper) Correct.

13 MR. HEWITT: Objection. He's asking the  
14 witness to speculate on what Mr. Blanton -- what  
15 Mr. Blanton knew or was between his ears when he typed out  
16 an e-mail.

17 MR. SHEEHAN: The question was --

18 MR. HEWITT: I believe that the document  
19 speaks for itself.

20 MR. SHEEHAN: I'm sorry. The question  
21 was "whether these comments were challenging the facts  
22 that Mr. Blanton confirmed?"

23 CHAIRMAN HONIGBERG: That's how I  
24 understood the question as well.

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 MR. HEWITT: I'll withdraw the  
2 objection.

3 CHAIRMAN HONIGBERG: Do you understand  
4 the question, Mr. Knepper?

5 WITNESS KNEPPER: Could you do it one  
6 more time.

7 BY MR. SHEEHAN:

8 Q. Your comments in this NOPV about that letter did not  
9 challenge Mr. Blanton's statement that "the letter  
10 looked good based on his observations"? You weren't  
11 going to that part of the letter?

12 A. (Knepper) No.

13 Q. You were commenting on other things, the language used,  
14 the characterizations, *etcetera*?

15 A. (Knepper) Remember, I wasn't there. So, I want to make  
16 sure, is it, one, is the flow diagram going in the  
17 direction of what you recall? As well as the date; do  
18 these pressures -- I'm more worried about those kind of  
19 facts because --

20 MR. HEWITT: Objection.

21 **CONTINUED BY THE WITNESS:**

22 A. (Knepper) -- that's what I was --

23 CHAIRMAN HONIGBERG: Sustained.

24 MR. SHEEHAN: I have no further

[WITNESS PANEL: Knepper~Burnell~Vercellotti]

1 questions. And, if we're done with those three, I have no  
2 further evidence.

3 MR. HEWITT: I just --

4 CHAIRMAN HONIGBERG: Commissioner Scott,  
5 you said you have another question?

6 COMMISSIONER SCOTT: Yes. I apologize  
7 for not getting this earlier.

8 BY COMMISSIONER SCOTT:

9 Q. Mr. Knepper, you had mentioned you have a fair amount  
10 of experience with going to Oklahoma to the school for  
11 DOT. I was curious, do they give any guidance, if  
12 there's an appearance of the federal regulation being  
13 in conflict, so one area may seem more strict than the  
14 other, how that should be treated?

15 A. (Knepper) I can speak for myself. So, I don't think  
16 they say one part of the Code takes precedence over  
17 another. Each -- they definitely emphasize that there  
18 are different subparts, and that some subparts are  
19 retrospective, some are forward-looking. You need to  
20 know those kind of things. But I guess I would  
21 characterize the way they put it, is each kind of has  
22 to stand on itself, each section.

23 Q. So, in the context of safety standards, if one standard  
24 appears more stringent, and there's a potential

1 conflict, you don't go with the more stringent  
2 standard?

3 A. (Knepper) Well, in terms of safety, the more stringent,  
4 that when PHMSA refers to "more stringent", they're  
5 talking about states' ability to supplement the rules  
6 with more stringent requirements. That's what they're  
7 talking about. If, for example, if PHMSA says "you  
8 only have to odorize periodically", what does that  
9 mean? The State of New Hampshire says specifically  
10 "you've got to do it every quarter or monthly or  
11 whatever", we are a little bit more detailed as to what  
12 that is. So, that's the "be more stringent" type of  
13 thing. That's when they're talking about "more  
14 stringent".

15 Q. So, let me ask it a different way. In this context, I  
16 think we may have one interpretation says "you can't  
17 period", another interpretation says "there's a  
18 window." So, I would view the "can't exceed period" to  
19 be more stringent. Typically, does, and maybe you  
20 don't have an answer to this, but, typically, does  
21 PHMSA say "you do the more narrow interpretation" or  
22 "the more broad interpretation"?

23 A. (Knepper) I don't believe the two should be compared  
24 against each other.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 COMMISSIONER SCOTT: Okay. Fair answer.  
2 Okay.

3 CHAIRMAN HONIGBERG: Mr. Hewitt, you  
4 were going to say something, I'm sorry?

5 MR. HEWITT: I just have a brief --  
6 brief recross on -- no go?

7 CHAIRMAN HONIGBERG: We don't generally  
8 allow it. What would you want to ask about, if you were  
9 allowed to ask any questions?

10 MR. HEWITT: It's not critical.

11 CHAIRMAN HONIGBERG: Okay. Then, we're  
12 going to allow these witnesses to return to their seats.

13 CHAIRMAN HONIGBERG: All right. We're  
14 going to take a quick break for Mr. Patnaude, just five  
15 minutes or so. And, when we come back, we'll have your  
16 witnesses, Mr. Hewitt?

17 MR. HEWITT: I'll have a panel of three,  
18 and then a single.

19 CHAIRMAN HONIGBERG: Let's go off the  
20 record for a sec, before everybody walks away.

21 (Brief off-the-record discussion  
22 ensued.)

23 (Recess taken at 2:48 p.m. and the  
24 hearing resumed at 2:58 p.m.)

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 CHAIRMAN HONIGBERG: Mr. Hewitt.

2 MR. HEWITT: Yes. Thank you, Mr.

3 Chairman. I'll call the panel of Company witnesses to the  
4 witness stand. It would be Christopher LeBlanc, Jonathan  
5 Pfister, and Rick Ahlin.

6 (Whereupon **Christopher J. LeBlanc,**  
7 **Jonathan R. Pfister,** and **Rick Ahlin** were  
8 duly sworn by the Court Reporter.)

9 MR. HEWITT: Apologize for the delay.  
10 Mr. Pfister, Mr. LeBlanc, and Mr. Ahlin, good afternoon.

11 WITNESS LeBLANC: Good afternoon.

12 WITNESS AHLIN: Good afternoon.

13 WITNESS PFISTER: Good afternoon.

14 MR. HEWITT: You are being presented as  
15 a panel of witnesses today on behalf of the Company in  
16 this proceeding. In order to try and expedite your direct  
17 testimony, I am going to ask you some foundational  
18 questions, just to get your testimony -- your prefiled  
19 testimony confirmed and admitted into evidence today.  
20 What I'll do is I'll ask a question that will apply to  
21 each of you, and I would ask that you answer them in the  
22 order of Mr. Pfister, Mr. LeBlanc, and Mr. Ahlin, to make  
23 it easier on the court reporter today. Okay, gentlemen?

24 WITNESS LeBLANC: Yes.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 WITNESS AHLIN: Yes.

2 WITNESS PFISTER: Yes.

3 MR. HEWITT: Terrific.

4 **CHRISTOPHER J. LeBLANC, SWORN**

5 **JONATHAN R. PFISTER, SWORN**

6 **RICK AHLIN, SWORN**

7 **DIRECT EXAMINATION**

8 BY MR. HEWITT:

9 Q. Would each of you please state your name and position  
10 with the Company please.

11 A. (Pfister) My name is Jonathan R. Pfister. I'm the  
12 Manager of Gas System Operations for Unitil.

13 A. (LeBlanc) My name is Christopher J. LeBlanc. I'm  
14 Director of Gas Operations for Unitil.

15 A. (Ahlin) My name is Rick Ahlin. I'm Supervisor of Gas  
16 Operations for Northern Utilities/Unitil.

17 MR. HEWITT: And, Mr. LeBlanc, would you  
18 please pull your microphone a little bit closer to you, so  
19 we have your audio. Thank you.

20 WITNESS LeBLANC: I'm sorry. It wasn't  
21 on.

22 BY MR. HEWITT:

23 Q. And, gentlemen, each of you have prepared and filed  
24 prefiled testimony that has been submitted to the

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Commission in this proceeding. Was that testimony that  
2 either you prepared personally or was prepared with  
3 your assistance?

4 A. (Pfister) Yes.

5 A. (LeBlanc) Yes, it was.

6 A. (Ahlin) Yes, it was.

7 Q. And, do you have any corrections that you need to make  
8 to that testimony as you sit on the witness stand  
9 today?

10 A. (Pfister) No, I do not.

11 A. (LeBlanc) Yes, I do. On Page 25 of 26 of  
12 LeBlanc/Pfister testimony, Line 8.

13 CHAIRMAN HONIGBERG: Wait.

14 WITNESS LeBLANC: Oh, I'm sorry.

15 CHAIRMAN HONIGBERG: Okay.

16 **CONTINUED BY THE WITNESS:**

17 A. (LeBlanc) The sentence reads "temporary pressure to 72  
18 psig for a system with an MAOP of 56 psig." The "72"  
19 is a typo, and it should read "62 psig".

20 BY MR. HEWITT:

21 Q. And, Mr. Ahlin, do you have any corrections to your  
22 testimony today, sir?

23 A. (Ahlin) No, I do not, sir.

24 Q. Okay. And, with the correction that Mr. LeBlanc just

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 placed on the record today, if I were to ask each of  
2 you gentlemen the questions that are in your prefiled  
3 testimony, if I were to ask you those orally today,  
4 would you provide answers today on the record that are  
5 substantively equivalent to the answers that are in  
6 your prefiled testimony?

7 A. (Pfister) Yes.

8 A. (LeBlanc) Yes, I would.

9 A. (Ahlin) Yes.

10 MR. HEWITT: And, I'd just like to have  
11 a brief direct examination based on -- additional direct  
12 examination based on the evidence that we've heard today?

13 CHAIRMAN HONIGBERG: Understood.

14 MR. HEWITT: Okay. Thank you.

15 BY MR. HEWITT:

16 Q. Gentlemen, during the Commissioners' questioning of  
17 Staff a few moments ago, an issue was raised or a  
18 question was asked about "whether the Company could  
19 effectively demonstrate how the monitor regulator would  
20 take control of system pressure, in the event of a  
21 failure of a worker regulator?" Do you recall those  
22 questions?

23 A. (LeBlanc) Yes.

24 Q. Okay. And, I believe, paraphrasing, Staff's suggested

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1           that, under the current configuration, that there  
2           would -- it would be a simple endeavor to perform that  
3           task. Do you recall that?

4   A.    (LeBlanc) Yes.

5   A.    (Ahlin) Yes.

6   Q.    Okay. And, do you agree with Staff's assessment on  
7           that issue?

8   A.    (LeBlanc) No.

9   Q.    And, could you please explain why you disagree with  
10          that.

11   A.    (Pfister) It would be very difficult to perform a test  
12          of the monitor set point without a flow condition in  
13          progress.

14   Q.    So, when you say "a flow condition", you mean that gas  
15          or something needs to be flowing through that regulator  
16          run?

17   A.    (Pfister) Yes.

18   Q.    And, simply isolating, and we have here a one-line  
19          diagram in the hearing room that I believe we've  
20          already stated on the record is an enlargement of  
21          Attachment B to the Pfister/LeBlanc testimony, there  
22          are some -- it looks like isolating ball valves, the  
23          2-inch -- the "2-inch BV" symbol that is shown on  
24          Attachment B?

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) That is correct.

2 Q. Okay. So, is there a way that you could simply isolate  
3 either the downstream supply or take some other step  
4 through manipulating these ball valves, in order to  
5 perform the test that Staff suggested could be  
6 performed?

7 A. (Pfister) To provide adequate flow through the  
8 regulators to perform a reasonable, functional lock-up  
9 test, you'd have to make piping modifications that  
10 would include larger vents than currently exist.

11 Q. When you say "larger vents than currently exist", could  
12 you explain that further please.

13 A. (Pfister) Typically, in these stations, there are small  
14 threadolet connections, small vent connections, maybe  
15 half-inch diameter, that do provide some venting that  
16 is used in a lock-out test. But, to actually test how  
17 the monitor takes control of the system under flowing  
18 conditions, you'd need much greater flow than those  
19 half-inch vents can provide.

20 Q. And, provide an example, if you would please, of what  
21 would be necessary. And, I'm not asking you to do a  
22 complete engineering design. But, just to give the  
23 Commissioners a sense of magnitude, what sort of  
24 modifications would be necessary.

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (Pfister) To simulate what a real flow condition would  
2 be, you'd probably want to install full-size piping,  
3 the size of the regulators that are in place.

4 Q. And, these are 2-inch regulators that are in place?

5 A. (Pfister) These are 2-inch regulators.

6 Q. So, you'd need to install 2-inch steel pipe?

7 A. (Pfister) Two-inch steel pipe, vents to atmosphere,  
8 valving.

9 Q. And, would you have any reason to install -- well, let  
10 me start. Would you have any reason to make that sort  
11 of a modification to the system, other than to perform  
12 this sort of a test that Staff has suggested?

13 A. (Pfister) No, we wouldn't.

14 Q. Okay. And, is there a methodology that the Company  
15 actually uses to adjust and establish the set points  
16 for its worker and monitor regulators in a station such  
17 as New Hampshire Ave?

18 A. (Pfister) There is a process that we use to check for  
19 lock-up and establish the set point of the monitor  
20 regulator.

21 Q. Okay.

22 A. (Pfister) And, Mr. Ahlin can explain that in greater  
23 detail, if you'd like.

24 Q. And, is that something that's done under flow

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 conditions?

2 A. (Ahlin) No.

3 A. (Pfister) No.

4 Q. Okay. Is it done in a way then to ensure that  
5 downstream piping does not see any pressure that  
6 exceeds MAOP?

7 A. (Ahlin) Yes. It's isolated.

8 Q. Okay. And, Mr. Ahlin, I believe in your testimony,  
9 sir, you actually provide a detailed explanation. And,  
10 if you turn to your testimony at Page 8 of -- 8 of 9  
11 and to the top of Page 9 of 9, is that an accurate  
12 description of the procedure that the Company uses to  
13 set regulator set points on a worker/monitor  
14 configuration, such as in the station that we're  
15 discussing today?

16 A. (Ahlin) Yes, it is.

17 Q. Okay. So, in other words, you're able to establish  
18 these set points without having to perform the type of  
19 system modifications that would be necessary in order  
20 to do the testing that Staff suggested would be simple  
21 to do?

22 A. (Ahlin) Yes.

23 Q. And, before Staff showed up to do the inspection last  
24 June the 25th, did they inform you ahead of time what

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 they wanted, what they were expecting you to do when  
2 they came in for their inspection that day?

3 A. (Ahlin) No.

4 Q. Mr. Ahlin, when you did find out that Staff wanted you  
5 to simulate for them, not once, but twice a simulated  
6 failure of the worker regulator at the station?

7 A. (Ahlin) After they were on-site.

8 MR. HEWITT: I have no further questions  
9 on direct for the panel. No, I'm sorry. I do have one.

10 CHAIRMAN HONIGBERG: Oh, you had my  
11 hopes up there.

12 MR. HEWITT: I didn't mean to dash them,  
13 Mr. Chairman. I apologize.

14 BY MR. HEWITT:

15 Q. Mr. LeBlanc, also, while Staff was being examined by  
16 the Commissioners, I think I -- I don't know if I heard  
17 the term "bright line" used during the examination, but  
18 at some point I've heard the term used with respect to  
19 "bright line" and "619", and how 619 is an absolute  
20 limitation on exceedance of MAOP. Are you familiar  
21 with the testimony that I'm referring to?

22 A. (LeBlanc) Yes, I am.

23 Q. Okay. And, is that statement by Staff consistent with  
24 statements that Staff made during discovery?

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) No, it is not.

2 Q. And, can you please explain to the Commissioners why it  
3 is not?

4 A. (LeBlanc) If you refer to Exhibit 2, Tab 11, Staff --  
5 oh, I'm sorry. In Staff's response to Company Request  
6 1-28, where we asked Staff "when is it permissible to  
7 exceed MAOP in accordance with Code provisions?" And,  
8 they provided in their response that "Subpart K in  
9 Uprating, Subpart J in Pressure Testing, and Subpart L  
10 - Operations (starting and shutting down a pipeline)."

11 Q. So, with regard to Subpart L (starting up and shutting  
12 down a pipeline), do you know what the provision is  
13 that's, and I don't mean to put you on the spot on the  
14 stand, but do you recall what that provision is in the  
15 Code?

16 A. (LeBlanc) It's under 605(b), I believe. And, it says  
17 "start up and shut down of a pipeline must be in  
18 accordance with the pressure limits set forth in Code."  
19 I can --

20 MR. HEWITT: Okay. And, we can look --  
21 we can locate that in the briefing for the Commissioners.  
22 Thank you.

23 CHAIRMAN HONIGBERG: Now you're done?

24 MR. HEWITT: Now I'm finished. Thank

1 you.

2 CHAIRMAN HONIGBERG: Mr. Sheehan.

3 MR. SHEEHAN: Thank you. I intend to go  
4 through each of your testimonies and ask questions in that  
5 order. But, given counsel's questions on this isolated  
6 issue, why don't I hit that one first.

7 **CROSS-EXAMINATION**

8 BY MR. SHEEHAN:

9 Q. Mr. Pfister, you testified that "it would be very  
10 difficult", "expensive", whatever word you want to use,  
11 "in order to isolate one of these regulators to test  
12 the set point and whether it worked." Is that fair?

13 A. (Pfister) Yes.

14 Q. And, you described "there would have to be new piping"  
15 and all that stuff?

16 A. (Pfister) To do the type of -- to do the type of test  
17 with a failed regulator, failed worker regulator, as  
18 occurred at New Hampshire Ave, you would have to have  
19 flowing conditions to perform the same test, to  
20 determine -- make the same determination, but isolated  
21 from the downstream system.

22 Q. And, by "flowing conditions", just to make sure I  
23 understand you, we've got the regulator monitor we're  
24 looking at.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (Pfister) Yes.

2 Q. And, we want to make sure something's going through it,  
3 gas or air or something else, --

4 A. (Pfister) Yes.

5 Q. -- that simulates the gas, so that we can see how it --  
6 the pressure builds up and it reacts and it takes  
7 control of the pressure. Is that a fair statement?

8 A. (Pfister) Yes, it is.

9 Q. And, you say, to isolate that, either -- okay. But,  
10 Mr. Ahlin, you testified that there's a procedure in  
11 your testimony that does allow you to isolate. And,  
12 can you explain what you're talking about that's  
13 different than what Mr. Pfister is talking about?

14 A. (Ahlin) The only thing that you're verifying, as my  
15 testimony stated was, you can verify the set point.  
16 That's all you can verify.

17 Q. Okay. So, the procedure you described, and we'll cover  
18 it in a bit, does not verify whether the monitor  
19 actually holds at that set point or close? You're not  
20 testing that. Is that fair?

21 A. (Ahlin) Not under flowing conditions.

22 Q. Okay. Mr. Ahlin, you were present when these tests  
23 took place, right?

24 A. (Ahlin) Yes, I was.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. And, you agree that Mr. Burnell was speaking to you  
2 mostly about what to do and how to do it, *etcetera*?

3 A. (Ahlin) Yes. That's correct.

4 Q. And, did you ever tell him "we can't do that test that  
5 you want us to do"?

6 A. (Ahlin) No, I did not.

7 Q. You told your technicians to proceed?

8 A. (Ahlin) I relayed directly what Mr. Burnell told me to  
9 do.

10 Q. And, did your technicians follow the procedure that  
11 you've laid out in your testimony?

12 A. (Ahlin) No.

13 Q. Okay. What procedure did they follow?

14 A. (Ahlin) The one that Mr. Burnell told us to take on.

15 Q. He told you to fail the worker regulator?

16 A. (Ahlin) Yes, he did.

17 Q. And, did you know when -- did you know, that if a  
18 worker regulator was going to be failed there, there  
19 was a risk that the monitor wouldn't keep it under  
20 MAOP?

21 A. (Ahlin) Would you rephrase that.

22 Q. Sure. It's a terrible question. At the time you're  
23 telling your technicians to "fail the worker", did you  
24 understand that your monitor may not keep pressure

{DG 15-121} {08-19-15/Day 1}

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 under MAOP?

2 A. (Ahlin) That's always a possibility. It's a piece of  
3 equipment.

4 Q. Okay. And, yet, you asked your technicians to do it  
5 anyway?

6 A. (Ahlin) Under Mr. Burnell's request.

7 Q. And, you're telling me that, if you had said to  
8 Mr. Burnell "Dave, I'm not sure this is the right way  
9 to do it, because", and you explained, that he would  
10 still insist that you do it?

11 A. (Ahlin) That's --

12 MR. HEWITT: Objection. Objection.  
13 Calls for speculation.

14 CHAIRMAN HONIGBERG: Mr. Sheehan.

15 MR. SHEEHAN: I think it's a reasonable  
16 hypothetical of how much authority or not this gentleman  
17 thinks Mr. Burnell has to order what they are conceding --  
18 contending are unsafe conditions.

19 CHAIRMAN HONIGBERG: Overruled. You can  
20 answer.

21 **BY THE WITNESS:**

22 A. (Ahlin) I think he does have the power to do that.

23 BY MR. SHEEHAN:

24 Q. And, --

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (Ahlin) It would be --

2 Q. Go ahead.

3 A. (Ahlin) It would be equivalent, they're the safety  
4 office, they're equivalent to a law enforcement office.

5 Q. Okay.

6 A. (Ahlin) You obey the officer.

7 Q. And, so, you didn't think to say "Dave, our set point's  
8 55, the MAOP is 56. I'm not sure this is going to stay  
9 under 56, can we do it a different way?" You didn't  
10 offer that?

11 A. (Ahlin) No. There was not that conversation.

12 Q. Okay. I'm going to start and walk through the  
13 LeBlanc/Pfister testimony. So, if you guys could open  
14 it. To begin, Mr. LeBlanc, the first couple of pages  
15 of the testimony are your background and your  
16 qualifications. The top of Page 3, it says you have  
17 been "Operator Qualified in 84 covered tasks". Tell me  
18 briefly what that means to be "Operator Qualified".

19 A. (LeBlanc) "Operator Qualification" is a testing  
20 protocol to ensure that technicians in the field are  
21 qualified to perform the functions of those tasks. So,  
22 anyone doing work on the distribution system or the  
23 transmission system, in operations, maintenance or  
24 construction, must be Operator Qualified to actually

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 perform those tasks. So, I've passed those tasks. So,  
2 I'm qualified to actually perform them, as well as  
3 supervise others that actually perform them in the  
4 field.

5 Q. Who administers those tests?

6 A. (LeBlanc) We are -- the Company is part of the  
7 Northeast Gas Association's Consortium for the Regional  
8 Operator Qualification Program. So, the testing is  
9 administered through the NGA.

10 Q. And, the NGA has courses on various topics related to  
11 these issues?

12 A. (LeBlanc) Yes, they do.

13 Q. And, they're taught by people like Mr. Knepper and  
14 Mr. Sher?

15 A. (LeBlanc) They are industry experts. Subject matter  
16 experts provide that type of training.

17 Q. And, do these Operator Qualifications have a time limit  
18 on them?

19 A. (LeBlanc) Yes, they do.

20 Q. And, does it vary or is it the same for each one?

21 A. (LeBlanc) It's varied.

22 Q. You write in your testimony that you have been Operator  
23 Qualified "including those in the 60 Series that  
24 directly relate to pressure regulation and the

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 operation and maintenance of regulator facilities".

2 A. (LeBlanc) That is correct.

3 Q. Are you currently qualified in those areas?

4 A. (LeBlanc) I do believe my qualification testing has  
5 expired.

6 Q. Okay. Mr. Pfister, you described your title just now  
7 and in your testimony as "managing all of Unitil's gas  
8 system operations". Can you tell me how -- the  
9 relationship between the two of you, in the corporate  
10 structure, if you will?

11 A. (Pfister) Between myself and Mr. LeBlanc?

12 Q. Yes.

13 A. (Pfister) Mr. LeBlanc is the Director of Gas Operations  
14 for Unitil. I'm the Manager of Gas Systems Operations.  
15 There is also a Manager of Gas Distribution.

16 Q. So, is he your boss? Are you his boss?

17 A. (Pfister) Chris is my boss.

18 Q. Okay. And, so, under him is you and another person?

19 A. (Pfister) Yes.

20 Q. Okay.

21 A. (Pfister) That's correct.

22 Q. And, I have the same question for you, Mr. Pfister,  
23 about the OQ qualifications on Page 4. You list that  
24 you've been "qualified in numerous tasks, including

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 those in the 60 Series". Are those qualifications  
2 current?

3 A. (Pfister) A portion of those qualifications are  
4 current. I'm sorry. Are current, a portion of those  
5 qualifications are current.

6 Q. And, --

7 A. (Pfister) Some have expired as recently as last year.

8 Q. Okay. And, are the ones related to the 60 Series  
9 current or not?

10 A. (Pfister) Some of the 60 Series are current, some are  
11 not.

12 Q. Now, the rest of the testimony, it's not clear who's  
13 giving the answer. So, as we go through, if the two of  
14 you can jump in as appropriate, because I'm not sure  
15 who -- who I'm talking to, if you will.

16 On Page 8, on Lines 13, 14, 15 -- well,  
17 actually, 14, "Because a monitor regulator is a  
18 mechanical device, there is an inherent build-up in  
19 pressure that the system will experience before it  
20 takes control". Can you see that?

21 A. (LeBlanc) Yes.

22 Q. And, as regards to the New Hampshire Ave Station, prior  
23 to this test, did you know what the inherent build-up  
24 would be for those monitors at that location?

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) No, we did not.

2 Q. In your experience with the monitor -- with the  
3 regulators, and similar regulators, I understand they  
4 probably run quite a range, what kind of variation do  
5 you get in that build-up? What's the range of build-up  
6 that you see in your monitor regulators?

7 A. (LeBlanc) The build-up pressure, there's a lot of  
8 variables that go into what the build-up pressure would  
9 be. Upstream pressure, downstream pressure, the  
10 differential between the two, flow rates going through  
11 that regulator, the type of failure of the actual  
12 regulator itself. Was it a full failure? Was it a  
13 partial failure? So, you change any one of those  
14 variables, and the build-up pressure for that regulator  
15 to take control will vary. So, it's very difficult to  
16 perform a precise calculation on what the build-up  
17 pressure is. What we do know, though, is -- excuse  
18 me -- is the lock-up pressure for that regulator, for  
19 that, that model over there, the pilot will lock up at  
20 2 pounds.

21 So, the regulator, when that -- if the  
22 set point is at 55, and the pressure gets to 57, that  
23 regulator or that pilot will initiate a lock-up, which  
24 will initiate a complete shutdown of that regulator.

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 So, the maximum build-up pressure would be somewhere  
2 between set point and when that regulator goes into  
3 lock-up, which would be 2 pounds for the configuration  
4 of that regulator.

5 Q. But didn't the -- assuming the facts in this case, that  
6 it was set at 55, and it went to 57.2, and then settled  
7 back to 55, wasn't was a 2.2 build-up?

8 A. (LeBlanc) Correct. And, that 0.2 is the mechanical  
9 function of that regulator. So, when that regulator  
10 actual sees 57 pounds, or 2 pounds above the set point,  
11 it's initiating a lock-up. There is a -- there is --  
12 it's a mechanical device, so it has to have time to  
13 respond, which would correspond to that 0.2, while that  
14 regulator took -- that took control and shut down flow.

15 Q. So, there are two build-ups. There's the build-up  
16 above here the set point of 55, and that you say, if it  
17 gets to that 2 pounds, another mechanism happens that  
18 has a 0.2 build-up?

19 A. (LeBlanc) I wouldn't characterize the 0.2 as a  
20 "build-up". I would characterize it more of is that  
21 regulator is initiating shutdown and lock-up, it's the  
22 time period while it does that.

23 Q. Okay. But here it didn't lock up. It hit 57.2, and  
24 then my understanding is it so-called "took control"

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 and the pressure returned to 55?

2 A. (LeBlanc) And, that's how that regulator would  
3 function. So, when it saw 52, it would initiate a  
4 lock-up. As the downstream pressure dropped to set  
5 point, that regulator will assume control and start --  
6 and start regulating downstream pressure. That's the  
7 way that regulator is designed.

8 Q. Okay.

9 A. (LeBlanc) So, it has the lock-up pressure and it would  
10 actually shut down flow. Now, we had customers that  
11 are downstream and they're actually drawing gas. So,  
12 the pressure in the system is dropping down. When that  
13 regulator -- or, the pilot of that regulator sees set  
14 point of 55, it is going to open back up and it is  
15 going to start regulating flow. So, that's not a  
16 permanent shutdown. It's the shutdown of the regulator  
17 when it reaches that max set point of that spring  
18 range.

19 Q. So, the unknown build-up is, and again using this  
20 example, is how much above 55 this regulator will take  
21 to work. It could be 55.5, it could be 56.1, depending  
22 on all those conditions you mentioned?

23 A. (LeBlanc) All those conditions would go into the  
24 determination of build-up pressure. Change any one of

1 those conditions --

2 Q. Right.

3 A. (LeBlanc) -- and the actual build-up pressure would  
4 change.

5 Q. But you're saying that, regardless of that, once you  
6 hit the 2, you're going to have an automatic door  
7 close?

8 A. (LeBlanc) It's going to be -- it's going to initiate --  
9 the pilot is going to shut down and initiate lock-up,  
10 which, in turn, is going to shut down the regulator.

11 Q. And, is that lock-up sequence always 2 above wherever  
12 you set it?

13 A. (LeBlanc) That depends on the spring that is in there.

14 Q. Okay. But, in this case, that's what it was?

15 A. (LeBlanc) There's a blue spring in there.

16 Q. And, that means 2?

17 A. (LeBlanc) Two pounds. And, actually, if you refer to  
18 Exhibit 2, Tab 15, and it would be the last page of  
19 that exhibit, or "Page 54 of 108".

20 Q. Yes.

21 A. (LeBlanc) And, you see "Pilot Performance". That's the  
22 last table of that page, it's titled "Pilot  
23 Performance"?

24 Q. Yes.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) All right. And, you go halfway down, halfway  
2 down that table, where it says a "Spring Range" of "25  
3 psig to 90 psi", "blue" spring. And, there's a little  
4 line there. The lock-up, the lock-up for that spring  
5 is 2 psi.

6 Q. Okay.

7 A. (LeBlanc) So, when that pilot sees the 2 psi, again, it  
8 will lock up, and, in turn, shut down the regulator.

9 Q. Okay. So, again, just for an example, if you had put  
10 the spring on the bottom of that chart in this  
11 particular regulator, it would wait 10 above the set  
12 point before it engaged?

13 A. (LeBlanc) Yes. But you couldn't use that --

14 Q. Right.

15 A. (LeBlanc) -- because the pressure range for that is --

16 Q. Got it.

17 A. (LeBlanc) Okay.

18 Q. Okay. So, that means you had, at this station, a two  
19 monitor regulator set at 55, you didn't know what the  
20 build-up would be, but you did know there would be a  
21 drop-dead, for lack of a better word, of just about  
22 2.2?

23 A. (LeBlanc) It would -- the regulator would initiate a  
24 lock-up at 2 pounds.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. Okay.

2 A. (LeBlanc) And, in this instance, the time it took for  
3 that regulator to seize control and lock up was 0.2 of  
4 a pound.

5 Q. So, I understand there's a dispute in this room over  
6 whether going over 56 under these circumstances is  
7 allowed or not. But it's fair to say you knew that  
8 this system could go over 56 with this particular set  
9 up under less than emergency conditions, correct?

10 A. (LeBlanc) No.

11 Q. You don't agree with that?

12 A. (LeBlanc) No, I do not.

13 Q. Okay. The next, Page 9, Lines 14-15, there's a  
14 statement that, before you bought, "you" meaning  
15 Unitil, bought this system, "Northern routinely  
16 established set points for monitors above MAOP", is  
17 that true?

18 A. (LeBlanc) That is correct. "At or above MAOP".

19 Q. Page 11, Line 7, you talk about Code Section "192.141".  
20 First, this is not a Code section that is in the NOV,  
21 correct?

22 A. (LeBlanc) That is correct.

23 Q. And, it's a Design portion of the Code?

24 A. (LeBlanc) That is the -- that is the scope of Subpart

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 D. So, NOPV violations, you cited "195", which is a  
2 Design violation. To put Subpart D into context, you  
3 actually have to refer to 141, which actually outlines  
4 what the scope of that subpart entails.

5 Q. And, 141, the Subpart D - Design, tells you what you  
6 must build? Even though that's a poor word, but what  
7 you must build?

8 A. (LeBlanc) Well, it does two things. It prescribes the  
9 minimum requirements for the design and installation of  
10 pipeline components and facilities. So, in this  
11 instance, it would be the regulator station itself and  
12 the pipe, but it also -- Subpart D does another item.  
13 It prescribes the requirements relating to the  
14 protection against accidental overpressurization. So,  
15 it's setting the parameters of overpressure protection  
16 of the system.

17 Q. The design parameters for over protection --  
18 overpressure?

19 A. (LeBlanc) It's under the design, but it would be the --  
20 it would be the parameters that we would use as we  
21 establish overpressure protection requirements.

22 Q. Right. But you understand the distinction between  
23 "design parameters" and "operating parameters", do you  
24 not?

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) That is correct.

2 Q. Okay. And, these are the design parameters?

3 A. (LeBlanc) That is correct.

4 Q. And, you agree with the basic concept that you design  
5 for more stress than you want to operate in, as a broad  
6 statement?

7 A. (LeBlanc) There is -- There is safety factors built  
8 into the design. But, in regards to overpressure  
9 protection, when we actually test the system and  
10 maintain the system, it refers to 201 as we do that.  
11 So, those are the requirements. If you go to 201, it  
12 talks about the "capacity" and "set to operate".

13 Q. Right.

14 A. (LeBlanc) And, then, each year, under 739, when we  
15 actually go out and actually test our overpressure  
16 protection, we're testing it to the requirements of  
17 201.

18 Q. We'll get there in a minute.

19 A. (LeBlanc) All right.

20 Q. But this section in front of us now, sort of a scope  
21 statement, is a design scope, and it's talking about  
22 the design requirements relating to these overpressure  
23 devices?

24 A. (LeBlanc) Yes. It covers design, as well as

1 overpressure protection.

2 Q. And, I understand, as we get into more --

3 MR. HEWITT: I'm sorry. Can the witness  
4 please finish his response before we start the next  
5 question?

6 MR. SHEEHAN: I apologize.

7 **BY THE WITNESS:**

8 A. (LeBlanc) It covers the design of the facilities and  
9 the components, and also covers the parameters for  
10 overpressure protection.

11 BY MR. SHEEHAN:

12 Q. The next page, or Page 12, you make a reference to a  
13 section of your manual, and that is attached as an  
14 Attachment J. And, again, an overview, the Operations  
15 Manual is the document that governs all aspects of  
16 these issues and others, is that correct?

17 A. (LeBlanc) That is correct.

18 Q. And, the Manual is an important part, as we heard from  
19 the Staff, that one thing they do is they look at  
20 manuals, to make sure they say what they should say,  
21 correct?

22 A. (LeBlanc) That is correct.

23 Q. And, it needs to comply with the Code and it needs to  
24 comply with whatever requirements are out there, but

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1 primarily the Code, is it not?

2 A. (LeBlanc) That is correct.

3 Q. And, if there's a problem with the Manual, that's  
4 something Staff can point out, "your manual says X, it  
5 should say Y"?

6 A. (LeBlanc) That is correct.

7 Q. And, sometimes you make those changes?

8 A. (LeBlanc) That is correct.

9 Q. And, it's your obligation to operate according to your  
10 Manual?

11 A. (LeBlanc) That is correct.

12 Q. And, it's an obligation to have your Manual be  
13 consistent with the Code?

14 A. (LeBlanc) That is correct.

15 Q. And, if you fail on those steps, those are separate  
16 violations, correct?

17 A. (LeBlanc) That would be correct.

18 Q. Next, Page 13, it talks about "was the entire system  
19 pressurized at 57.2?" Starting at Line 13 on Page 13.  
20 And, I'll pick up from questions that we had --

21 A. (LeBlanc) Page 13?

22 Q. Yes.

23 A. (LeBlanc) Okay. I'm here.

24 Q. Sure. Line 13. There were some questions before about

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1 where the pressure was recorded that was at 57.2, and  
2 you agree that that pressure was recorded, as we saw in  
3 those photos, somewhere in that regulator station  
4 southbound, if you will, of the regulators?

5 A. (LeBlanc) That is correct.

6 Q. And, do you agree with the statement that "the MAOP  
7 requirement applies there", at that physical location?

8 A. (LeBlanc) Could you repeat the question please.

9 Q. Sure. The MAOP 619 says "you shall not operate any  
10 segment of pipe above MAOP." That rule applies right  
11 where that gauge was that read "57.2". Do you agree?

12 A. (LeBlanc) We would agree, during normal operations, 619  
13 would require us not to exceed MAOP.

14 Q. I understand there's still the disagreement about  
15 whether 57 is above MAOP. But the rule of MAOP --

16 A. (LeBlanc) No. The MAOP of that system is 56 pounds.  
17 The pressure that was recorded at that gauge is  
18 57 pounds. So, we would agree that pressure exceeds  
19 the MAOP of that system.

20 Q. Okay. Does it really matter what the pressure is a  
21 mile away, two miles away, for purposes of this case?

22 A. (LeBlanc) Yes. I believe it puts it into context.

23 Q. Okay. And, so, is that the argument that "57 isn't too  
24 bad"?

1 A. (LeBlanc) No. That's not the argument.

2 Q. So, what's the context you want?

3 A. (LeBlanc) That the pipe that saw the 57.2 for a brief  
4 duration during a stimulated emergency was 1 --  
5 2.2 pounds above MAOP. We wanted to actually bring to  
6 the context of what was the entire system pressure  
7 seeing at that point in time. So, the context was,  
8 yes, six feet away from that simulated emergency, a  
9 pressure gauge saw 57.2 pounds, which it exceeded MAOP.  
10 And, if that was occurred during natural operations, we  
11 would agree it's a violation of 619.

12 We just wanted to make it clear that the  
13 entire system, that system is 80 miles of pipe, over a  
14 thousand services, 5,000 customers on that, that the  
15 piping downstream of that, at our two SCADA points, did  
16 not even register that it was seeing those pressures.

17 Q. Okay. If you turn to Attachment A to your testimony,  
18 that's the map?

19 A. (LeBlanc) That is correct.

20 Q. And, the New Hampshire Station is labeled with red type  
21 in the middle upper left of the map?

22 A. (LeBlanc) That is correct.

23 Q. And, the two SCADA points, one of them is the Barberry  
24 Station, that's pretty much dead-center of that map, is

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1           that correct? It's a little hard to see, but it's in  
2           yellow. Yes?

3   A.    (LeBlanc) That's correct.

4   Q.    And, it's sort of right above the typed word --

5                               (Court reporter interruption.)

6   BY MR. SHEEHAN:

7   Q.    -- "Portsmouth", the typed word "Portsmouth"?

8   A.    (LeBlanc) That is correct.

9   Q.    And, where is the other station where your other SCADA  
10         point was, Borthwick, I believe?

11                              MR. HEWITT: No, that's Marcy.

12                              WITNESS AHLIN: Marcy Street.

13   BY MR. SHEEHAN:

14   Q.    Marcy Street, I'm sorry.

15   A.    (Ahlin) It is close to Marcy Street.

16   Q.    Where is Marcy Street on this map?

17   A.    (Ahlin) It's near the water.

18   A.    (LeBlanc) It's at the water.

19   Q.    That's the point furthest to the right that's labeled  
20         in yellow?

21   A.    (LeBlanc) That is correct.

22   Q.    How many regulator stations would the gas go by between  
23         New Hampshire Ave to those two SCADA points?

24   A.    (LeBlanc) That would depend on the flow characteristics

1 of the system at the time.

2 Q. One or two or three, possibly, depending how it goes?

3 A. (LeBlanc) It could be. But possibly none as well.

4 Q. Okay. If you turn to Page 15 of 26, the question on  
5 the bottom. The question written is "How did the  
6 station design comply with 195(a)?" You see that?

7 A. (LeBlanc) Yes.

8 Q. And, you understand that the alleged NOV was 195(b)?

9 A. (LeBlanc) That is correct.

10 Q. Okay. Turn the page again to 17. And, this is the  
11 question "How did it comply with 195(b)?" And, you  
12 have highlighted language -- you don't have  
13 highlighted, I have highlighted language, Line 20 and  
14 21 is a quote from the Code, correct?

15 A. (LeBlanc) That is correct.

16 Q. And, I have highlighted "that will be experienced in  
17 normal operation of the system". Do you see that  
18 language?

19 A. (LeBlanc) That is correct.

20 Q. And, this Code is -- this section is saying, this is  
21 part of the Design Code, correct?

22 A. (LeBlanc) That is correct.

23 Q. So that there shall be designed to "have pressure  
24 devices", and I'm skipping over some words, "capable of

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 meeting the pressure...and other conditions that will  
2 be experienced in normal operation", right?

3 A. (LeBlanc) That is correct.

4 Q. So, normal operation you have to be ready for, is what  
5 they're saying?

6 A. (LeBlanc) That is correct.

7 Q. The second part of it, (2), you also have to have "a  
8 design that prevents overpressuring", correct?

9 A. (LeBlanc) That is correct.

10 Q. Okay. And, your interpretation is that  
11 overpressuring -- well, let me ask you. If there's  
12 normal operation, could normal operation ever result in  
13 overpressuring?

14 A. (LeBlanc) Inadvertently, yes.

15 Q. Okay. So, if you have normal operation resulting in  
16 overpressuring, your system has to be designed to catch  
17 that, according to this, what we just read?

18 A. (LeBlanc) That is correct.

19 Q. And, if there's abnormal operation, your system should  
20 be designed to catch that as well, correct?

21 MR. HEWITT: Objection. Just to the  
22 term "catch that", I'm not sure what that --

23 MR. SHEEHAN: Fair enough. I'm trying  
24 not to use the same phrase 77 times.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 MR. HEWITT: And, I'm not trying to be  
2 difficult, Michael.

3 MR. SHEEHAN: Sure.

4 MR. HEWITT: I'm sorry. This is -- I'm  
5 not sure I understand. So, if I don't understand, I'm not  
6 confident my witness does.

7 CHAIRMAN HONIGBERG: Mr. Sheehan will be  
8 happy to reword the question.

9 MR. HEWITT: Thank you.

10 BY MR. SHEEHAN:

11 Q. So, the question was, this is a Design section, and (a)  
12 requires that your design be sufficient to make sure  
13 MAOP is not -- let me ask, that, in normal operation,  
14 it will be capable of meeting the pressure requirements  
15 of MAOP, correct?

16 A. (LeBlanc) That is correct.

17 Q. And, Section (b) says it also has to "prevent  
18 accidental overpressuring"?

19 A. (LeBlanc) That is correct.

20 Q. And, I was asking, sometimes normal operation can  
21 result in accidental overpressuring, and your system  
22 should be able to handle that, correct?

23 A. (LeBlanc) There is circumstances when, under normal  
24 operations, you could exceed MAOP. Not in the type of

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

- 1 installation set points that we use here at Unitil.  
2 For example, if your working regulator, which is the  
3 regulator that is operating under "normal operating  
4 conditions" was set too close to MAOP, those regulators  
5 will not hold a steady pressure. If you looked at the  
6 charts that, for every change in inlet pressure, you'll  
7 have a slight change in outlet pressure. So, if your  
8 set point of your working regulator was set at MAOP or  
9 slightly below MAOP, and you had those slight  
10 fluctuations in inlet pressure, there is instances  
11 where you could exceed the MAOP. Our set points are  
12 set well below MAOP. So, we would not experience that  
13 type of overpressurization. And, that's why we do  
14 that. So, we would not have inadvertent  
15 overpressurization during normal operations.
- 16 Q. So, what I'm hearing is you've designed your system  
17 through a set point on your workers to avoid any  
18 overpressuring?
- 19 A. (LeBlanc) Under normal operating conditions.
- 20 Q. And, this requirement of -- under (2) is that it also  
21 applies to abnormal operating conditions, does it not?
- 22 A. (LeBlanc) It would be designed so as to prevent  
23 accidental overpressurization.
- 24 Q. Under that --

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) And, in this configuration, the monitor  
2 regulator meets the Code requirements of 195(b),  
3 because that is going to, in case there is a failure of  
4 the regulator, the monitor regulator will take over the  
5 system and prevent accidental overpressurization.

6 Q. And, there's the rub of the dispute, is it not? You  
7 think -- your position is, if we're having an  
8 overpressure event, your monitors are set right next to  
9 MAOP, and they may slide in above MAOP, and that's  
10 okay, if it's an abnormal event, according to you, is  
11 that right?

12 A. (Pfister) What we're saying is that, under an emergency  
13 condition, and such as the event of a worker monitor --  
14 a worker regulator, the monitor, while it's in the  
15 process of shutting the system down or controlling the  
16 system, will allow it to exceed MAOP to the extent that  
17 we saw in New Hampshire Ave. But, then, as it  
18 completely closes the regulator and modulates the flow,  
19 it comes back and holds at the set pressure below the  
20 MAOP.

21 Q. You used the word "emergency", right?

22 A. (Pfister) "Emergency condition", yes.

23 Q. And, isn't that the gist of 201, and that's a design  
24 for pressure that you need to handle in an emergency

1 condition, that 6 psig cushion?

2 A. (Pfister) That's the pressure, the build-up pressure  
3 that would be allowed, in the event of an emergency  
4 condition, such as a failed worker.

5 Q. Okay. I'll take issue with your last sentence, let's  
6 move -- the last phrase, let's move that aside for a  
7 minute. We agree, do we not, that that cushion, that's  
8 my word, the 6 psig above NOV, that cushion is -- you  
9 need to design that cushion so that you can  
10 appropriately handle an emergency condition. Is  
11 that -- do you agree on that statement?

12 A. (Pfister) Would you rephrase that, that sentence.

13 Q. Sure. The cushion above MAOP that 201 discusses, that  
14 cushion, the ability to go into that cushion, is  
15 designed as a design parameter in case of an emergency  
16 condition. Do you agree with that?

17 A. (Pfister) Yes. I'd agree with that.

18 Q. And, your last statement was "such as the failure of a  
19 worker/monitor". Do you believe that a failure of a  
20 worker/monitor is an emergency condition?

21 A. (Pfister) I think it could constitute either an  
22 abnormal operating condition or an emergency condition.

23 Q. Depends on what happens, right?

24 A. (Pfister) No.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. Okay. So, then, which is it?

2 A. (Pfister) If you want to use the word "emergency", if  
3 we were to encounter a failed worker regulator, and we  
4 saw on our SCADA system or wherever, that we were up  
5 above the normal set point of that system, we would  
6 consider that an emergency condition where we would  
7 respond immediately to address the situation.

8 Q. If your monitor regulators did their job and kept the  
9 pressure -- controlled the pressure, we'll put aside  
10 exactly what number it went to, that would not be an  
11 emergency condition, correct?

12 A. (Pfister) We would still consider that an emergency  
13 condition.

14 Q. And, you have protocols for emergency conditions, do  
15 you not?

16 A. (Pfister) Yes, we do.

17 Q. When there's an emergency condition, you have to take  
18 certain actions, you have certain reporting  
19 requirements with the Commission, *etcetera*?

20 A. (Pfister) That's correct.

21 Q. So, you're telling me that, if a worker/monitor failed,  
22 your pressure went to 57.2 somewhere in the system, you  
23 would declare an emergency and start the whole  
24 emergency process?

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1 A. (Pfister) We would make the emergency notifications  
2 that are required by the 500 rules.

3 Q. And, this is -- and, this is with your monitor  
4 regulator doing its job?

5 A. (Pfister) Yes.

6 A. (LeBlanc) And, in addition to the reporting  
7 requirements, we would respond -- we would respond to  
8 that failed worker regulator as an emergency and take  
9 all necessary actions to identify the cause and to  
10 correct the situation and to ensure safety.

11 Q. You're aware that PHMSA disagrees with you on that  
12 point, are you not?

13 A. (LeBlanc) No, I'm not.

14 Q. Turn to Tab N of your testimony. This is -- we were  
15 looking at the draft of the letter in the e-mail. This  
16 is the letter itself from PHMSA. The very last  
17 paragraph, "Conducting a simulated test on a pressure  
18 limiting or regulator station that is not isolated from  
19 the system does not constitute a system emergency." Do  
20 you see that?

21 A. (LeBlanc) Yes, I do.

22 Q. So, why is that any different? You failed the worker  
23 on that test. Why is that any different than the  
24 situation you described for me that was an emergency?

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) I believe PHMSA -- PHMSA took exception to  
2 the test that was performed. So, if you read in the  
3 response above, "emergency", and I'll be -- in Response  
4 2, and I'll start at the beginning. It says "No, the  
5 operator does not violate 192.201(a) as long as the  
6 MAOP limits are met during a system emergency and the  
7 pipeline meets the subpart D - Design of Pipeline  
8 Components and requirements." So, and to read on, "In  
9 this case, the emergency operating limit is 62 psi (56  
10 plus 6). Emergency operating conditions are only  
11 allowed for the time required to activate the  
12 overpressure protection device."

13 So, PHMSA -- PHMSA recognizes that, when  
14 we had a failed worker, and we go on the monitor, and  
15 it is active, it is an emergency condition. What PHMSA  
16 took exception to was that -- what they're saying is  
17 "the test that we performed was a simulation, it wasn't  
18 an actual emergency." So, it wasn't that a failed --  
19 they weren't saying that "a failed worker is not an  
20 emergency", what they said is "simulating a failed  
21 worker, when you don't isolate that, it's not an  
22 emergency."

23 So, in real-life -- in real-life  
24 conditions, we have a failed worker regulator, we would

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 view that as an emergency condition, and, in accordance  
2 to PHMSA, they would recognize that as well.

3 Q. You can go back and forth on that. But, just to finish  
4 the thought, you have a worker regulator at 50 or 52,  
5 you have a monitor regulator at 55, that's designed to  
6 keep the pressure from going too high, and if --

7 A. (LeBlanc) It's overpressure protection.

8 Q. Right. And, if you fail -- if the worker fails, and  
9 the monitor does its job perfectly, it is your position  
10 that's an emergency?

11 A. (LeBlanc) That is correct.

12 Q. Okay. Now, turning to -- turn to your testimony,  
13 Page 21, the question is whether the testing with the  
14 simulated failure "presented a danger to the public",  
15 and you say "no", correct?

16 A. (LeBlanc) That is correct.

17 Q. That is not the standard for a MAOP violation, correct?

18 A. (LeBlanc) That is correct.

19 Q. We, at Staff, do not have to prove a danger in order to  
20 provide -- to prove an MAOP violation?

21 MR. HEWITT: Objection.

22 CHAIRMAN HONIGBERG: Grounds?

23 MR. HEWITT: He's asking the witness to  
24 form an opinion of what Staff's enforcement authority is.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 I'm not sure he's here to testify on that issue.

2 CHAIRMAN HONIGBERG: Mr. Sheehan.

3 MR. SHEEHAN: His testimony is full of  
4 opinions on what the Code means and what it doesn't mean.  
5 I can certainly ask him whether he thinks that a Code  
6 requirement has an element of danger or not.

7 CHAIRMAN HONIGBERG: Overruled. You can  
8 answer.

9 WITNESS LeBLANC: Could you please  
10 repeat the question?

11 MR. SHEEHAN: Sure.

12 BY MR. SHEEHAN:

13 Q. A violation of 619 exceeding MAOP does not require  
14 proof of danger, correct?

15 A. (LeBlanc) That is correct.

16 Q. The testimony at the bottom of that Page 21 into 22  
17 talks about hypothetical pressurizing of systems at  
18 very high levels. You agree with me that those are all  
19 hypothetical and do not apply to this situation here,  
20 correct?

21 A. (LeBlanc) Could you please repeat the question.

22 Q. Sure. It's a terrible question. The numbers that  
23 apply here are the 56 MAOP and the pressures that were  
24 actually observed during the test, is that right?

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) Yes.

2 Q. And, whether that physical pipe system could handle 100  
3 or 200 or 300 really plays no role in this case,  
4 correct?

5 A. (LeBlanc) I don't think I'd agree with that.

6 Q. Well, you just told me that "safety is not an issue",  
7 and that safety was not -- you know, that safety is not  
8 an element of an MAOP violation, right?

9 A. (LeBlanc) I don't believe it's a -- in the context of  
10 the NOPV, I don't believe it would have -- could you  
11 repeat the question, because I want to make sure I  
12 understand.

13 Q. I'll move on.

14 CHAIRMAN HONIGBERG: Mr. Sheehan, I  
15 actually think you were fine where you were, and then you  
16 invited him to argue with you. So, --

17 MR. SHEEHAN: I'll move on.

18 BY MR. SHEEHAN:

19 Q. The next bit of testimony, 23, top of 23, you write  
20 that, in order to comply with Staff's view of this  
21 MAOP, you would have to set your monitor at "52-53" and  
22 your worker regulator "in the 49-50 range". Do you see  
23 that?

24 A. (LeBlanc) No.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. Top of 23, Lines 5, 6, 7.

2 A. (LeBlanc) Beginning with "On a system with an MAOP of  
3 56"? Yes. I do see that.

4 Q. And, this goes on to discuss that -- the impairments  
5 that may have on your system, if you had to lower your  
6 set pressures?

7 A. (LeBlanc) That is correct.

8 Q. Is it true that the capacity of this station far  
9 exceeds the gas you actually need to run through it?  
10 You have more capacity than you need to run your  
11 system?

12 A. (LeBlanc) That could be correct. That would be -- I  
13 would have to check the actual, the flow  
14 characteristics of that station.

15 Q. If you turn to Exhibit 22. You there?

16 A. (LeBlanc) Yes. I'm sorry.

17 Q. This is a data response that you and Mr. Pfister  
18 answered?

19 A. (LeBlanc) That is correct.

20 Q. And, disregard the Rutland Street capacities, the  
21 answers under New Hampshire Avenue is what I'm asking  
22 you to look at. And, correct me if I'm wrong, the  
23 average summer demand at that station is 97, and I  
24 think the abbreviation means "thousand cubic feet per

1 hour"?

2 A. (LeBlanc) That is correct.

3 Q. The average winter demand is 215?

4 A. (LeBlanc) That is correct.

5 Q. Peak winter demand is 258?

6 A. (LeBlanc) That is correct.

7 Q. And, the capacity of that regulator is 600, is that  
8 correct?

9 A. (LeBlanc) That is correct.

10 Q. And, that's 600 working within that 56 pound MAOP,  
11 correct?

12 A. (LeBlanc) That is correct.

13 Q. So, doesn't this tell you that you have lots of  
14 capacity at this regulator station?

15 A. (Pfister) What this is saying is how much regulator  
16 capacity there is at that station to deliver into the  
17 distribution system. What it doesn't tell you is what  
18 the demand is downstream on the system or what the  
19 pressure requirements are at the extremities of the  
20 system. So, although there's adequate capacity through  
21 the station, there may not be adequate capacity on the  
22 piping system, on the distribution system, to deliver  
23 that capacity.

24 A. (LeBlanc) At lower pressures.

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 Q. So, you're saying that we have to keep pressures at  
2 whatever number, 50, in order to make all the gas go  
3 where it needs to go?

4 A. (Pfister) Yes. I would say that's accurate.

5 Q. And, 48 won't cut it?

6 A. (Pfister) I couldn't say what the number is, whether it  
7 would be 48 or 49. That was an engineering analysis  
8 that was performed.

9 Q. And, so, the gist of the testimony that I pointed you  
10 to is that, if you're to lower those set points by --  
11 well, 2 or 3 psi's, that would have a dramatic impact  
12 on your ability to serve your customers?

13 A. (LeBlanc) It would have an impact. It would have an  
14 impact on the systems, yes.

15 Q. Later here you're talking about "millions of dollars".  
16 Is it really that kind of impact?

17 A. (LeBlanc) The reduction -- the reduction of the  
18 pressure would reduce the capacity on the system.  
19 Engineering performed a high-level analysis. So,  
20 actually, we can -- let me characterize this into three  
21 areas: Low pressure distribution system and the  
22 intermediate distribution -- intermediate pressure  
23 distribution system, and then, as systems that are  
24 below engineering/design criteria, and then the

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 intermediate pressure system as a whole. So, when you  
2 reduce the -- when you reduce the outlet pressure on  
3 the output of the regulators pressurewise, you're going  
4 to reduce the capacity on the system. And, when you  
5 look at capacity, the way we look at that is you look  
6 at gas molecules. And, you have a system of piping on  
7 that. And, the capacity is the number of molecules you  
8 can actually put in the pipe. That is directly  
9 proportional to the pressure. So, if you increase the  
10 pressure, you can fit more gas molecules in the pipe.  
11 If you reduce the pressure, that's less capacity on the  
12 system.

13 So, when you reduce the -- when you  
14 reduce the outlet pressure of that station, you're  
15 reducing the capacity. So, as the intermediate  
16 distribution system as a whole, we're going to have  
17 reduced capacity on that. That's going to limit the  
18 Company's potential to add new customers and grow.

19 A subset of that intermediate pressure  
20 distribution system, the engineers ran a high-level  
21 analysis of operating that system in the 49 to 50 pound  
22 range. And, a certain number of those systems fell  
23 below the engineering/design criteria, where that would  
24 trigger a -- that require a system improvement. So,

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 the millions of dollars of investment would be, when  
2 the engineers run their analysis, and, on a winter day,  
3 we're below the design criteria, that triggers them to  
4 look at "all right, I need to perform system  
5 improvements to this system to get the capacity back up  
6 and the pressure back up or below, above the  
7 engineering/design criteria.

8 The biggest problem, though, is on the  
9 low pressure distribution system. Because we're  
10 talking about set points for not just IP, but LP  
11 systems, never to exceed MAOP. So, on the low pressure  
12 distribution system, we're going to have to reduce our  
13 set points of those monitors, and, in turn, those  
14 workers. And, a high-level analysis performed by the  
15 engineering group, in winter conditions, is going to  
16 reduce the distribution system pressures to 5 inches or  
17 below, where we could have issues with supplying  
18 customers this winter. They could have performance  
19 problems with their equipment.

20 Q. The other thing you could do is raise your MAOP,  
21 correct?

22 A. (LeBlanc) Not on the low pressure distribution systems,  
23 we could not.

24 Q. No. I mean, at this station?

[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 A. (LeBlanc) The MAOP of that station?

2 Q. Yes.

3 A. (LeBlanc) That could be a possibility. We would have  
4 to look at that. I'm not sure that we could or I'm not  
5 sure that we could not.

6 Q. There's a process provided for in the rules. It's 56  
7 now, you can go through a process to make it 58?

8 A. (LeBlanc) There's a -- it's a process that we'd have to  
9 do analysis. It's not -- we would have to follow a  
10 process to see if that station could be uprated to a 58  
11 or a 59. I don't know if all of the components in  
12 there or all the records in there would allow us to do  
13 that. So, I wouldn't want to say "yes" or "no, we  
14 could do that", because that would speculation without  
15 doing an analysis on that.

16 The system could not be -- the system,  
17 as a whole, though, I do know could not be uprated past  
18 56.

19 CHAIRMAN HONIGBERG: Mr. Sheehan, let's  
20 do a checkpoint on how much more you think you have with  
21 these witnesses?

22 MR. SHEEHAN: I was done with those two  
23 gentlemen. I was going to turn to Mr. Ahlin's testimony.  
24 So, it would probably half as much for him.

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[WITNESS PANEL: LeBlanc~Pfister~Ahlin]

1 CHAIRMAN HONIGBERG: Half as much would  
2 take us for a while, I think. So, this might be a logical  
3 breaking point.

4 MR. SHEEHAN: Agreed.

5 CHAIRMAN HONIGBERG: Let's go off the  
6 record.

7 (Brief off-the-record discussion  
8 ensued.)

9 CHAIRMAN HONIGBERG: Back on. All  
10 right. So, we're going to break for the day. Counsel are  
11 going to confer on the schedule going forward, looking for  
12 a date that we can all be together again. And, we'll also  
13 discuss a briefing schedule for after the hearing is  
14 concluded.

15 If there's nothing else we need to do,  
16 we will adjourn for the day. And, I thank you all.

17 **(Whereupon the hearing was adjourned at**  
18 **4:00 p.m. Following adjournment, this**  
19 **hearing was scheduled to reconvene on**  
20 **August 26, 2015, commencing at**  
21 **9:00 a.m.)**

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