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Mark D. Marini, Secretary
Department of Public Utilities
One South Station, 5th Floor
Boston, MA 02110

Re: Request for Investigation into the Quality and Safety Compliance of Boston Gas Company, d/b/a National Grid, since June 25, 2018, the Commencement of its Lockout of Gas Workers.

Dear Secretary Marini:

The Office of the Attorney General (“AGO”) hereby requests that the Department of Public Utilities (“Department”) exercise its general supervisory authority under G.L. c. 164, § § 76, 105A to open a public investigation into:

1. Boston Gas Company, d/b/a National Grid’s (“National Grid” or the “Company”) compliance with state and federal regulations governing natural gas and pipeline safety since June 25, 2018, the commencement of the Company’s lockout of approximately 1,250 experienced gas workers represented by United Steel Workers (“USW”) Locals 12003 and 12012;
2. The Company’s plan for ensuring safety compliance as the lockout continues over an extended period; and
3. The services that are and are not being provided during the lockout, the quality and safety of those services, and any costs or savings related to the delivery of services or reduction of services during the lockout period.

To ensure that National Grid customers have access to this important information, the Department’s investigation should include public hearings in the Company’s service territory and be conducted in an open and transparent manner.

I. The Department Should Investigate the Company's Compliance with State and Federal Safety Requirements During the Lockout and Future Plans for Compliance.

As the Department knows, well before the lockout, the AGO expressed its concerns regarding National Grid's safety record. Most recently, in National Grid's rate case, the AGO cataloged the Company's many violations of pipeline safety standards since its last rate case. Because of the Company's troubling safety record, the AGO urged the Department to reject the Company's request to establish new customer charges and to address the Company's safety lapses by, among other actions, limiting shareholders' allowed profits.

On June 25, 2018, National Grid locked-out 1,250 experienced steelworkers workers (USW Local 12003 and USW Local 12012) who remain off the job today. National Grid is using replacement workers and its own managers to do the work typically done by the locked-out steelworkers. The Company reports that all the replacement workers and managers are qualified to do the assigned work. Nonetheless, many replacement workers and managers are doing tasks that are not part of their ordinary duties. Some are doing their regular job with a lockout duty job added on top. As the lockout continues into its third month, it appears increasingly unlikely that replacement workers and managers can continue to take on these additional tasks and shifts without significant disruption.

During the lockout, the USW and others have filed with the Department over fifty complaints alleging unsafe working conditions and safety violations at Company work sites. These allegations include incorrect use of equipment, work being conducted without proper oversight, improperly installed equipment, misuse of safety mechanisms, and other failures to comply with Company safety protocols and state/federal requirements. Yet, the public has little to no information regarding whether action by National Grid was necessary to address the alleged infractions, whether National Grid has remedied the violations, the process that the Department is using to investigate the complaints, or whether the Department has taken any actions related to the complaints, including the exercise of its enforcement or penalty authority. It is also not clear to the public how the Company intends to ensure compliance as the lockout continues into its third month and beyond.

Thus, the Department should conduct a public investigation into safety issues during the lockout. This investigation should include the Company's response to the alleged safety violations during the lockout, the status of the Department's review of these complaints, documentation that only trained and qualified workers responded to all emergency and grade one and two leaks, and the Company's plan for maintaining safety as the lockout continues over an extended period.

II. The Department Should Investigate the Services the Company Is Providing During the Lockout, the Quality and Safety of the Service, and the Costs/Savings to the Company Related Thereto.

Every day of the employee lockout, National Grid customers are paying for a service that they no longer receive. When a customer writes a check to pay her National Grid bill, the

customer pays the Company to provide certain services and to maintain and operate its gas system safely and reliably, at least cost. For example, the amount of money that the Company is receiving from customers during the lockout assumes that the Company would be:

- employing a union workforce that is experienced, trained and qualified to ensure safe operation;
- providing its employees with health insurance and other benefits;
- responding to emergencies in accordance with state and federal safety requirements;
- timely conducting all its mandatory safety inspections and leak surveys;
- reducing methane emissions by replacing its cast iron mains in compliance with its Department-approved Gas System Enhancement Plan; and
- connecting new customers and facilitating customers' desire to switch from oil to gas.

It is important for customers to know what part of the service they are paying for is being done and how much money the Company is spending on the lockout. Thus, the Department's public investigation should include (1) an accounting of the Company's incremental expenses and savings during the lockout; (2) a review of the Company's compliance with odor call responses, emergencies and grade one leaks; (3) the status of mandatory inspections (*see e.g.*, 49 CFR Part 192, § § 192.721; 192.723(b); 192.481(a); 220 C.M.R. 113.00); (4) a review of the Company's 2018 GSEP projects; and (5) the status of new customer connections. In addition, the Department should put the Company on notice that shareholders, not ratepayers, will pay any the incremental costs of the lockout and that the Department will not entertain any post-lockout request for special ratemaking treatment or allow unilateral Company action.

III. The Department Has the Authority to Conduct This Investigation.

The Department has the statutory authority to regulate and control the transmission and distribution of natural gas in the Commonwealth. G.L. c. 164, § 105A; *Pereira v. New England LNG Co., Inc.*, 364 Mass. 109 (1973) (in enacting G.L. c. 164, the Legislature intended to give paramount power to the Department to regulate and control the distribution of gas in the Commonwealth). Pursuant to this authority, the Department has established regulations and rules governing the safety of pipeline facilities and the transportation of natural gas. *See* 220 CMR 69.00, 220 CMR 101.00-113.00 (Massachusetts Natural Gas Pipeline Safety Code). The Department has the authority to enforce these regulations as well as the federal pipeline safety standards set forth in 49 CFR Part 192. To determine compliance with these state and federal requirements, the Department may at any time inspect any gas company property. 220 CMR 69.02. The Department has the authority to impose penalties for violations of these state and federal regulations. G.L. c. 164, § 105A; 220 CMR 69.00. The Department's Pipeline Safety Division "acts as the enforcement arm of the [Department], ensuring that operators of natural gas distribution companies . . . are in compliance with state and federal regulations governing safety." *See* <https://www.mass.gov/orgs/pipelinesafetydivision>. The Department also has the authority to regulate a gas company's rates and service quality. *See* G.L. c. 164, § 76. The Department has issued guidelines and regulations that govern service quality and ratemaking.

IV. The Department's Investigation Should Be Transparent and Include Opportunities for Public Involvement.

While the AGO recognizes that the Department has internal procedures for reviewing safety complaints and monitoring service quality and Company expenditures, the AGO believes that the unique nature of the current situation, the large volume of complaints, the length of the lockout, and the public's interest in the matter warrant a more public process. Thus, the AGO recommends that the Department adopt processes for this investigation that enhance transparency and public access. Such processes could include, but need not be limited to, ensuring that public records are readily available for review by the public, conducting public hearings in the service territory, and providing the opportunity for public comment.

Finally, the AGO recognizes that this request impacts the Department's limited resources. The AGO would support any effort by the Department to request federal assistance in the form of temporary inspectors or additional funding to ensure safety during the lockout, if feasible.

Respectfully submitted,

Rebecca L. Tepper

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Service List, D.P.U. 17-170