

**STATE OF NEW HAMPSHIRE****Inter-Department Communication****DATE:** Dec 7, 2016**AT (OFFICE):** NHPUC**FROM:** Randall Knepper, Director of Safety *Randall S. Knepper***SUBJECT:** IR 15-517  
Investigation of Liberty Utilities Keene Operational Event of  
December 19, 2015**TO:** Commissioners  
Debra A. Howland, Executive Director  
John S. Clifford, Hearings Examiner  
Stephen P. Frink, Assistant Director, Gas and Water Division

On March 31, 2016 Staff completed an investigative report of the Keene Operational Event of December 19, 2015. In the report on pages 9 and 10 as well as in detail within Appendix 3, Staff found, overall, Liberty was in compliance with 27 of 31 Puc 500 rules associated with the Operational Event and 10 of 14 federal pipeline safety regulations reviewed as part of the investigation process.

On April 29, 2016, Liberty filed a response to Staff's report. Although Liberty acknowledged the noted rule violations, the Company asserts that the noted rule violations did not cause the operational event. The rules violations are as follows:

- Puc 504.01 (a) Heating Value Requirements
- Puc 504.01 (d) Heating Value Requirements
- Puc 504.05 (c) Emergency Notification
- Puc 504.07 (b) Emergency Response Reporting

Staff notes that Puc 504.01 (a) and (d) are not safety requirements but are service quality requirements while Puc 504.05 (c) and Puc 504.07 (b) are safety requirements. Liberty also stated that they would modify tariffs and procedures going forward to ensure compliance with Puc 504.01 (a) and (d).

In addition, Liberty acknowledged there were violations of:

- 49 CFR Part §192.605 (a) review its Emergency Plan at least once each calendar year at intervals not exceeding 15 months.
- 49 CFR Part §192.605 (e) Surveillance as required by §192.613(a) does not appear within its O&M Manual in effect on Dec 19, 2015 and §192.617 Accident Investigations does not appear within its Emergency Manual nor O&M Manual in effect on Dec 19, 2015 that specifically discusses quality of gas issues as a topic requiring accident reviews. The reviewed manuals only mentions leak repairs.

- 49 CFR Part §192.615 (a) (11) Integrating Actions required to be taken by a controller during an emergency in accordance with § 192.631.

These three violations did occur but again Liberty stated that Staff's report did not indicate that any of these violations contributed to the event.

Liberty did not agree with Staff's position regarding

- 49 CFR Part §192.631 (a) (2) Control Room Management General Requirements, Integration.

Staff comments were based on its review of the December 2014 Control Room Management Plan. Staff did not take into account that Liberty had a more recent plan of July 2015 that included Keene within its Scope of Facilities.

Appendix 3 of Staff's report left open the resolution of compliance actions as "Pending"<sup>1</sup>. The purpose of this memo is close the outstanding issues and recommend closure to the Commission.

In terms of compliance actions that are applicable to this incident, the Safety Division must adhere to the requirements of Puc 511.01 (b) which states "In enforcing safety standards and practices the commission shall consider: (1) Pipeline safety data; (2) The appropriateness and reasonableness of a safety standard applied to a particular incident or circumstances; and (3) Other relevant information regarding the particular circumstances of an incident."

This assumes the traditional role contemplated in Puc 511 ENFORCEMENT PROCEDURES FOR GAS PIPELINE UTILITIES and particularly Puc 511.01 (c) shall be acted by and through the Safety Division.

Thus the Safety Division will complete its duties by issuing probable violations associated with the above mentioned compliance actions but intends to apply the Puc 511.01 (b) (2) and (3) as heavily weighted factors when and if deciding to apply any proposed civil penalties. The Safety Division believes this is also consistent with principles contained in the Commission's Secretarial Letter of DG 16-240 when it stated *"The Commission found that Puc Part 511 is neither onerous nor inapplicable merely because civil penalties may be imposed, or that some of the acts alleged occurred prior to an exchange of company ownership. The Commission found that Puc Part 511 sets forth an expedited, efficient, and cooperative method for determining violations, applying civil penalties when warranted, and achieving compliance with minimum safety standards..."*

The Safety Division believes the remedies for Puc 504.01 (a) and (d) are best left for the Gas and Water Division with potential help from PUC Audit Staff and the Commission to address.

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<sup>1</sup> Page 109 in Appendix 3.

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