

STATE OF NEW HAMPSHIRE

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December 29, 2017

Craig Jennings
Vice President of Operations and Engineering
Liberty Utilities
15 Buttrick Rd
Londonderry, NH 03053

RE: Liberty Utilities, Keene Division
Notice of Probable Violations of Natural Gas Pipeline Safety Act and NH Code of
Administrative Rules Part 500
Control # PS1710LU
Pipeline Affected: CNG, Keene.

Dear Mr. Jennings:

Pursuant to the Natural Gas Pipeline Safety Act, 49 U.S.C. 60101 et seq., applicable state law as set forth at RSA 370:2, and the relevant regulations of the New Hampshire Public Utilities Commission (Commission) N.H. Code Admin. Rules Part Puc 511 (together, the gas pipeline safety laws), the Commission hereby serves upon EnergyNorth Natural Gas d/b/a Liberty Utilities (Liberty) this Notice of Probable Violation pursuant to Puc 511.05 with respect to the installation and construction procedures, performance and documentation for the Production Avenue CNG installation, Keene conversion project in the Keene Division New Hampshire. This does not include the three other divisions within Liberty.

This notice arises from a Commission ordered review by the Safety Division of the documentation and procedures related to pressure testing conducted October 19 and October 20, 2017. The Safety Division also notes on October 17 and October 18, 2017 an oral warning for this project was previously required when the Safety Division Director had to intercede and recommend changes for the piping proposed at and within the decompression skid as submitted by Liberty. Liberty's proposed installation would not have met design, class location and pressure testing requirements potentially not complying with 192.7, 192.5 (b) (3) (ii), 192.105, 192.619, 192.503 (b), 192.503(c) and others regulations. Liberty did make recommended changes to wall thickness of piping and associated design factors and initiated pressure testing. Ultimately, the pressure testing was performed in accordance with 192.503, 192.505, 192.507, 192.509 and 192.517 but Liberty did not follow the adopted written pressure testing procedure for a number of steps in accordance with 192.13 (c).

This notice includes the following single probable pipeline safety code violation.

Probable Violation No.1 Part 192.13 What general requirements apply to pipelines regulated under this part?

Part 192.13 (c)

(c) Each operator shall maintain, modify as appropriate, and follow the plans, procedures, and programs that it is required to establish under this part.

Part 192 is comprised of subparts A through P. The Safety Division alleges that Liberty violated 192.13(c). Subpart J Test Requirements contains established provisions of Part 192 that must be met regarding pressure testing. The Safety Division asserts Liberty was required to follow the customized pressure testing procedure for the newly installed CNG decompression skid. Liberty established but did not follow its customized pressure testing requirements for the CNG tubing located in the decompression skid.

Liberty created a specific SOP for the decompression skid located on Production Avenue that directed Liberty personnel to document several steps that were required for the pressure test. The Safety Division believes that neither Liberty nor the contractor documented all the specific steps within the procedures used during the pressure testing activity. This error then resulted in incomplete documentation and records.

Liberty created a specific SOP for pressure testing sections within the decompression skid. Reference *Liberty Utilities CNG Decompression Project 2017 CNG Test Procedure* developed by APEX Engineering 10-23-17 Revision 3. This pressure test procedure was composed of three testing sequences, TS-30 High Pressure hydraulic test to 6,375 psig for 8 hours, TS-31 Medium Pressure pneumatic test to 2100 psig for 1 hour with a leak test TS-35 and FB-30 Low Pressure pneumatic test to 158 psig for 1 hour.

Within *Liberty Utilities CNG Decompression Project 2017 CNG Test Procedure* are 2 procedures PT-101 Hydraulic Test Procedure and PT-100 Pneumatic Test Procedure.

Procedural Steps not followed or documented for the CNG Test Procedure (General):

7.1 Liberty Utilities –Daily Log was not created or missing documentation. The Safety Division requested all documentation and no daily log sheet was provided.

12.2.1 The pressure recorders and the deadweight tester shall be at the test point end of the section. Liberty did not use a deadweight tester.

12.2.3 A pen temperature recorder shall measure the pipe temperature and another the ambient air temperature. (Liberty only included one temperature recorder).

The documentation of the procedure was October 23, 2017 (revision 3) while the pressure tests were performed on October 19 and 20, 2017. This indicates that pressure tests were performed without finalized procedures. Liberty did not establish the finalized procedure before the test was performed.

In addition the Signature Page for Liberty Utilities APEX Engineering and Express Natural Gas was not completed prior to the test with Names, Signatures and Dates.

Procedural Steps not followed or documented for PT-101 include:

8.1.4 Blind Check List was not created or missing documentation. The Safety Division requested all documentation and no check list was provided.

8.1.7 Thickness of all Test Blinds and locations will be recorded. Thicknesses were not shown.

8.1.8 Identification of location for connection of fill and drainage points not shown. (Liberty failed to identify locations in TS-30)

8.1.13 Location of pressure gauges to be used was not shown at all locations. Liberty did not show on TS-30 the location of pressure gauges or charts.

8.1.14 Temperatures to be recorded for pipe temperature, ambient temperature and ground temperature. (Liberty only recorded ambient temperature.)

8.1.6 Equipment and instrument certifications and calibrations. Liberty did not provide any documentation showing pressure recording chart calibration.

Procedural Steps not followed or documented for PT-100 include:

15.1.4 Blind Check List was not created or missing documentation. The Safety Division requested all documentation and no check list was provided.

15.1.7 Thickness of all Test Blinds and locations will be recorded. Thickness were not shown.

15.1.8 Identification of location for connection of fill and drainage points not shown. (Liberty failed to identify locations in TS-31)

15.1.13 Location of pressure gauges to be used was not shown at all locations. Liberty did not show all locations on TS-31 of pressure gauges or charts.

15.1.14 Temperatures to be recorded for pipe temperature, ambient temperature and ground temperature. (Liberty only recorded ambient temperature.)

15.1.6 Equipment and instrument certifications and calibrations. Liberty did not provide any documentation showing pressure recording chart calibration.

The Safety Division alleges that Liberty did not comply with all the requirements of its own SOP created for these procedures and thus did not comply with Part 192.13 (c).

Civil Penalties

RSA 374:7-a I and II sets the maximum civil penalty that is permissible to match those found in 49 U.S.C. section 60122(a) which is currently limited to a maximum of \$200,000 per violation per day, up to a maximum of \$2,000,000 for a related series of violations.

RSA 374:7-a, III and Puc 511.05(c)(5) require the Commission's Safety Division to set forth the factors relied upon by the Safety Division in making its determination of civil penalties. The factors are essentially identical to the factors that the federal Office of Pipeline Safety has long relied upon in assessing similar penalties under the Natural Gas Pipeline Safety Act. *See* 49 CFR 190.225. The Safety Division considered the severity of not appropriately following the most minimal of federal safety regulations, Liberty's inability to properly follow its own written procedures and maintaining documentation of the steps being completed per the applicable

procedures. Liberty was unfamiliar with referenced ASME regulations and often discussed and referred to the procedures as if they were not their own. The Safety Division also considered the prior history of offenses noting that the inability of contractors and company personnel to follow company procedures has been cited numerous times in the past, the nature and circumstances of the above probable violations, as well as the effect the associated imposition of civil penalties will have on Liberty's ability to continue operations.

In light of these factors, the Commission Staff imposes civil penalties as follows:

| | |
|--|-----------------|
| Probable Violation No. 1 | \$20,000 |
| (Non-compliance with 49 CFR 192.13 (c) General Provisions of Part 192) | |
| TOTAL CIVIL PENALTIES | \$20,000 |

Pursuant to RSA 374:7-a, the company has the right to seek compromise of these penalties. Puc 511.06 requires the company to take one of the following steps:

- a) Upon receipt of the NOPV the respondent shall either:
 - (1) Submit to the commission within 30 days, in writing, evidence refuting the probable violation referenced in the NOPV;
 - (2) Submit to the commission within 30 days, a written plan of action outlining action the respondent will take to correct the violations, including a schedule and the date when compliance is anticipated¹;
 - (3) Execute a consent agreement with the commission resolving the probable violation and remit the civil penalty; or
 - (4) Request in writing within 30 days, an informal conference with the commission staff to examine the basis of the probable violation.
- b) Any utility involved in the NOPV shall provide a representative for any informal conference or hearing scheduled relative to that NOPV.

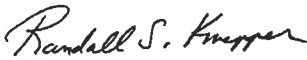
Enclosed is a Consent Agreement that would resolve the civil penalty without need for an informal conference. Liberty may execute the Consent Agreement and remit a check or money order payable to the State of New Hampshire, in the amount of \$20,000. Responses and payments relevant to this notice should reference "PS1710LU CNG Pressure Test" and be directed to the Safety Division Director at the Public Utilities Commission.

¹ This option often does not apply to violations that are written after the violation has occurred. It usually applies only to forward looking violations.

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Alternately, Liberty may file with the Executive Director a request for an informal conference before the Commission within 30 days of receipt of this Notice of Probable Violation in accordance with Puc 511.06.

Sincerely,


Randall S. Knepper
Director, Safety Division

cc: Leo Cody, Liberty, Compliance & Quality Assurance & Emergency Management Manager

enclosure:

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

NOPV CONSENT AGREEMENT

WHEREAS, the New Hampshire Public Utilities Commission (Commission) received evidence that Liberty Utilities (Respondent) committed possible violations of the National Gas Pipeline Safety Act, 49 U.S.C. §60101 *et seq.*, New Hampshire state law and/or Puc 500 (the gas pipeline safety laws);

WHEREAS, after investigation, the Commission then issued a Notice of Probable Violation (NOPV) pursuant to Puc 511.05 on December 29, 2017 against Respondent alleging that compliance violations were discovered after reviewing documentation, procedures and records associated with recordkeeping and the inability to properly follow procedures for pressure tests conducted on CNG decompression skid at Production Avenue, Keene, and that Respondent violated the gas pipeline safety laws; and

WHEREAS, the Respondent was afforded the opportunity pursuant to Puc 511.06 to, as applicable, refute the probable violation referenced in the NOPV, to submit a plan of action outlining action the Respondent will take to correct the violation, to execute a consent agreement to resolve the probable violation and remit any civil penalty, or request an informal conference to examine the basis of the probable violation.

NOW, THEREFORE, the Commission and the Respondent hereby agree as follows:

1. Liberty Utilities violated the gas pipeline safety laws as described in NOPV PS1710LU.

2. A civil penalty of \$20,000 is imposed on the Respondent for the above violation[s], which civil penalty shall be received by the commission on or before January 29, 2018.

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3. The Commission shall pursue no further action against the Respondent arising out of the facts alleged in the NOPV except as provided in paragraph 6 and in order to enforce this Agreement.

4. This Agreement shall not release the Respondent from any claims of liability made by other parties under applicable law.

5. This Agreement shall not constitute a waiver of the Respondent's right to pursue any other party or person for any claims based on facts alleged in the NOPV.

6. This Agreement shall be considered by the Commission in assessing any civil penalties for future violations, if any, of the gas pipeline safety laws.

7. This Agreement shall be construed in accordance with the laws of the State of New Hampshire and the Rules of the New Hampshire Public Utilities Commission.

Dated: December 29, 2017

By: *Randall S. Krueger*
For the New Hampshire Public Utilities Commission

Dated: January 16, 2018

By: *[Signature]*
For the Respondent