



THE COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF PUBLIC UTILITIES

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**NOTICE OF PROBABLE VIOLATION**  
CERTIFIED MAIL – RETURN RECEIPT REQUESTED

March 11, 2020

D.P.U. 19-PL-29

Peter Eichler, President  
Liberty Utilities  
36 Fifth Street  
Fall River, MA 02722

Re: D.P.U 19-PL-29, Liberty Utilities-DIMP

Dear Mr. Eichler:

The Pipeline Safety Division (“Division”) of the Department of Public Utilities (“Department”) issues this Notice of Probable Violation (“NOPV”) to Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities (“Liberty” or “Company” or “Respondent”) pursuant to 220 CMR 69.03 and Delegation Order, D.P.U. 18-44-A (2018). On February 16-17, May 9-10, and June 5-6, 2019, an inspector from the Division conducted an audit including a review of Liberty’s Distribution Integrity Management Program (“DIMP”) plan and records directly related to the DIMP plan, pursuant to G.L. c.164, §§ 76 and 105A and 220 CMR 69.02.

On November 15, 2019, the Division issued an Exit Letter outlining preliminary findings from the inspection, to which the Company responded with further information on December 13, 2019.<sup>1</sup> As discussed in detail below, the Division conducted further investigation into the matter and has reason to believe that the Respondent may have violated 49 C.F.R. Part 192 (“Part 192”).

I. FINDINGS

A. DIMP Plan

1. DIMP Plan: Chapter 3 - Knowledge of the Distribution System

Pursuant to Part 192, § 192.1007(a):

A written integrity management plan must contain procedures for developing and implementing the following elements:

(a) Knowledge. An operator must demonstrate an understanding of its gas distribution system developed from reasonably available information.

(1) Identify the characteristics of the pipeline’s design and operations and the environmental factors that are necessary to assess the applicable threats and risks to its gas distribution pipeline.

(2) Consider the information gained from past design, operations, and maintenance.

(3) Identify additional information needed and provide a plan for gaining that information over time through normal activities conducted on the pipeline (for example, design, construction, operations or maintenance activities).

(4) Develop and implement a process by which the IM program will be reviewed periodically and refined and improved as needed.

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<sup>1</sup> In its response, the Company stated that it intended to make two DIMP-related filings in 2020: a First Revised 2020 DIMP to be filed on or before March 31, 2020, focused primarily on the administrative issues noted by the Division; and another revised DIMP that will redress more programmatic changes that require review and input from the Company’s DIMP committee.

(5) Provide for the capture and retention of data on any new pipeline installed. The data must include, at a minimum, the location where the new pipeline is installed and the material of which it is constructed.

The Division identified the following areas of noncompliance regarding Liberty's knowledge of its system.

- Maximum Allowable Operating Pressures ("MAOPs"): The DIMP plan listed Liberty's distribution system MAOPs as [REDACTED] psig, [REDACTED] psig, and [REDACTED] iwc, but did not mention the following pressures: [REDACTED] psig, [REDACTED] psig, and [REDACTED] psig. Thus, the MAOPs listed in Chapter 3 of the plan were incomplete.
- Pipeline Information: The DIMP plan included a list of pipe sizes by material and pressures (low and intermediate) but did not address Liberty's [REDACTED]  
[REDACTED]
- Risk Analysis of District Regulator and Gate Stations: Liberty maintains and operates [REDACTED] stations and [REDACTED] district regulator stations throughout its distribution system. The [REDACTED] gate station is noted in the DIMP plan as having an inlet of [REDACTED] psig and an outlet of [REDACTED] psig. Liberty indicated that the pressure is reduced from [REDACTED] psig to [REDACTED] psig before going into its distribution system. These types of assets are critical to the operation of Liberty's distribution system, but the Company currently does not have a program in place to perform risk analysis of these facilities.



- Service Regulator Information on new Service Line Installations: Liberty captures service information, which includes location and material of the facility. Nevertheless, Liberty does not capture service regulator information for new installations. Liberty stated that this information is not captured because the meter bar is a prefabricated unit where the regulator information is predetermined. The Company also believes that it is not a federal code requirement. Nevertheless, the Company is currently capturing this information within its leak survey management database. The Company's DIMP committee will explore the best method to incorporate this information into the Company's GIS mapping database going forward.

2. DIMP Plan: Chapter 11 - List of Records and Plan for Gaining Additional Information for Records

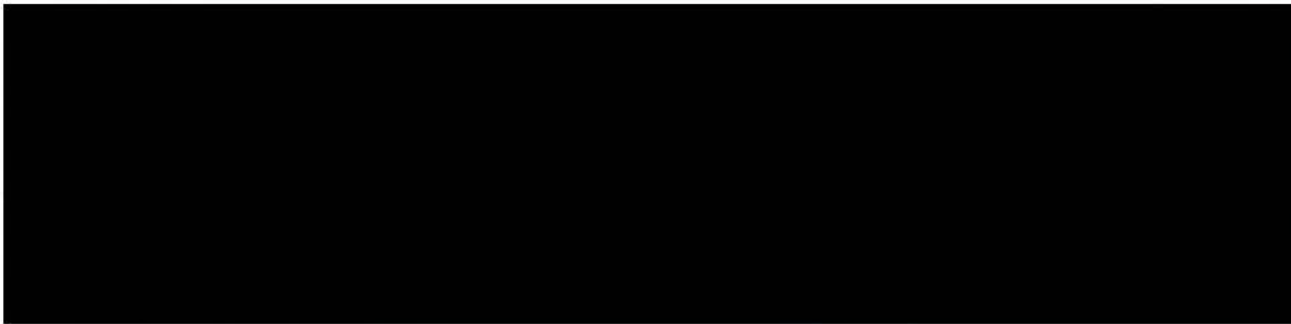
As noted above, Part 192, § 192.1007(a) requires an operator to develop a plan to capture information. Chapter 11 of Liberty's DIMP plan provides a list of records and plans for gaining additional information about its distribution system, and lists several databases that the Company uses to gain information about its distribution system. Nevertheless, the plan does not state that the Company uses its Operating and Maintenance manual ("O&M") to gain additional information, whereas the O&M is a very important factor in capturing the information that is utilized to evaluate Liberty's distribution system. The plan also fails to require personnel to be properly trained to collect and record additional information.


3. DIMP Plan: Chapter 4 – Threat Assessment

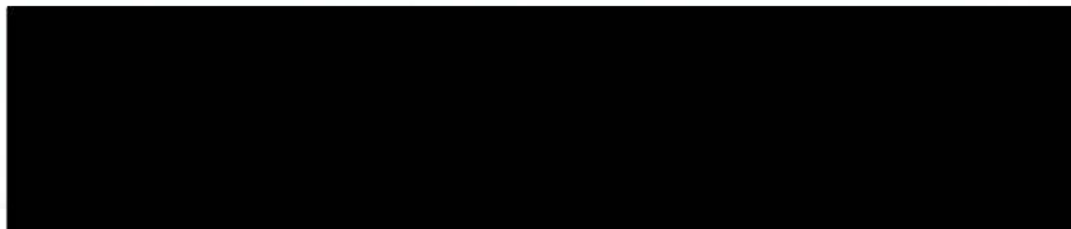
Pursuant to Part 192, § 192.1007(b):

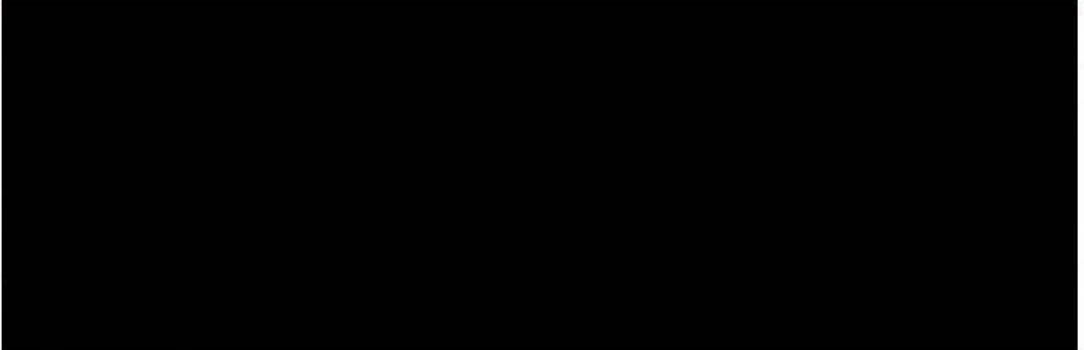
A written integrity management plan must contain procedures for developing and implementing the following elements:

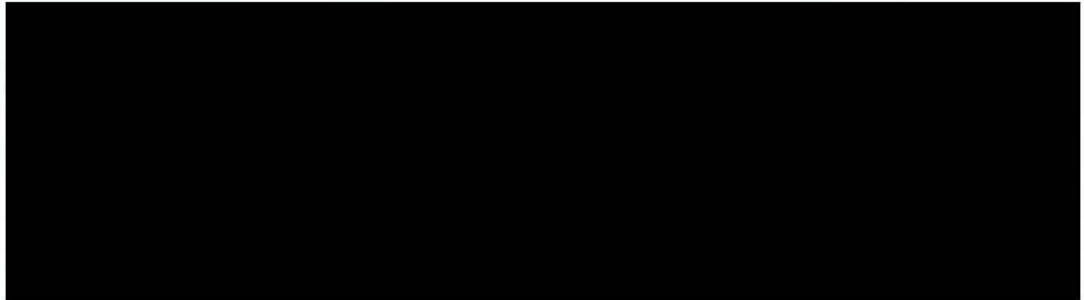
(b) Identify threats. The operator must consider the following categories of threats to each gas distribution pipeline: corrosion, natural forces, excavation damage, other outside force damage, material or welds, equipment failure, incorrect operations, and other concerns that could threaten the integrity of its pipeline. An operator must consider reasonably available information to identify existing and potential threats. Sources of data may include, but are not limited to, incident and leak history, corrosion control records, continuing surveillance records, patrolling records, maintenance history, and excavation damage experience.

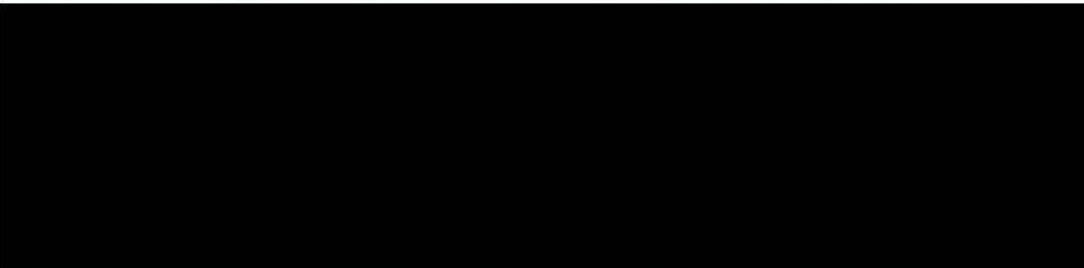


 The threats identified and evaluated (and contained in the Threat Summary Table in Section 4.2 of the DIMP plan) are based on subject matter expert (“SME”) operations experience and leak history from 2013 to 2017. In reviewing the table and the subcategories, the Division found many inconsistencies, as highlighted below:

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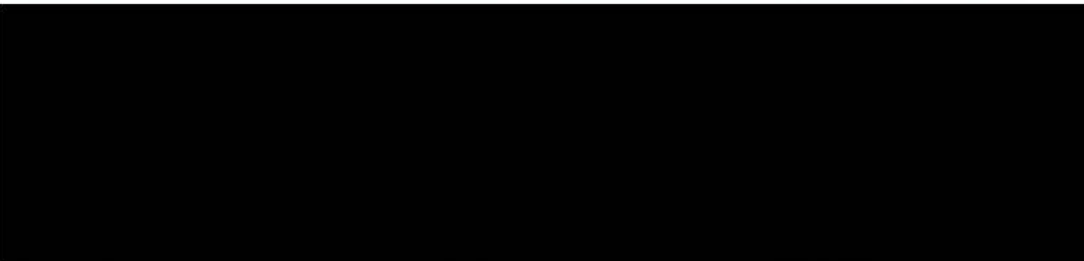
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4. Leak Charts – Chapter 4

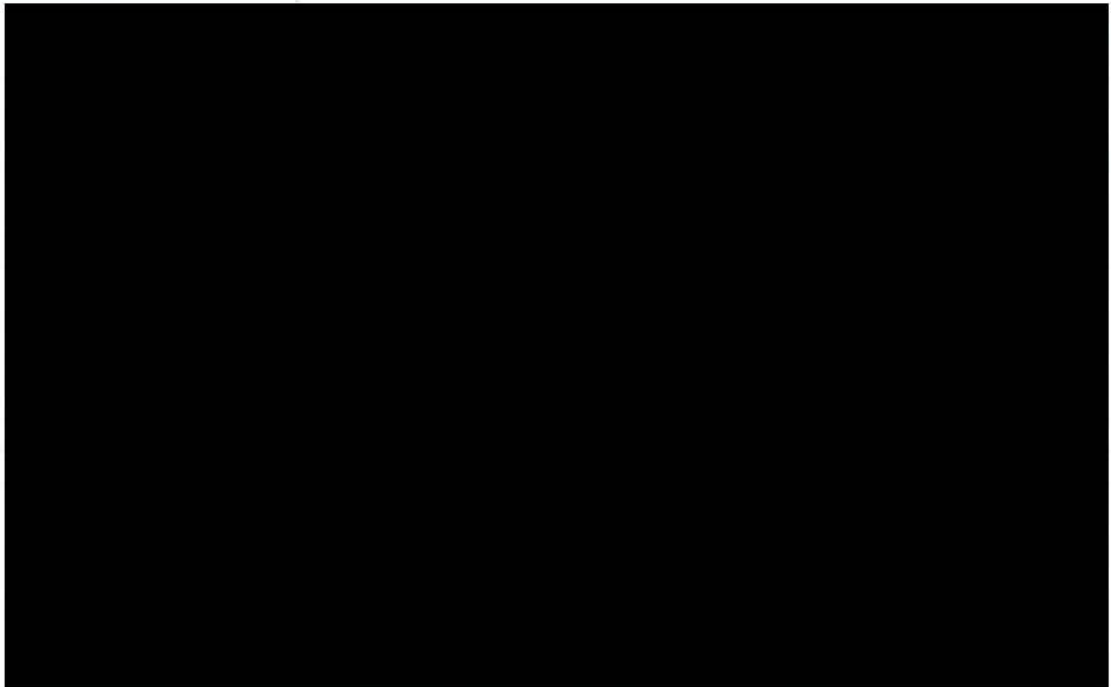
Liberty's DIMP plan used its leak database to establish leak trends from 2013-2017.

The Division reviewed the leak trend tables provided in Chapter 4; the results of the review are discussed below:

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- Corrosion, Section 4.2.1, Mains: Liberty did not address [redacted] in its threat analysis.



- Equipment Malfunction, Section 4.2.2: As part of the equipment malfunction assessment, Liberty did not consider [REDACTED] as a potential threat. This will be reviewed by Liberty's DIMP Committee.
- Excavation Damage, Section 4.2.3: The 2014 number of leaks per mile in Section 4.2.3 [REDACTED] is inconsistent with the number noted in Section 4.2.4 [REDACTED]. They should be the same because they both were [REDACTED] per mile.
- Material and/or Weld Failure, Section 4.2.5: Section 4.2.5 of the Plan states as follows:

[REDACTED]

- Natural Forces/Weather, Section 4.2.6: Section 4.2.6 states that [REDACTED] have a natural forces threat, whereas the Threat Assessment table does not list [REDACTED] as having a natural forces threat. The two should be consistent.
- Natural Forces/Weather, Section 4.2.6: Liberty did not consider [REDACTED] due to freeze ups or snow/ice as a potential threat.



- Natural Forces/Weather, Section 4.2.6: Liberty did not consider [REDACTED] as a potential threat. This will be reviewed by the Company.
- Natural Forces/Weather, Section 4.2.6: This section of the plan provided leaks by year and leaks per mile due to natural forces. In 2017, Liberty noted leaks per mile for [REDACTED], but Liberty did not have any [REDACTED] that year. The Company determined that this inconsistency was due to a mapping error in its GIS.
- Outside Force, Section 4.2.7: Leaks attributed to outside force damage are the result of [REDACTED]. This category also includes [REDACTED] damage. The Threat Assessment table identified existing threats and material categories which were identified as not being a threat. The plan failed to provide an explanation for the assessments that were not listed in Section 4.2.7.
- Liberty's leak repair chart listed two [REDACTED] but [REDACTED] attributed to outside force damage were not identified as a potential threat. This was not discussed in Section 4.2.7.
- Other Threats, Section 4.2.8: Leaks attributed to other threats are caused by [REDACTED] after exceeding the reasonable service life. The Threat Assessment table did not identify threats in [REDACTED]

[REDACTED] whereas the leak repair table in Section 4.2.8 listed leaks in [REDACTED]

- Liberty also has a program to move inside meters outside, but it was not mentioned in the plan.

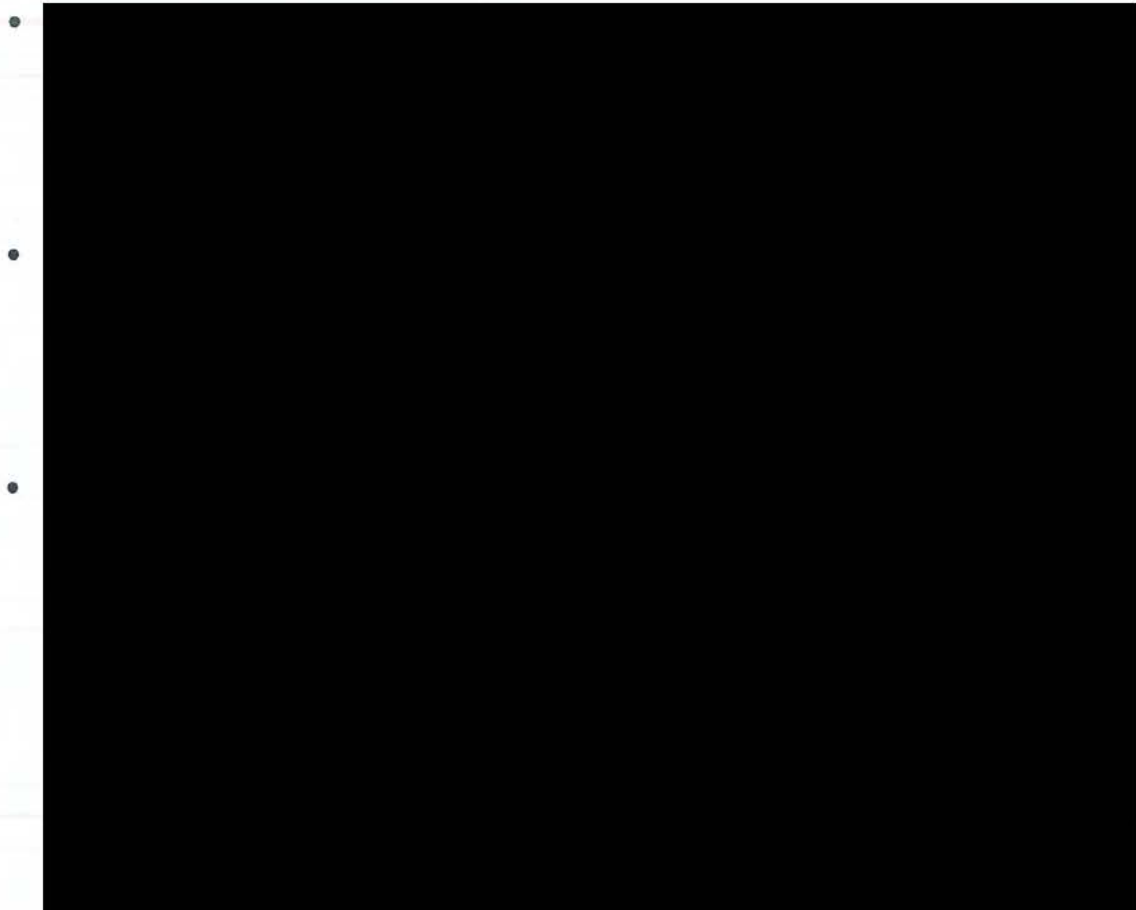
B. Evaluate and Rank Risk

Pursuant to Part 192, § 192.1007(c):

A written integrity management plan must contain procedures for developing and implementing the following elements:

(c) Evaluate and rank risk. An operator must evaluate the risks associated with its distribution pipeline. In this evaluation, the operator must determine the relative importance of each threat and estimate and rank the risks posed to its pipeline. This evaluation must consider each applicable current and potential threat, the likelihood of failure associated with each threat, and the potential consequences of such a failure. An operator may subdivide its pipeline into regions with similar characteristics (e.g., contiguous areas within a distribution pipeline consisting of mains, services and other appurtenances; areas with common materials or environmental factors), and for which similar actions likely would be effective in reducing risk.

In Chapter 5 – Risk Ranking, Liberty provided an overview of the methods used to determine the relative importance of each threat and to estimate and rank the risks posed. The Risk Prioritization model is developed into four areas: main material and leaks, service material and leaks, risk assessment, and prioritization summary. Each section of Chapter 5 includes the following: risk score, trends, and leak data (2013-2017). There are twelve risk priorities. Liberty’s DIMP committee agrees with the risk model prioritization. The results of the Division’s investigation into this area are highlighted below:



C. Identify and Implement Measures to Address Risks

Pursuant to Part 192, § 192.1007(d):

A written integrity management plan must contain procedures for developing and implementing the following elements:

(d) Identify and implement measures to address risks. Determine and implement measures designed to reduce the risks from failure of its gas distribution pipeline. These measures must include an effective leak management program (unless all leaks are repaired when found).

In Chapter 6.2, Liberty's DIMP plan identifies when measures beyond minimum code requirements for DIMP plans (Part 192, Subpart P) are required to reduce risk. The

Division reviewed the threats listed in this section as compared to Chapter 4, with the results highlighted below:

- Accelerated Action: Customer Field Service Department (including leak surveyors) will use technicians to inspect above-ground piping. Liberty did not provide a procedure that requires Customer Field Service Department to inspect for atmospheric corrosion. During the updating of the DIMP plan, Liberty will reference O&M Chapter 8, Section 8I with this section of the DIMP plan.
- Equipment Malfunction (Section 6.2.2): Equipment malfunctions are identified as a threat or a potential threat to the distribution system. To address equipment malfunction threats, Liberty will implement the following accelerated action:



- Excavation Damage (Section 6.2.3): The DIMP plan states that the Gas Distribution Department will perform spot checks on known infrastructure projects occurring throughout the service area that may be close to service



lines. Liberty was unable to provide records to demonstrate that it had performed these spot checks. The DIMP committee will discuss the documentation of these projects with the appropriate personnel in the Company's Construction and Maintenance Department.

- Incorrect Operations, Section 6.2.4: The DIMP plan identifies incorrect operations as a threat or potential threat to the distribution system. Liberty will continue with an annual review of operations and procedures manual and maintaining operator training. If failures due to incorrect operations increase in future years, this action will be reviewed. This section is not consistent with the Chapter 4 Threat Assessment table, which lists no potential threats
- Material and/or Weld Failure, Section 6.2.5: This section of the plan failed to address [REDACTED] plastic stab service valves and permalock mechanical tapping tees mentioned in Section 4.2.5, Material and or weld failure.
- Natural Forces/Weather 6.2.6: Natural forces/weather is identified as a threat or potential threat due to [REDACTED]. In the Threat Assessment table, Chapter 4, [REDACTED] was determined to be a threat, not a potential threat.
- Liberty also provided copies of mechanical fitting failures reports that were reported to the Division. The leak causes were identified as Natural Forces, but the leak repair database did not note the same leaks as being caused by

Natural Forces. Liberty stated that it had changed the leak cause because field personnel had failed to document the correct leak cause and did not communicate the changes to the person entering the information into the leak repair database. Going forward, if a failure is not noted or agreed to during the review process of work orders, a meeting or call will take place, including crew leaders and supervisor to determine and document the type of failure.

D. Measure performance, monitor results

Pursuant to Part 192, § 192.1007(e):

A written integrity management plan must contain procedures for developing and implementing the following elements:

(e) Measure performance, monitor results, and evaluate effectiveness.

(1) Develop and monitor performance measures from an established baseline to evaluate the effectiveness of its IM program. An operator must consider the results of its performance monitoring in periodically re-evaluating the threats and risks.

The results of the Division's investigation into this area are highlighted below:

- External Corrosion Section 7.2.1.2: The DIMP plan states that the Gas Distribution Department -- through the Bass Trigon database, corrosion readings records, and GIS -- will track and review the frequency and discovery, repair, and removal (due to replacement) of leaks/failures caused by external corrosion per mile of main and per "1000 service lines." The plan incorrectly stated 1000 service lines instead of 100 service lines. Liberty determined that this was a typo.

- The DIMP plan states that for external corrosion on the cast, ductile, or wrought iron [REDACTED] portion of the system: “The Gas Distribution Department, through the GIS, will track and review the frequency and discovery, repair, and removal (due to replacement) of leaks/failures caused by external corrosion per mile of main and per 100 service lines.” This section incorrectly mentions service lines even though there are no cast, ductile, or wrought iron services.
- Equipment Malfunction, Section 7.2.2: The DIMP plan states that the Gas Distribution Department has identified the location of [REDACTED] Perfection stab valves within its distribution system containing a manufacturing defect through the Company’s GIS. This section incorrectly addresses stab valves, which should be noted in the Material/Weld Section 7.2.5.
- Natural Forces/Weather, Section 7.2.6: The plan failed to address service line leaks caused by Natural Forces, which were mentioned in Section 4.2.6.

E. Relative Risk Model

In Section 11.2.2, Liberty provided the risk prioritization calculation, which includes threat potential factor, threat consequence factor, and hazard leak factor. Risk prioritization is accomplished manually by the user who assigns the risk priority based on the risk. A greater Material Category Prioritization Score indicates a greater risk of failure. In order to conduct a review of Section 11.2.2, the Division compared Chapter 4, Threat Assessments to



the information provided in this section. The results of the review of the identified leak factors are highlighted below:

- Liberty has plastic Aldyl A service lines within its distribution system. The Risk Model does not include [REDACTED].
- Corrosion Threat Adjustment Factor - [REDACTED] is identified as a threat but is not noted in Chapter 4, Threat Assessment, Section 4.2.1.2. Liberty will review this factor to determine if [REDACTED] should be added to Chapter 4.
- Natural Forces Threat Adjustment Factor - [REDACTED] is identified as a threat but is not noted in Chapter 4, Threat Assessment, Section 4.2.6. Liberty will review this factor to determine if [REDACTED] should be added to Chapter 4.
- Excavation Damages Threat Adjustment Factors - [REDACTED] is identified as a threat but is not noted in Chapter 4, Threat Assessment, Section 4.2.3.
- Excavation Damages Threat Adjustment Factors - [REDACTED] [REDACTED] is identified as a threat but is not noted in Chapter 4, Threat Assessment, Section 4.2.3



- Material/Weld Threat Adjustment Factor - [REDACTED] is identified as a threat but is not noted in Chapter 4, Threat Assessment, Section 4.2.5.
- Subject Matter Experts –Description of the Process to develop this plan states that Liberty should document the process and decisions made during the Risk Ranking Process. Liberty did not provide documentation of SME responses to SME-led decisions.
- Risk Model Hazardous Leaks – The model provided five-year totals for hazardous main and service leaks by material. Nevertheless, the model did not provide hazardous leaks by year, and Liberty did not provide the documentation to support the hazardous leak information provided in the model.

F. Records

Pursuant to Part 192, § 192.1011:

An operator must maintain records demonstrating compliance with the requirements of this subpart for at least 10 years. The records must include copies of superseded integrity management plans developed under this subpart.

Chapter 11, Appendix 11.1 of the plan provides a list of information that needs to be obtained to fill gaps from missing, inaccurate, or incomplete records. Liberty's knowledge of the system should include those characteristics that are needed to assess threats, evaluate risks to the system to identify risk reduction measures, and group facilities with like

characteristics (i.e., manufacturer name, number of turns – critical valves). During the inspection, a review was conducted of missing, inaccurate, or incomplete records that were listed in the 2016 DIMP plan but not in the 2018 DIMP plan. A review was also conducted of the items mentioned in Appendix 11.1. The results of the Division's investigation are highlighted below:

- The Division reviewed field work orders and discovered that field personnel were documenting the type of pipe found. The form identified several different types of pipe except for Aldyl A. This pipe material was missing from the work order.
- The field personnel were also failing to complete the leak cause category on the work order. This information is vital to properly categorizing leaks. When the form is not complete, Engineering identifies the leak cause and updates the leak repair database. This information is not always correct.
- Natural/Other Outside Forces Damages Database, Distribution Department - In Chapter 11, Section 11.1(b), Liberty will remove the reference to above-ground piping and review the section that refers to leaking/nonleaking pipe. Neither reference appeared to meet the database criteria.
- Critical Valves – Liberty provided a list of critical valves throughout its system. The valves are located at [REDACTED] and other areas throughout the system (except regulator stations). The list contains the following

information: valve number, street, inspection dates, percent gas, and number of turns. [REDACTED]

[REDACTED]

[REDACTED]

- Excess Flow Valves (“EFVs”) – Liberty’s GIS includes information regarding the installation of EFVs. The EFVs are documented on work orders that are completed in the field, and that information is uploaded to GIS. Liberty stated that since 2014 and 2015, it has captured the manufacturer information (2014) and size (2015) of each EFV installed on a service line. In reviewing new service line installations records, Liberty captured the size of the EFV but not the manufacturer.



- Liberty's annual reporting form PHMSA F7100.1-1 identified six services with unknown pipe material, and two of those without pipe size. Liberty accessed the pipe inventory database and information regarding those six services. All of the services had size listings, but one service had a pipe size of six inches. This was not consistent with the annual report which listed pipe sizes up to two inches. In addition, Liberty does not have a mechanism in place to capture information that is noted as unknown in its annual report. This information will be captured on a work order if work is done at that particular location, but there are no red flags that would require updating of the Company's pipe inventory. After the audit, Liberty identified the missing information for the unknown services.
- Excavation Damage – Liberty's annual reporting form PHMSA F7100.1-1 provided information regarding the number of excavation tickets as well as a total number of excavation damages by apparent root cause. Liberty did not provide records to substantiate the numbers provided in this document. In addition, the 2015 and 2016 annual reports were not consistent with the leak numbers provided in the DIMP plan. Liberty stated that its 2016 DIMP plan included tables depicting the number of Dig Safe tickets for the last five years, but the current plan does not have that particular table. The Company will reintroduce this table in the First Revised 2020 DIMP.



- Incorrect Operations, Corrosion, Natural Forces Leak Causes – Liberty’s annual reporting form PHMSA F7100.1-1 provided information regarding the number of leaks due to these leak causes, but the 2015 annual report leak numbers were not consistent with the DIMP plan.
- Other Threats – Liberty’s annual reporting form PHMSA F7100.1-1 provided information regarding the number of leaks due to other threats. The 2015 and 2016 annual report leak numbers were not consistent with the DIMP plan.

G. Natural Forces Leak Cause – Section 4.2.6

The Division found the following concerns:

- [REDACTED] North Attleboro (5/9/17) – The Division reviewed the leak repair records for this location which included a completed repair work order, leak investigation form, and leak repair database entries.
  - The work order noted leak cause as Other Cause. This is inconsistent with the leak repair database (2007-2018), which noted the leak cause as Natural Forces. Based on this review, it doesn’t appear that Liberty is reviewing the repair database entries to ensure consistency with field documentation.
  - The leak classification form did not include a complete leak investigation. The technician did not completely identify the leak migration area.

- [REDACTED] Swansea (1/20/17) – The Division reviewed the leak repair records for this location which included a completed repair work order, leak investigation form, and leak repair database entries. The work order noted leak cause as Material Failure. This is inconsistent with the leak repair database which noted the leak cause as Natural Forces (2007-2018). Based on this review, it doesn't appear that Liberty is reviewing the repair database entries to ensure consistency with field documentation.

H. Work Order Inconsistencies

The Division Reviewed Section 4.2.8 of the plan that provided leak repairs for leaks from other threats for plastic service lines. Liberty provided records for the following locations: [REDACTED] Fall River; [REDACTED] Somerset; and [REDACTED] North Attleboro. The review of leak repair records included the repair work order and leak investigation form. The result of the review are noted below:

- [REDACTED] Fall River (2/21/17) – The repair work order was not consistent with Section 4.2.8. It stated the leak cause to be corrosion instead of other threat cause.
- [REDACTED] Somerset (6/13/18) – The repair work order did not provide a leak cause as required, but the crew noted the leak to be a mechanical fitting (stab). There was no leak cause checked off. The leak was not repaired within one year of discovery. The leak investigation form for this

location did not include the investigation of any other homes in this area. It appears that a complete leak investigation was not performed.

- [REDACTED] No. Attleboro (8/18/17) – Liberty provided the leak investigation form and repair information. The repair work order did not provide a leak cause as required.
- The following work orders did not have a leak cause noted: WO12779 – [REDACTED] Somerset; WO12947 – [REDACTED] Fall River; WO14019 – [REDACTED] Fall River; WO14043 – [REDACTED] Swansea; WO14059 – [REDACTED] Fall River; WO14210 – [REDACTED] [REDACTED] Somerset; and WO14375 – [REDACTED] Westport.

I. New Service Information

Liberty provided new service line information for [REDACTED] North Attleboro, and [REDACTED] Fall River. The information included pipe material, installation date, and location, but not the service riser manufacturer information. Liberty will investigate capturing this feature regarding service regulators and make any necessary revisions in the revised 2020 DIMP.

J. Mechanical Fitting Failure Forms

The Division reviewed mechanical fitting failure forms, work orders, and the leak repair database for 4/29/13 and 4/30/13 failures. The work orders and the failure forms did not have the same leak cause.



There were also work orders without a leak cause. Some work orders had this area completed and others did not. Liberty did not have anything in place to ensure that when the leak cause section of the work order is not complete, the appropriate personnel review that information to identify the proper leak cause. The Division also found the following:

- [REDACTED] Somerset (3/21/17) - Mechanical fitting failure form states leak cause as Natural Forces but the work order (and leak database) says other.
- [REDACTED] Swansea (1/9/17) - Mechanical fitting failure form states the leak cause as Natural Forces but the work order form (and leak database) says material failures.
- [REDACTED] Somerset (1/9/13) - Mechanical fitting failure form states leak cause as Natural Forces but the work order says other.
- [REDACTED] Fall River (2017) - Mechanical fitting failure form states leak cause as Natural Forces and the work order says equipment malfunction.

K. Risk Model

Liberty's Risk Prioritization Model was developed by TRI-MONT Engineering Co. The steps to complete the risk prioritization included identifying risk scores based on system data or on SME consensus. In reviewing the scores, the numbers were not consistent with identified materials and associated threats. There were areas within the risk model that had



established leak factors that were not supported. Liberty will review and revise the risk model, which will be reflected in the updated DIMP.

## II. ALLEGATIONS

Based on the investigation, the Division has reason to believe that Liberty failed to demonstrate implementation of all elements of the DIMP regulations. This failure to meet the requirements of the DIMP regulations may be in violation of certain sections of the federal pipeline safety regulations, Part 192. The alleged violations of Part 192 are as follows:

### Allegations

Liberty Utilities DIMP

49 C.F.R. Part 192, § 192.13(c)  
49 C.F.R. Part 192, [REDACTED]  
49 C.F.R. Part 192, § 192.605(a)  
49 C.F.R. Part 192, [REDACTED]  
49 C.F.R. Part 192, § 192.1007(a)  
49 C.F.R. Part 192, § 192.1007(c)  
49 C.F.R. Part 192, § 192.1007(d)  
49 C.F.R. Part 192, § 192.1007(e)  
49 C.F.R. Part 192, § 192.1009(a)  
49 C.F.R. Part 192, § 192.1011

## III. PROPOSED CIVIL PENALTY

Under G.L. c. 164, § 105A, Liberty is subject to a civil penalty not to exceed \$200,000 for each violation for each day that the violation exists, up to a maximum of \$2,000,000 for any related series of violations.

In determining the amount of the civil penalty, the Division shall consider the following, pursuant to G.L. c. 164, § 105A: the appropriateness of the penalty to the size of the business of the person, firm, or corporation charged; the gravity of the violation; and the

good faith of the person, firm, or corporation charged in attempting to achieve compliance, after notification of a violation.

In the present matter, the Division has reviewed the circumstances of the allegations and is prepared to resolve this matter upon Liberty's agreement to the terms in the attached Consent Order and payment of a civil penalty in the amount of \$50,000.

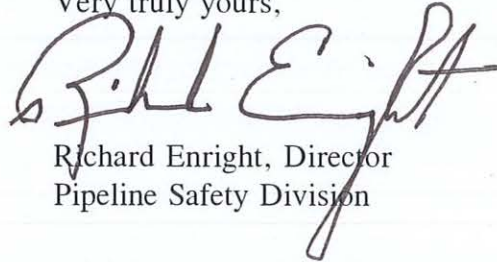
IV. RESPONSE TO THIS NOPV

Within 30 days of receipt of this NOPV, Liberty shall respond to the Division in one of the following ways, pursuant to 220 CMR 69.04:

1. Sign and return the attached Consent Order, thus agreeing to remit payment of the civil penalty by check or money order made payable to the Commonwealth of Massachusetts;
2. Submit an offer in compromise of the proposed civil penalty under 220 CMR 69.04(2);
3. Request an informal conference under 220 CMR 69.05; or
4. Submit a written reply to the Division disputing the allegation(s) contained in the NOPV. The reply must include a complete statement of all relevant facts and authority and full description of the reasons why the Respondent disputes the allegation(s) contained in the NOPV.

Failure to respond within 30 days of receipt of this NOPV will be deemed an admission to the allegations contained herein and a waiver of Liberty's right to contest the allegations. If Liberty fails to respond within 30 days, the Department may, without further notice, find the facts to be as alleged herein and issue a final Order, pursuant to 220 CMR 69.04(3).

Very truly yours,



Richard Enright, Director  
Pipeline Safety Division

Enclosures: Consent Order  
Compliance Agreement

Cc: Gary Munroe, Liberty Utilities  
R.J. Ritchie, Liberty Utilities (Email Only)  
Vincent Duffy, Liberty Utilities (Email Only)  
Laurie Ellen Weisman, Division Counsel





# The Commonwealth of Massachusetts

## DEPARTMENT OF PUBLIC UTILITIES

### CONSENT ORDER

March 5, 2020

D.P.U. 19-PL-29

In the matter of Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities

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#### **I. JURISDICTION**

1. This document, with the attached Compliance Agreement, is a Consent Order entered into between the Pipeline Safety Division ("Division") of the Department of Public Utilities ("Department") and Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities ("Respondent"), and is executed in accordance with 220 CMR 69.08.
2. The Division has authority to enter into this Consent Order on behalf of the Department pursuant to Delegation Order, D.P.U. 18-44-A (2017).
3. Failure to comply with the terms of this Order may result in the assessment of civil penalties and referral of this matter to the Attorney General for appropriate action.
4. The terms and conditions of this Order become effective upon signing by the authorized representatives of the Respondent and the Department.
5. Respondent has stipulated and consented to the issuance of this Consent Order.

#### **II. VIOLATIONS AND CIVIL PENALTY**

1. Pursuant to G.L. c. 164, §§ 76 and 105A, and 220 CMR 69.02, the Division conducted a pipeline safety inspection of the Respondent's facilities and records. As a result of the inspection, the Director of the Division issued to the Respondent a Notice of Probable Violation ("NOPV"), D.P.U. 19-PL-29, dated March 11, 2020, in accordance with 220 CMR 69.03. The NOPV is attached hereto and made a part hereof.
2. Based on information contained in the NOPV, the Division finds that the Respondent violated pipeline safety regulations contained in 49 C.F.R. Part 192 ("Part 192"), specifically:

**49 C.F.R. Part 192, § 192.13(c) – General requirements.**

**49 C.F.R. Part 192,** [REDACTED]



49 C.F.R. Part 192, § 192.605(a) – Procedural manual for operations, maintenance, and emergencies.

49 C.F.R. Part 192, [REDACTED]

49 C.F.R. Part 192, § 192.1007(a) - What are the required elements of an integrity management plan?

49 C.F.R. Part 192, § 192.1007(c) - What are the required elements of an integrity management plan?

49 C.F.R. Part 192, § 192.1007(d) - What are the required elements of an integrity management plan?

49 C.F.R. Part 192, § 192.1007(e) - What are the required elements of an integrity management plan?

49 C.F.R. Part 192, § 192.1009(a) – What must an operator report when a mechanical fitting fails.

49 C.F.R. Part 192, § 192.1011 – What records must an operator keep?

3. Pursuant to G.L. c. 164, § 105A, the Division hereby imposes upon the Respondent a civil penalty in the amount of \$50,000 for the above-noted violations.
4. The Respondent hereby agrees, upon signing and returning this Consent Order to the Division, to remit payment of the civil penalty by check or money order in the amount of \$50,000 made payable to the Commonwealth of Massachusetts, One South Station, Boston, MA 02110.

### **III. RESPONDENT REQUIREMENTS**

1. Respondent shall sign the Stipulation below and return this complete document to the Division.
2. All submissions by Respondent in accordance with this Consent Order shall be addressed to:

Director  
Pipeline Safety Division  
Department of Public Utilities  
One South Station  
Boston, MA 02110

### **IV. STIPULATED TERMS**

Pursuant to 220 CMR 69.08(1), the Respondent through the signature below, by the person to whom this Consent Order is issued or a duly authorized representative, acknowledges agreement to the terms contained herein without admitting or denying that a violation of any Department or federal pipeline safety law or regulation occurred in relation to the above-noted

matters. Further, Respondent agrees to issuance of this Consent Order and stipulates to the following:

1. Respondent, by signing the Stipulation, hereby waives:
  - (a) All rights to informal review pursuant to 220 CMR 69.05;
  - (b) All rights to a hearing pursuant to 220 CMR 69.06;
  - (c) Any and all procedural rights available in connection with the issuance of the Consent Order;
  - (d) All rights to seek any type of administrative or judicial review of the Consent Order; and
  - (e) Any and all rights to challenge or contest the validity of the Consent Order.
2. Respondent expressly acknowledges that neither Respondent nor the Division has any intention to enter into a contract.
3. The terms and provisions of this Consent Order and Stipulation shall be binding upon, and inure to the benefit of, Respondent and the Division and their successors in interest.
4. Nothing in these Stipulated Terms shall preclude any proceedings brought by the Department to enforce the terms of the Consent Order, and nothing in these Stipulated Terms constitute, nor shall Respondent contend that they constitute, a waiver of any right, power, or authority of any other representative of the Commonwealth or an agency thereof to bring other actions deemed appropriate.

**V. FINAL ORDER**

1. This Consent Order and Stipulation is intended to be, and shall be construed to be, a final order of the Department issued pursuant to G.L. c. 25, § 5, having the force and effect of a remedial order, pursuant to 220 CMR 69.07(2), and expressly does not form, and may not be considered to form, a contract binding on the Division, the Department, or the Commonwealth of Massachusetts.

2. The terms of this Consent Order and Stipulation, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreement, or prior arrangements between the Division and the Respondent, whether oral or written.

By Order of the Division

\_\_\_\_\_ Date: \_\_\_\_\_  
Richard Enright, Director  
Pipeline Safety Division  
Department of Public Utilities

**The undersigned, duly authorized, stipulates to and acknowledges agreement to the terms herein.**

**Liberty Utilities**

\_\_\_\_\_ Date: \_\_\_\_\_  
Peter Eichler  
President  
Liberty Utilities



COMPLIANCE AGREEMENT BETWEEN  
THE DEPARTMENT OF PUBLIC UTILITIES AND  
LIBERTY UTILITIES (NEW ENGLAND NATURAL GAS COMPANY) CORP.

D.P.U. 19-PL-29

Liberty Utilities (New England Natural Gas Company) Corp. d/b/a Liberty Utilities ("Liberty") agrees to take the following actions within the specified time periods:

1. No later than March 31, 2020, Liberty shall file with the Department a First Revised 2020 DIMP that will address areas of concern noted above including, among other administrative revisions: revising the Summary Assessment Chart; [REDACTED] and providing [REDACTED] [REDACTED]
2. No later than December 31, 2020, Liberty shall file with the Department a Second Revised 2020 DIMP to reflect any remaining items identified as areas of concern, including but not limited to: a section specifically addressing [REDACTED] correction for risk model issues; references to Operating and Maintenance manual; [REDACTED] and pipeline facilities manufacturer information.
3. Within 10 months of the effective date of this Order, Liberty shall develop a program and procedures for the [REDACTED] as it relates to DIMP.
4. Within 11 months of the effective date of this Order, Liberty shall provide documentation to the Department that the requirements of Item 3 have been completed.
5. Within 30 days of the effective date of this Order, Liberty shall pay a civil penalty of \$50,000 to the Commonwealth of Massachusetts.