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DOCKET #37064
DOCUMENT #217301

Docket No. 37064

Liberty Utilities
2300 Victory Drive
Columbus, GA 31901-3455

REF: DIMP Inspection # AT23-044

☐ Certified Mail ☐ Regular Mail ☒ Email

Attention: Ms. Carolyn Bermudez

On November 27, 2023, a representative of the Georgia Public Service Commission Pipeline/Facilities Safety Office conducted an inspection of your gas system. The enclosed inspection report numbered AT23-044 is provided for your information and file.

In conjunction with this inspection report, Staff has recommended the following enforcement(s):

Enforcement Action:

- ☒ Notice of Probable Violation
- ☐ Notice of Probable Violation with Proposed Civil Penalty
- ☐ Notice of Amendment

Enforcement Letter:

- ☐ Warning Letter
- ☐ Letter of Concern

Enforcement Notification:

- ☐ Observed Issue
- ☐ No Violation

Please review and respond to this report in accordance with the attached Instructions for Responding to Enforcement Actions, Enforcement Letters, and Notifications Issued by the Georgia Public Service Commission. Please refer to Docket No. 37064 in your response.

Please let me know if there are any questions concerning this report at (404) 985-4271 or mthebert@psc.ga.gov. Thank you for your continuing contribution toward increased pipeline safety.

Sincerely,

Michelle Thebert

Michelle L. Thebert
Director, Office of Pipeline Safety/Facilities Protection

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REPORT OF NATURAL GAS SAFETY

INSPECTION NO: AT23-044

OPERATOR: Liberty Utilities

INVESTIGATOR: Alan Towe

INSPECTION DATE: November 27, 2023 REPORT MAILED DATE: January 31, 2024

Any questions concerning this report may be directed to the above address or by telephoning (404) 463-6526.

1. PURPOSE OF INSPECTION

To conduct an inspection of the Operators Distribution Integrity Management Program (DIMP) for compliance with the minimum federal standards in 49CFR Part 192, SubPart P.

2. CONTINUING VIOLATIONS

Violation	Description	Inspection#	Date
192.603(c)	General - The Associate Administrator or the State Agency that has submitted a current...	JB22-023	8/9/2022

3. CLEARED VIOLATIONS

Cleared on 11/27/2023

Violation	Description	Inspection#	Date
192.907(a)	General. No later than December 17, 2004, an operator of a covered pipeline segment must develop...	CS16-016	8/23/2016

4. NEW VIOLATIONS

Violation	Description	Inspection#	Date
192.1007(a)(5)	Provide for the capture and retention of data on any new pipeline installed.	AT23-044	11/27/2023
192.1007(d)	Identify and implement measures to address risks.	AT23-044	11/27/2023
192.1007(f)	Periodic Evaluation and Improvement.	AT23-044	11/27/2023
192.1007(e)	Measure performance, monitor results, and evaluate effectiveness.	AT23-044	11/27/2023

5. OTHER RECOMMENDATIONS/COMMENTS

SEE ATTACHED INSPECTION REPORT

From November 27 to December 7, 2023, Staff reported to Liberty Utilities to perform an inspection of the Operator's Distribution Integrity Management Program.

During this inspection the Operator was represented by:
John Patton – Director, Engineering
Yvonne Barker – Manager, Regulatory & Compliance
Olivia Ward – Manager, Engineering
Bobby Avery – Director, Operations
Adam Mayfield – Manager, Operations

Commission Staff was represented by:
Alan Towe – Lead Inspector
Jack Hewitt – Pipeline Safety Inspector
Glen Murphy – Pipeline Safety Inspector

At the time of this inspection Liberty Utilities was under eighteen (18) previously existing probable violations cited in Inspection Numbers DL22-048, JB22-023 and CS16-016. A Follow Up Inspection AT23-043 was performed prior to this Inspection.

(NOTE: While it is addressed under Inspection Number AT23-043, the probable violation of §192.192.907(a) which was cited in Inspection Number CS16-016 is being cleared under this inspection (AT23-044) due to it being issued under the Liberty Utilities Corporate operator type in the Pipeline Safety Database.)

During this inspection, Staff reviewed the Liberty Utilities Distribution Integrity Management Program to ensure the Operator has implemented their program accordingly utilizing the PHMSA Distribution Integrity Management Program inspection form.

Staff also conducted three (3) Protocol nine inspections on Mr. Brian Withrow for the following covered tasks:

1. Task #I-10 "Atmospheric Corrosion.
2. Task #M-17 "Installing/Maintaining Pipeline Markers
3. Task #I-1 "Conducting Pipe to Soil Measurements.

Staff found that the Operator's personnel qualification records were up to date and no issues were found during this field observation.

NOTICE OF PROBABLE VIOLATION

As a result of this inspection Staff found that Liberty Utilities was in probable violation of the minimum federal safety standards; specifically:

1. CODE REQUIREMENT: 49 CFR, §192.1007 - What are the required elements of an integrity management plan?
   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.

(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.

STAFFS COMMENTS: Review of the Operators records indicated that the material information for their polyethylene plastic pipe didn't include all the manufacturers' data of the pipe as required. Operator needs to include data such as the manufacturer's lot number and birth date of the pipe. The Operator stated that going forward they plan to utilize a bar code scanner to capture this data and record it electronically in their Enterprise Asset Management System.

PROBABLE VIOLATION: Liberty Utilities failed to capture and retain all data on their new polyethylene plastic pipeline being installed as required under §192.1007(a)(5).

2. CODE REQUIREMENT: 49 CFR, §192.1007 - What are the required elements of an integrity management plan?
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).

STAFFS COMMENTS: During this inspection Staff found that the Operator had included, based on their past knowledge of cross bores to their list of threats. However, the Operators' mitigative measure to reduce this risk was found incomplete. The Operator was only addressing future cross bore installations and had not included a mitigative measure to address the known areas in their system where cross bores had already taken place.

PROBABLE VIOLATION: Liberty Utilities failed to establish appropriate measures to reduce the threat of cross bores to their pipeline system as required under Part 192.1007(d).

3. CODE REQUIREMENT: 49 CFR, §192.1007 - What are the required elements of an integrity management plan?
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. These performance measures must include the following:

(i) Number of hazardous leaks either eliminated or repaired as required by § 192.703(c) of this subchapter (or total number of leaks if all leaks are repaired when found), categorized by cause;

(ii) Number of excavation damages;

(iii) Number of excavation tickets (receipt of information by the underground facility operator from the notification center);

(iv) Total number of leaks either eliminated or repaired, categorized by cause;

(v) Number of hazardous leaks either eliminated or repaired as required by § 192.703(c) (or total number of leaks if all leaks are repaired when found), categorized by material; and

(vi) Any additional measures the operator determines are needed to evaluate the effectiveness of the operator's IM program in controlling each identified threat.

STAFFS COMMENTS: During this inspection the Operator was not able to produce records demonstrating that they have established a baseline to evaluate the effectiveness of its distribution IM program for their excavation threat.

PROBABLE VIOLATION: Liberty Utilities failed to establish a baseline for their threats as required under Part 192.1007(e).

4. CODE REQUIREMENT: 49 CFR, §192.1007 - What are the required elements of an integrity management plan?

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

(f) Periodic Evaluation and Improvement. An operator must re-evaluate threats and risks on its entire pipeline and consider the relevance of threats in one location to other areas. Each operator must determine the appropriate period for conducting complete program evaluations based on the complexity of its system and changes in factors affecting the risk of failure. An operator must conduct a complete program re-evaluation at least every five years. The operator must consider the results of the performance monitoring in these evaluations.

STAFFS COMMENTS: During this inspection the Operator was unable to provide records showing that a periodic review of their distribution IM program had been completed.

PROBABLE VIOLATION: Liberty Utilities failed to periodically re-evaluate threats and risks on its entire pipeline and consider the relevance of threats in one location to other areas as required under Part 192.1007(f).

Please review and respond to this report in accordance with the attached Instructions for Responding to Enforcement Letters Issued by the Georgia Public Service Commission.

OPERATOR RESPONSE FORM

Operator Name: Liberty Utilities

Informal Conference Requested: Yes ☐ No ☐

Docket Number: 37064

Responses required within **30 days of electronic mail.** Provide the following information for this report:

Response to Inspection Number:_____

Type of Enforcement Action(s) cited in report:			Informal Conference Requested	
☐ Notice of Probable Violation (NOPV)	☐ New	☐Continuing	☐ Yes	☐ No
☐ Notice of Amendment (NOA)	☐ New	☐Continuing	☐ Yes	☐ No
☐ Warning Letter	☐ New	☐Continuing	☐ Yes	☐ No
☐ Letter of Concern	☐ New	☐Continuing	☐ Yes	☐ No
☐ Observed Issue	☐ New	☐Continuing	☐ Yes	☐ No
☐ Proposed Civil Penalty	$ _____ PCP $ Amount (Total for report)			

Indicate below (A-E) based on the type of Enforcement Actions in this report: (Check all that apply)
Complete a separate copy of Page 2, Operator Response to Enforcement Action, for each cited item.

A. Response for **Notice of Probable Violation** (with and without proposed civil penalty):
   1. ☐ Written statement indicating that corrective measures have achieved Compliance or
   2. ☐ Written plan of action outlining the corrective measures that will be taken to achieve compliance and when compliance is anticipated.

B. Response for **NOA**:
   1. ☐ Contested: Attach written explanation, information, or other material in answer to the allegations in the Notice of Amendment stating your reasons for objecting to the NOA, in whole or in part; or
   2. ☐ Not Contested: Explanation, information, or other material believed to warrant modification of the NOA in whole or in part; or
   3. ☐ Written request for clarification. (Attached)

C. Response for **Continuing** and/or **Existing** violations:
Current status, updates, expected completion dates, proposed modifications, etc., of the continuing and/or existing violations, even if this information was previously provided. Referencing a previously filed response letter, as status, updates, etc. alone is not sufficient for this response. Failure to provide this information may result in formal interrogatories from the Director through data requests.

D. Response for ☐ **Letter of Concern** / ☐ **Warning Letter**
I acknowledge receipt of the Letter of Concern/Warning Letter:_____
SIGNATURE / TITLE

Additional Comments: (Optional) _____

_____

_____

E. Response for **Observed Issue** and **No Violation**: (Optional Response)
Staff requests that the Operator acknowledge receipt of the Observed Issue/No Violation in writing, or by submitting an email to the FPU Director

Operator Response to Enforcement Action

Enforcement Action for:_____ ☐ New Violation ☐ Continuing Violation
Enter Code / Commission Rule (Complete a separate attachment for each enforcement action)

Enforcement Action(s) cited in report:	Conference Requested:	
☐ Notice of Probable Violation (NOPV)	☐ Yes ☐ No	$ _____
☐ Notice of Amendment (NOA)	☐ Yes ☐ No	Proposed Penalty for this violation
☐ Warning Letter	☐ Yes ☐ No	
☐ Letter of Concern	☐ Yes ☐ No	
☐ Observed Issue	☐ Yes ☐ No	
☐ Proposed Civil Penalty	☐ Yes ☐ No	

OPERATORS RESPONSE: _____

Response Provided by: _____ Date:_____
Name / Title

Internal use only:

Lead Inspector: _____ Date Response Reviewed:_____

Actions Acceptable: ☐ Yes ☐No Re-inspection Needed:☐ Yes ☐ No Clear Violation:☐ Yes ☐ No

Supervisor Review by:_____ Date Reviewed:_____

Additional Enforcement Recommended: ☐ Yes ☐ No

Director Review

Approved: ☐ Yes ☐No Schedule Special Follow-up Inspection: ☐ Yes ☐ No

Cleared Violation: ☐ Yes ☐ No

Comments:_____

Filings:
For all written responses or any other official correspondence, the Operator shall file the response at the following address:

Ms. Sallie Tanner, Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, Georgia 30334

The Operator must file **five (5)** copies of any response and/or official correspondence, as well as a CD with an electronic version of the response in Microsoft Word and/or a PDF, if applicable.

Informal Conference:
Any Operator who chooses to request an informal conference shall request such a conference through emailing the Director (michellet@psc.state.ga.us), calling the Director (404-463-2765), or selecting the "Request Conference" choice.

Civil Penalty Payments:
Certified check for the full amount of the recommended civil penalty or consent agreement amount made payable to the Georgia Public Service Commission. The Operator's name, applicable Docket No., and Inspection Report No. must be included on the certified check. Mail payment to:

Ms. Michelle Thebert, Director, Facilities Protection Unit
Georgia Public Service Commission
244 Washington Street
Atlanta, Georgia 30334

Hearing Requests:
The Operator has the right to request a hearing before the full Commission to contest the alleged probable violations, recommended civil penalties, and all other proposed actions of enforcement. A request for a hearing must be submitted in writing and in accordance with Commission Rule 515-2-1-.04. The Operator must include a statement of the issues that you intend to raise at the hearing. The issues may relate to the allegations, new information, proposed compliance order, proposed civil penalty, or any other recommendation for enforcement action. Please refer to Commission Rule 515-9-3-.11 and O.C.G.A. § 46-2-91 for assessment considerations upon which civil penalties are based. An operator's failure to specify an issue may result in a waiver of the right to raise that issue at hearing. The request must also indicate whether or not the Operator will be represented by counsel at the hearing.

Open Records and Trade Secret Filings:
The Operator is advised that any material provided to the Commission, and all materials prepared by the Commission, including the Notice of Probable Violations and any Orders issued in this case, may be considered public information and subject to disclosure under the Georgia Open Records Act (O.C.G.A. § 50-18-70 et seq.). If you believe that any portion of your response material is security sensitive, privileged, confidential or may cause your company competitive disadvantages and would qualify for protection under the Commission's "Trade Secret Rule" (Commission Rule 515-3-1-.11), you must, along with the complete original document clearly marked "TRADE SECRET" on each page, provide a second copy of the document with the portions you believe qualify for trade secret treatment redacted, and an explanation of why you believe the redacted information qualifies for such trade secret treatment. Should the Commission receive a request for disclosure of any "TRADE SECRET" material, you will be notified, if after review, the materials and your provided justification are deemed not to meet any exemptions provided in the Georgia Open Records Act. You may appeal the Commission's decision to release material at that time. Your appeal will stay the release of those materials until a final decision is made.

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

IN THE MATTER OF:	)	
	)	
Probable Violation Report	)	**DOCKET NO. 37064**
Liberty Utilities –	)	
Inspection AT23-044 on November 27, 2023	)	
	)	

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have caused to be served a copy of the foregoing, and a copy of same was served upon all parties and persons listed below via electronic mail as indicated by an asterisk I further certify that the *Liberty Utilities* was served a hard copy of the above-stated document by U.S. Mail, certified/return receipt requested.

*Sallie Tanner, Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334

*Carolyn Bermudez, President
Liberty Utilities
2300 Victory Drive
Columbus, GA 31901-3455
Carolyn.Bermudez@libertyutilities.com

*Michelle Thebert, Facilities Protection Unit Director
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334

Respectfully Submitted this 16th day of February 2024:

Cathy Nesbitt

Cathy Nesbitt, Administrative Assistant
Georgia Public Service Commission
Facilities Protection Unit
244 Washington Street, SW
Atlanta, GA 30334