



CITY OF RICHMOND

DEPARTMENT OF PUBLIC UTILITIES

GAS AND WATER DISTRIBUTION

OPERATIONS CENTER

Mr. Byron E. Coy
Director, Eastern Region
Pipeline and Hazardous Materials Safety Administration
820 Bear Tavern Road, Suite 103
West Trenton, NJ 08628

November 23, 2011

**RE: Notice of Probable Violation and Civil Penalty
CPF 1-2011-0002**

Dear Mr. Coy,

We received your Notice of Probable Violation and Proposed Civil Penalty (Reference CPF 1-2011-0002) dated October 25, 2011 and received October 27, 2011.

The City of Richmond does not contest the facts of this finding, and specifically agrees that the City's contractor used a pipe wrench to tighten the cap on a plastic service tee when the manufacturer's instructions stated to hand tighten the cap to the cap stop on the tee. It should be noted that we, in accordance with our contract, are holding our contractor accountable for this violation.

In addition to our admission regarding the facts of this case however, we submit that there are additional facts and documentation that warrant a significant if not complete mitigation of the of the proposed \$25,000 civil penalty.

The manufacturer's instructions for the cap are "hand tighten to the cap stop". Our contractor was unable to gain the leverage necessary to hand tighten the cap all the way to the stop, and as result he was left with two less than optimal choices. He could either leave the cap above the stop which is a violation of the manufacturer's procedure and our O&M procedures and most certainly would have resulted in a Notice of Violation for the City, or he could choose to use a wrench to get it to the stop, which is the subject of this Notice of Violation. He felt it was more important to use the wrench carefully to tighten the cap to the stop, and therefore chose that option.

After the fact, the manufacturer was contacted and the predicament was explained to them. Attached to this document is the letter the manufacturer sent in response to our inquiry. In it they concur with the contractor's decision to tighten the cap to the stop. They said, in pertinent part:

"Under certain circumstances (for example: if the installer is in a tight position or does not have the leverage to complete the cap installation by hand), the installer may use a wrench to complete the cap installation. The installer may do so as long as the cap is initially started by hand and as long as the cap is not tightened beyond the cap stop".

This clearly demonstrates that the contractor's actions were appropriate, even if the timing of contact with the manufacturer should have been prior to and not after using the wrench to tighten the cap to the stop. It should further be noted that the contractor did indeed initially begin the tightening process by hand.

49 CFR 190.225 states that in determining the amount of the civil penalty the nature, circumstances, and gravity of the violation [§190.225 (a) (1)] and such other matters as justice may require [§190.225 (b) (2)] shall be considered.

It is our contention that the nature of the proposed violation is not, by comparison to other possible violations, particularly grave. Additionally, the circumstances and gravity of the proposed violation are such that after considering the manufacturer's concurrence with the actions our contractor took to install and tighten the cap, the proposed violation essentially revolves around when the manufacturer was contacted. The actions on the part of our contractor were not egregious or dangerous, and indeed were correct, if the procedure was strictly adhered to. Finally, given that if this same event occurred today our contractor would be authorized to use a wrench to tighten the cap to the stop and therefore would be in compliance with our O&M Procedures, it is our ardent assertion that the consideration of justice in this matter should result in a substantial reduction if not a complete mitigation of the proposed penalty.

Thank you for your consideration.

Sincerely,



Michael R. Bellman
Deputy Director – Gas & Light
City of Richmond – DPU
400 Jefferson Davis Highway
Richmond, VA 23224
(804) 646-8301

cc. Gregory O'Halloran, Esq.
Robert Steidel
Carl James



April 7th 2011

Michael Bellman
City of Richmond – Department of Public Utilities
400 Jefferson Davis Highway
Richmond, VA
23224

Elster Perfection
436 North Eagle Street
Geneva, Ohio
44041
U.S.A.

T +1 440 415 1600
F +1 800 544 6344

www.perfectioncorp.com

Re: Mechanical Tapping Tee Cap Installation

Dear Mr. Bellman:

The Quality Group at Elster Perfection would like to address a concern recently presented to Mr. Troy Dow of Trafford Corporation during an installation audit performed by the Public Utilities Commission of Richmond.

We were informed that there was concern regarding the use of a wrench to complete the installation of a Permalock mechanical tapping tee cap because the installation instructions specify to hand tighten the cap to the cap stop.

For clarification: under certain circumstances (for example: if the installer is in a tight position or does not have the leverage to complete the cap installation by hand), the installer may use a wrench to complete the cap installation. The installer may do so as long as at the cap is initially started by hand and as long as the cap is not tightened beyond the cap stop.

We would like to thank you for bringing this concern to our attention so that it could be clarified. If you have any additional comments or concerns, please feel free to contact me at your convenience.

Best regards,

A handwritten signature in black ink that reads "Mark Weien". The signature is written in a cursive, flowing style.

Mark Weien
Quality Assurance Manager
440.221.8110
mweien@perfectioncorp.com