



November 19, 2007

Byron Coy, PE  
Director, Eastern Region  
Pipeline and Hazardous Materials Safety Division  
U.S. Department of Transportation  
Mountain View Office Park  
820 Bear Tavern Road Suite 306  
West Trenton, N.J. 08628

Re: KeySpan LNG, L.P. CPF 1-2007-3006

Dear Mr. Coy:

On October 22, 2007, the Pipeline and Hazardous Materials Safety Division ("PHMSA") of the U.S. Department of Transportation issued a Notice of Probable Violation ("NOPV") to KeySpan LNG, L.P. ("KeySpan" or the "Company"). The NOPV relates to two alleged violations of title 49 of the Code of Federal Regulations observed during PHMSA inspections of the KeySpan liquefied natural gas plant in Providence Rhode Island during October 2006 and December 2006. In accordance with 49 C.F.R. §190.209 (2), KeySpan responds herein to the Department's allegations and requests that PHMSA conduct an informal hearing to review the allegations and civil penalty pursuant to 49 C.F.R. and §190.211. KeySpan will be represented by counsel at the hearing, and respectfully requests that any relevant material in the PHMSA case file be provided no later than 30 days prior to the hearing.

As noted below, the Company believes that the factual basis for the allegations warrant further review and consideration by PHMSA. The company is further concerned that the civil penalty proposed in the NOPV is excessive given the alleged violations. Finally, given the passage of time since the inspection, sufficient corrective actions have been taken such that the proposed penalty is not designed to result in further corrective action and is unnecessarily punitive in nature.

To facilitate the informal review process to be conducted under 49 C.F.R. § 190.211, the Company has prepared the following initial response to the NOPV allegations:

A. § 193.2605 Maintenance Procedures

PHMSA alleges that KeySpan did not follow its operations and maintenance procedures with regards to the protection of the water/glycol system at the LNG plant from internal corrosion. Specifically, PHMSA states that KeySpan has written procedures (LIM 7.6 Water Glycol System) to follow in the protection of the water glycol system from internal corrosion.<sup>1</sup> The procedure requires that a maintenance plan shall be prepared and executed based on the results of an inspection report. Part of that maintenance plan includes addressing the laboratory results and recommendations for glycol samples sent to the supplier or other laboratory for analysis. (NOPV at 2) PHMSA alleges that KeySpan failed to follow its procedure in two respects:

1. KeySpan failed to prepare a maintenance plan and
2. KeySpan delayed adding inhibitor to its water glycol system as recommended by laboratory analysis

Based on these factual assertions, PHMSA alleges a violation of:

49 C.F.R Part 193 § 2605 Maintenance Procedures

(b) Each operator shall follow one or more manuals of written procedures for the maintenance of each component, including any requires corrosion controls. The procedure must include:

- (1) The details of the inspection or tests determined under paragraph (a) of this section and their frequency of performance; and
- (2) A description of other actions necessary to maintain the LNG plant according to the requirements of this subpart.

DISCUSSION

The crux of PHMSA's allegations revolves around two letters from Ashland Specialty Chemical ("Ashland") to KeySpan dated September 2, 2005 and June 1, 2006 respectively. The facts are as follows: On June 10, 2005 KeySpan submitted a Glycol sample to the laboratory in accordance with its LIM 7.6 procedure for periodically inspecting the water Glycol system to ensure that it is kept in operable condition. On September 2, 2005, Ashland responded to the Company. In its response Ashland indicated, among other things, that "the System Gas Re Heat is in very good condition, however, some of the inhibitors and buffering agents are low." Ashland further noted that "[t]here are no contaminants or scale promoters in any of the systems." To increase the amount of the inhibitors in the system, Ashland recommended adding one drum of Drewgard 2808 to the gas re heat system at some point in the next year. Approximately six months later on March 24, 2006, KeySpan, in accordance with its revised procedure 4.PR -M10 Glycol System

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<sup>1</sup> The Company notes that in March 2006, LIM 7.6 was replaced by 4.PR M10 Glycol System Inspections.

Inspections, again submitted a Glycol sample to the laboratory. On June 1, 2006 Ashland responded to the Company. The June 1, 2006 letter is virtually identical to the September 2, 2005 letter in all material respects. In its June 1, 2006 letter Ashland repeats its recommendation to add one drum of Drewgard 2808 to the gas re heat system at some point in the next year. On October 17, 2006, KeySpan added the recommended chemicals to the Glycol system.

These facts do not support a finding that KeySpan violated 49 C.F.R § 193.2605 as alleged by PHMSA. First, given that the September 2, 2005, Ashland report indicated that the gas re-heat system was in very good condition and that there were no indications of contaminants or scale promoters to indicate the possibility of corrosion, KeySpan reasonably viewed the recommendation of Ashland to add one drum of Drewgard 2808 to the gas re heat system at some point in the next year as advisable but not required. Second, approximately six months following the initial recommendation from Ashland, Ashland conducted a second analysis of the Glycol system and made the same recommendation to add one drum of Drewgard 2808 to the gas re heat system at some point in the next year. Given that this second recommendation occurred well prior to the expiration of one year from the initial recommendation, it effectively re-set the clock as to when the chemicals should be added to the system to June 1, 2007. Therefore, when KeySpan added the chemicals to the Glycol System on October 17, 2006, it effectively and timely implemented the recommendation of Ashland in accordance with its procedures and in compliance with 49 C.F.R. § 193.2605.

B. §193.2711 Personnel Health

PHMSA alleges that KeySpan failed to follow its written plan that requires all relevant plant personnel to pass a biennial physical and that any bidder to a regular position at the plant will be required to pass a physical examination before being offered the job. Specifically, PHMSA alleges that on October 6, 2006, KeySpan contracted Reliable Security to take over the security duties of the LNG Plant in lieu of the plant personnel and that the Reliable security guards did not receive pre-employment physicals. (NOPV at 3)

Based on these factual assertions, PHMSA alleges a violation of:

49 C.F.R part 193 § 2711 Personnel Health

Each Operator shall follow a written plan to verify that personnel assigned operating, maintenance, security or fire protection duties at the LNG plant do not have any physical condition that would impair performance of their assigned duties. The plan must be designed to detect both readily observable disorders, such as physical handicaps or injury and conditions requiring professional examination for discovery.

### DISCUSSION

On October 9, 2006, KeySpan, in response to a highly publicized security breach at the Lynn, Massachusetts LNG plant, contracted with an outside security firm to provide security guards at the LNG Plant in Providence, R.I.<sup>2</sup> Contrary to the allegations contained in the NOPV, these security guards were hired to perform security duties supplemental to the duties being performed by plant operators. Because of the need to react quickly to a perceived security threat, KeySpan did not administer pre-employment physicals to the guards performing security functions at the Providence plant. Rather, KeySpan relied on the mistaken belief that the security guard company had required physical examinations that would meet code requirements as a condition of employment. KeySpan subsequently administered physical examinations to all outside security personnel in January 2007. At all times between October 6, 2007 and January 19, 2007 LNG plant operators who had received and passed physical examinations in accordance with Company procedures continued to perform the security duties they had previously performed at the plant. In fact, plant operators continue to perform those security functions today and the security guards are merely a supplement to, and enhancement of the security for the plant. Moreover, at no time were guards who had any readily observable disorders allowed to perform duties at the plant. KeySpan's current contract with its outside security firm requires medical examinations of security guards.

Despite the fact, that KeySpan undertook a reasonable and timely response to a perceived threat to the security of its facilities PHMSA now seeks to fine the Company a substantial sum. Interestingly, KeySpan could have done nothing to increase security and been fully compliant with applicable regulations and internal procedures. Based on these facts the violation alleged by PHMSA, does not warrant a fine in the amount suggested by PHMSA. Moreover, the Company believes it would be counter productive to penalize the Company for taking reasonable precautions in the interest of public safety.

### C. Conclusion

The safety and security of the KeySpan operations are of paramount importance to the Company, its customers and its neighbors. In that regard, KeySpan greatly appreciates the diligence and attention shown by PHMSA during its inspections. Because KeySpan places a high value on the safety and security of all of its LNG facilities, it is important to the Company that it gain a better understanding of PHMSA's concerns, as encompassed in the NOPV, and in particular of the reason for the severity of the proposed civil penalty. To that end, KeySpan looks forward to the opportunity to resolve the issues raised in the NOPV through an informal hearing to be conducted by the Department's staff.

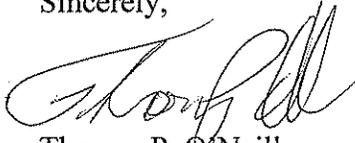
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<sup>2</sup> KeySpan's parent Company, KeySpan Corporation, took similar action at all of its New England LNG plants.

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Thank you for your attention and consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom O'Neill", written in a cursive style.

Thomas P. O'Neill  
Senior Counsel

cc: byron.coy@dot.gov