

WARNING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

June 19, 2013

Mr. Garry Lovelace
Vice President
Lovelace Gas Service
10606 East Colonial Drive
Orlando, FL 32825

CPF 2-2013-0020W

Dear Mr. Lovelace:

On May 28-31, 2013, representatives of the Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Pipeline Safety Southern Region inspected the Lovelace Gas Service (Lovelace) liquefied petroleum gas (LPG) pipeline systems, records, and procedures in Orlando, Florida, pursuant to Chapter 601 of 49 United States Code.

As a result of the inspection, it appears that you have committed probable violations of the Pipeline Safety Regulations, Title 49, Code of Federal Regulations. The items inspected and the probable violations are as follows:

1. §191.11 Distribution system: Annual report.

(a) Except as provided in paragraph (b) of this section, each operator of a distribution pipeline system shall submit an annual report for that system on Department of Transportation Form RSPA F 7100.1-1. This report must be submitted each year, not later than March 15, for the preceding calendar year.

(b) Not required. The annual report requirement in this section does not apply to a master meter system or to a petroleum gas system that serves fewer than 100 customers from a single source.

Lovelace did not properly submit an annual report (DOT RSPA F 7100.1-1) for calendar year 2012 for its LPG pipeline systems.

Lovelace has separate regulated LPG pipeline systems serving four mobile home parks with a total of 287 customers. The parks are Alafaya Palms - 63 customers; Colonial Village - 10 customers; Silver Star - 55 customers; Starlight Ranch Mobile Home Estates (front) - 53 customers; and, Starlight Ranch Mobile Home Estates (back) - 106 customers.

The only system that has 100 customers or more is the Starlight Ranch Mobile Home Estates. While these mobile home parks are isolated from each other and LPG is supplied to each system from a different source, Lovelace incorrectly combined these four mobile home parks into one annual report for calendar year 2012.

2. §192.491 Corrosion control records.

(a) Each operator shall maintain records or maps to show the location of cathodically protected piping, cathodic protection facilities, galvanic anodes, and neighboring structures bonded to the cathodic protection system. Records or maps showing a stated number of anodes, installed in a stated manner or spacing, need not show specific distances to each buried anode.

Lovelace did not have a revised and updated system map showing the location of galvanic anodes, pipe-to-soil test stations, or cathodically protected tanks and piping.

3. §192.605 Procedural manual for operations, maintenance, and emergencies

(a) General. Each operator shall prepare and follow for each pipeline, a manual of written procedures for conducting operations and maintenance activities and for emergency response. This manual must be reviewed and updated by the operator at intervals not exceeding 15 months, but at least one each calendar year. This manual must be prepared before operations of a pipeline system commence. Appropriate parts of the manual must be kept at locations where operations and maintenance activities are conducted.

Lovelace did not properly prepare and follow a manual of written procedures for conducting operations and maintenance activities and for emergency response. The operator had a manual dated January 2013, but it was generic with no site specific operations and maintenance procedures or site specific procedures for emergency response.

4. §192.605 Procedural manual for operations, maintenance, and emergencies

... (b) Maintenance and normal operations. The manual required by paragraph (a) of this section must include procedures for the following, if applicable, to provide safety during maintenance and operations.

... (8) Periodically reviewing the work done by operator personnel to determine the effectiveness and adequacy of the procedures used in normal operation and maintenance and modifying the procedure when deficiencies are found.

Lovelace did not provide records to the PHMSA inspector to show it had conducted periodic reviews of work done by its service technicians to determine the effectiveness and adequacy of the procedures used in normal operations and maintenance.

5. §192.616 Public Awareness¹

(a) Each pipeline operator must develop and implement a written continuing public education program that follows the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see §192.7).

Lovelace's Public Awareness Plan (PAP) did not follow the guidance provided in the American Petroleum Institute's (API) Recommended Practice (RP) 1162 (incorporated by reference, see §192.7).

- Lovelace's PAP did not provide for an annual program implementation audit or review. API 1162 required the operator to *"complete an annual audit or review of whether the program has been developed and implemented according to the guidelines in this RP."* While Lovelace's PAP stated, *"[The] Program Administrator should prepare an annual estimate of the resources required to implement the Program,"* an annual estimate of resources needed to implement a public awareness program did not meet the requirement to complete an annual audit or a review of whether the program has been developed and implemented according to API RP 1162 guidelines.
- Lovelace did not provide a specific time interval for measuring the effectiveness of its PAP. PAP effectiveness evaluations must be done no more than four years apart.

6. §192.616 Public Awareness

... (b) The operator's program must follow the general program recommendations of API RP 1162 and assess the unique characteristics of the operator's pipeline and facilities.

Lovelace did not assess the unique attributes and characteristics of its pipeline systems in developing and implementing its written PAP.

While the Lovelace's pipelines transport propane gas, the PAP did not provide any information on the attributes and characteristics of propane gas. In fact, Lovelace's PAP misled the targeted audience by specifically addressing pipelines transporting natural gas - not propane gas. For example, one of the objectives listed in Lovelace's PAP is *"To educate both our customers and non-customers who live or work near our pipelines how to recognize the odor of natural gas."* Propane gas has significantly different attributes and characteristics than natural gas and the PAP failed to address how the intended audience would recognize and react to a release of propane gas from the pipeline.

7. §192.616 Public Awareness

... (c) The operator must follow the general program recommendations, including the baseline and supplemental requirements of API RP 1162, unless the operator

¹ Items 5-10 are based on PHMSA's understanding that the transportation of gas by pipeline is Lovelace Gas' primary activity. If Lovelace Gas believes the transportation of gas by pipeline is not its primary activity and that it is entitled to the less stringent public awareness requirements in §192.616(j), it must provide PHMSA with documentation demonstrating that it does not transport gas by pipeline as its primary activity.

provides justification in its program or procedures manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

Lovelace's PAP did not address the supplemental requirements of API RP 1162 or provide justification in its program or procedures manual as to why compliance with all or certain provisions of the recommended practice is not practicable and not necessary for safety.

API 1162 requires the operator to "*consider to what extent an enhanced, supplemental program is warranted.*" To support the decision for or against a supplemental program, API 1162 requires the operator to "*consider external factors along the pipeline system to determine if some additional level of public awareness communication is warranted, beyond the recommended baseline program.*"

8. §192.616 Public Awareness

... (d) The operator's program must specifically include provisions to educate the public, appropriate government organizations, and persons engaged in excavation related activities on:

(1) Use of a one-call notification system prior to excavation and other damage prevention activities;

Lovelace's PAP did not adequately educate the public, appropriate government organizations, and persons engaged in excavation related activities in the vicinity of its pipeline on the use of a one-call notification system prior to excavation and other damage prevention activities.

The PAP contained a list of excavator categories (i.e. construction companies, public works officials, land developers, etc.) and it specified how names and addresses will be obtained under each category of excavator. The PAP states, "*The names, addresses and telephone numbers of excavators will be obtained through generation of Sunshine One-Call tickets for each type of excavator listed.*" Lovelace's use of one-call tickets to develop a list of excavators is not sufficient to meet the requirements of this subpart. Lovelace must educate all entities engaged in excavation related activities, not just those that are already using the one-call center.

9. §192.616 Public Awareness

... (e) The program must include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations.

(f) The program and the media used must be as comprehensive as necessary to reach all areas in which the operator transports gas.

Lovelace's PAP did not provide adequate information on the locations of its pipeline facilities to municipalities, school districts, businesses, and residents situated adjacent to its pipeline system or fully define the areas in which it transports gas so the program and media can reach its intended audience.

The PAP states, “... *all of Lovelace’s pipeline facilities are included in the PAP.*” But, Lovelace’s PAP did not include all the specific locations in which it operates pipeline facilities. For example, it did not identify all of the four distinct mobile home parks where Lovelace operates pipeline facilities.

The PAP did state under Stakeholder Audiences, “*The list of individuals living or working near our pipelines will be developed by...*” However, no information was provided to indicate the distances that would be considered “*near our pipelines.*” To determine if the program and media used are reaching all areas in which Lovelace transports gas, Lovelace must establish the actual distance from the pipeline that defines the area in which gas is transported and provide the parameters used to determine this distance. That is, a buffer zone that considers the properties of the gas being transported, terrain, wind, etc.

10. §192.616 Public Awareness

... (g) The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator's area.

Lovelace’s PAP did not address whether or not there are other languages commonly understood by a significant number and concentration of the non-English speaking population in Lovelace’s area.

Lovelace did state in the PAP, “*[The] Public Awareness Program will be conducted in English and in other languages commonly understood by a significant number of and concentration of the non-English speaking population on our service area.*” However, Lovelace did not determine if there are significant languages other than English commonly understood by any segment of the population along its pipeline system. Also, Lovelace did not provide any information on the method(s) that it used to determine if other languages are spoken in significant numbers in the area of its pipeline.

11. §192.625 Odorization of gas

(a) A combustible gas in a distribution line must contain a natural odorant or be odorized so that at a concentration in air of one-fifth of the lower explosive limit, the gas is readily detectable by a person with a normal sense of smell.

.... (f) To assure the proper concentration of odorant in accordance with this section, each operator must conduct periodic sampling of combustible gases using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable.

(See also NFPA 58, Section 4.2.3, LP-Gas Odorization)

Lovelace did not conduct periodic sampling (sniff tests) to assure the proper concentration of odorant using an instrument capable of determining the percentage of gas in air at which the odor becomes readily detectable. The monthly “sniff test” conducted in 2012 and 2013 were done without the use of instrumentation.

- 12. §192.739 Pressure limiting and regulating stations: Inspection and testing.**
(a) Each pressure limiting station, relief device (except rupture discs), and Pressure regulating station and its equipment must be subjected at intervals not exceeding 15 months, but at least once each calendar year, to inspections and tests to determine that it is–
(1) In good mechanical condition;
(2) Adequate from the standpoint of capacity and reliability of operation for the service in which it is employed;
(3) Except as provided in paragraph (b) of this section, set to control or relieve at the correct pressure consistent with the pressure limits of §192.201(a);; and
(4) Properly installed and protected from dirt, liquids, or other conditions that might prevent proper operation.

Lovelace did not inspect its pressure regulators at Colonial Village in calendar years 2011 and 2012 at intervals not exceeding 15 months. The pressure regulators were inspected in April 2011 and December 2012 - an interval of 20 months. Also, Lovelace did not provide any records to demonstrate that its regulators were set to control or relieve at the correct pressure consistent with the pressure limits of §192.201(a).

Lovelace has Fisher 627 primary regulators and Fisher 620/627 secondary regulators located aboveground. These regulators are 1-inch in size with a $\frac{1}{2}$ -inch orifice and have pressure ratings of 250 psig at the inlet and 5-20 psig at the outlet. But there were no pressure set-points recorded for these regulators. Lovelace only provided information on the lock up tests of its primary and secondary regulators.

- 13. §192.743 Pressure limiting and regulating stations: Capacity of relief devices**
(a) Pressure relief devices at pressure limiting stations and pressure regulating stations must have sufficient capacity to protect the facilities to which they are connected. Except as provided in §192.739(b), the capacity must be consistent with the pressure limits of §192.201(a). This capacity must be determined at intervals not exceeding 15 months, but at least once each calendar year, by testing the devices in place or by review and calculations

Lovelace did not determine the capacity of its 1-inch Fisher 1805 relief valve at the Silver Star Mobile Home Park at intervals not exceeding 15 months, but at least once each calendar year, by testing the device in place or by review and calculations.

- 14. §192.747 Valve maintenance: Distribution systems.**
(a) Each valve, the use of which may be necessary for the safe operation of a distribution system, must be checked and serviced at intervals not exceeding 15 months, but at least once each calendar year.

Lovelace did not check and service its key valve at Colonial Village at intervals not exceeding 15 months. The key valve inspections were done in April 2011 and December 2012 - an interval of 20 months. Further, Lovelace did not provide to the PHMSA inspector key valve maintenance records; i.e. type, size, manufacturers'

recommended practices to operate, turns it takes to open/close the valve, etc. The records just indicated that the valves were “operated.”

15. §192.805 Qualification program.

Each operator shall have and follow a written qualification program. The program shall include provisions to:

- (a) Identify covered tasks;**
- (b) Ensure through evaluation that individuals performing covered tasks are qualified;**
- (c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;**
- (d) Evaluate an individual if the operator has reason to believe that the individual’s performance of a covered task contributed to an incident as defined in Part 191;**
- (e) Evaluate an individual if the operator has reason to believe that the individual is no longer qualified to perform a covered task;**
- (f) Communicate changes that affect covered tasks to individuals performing those covered tasks; and**
- (g) Identify those covered tasks and the intervals at which evaluation of the individual’s qualifications is needed.**
- (h) After December 16, 2004, provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities; and**
- (i) After December 16, 2004, notify the Administrator or a state agency participating under 49 U.S.C. Chapter 601 if the operator significantly modifies the program after the Administrator or state agency has verified that it complies with this section.**

Lovelace did not provide a qualified Operator Qualification program to the PHMSA inspector.

16. §192.1005 What must a gas distribution operator (other than a master meter or small LPG operator) do to implement this subpart?

Lovelace did not develop and implement a Distribution Integrity Management Plan (DIMP) by August 2, 2011. Lovelace did provide to the PHMSA inspector a DIMP plan using the SHRIMP program provided by the American Public Gas Association (APGA) but the plan was established in March 2013.

Under 49 United States Code, §60122, Lovelace Gas Service is subject to a civil penalty not to exceed \$200,000 per violation per day the violation persists up to a maximum of \$2,000,000 for any related series of violations. For violations occurring prior to January 4, 2012, the maximum penalty may not exceed \$100,000 per violation per day, with a maximum penalty not to exceed \$1,000,000 for a related series of violations. We have reviewed the circumstances and supporting documents involved in this case, and have decided not to conduct additional enforcement action or penalty assessment proceedings at this time.

We advise you to correct the items identified in this letter. Failure to do so will result in Lovelace Gas Service being subject to additional enforcement action.

No reply to this letter is required. If you choose to reply, in your correspondence please refer to **CPF 2-2013-0020W**. Be advised that all material you submit in response to this enforcement action is subject to being made publicly available.

If you believe that any portion of your responsive material qualifies for confidential treatment under 5 U.S.C. 552(b), along with the complete original document you must provide a second copy of the document with the portions you believe qualify for confidential treatment redacted and an explanation of why you believe the redacted information qualifies for confidential treatment under 5 U.S.C. 552(b).

Sincerely,

Wayne T. Lemoi
Director, Office of Pipeline Safety
PHMSA Southern Region