



National Transportation Safety Board

Washington, DC 20594

Office of the Chairman

April 12, 2019

Mr. Morgan W. Campbell
Mr. David Tochen
LeClairRyan

Dear Mr. Campbell and Mr. Tochen:

This is in reply to your March 7, 2019, letter to the National Transportation Safety Board (NTSB) regarding the recently issued final report of our investigation of the July 2, 2017, pipeline accident that occurred in Millersville, Pennsylvania, to which your client, Elster Perfection, was a party.

Your letter states that Elster Perfection, a division of Elster American Meter Company LLC, of which Honeywell International Inc. is the ultimate parent company, was “shocked” by our issuance of the final accident report because you claim that we had broken promises made to Elster Perfection. You further claim that the NTSB denied the company its rights as a party to the investigation by failing to provide factual material to its party coordinator for review and subsequently failing to establish a date for Elster Perfection’s party submission prior to finalization of the report.

In fact, our representative, Mr. Roger Evans, worked with Elster Perfection’s party representatives, Mr. Shawn Houlahan until November 16, 2018, and his replacement, Mr. Wayne Bunting, from November 21, 2018, through February 28, 2019. On March 9, 2018, Mr. Houlahan indicated that he had no comments to submit on a total of five Materials Laboratory Factual Reports (report numbers 18-003 through 18-007)¹ that Mr. Evans had provided to him and other party members on February 20, 2018, for review. On December 4, 2018, Mr. Bunting was provided two additional factual reports for review: the Pipeline Operations/Integrity Management Group Chairman’s Final Factual Report, and the Survival Factors Group Chairman’s Final Factual Report, as well as Brief Report DCA17FP006 – Millersville Draft Brief and the transcripts for all recorded interviews that had been conducted with UGI employees, witnesses, response personnel, and contractors on the scene at the time of the accident. Mr. Bunting was expected to provide Honeywell’s/Elster’s comments on all these documents. Although an official date for submission was not specified in the e-mail, Mr. Evans recalls that 10 calendar days—the customary allowance for reviewing factual and brief reports—

¹ Materials Laboratory Factual Report No. 18-003 dealt with documentation of the tee assembly from the accident; No. 18-004 dealt with exemplar tee assemblies; No. 18-005 dealt with tee assembly from Firmstone Street that was not related to the accident; No. 18-006 dealt with the riser and sewer pipe from the accident; and No. 18-007 dealt with a main from a California accident that had a longitudinal crack adjacent to the cutter assembly.

was given as the review period; accordingly, December 13, 2019, would have been the deadline for submitting comments.

On December 11, 2018, Mr. Bunting contacted Mr. Evans and requested an extension for providing his comments because he would be out of the country. Mr. Evans agreed to Mr. Bunting's suggested suspense date of December 17, 2018, but Mr. Bunting provided no comments by that date. Several days later, on December 21, 2018, federal government employees were furloughed. When NTSB employees returned to work on January 28, 2019, Mr. Evans found that Mr. Bunting had submitted no comments in the interim. Nor did Mr. Evans receive any comments from Mr. Bunting subsequent to that date, although he provided Mr. Bunting additional information (an e-mail regarding metrics for tee replacements) on February 28, 2019.

As you may be aware, we sent a letter via e-mail to Mr. Edward J. Myszka, Vice President and General Manager, Smart Energy, Honeywell Process Solutions, on March 12, 2019, in response to his August 22, 2018, letter regarding NTSB Safety Recommendations P-18-3 and -4. In our reply to Mr. Myszka, we classified Safety Recommendation P-18-3 "Closed—Acceptable Alternate Action" in response to Smart Energy's modification of its installation instructions for its Permalock mechanical tapping tee (PMTT) assembly. In addition, we classified Safety Recommendation P-18-4 "Open—Acceptable Alternate Response" pending Smart Energy's verification that it has performed engineering tolerance analysis and corresponding bolt stress analysis to ensure that the PMTT performs as designed while maintaining nylon bolt stress below the critical stress for slow crack growth. The current status of these recommendations may (or may not) influence your current position regarding the accident investigation.

Your letter also addresses what you term to be inaccuracies or omissions in the accident investigation. At this point, the best mechanism for presenting this information is a Petition for Reconsideration. In accordance with Title 49 *Code of Federal Regulations (C.F.R.)* § 845.32, a party to an investigation or another person having a direct interest in an investigation may send a petition in writing, via e-mail, or via postal mail, "based on the discovery of new evidence or on a showing that the Board's findings are erroneous."² When a Petition is based on the discovery of new matter, pursuant to Section 845.32(a)(3)(i), it must identify the new matter; contain affidavits of prospective witnesses, authenticated documents, or both, or an explanation of why such substantiation is unavailable; and state why the new matter was not available prior to Board's adoption of its findings. The Board, however, will not consider petitions that are repetitious of proposed findings submitted pursuant to § 845.13 or "positions previously advanced."³ Finally, the petitioner must send copies of the petition and any supporting

² 49 C.F.R. § 845.32(a)

³ 49 C.F.R. § 845.32(b)

documents to all parties to the investigation, and "proof of service shall be attached to the petition."⁴

Sincerely,

A black rectangular redaction box covers the signature. Faint blue ink handwriting is visible behind the redaction.

Robert L. Sumwalt, III
Chairman

⁴ 49 C.F.R. § 845.32(c)