



January 2, 2020

VIA EMAIL - Robert.Sumwalt@NTSB.gov

The Honorable Robert L. Sumwalt
Chairman
National Transportation Safety Board
490 L'Enfant Plaza, SW
Washington, DC 20594

Re: Elster Perfection Petition for Reconsideration
UGI Millersville, PA, July 2, 2017
Accident ID DCA17FP006

Dear Chairman Sumwalt:

This letter is in response to a "Petition for Reconsideration" filed by attorneys for Elster Perfection¹ regarding the NTSB Accident Brief prepared in this investigation.

Overview

In essence, the Elster Perfection attorneys are asking the NTSB to change its probable cause statement from an improperly installed mechanical tapping tee that leaked and allowed gas to migrate into a house where it ignited (which Elster does not contest is factually correct), to an inadequate response by UGI to that leaking tee. The Petition reads like a legal brief, assessing blame, criticizing the NTSB for minor factual ambiguities and suggesting that the Safety Board completely mishandled the accident investigation. Elster does not claim that they discovered new factual materials, but instead re-hashes facts well known to the NTSB and suggests that the NTSB's findings and probable cause statement are erroneous. As discussed below, the logic behind Elster's position is fundamentally flawed.

Elster does not contest that it manufactured the mechanical tapping tee involved, that the tee leaked, that gas migrated into the house or that the gas ignited and caused the explosion. Elster also does not deny the accuracy of any facts contained in the NTSB Safety Recommendation Report, PSR 1801.

To the extent there are discrepancies in the Accident Brief, they involve peripheral factual matters that do not relate to the probable cause of the accident and generally reflect Elster Perfection's misunderstanding of the extensive factual record developed by the NTSB during this investigation. The NTSB should deny the Elster's Petition for Reconsideration and affirm the

¹ Elster Perfection is a defendant in three related personal injury/wrongful death lawsuits brought by UGI employees and the estate of a deceased UGI employee.

validity of the Accident Brief, especially given Elster's failure to fully participate in the investigation or even provide a Party Submission to the NTSB.

Elster Perfection Failed to Raise its Concerns During the Accident Investigation, So Should Not Now Complain About The Accident Brief or Group Chairman Reports

Elster Perfection was aware of the NTSB's investigation of this accident no later than July 5, 2017 when it contacted UGI asking for preservation of the accident site, and was given contact information for the NTSB Investigator-in-Charge. Our understanding is that Elster Perfection was made a formal Party to the Investigation shortly after that. Even so, Elster Perfection failed to participate in any of the witness interviews conducted by the NTSB and, to UGI's knowledge, did not fully participate in the NTSB investigation. To UGI's knowledge, Elster Perfection chose to limit its participation to attending NTSB testing of the mechanical tee at issue. UGI also believes that Elster Perfection failed to provide the NTSB with a Party Submission, which would have allowed the NTSB to consider any thoughts Elster had about findings and probable cause before the Accident Brief was issued.

Elster Perfection's refusal to actively participate in the full investigation and failure to comment on the alleged errors prior to the conclusion of this investigation suggests that the motivation behind the Petition is to address legal concerns rather than any legitimate issue with the NTSB's findings or probable cause. The NTSB should not now be expected to expend scarce resources addressing untimely complaints about the investigative results.

Minor Factual Discrepancies Do Not Affect the Probable Cause Statement

Elster Perfection alleges several minor factual discrepancies involving the timing of UGI's response to the gas leak and gas readings obtained by the UGI first responder. Most of the alleged discrepancies are factually accurate and, to the extent there is an issue, it does not affect the NTSB's determination of probable cause. Each of the alleged discrepancies is addressed below.

Claimed Inaccuracy

"By 11 :50 a.m., the senior supervisor had assembled a three-person crew at the site."
PAB, p. 3

UGI Response

By 11:50 a.m., a UGI Senior Supervisor Operations – C&M had, in fact, assembled (contacted and confirmed) a three member crew to respond to the leak site. The crew had not, however, arrived at the site by that time. This is exactly what is stated in the Operations Group Chairman's Factual Report. While Elster Perfection complains about the accuracy of the Group Chairman's Report, it correctly states that "[b]y approximately

11:50 a.m., the Senior Supervisor had assembled a three person crew that was responding to the site." (Emphasis added)

While the wording of the Accident Brief can be construed as partially inaccurate, the error is not significant and does not affect any findings, conclusions or the probable cause. In particular, the timeline developed by the NTSB confirms that UGI responded appropriately. A complete sequence of events, and references to the factual materials that support it, can be found in UGI's response to NTSB Request 51, UGI document 04466-04474, which is part of the NTSB's record of investigation. Here is a more detailed history of the Senior Supervisor's effort to assemble and dispatch the crew:

Senior Supervisor was called by a Mechanic III at the scene and asked to send a crew (11:18 a.m.);

Senior Supervisor called in a "One Call" ticket to allow dig to be performed at the accident site (11:20 a.m.);

Senior Supervisor called work (cell) phone of Duty Foreman to respond to the scene (11:23 a.m.);

Senior Supervisor called work (cell) phone of Duty Operator to respond and left a message (11:25 a.m.);

Senior Supervisor called Utility A to respond with crew to the scene (11:26 a.m.);

Senior Supervisor called home phone of Duty Operator and left message to return call (11:27 a.m.);

Senior Supervisor called UGI Engineer II to discuss shutdown of gas line (11:30 a.m.);

Senior Supervisor called Mechanic II and left message (11:32 a.m.);

Senior Supervisor called Mechanic II and discussed crew composition (11:42 a.m.);

Senior Supervisor called work (cell) phone of Duty Operator and left message that he was calling someone else to respond (11:44 a.m.);

Senior Supervisor called Utility A-III (11:47 a.m.);

Senior Supervisor called Utility A-III and requested him to respond to scene as Operator because Duty Operator could not be reached. (11:50 a.m.) Last of full

crew had been assembled (contacted) at this time, but Operator did not arrive until after accident occurred.

While the statement in the Accident Brief can be construed to suggest that the crew was on site at 11:50 a.m., the discrepancy is minor and the timeline above demonstrates that UGI acted diligently under the circumstances. Nothing undermines the NTSB's findings or probable cause statement in this investigation.

Claimed Inaccuracy

"An additional UGI technician and a senior supervisor arrived shortly thereafter," i.e., shortly after 11 :00 a.m. PAB, bottom of page 1 and top of page 2.

UGI Response

This statement is accurate, although somewhat vague. In any event, the Accident Brief clarifies on page 4, 3rd paragraph, that the actual arrival time of the Senior Supervisor was "shortly after noon". To the extent there was any ambiguity in the earlier statement, the Accident Brief itself clears up any confusion.

The exact times that various UGI personnel responded to the accident site are contained in UGI's response to NTSB Request 51, which is UGI document 04466-04474. The timeline makes clear that UGI's response was timely and appropriate, although the failure of one UGI Duty Operator to respond to phone calls during his duty time delayed the arrival of an Operator on site. Again, nothing undermines the NTSB's findings or probable cause statement in this investigation.

Claimed Inaccuracy

"The senior supervisor and the duty operator began excavating the gas main pipeline. While the excavation was underway, the technician reported that he was measuring 20 percent LEL at the stoop on 206 Springdale Lane and that he had trouble getting the occupant to respond to his knocking at the front door."

PAB, fourth page, second sentence, fourth full paragraph.

UGI Response

In general, there is some uncertainty on the gas readings in this event because the UGI first responder who took the readings died in the explosion and obviously was not available to testify on what readings he found at any particular time and place. In addition, there seems to be confusion on the part of the witnesses about whether the first responder was referencing percent of gas or percent of Lower Explosive Limit (LEL). Again, because the first responder who took and communicated the readings is deceased,

it is impossible to clarify the readings and certain assumptions must be made. It should also be noted that Mr. Trimble stated during his interview that his memory of the gas readings was “jumbled” as were certain other memories of the accident. Interview of Jason Trimble, P 24, L 16 & 21; P 50, L 9; P 93, L 16; P 18, L 20.

In any event, these statements appear to be essentially accurate. At the time the operator began excavating, the reported gas level was 21 percent LEL on the stoop of house 206:

Q. Okay. And then in the home he had what as far as the LEL, 20 or what was it?

UNIDENTIFIED SPEAKER: Twenty-one.

BY MR. EVANS:

Q. Twenty-one.

A. And that was the last reading that I remember.

Q. Reading. That's when he was on the stoop, correct?

A. That was -- yes. That was the last reading that I remember him giving me.

Interview of Jason Trimble, P 31, L11-19. The Accident Brief correctly identifies the LEL readings being reported on the stoop of house 206. Likewise, that there was difficulty originally gaining entry to the home. See page 4, 4th and 5th paragraphs.

It is unclear whether the readings referenced by Elster Perfection were a completely separate set of readings taken later, or just a jumbled recollection of what was reported to him at the time. See Interview of Jason Trimble, P 24, L16-20.

Claimed Inaccuracy

“While the main line was being excavated, the occupant of 206 Springdale Lane responded to the technician. Based on the gas percentage reading of 20 percent LEL in the home, the technician decided to evacuate the home.”
PAB, p. 4, first two sentences of the 5th paragraph.

UGI Response

As described above, it does appear that the readings inside the home were approximately 20 percent LEL just prior to and at the time the home was evacuated.

The Probable Cause Determination Was Correct

Elster Perfection argues that the probable cause should have been UGI's response to the gas odor call rather than gas leaking from Elster's defective tee. Using that logic, the probable cause would also be whatever ignition source in the house ignited the leaking gas, the sleeping occupant who delayed UGI's entry into the house and even the decision to build a home so close to the Elster Perfection tee. While this type of logic may be appropriate in a law suit, it has no place in an NTSB accident investigation. The NTSB correctly focused on the cause of the gas leak as the probable cause.

There is no basis on which to conclude that UGI's response to the leaking Elster Perfection tee was the probable cause of the accident. The NTSB carefully reviewed the actions taken by UGI, from the initial response to the escalating response as the nature of the gas odor revealed itself during the onsite investigation. The information collected by the NTSB in this exhaustive investigation revealed that the UGI responders were properly trained and extensively experienced. The response to this gas odor complaint was timely and appropriately escalated as the nature of the problem became evident.

When potentially dangerous levels of gas were detected in house 206, it was promptly evacuated. When the risk of an explosion became evident, the fire department was called and gas was being shut off in the most expedient manner – squeezing the gas main near the leak rather than shutting a distant valve and waiting for the gas in the line to blow down. The first time gas levels above the Lower Explosive Limit were discovered inside a structure was mere seconds before the explosion and there was no time to shut off the electricity to the structure. As discussed above, it is also possible that the testimony of readings above LEL were simply jumbled memories of what the witness was told by the deceased first responder, and that there were no readings above LEL in house 206.

The NTSB correctly determined that the probable cause was the leaking Elster Perfection tee.

Elster Perfection's Other Allegations Do Not Have Any Legitimate Basis

Elster Perfection's Petition contains many additional allegations that appear to be motivated by their litigation concerns, attempt to assign blame and do not relate to the reconsideration or modification of findings or the determination of probable cause in this investigation. UGI will not address all such statements, but will address the following allegations.

The Elster Petition contains many references to allegations made by the Pennsylvania Public Utilities Commission and the US Department of Labor (OSHA) in the context of their proceedings. The PUC and DOL allegations are not facts, but are mere allegations and UGI has contested the validity of each such allegation in those proceedings. These allegations cannot be legitimately used to contest the findings or probable cause determination reached by the NTSB

as a result of its independent investigation of this accident. Although the Elster attorneys attached a copy of an OSHA "Violation Worksheet" and claim that this document supports their claim that the DOL made certain "findings" against UGI, the OSHA matter was closed without any findings of violation by UGI. See OSHA web site:

https://www.osha.gov/pls/imis/establishment.search?p_logger=1&establishment=UGI&State=all&officetype=all&Office=all&sitezip=&p_case=all&p_violations_exist=no&startmonth=12&startday=27&startyear=2014&endmonth=12&endday=27&endyear=2019

The Elster Petition also alleges that the Supervisor on duty had no prior experience coordinating an emergency response. In fact, Mr. Trimble had 9 years' experience responding to leaks, both in the field and as supervisor. In his words, "we deal with leaks all day." See Trimble Interview Transcript at P 65.

The Elster Petition also alleges that "UGI's on call responder failed to answer phone calls throughout the response, while others were mobilized slowly or not at all." In fact, the timeline shows that as the significance of the gas odor was recognized, the response was escalated and additional resources were added in a timely fashion. The only UGI employee who responded slowly or not at all was the On-Duty Operator, who did not respond to calls, was replaced by another employee, and was subsequently discharged from his employment. The overall response was timely.

The Elster Petition is also critical of the decision to shut off the flow of gas to the 206 house by squeezing the gas main. The decision to squeeze the main rather than turn the valve was based on a proper analysis that it would more quickly stop the flow of gas to the house by squeezing the main because turning off the valve a block away would take time, it was unclear whether the valve would be obstructed by a vehicle or other obstruction and, once closed, it would take time for gas in the main to blow down at the leak site.

The Elster Petition also refers to prior UGI events, stating that they make UGI's "failures" "even more egregious". UGI's response to the gas odor complaint was timely and appropriate, as discussed above. Nothing about any prior event suggests that the response to this event was improper, let alone "egregious". Again we see litigation-style blame arguments that have no legitimate place in this investigation.

Conclusion

The Elster Perfection attorneys are asking the NTSB to change its probable cause statement from an improperly installed mechanical tapping tee that leaked and allowed gas to migrate into a house where it ignited, to an inadequate response by UGI to that leaking tee. The Petition reads like a legal brief, assessing blame, criticizing the NTSB for minor factual ambiguities and suggesting that the Safety Board completely mishandled the accident investigation. Elster does not claim that they discovered new evidence, but instead re-hashes facts well known to the

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NTSB and suggests that the NTSB's findings and probable cause statement are erroneous. As discussed, the logic behind Elster's position is fundamentally flawed and the NTSB should deny the Elster's Petition for Reconsideration and affirm the validity of the Accident Brief, especially given Elster's failure to fully participate in the investigation or even provide a Party Submission to the NTSB.

Respectfully,

A black rectangular redaction box covers the signature of Robert P. Krieger. A handwritten flourish is visible below the redaction.

Robert P. Krieger
Vice President Business Process Improvement

[signed by UGI Party Coordinator]

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