

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:

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NATURAL GAS DISTRIBUTION PIPELINE

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LEAK AND MULTISTORY STRUCTURE

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EXPLOSION IN HARLEM, NEW YORK

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MARCH 12, 2014

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Interview of: KEVIN SPEICHER

New York, New York

Tuesday,

August 5, 2014

The above-captioned matter convened, pursuant to notice.

BEFORE: RAVI CHHATRE

Investigator-in-Charge

APPEARANCES:

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National Transportation Safety Board
Washington, D.C.

KALU KELLY EMEABA, Accident Investigator
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ANASTASIOS GEORGELIS, Director of Field Operations
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Gas Distribution Services
Con Edison
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JANE CICERANI
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MR. SPEICHER: Kevin Speicher, K-e-v-i-n, S-p-e-i-c-h-e-

1 r. I work for the New York State Department of Public Service,
2 and I am the Chief of Pipeline Safety. And mailing address is
3 3 Empire State Plaza, Albany, New York 12223.

4 MR. CHHATRE: And whom have you chosen to be with you?

5 MR. SPEICHER: Jane Cicerani.

6 MR. CHHATRE: Now, I'd like to go around the room and
7 have each person introduce themselves. Please state your name,
8 spelling of your name, your title, the organization you represent,
9 and your business contact information. We'll start from my right.

10 MR. NICHOLSON: Matthew Nicolson. I'm an investigator
11 with the National Transportation Safety Board. Spelled M-a-t-t-h-
12 e-w, N-i-c-h-o-l-s-o-n. My e-mail is [REDACTED].

13 MR. EMEABA: Kalu Kelly Emeaba, K-a-l-u, K-e-l-l-y, E-m-
14 e-a-b-a. I'm an accident investigator with NTSB. My e-mail
15 address is [REDACTED].

16 MR. McCARTON: Good morning. My name is Frank McCarton.
17 I'm the Deputy Commissioner for Operations in the Office of
18 Emergency Management, and I sit on as a New York City party rep
19 for this investigation. My e-mail is [REDACTED].

20 MR. GEORGELIS: Anastasios Georgelis, A-n-a-s-t-a-s-i-o-
21 s, G-e-o-r-g-e-l-i-s. I'm here with Frank. I'm from the New York
22 City Department of Environmental Protection. My title is Director
23 of Field Operations for Water and Sewer Operations. My e-mail
24 address is [REDACTED].

25 MS. CICERANI: I'm Jane Cicerani, J-a-n-e, C-i-c-e-r-a-

1 n-i. I'm with the Department of Public Service in New York. My
2 mailing address is 3 Empire State Plaza, Albany, New York 12223.
3 My e-mail address is [REDACTED], and I am a managing
4 attorney in the Office of General Counsel for the New York State
5 Department of Public Service.

6 MR. SINGH: Leonard Singh -- L-e-o-n-a-r-d, S-i-n-g-h --
7 Chief Engineer, Gas Distribution Services, Con Edison. I am the
8 party rep on this team representing Con Edison. My contact is
9 [REDACTED].

10 MR. STOLICKY: Chris Stolickey, S-t-o-l-i-c-k-y. I am
11 the New York party rep. I work with the New York State Department
12 of Public Service. My e-mail address is
13 [REDACTED].

14 MR. CHHATRE: Thank you very much.

15 INTERVIEW OF KEVIN SPEICHER

16 BY MR. CHHATRE:

17 Q. Kevin, for the record, please tell us your formal
18 education, your background, how long you have been with the
19 commission, and your responsibilities.

20 A. I got a bachelor of science in environmental engineering
21 from Syracuse University in 1994. I started with the commission,
22 I believe, in 1995 as a junior engineer and became a engineer,
23 less the junior title, about a year later, so 1996, I believe.
24 These dates may be a little bit off, but -- and then got promoted
25 to supervise the Syracuse office. Then I was supervising --

1 became the utility supervisor in charge of Syracuse Field and
2 Buffalo Field. And then from there, I became chief of the safety
3 section in 2010, I believe.

4 Q. And as the chief of safety, what are your
5 responsibilities?

6 A. Oversight and -- management and oversight of our
7 pipeline safety program, which includes interstate and intrastate
8 inspections of all hazardous liquid and natural gas pipelines in
9 New York State, and then we also oversee steam jurisdiction
10 strictly in New York City.

11 Q. On the natural gas side of your responsibilities, can
12 you go a little bit over it and tell us what enforcement actions
13 you do and --

14 A. What -- I'm sorry?

15 Q. Can you tell how many utilities you have that you kind
16 of oversee and --

17 A. We have 40- -- I believe it's 49 operators in New York,
18 18 LDCs of which we consider -- I think it's 11 that are major
19 LDCs, so that's 15,000 or more customers. We oversee
20 implementation of our safety regulations, which are Part 16 -- or
21 16 NYC, our Part 255, Part 753, and Part 261. 255 would be the
22 counterpart to 192 regulations, and 261 would be beyond the meter.

23 Q. Okay. And when did the commission, I guess, started
24 working with PHMSA and how are you responsibilities with PHMSA?

25 A. We started working with PHMSA quite a long time before I

1 got here, but we've been an interstate agent since I've been with
2 the commission, which is 1995. I'm not sure when the interstate
3 agent status started, but we have held it since then.

4 Q. Okay. And how does the relationship with PHMSA and the
5 commission work?

6 A. We submit certification applications that gets reviewed.
7 We do what's called a progress report. So one document -- or the
8 application for essentially the grant money comes through and then
9 a year later we have to go through what's called the progress
10 report. That's us telling PHMSA how we did with accomplishing
11 what our goals were, and this is an annual process.

12 And then, annually, they come in and look at our field
13 operations and our recordkeeping and evaluate the program based on
14 that. And the score that they come up with, 50 percent is based
15 on the progress report and 50 percent is based on the record and
16 field review.

17 Q. And that review means what to the commission or how does
18 that review impact you guys?

19 A. We put a lot of emphasis on it because it helps identify
20 any areas where we're lacking and identifies improvement
21 opportunities and it validates what we are -- changes we have made
22 and how we're implementing what essentially we're saying we're
23 going to implement and how we implement the guidelines that PHMSA
24 puts out, the guidelines for states.

25 Q. So, are you then like PHMSA's agent enforcing the

1 regulations? Or, how is that relationship?

2 A. On the -- yes, they have delegated authority to us on
3 the intrastate side where -- and that means that we conduct all of
4 the record and field audits and we have enforcement authority to
5 enforce our rules and any enforcement actions we need. On the
6 interstate side, we conduct the audits, record, field,
7 construction, accident investigation, and we make recommendations
8 to PHMSA, and they enforce on the interstate side.

9 Q. And how often do you typically audit each utility?

10 A. On the interstate side, that is -- the plan is made in
11 conjunction with the Eastern Region. We submit our proposed plan
12 usually in November or December of each year. Through discussions
13 with PHMSA, we come up with an actual audit plan.

14 We like to audit -- we don't like more than 2 years to
15 go by without auditing on the interstate side. So each unit we
16 like to look at every 2 years. Risk factors do come into play, so
17 we're looking at higher risk units a little bit more often. We do
18 exceed the 2 years occasionally because PHMSA's audit cycle is
19 based on risk, so we have to take risk into consideration. And
20 that risk -- risk factors are if there is any special permits, if
21 there has been findings in the past within that unit and different
22 things along those areas.

23 Q. Tell us more on the audits, what the audit entails. Is
24 it like an overall audits, focused audits, or both or --

25 A. A little bit of both on the PHMSA side, on the

1 interstate side. On the intrastate side, it's a comprehensive
2 audit. We try to do a comprehensive audit once every 5 years. In
3 actuality, we are doing them quite a bit more often.

4 We have a -- we've broken all of our companies down into
5 units and we look -- we have people assigned to those units. And
6 we have a 5-year audit plan, where all of our functions are looked
7 at a minimum of once every 5 years, and that's based on risk. Low
8 risk stuff is at least once every 5 years, medium risk would be
9 usually once every 2 years, and high risk would be annually.

10 In reality, for all operations and maintenance
11 functions, we are looking -- even though it's a 5-year audit plan
12 we're working off of, most of the audit tasks are reviewed or
13 audited once every 3 years. But we do have that 5 years for
14 extraordinary circumstances, where staff may get assigned to
15 incident investigation and for other things that may come up that
16 take us away from the standard audits.

17 Q. Just for the record, define interstate and intrastate --

18 A. All right.

19 Q. -- just for the record.

20 A. Interstate would be facilities essentially that are
21 crossing state lines. They're more of your transmission operators
22 bringing gas in from out of state or from Canada.

23 Q. Okay.

24 A. And the interstates [sic] start and end within the
25 boundaries of New York City, the intrastate do.

1 Q. Can you elaborate a little bit, maybe explain your state
2 regulation versus 192? Just walk us through that and --

3 A. Yes. For most of it our Part 255 is a counterpart to
4 Counterpart 192 on the PHMSA side. Our numbering system is
5 essentially the same, so like 727 would be service valves on the
6 federal side and it would be that on the New York side, the 255
7 side. So our numbering system is the same.

8 Q. Same.

9 A. The recent changes going from OQ, I believe OQ forward,
10 we have adopted the PHMSA regulations verbatim. So, that's OQ
11 integrity management, distribution integrity management, control
12 room management. I think distribution integrity management, we
13 had just a very minor change and that clarifies reporting comes
14 through the department as opposed to -- I think, the federal
15 regulation says the state agency. We just clarified it's the
16 Department of Public Service.

17 The other regulations are, in most cases, more stringent
18 than the PHMSA regulations. We do have a couple of exceptions,
19 but in most cases, it is as stringent --

20 Q. More stringent?

21 A. -- or more stringent.

22 Q. And you can have more stringent regulations?

23 A. We can have more stringent. We're not -- under our
24 agreements with PHMSA, we're not supposed to be less stringent.
25 We're supposed to be at least as stringent as Part 192.

1 Q. Okay. Now, can you tell us some of the differences
2 between 255 and 192, if there are any?

3 A. Yes. Well, 255 would apply to all of our intrastate
4 pipelines, not to the interstates. That's the main difference.
5 So it only applies to intrastate pipelines.

6 You know, as far as areas we're more stringent, I
7 believe we're much more stringent in the current gathering line
8 area. We have very strict rules for gathering lines, including
9 odorization if it's within 150 feet of a house. Transmission
10 lines, another area we're much more stringent than PHMSA. All or
11 transmission lines in New York State need to be odorized. PHMSA
12 is based on class location. Our leak requirements are much more
13 defined, a leak classification system that we have that PHMSA does
14 not have.

15 Q. And when did 255 became effective? If you don't know, I
16 mean, if you don't, you don't. We can always get the --

17 A. Yeah. That --

18 MR. STOLICKY: It was originally -- this is Chris
19 Stolicky. It was originally created in 1952, I believe, after an
20 incident in 1951.

21 MR. CHHATRE: Okay. Thanks, Chris.

22 MR. SPEICHER: We went through a code convergence in the
23 mid '80s, I believe, that aligned our code more with the feds, so
24 the numbering -- it was mainly the numbering system changed where
25 our numbering system --

1 BY MR. CHHATRE:

2 Q. Matches.

3 A. -- equates to the federal. And we also have regulations
4 on the liquid side, and that's our Part 258. We incorporate all
5 design construction, operations, maintenance, so we're in -- we
6 incorporate by reference all of Part 195. We just have some extra
7 notification requirements, but all the O&M type of functions are
8 verbatim 195, so we refer to 195.

9 Q. What is an area of interest to us is how 255 -- or how
10 the commission defines the service line compared to what's defined
11 in 192.

12 A. Yes.

13 Q. That's the area of particular interest for this
14 accident.

15 A. That is one area that we're, in some ways, more
16 stringent than PHMSA, in other ways, less stringent. PHMSA's
17 definition of service line ends at the outlet of the meter and
18 that's essentially regardless of where that meter is. So if it's
19 outside of the property line, it would end there. If it's inside
20 the house, it would end there. New York State says it ends at the
21 building wall. So in mainly residential areas, instead of ending
22 at the property line, it ends at the -- if the meter is outside,
23 it would end at the outside building, while if it's inside, it
24 would end at the inside building wall.

25 And what that's done on the -- for outside meter sets,

1 it's allowed us to keep jurisdiction of the service line directly
2 to the building, and that would include operations, maintenance,
3 fixing leaks, all that, and it includes markout. So if
4 jurisdiction had ended at the property line and the meter was at
5 the property line, there would be no maintenance of the -- what we
6 define as a service to the wall, to the building wall. And it
7 also includes, you know, like I said, the markouts. So those
8 would be customer-owned facilities under the PHMSA definition and
9 they would be customer maintained under the PHMSA definition. So
10 by us saying the building wall, it's allowed us to bring those
11 into the equation and, you know, we believe that the utility are
12 the experts and they're the ones who should be operating and
13 maintaining that portion of the pipeline.

14 Now, coming to the inside, if the meter is inside, we
15 end at the building wall so we're not -- there is a portion of --
16 call it gray pipe or whatever, that's not directly under the
17 definition. The meter and the pertinences would be
18 jurisdictional, so the meter, and if there's a service regulator,
19 it would be jurisdictional. But the pipeline, the pipe from the
20 building wall to the inside meter would not be.

21 Q. But wouldn't that be in contradiction to 192?

22 A. Yes.

23 Q. And has this issue been resolved with PHMSA? I mean, I
24 got PHMSA -- I was really confused on that, on this accident
25 particularly, so I got clarification. I asked for clarification

1 from PHMSA, and PHMSA tells me that no, the service line is up to
2 the outlet of the meter. So --

3 A. We brought this to their attention. Quite honestly, we
4 believed that we were more stringent. Only recently we found out
5 that we were less stringent or we really understood that we were
6 less stringent. We did bring it to PHMSA's attention. We have
7 had preliminary discussions with them. We are going to initiate a
8 rulemaking to address where we are less stringent, and we just
9 wanted to talk to them a little bit about process.

10 Q. Okay. So you are planning to change --

11 A. Yes, we are going to --

12 Q. -- 255?

13 A. Correct. Yes. And we're studying exactly how that
14 change is going to look. We don't want to incorporate verbatim
15 PHMSA's definition because we don't want to lose that jurisdiction
16 from the property line to the building wall. So we do want to
17 keep that jurisdictional. It's just the inside piping we would be
18 bringing into the equation.

19 Q. Okay. The reason I ask this is because doing this
20 pressure testing that we did on Park Avenue, there are a couple of
21 buildings that we noticed the leaks are small, but there the
22 pressure wasn't holding, to put it this way --

23 A. Right.

24 Q. -- up to the meter, and that's when the issue came
25 about. So, typically, the rulemaking process takes a long time,

1 at least from my experience with PHMSA. Do you have any targeted
2 date to get this thing accomplished or --

3 A. I think I would defer to Jane on this one, but my
4 initial belief is that it's probably going to take 15 to 18 months
5 to get a final rule in place. The notice, I believe, would -- you
6 know, we'd try to get that out as soon as possible, but a final
7 rule would probably take 15 to 18 months.

8 MS. CICERANI: Yeah. The process can be extended
9 depending upon what kinds of comments we receive from the initial.
10 Because we would file a proposed set of rules and get comments.
11 And if the comments made us significantly change what we had
12 originally put out, we would have to re-notice. We'd have to
13 change it, amend it, and then re-notice it, so that can extend the
14 process.

15 Part of what we're considering and what we are going to
16 be doing is, once we know what we think it should look like, is to
17 start bringing in other parties, discuss it with them so that
18 perhaps when we put that first one out, it'll already have a lot
19 of party input and we may not have to have that second iterative
20 step. But, it is, even in the most aggressive terms, 12 to 15
21 months.

22 MR. CHHATRE: Months. Okay.

23 BY MR. CHHATRE:

24 Q. Now, given -- now, can you tell us, if you know, what
25 percent of meters will be inside the building versus outside the

1 building, in New York City in particular, but overall in the
2 state?

3 A. Yeah.

4 Q. If you have the information.

5 A. I could get that information to you. It depends on -- I
6 think Con Edison, the majority are inside. KEDNY -- and I need to
7 double check these numbers and I could get the exact numbers to
8 you, but KEDNY, I believe, is about 60/40 inside. So, 60 percent
9 inside and 40 percent outside. And again, I'll get these numbers
10 to --

11 Q. Right. I mean, just ballpark.

12 A. Yeah, it's -- and Upstate, it's 60-plus percent outside
13 versus inside.

14 Q. Okay. Now, does that change depending upon the multi-
15 story building versus a single family unit?

16 A. Yeah. The outside -- what's outside and what's inside
17 typically would be location dependent, so -- but if companies are
18 able to move it outside, we've been encouraging that. Our
19 regulations require it when a service is -- when a new service is
20 put in, we require that the meter be put outside, unless it's
21 impossible to do, because of safety reasons.

22 So, yeah, we do; we require it to be put outside during
23 upgrades and upgrading where possible. We encourage moving
24 outside. For instance, National Grid put in -- National Grid
25 Upstate has a program to move outside -- inside meter sets

1 outside.

2 Q. Now, looking at the audits now, can you tell us -- I
3 mean, we had requested through Chris the audits for Con Edison for
4 the last 5 years. And my question is can you tell us if any
5 enforcement actions have been taken against Con Edison and any
6 incidents that you've found, if you find anything, that would
7 require enforcement action?

8 A. We have -- there was a settlement reached in the Sanford
9 Ave incident, which would have been 2010 area -- 2009, 2010 area.

10 Q. Only one action in the last how many years?

11 A. I'm trying to think of the exact statistics. I don't
12 have that information at my fingertips. But I know from an
13 auditing standpoint, the typical operations and maintenance
14 audits, those violations we recently -- March of 2013, legislation
15 was enacted that allows enforcement actions to be more of an
16 administrative process, so we would be moving into the arena very
17 quickly.

18 Also, in, I believe it was, January of 2013, Con Edison
19 -- I'm sorry -- 2014, Con Edison's rate plan, we have negative
20 rate adjustments for violations and occurrences of violations, and
21 that was in their most recent rate case and I believe those went
22 into effect January of 2014. KEDNY's went in effect, same
23 principal -- went into effect, I believe, in 2013.

24 Q. S, can you walk us through in case you -- if your audit
25 team finds a deficiency with Con Edison or any other operator,

1 what process it takes to take any enforcement action or fine or --

2 A. Yeah. All right, any issue we find, we bring it to the
3 company's attention. Usually, if it's an immediate safety hazard,
4 we bring it immediately to the company. As part of our audit
5 process, we also have a closeout meeting and exit interview.
6 PHMSA calls it an exit interview. It's where we sit with company
7 management and give them our findings. So, here's a list of
8 violations or potential violations we found from our audits.

9 We give them 5 days to respond to us. Essentially, it's
10 more of a facts check, presenting any information that would --
11 like records we may have missed or anything like that. So, if
12 records were sitting in a truck or something and we cited in
13 violation for there not being a record or not being an inspection.
14 So it's a chance to correct those deficiencies. Anything that is
15 not -- where there hasn't been substantial evidence given to us to
16 remove that as a violation or a potential violation, we put in an
17 audit letter and we send it to the companies.

18 On the record side, that takes place in usually Q3 of
19 each year, so June, July, August area. So those are -- every
20 violation we found would be sent to the company in writing. They
21 have 30 days to respond to us on any actions they will take to
22 prevent recurrence -- or to address the deficiency and prevent
23 recurrence. Those letters come back to us. We evaluate the
24 letters. If we take issue with anything, then we kind of send a
25 rebuttal letter and go through that process.

1 As far as enforcement, so, immediately, all of those
2 violations are subject to our rate case -- negative rate
3 adjustments. So that's by occurrence and it's a basis point -- or
4 partial basis point adjustment to the rate case for each
5 occurrence of the violation. So that automatically gets into most
6 of the companies. Not all of our New York companies have that,
7 but anybody who has been in for a rate case since, I believe,
8 2011, '12 timeframe would have those adjustments. And -- rate
9 cases or a merger agreement. We do have one company that's
10 operating under a merger agreement that has the negative rate
11 adjustments for violations.

12 If it's part of -- if it is a violation that we found
13 during an incident, we'd bring that through the commission.
14 Usually, a show cause order would be issued, basically saying show
15 the commission why a penalty should not be assessed, and then we
16 go through a process with that. They have to respond within a
17 certain amount of time. And usually we would try to have a
18 settlement agreement in place rather than go to court. A
19 settlement agreement allows us to --

20 MS. CICERANI: Can I talk?

21 MR. SPEICHER: Yeah.

22 MS. CICERANI: Okay. Just -- once the order to show
23 cause is out there, as he said, they have an opportunity to
24 comment. Up until March 2013, the only vehicle we had if we
25 wanted to take this beyond that point would be to file a penalty

1 action in the courts, and we've done that. We often found that
2 settling was the better method because if there was a penalty
3 action and there was an ultimate penalty assessed, that money went
4 to the general fund as opposed to back to the rate payers or, you
5 know, to help the rate payers.

6 The March 2013 change in the law that Kevin mentioned,
7 our PSL 25A now permits the commission to assess civil penalties.
8 So, it also changed the burden of proof under 25, under the
9 penalty provisions of 25. There had to be a knowing or a willful
10 neglect type of standard; now, it's a preponderance of the
11 evidence. So the standard is slightly lower. And if, in fact,
12 the commission finds penalties, we can assess it directly against
13 the utility; the money goes back for the benefit of rate payers,
14 which is why, up until now, it's been more typical that we
15 actually would try to settle. If we settled without bringing it
16 to court, typically, whatever the amount was in the settlement, we
17 would define uses for that that would benefit the rate payers.

18 BY MR. CHHATRE:

19 Q. So, until 2013, the commission had no authority to levy
20 fines on the operators for any deficiencies you found?

21 A. We did have the authority, yes; it's just a different
22 standard.

23 MS. CICERANI: Right. It's a -- yeah, it's a different
24 standard. For the smaller fines, we still did it the way Kevin
25 talked about. We're talking about in the larger incidents, if we

1 wanted to -- and this is for -- not just for gas safety, but for
2 any violations of our laws, rules, or regs, we could pursue a
3 penalty action. Not that we couldn't, and we did often enough,
4 but that was just another tool that we had.

5 And we still that tool. One of the distinctions that we
6 have here is that the 25A, the newer legislation that I mentioned,
7 actually only applies to combination gas and electric utilities.
8 So for gas-only utilities, we still have to rely on 25 as the
9 penalty, but that is also combined with, as Kevin mentioned, the
10 gas metrics that we've been putting in place in all of the rate
11 cases, so that we have also the negative revenue adjustment aspect
12 to it, which is more quick -- it's quicker, in a way, and it's
13 easier to define.

14 Typically, if they assess -- if we assess a violation
15 penalty through the negative revenue adjustment, we don't also do
16 it -- there's language in there that says it's one or the other;
17 we wouldn't do both.

18 BY MR. CHHATRE:

19 Q. Before I go to the commission issue with that, what is a
20 negative rate adjustment? I'm not sure I understand that.

21 A. We have, through the rate cases, a -- penalty is not
22 exactly the right word.

23 MR. STOLICKY: Ravi -- excuse me. This is Chris
24 Stolicky. If you like, I can probably better explain it because
25 I'm the one --

1 MR. CHHATRE: Sure.

2 MR. STOLICKY: -- the one to follow it.

3 MR. CHHATRE: Yeah.

4 MR. STOLICKY: What we've done is kind of an alternative
5 enforcement that allows it to stay at the commission level and
6 hopefully work out basically a negotiated agreement rather than
7 going to an outside court. And we started this initiative before
8 the law changed last year. What we've done -- there's been a
9 history of audit findings where we essentially found 3(B)
10 violations again and again and it just kept occurring. Hence,
11 what we did is that we sat down with 8 to 10 of our staff and we
12 ranked our code sections, or the regulations in both high -- and
13 we defined other risk. And we worked in agreement in the rate
14 cases where, based on our findings and our audits -- was going
15 through the process Kevin talked about with the closeout meeting
16 to -- where were defined cure any record deficiency.

17 Anything that's in that audit essentially will count --
18 will go into what we call a negative revenue adjustment, and a
19 high risk is worth a certain value and other risk is worth about a
20 third. There's negotiated brackets and it's ramped up for some
21 companies. Kind of odd of negotiated agreement, but what this
22 does is that it allows us to do our audit work, you have a more
23 immediate enforcement attention on the findings, and if anything
24 is disputed, it goes to the commission to decide what happens with
25 it.

1 At the same time, for most companies, the associated
2 revenue or dollar impact is much higher than the PHMSA standard,
3 which is the \$200,000 per occurrence or 2 million for serious
4 occurrences. It's all derived on basis points, and for a company
5 like Niagara Mohawk, it's kept at 100 basis points, which is \$9
6 million. For a grid, New York City, it's capped at \$18,000
7 million a year. And so, if we find, you know, say, 100
8 occurrences, it could reach, you know, seven figures in
9 essentially penalties.

10 MR. CHHATRE: But is that a fine? Or this is -- I still
11 don't understand what you mean, revenue --

12 MR. SPEICHER: It's a -- I guess the easiest way to --
13 it's rates they cannot collect. Is that right way to term it?

14 MR. STOLICKY: The argument from staff in the rate
15 cases is that the utility company is allowed a certain level of
16 rates to provide service, safe and reliable service to customers,
17 and that includes compliance with the regulations. And if they
18 aren't in compliance with the regulations, some of the money they
19 collect from rate payers should go rate payers.

20 MS. CICERANI: Well, but they're permitted a return
21 on whatever their revenues are, so the basis points would affect
22 the return.

23 BY MR. CHHATRE:

24 Q. So if I understand it then, they cannot raise the gas
25 rates to customers based on this or --

1 A. It would be a credit essentially that would be given to
2 the rate payers. So if it's a \$28 million hit, it's \$28 million
3 that the be returned to the rate payers.

4 Q. Okay. And how does that determine the rate payers, you
5 know, in what way? Their bill drops or -- I'm still not -- I'm
6 sorry -- I'm a little bit like lost. How does it go back to the
7 customers?

8 A. During the next rate case, it's an offset of like
9 however many basis points or what the dollar equivalent --

10 Q. Thank you.

11 A. -- would be offset, future rate --

12 Q. Now, going back to the commission, so if you find a
13 deficiency and you feel it deserves a fine, you are to submit it
14 to the commission and they have to approve it before you can file
15 something in court, or you directly go to the operator and fine
16 them for the violation?

17 A. Under 25A -- or, I'm sorry, under 25, we would go to the
18 commission and seek a show cause order. We would recommend a show
19 cause order be approved and the commission has to vote on that.

20 Q. And is the commission the same who decides the rate case
21 for the operators?

22 MS. CICERANI: Um-hum.

23 MR. SPEICHER: The staff negotiates it and we present it
24 to the commission, and the commission would approve it. That's
25 all.

1 MR. CHHATRE: I guess my question then --

2 MS. CICERANI: Repeat your question again.

3 MR. CHHATRE: -- for the rate case, when the utilities
4 goes and, I guess, asks the rate adjustment, is it the same
5 commission that dictates --

6 MS. CICERANI: Yes, it is the same commission.

7 MR. CHHATRE: And if you recall, how often that you have
8 gone to the commission for any operator, and particularly with Con
9 Edison, and the commissioner agreed with you for the fine, that
10 they will occur?

11 MS. CICERANI: In terms of a show cause order? Is that
12 what you're asking?

13 MR. CHHATRE: Yeah. When you go to the commission and
14 say, look, here is a situation we feel the operator should be
15 fined, and then the commission agrees with you, and then the next
16 step, I understand, is go to the court? Or you can levy the fine
17 based on the commission's agreement?

18 MR. STOLICKY: Since -- sorry. This is Chris Stolicky.
19 Since 2008, I believe there have been three gas-related
20 enforcements actions on Con Edison. There was the Sunnyside
21 incident, the Floral Park incident, and the Sanford Ave incident.

22 MR. CHHATRE: Okay. And you had gone to the commission
23 and the commission agreed with you and -- you still had to go to
24 court or they can just --

25 MR. SPEICHER: They were on --

1 MR. STOLICKY: Negotiated.

2 MR. SPEICHER: -- or they're negotiated settlement, so
3 we didn't have to go to court on those.

4 MS. CICERANI: Yeah, for the reason that I had mentioned
5 earlier.

6 MR. CHHATRE: And if I understand correctly, now you
7 don't have to go to the commission for violations, you can levy
8 the fine directly, or you still have to go to the commission?

9 MS. CICERANI: No, you would still -- under 25A, you
10 would still have to go to the commission, but the difference is
11 the commission could, upon making their findings, levy that fine
12 directly against the utility. Under the old penalty provisions in
13 25, we would have to take that court, and if a penalty was
14 assessed, it would go to the general fund; it would not go back to
15 the utility rate payers.

16 MR. CHHATRE: So under 25, for gas operators only, you
17 still have to go to the commission?

18 MR. STOLICKY: Yes.

19 MS. CICERANI: Yes.

20 BY MR. CHHATRE:

21 Q. You still cannot directly levy --

22 A. Correct.

23 Q. -- the fine?

24 A. Correct.

25 MS. CICERANI: That's correct.

1 MR. CHHATRE: Under 25A, you can levy the fine directly
2 now?

3 MS. CICERANI: You'd still have to go through the
4 commission for the commission to make the finding. The money can
5 be assessed directly against the utility.

6 MR. CHHATRE: So, (indiscernible) this is still is
7 commission's, it's not the auditor's?

8 MS. CICERANI: Correct.

9 MR. SPEICHER: Correct. Yes.

10 BY MR. CHHATRE:

11 Q. Can you summarize any findings with Con Edison in the
12 last 5 years, any violations?

13 A. Yes, we've had violations with Con Edison for the last
14 few years. You would like -- how --

15 Q. On the gas side mainly. I'm mainly interested in the
16 gas side, not electric side.

17 A. Yeah. The exact numbers, I don't have that.

18 Q. No, just the number of violations. I mean, if you
19 remember, fine. If not, you can send it later on.

20 A. I could -- yeah. I could get that information to you.

21 Q. Yeah.

22 A. I've got --

23 Q. And that's all I have. Thanks.

24 MR. SPEICHER: For how long do you want the --

25 MR. CHHATRE: Go back last 5 years. That's what we had

1 asked in audits.

2 MR. STOLICKY: We can add up what's in the audits.

3 MR. CHHATRE: I mean, you can -- yeah. If you can go --
4 I mean, I don't want to burden you, because if there are only a
5 few, then we can back 10 years and that'll be fine. But if there
6 are too many, then -- I just didn't want to burden you guys.

7 MS. CICERANI: And this is Con Edison specifically or --

8 MR. CHHATRE: Yes, Con Edison specifically.

9 MR. STOLICKY: I could get you an answer for roughly
10 2008 or '09 through '12.

11 MR. CHHATRE: Oh, that --

12 MR. STOLICKY: That's easy enough to pull.

13 MR. SPEICHER: Yeah, our -- the violation database would
14 be up to date, so I could pull those even today.

15 MR. STOLICKY: It's in our testimony for the case.

16 MR. CHHATRE: Okay, great. Okay, thanks.

17 Matt? Come back?

18 Kelly?

19 BY MR. EMEABA:

20 Q. Kelly speaking. I have a first question for you. For
21 the commission, have you ever compared or checked your enforcement
22 method with any other state regulators to see how they do it and
23 how you can learn from them as to change your method of
24 enforcement, especially in this area of fines and all that?

25 A. I've had informal discussions with other states and

1 other program managers from other states. A lot of them are
2 using, you know, strictly a fine type of system. And we came up
3 with the rate case performance metrics and, you know, in speaking
4 with other program managers, they really like that because it's
5 not an automatic and you're going by the number of occurrences of
6 a violation as opposed to the number of violations.

7 The way violations are tabulated, using PHMSA's method,
8 you could only violate a section of a code once. All of the
9 different instances are evidence to prove that one violation. So
10 the negative rate adjustments we use allows us to have an
11 adjustment for each and every occurrence of that violation.

12 So, you know, that's something that I know the other
13 program managers from other states expressed interest in and
14 liked, you know. But in speaking with the other managers, it
15 really runs the gamut. Some of them are strictly enforcement
16 based. You know, there are other states that, at the program
17 manager level, are able to assess penalties and it's a -- a lot of
18 them are penalties that would go directly to the, like, general
19 fund type of thing.

20 Q. Okay. So do you consider your own method as being more
21 effective compared to other states?

22 A. I can't really speak from a comparison to other state
23 area. I know that our rate case stuff has been very effective, I
24 think, and it's made the process a little bit more transparent
25 because those violation letters are now put on our commission

1 website and, in a lot of ways, I think that has a very large
2 effect to change behavior because that letter and the response to
3 the letter -- so the commitments made back to us are public
4 knowledge and they're publically available and readily available
5 under the rate case on our website, and we've seen a lot more
6 resources put towards compliance and QA type of programs within a
7 couple of companies.

8 Q. Okay. Being that part of your funding comes from PHMSA
9 -- the majority of it comes from PHMSA, and also the funding you
10 receive is based on your performance -- because PHMSA expects you
11 to carry out a number of audit by year and they also come back to
12 review your audit --

13 A. Um-hum.

14 Q. -- annually, they audit you annually, don't you think
15 having a direct authority of assessing fines as -- under the
16 Office of Pipeline Safety, your Office of Pipeline Safety, will
17 give you more independent and make you more transparent than going
18 through the commission? Because most of the things that the
19 regulators does -- I mean, the commission does in terms of their
20 income, some of them come from the regulators too. And wouldn't
21 political situation be an interference making you not independent?

22 A. I think enforcement, and having the ability to enforce
23 and to assess penalties is always a useful tool and it's one of
24 many different tools available. I don't know if I understand your
25 question completely, but I can say without a doubt I have never

1 had the commission try to influence what we've reported or not
2 reported. We would report to the commission, and I've never had
3 any influence at all put on by the commission, you can't report
4 this or you have to report it this way, at all. Never.

5 Q. Okay. That's good. It's good to hear that because it
6 does happen in other states too. You see that there have been
7 interference where you cite (indiscernible) and they write to the
8 chairman, and the chairman comes back on you and tell you, no, you
9 will have to discuss it or have led to different issues. But it's
10 good to hear that it does not affect your independence.

11 A. I have not had that -- no. No, it has not happened.

12 Q. Okay. That's fine. You said something when you were
13 mentioning the area of the regulations, the 255 compared to the
14 192, and you made a statement that your leak requirements are more
15 defined. Can you explain more on that that, please, compared to
16 the PHMSA?

17 A. Well, PHMSA has a requirement that you have leak --
18 essentially a leak classification system, but they don't define
19 what that classification system needs to be. We -- our
20 regulations define what the classification system needs to be. So
21 anything -- for example, any rating at all, no matter how high or
22 how long, anything within 5 feet of the building is considered a
23 type 1 leak and would need immediate attention until the hazard is
24 reduced or eliminated. And those have -- you know, type 1 would
25 be day-to-day surveillance. We have a type 2A which has to be

1 surveyed every 2 weeks and repaired within 6 months. Type 2,
2 which would be a little bit, you know, going -- on the risk type 2
3 would be a little bit less of a risk and those need to be fixed
4 within a year. And then the type 3 need to be -- it's defined as
5 a non-hazardous leak and that needs to be surveyed on an annual
6 basis to make sure that it has not worsened.

7 Q. Okay. So your leak classifications are class 1, 2, and
8 3?

9 A. 1, 2A, 2, and 3.

10 Q. 1, 2A?

11 A. 2 and 3.

12 Q. 2 and 3.

13 A. Yeah, yeah. 2A is a more serious type 2. It's just
14 essentially a type 2 that needs a little bit more attention.

15 Q. Okay. So if you do have 1, 2, 2A, and 3 and the
16 operator -- you regulate operator -- let me just say, one, do you
17 also have 1, 2, 2A, 3 and 4? Assuming they are 4, which you don't
18 have, how do you look into their 4 or regulate and enforce it?

19 A. They -- we would look to see that their leak program --
20 and it's not just, you know, individual leaks, but their leak
21 program complies with our regulations. So, we say, at a minimum,
22 you have to have, you know, 1, 2 -- it has to be graded that way.
23 So, we would assure that or make sure that their leak program
24 meets our requirements. You know, technically, they could call
25 everything a type 1 and fix it immediately, but as long as they're

1 meeting our criteria, 1, 2, 2A criteria. So they could over-
2 classify at any time they want, but they can't under-classify.
3 So, you can't call a type 2 leak a type 3, but they could call a
4 type, you know, a type 3 a type 2 if they wanted to. But they
5 would need to -- once they call it a type 2, they would need to
6 meet the type 2 criteria.

7 Q. Okay. Can I ask what industry standard did you use to
8 set your leak classification different from the -- how the 192
9 people, the federal used to set up their own standards?

10 A. I can't speak to how it was devised. That predates my
11 coming to the commission.

12 Q. Okay. Do you know anything with respect to the GPTC
13 guide?

14 A. I believe we comply with the GPTC guidance.

15 Q. Okay. Have you checked if the federal reg is based on
16 the GPTC guide?

17 A. Well, I know the GPTC guidance is not an enforceable
18 document. Those are recommendations.

19 Q. Guidance.

20 A. But again, I believe that we comply with the GPTC
21 guidance, our classification system does.

22 Q. Okay, but you cannot draw a conclusion if yours comes
23 from the GPTC guide?

24 A. I can't say for sure that they did. Again, that
25 predates my being with the commission.

1 Q. Okay. Do you have -- does your commission have
2 different standards or enforcement parameters you use for
3 different regulator within the state or you have the same rules
4 for all of them?

5 MS. CICERANI: What do you mean by that?

6 BY MR. EMEABA:

7 Q. Do you have a different standard or enforcement method
8 for each of your different operators within the state?

9 A. We try to -- and I -- we try to enforce exactly the same
10 for all operators. I know when we're doing our audits, our
11 expectations for a downstate aren't exact as they would be for an
12 upstate company. So, if it's a violation downstate, it's a
13 violation upstate, or it's a violation in this company and that
14 company. So we -- from a gas safety standpoint, our expectations
15 are the same upstate and downstate.

16 Q. Okay. As part of your field inspections of the
17 operators -- yesterday, I know we talked on the OQ qualifications.

18 A. Um-hum.

19 Q. When your inspectors go to the site, what do you expect
20 them to do in that area of OQ concerning if the personnel on site,
21 they are actually qualified to do what they are doing and they are
22 currently qualified to do it as the regulation specifies.

23 A. All right. Normally, what we would do is, you know, if
24 we showed up on a site and saw somebody doing, you know, a
25 specific task, we would ask to see their qualification card. And

1 most companies deal with a qualification cards, so -- and, you
2 know, for example, a plastic fusion, you would be looking at the
3 card, and the card usually has the date they were qualified and
4 the date the qualification expires or the date they're due for
5 requalification. So, at a minimum, we're looking at that card.

6 Those cards are typically issued by the company, so it
7 would be an official -- that's how we're able to tell. Now, you
8 could back check that into a database and the database would tell
9 you essentially the same information, what tasks they were
10 qualified, when they were qualified, when they're due for
11 requalification.

12 Q. Okay. Okay, that's good. And based on the issues that
13 are coming up in terms of personnel found unqualified and so on
14 and so forth, you know, as a result of this incident or accident,
15 which is not just one person or two people -- you know, a couple
16 of people --

17 A. Um-hum.

18 Q. -- have been found, how can you tell me about the
19 effectiveness of your inspectors being able to review such
20 document at times of the inspections, field inspections?

21 A. I know our expectation is that if we looked a
22 qualification card and it says that you're qualified and --
23 they're qualified to do the task that their doing and they're due
24 for requalification, that has -- that's our standard operating
25 procedure. And again, we could go back to the database and if the

1 database tells you they're qualified. Obviously, through this
2 investigation, we found that in some cases we need to look a
3 little bit deeper and, you know, specifically with the plastic
4 fusion issue that I believe you're referring to.

5 Q. Yes.

6 A. Those -- that shows that we -- those documents aren't
7 always what they -- what we believe them to be. They show them
8 that they were qualified and, in this case, they represented --
9 people weren't being requalified properly. So if their initial
10 qualifications were proper, their subsequent qualifications were
11 not.

12 They did -- you know, when we look at those cards, if
13 they're out of qualification because of a time lapse, we're going
14 to see that on the card and we're going to see that in the
15 database. But if they're out of qualification -- in this specific
16 case, they were out of qualification because improper procedures,
17 or requalification procedures, and that's not going to be as
18 apparent looking at the qualification, even the qualification --
19 going back to the qualification database. The qualification
20 database is supposed to be a listing of, again, when you were
21 qualified -- the tasks you were qualified, when you were
22 qualified, and when you're due for requalification.

23 Q. Okay. Thank you. But you just mentioned something
24 which I'm interested to learn more. You just said when you look
25 at the database. What database do you have the opportunity to

1 look concerning these working qualifications for the --

2 A. We're able to look at any database or any record that
3 the company is using to show compliance with any of our
4 regulations.

5 Q. Okay. Then as regulators, with respect to the company
6 employee and the contractor employees in which the company or the
7 operators have made a requirement or procedure, require the
8 contractors to keep the documentations of those who are qualified
9 in their system, how do you work with that and how are you able to
10 make such verifications?

11 A. The requirement -- as far as I'm concerned or as far
12 we're concerned, the responsibility lies on the operator, not the
13 contractor. So the operator needs to do their due diligence and
14 needs to show that they've reviewed the contractor's plans that
15 they are -- the contractor they're hiring. So they need to keep
16 -- the operator needs to be able to demonstrate that the people
17 that are working on their system -- whether it's company personnel
18 or contractor personnel, it's the operator's responsibility to
19 make sure they're qualified to work on the system.

20 MR. EMEABA: Okay. Thank you. I'll rest for now so
21 that I give others opportunity.

22 MR. CHHATRE: Chris?

23 MR. STOLICKY: I have a couple follow-ups. First, I --
24 this is Chris Stolicky. I looked up the numbers for you, Ravi.

25 MR. CHHATRE: Okay.

1 MR. STOLICKY: According to staff's file testimony in
2 the last Con Ed reg case, so it's case 13-G-0031 -- I think that's
3 the gas case -- there's three numbers there. In the time period
4 from 2010, 2011, and 2012, 3 years' worth of staff's audits, they
5 found 695 instances of noncompliance. So that would be
6 occurrences.

7 MR. CHHATRE: And this was Con Edison?

8 MR. STOLICKY: Yeah, just Con Edison gas.

9 MR. CHHATRE: Okay. And does your database show your
10 they are serious, minor? Specific --

11 MR. STOLICKY: We can get that breakdown. These were
12 just kind of --

13 MR. CHHATRE: Or just if your (indiscernible) just --
14 okay.

15 MR. SPEICHER: And those should correspond to the
16 information that was provided to you --

17 MR. STOLICKY: That was provided to you.

18 MR. SPEICHER: -- in the audit packages.

19 MR. CHHATRE: Great. Thanks. That was fast.

20 MR. STOLICKY: And I have a couple of other questions.

21 BY MR. STOLICKY:

22 Q. We were talking -- you were talking a little bit about
23 violations versus occurrences and how the department views this as
24 far as noncompliance with the regulations. Could you just explain
25 an example, let's say, misclassification of type 1 leak and how

1 PHMSA would look at that as a violation versus how the department
2 would look at that versus number of occurrences?

3 A. Yeah. PHMSA would say if you missed one -- if you had
4 one violation of a type 1 leak classification or surveillance or
5 what have you, that's one violation of that code section. And,
6 let's say, you have 10 leaks that were found in violation. When
7 it all comes together, it's still one violation with 10 pieces of
8 evidence, they call it.

9 We say it's -- for our reporting with PHMSA, we have to
10 report consistently with their definition, so it's one violation,
11 0 pieces of evidence. We say it's -- although it's one violation,
12 it's 10 separate and distinct instances of that violation. So,
13 for the rate cases, we count it as 10 as opposed to 1. That's
14 what you're getting --

15 Q. And the staff would consider that a high risk?

16 A. Any type -- yeah. Any type 1 leak is considered a high
17 risk, so that's a -- it's meets the operational end of our
18 negative rate adjustment.

19 Q. And as far as how staff approaches the audits across the
20 states, whether it's upstate, downstate, or any operator, can you
21 explain the staff's approach, meaning the 5-year audit plan and
22 how it goes about performing its audits to ensure things are
23 consistent?

24 A. Yeah. So in any given years, we have a 5-year audit
25 plan and it's all of our operations and maintenance functions

1 broken down by risk and it's broken down by record and field. So
2 you have five columns. High risk is looked at every year; medium
3 risk, usually every other year; and low risk, every third year.
4 We call it a 5-year audit plan, but if you take a snapshot window,
5 within any given 3-year, we're usually looking at all of those
6 tasks; however, we do give ourselves those extra 2 years just in
7 case, for an instance, like a Harlem investigation where we have
8 staff reassigned to the investigation. It allows us to make sure
9 that we complete everything within that 5 years.

10 Now, all of our companies, all of our LDCs, all of our
11 inspection units within those LDCs, are getting the exact same
12 audit every year so we're looking at the same audit functions
13 every year throughout the state. So we wanted to make sure that
14 we are consistent. Again, one of you asked about are we
15 consistent throughout the state, and that's one of the ways we
16 made sure we are, that we're doing the audit -- any LDC is getting
17 the exact same audit.

18 Q. And how can staff demonstrate that consistency?

19 A. We have stat sheets, what we call stat sheets, and
20 that's just this statistical how many records or how many we
21 looked at for each company. We keep those. We have those going
22 back pretty far. I know we definitely have the last 5 years, but
23 we've got them going back pretty far.

24 We went to the all companies one way, I believe, in the
25 2009, '10 area. So since then, all companies and all HQs have had

1 the same audit each year.

2 Q. Okay. And back to the OQ, you said that the department
3 looks at the LDC to be responsible to make sure that contractors
4 and employees alike are properly qualified. To what -- the best
5 way to describe this -- to what plan or spec do they need to be
6 qualified to in order to perform work on an LDC system?

7 A. To be qualified on, let's say Con Ed, for example, then
8 you would to demonstrate that, first, you're qualified to a
9 specific covered task. Our expectation is that covered task that
10 you're qualified to be -- the demonstration be according to Con
11 Edison procedure. So, you know, a qualification at Con Edison is
12 not the same as a qualification at National Grid because of
13 different equipment used, because of different procedures used.
14 Our expectation is that the qualification be at the home company
15 and be in compliance with their procedures.

16 Q. And when staff goes to do a field audit where an OQ task
17 is being performed, you said that they check for the qualification
18 card to make sure that they're currently qualified. At the same
19 time, what does staff do to ensure that the person is doing the
20 work properly?

21 A. Well, on any field audit, we're looking at -- we're
22 watching, physically watching the company or watching the person
23 perform the task. So we're looking at company procedures, making
24 sure that the person performing the task is doing it according to
25 the company's procedures, and that's regardless of OQ or anything.

1 That's the most important thing, to make sure that the company's
2 procedures are being followed. And we're also looking to make
3 sure that our regulations are being followed. So, there's really
4 two things going on: are they following our regulations and are
5 they following their procedures? If they're following their
6 procedures, they would be following the regulations because the
7 procedures comply with our regulations. So -- but we are checking
8 both while we're there.

9 Q. All right, I'm going to paraphrase and you tell me
10 whether you agree or not. But that's a second sanity check to
11 make sure they're doing the job properly --

12 A. Yeah.

13 Q. -- regardless of what the OQ card says?

14 A. Yeah. And OQ, the card itself allows us to look to see
15 that the person doing the work is qualified by the company and
16 that allows us to kind of have that sanity check on site without
17 having to leave site to find out are they in the database as
18 being qualified. So, that's on-site verification. And, again,
19 that's taken backwards to make sure that the database lines up
20 with what that card is telling us; so are the company records
21 actually saying that the individuals are qualified? And that's an
22 important thing of going to the PE. The company records were
23 showing that the individuals were qualified. The company records
24 would have shown that.

25 MR. EMEABA: Would have?

1 MR. SPEICHER: Would have shown that they were
2 qualified. Now, there were a couple where the time had lapsed, so
3 they had gone beyond the 12 months. But the company records would
4 have shown that they were qualified; it was a problem with the
5 actual qualification itself or requalification itself.

6 MR. STOLICKY: That's all I have.

7 MR. CHHATRE: Okay, Jane?

8 MS. CICERANI: Nothing.

9 MR. CHHATRE: Frank?

10 BY MR. McCARTON:

11 Q. I have just a couple of questions. You talked about
12 doing these quality checks or audits, right? How many do you do
13 like during the -- like, in New York? Let's just do New York
14 City?

15 A. We have people assigned to New York City, so we have
16 essentially a constant audit going on with Con Edison. We've got
17 a constant audit going on with National Grid in New York, or
18 KEDNY, and how many we do is based upon the total population of
19 records. It's a statistical sampling and it is based on the total
20 population of the record itself.

21 Q. How many inspectors do you have assigned to the city of
22 New York?

23 A. New York City and Long Island would be seven. So our
24 New York City field office, there's seven people.

25 Q. Seven?

1 A. Um-hum.

2 Q. Did the PSC do an audit of East 116th Street anytime
3 during the period that you're aware?

4 MS. CICERANI: Which period?

5 MR. SPEICHER: Which period of time?

6 BY MR. McCARTON:

7 Q. Well, I mean, the installs and all the work that was
8 done, were there any audits done or any spot checks done of that
9 particular --

10 A. There were in Harlem, but not specific to that area.

11 Q. Not 116th Street at all, in the vicinity of -- those
12 areas that we're talking about?

13 A. No.

14 Q. -- in the vicinity of the explosion?

15 MR. STOLICKY: Ravi did ask for -- I think it was
16 Ravi --

17 MR. CHHATRE: Yes.

18 MR. STOLICKY: -- or someone on the site asked for a
19 radius of what we -- what our staff looked at. Our staff looks at
20 the record population rather than a geographical location, and
21 within whatever, a half-mile radius or mile radius, there were a
22 couple of records that we looked at, but I don't remember any
23 issues being found.

24 MR. SPEICHER: And our sampling is a random sampling, so
25 we're taking the available records, we run a sample, and, you

1 know, it might say look at record 14, look at record 100, look at
2 -- so, it really -- when we pull those specific records, they're
3 not based on specific locations; they're based on within the unit
4 itself.

5 BY MR. McCARTON:

6 Q. When you look at these -- when you would go on site and
7 you'd look at these cards that people qualified on -- I saw one
8 yesterday -- there's no photographs, right?

9 A. Depending on the company. Some have photographs, some
10 don't, correct.

11 Q. So do you have to ask for ID with the photograph or --

12 A. We would typically ask for some type of ID. And I can't
13 say that happens in every case, but we would typically ask for
14 some type of ID to make sure that, you know, Kevin Speicher is in
15 fact Kevin Speicher.

16 Q. Right, right. Would it be more beneficial to actually
17 put a photograph on it that card also?

18 A. That would be a good recommendation.

19 MR. McCARTON: That's all I've got.

20 MR. CHHATRE: Okay, Matt?

21 BY MR. NICHOLSON:

22 Q. Yeah, I've got some clarification questions here. So
23 we've been talking a lot about -- it sounds like these are field
24 audits you're doing?

25 A. Record and field, yeah.

1 Q. What are you calling a record? What does that mean?
2 What's called a record?

3 A. A record would be the actual -- the codes require you to
4 keep records of how you comply with our regulations. We would
5 review the records. There would be an inspection that's already
6 been completed. We would review that record to make sure that all
7 of our regulations are followed. So, was it done properly? Was
8 it in done in accordance with your procedure? Were the dates
9 correct? Were the specific things that would need to be looked at
10 for, like, the regulator station inspection, were each of those
11 documented to be completed and dated and --

12 Q. Well, how do your inspectors know when field work is
13 being -- when a new line is being put in, or how do they know when
14 to show up on the site?

15 A. We would typically interface with management within that
16 unit and find out what's being done, when it's being done. On any
17 construction project over 125 pounds, there is an Article 7
18 requirement. So there's a certification process that the company
19 needs to go through through our commission. So we would know
20 through that. So that's, you know, early design through getting a
21 certificate of environmental compatibility and public need.

22 Q. Okay. And so you've got seven inspectors for New York
23 City, and how are they divided up? Are they split up between
24 operators or geographically?

25 A. Both by operators and by inspection units. And Con

1 Edison has, I believe, four inspection units, so we would have
2 different people assigned to each one of those units. Some people
3 may have more than one unit assigned, or may be assigned to more
4 than unit, but we typically have more than one inspector in each
5 company.

6 Q. Okay, so -- and the units are what? They're just
7 numbered 1 through 4 or they have names to him?

8 A. We have -- for Con Ed, there's Manhattan, there's Queens
9 -- I've got this printout breakdown. Manhattan, Queens --

10 MR. STOLICKY: Manhattan, Queens, Bronx --

11 MR. SPEICHER: Corporate.

12 MR. STOLICKY: -- Westchester, and Corporate are the
13 five.

14 MR. SPEICHER: Yeah.

15 MR. STOLICKY: Corporate would be your high-level -- the
16 cathodic protection efforts that's out of one central company
17 rather than broken up by --

18 BY MR. NICHOLSON:

19 Q. Okay. So in addition to the field audits, then, you're
20 also doing inspections of their DIMP plans, their OQ plans? What
21 are you looking at?

22 A. Correct. Yes. DIMP plans, the programmatic types of
23 things. So, that's DIMP, that's control room management; OQ are
24 done. For us, it's more of a centralized function, and by that,
25 we just need to -- we have certain people who are qualified to do

1 DIMP and we have to make sure that those audits are being done by
2 somebody who's qualified to do DIMP. Those audits are currently
3 ongoing right now. Our commitment with PHMSA says that those
4 audits need to be completed by 2014, and we're using 2014 to do
5 those audits. So DIMP is currently being --

6 Q. Okay, but is that outside or is that what you were
7 talking about when you said you had --

8 A. Yeah, that --

9 Q. -- high-risk operators, low risk?

10 A. The inspection tasks are based on risks, not the
11 operators themselves. We're on the intrastate side.

12 Q. Okay, so that's really on the intrastate side?

13 A. Yeah. On the interstate side, PHMSA ranks their units,
14 operators and units by risk. We rank the inspection task by risk.
15 So we look at the high-risk function with all the companies as
16 opposed to, all right, Manhattan is a high-risk unit, so we're
17 only going to look at Manhattan this year.

18 Q. Okay. So, how often have we -- have you inspected Con
19 Ed? How many inspections have taken place?

20 A. Me personally, I -- Con Ed wasn't one of my companies,
21 but our section has inspections with Con Ed every year. So we're
22 looking at their units every year.

23 Q. Okay. Looking at their units, and what are you looking
24 at? What tasks or --

25 A. That's based on our 5-year audit plan, and I could

1 provide that to you. So it would be all of our -- all of the O&M
2 functions broken down by risk. So, we do have an audit going on
3 every year with Con Edison with KEDNY, with all of the --

4 Q. Okay, do we have the 5-year audit plan?

5 A. I believe you do, and if you don't, I could get to you.

6 MR. STOLICKY: Let's make a connection. The
7 (indiscernible). The O&M audit functions are the actual code
8 requirements out of our regulations.

9 MR. NICHOLSON: Right.

10 MR. STOLICKY: Every year, type 1 leaks are looked at.
11 Every year, critical valves are looked at. So there's a
12 requirement in the regulations where you have to inspect a valve
13 annually not to exceed 15 months.

14 MR. NICHOLSON: Right.

15 MR. STOLICKY: We consider that high risk. That will be
16 audited every year.

17 MR. NICHOLSON: Is plastic fusing part of that?

18 MR. STOLICKY: That would be under construction and --

19 MR. SPEICHER: That would be under construction and that
20 is -- construction inspections are completed every year, but not
21 specifically plastic fusion. So, by that, I mean, we look at
22 construction every year. It may be a steel job and we may be
23 looking at welding instead of fusion or we may be looking at a
24 stab fitting instead of fusion. But --

25 BY MR. NICHOLSON:

1 Q. So, that wouldn't -- you wouldn't be looking at their OQ
2 database under plastic fusion or their OQ --

3 A. Well --

4 Q. I mean, I've heard about the field side. I understand
5 you go out --

6 A. Right.

7 Q. -- hey, show me that card. It doesn't have a picture or
8 whatever. But there's also a database component. There's an
9 office component here on this side --

10 A. Yes.

11 Q. -- where they're tracking those people doing plastic
12 fusion, right?

13 A. Yes.

14 Q. And their OQ dates?

15 A. Yes.

16 Q. And I'm just wondering if that was examined because it
17 looks like you could have caught it two places, right? You can
18 see it in the field or you could see it -- you could red flag it
19 in the database if the company is tracking it. And I'm just
20 trying to get a feel is that part of this audit process.

21 A. So the database review itself would typically occur in
22 follow-up to an OQ audit that has taken place in the field. So
23 you would kind of work yourself back to that database to make sure
24 that the person in the field was actually qualified and that the
25 card they're carrying is a legitimate card.

1 Q. Okay. So, it always really primary's field inspection?

2 A. Primary would be field on that.

3 MR. NICHOLSON: Okay. All right, just to clarify,
4 Chris, earlier you were mentioning the penalty schedules and you
5 said 18 million was a cap. Is that per violation or cumulative?

6 MR. STOLICKY: It's derived on relative basis points to
7 a company. That's the same relative impact dollar-wise,
8 percentage-wise within -- or among companies. There are no --

9 MR. NICHOLSON: But, is that per --

10 MR. STOLICKY: No.

11 MR. NICHOLSON: Okay, so it's a cumulative.

12 MR. STOLICKY: I'll try to give an example here. The
13 goal for each rate case in order to (1) reach an agreement, but
14 (2) kind of mitigate the overarching risk to a company -- because,
15 ultimately, this does impact financial standing with the company,
16 being able to borrow money, and so on -- they're all capped at 100
17 basis points with the exception of one operator, which does not
18 have a cap at all. It's structured a little differently. It's a
19 small company on the southern tier. So, 100 basis points is
20 derived from the relative revenue of the company.

21 MR. SPEICHER: And to put it in perspective, a basis
22 point for Con Edison this year is \$290,000. A high-risk violation
23 is half a basis point or one basis point, depending on the number;
24 and a low risk is one-ninth or one-third, depending on the number.
25

1 BY MR. NICHOLSON:

2 Q. Okay. That helps. Thanks.

3 A. That basis point for 2014, it's 290-, and through the --
4 these are estimates. But going through -- that rate case in
5 effect until the end of calendar year, I believe, 2016, at which
6 point that basis point for the third rate year is 360,000. So it
7 -- there's a 150 basis points allotted to safety functions, 100 of
8 which would be allotted to the violation metric.

9 Q. All right.

10 A. So, you know, for instance, in the end of third year,
11 rate year 3, it would be a \$36 million potential adjustment for
12 violations alone and there would be another 18 million for our
13 other safety performance metrics. So it's emergency response
14 time, it's damage prevention metrics, and other metrics.

15 Q. Okay. We talked a little bit about three Con Edison
16 incidents that resulted in negotiated settlements since 2008. Can
17 somebody here just summarize what those involved or the
18 circumstances around those incidents? Do you know? One was
19 Sanford, I think.

20 UNIDENTIFIED SPEAKER: Yeah, Sanford Ave. One was --

21 MR. SINGH: Sunnyside --

22 UNIDENTIFIED SPEAKER: -- Sunnyside --

23 MR. SINGH: -- and --

24 MR. STOLICKY: Floral Park.

25 MR. SINGH: -- Floral Park.

1 UNIDENTIFIED SPEAKER: -- and Floral Park.

2 MR. NICHOLSON: Distribution line failures or --

3 UNIDENTIFIED SPEAKER: They're all distribution-related
4 incidents. They weren't, they were not transmission. Sunnyside,
5 I believe -- and I may have to look at Lenny for this. Sunnyside
6 was the situation where you had a cast iron issue that coincided
7 with an electronic box --

8 MR. SINGH: Correct. Migrated to a building.

9 UNIDENTIFIED SPEAKER: -- migrated to a building and it
10 ignited.

11 UNIDENTIFIED SPEAKER: Fatalities?

12 MR. SINGH: Yes, there was fatality not directly as a
13 result, but after being hospitalized, I believe.

14 UNIDENTIFIED SPEAKER: Okay, so one fatality. Floral
15 Park was more of a --

16 MR. SINGH: An electric event that led to a distribution
17 event. Burnt out electronic cable took a gas main, migrated to
18 the building, and, unfortunately, a women went -- got into the
19 building and some ignition (indiscernible).

20 UNIDENTIFIED SPEAKER: Now, out of the Floral Park
21 incident, there were a lot of recommendations and that's how the
22 code Murray (ph.) we talked about yesterday was initiated and
23 there were some enhancements made to Con Edison's leak response
24 procedures.

25 MR. SPEICHER: And that was applied to -- there needed

1 to be enhancements made to all of the LDCs. We reviewed all the
2 LDCs, emergency response procedures, and had recommendations for
3 improvements on all of them. But -- the commission order itself
4 was specific to Con Edison, but we did use that incident to drive
5 changes in the other LDC's emergency response.

6 UNIDENTIFIED SPEAKER: And Sanford Ave involved more
7 customer-owned than downstream piping. There was a -- the
8 commission determined that Con Edison did not comply with an order
9 issued in the late 1970s, I believe. There was a mix -- well,
10 there was a situation where Con Edison was reenergizing a building
11 and there was a valve that was left open somewhere in that process
12 and a person was injured and burned and subsequently died later.

13 BY MR. NICHOLSON:

14 Q. Okay. So, the PSC investigated all of these?

15 A. Yes.

16 Q. And do we have reports on those?

17 A. We do.

18 UNIDENTIFIED SPEAKER: We have reports on all of them.

19 MR. NICHOLSON: Have we asked for them? Can we request
20 them?

21 MR. CHHATRE: (Indiscernible).

22 MR. NICHOLSON: If we haven't asked, let's request.

23 BY MR. NICHOLSON:

24 Q. All right, let's see. So, can you just discuss briefly?
25 Public awareness under the New York State regulations, does it

1 follow public awareness --

2 A. The -- yeah, their own entity.

3 Q. -- the federal regulations?

4 A. Yes.

5 Q. They're parallel?

6 A. They're parallel, yes. And as a result of a separate
7 incident that happened Upstate New York, in Horseheads, there was
8 also -- let me back up. During 2013 or by the end of 2013, we had
9 a commitment that PHMSA that all of the public awareness programs
10 in the state would be reviewed. We did. So, they were all
11 reviewed prior to the end of calendar year 2013. There was an
12 incident in 2011 in Upstate New York that, through our
13 investigation, we found of a couple of things. One was there were
14 quite a few reports of -- during the investigation, a lot of
15 people reported that smelled gas prior to the incident and the
16 days and weeks leading up to the incident and did not call the
17 odor complaints. And we also found evidence of latent third-party
18 damage made by what we believe was a municipality putting in water
19 and/or sewer lines, and damage that was caused most likely in the
20 mid '60s or mid to late '60s led to an incident that there was a
21 fatality of a 15-month old baby.

22 We -- or the commission required risk assessments to be
23 done, but they also required the LDCs to collaborate and come up
24 with best practices for public awareness for -- specific to what
25 is everybody doing to drive home the message that if you smell it,

1 call it. So, one of the goals was to get people to call because
2 almost every incident we investigate, there's reports of somebody
3 who smelled gas prior to the incident, but did not call. So, that
4 was one aspect of it. And the other aspect of it was to look at
5 public awareness in relation to dealing with municipalities or
6 getting the message to municipalities that -- call before you dig
7 message. So, you know --

8 Q. Okay. Right.

9 A. -- specifically to if you -- what are you
10 responsibilities once you make contact with an underground
11 facility.

12 Q. Sure. Okay. And in this case, we know -- we've talked
13 a little bit in previous interviews about the fact that 911 was
14 not notified, calls went directly to Con Edison, and I just --
15 what's the PSC's position on public awareness and calls? Should
16 calls made to emergency responders at all or does PSC prefer that
17 the operator be the first-line notification?

18 A. As far as notification, I think it's something that
19 we're studying as a result of the Harlem incident and I don't know
20 -- I can't say that we have a specific stance on it. However, we
21 believe that the LDCs are the most equipped and trained to respond
22 to a gas incident. They are the experts in the field, so they
23 need -- their involvement is essential. So, whether it's calling
24 the company directly or dialing 911, it's our belief that the LDC
25 absolutely has to be involved in the process as early as possible.

1 So, really, either phone call, as long as the -- as long as it's
2 getting to the LDC and the LDC is able to show up and respond and
3 investigate.

4 Q. Okay. But, there's no regulation right now on the New
5 York State side that requires --

6 A. We don't have a regulation that says you have to call
7 911.

8 Q. Or that it require the operator to have a formal
9 procedure for --

10 A. They -- yes, we do have a regulation saying they have to
11 have a --

12 Q. Well, as far as contacting 911 or emergency dispatch?

13 A. No, but we have a regulation saying that they have to
14 have a system in place to receive emergency calls.

15 Q. Okay. Okay, receive emergency calls --

16 A. Yeah.

17 Q. -- from the public?

18 A. Yes.

19 Q. Okay.

20 A. And as part of that order, I was talking about earlier
21 with the Upstate incident, the commission also said that the
22 companies need to take steps to record those calls and make sure
23 that those calls are recorded.

24 Q. Okay. One thing I didn't hear anyone discuss here was
25 -- and I haven't looked through all of them, but I know that the

1 PSC has issued some letters to Con Edison with respect to the OQ,
2 the qualifications of the person performing the plastic fusing in
3 the field and I'm just -- can you bring me up to speed? What's
4 been done by Con Ed to address the concerns of PSC and have
5 zipping closed out or --

6 A. It definitely has not been closed out yet. Going back
7 initially, we found this out on -- in May. I had sent a letter
8 Con Edison asking for particulars with respect to --

9 Q. May 29th, I think --

10 A. May --

11 Q. -- or the 28th?

12 A. Well, I think I had a letter sent to -- I'm not sure the
13 exact. I could get back to you on that. But, I had a sent a
14 letter to Con Edison asking specifics on 1642 and I believe,
15 through -- shortly after that, on May 29th, we found out that it
16 was a little bit more widespread than we had originally known
17 about and the commission issued an order for Con Edison -- for
18 both Con Edison and all other LDCs dealing with plastic fusion and
19 required essentially a study of the plastic fusion qualification
20 and certification that people who are performing plastic fusion
21 are qualified to do so, and if they are not, there was a
22 requirement for an immediate stand-down -- and this was for all
23 companies -- and take steps to re-qualify. Also, the companies
24 needed to perform basically a risk assessment, found out the areas
25 and the extent of what may have been fused by people who were not

1 qualified to fuse, or not properly qualified to fuse, and also
2 some anti-risk mitigation plan. So, the first was defining what
3 the risk and the risk assessment, and then the second process was
4 present a plan to mitigate the risk. And the interim, the
5 commission ordered continuous leakage surveys until we are --
6 until we determine what to do, how widespread it is and what we
7 need to do, what corrective actions need to be taken.

8 Q. So, where is Con Edison in that? Have they altered
9 their procedures or identified those persons not qualified?

10 A. They went through the process and did -- they had an
11 immediate stand-down. I believe, on the 29th of May, over that
12 following weekend, they performed qualifications and have been
13 doing so since. So, they have, in fact, re-qualified everybody
14 and everybody that's currently fusing is properly qualified. And
15 they started enhanced leakage surveys and their -- they did submit
16 the extent of what has been done or what was fused outside of
17 qualifications.

18 Q. Okay. Have then submitted then a procedure that going
19 forward prevents this from occurring again? I mean, they --
20 ultimately, it's on them to make sure they've got qualified
21 individuals out there.

22 A. The procedure -- yes, there was a procedure submitted.
23 Correct.

24 MR. SINGH: I believe, yeah, there's some --

25 MR. SPEICHER: Yeah.

1 MR. STOLICKY: I know you changed it.

2 MR. SPEICHER: Yeah, there was a change in the procedure
3 that has been submitted, and this is available -- all of this is
4 what Con Edison has done and what other companies are doing
5 available on our public website.

6 MR. SINGH: It's Case 140-

7 MR. SPEICHER: 1400 --

8 MS. CICERANI: 212.

9 MR. SINGH: -- 0212.

10 MR. SPEICHER: -- 0212.

11 MR. NICHOLSON: Say that again. I'm sorry. Fourteen?

12 MS. CICERANI: Case --

13 MR. SPEICHER: 14-G-0212, and that would have any --

14 BY MR. NICHOLSON:

15 Q. Excellent.

16 A. -- incoming or outgoing communications with all of the
17 companies.

18 MR. NICHOLSON: Perfect. Thanks. That's all I've got.

19 MR. CHHATRE: Any follow-up questions?

20 BY MR. STOLICKY:

21 Q. I just have one more just so the entire process is on
22 the record. We talked about the minimum 5-year audit plans. In
23 what cases will staff go beyond that 5-year audit plan?

24 A. Well, staff is able to go beyond that anytime feel the
25 need is necessary. If we have found problems in a previous audit,

1 it would be typical to include that in any subsequent audit. We
2 would also be verifying that any corrective actions that the
3 company put into place were (1) put into place, and (2) are
4 working. So, the variations would be to address previous
5 violations, or there's some leeway in there for local supervision
6 to adjust as necessary based either the unit, a specific unit or
7 the operator in general based on local knowledge. So, you might
8 go out and see a problem somewhere, so you want to look in the
9 other areas to make sure that the problem doesn't exist system-
10 wide.

11 So, can I make one clarification?

12 MR. CHHATRE: Sure. Absolutely.

13 MR. SPEICHER: Going back to the service line issue, the
14 commission does have jurisdiction for beyond the meter piping
15 under our regulations for Part 261, so that does require the
16 companies or the LDCs to receive and investigate odor complaints
17 inside of buildings, and if they do find a leak, they would issue
18 a warning tag. And if it's a class A tag, it would be they need
19 to physically isolate the appliance, and if that can't be done,
20 they have to shut the service down.

21 MR. CHHATRE: Okay

22 MR. SPEICHER: So, we lose -- we don't have jurisdiction
23 beyond the building wall as far as the definition of service line,
24 however, we do have jurisdiction based on our Part 261, which
25 requires specific actions be taken in places where there's a

1 hazard downstream.

2 BY MR. CHHATRE:

3 Q. Does it have -- yes. I know we're already late. I'll
4 just make it quick. There are two follow-up questions. Since
5 PHMSA's regulation is in effect up to the meter, does the
6 commission need another change in your regulation to enforce that
7 as we stand right now? I mean, I'm looking at the data with 60
8 percent --

9 A. We would need a change in the regulation, but not in the
10 law, that the law would allow us to make that change in the
11 regulation.

12 Q. So, do you have to go through the process -- my question
13 is do you have to -- do you need the 18-month process, or at least
14 that part, to get it enforced, like, yesterday?

15 A. The part where --

16 Q. Where the jurisdiction of a service line extends up to
17 the outlet of the meter? Since that regulation already exists,
18 you know, in 192, my question is -- I mean, I understand your
19 point of --

20 A. No --

21 MR. CHHATRE: -- not losing up to the meter. But,
22 before you go through your process, what prevents the commission
23 enforcing that law as we stand right now?

24 MS. CICERANI: Well, we can't -- we can enforce our
25 regulations. You're talking -- and we didn't just fully adopt

1 192, so we need to -- for that little -- we want to make sure that
2 our regulations cover that piece of it took, and then we could --
3 that's when we could bring enforcement action.

4 MR. CHHATRE: But, aren't you obligated under your
5 contract with PHMSA to enforce their regulation?

6 MS. CICERANI: Well, for the PHMSA piece, as I
7 understand, basically for the part that just is with PHMSA, what
8 we can do I we audit, and then we give it to them to enforce.

9 MR. NICHOLSON: Yeah.

10 MR. SPEICHER: These are -- and again, I spoke to -- we
11 had some preliminary discussions with PHMSA and one of the
12 takeaways we had from that is what do we do in the interim from
13 the time -- from now essentially until the final rule would come
14 out, and that is something we're studying right now to find out
15 exactly what we can do and what we need to do there.

16 BY MR. CHHATRE:

17 Q. Okay. I mean, my concern is it looks like in most
18 cases, more than 60 percent of the homes or residences are
19 impacted because they are inside meters.

20 A. Yeah. That would be for Downstate. The Upstate are
21 quite a bit different, the demographics, and I'll get you the
22 exact what it is and --

23 Q. Really, there is a clarification. Maybe you can -- I
24 mean, we can check with PHMSA too, but I thought the regulation
25 already exists. Contractually, you are obligated to enforce

1 PHMSA's regulation, so why -- I mean, you can get back to me on
2 that one, but I'm still a little confused as to why you need a
3 separate regulation when you already are -- when the regulation
4 already exists. You already are committed as a state agency to
5 enforce it, so we do you need another regulation? So, that was
6 the question.

7 Go ahead, Chris.

8 MR. STOLICKY: I think Jane may be able to answer this.
9 But, there is a state process in place legally that has to be
10 followed to change the regulation.

11 MR. CHHATRE: Oh, okay. I guess my question really was
12 -- and I didn't want to specifically state that, but I will now --
13 does an executive order take care of that since --

14 MS. CICERANI: I'm sorry. What did you --

15 MR. CHHATRE: Will an executive order saying, look,
16 there was a lapse and we want to correct that until we get the
17 regulation done? I mean, I'm just -- I don't understand the
18 process, but --

19 MR. STOLICKY: Executive order is what he said.

20 MS. CICERANI: Oh, okay. Thank you.

21 MR. CHHATRE: You could ask me again. I don't get
22 offended.

23 MS. CICERANI: That's like twice.

24 MR. CHHATRE: So, that's something --

25 MS. CICERANI: Yeah, we'll -- yeah.

1 MR. CHHATRE: I'm just trying to understand that
2 process.

3 MR. SPEICHER: The outside meter sets?

4 MR. CHHATRE:

5 Q. No, up to the -- the regulation says, 192 says the
6 service line differentiation --

7 A. Yeah. No, no -- yeah.

8 Q. -- up to (indiscernible) meter.

9 A. Just responding to a question that was asked earlier, I
10 did find the information for 2013, and this is at the 2013. KEDNY
11 New York inside meter sets were 489,558; outside meter sets were
12 62,972. KEDNY, which is National Grid Long Island, would be
13 outside -- or, I'm sorry -- inside, 227,478; outside, 300,860.
14 And Niagara Mohawk, which is National Grid's other operating
15 territory Upstate, is 185,746 inside, and outside it's 31,258.

16 Q. So, significant (indiscernible) inside?

17 A. So, Upstate are -- the percentage is switched from
18 inside to outside --

19 Q. All right.

20 A. -- but Upstate is primarily --

21 BY MR. STOLICKY:

22 Q. From a high level preliminary review, what has staff
23 determined to be the relative scope of this issue in how companies
24 handle the inside piping parts, I mean, through their own and in
25 the procedures?

1 A. I'm not sure I completely understand your question, but
2 I know -- you know, I could speak for, you know, a company like
3 National Fuel, which operates in the western part of the state.
4 They believe that it's all jurisdictional, so they're treating an
5 all jurisdictional. And, typically, that's what we see in
6 operating areas outside of the downstate area. So, we see,
7 typically, we see the companies maintaining that jurisdiction to
8 the outlet and meter on inside sets even though the technical
9 definition of service line says something different.

10 MR. CHHATRE: And last question. Why are the rules
11 different for a combined utility, like gas and electric, one
12 regulation, and gas on the regulation? What is the logic?

13 MS. CICERANI: I'm not sure that there was any
14 particular logic. I think it had more to do with lobby, a
15 stronger lobby. It was a last-minute change to it and it's only
16 combination, gas and electric, that is under 25A. We still have
17 penalty action on 25 for all --

18 A. Gas is gas. It doesn't matter --

19 MR. SPEICHER: Just to clarify that, the rules or
20 regulations apply --

21 MR. NICHOLSON: Yeah.

22 MR. SPEICHER: -- to all the companies --

23 MS. CICERANI: Right.

24 MR. NICHOLSON: Yeah, I wanted to clarify that too.

25 MS. CICERANI: Right.

1 MR. CHHATRE: Yeah.

2 MS. CICERANI: Yeah.

3 MR. SPEICHER: -- regardless of --

4 MR. NICHOLSON: It's the enforcement.

5 MS. CICERANI: This is just the enforcement penalty
6 action.

7 MR. NICHOLSON: Yeah.

8 MR. CHHATRE: Right, right. That's what I'm asking.

9 MS. CICERANI: Yeah.

10 MR. CHHATRE: Okay. That's all I have.

11 MR. STOLICKY: And if you have any other pipeline
12 operated beyond gas, what part of the enforcement regulation would
13 they fall under? Meaning a liquid operator or --

14 MS. CICERANI: In terms of the penalty actions?

15 MR. SPEICHER: That would be under 25.

16 MS. CICERANI: Twenty-five.

17 MR. STOLICKY: All right. That would not be 25A?

18 MS. CICERANI: That also includes telco, steam, water
19 everything.

20 MR. SPEICHER: We could probably have a discussion about
21 the Con Edison liquid line because that is a combo company, but
22 the other liquids would be 25.

23 MR. CHHATRE: Yeah, I know we went way past, but the
24 information was important to us. Thank you so much for your time.

25 MR. SPEICHER: Thank you.

1 MR. CHHATRE: Thanks a lot.
2 Off the record.
3 (Whereupon, the interview was concluded.)
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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: NATURAL GAS DISTRIBUTION PIPELINE
 LEAK AND MULTISTORY STRUCTURE
 EXPLOSION IN HARLEM, NEW YORK
 MARCH 12, 2014
 Interview of Kevin Speicher

DOCKET NUMBER: DCA-14-MP-002

PLACE: New York, New York

DATE: August 5, 2014

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.

Karen M. Galvez
Transcriber