



# Chemical Safety and Hazard Investigation Board

## Office of General Counsel

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### Memorandum

To: Board Members

From: Richard C. Loeb *Richard C. Loeb*

Cc: Leadership Team  
Rachael Gunaratnam  
Christina Morgan

Subject: Board Action Report – Notation Item 936

Date: October 10, 2012

On September 20, 2012, the Board approved Notation Item 936, thereby designating Recommendations 2008-01-I-CO-R4 through R6, to the Colorado Public Utilities Commission (from the Xcel Energy investigation), with the status of Closed – Unacceptable Action/No Response Received.

The Board also voted to adopt the Recommendations Status Change Summary presented in Attachment 2 to Item 936, and to authorize the publication of that summary on the CSB public web site.

### Voting Summary – Notation Item 936

**Disposition: APPROVED**

**Disposition date: September 20, 2012**

	Approve	Disapprove	Calendar	Not Participating	Date
<b>R. Moure-Eraso</b>	X				9/6/2012
<b>M. Griffon</b>	X				9/20/2012



## U. S. Chemical Safety and Hazard Investigation Board RECOMMENDATIONS STATUS CHANGE SUMMARY

<b>Report:</b>	<b>Xcel Energy Hydroelectric Plant Penstock Fire</b>
<b>Recommendation Numbers:</b>	<b>2008-01-I-CO-R4 through R6</b>
<b>Date Issued:</b>	<b>August 25,2010</b>
<b>Recipient:</b>	<b>Colorado Public Utilities Commission (CO-PUC)</b>
<b>New Status:</b>	<b>Closed - Unacceptable Action/No Response Received</b>
<b>Date of Status Change:</b>	<b>September 20, 2012</b>

### Recommendations Text:

#### **Recommendation No. 2008-01-I-CO-R4:**

*Revise your rules regulating electric utilities, 4 Code of Colorado Regulations 723-3, to:*

- a. Require regulated utilities to investigate the facts, conditions, and circumstances of all incidents resulting in death, serious injury or significant property damage as defined in Section 3204*
- b. Require utilities to submit a written investigation report to the Commission within one year of the incident that contains the investigation findings, root causes and recommendations for preventing future incidents that focus on needed changes to utility safety systems. All reports shall be made public.*
- c. Authorize the commission to issue orders addressing needed corrective actions to be taken as a result of the incident.*
- d. Require utilities to submit periodic reports to the Commission detailing action taken on the incident report recommendations and Commission orders. All reports shall be made the public.*

#### **Recommendation no. 2008-01-I-CO-R5**

*Revise your rules regulating electric utilities, 4 Code of Colorado Regulations 723-3, to:*

*Require all regulated utilities to fully cooperate with all government safety investigations including facilitating access to witnesses, facilities, and equipment; providing copies of requested records; and responding to interrogatories and other investigative requests for information as expeditiously as possible.*

#### **Recommendation no. 2008-01-I-CO-R6**

*Revise your rules regulating electric utilities, 4 Code of Colorado Regulations 723-3, to:*

*Require that competitive bidding and contractor selection rules for construction, maintenance or repair of regulated utilities include procedures for prequalifying or disqualifying contractors based on specific safety performance measures and qualifications.*

## **Board Status Change Decision:**

### **A. Rationale for Recommendation**

These recommendations were issued following the October 2007 penstock fire at the Xcel Energy Hydroelectric Plant near Georgetown, Colorado, where five contract workers from RPI Coating, Inc. were killed and three others injured while using a flammable solvent to clean coating equipment which had malfunctioned. The Colorado Public Utilities Commission (CO-PUC) is the state regulatory agency that oversees a wide variety of electric power and other utilities and has issued rules pertaining to contractor safety performance, accident reporting, and investigations.

Although the Commission required electric utilities to report fatal accidents, the CSB found that CO-PUC had not received a detailed investigation report of the incident from Xcel or been notified of the availability of one. CO-PUC had only received a letter from Xcel briefly describing the incident and the number of people killed and injured.. The CSB recommended that the Commission revise its reporting requirements to require incident reports that include root causes, provide recommendations for prevention, and describe any preventative measures taken by the company post-incident. Moreover, existing Commission rules neither require that past safety performance be considered as a factor in the competitive bidding process in awarding maintenance and repair contracts, nor do they specify safety-based prequalification or disqualification procedures for contractor selection. Recommendations were issued to the CO-PUC to address these issues.

### **B. Response to the Recommendations**

Despite two CO-PUC public meetings where the CSB recommendations were discussed by the Commissioners and their staff – one in which the CSB only monitored the discussions and the other where CSB investigators gave a formal presentation and answered questions pertaining to the recommendations – plus a number of subsequent e-mail inquires and written letters by Recommendations staff, the CSB has received to date no substantive response to address these recommendations from the CO-PUC.

### **C. Board Analysis and Decision**

More than 270 days have elapsed since these recommendations were issued, and the CSB has received no substantive response from CO-PUC. This time period exceeds the limits established for receiving a response from a recipient under established CSB policy in CSB Board Order No. 22. Therefore, the Board votes to change the status of Recommendations 2008-01-I-CO-R4 through R6 to “Closed—Unacceptable Action/No Response Received.”