

PI-85-0101

March 6, 1985

Mr. James A. Ryan
Stretch, Lang, Weeks & Cardon
2100 First Interstate Bank Plaza
Post Office Box 471
Phoenix, Arizona 85001

Dear Mr. Ryan:

Your letter of February 20, 1985, asks further questions relating to your letter of January 31, 1985, and our response of February 12, 1985, concerning §192.727.

In response to your first point regarding use of the word "new," which appears in the heading of §192.379, we would point out that the word "new" is not used in the text of the regulation. The content of the text rather than the heading states the safety standard. Section 192.379 has continuing effect according to its text and §192.13, without regard to whether a service line is still new long after installation. There is no time limit in §192.379 concerning when the customer is to be supplied with gas after completion of installation.

Concerning your second point about the meaning of the word "abandoned," the presence of gas pressure is only one element to consider in determining whether a line has been abandoned. For example, continuing maintenance of a pipeline segment would also indicate that the operator intends to use the pipeline in the future and has not abandoned it. In the absence of any countervailing information, we considered the fact that an operator keeps its property, natural gas, in a pipeline which it owns or operates to be presumptive evidence that there is no intent to abandon the line. Of course, this evidence might be overcome by information showing abandonment, but we do not think that a long delay in putting a line into service would have that effect.

We hope that this satisfactorily answers your further concerns.

Sincerely,
Original signed by
Richard L. Beam
Associate Director for
Pipeline Safety Regulation
Materials Transportation Bureau

Streich, Lang, Weeks & Cardon
2100 First Interstate Bank Plaza
Post Office Box 471
Phoenix, Arizona 85001

February, 20, 1985

Mr. Richard L. Beam
Associate Director for Pipeline Safety Regulations
Materials Transportation Bureau
U.S. DEPARTMENT OF TRANSPORTATION
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Mr. Beam:

Thank you for your prompt response to my letter of January 31, 1985, posing several questions about the application of 49 C.F.R. Part 192 to the two situations described therein. Your answers were most informative and helpful. I would be grateful if you would respond to a few lingering questions I still have.

As you may recall, my "Situation One" involved a portion of a gas distribution system where mains and services had been installed to supply natural gas to houses but the services were never used. In response to my Question No. 1, you replied that Section 192.379, New Service Lines Not In Use, would be one of the applicable requirements if the service lines were ready for service after March 21, 1971. Since those services were installed in the early 1970's, would the requirements of Section 192.379 still be applicable to those service lines as of September, 1984? Such a result would seem to stretch the dictionary definition of "new," which is not a term defined in Part 192. By your answers to the remaining questions under Situation One, those service lines would be neither "deactivated" nor "abandoned" as of September, 1984, under Section 192.727. Thus, we must either use a strained definition of the word "new," or we must conclude that a gas company, which is required to meet the standards of 192.379 for New Service Lines Not In Use, would be permitted to cease compliance with the requirements of that Section once the service lines are no longer deemed to be "new," even though the service lines remain pressurized and unused, and are neither deactivated nor abandoned.

I remain somewhat confused by your conclusion that the service lines in Situation One and Situation Two were not "abandoned" lines because they remained pressurized by natural gas from the distribution main. If pressurization constitutes evidence that a service line has not been "abandoned," then it is difficult to see how a gas utility could ever be in violation of Section 192.727(b) for failing to disconnect or purge an "abandoned" line, because failure to do so would be taken as evidence that the line was not "abandoned." Unless I am mistaken, this sort of logic would render 192.727(b) a virtual nullity.

Your clarification of these few remaining items will be most appreciated.

Very truly yours,
James A. Ryan

February 12, 1985

Mr. James A. Ryan
Streich, Lang, Weeks & Cardon
2100 First Interstate Bank Plaza
Post Office Box 471
Phoenix, Arizona 85001

Dear Mr. Ryan:

Your letter of January 31, 1985, describes two situations concerning natural gas service lines and asks several questions about the application of 49 CFR Part 192 to those situations.

Your "Situation One" involves a portion of a gas distribution system where mains and services were installed to supply natural gas to houses but the services were never used. These services were pressurized by the natural gas mains to which they were connected. You then ask five questions to which we respond as follows:

Question 1: At the time they were installed in the early 1970's, were the service lines "new service lines" within the meaning and intent of 49 C.F.R. Section 192.727?

Response: New services are not addressed in §192.727. Section 192.379, New service lines not in use, would be one of the applicable requirements if the service lines were readied for service after March 12, 1971 (see §192.13(a)).

Question 2: At the time they were installed in the early 1970's, were the service lines "deactivated" lines within the meaning and intent of 49 C.F.R. Section 192.727?

Response: In the natural gas distribution business an active service is one that is supplying gas to a customer. To be "deactivated" a line must first have been activated. Since these service lines never supplied natural gas to a customer and, thus had not been activated, they could not be considered "deactivated" within the meaning and intent of §192.727.

Question 3: At the time they were installed in the early 1970's were the service lines "abandoned" lines within the meaning and intent of 49 C.F.R. Section 192.727?

Response: Within 49 CFR Part 192 we rely upon the dictionary definitions of words unless they are defined within the part. Webster Third New International Dictionary defines the word "abandoned" as "to cease to assert or exercise an interest, right or title to, especially with intent to never again resume or reasserting it." Since the service lines remained pressurized by natural gas from the distribution main, it appears that the operator continued to assert or exercise an interest in these service lines. Thus, they were not abandoned with the meaning and intent of §192.727.

Question 4: As of September 26, 1984, was the leaking service line an "abandoned" line within the meaning and intent of 49 C.F.R. Section 192.727?

Response: No. See #3 above.

Questions 5: On the facts provided above, was the Gas Company in violation of any of the provisions of 49 C.F.R. Section 192? If so, please identify those provisions and the nature of the violation.

Response: There is inadequate information provided in your letter to determine any violation. The

operator would be required to meet all applicable requirements of Part 192 with regard to maintenance, operations, surveillance, pressure control, leak surveys, odorization, etc. Possible violations of these standards would be determined by the Office of Operations and Enforcement, Materials Transportation Bureau, or the State agency with safety jurisdiction over an intrastate line.

"Situation Two" describes a gas service line that had discontinued supplying natural gas to a customer. Such a service would be required to meet the requirements of §192.727(d). You asked two questions concerning this example to which we respond as follows:

Question 1: As of September 15, 1981, was the leaking service line an "abandoned" line within the meaning and intent of 49 C.F.R. Section 192.717?

Response: This service line would not be "abandoned" within the meaning and intent of §192.727 since it is still pressurized by natural gas and intended for future use, although service to the customer had been discontinued, according to your letter.

Question 2: On the facts provided above, was the Gas Company in violation of any of the provisions of 49 C.F.R. Section 192 as of September 15, 1981? If so, please identify those provisions and the nature of the violation.

Response: There is inadequate information given to determine if there is a violation. Possible violations of these standards would be determined by the Office of Operations and Enforcement, Materials Transportation Bureau, or the State agency with safety jurisdiction over an intrastate line.

We hope that this has satisfactorily answered your concerns.

Sincerely,
Richard L. Beam
Associate Director for
Pipeline Safety Regulation
Materials Transportation Bureau

January 31, 1985

Mr. Richard L. Beam
Associate Director for Pipeline
Safety Regulations
Materials Transportation Bureau
U.S. DEPARTMENT OF TRANSPORTATION
400 Seventh Street, S.W.
Washington, D.C. 20590

Dear Mr. Beam:

On January 28, 1985, I contacted Mr. Lucien Furrow of your office regarding several questions we have regarding certain provisions of the gas pipeline safety regulations set forth at 49 C.F.R. Section 192. At his recommendation, we are formally requesting your assistance in interpreting and clarifying those provisions insofar as they apply to the two fact situations described below.

I. SITUATION ONE

In the early 1970's, during construction and development of an "all electric" residential subdivision, the Gas Company installed natural gas mains and service lines throughout the subdivision. The Gas Company believed that gas service might eventually be requested for one or more residences in the subdivision, and concluded that it would be easier to install its gas distribution system while the subdivision was under construction rather than at a later date. There are no valves to shut off the service lines at the point those lines connect to the gas mains. Once the system was installed, the Gas Company caused natural gas to flow through the mains and services, even though there was no immediate prospect that gas service would be requested.

On September 26, 1984, residents of one block in the subdivision reported the odor of gas, and the Gas Company discovered a leaking service line leading to one of the homes. For the approximately ten-year period that the gas system had been in place before the leak was discovered, none of the residents of the block had ever requested or received gas service from the Gas Company. Moreover, none of the residents of the block was even aware, until September 26, 1984, that the Gas Company had installed its system in this subdivision.

QUESTIONS

1. At the time they were installed in the early 1970's, were the service lines "new service lines" within the meaning and intent of 49 C.F.R. Section 192.727?
2. At the time they were installed in the early 1970's, were the service lines "deactivated" line within the meaning and intent of 49 C.F.R. Section 192.727?
3. At the time they were installed in the early 1970's, were the service lines "deactivated" line within the meaning and intent of 49 C.F.R. Section 192.727?
4. As of September 26, 1984, was the leaking service line an "abandoned" line within the meaning and intent of 49 C.F.R. Section 192.727?
5. On the facts provided above, was the Gas Company in violation of any of the provisions of 49 C.F.R. Section 192? If so, please identify those provisions and the nature of the violation.

II. SITUATION TWO

In 1973, the Gas Company installed a natural gas service line through an "all electric" apartment complex for the sole purpose of supplying gas for a heating unit used to heat the swimming pool at the complex. In December 1977, the complex ceased using natural gas to heat its pool and subsequently removed the heating unit. The Gas Company cut off the flow of natural gas from the meter to the swimming pool, but continued to allow natural gas to flow along the service from the main to the meter. Although there had been no use of natural gas at the complex since December 1977, natural gas flowed through the service to the meter until September 15, 1981, when a leak in the service resulted in an explosion at the complex.

QUESTIONS

1. As of September 15, 1981, was the leaking service line an "abandoned" line within the meaning and intent of 49 C.F.R. Section 192.727?
2. On the facts provided above, was the Gas Company in violation of any of the provisions of 49 C.F.R. Section 192 as of September 15, 1981? If so, please identify those provisions and the nature of the violation.

If you determine that the facts provided herein are not sufficient to enable you to determine the applicability of a particular subpart of 49 C.F.R. Section 192, please inform us of an additional factors that might be necessary or helpful to your determination. As the questions raised herein involve matters of some urgency, we will be most appreciative of your prompt response. If you have any questions concerning the foregoing, please telephone the undersigned at (602) 257-0999.

Very truly yours,
James A. Ryan