

PI-05-0100

Sempra Energy  
101 Ash Street  
San Diego, CA 92101-3017

March 30, 2005

Associate Administrator of Pipeline Safety  
U.S. Department of Transportation  
Pipeline and Hazardous Materials Safety Administration  
Office of Pipeline Safety  
Room 2103  
400 Seventh Street, S.W.  
Washington, D.C. 20590-0001

Re: Interpretation of 49 CFR, Part 192.727

Dear Sir or Madam:

Southern California Gas Company ("SoCalGas") requests an interpretation of 49 CFR, Part 192.727 for pending litigation. The case at issue is scheduled for trial on June 3, 2005, and the discovery deadline is set for May 4, 2005. Accordingly, a prompt response is greatly appreciated.

Presently, SoCalGas is a defendant to a personal injury lawsuit involving a soft-closed meter. The plaintiff was severely burned when gasoline, which she was using to clean her kitchen floor, was ignited by the pilot light of a nearby water heater. She had recently moved into the house and did not understand that the gas was on. She contends, among other things, that SoCalGas' soft close policy violates the Minimum Federal Safety Standards, codified in 49 CFR, Part 192, et seq., and specifically Part 192.727.

Preliminarily, SoCalGas notes that the Office of Pipeline Safety has previously issued two letters of interpretation addressing the industry-wide practice known as soft close, and the application of 49 CFR, Part 192.727 thereto. In 1993, the CPUC approved SoCalGas' soft close policy in a rate-based tariff found in CPUC Decision No. 93-12-043. SoCalGas understands the CPUC to be the enforcement arm of the DOT in California for pipeline safety issues. Furthermore, SoCalGas does not believe CPUC Decision No. 9312-043 to be inconsistent with Part 192.727.

Please find the following enclosures for your reference: (1) Office of Pipeline Safety Letter of Interpretation, dated October 11, 1978; (2) Office of Pipeline Safety Letter of Interpretation, date stamped December 24, 2002; (3) relevant portions of California Public Utilities Commission ("CPUC") Decision No. 93-12-043; and (4) SoCalGas' Gas Standard 142.0075, "Closing Meters — Methods and Procedures" (Soft Close Policy).

SoCalGas believes that Part 192.727 does not apply to its soft close policy / procedure. Rather, it believes that Part 192.727 applies only to the "abandonment or deactivation of facilities," as its title and subpart (a) suggest. "Abandonment" is defined in Part 192.3 as "permanently removed from service." Although "deactivation" is not defined, SoCalGas understands it to mean a semi-permanent abandonment with the intent to put the facilities out of service. SoCalGas believes that issuing a soft close is not an abandonment or deactivation of its facilities, as a utility will generally issue a soft close where it closes a customer account while continuing service to the premises. Thus, the intent of issuing a soft close is not to remove the gas facilities from service, either permanently or semi-permanently.

However, even if Part 192.727 does apply to the soft close procedure, SoCalGas believes that subparts (b) and (c) thereto do not. Subpart (b) does not apply, because it addresses the exclusive issue of "abandonment" which, as discussed, is not the intent in conducting a soft close. Subpart (c) does not apply, because it specifically

disclaims application to service lines. Therefore, subpart (d) is the only remaining subpart which may apply to a soft close.

Part 192.727, subpart (d) provides three methods of closing a gas meter when "service to a customer is discontinued." Although subpart (d) does not define "discontinued", SoCalGas understands that term to mean the opposite of "continued". As noted above, the purpose of the soft close procedure is to continue gas service to the premises (notwithstanding identification of a responsible party.)

The DOT's letter of interpretation, date stamped December 24, 2002, appears to indicate that SoCalGas' decision to conduct a soft close is a safety issue. That letter provides:

OPS is aware of the industry practice known as "soft closure" under which an operator continues to provide gas service to a property during the interval between termination of one customer's account and initiation of the successor's account. Sometimes the service is continued even though no successor is identified. The Federal standards do not state how soon an operator must discontinue service to a property when no subsequent customer has been identified for billing purposes.... [T]he operator's decision to use "soft closure" should be guided by considering whether a reasonable finder of fact would conclude that doing so was consistent with the operator's obligation to remove from service any pipeline segment that has become unsafe.

Finally, SoCalGas understands the term "customer," as used in Part 192.727, subpart (d), to mean either the customer meter set or the physical premises, but not the accountholder.

**SoCalGas requests the DOT's interpretation of the following issues:**

- (1) Does Part 192.727 apply to SoCalGas' soft close policy, as approved by the CPUC?**
- (2) Does CPUC Decision No. 93-12-043, authorizing SoCalGas to implement its soft close policy, violate Part 192.727?**
- (3) Does SoCalGas' soft close policy violate Part 192.727?**
- (4) With regard to soft close, when, if at all, is SoCalGas required to follow Part 192.727, subpart (d)?**
- (5) When is gas service presumed to be "discontinued," as that term is used in Part 192.727, subpart (d)?**
- (6) Please provide a definition for the term "customer," as that term is used in Part 192.727, subpart (d).**

Thank you for your prompt attention and response to this letter. Your interpretation and insight are greatly appreciated.

William A. Calders

U.S. Department of transportation  
Research and Special Programs Administration  
400 Seventh Street, S.W.  
Washington, D.C. 20590

December 24, 2002

Mr. Richard Lonn  
Chief Engineer/Director Regulatory Compliance  
Atlanta Gas Light Company PO Box 4569  
Atlanta, GA 30302

Dear Mr. Lonn:

I apologize for taking 30 long to answer your letter seeking an interpretation of certain Federal safety standards concerning an operator's discontinuance of service. You specifically requested clarification of a letter of interpretation issued by the Office of Pipeline Safety (OPS) on October 11, 1978, concerning the safety standard in 49 CFR. 192.727(d) that provides that, whenever service to a customer is discontinued, the operator must take one of three measures to prevent unauthorized persons from activating the flow of gas in the service line.

The 1978 OPS letter confirmed that § 192.727(d) does not apply when a responsible party requests that service be transferred to his or her name with no actual discontinuance of service, for example, when home ownership is transferred from the seller to the buyer. The same letter went on to state that § 192.727(d) does apply if "an interim period exists when gas service is not requested by another party."

Your letter sought confirmation of the view that "the interim period is for services physically discontinued, not for interim periods where the service is left physically on and an accounting procedure takes place." Unfortunately, those two alternatives are the two ends of a continuum rather than the two sides of a coin.

The 1978 OPS letter of interpretation stated that the provisions of § 192.727(d) apply when an interim period exists during which gas service is not requested by another party: An example of such an interim period is when a homeowner moves out of the residence in anticipation of, but prior to, the sale of the property. In such circumstances the premises could be unoccupied and under no one's immediate control for an extended period of time.

OPS is aware of the industry practice known as "soft closure" under which an operator continues to provide gas service to a property during the interval between termination of one customer's account and initiation of the successor's account. Sometimes the service is continued even though no successor has been identified. The Federal standards do not state how soon an operator must discontinue service to a property when no subsequent customer has been identified for billing purposes. There is a general requirement at § 192.703(b) that each segment of pipeline that becomes unsafe must be replaced, repaired, or removed from service." A gas pipeline connected to an unoccupied apartment in a secure building presents much less of a safety risk than one connected to an unoccupied house in an area prone to break-ins, vandalism, or other unauthorized interference. Since these are site-specific considerations, the operator must determine on a site-specific basis what actions are consistent with the requirement to remove from service any segment of pipeline that becomes unsafe. Various actions are possible to reduce risks and these should be incorporated in the procedural manual required by § 192.605. In any event, the operator's decision to use "soft closure" should be guided by considering whether a reasonable finder of fact would conclude that doing so was consistent with the operator's obligation to remove from service any pipeline segment that has become unsafe.

Please let me know if you have any further concerns regarding this interpretation. I can be reached at (202) 366-4595.

Sincerely,  
Stacey L. Gerard  
Associate Administrator for Pipeline Safety