

PI-77-0102

January 19, 1977

Mr. Fred K. Kramer  
Director  
Department of Consumer Affairs  
County of Fairfax  
4031 University Drive  
Fairfax, Virginia 22030

Dear Mr. Kramer:

This refers to your letter of October 27, 1976, concerning a master meter gas pipeline system at the Southgate Condominium Apartments in Reston, Virginia. It is stated that the system consists of mill-wrapped steel pipe and was installed underground without cathodic protection sometime between January and May 1972 by Gulf-Reston, Inc., the developer of the project. In August 1972, the first residential use permit was issued by Fairfax County. Then about two years ago, Gulf-Reston transferred ownership of the project to the Southgate Condominium Association, who has, through a contractor, begun to install anodes on the system. You have asked whether Gulf-Reston or the Association is responsible for correct installation and monitoring of the system under the Federal gas pipeline safety standards (49 CFR Part 192).

The Federal standards are issued under the Natural Gas Pipeline Safety Act of 1968. Sec. 8 of the Act (49 USC 1677) provides that the standards are binding and enforceable against any person who owns or operates pipeline facilities. Since the Southgate system constitutes a gas distribution system that is subject to the Act and to the regulations, as an owner of the system, Gulf-Reston had, and the Association now has, responsibility for compliance of the system with 49 CFR Part 192. This responsibility includes compliance with all applicable safety requirements in effect during the period of ownership. Moreover, an owner remains liable to a civil penalty for any infraction of the safety standards occurring during its period of ownership.

With respect to requirements for cathodic protection, Section 192.455(a)(2) provides (with certain exceptions that do not appear relevant to the Southgate system) that a buried metal pipeline which is installed after July 31, 1971, must have

"a cathodic protection system designed to protect the pipeline in its entirety in accordance with this subpart, installed and placed in operation one year after completion of construction."

This regulation applies to the Southgate system which, according to your letter, was installed between January and May 1972 and began operation in August 1972. Under the regulation, cathodic protection should have been placed in operation on the system not later than May 1973, one year after construction of the system. If Gulf-Reston did not transfer ownership of the

system to the Association until the fall of 1974, then as owner of the system in May 1973, it was responsible for installation of cathodic protection in compliance with Section 192.455(a)(2).

However, because Section 192.455(a)(2) is a requirement of continuing legal effect, Gulf-Reston's failure to comply in 1973 does not relieve the Association, as the present owner of the system, of its obligation to comply with Section 192.455(a)(2). The Association is also responsible under Part 192. This Office enforces compliance with the Federal standards against persons who presently own or operate gas systems, although our enforcement activities are for the most part directed toward public utilities.

We trust that this satisfactorily answers your inquiry regarding the responsibility for compliance with the Federal gas pipeline safety standards. The Federal standards do not govern the rights of the purchaser of a gas system to compensation from the seller for any costs required to bring the system into compliance with the standards.

Sincerely,  
Cesar DeLeon  
Acting Director  
Office of Pipeline  
Safety Operations

COUNTY OF FAIRFAX

October 27, 1976

Mr. Lucian Furrow  
Regulations Attorney  
Office of Pipeline Safety  
2100 Second Street, S.W.  
Washington, D.C. 20590

Dear Mr. Furrow:

We are requesting the assistance of the Office of Pipeline Safety in an interpretation of 49 Code of Federal Regulations as it relates to a master meter gas pipe problem at the Southgate Condominium Apartments, 2004G Colts Neck Road in Reston, Virginia. Based on our understanding of the situation, as described below, our questions become those of jurisdictional responsibility and liability: Under the Code of Federal Regulations, what party has jurisdictional responsibility to monitor the gas pipe beyond the master meter, and what party has the responsibility to insure that pipes are correctly installed according to federal regulations?

The problem, which appears to be a growing one in Reston and which has led us to request an interpretation from you, is as follows: The Southgate Condominium Apartments consist of 300 dwelling units which use gas for heating, hot water, cooking and clothes drying. The apartments are located in nine buildings and are served by four master meters. Gas pipes leading from the master meters enter the buildings at 16 different places. Millwrapped steel pipe was used for the underground gas pipes. The builder-developer of the apartments was Gulf-Reston, Inc. Building plans for the development were submitted to the County in November, 1971, and a building permit was issued to Gulf-Reston on December 3, 1971. On May 31, 1972, Fairfax County Inspectors conducted their "closed-in" inspection of the underground mill-wrapped steel gas pipes to insure that they conformed to the County's Code requirements. (Cathodic protection is not required by the County's ordinance). It can be assumed, then, that the pipes were installed sometime between January and May, 1972. The first residential use permit was issued in August, 1972. About two years ago, the apartment complex converted to condominium ownership.

Apparently, the widely publicized corrosion problem experienced in other areas of Reston during prior months prompted the Board of Directors of the Southgate Condominium Association to investigate the possibility of gas leaks at the Southgate condominium complex. Because the County and the Washington Gas Light Company confirmed that the underground pipes, located down stream from the master meters were not cathodically protected and that corrosion probably had occurred and would continue to occur, the Association contracted with an engineering firm, the R.A. Ransom Company, to determine the severity of the corrosion problem. In addition, another company (George F. Warner Company) was hired to pressure test the pipes to ascertain if there were any leaks, since the gas company would not perform the job, as well as to install the necessary anodes and insulation couplings, all at a cost of nearly \$12,000. The engineering study confirmed that galvanic cell corrosion was occurring although no leaks were discovered at the

time. However, the engineering firm felt that underground pipe leaks would have developed within the year, especially since the inside gas pipes (bare steel) were noticeably corroding. It is our understanding that nearly one-third of the anode installation work is now completed.

Unfortunately, Gulf-Reston has offered to pay only their proportionate ownership share of the cost of the anode installation based on their current percentage ownership in the condominium development. It is the Association's position that Gulf-Reston's responsibility extends beyond payment of their proportionate share since the homeowners purchased their condominiums in good faith that no problems such as this potential safety hazard existed. Moreover, the technicalities associated with this problem are such that a homeowner cannot be expected to be knowledgeable in this area and it is an area into which a homeowner should not be expected to check prior to purchase.

Additionally, our cursory examination of the Code of Federal Regulations would indicate that due to the timing of the effective date of the OPS regulations (July 31, 1972), the builder-developer, as the initial distributor of the gas, should have been aware or been made aware of this requirement before construction, and as such, should be responsible for correction of the problem.

We would appreciate guidance from the Office of Pipeline Safety on this matter as the answers to the questions of liability and responsibility will impact not only on these residents in Reston, but others in Reston, as well.

Should you be in need of additional information, please contact me or Ms. Lin Quitmeyer of my staff at 691-3488.

Sincerely,  
Fred K. Kramer  
Director  
Attachment

SOUTHGATE CONDOMINIUM ASSOCIATION  
2004G Colts Neck Road  
Reston, Virginia 22091

October 12, 1976

Messrs. B. C. Burch and S. R. Clineburg  
Gulf Reston, Inc.  
11440 Isaac Newton Square  
Reston, Virginia 22090

Gentlemen:

The Board of Directors does not agree with Gulf Reston, Inc.'s position that the lack of cathodic protection on our gas transmission lines is not the developer's responsibility since Gulf Reston, Inc. has installed this protection at other complexes in Reston.

Consequently, the Board has referred the matter to the Fairfax County Consumer Protection Agency.

Very truly yours,  
W. F. Noah  
President