

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

AUG - 4 2004

Mr. Kenneth D. Schisler
Chairman
Maryland Public Service Commission
6 St. Paul Street
Baltimore, Maryland 21202-6806

Dear Mr. Schisler:

We have considered your letter of May 6, 2004, notifying us of the waiver granted by the Maryland Public Service Commission (Commission) to Baltimore Gas and Electric Company (BGE) of selected provisions of 49 CFR 192.723(b)(2) of the Federal pipeline safety regulations.

Section 192.723(b)(2) requires an operator of a gas distribution system to conduct leakage surveys with leak detection equipment outside business districts as frequently as necessary, but at intervals not exceeding five years. It also provides that survey intervals may not exceed three years for cathodically unprotected distribution lines subject to §192.465(e) on which electrical surveys for corrosion are impractical.

The commission concluded that the current five year and three year requirements were too restrictive because they did not allow the operator flexibility to alter leak detection schedules in the face of scheduling conflicts, unforeseen workload issues, inclement weather, or other unplanned events. The waiver allows BGE to conduct leakage surveys once every five calendar years at intervals up to 63 months in business districts or once every three years at intervals up to 39 months for cathodically unprotected distribution lines subject to §192.465(e)

We agree that the additional flexibility to conduct leak detection surveys is appropriate and does not compromise the leak detection requirements of §192.723(b)(2). In a final rule issued on June 14, 2004, (69 FR 32886) the Research and Special Programs Administration's Office of Pipeline Safety (RSPA/OPS) adopted language to require leakage surveys outside of business districts at least once every five years at intervals not exceeding 63 months. In an upcoming correction notice, we will extend this same flexibility to require leak detection surveys once every three years at intervals not exceeding 39 months for cathodically unprotected distribution lines subject to §192.465(e).

The waiver granted by the Commission is consistent with these recently adopted changes in the pipeline safety regulations. Therefore, RSPA/OPS does not object to the grant of waiver by the Commission.

Sincerely,
Stacey L. Gerard
Associate Administrator
For Pipeline Safety

State of Maryland
Public Service Commission
6 St. Paul Street
Baltimore, Maryland 21202-6806

May 6, 2004

CERTIFIED MAIL — RETURN RE EIPT REQUESTED

Mrs. Stacey Gerard
Associate Administrator for Pipeline Safety
US DOTIRSPAIOPS
400 7th St., S.W. — Room 7128
Washington, DC 20590

Dear Mrs. Gerard:

Attached is a request from Baltimore Gas and Electric (BGE) for a waiver from requirements of 49 CFR¹ 192.723(b)(2). The waiver request is to allow BGE to increase the time intervals to conduct certain leakage surveys of its gas distribution piping. The wavier, as proposed, would allow BGE an additional three-month window to schedule and complete the required leakage surveys.

The Maryland Public Service Commission (PSC) has reviewed the wavier request and the supporting documentation in detail. Based on this review, the PSC finds that granting this wavier will not be detrimental to public safety. Attached are the PSC's comments on BGE's requested waiver.

The Commission will notify BGE that the wavier is approved, effective sixty days from the date you receive this letter, unless you formally object within the sixty-day period.

If you have any questions concerning this action, please contact James R. Schafer, P.E., Acting Chief Engineer at (410) 767-8069.

Sincerely,
Kenneth D. Schisler
Chairman

¹Code of Federal Regulation

State of Maryland
Public Service Commission

ML#91921, E-1520
CORRECTED COPY

May 3, 2004

VIA FACSIMILE & U. S. MAIL

Beverly A. Sikora, Esquire
Baltimore Gas and Electric Company
P.O. Box 1475
Baltimore, Maryland 21203

Dear Ms. Sikora:

On March 16, 2004, Baltimore Gas and Electric Company ("BGE") filed a letter requesting a waiver of 49 CFR §723 (b)(2), Code of Maryland Regulations ("COMAR") 20.55.09.05B(1) and 20.55.09.05B(3). These waivers are intended to increase the time intervals to conduct certain leakage surveys of its gas distribution piping by three months. BGE asserts that it does not believe that public safety will be compromised by issuance of the above-referenced waivers.

After considering this matter and the recommendation of Technical Staff, the Commission hereby grants the requested waivers. Finally, the Commission directs its Engineering Staff to assist BGE in obtaining additional approvals from the Federal Office of Pipeline Safety.

By Direction of the Commission,
Felecia L. Greer
Executive Secretary

STATE OF MARYLAND
PUBLIC SERVICE COMMISSION

Number E-1520
Date April 7, 2004
Mail Log No. 91921

TO: Kenneth D. Schisler, Chairman
J. Joseph Curran, III, Commissioner
Gail C. McDonald, Commissioner
Ronald A. Guns, Commissioner
Harold D. Williams, Commissioner

FROM: Anthony Myers, Assistant Executive Director

RE: Baltimore Gas & Electric Request for Waiver

Description of Application:

On March 16, 2004, the Baltimore Gas & Electric Company filed a request for a waiver to modify the time intervals for conducting gas leak surveys of distribution piping.

Groups which should receive a copy of Staff Recommendation:

Baltimore Gas & Electric Office of People's Counsel

Recommended Action (Including Conditions):

Staff recommends that the Commission grant the requested waiver for all gas companies and direct the Engineering Division to request final approval of the waiver from the federal Office of Pipeline Safety. See attached comments of the Engineering Division.

Blaine L. Keener
Chief Engineer

M. Catherine Dowling
Chief Staff Counsel

Background

On March 16, 2004, the Baltimore Gas & Electric Company (BGE) filed a request for a waiver of 49 CFR §723(b)(2). COMAR 20.55.09.05B(1) and COMAR 20.55.09.056(3) to increase the time intervals to conduct leak surveys of its gas distribution piping. The applicable State and Federal regulations are:

49 CFR §723(b)(2) A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at intervals not exceeding 5 years. However, for cathodically unprotected distribution lines subject to §192.465(e) on which electrical surveys are impractical, survey intervals may not exceed 3 years.

COMAR 20.55.09.05B(1) Leakage detection surveys shall be made at frequencies that comply with 49 CFR §§192.706 and 192.723, and the requirements of §B(2) and (3) of this regulation

COMAR 20.55.09.05B(3) Cast iron, ductile iron, and cathodically unprotected steel pipelines shall be leak surveyed at least once every three years. Except as provided in §B(1) of this regulation, segments of these pipelines located inside a building shall be leak surveyed at least once every 5 years.

BGE requests a waiver to add three months to the 5 and 3 year interval. Under the current regulations, a gas company is subject to enforcement action if a pipeline leak survey interval is even one day over the 5 or 3 year interval. The federal

Office of Pipeline Safety (OPS) has recognized that a 3 month extension is appropriate in rulemaking RSPA-99-6106 (see excerpts in enclosure 1). However, this 1999 rulemaking has not yet produced a final rule to amend the regulation.

Any request for a waiver of federal regulations must be approved by the State agency having jurisdiction over the gas operator. BGE has appropriately requested Commission approval. The California Public Utilities Commission has recently granted a similar waiver to the Pacific Gas & Electric Company. The finding of the California PUC are attached to BGE's Filing.

Any waiver of federal regulations by a State agency must also be approved by the OPS before taking effect. The California waiver was approved by the OPS the intent of the code requirements and whether the issuance of the waiver would negatively impact public safety.

49 CFR 192.723(b)(2), COMAR 20.55.09.05B(1) and (3) are intended to require leakage surveys at 5 year intervals for plastic and cathodically protected distribution systems, and at 3 year intervals for cast iron, ductile iron and cathodically unprotected distribution systems. With the issuance of the waivers, the above requirements will continue to be met, as the new language retains the 5-year and 3 year requirements. The desired flexibility, that BGE is seeking, will be reached through the, "at intervals not exceeding 63 months and 39 months" language respectively.

Additionally, because instrumented leakage surveys can only be conducted under acceptable weather conditions, the surveys can be delayed due to rain or excessive wind conditions. Thus, the current code language results in the situation where the utility is having to schedule the leak surveys at intervals less than 5 and 3 years just to assure that the 5 and 3 year requirement is met. With such a constantly advancing maintenance requirement, BGE may be faced with several or many operations and maintenance activities required by regulation due during the same time frame. This could result in unnecessary overtime, and increased costs, with no commensurate public safety benefit.

The Engineering Division does not believe that the granting of these waivers will compromise public safety. The leak surveys will continue to be scheduled at the 5 year and 3 year intervals as the code intends. The requested waiver would allow BGE to deal with scheduling, unforeseen workload issues, inclement weather, personnel staffing issues, and other unplanned events which might cause surveys to be reasonably delayed beyond the specific anniversary date.

The potential of having some flexibility in the completion of leak detection surveys of gas distribution piping would not only benefit BGE, but all gas companies statewide. Also, the Engineering Division would not take enforcement action unless the leak surveys extended beyond the additional three-month window. If the Commission approves the waiver for all Maryland gas companies, the Engineering Division will then forward the approval to the OPS for final approval. If the OPS agrees with the Commission, then the Engineering Division will initiate a COMAR revision to make the regulations consistent with the waiver.

Recommendation

Staff recommends that the Commission grant the requested waiver for all gas companies and direct the Engineering Division to request final approval of the waiver from the federal Office of Pipeline Safety.

John J. Clementson
Pipeline Safety Engineer

BGE
P.O. Box 1475
Baltimore, Maryland 21203-1475

March 12, 2004

Ms. Felecia L. Greer, Executive Secretary
Maryland Public Service Commission
6 St. Paul Street, 16th Floor
Baltimore, MD 21202

Dear Ms. Greer:

Baltimore Gas and Electric Company (BGE) presently operates approximately 6,400 miles of gas main and 494,000 gas services throughout Central Maryland. This gas distribution piping is leak surveyed in accordance with Federal Pipeline Safety Standards under 49 CFR § 192.723 and with Maryland Public Service Commission regulations under COMAR 20.55.09.05.

BGE is hereby submitting a request for waivers of 49 CFR §723(b)(2), COMAR 20.55.09.05B(1), and COMAR 20.55.09.05B(3) to increase the time intervals to conduct certain leakage surveys of its gas distribution piping. The waiver, as proposed, would allow BGE an additional three-month window to schedule and complete the required leakage surveys.

Accordingly, BGE requests that a waiver of 49 CFR §723(b)(2) and COMAR 20.55.09.05B(1), which requires compliance with 49 CFR §723(b)(2) be granted to increase the time intervals to conduct leakage surveys. With the requested waiver, BGE would conduct leakage surveys in areas outside business districts as often as necessary, but at least once every five calendar years, at intervals not exceeding 63 months. For cathodically unprotected distribution lines subject to 49 CFR § 192.465(e), BGE would conduct leakage surveys as often as necessary, but at least once every three calendar years, at intervals not exceeding 39 months.

BGE also requests that a waiver of COMAR 20.55.09.05B(3) be granted. The waiver, as proposed, would allow cast iron, ductile iron, and cathodically unprotected steel pipelines to be leak surveyed at least once every three years at intervals not exceeding 39 months. However, segments of these pipelines located inside a building would be leak surveyed at least once every five years at intervals not exceeding 63 months.

BGE does not believe that public safety will be compromised by issuance of this variance. Leakage surveys will continue to be conducted at the intervals intended by the code but the requested language will allow flexibility in conducting and scheduling. It will allow BGE to deal with scheduling, unforeseen workload issues, inclement weather, personnel staffing issues and other unplanned events, which might cause surveys to be reasonably delayed beyond the specific anniversary date.

Furthermore, the requested waivers are consistent with a waiver requested by the Pacific Gas & Electric Company (PG&E) on August 15, 2002, and subsequently granted by the Public Utilities Commission of the State of California (CPUC) on January 16, 2003. In a letter to the CPUC dated April 2, 2003, the Office of Pipeline Safety of the U.S. Department of Transportation agreed that the additional three-month window allows a pipeline operator flexibility to account for unforeseen scheduling conflicts or other unplanned events with no significant effect on safety and, therefore, had no objection to the waiver. A copy of the CPUC's January 16, 2003, resolution granting the waiver is attached for your reference.

Your earliest review and approval of this request would be most appreciated. If additional information would be of assistance in considering BGE's request, please contact me at 410-234-5799.

Sincerely,
Beverly A. Sikora

RESOLUTION

RESOLUTION SU- 55, ORDER GRANTING PACIFIC GAS & ELECTRIC COMPANY A VARIANCE FROM TITLE 49 CODE OF FEDERAL REGULATIONS 192.723(b)(2) AS ADOPTED UNDER GENERAL ORDER 112E, RULE 101.2.

SUMMARY

1. By letter of August 15, 2002, Pacific Gas & Electric Company (PG&E) petitions the Commission to authorize a variance from General Order 112E (G.O. 112E), Rule 101.2, for its California gas distribution operations.
2. Whereas G.O. 112E, Rule 101.2, incorporates Title 49 of the Code of Federal Regulations, Part 192 (49 CFR 192), the variance is sought under G.O.112E, Rule 101.3, and is subject to the requirements of Section 3(e) of the Natural Gas Pipeline Safety Act of 1968.
3. 49 CFR 192.723 (b)(2) requires that gas operators conduct leakage surveys on distribution systems with leak detection equipment in areas outside business districts as often as necessary, but at intervals not exceeding 5 years. PG&E has proposed alternative language in its request.
4. The variance as proposed would allow PG&E an additional 3 month window to schedule and complete the required leakage surveys and specifically would require that PG&E conduct leakage surveys with leak detection equipment in areas outside business districts as often as necessary but at least once every five calendar years, at intervals not exceeding 63 months, and for cathodically unprotected distribution lines, as often as necessary but at least once every three calendar years, at intervals not exceeding 39 months.
5. This resolution authorizes the variance for PG&E from 49 CFR 192.723 (b)(2), as adopted in G.O. 112E, Rule 101.2, until the effective date of the final rule in docket RSPA-99-6106.

BACKGROUND

PG&E is a gas transmission and distribution company, under the jurisdiction of the Commission and subject to the regulations contained in 49 CFR192 and Commission G.O. 112E. As such, for its distribution systems, PG&E must follow 49 CFR 192.723(b)(2), which states:

"A leakage survey with leak detector equipment must be conducted outside business districts as frequently as necessary, but at intervals not exceeding 5 years. However, for cathodically unprotected distribution lines subject to currently effective language. Because of a general industry and government regulator agreement on the matter, the issue is regarded as "non-controversial".

DISCUSSION

The SRB evaluated this variance request to determine its impact on public safety. Factors influencing the SR13's evaluation included the intent of the code requirement, consistency with other regulations in 49 CFR 192, the proposed rule modification currently under consideration in docket RSPA-99-6106, and whether the issuance of the variance would negatively impact public safety.

49 CFR 192.723(b)(2) is intended to require instrumented leakage surveys on 5 year intervals for distribution systems, and on 3 year intervals for distribution lines not cathodically protected. With the issuance of the variance discussed herein, this requirement will continue to be met, as the new language retains the 5 year requirement. The desired flexibility is reached through the, "at intervals not exceeding 63 months" language.

The language sought by PG&E is that suggested by NAPSR and included in the proposed rule changes to 49 CFR 192 in RSPA-99-6106. This language is consistent with other requirements in 49 CFR 192, which generally provide a period of time for the completion of periodic tests and inspections. For example, operators are required to test their corrosion control systems by taking cathodic protection readings on their systems pursuant to 49 CFR 192.465(a), which requires

that "(e)ach pipeline that is under cathodic protection must be tested at least once each calendar year, but with intervals not exceeding 15 months, to determine whether the cathodic protection meets..." This type of language is typical throughout 49 CFR 192.

Additionally, because instrumented leakage surveys can only be conducted under acceptable weather conditions, the surveys can be delayed due to rain or excessive wind conditions. Thus, the current code language results in the situation where operators are having to schedule the leak surveys at intervals less than 5 years just to assure that the 5 year requirement is met. With such a constantly advancing maintenance requirement, PG&E can be faced with several or many operations and maintenance activities required by regulation due during the same time frame. This could result in unnecessary overtime, and increased costs, with no commensurate public safety benefit.

The SRB does not believe that public safety will be compromised by issuance of this variance. The leakage surveys will continue to be conducted at approximate 5 year intervals as the code intends. The requested relief will allow PG&E more flexibility in conducting and scheduling leakage surveys. It will allow PG&E to deal with scheduling, unforeseen workload issues, inclement weather, personnel staffing issues, and other unplanned events which might cause surveys to be reasonably delayed beyond the specific anniversary date. The SRB sees no public safety benefit in adhering to a rigid time frame in this matter versus the additional flexibility offered in the PG&E preferred, NAPSRS proposed language, as included in RSPA docket number RSPA-99-6106. Also, within the next several months, the PG&E preferred, NAPSRS language will become the code language.

COMMENTS

Public Utilities Code Section 311 (g)(2) provides that the 30-day public notice and comment period may be reduced or waived for an uncontested matter in which the decision grants the requested relief.

The 30-day comment period for the draft of this resolution is waived due to the noncontroversial and uncontested nature of the request.

FINDINGS

1. The SRB, after reviewing PG&E's request, the additional requirements in 49 CFR 192 and currently proposed rulemakings at the nation level, believes that the issuance by the Commission of a variance waiving compliance with the current language in 49 CFR 192.723(b)(2), and instead following the RSPA-99-6106 language would not significantly impact public safety.
2. The SRB recommends that this variance request be approved until the effective date of the Final Rule in docket RSPA-99-96106, or other, which amends section 49 CFR 192.723(b)(2) in the manner requested by PG&E.

THEREFORE, IT IS ORDERED THAT:

1. Pacific Gas & Electric be granted the variance it requested from 49 CFR 192.723(b)(2) which is adopted in General Order 112E., Rule 101.2.
2. This resolution shall be effective immediately, however, concurrence by the US DOT Associate Administrator must also be obtained. State approval is require before US DOT will consider the waiver.
3. The variance shall expire as of the effective date of the Final Rule in docket RSPA-99-6106 addressing this code section in the manner discussed herein.

I hereby certify that this Resolution was adopted by the California Public Utilities Commission at its regular meeting on January 16, 2003. The following Commissioners approved it:

Wesley M. Franklin, Executive Director

Michael R. Peevey, President

Carl W. Wood
Loretta M. Lynch
Geoffrey F. Brown
Susan P. Kennedy
Commissioners