

U.S. Department of Transportation
Pipeline and Hazardous Materials Safety Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

March 25, 2005

Mr. Stephan Pott
Chief, Gas Pipeline Safety
State of Colorado
Public Utilities Commission
1580 Logan Street, Office Level 2
Denver, CO 80203

Dear Mr. Pott:

We have considered your letter of February 14, 2005, notifying us that the State of Colorado Public Utilities Commission (CO-PUC) has granted Aquila, Inc. a waiver from the plastic pipe joining requirements of 49 CFR 192.285(a)(2) and (c).

Under 192.285(a)(2), no person may make a plastic pipe joint using an applicable procedure until that person qualifies by making a specimen joint according to the procedure that passes an inspection and test. Under § 192.285(c), a person must requalify, if during any 12-month period that person does not make a joint under the applicable procedure, or has 3 joints or 3 percent of the joints made, whichever is greater, found unacceptable by pressure testing under § 192.513.

The waiver would permit Aquila, Inc. to requalify personnel once a year, but at intervals not more than 15 months. In addition, in the case of mechanical and electrofusion joints, the waiver permits persons to requalify by reviewing and taking all steps leading up to joint production but without completing the joint. Lastly, as a condition of the waiver, Aquila, Inc. agrees to modify its Operation and Maintenance Procedural Manual to reflect its waivers of this regulation, track every joint failure, and verify that the waivers, qualification procedures, and training qualifications, do not contribute to any failures if they occur.

The rationale for the waiver is that given the automated nature of electrofusion and mechanical joints, requalification by process review rather than by inspecting and testing a completed joint is considered a satisfactory measure of a person's ability to continue to make sound joints after initial qualification. Furthermore, all requalification shall be consistent with the requirements of the Operators Qualification Plan and demonstrate each individual's knowledge, skills, and ability to perform the covered task(s).

The CO-PUC reviewed Aquila, Inc.'s request and concluded that its request is consistent with pipeline safety. CO-PUC also stipulated in addition to the requirement for personnel to requalify once a year, but at intervals not more than 15 months, the waiver requires a person to requalify whenever that person has made one joint under a qualified procedure that is found unacceptable by testing under § 192.513.

We concur with the conclusion of CO-1³1.1C and have no objection to the waiver. If you need further information or assistance, please contact me or James Reynolds of my staff at (202) 366-2786.

Theodore L. Willke
Deputy Associate Administrator
for Pipeline Safety

STATE OF COLORADO
PUBLIC UTILITIES COMMISSION
1580 Logan Street, Office Level 2,
Denver, Colorado 80203

February 14, 2005

Ms. Stacey Gerard
U.S. Department of Transportation
RSPA/ Office of Pipeline Safety Room 2305
400 Seventh Street, SW
Washington, DC 20590

RE: Request for Waiver to Modify the Requirements of 49 C.F.R. Part 192.285(a)(2) and 192.285(c)

Dear Ms. Gerard:

The Colorado Public Utilities Commission hereby gives notice to the Secretary of Transportation that it has granted Aquila, Inc. a waiver to the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c) as adopted by Public Utilities Commission Docket No. 04V-643G. A copy of this waiver is attached for your review:

The waivers will allow Aquila, Inc. to qualify personnel for joining plastic pipe once each calendar year but at intervals not to exceed 15 months. It would also allow personnel to be requalified for mechanical and electrofusion connections by reviewing the procedures and not completing the process of making a specimen joint. It should be noted that a similar waiver was recently granted in Kansas and Minnesota.

Pursuant to 49 U.S.C. 60118, if the Commission receives no objection from your office regarding this waiver, it will go into effect 60 days after your receipt of this notice.

Sincerely yours,
Stephen Pott
Chief, Gas Pipeline Safety

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 04V-643G

IN THE MATTER OF THE PETITION OF AQUILA, INC., DOING BUSINESS AS AQUILA NETWORKS — PNG, FORA WAIVER FROM 49 C.F.R §§ 192.285(A)(2) AND 192.285(C) AS ADOPTED BY THE COMMISSION'S STANDARDS FOR GAS TRANSPORTATION BY PIPELINE AND GAS PIPELINE SAFETY RULE, 4 COLORADO CODE REGULATIONS 723-11-33.

COMMISSION ORDER GRANTING WAIVER

Mailed Date: February 11, 2005

Adopted Date: February 2, 2005

I. BY THE COMMISSION

A. Statement, Findings, and Conclusions

1. By application filed December 20, 2004, Aquila, Inc. doing business as Aquila Networks — PNG (Aquila), requests a waiver of 49 *Code of Federal Regulations* (C.F.R.) §§ 192.285(A)(2) and 192.285(C) as adopted by the Commission's Standards for Gas Transportation by Pipeline and Gas Pipeline Systems Rule, 4 *Code of Colorado Regulations* (CCR) 723-11-33. The waiver request pertains to requalification to make mechanical and electrofusion piping joints. Under 49 C.F.R. § 192.285(c), individuals currently must re-qualify if they have not joined pipes in the last 12 months, or after 3 joints or 3 percent of their joints fail under the standards in 49 C.F.R. § 192.513.
2. The Commission noticed this application to all interested persons, firms, and corporations pursuant to § 40-6-108(2), C.R.S., on December 20, 2004. The Commission set this matter for hearing on January 26, 2005.
3. No petition to intervene or otherwise participate in this proceeding has been filed. This proceeding is therefore uncontested. Under Commission Rule 4 CCR 723-11-36 this matter may be determined without a hearing. A final waiver must be granted by the Federal Office of Pipeline Safety.
4. Under the Rule 33 adoption of 49 C.F.R. §§ 192.285(A)(2) and 192.285(C) no person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure. Also, if an individual does not join any pipes within a 12-month period, or has 3 joints or 3 percent of joints made fail, whichever is greater, when tested as set forth in 49 C.F.R. § 192.513, a person must be requalified under a procedure used to initially qualify an individual.
5. Aquila requests an alternative method for ensuring qualification of its employees that make plastic pipe joints for gas pipelines, one designed to ensure pipeline safety. The requested waiver would allow Aquila to requalify those personnel needing requalification to join plastic pipe at least once each calendar year but at intervals not exceeding 15 months. Under the proposed waiver, individuals needing to requalify must participate in a review of the proper joining procedure during such time period as required in Aquila's Operations and Maintenance Manual and Operator Qualification Plan. The waiver would also allow personnel to be requalified for mechanical and electrofusion connections by completing all -steps but the final act of making a specimen joint, while under the current rules, they must finish all steps including completing a joint.
6. In addition, Aquila has agreed to an additional Commission proposed requirement: if a joiner has one joint found unacceptable by testing under Rule 192.513 of the Commission's rules, that person would be required to re-qualify under the procedure used for an initial qualification. This would supersede the current standard which requires requalification if 3 joints or 3 percent of all joints fail. Also, as a condition for receiving the waiver, Aquila agrees to modify its Operation and Maintenance Procedural Manual to reflect these waivers, track every joint failure, and verify that the waivers, qualification procedures, and training qualifications do not contribute to any failures if they occur.

7. In support of this application, Aquila states that under the first part of the waiver, the requalification period of once each calendar year not to exceed 15 months would allow for flexibility in scheduling training while maintaining gas pipeline safety. The proposed system would be economically more efficient because of the costs of creating demonstration joints not used for any specific project.

8. We believe that the proposed alternative requalification methods and conditions agreed to by Aquila will ensure pipeline safety, and provide the scheduling flexibility and economy sought by Aquila. The Commission finds that the information submitted with this application warrants granting a waiver of Rule 33.

II. ORDER

A. The Commission Orders That:

1. The hearing scheduled for January 26, 2005 is vacated.

2. Aquila, Inc.'s application for a waiver of 49 Code of Federal Regulations (C.F.R.) §§ 192.285(A)(2) and 192.285(C) as adopted by the Commission's Standards for Gas Transportation by Pipeline and Gas Pipeline Systems Rule, 4 Code of Colorado Regulations 72311-33 is granted consistent with the discussion above.

3. Aquila, Inc. will requalify joiners once each calendar year, but at intervals not exceeding 15 months. For mechanical and electrofusion joints, Aquila, Inc. may allow persons to requalify by reviewing and demonstrating all steps leading to joint production except the final step of actually completing the joint which still must be demonstrated.

4. Aquila, Inc. agrees to modify its Operation and Maintenance (Procedural) Manual to reflect these waivers, track all joint failures, and ensure that these waivers, qualification procedures, and training qualifications did not contribute to any failures. Also, a person must requalify whenever that person has made one joint under a qualified procedure that is found unacceptable by testing under 49 C.F.R. § 192.513.

5. The U.S. Secretary of Transportation, in accordance with 49 U.S.C. § 60118, must --also approve the waiver if the waiver is to be effective. If this approval is not granted, Aquila, Inc shall notify the Chief of Gas Pipeline Safety.

6. This Order is effective on its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING February 2, 2005.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER
Commissioners

Reynolds, James <PHMSA>

From: Finch, Thomas <PHMSA>
Sent: Wednesday, February 23, 2005 9:35 AM
To: Huriaux, Richard <PHMSA>
Cc: Reynolds, James <PHMSA>; Hamn, Florence <PHMSA>; Hoidal, Chris <PHMSA>; Rieger, Steven <PHMSA>; 'Steve Pott' (steve.pott@dora.state.co.us)
Subject: RE: "Request for Waiver to modify the Requirements of C.F.R. Part 192.285(a)(2) and 192.285(c)".

Mr. Huriaux:

We wanted to make you aware that you should have received this "Request for Waiver to modify the Requirements of C.F.R. Part 192.285(a) (2) and 192.285(c)". We at the Western Region are in concurrence with the Colorado Public Utilities Commission and have no objections to the approval of this Waiver. It should be noted that on May 17, 2002 and April 2, 2003, similar waivers, i.e. Waiver 192.285 1 and Waiver 192.285 2 respectfully, were granted to the Kansas Corporation Commission.

Sincerely,
Tom Finch
State Liaison
OPS Western Region
(720) 963-3175