



U.S. Department
of Transportation

Pipeline and Hazardous Materials
Safety Administration

1200 New Jersey Ave., SE
Washington, DC 20590

JUN 21 2010

Mr. Nathan Solem
Pipeline Safety Program Manager
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

Dear Mr. Solem:

The Pipeline and Hazardous Materials Safety Administration (PHMSA) reviewed your letter of May 3, notifying us that the South Dakota Public Utilities Commission (Commission) approved, pending PHMSA's acceptance, a state waiver to Montana-Dakota Utilities Company (MDUC). MDUC requested a modification of compliance with 49 CFR § 192.285(c) as adopted by South Dakota pursuant to sections 49-34B-3 of the South Dakota Codified Law. Section 192.285(c) requires a person making plastic pipe joints to be re-qualified under an applicable procedure under certain conditions that may occur during a 12-month period.

MDUC requested a permanent waiver that would allow them to extend the re-qualification period to that detailed in § 192.285(c) from 12 months to at least once each calendar year at intervals not to exceed 15 months. This change would provide flexibility for scheduling qualification testing around the construction season.

The Commission's waiver requires MDUC to include the detailed plastic joining requirements from the waiver within their Operations and Maintenance Manual. Based on the conditions detailed in the waiver issued by the Commission, PHMSA has no objections to the waiver.

If you wish to discuss this or any other pipeline safety matter, my staff would be pleased to assist you. Please call John Gale, Director of Regulations at (202) 366-0434 for regulatory matters or Alan Mayberry, Deputy Associate Administrator for Pipeline Safety, at (202) 366-5124 for technical matters. Thank you for your continued efforts in pipeline safety.

Sincerely,

Jeffrey D. Wiese
Associate Administrator for Pipeline Safety



Dustin Johnson, Chair
Steve Kolbeck, Vice Chair
Gary Hanson, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
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Capitol Office
(605) 773-3201
1-866-757-6031 fax

Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

May 3, 2010

Mr. Jeffrey Wiese
Associate Administrator of Pipeline Safety
US DOT / PHMSA / PHP-01
1200 New Jersey Ave, SE East Room E22-330
Washington, DC 20590

Dear Mr. Wiese:

The South Dakota Public Utilities Commission approved a permanent waiver of 49 CFR 192.285 c for Montana-Dakota Utilities natural gas operations in South Dakota. This approval is noted in the attached order in Docket PS10-001. Please accept this letter as the required notification to PHMSA for its 60 day waiver review process.

The required information for a waiver notice is given below:

1. Name, address, and telephone number of applicant.

Scott Besmer, Senior Staff Engineer
Montana-Dakota Utilities Co.
400 North 4th Street
Bismarck, ND 58501

Dave Gerdes, Attorney
May Adam Gerdes & Thompson LLP
PO Box 160
Pierre, SD 57501-0160

2. Safety regulation involved: 49 CFR 192.285 c
3. Pipeline facilities involved: All of MDU's natural gas facilities in South Dakota
4. Justification for the waiver: Please see attached Request for Waiver, MDU's clarification, Staff's recommendation for approval and Staff's clarification
5. PUC Order is attached.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Nathan D. Solem

Nathan Solem
Pipeline Safety Program Manager
605-773-4210
nathan.solem@state.sd.us

CC: Dave Barrett, PHMSA Office of Pipeline Safety, Central Region, 901 Locust St., Suite 462, Kansas City, MO 64106, 816-329-3829, dave.barrett@dot.gov

Leonard Steiner, PHMSA Office of Pipeline Safety, Central Region, 901 Locust St., Suite 462, Kansas City, MO 64106, 816-329-3813, Leonard.steiner@dot.gov

attachments

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE FILING BY) ORDER GRANTING WAIVER
MONTANA-DAKOTA UTILITIES CO. FOR)
APPROVAL OF A WAIVER OF 49 C.F.R.) PS10-001
SECTIONS 192.285(a)(2) AND 192.285 (c))
)**

On March 23, 2010, the Commission received a request for a waiver of 49 C.F.R. Section 192.285(a)(2) and 192.285(c) from Montana-Dakota Utilities Co. (MDU). MDU makes the request according to SDCL 49-34B-24 to allow it to re-qualify its employees by an alternate means of assuring qualifications for persons making joints. On March 29, 2010, Staff recommended approval with conditions. On April 6, 2010, MDU filed an amended Request for Waiver as filed with the Commission.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-34B-24.

At its regularly scheduled meeting on April 20, 2010, the Commission considered this matter. Commission Staff recommended approval of the waiver subject to the following conditions:

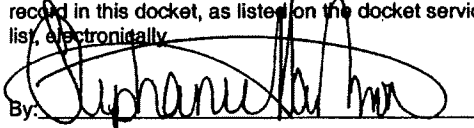
1. A person must be re-qualified under an applicable procedure, at least once each calendar year at intervals not exceeding 15-months, if that person (1) does not make any joints under that procedure in the preceding calendar year; or (2) has one joint or one percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under Section 192.513; and
2. The plastic joining requirements must be included within MDU's Operations and Maintenance Manual.

The Commission voted unanimously to approve the Waiver, subject to PHMSA's review and consent and with Staff recommendations. It is therefore

ORDERED, that the request seeking approval of a waiver of C.F.R. Section 192.285(a)(2) and 192.285(c) is hereby granted, subject to PHMSA's review and consent and subject to the following conditions:

1. A person must be re-qualified under an applicable procedure, at least once each calendar year at intervals not exceeding 15-months, if that person (1) does not make any joints under that procedure in the preceding calendar year; or (2) has one joint or one percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under Section 192.513; and
2. The plastic joining requirements must be included within MDU's Operations and Maintenance Manual.

Dated at Pierre, South Dakota, this 30th day of April, 2010.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.
By: 
Date: <u>04/30/10</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:


DUSTIN M. JOHNSON, Chairman


STEVE KOLBECK, Commissioner


GARY HANSON, Commissioner