



U.S. Department  
of Transportation

Pipeline and Hazardous Materials  
Safety Administration

**NOV 13 2009**

1200 New Jersey Ave., SE  
Washington, DC 20590

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

Dear Mr. Solem:

Pursuant to 49 U.S.C. § 60118(d), the Pipeline and Hazardous Materials Safety Administration (PHMSA) has reviewed your letter of September 16, 2009, notifying us that the South Dakota Public Service Commission (Commission), is granting NorthWestern Energy (NWE) a waiver from certain odorization requirements. Specifically, NWE requested that the Commission modify compliance with 49 CFR § 192.625(a), as adopted by the State of South Dakota pursuant to SDCL 49-34-B, and allow NWE to operate a 450 foot section of a natural gas distribution pipeline containing unodorized gas in Edmonds County, South Dakota.

The Commission's grant of the waiver is conditioned on NWE's compliance with the seven specific requirements detailed in the waiver. Based on these conditions, PHMSA does not object to the waiver of § 192.625(a) for the specified section of pipeline.

Thank you for your participation and cooperation in the State waiver concurrence process. If you wish to discuss this or any other pipeline safety regulatory matter, my staff would be pleased to assist you. Please call John Gale, Director of Regulations, at 202-366-4046, for regulatory matters or Alan Mayberry, Director of Engineering and Emergency Support, at 202-366-5124, for technical matters.

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  
[www.puc.sd.gov](http://www.puc.sd.gov)

Capitol Office  
(605) 773-3201  
1-866-757-6031 fax

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

Consumer Hotline  
1-800-332-1782

September 16, 2009

SEP 17 2009

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 192.625(a) for NorthWestern Energy's natural gas operations in South Dakota. This approval is noted in the attached order in Docket PS09-003. 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.

Melissa Baruth, Supervisor DOT  
NorthWestern Energy  
600 Market St.  
Huron, SD 57350  
605-353-7462

Ms. Sara Dannen, Corporate Counsel  
NorthWestern Energy  
3010 W. 69<sup>th</sup> St.  
Sioux Falls, SD 57108  
605-978-2940

2. Safety regulation involved: 49 CFR 192.625(a)
3. Pipeline facilities involved: 450 feet of natural gas pipeline located in Edmunds County, South Dakota (legal location: NE ¼, NE ¼, Section 28, Township 124 North, Range 66 West)
4. Justification for the waiver: Please see attached Request for Waiver
5. PUC Order and incorporated Request for Waiver is attached.

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

Sincerely,

*Nathan D. Solem*

Nathan Solem  
Acting Pipeline Safety Program Manager  
605-773-4210  
[nathan.solem@state.sd.us](mailto:nathan.solem@state.sd.us)

CC: Ivan Huntoon, PHMSA Office of Pipeline Safety, Central Region, 901 Locust St., Suite 462,  
Kansas City, MO 64106, 816-329-3829, [ivan.huntoon@dot.gov](mailto:ivan.huntoon@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](mailto:Leonard.steiner@dot.gov)

attachments

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

<b>IN THE MATTER OF THE FILING BY )</b>	<b>ORDER GRANTING WAIVER</b>
<b>NORTHWESTERN CORPORATION D/B/A )</b>	
<b>NORTHWESTERN ENERGY FOR APPROVAL )</b>	<b>PS09-003</b>
<b>OF A WAIVER OF 49 C.F.R. SECTION )</b>	
<b>192.625(a) )</b>	

On July 7, 2009, the Public Utilities Commission (Commission) received a filing from NorthWestern Corporation d/b/a NorthWestern Energy (NWE) requesting approval of a waiver of 49 C.F.R. Section 192.625(a). NWE requested a permanent waiver from specific aspects of the odorization of natural gas as required in the cited federal code.

At its regularly scheduled meeting on September 8, 2009, the Commission considered this matter. Commission Staff recommended approval of the waiver, subject to Staff's recommendations.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-34B. The Commission further finds that the filing is just and reasonable and shall be approved, subject to the following conditions:

1. Patrolling must be conducted on a quarterly basis with the maximum interval between patrols: once every 4 ½ months, but at least four times each calendar year.
2. Leak surveys must be conducted on a quarterly basis using leak detector equipment with the maximum interval between leak surveys: once every 4 ½ months, but at least four times each calendar year.
3. The property owners who retain ownership of the easement and also the owners and/or tenants of the nearest residence must be notified on an annual basis of the following information:
  - a. The pipeline's purpose and reliability,
  - b. Awareness of hazards and prevention measures undertaken,
  - c. Damage prevention awareness,
  - d. Leak recognition and response,
  - e. Pipeline location information, and
  - f. The characteristics of natural gas.

The suggested delivery method for notification of the property owners and tenants may be conducted as outlined within NWE's public awareness plan.

4. Line markers that meet the requirements of 49 C.F.R. Part 192.707(d) must be installed at the origin of the unodorized pipeline on Northern Border Pipeline's property and at the end point on NWE's property.
5. Records of each patrol and leakage survey must be maintained for a period of at least five years.
6. The patrolling and leakage survey requirements for the 450 feet of unodorized pipeline must be included within NWE's Operations and Maintenance (O&M) manual.
7. The notification of property owners of the easement and also owners and/or tenants of the nearest residence requirements must be included within NWE's Public Awareness plan.

As the Commission's final decision in this matter, it is therefore

**ORDERED**, that the request seeking approval of a waiver of C.F.R. Section 192.625(a) is hereby granted, subject to PHMSA's review and consent and subject to the following conditions:

1. Patrolling must be conducted on a quarterly basis with the maximum interval between patrols: once every 4 ½ months, but at least four times each calendar year.
2. Leak surveys must be conducted on a quarterly basis using leak detector equipment with the maximum interval between leak surveys: once every 4 ½ months, but at least four times each calendar year.
3. The property owners who retain ownership of the easement and also the owners and/or tenants of the nearest residence must be notified on an annual basis of the following information:
  - a. The pipeline's purpose and reliability,
  - b. Awareness of hazards and prevention measures undertaken,
  - c. Damage prevention awareness,
  - d. Leak recognition and response,
  - e. Pipeline location information, and
  - f. The characteristics of natural gas.

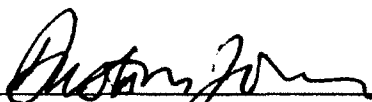
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6. The patrolling and leakage survey requirements for the 450 feet of unodorized pipeline must be included within NWE's Operations and Maintenance (O&M) manual.
7. The notification of property owners of the easement and also owners and/or tenants of the nearest residence requirements must be included within NWE's Public Awareness plan.

Dated at Pierre, South Dakota, this 15<sup>th</sup> day of September, 2009.

CERTIFICATE OF SERVICE	
<p>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.</p>	
By:	<u>          <del>Shelaine Kolbe</del>          </u>
Date:	<u>          9/16/09          </u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

  
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 DUSTIN M. JOHNSON, Chairman

  
 \_\_\_\_\_  
 STEVE KOLBECK, Commissioner

  
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 GARY HANSON, Commissioner