



U.S. Department  
of Transportation

**Pipeline and Hazardous  
Materials Safety  
Administration**

1200 New Jersey Avenue, SE  
Washington, D.C. 20590

**APR 11 2011**

Mr. David W. Piroutek  
Engineering Supervisor  
State of Wyoming Public Service Commission  
Hansen Building, Suite 300  
2515 Warren Avenue  
Cheyenne, Wyoming 82002

Dear Mr. Piroutek:

On February 18, 2011, the Pipeline and Hazardous Materials Safety Administration (PHMSA) received a notice dated February 17, 2011, from the State of Wyoming Public Service Commission (Commission), informing PHMSA that it granted a waiver to the Montana-Dakota Utilities (MDU) for the modification of 49 CFR Section 192.285(c). The Commission's waiver would allow MDU to qualify persons on plastic pipe joints once each calendar year not to exceed 15 months, rather than every 12 months as stipulated in Section 192.285(c).

The Commission's waiver would be conditioned on certain actions to be taken by MDU. The waiver conditions are intended to ensure that an equivalent level of pipeline safety is maintained, and will include the following:

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:

- Does not make any joints under that procedure in the preceding calendar year; or
- Has 1 joint or 1 percent of the joints made; whichever is greater, under that procedure that are found unacceptable by testing under 49 CFR § 192.513.

PHMSA recommends that MDU be required to establish and maintain a written alternative qualification procedure for the annual qualification of plastic pipe joining to qualify persons according to 49 CFR § 192.285(c), including the alternative requalification time frame when operating in accordance with the waiver.

PHMSA requests that the Commission include the following conditions to maintain consistency with a similar MDU waiver approved on January 14, 2011, and granted by the Montana Public Service Commission:

1. If one plastic joint made by a gas service person is found unacceptable by testing under § 192.513, then MDU must re-qualify that gas service person to the applicable plastic joining procedure, before that gas service person can make another plastic joint utilizing the plastic joining procedure.

APR 11 2011

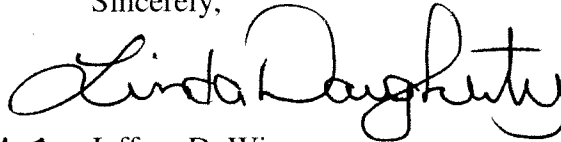
State of Wyoming Public Service Commission


2. The waiver is contingent upon circumstances that may require alternate safety measures as noted during routine inspections by Commission pipeline safety staff members.

With the waiver conditions imposed by the Commission and inclusion of the above additional conditions, PHMSA has no objections to the waiver.

My staff would be pleased to discuss this decision or any other pipeline safety matter with you. John Gale, Director, Standards and Rulemaking (202-366-4959), may be contacted on regulatory matters and Jeffery Gilliam, Director, Engineering and Research Division (202-366-0568), may be contacted on technical matters specific to this decision.

Sincerely,



 Jeffrey D. Wiese  
Associate Administrator for Pipeline Safety



THE STATE OF WYOMING

FEB 18 2011

MATTHEW H. MEAD  
GOVERNOR

## Public Service Commission

HANSEN BUILDING, SUITE 300      2515 WARREN AVENUE      CHEYENNE, WYOMING 82002  
(307) 777-7427      FAX (307) 777-5700      TTY (307) 777-5723      <http://psc.state.wy.us>

**COMMISSIONERS**

ALAN B. MINIER, Chairman  
STEVE OXLEY, Deputy Chairman  
KATHLEEN "CINDY" LEWIS, Commissioner

CHRISTOPHER PETRIE  
Secretary and Chief Counsel  
DARRELL ZLOMKE  
Commission Administrator

February 17, 2011

Via Fed EX

Jeffrey D. Wiese  
Associate Administrator for Pipeline Safety  
U.S. Department of Transportation  
Pipeline and Hazardous Materials Safety Administration  
1200 New Jersey Avenue, SE  
Second Floor, East Building  
Washington, DC 20590

Re: IN THE MATTER OF THE APPLICATION OF MONTANA-DAKOTA UTILITIES CO. REQUEST FOR PERMANENT WAIVER OF THE FEDERAL PIPELINE SAFETY REGULATIONS 49 C.F.R. § 192.285(c) -- Docket No. 30013-236-GF-10 (Record No. 12622), before the Wyoming Public Service Commission

Dear Mr. Wiese:

On September 15, 2010, Montana-Dakota Utilities Co. (MDU), applied to the Wyoming Public Service Commission (Commission) for a permanent waiver of 49 C.F.R. § 192.285(c) of the Federal Pipeline Safety Regulations. In its application, MDU stated it is not able to perform the requalification tests at the most advantageous time from a cost and quality perspective under 49 C.F.R. § 192.285(c). The current 12-month requalification requirement may result in testing about every 11 months which could result in testing being performed during the construction season. As an alternative to the requirements under 49 C.F.R. 192 § 192.285(c), MDU proposed the following requalification process:

A person must be requalified under an applicable procedure, at least once each calendar year at intervals not exceeding 15 months, if that person:

- Does not make any joints under that procedure in the preceding calendar year; or
- Has 1 joint or 1 percent of the joints made; whichever is greater, under that procedure that are found unacceptable by testing under 49 C.F.R. § 192.513.

After two rounds of Commission Information requests, the application was considered by the Commission at its regularly scheduled open meeting on February 10, 2011, at which Commission Staff (Staff) recommended approval of the waiver request utilizing MDU's proposed requalification process for a period of 5 years. MDU noted in its response to Commission Information Request 2.1 that it did not object to a waiver for 5 years. The Commission approved MDU's application and MDU was directed to apply for another waiver before the 5 year period concludes if it wishes to continue with its requalification process.

In recommending approval of the waiver for 5 years, the Staff considered 49 C.F.R. § 192.285(c) which states:

(c) A person must be requalified under an applicable procedure, if during any 12-month period that person:

(1) Does not make any joints under that procedure; or

(2) Has 3 joints or 3 percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under Sec. 192.513.

As 49 C.F.R. § 192.285(c) is written, it could possibly be interpreted to indicate that once an individual qualifies and continues to make at least one (1) joint per year under this procedure, that individual could be qualified for life without being requalified. Staff believes this is contrary to 49 C.F.R. § 192.805(g) relating to the Qualification Program and which states, "Identify those covered tasks and the intervals at which evaluation of the individual's qualifications is needed."

MDU's new requalification procedure is devised so that every person performing the procedures will be requalified annually not to exceed 15 months, which is in line with other regulatory requirements. Staff is pleased that if an individual has 1 joint fail under a pressure test prescribed under 49 C.F.R. § 192.503, that individual must be requalified under MDU's procedure, which is a more stringent requirement than under 49 C.F.R. § 192.285(c). Since the new procedure is more stringent than the existing requirements of 49 C.F.R. 192.285(c), Staff sees this as an improvement to the overall safety of MDU's pipeline system in Wyoming. Staff also believes this waiver is quite similar to other waivers issued by the Pipeline and Hazardous Materials Safety Administration, such as that issued to Greeley Gas Company and Aquila Inc. in April 2003 and to Kansas Gas Service Company in May 2002.

Staff looks forward to hearing from you in the near future.

Sincerely,



David W. Piroutek  
Engineering Supervisor

Enclosures: MDU Application (Containing company contact Information)  
Wyoming Commission Information Requests to MDU  
Responses to Wyoming Commission Information Requests  
Staff Memo to Wyoming Commission  
Wyoming Commission Order

cc: Docket File

SEP 14 2010

ORIGINAL

 **MONTANA-DAKOTA**  
UTILITIES CO.  
*A Division of MDU Resources Group, Inc.*

400 North Fourth Street  
Bismarck, ND 58501  
(701) 222-7900

September 14, 2010

Secretary & Chief Counsel  
Wyoming Public Service Commission  
Hansen Building, Suite 300  
2515 Warren Avenue  
Cheyenne, WY 82002

RE: Docket No. 30013-<sup>236</sup>\_\_-GA-10 (12622)  
Request for Waiver of  
49 C.F.R. § 192.285(c)

Montana-Dakota Utilities Co. (Montana-Dakota), a Division of MDU Resources Group, Inc., respectfully submits the attached Application requesting a permanent waiver of the federal pipeline safety regulations, relating to qualification requirements for a person making plastic pipe joints. 49 C.F.R. § 192.285(a) requires persons making plastic joints be qualified under applicable joining procedures and Section 192.285(c) provides those procedures.

Montana-Dakota is requesting this waiver to allow it to re-qualify its employees by an alternate means of assuring qualifications for persons making joints.

Please see Exhibit A for additional documentation in support of this filing.

Please refer all inquiries regarding this filing to:

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

Also, please send copies of all written inquiries, correspondence and pleadings to:

Mr. Bruce S. Asay 5-1739  
Associate Legal Group, LLC  
1807 Capitol Avenue  
Suite 205  
Cheyenne, WY 82001

Montana-Dakota respectfully requests that this filing be accepted as being in full compliance with the filing requirements of this Commission.

Please acknowledge receipt by stamping or initialing the duplicate copy of this letter attached hereto and returning the same in the enclosed self-addressed, stamped envelope.

Sincerely,



Tamie Aberle  
Pricing and Tariff Manager

Attachment  
cc: Bruce Asay

**DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF WYOMING**

IN THE MATTER of the                    ) Docket No. 30013-\_\_-GA-  
Request by Montana-Dakota         ) 10  
Utilities Co. for a waiver from     )  
49 C.F.R. § 192.285(c)             ) REQUEST FOR WAIVER

\*\*\*\*\*

APPLICATION

COMES NOW Montana-Dakota Utilities Co. (Montana-Dakota) respectfully requests a permanent waiver from 49 C.F.R. § 192.285(c). In support of its request, Montana-Dakota states as follows:

I.

Montana-Dakota is a public utility providing electric and natural gas utility services in certain Wyoming communities in its service territory.

II.

49 C.F.R. § 192 consists of federal safety standards for the transportation of natural gas by pipeline.

III.

49 C.F.R. § 192.285(a) requires persons making plastic joints be qualified under applicable joining procedures. 49 C.F.R. § 192.285(c) further requires that:



A person must be requalified under an applicable procedure, if during any 12-month period that person: (1) Does not make any joints under that procedure; or (2) has 3 joints or 3 percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under 49 C.F.R. § 192.513.

#### IV.

Montana-Dakota requests a waiver of 49 C.F.R. § 192.285(c), to allow it to requalify its employees by an alternate means of assuring qualifications for persons making joints. Montana-Dakota proposes the following procedure:

A person must be requalified under an applicable procedure, at least once each calendar year at intervals not exceeding 15 months, if that person:

- Does not make any joints under that procedure in the preceding calendar year; or
- Has 1 joint or 1 percent of the joints made; whichever is greater, under that procedure that are found unacceptable by testing under 49 C.F.R. § 192.513.

#### V.

Montana-Dakota requests a permanent waiver since the requirement for testing will be required for the foreseeable future.

VI.

Application of the present rule poses an undue hardship on Montana-Dakota. Montana-Dakota will not be able to perform the tests at the most advantageous time from a cost and quality perspective. The current 12-month retest requirement will result in testing about every 11 months which will eventually result in testing being performed in the middle of the construction season or at the end of the construction season.

VII.

49 C.F.R. § 192 contains provisions for requesting a waiver of pipeline safety provisions. Therefore, the rule subject to this petition for waiver is not specifically mandated by statute or another provision of law.

VIII.

Approval of this request for waiver will result in superior safety compared to what can be achieved under the current requirements of 49 C.F.R. § 192.285(c).

IX.

Montana-Dakota believes that requalification of plastic joining personnel just prior to the construction season provides the highest quality workmanship. It is at the end of the time period that fewest plastic joints are made and the beginning of the time when the most joints will be made.

X.

Montana-Dakota provides that because of scheduling considerations, travel, illness, group size and vacations, qualification is a longer process and can take up to a month. The existing 12-month provision requires Montana-Dakota to establish evaluation schedules on an 11-month basis to account for these scheduling conflicts. Completing requalifications on an 11-month schedule ratchets back the requalification date, putting the requalifications into the end of the construction season and eventually during the construction season.

XI.

Montana-Dakota submits that annual testing provides the most accurate and consistent means of promoting joint quality. To comply with the current 12-month requirement and be able to continue testing just prior to the construction season, Montana-Dakota could no longer use a small group of testers but would have to use several qualification teams and conduct several make-up sessions to accommodate for vacation and illnesses. This would result in less consistency in evaluation and more administrative costs.

XII.

The U.S. Department of Transportation has already recognized the negative implication of following a “not to exceed 12 month” requirement. Other similar joining qualification requirements have established schedules that allow the operator more flexibility in establishing schedules that don’t ratchet schedules into the construction season. As an example, 49 C.F.R. § 192.229(d)(1) sets the qualification of welders to “within the preceding 15 calendar months, but at least once each calendar year.”

### XIII.

By testing plastic joints using the same group of testers in the same time frame, there is less chance that a records error would result in a joint being made by a non-qualified person. In this proposal, there is general knowledge of when qualification is required as well as knowledge obtained by a records review. This redundancy knowledge will result in less opportunity for error.

### XIV.

The granting of this request for waiver would be consistent with other waivers of the 49 C.F.R. § 192.285(c) scheduling requirements that have been granted by other state regulatory commission in other jurisdictions after appropriate state and federal reviews of safety impacts. Of specific note is that the South Dakota Public Utilities Commission granted Montana-Dakota's request for waiver in its Order in Docket No. PS10-001. The South Dakota Public Utilities Commission also received final approval of Montana-Dakota's request for waiver in Docket No. PS10-001 from the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration.

### XV.

Approval of this request for waiver will enable Montana-Dakota to ultimately employ the same testing schedule in all of its operating areas, thereby promoting administrative efficiency and a proper allocation of resources.

XVI.

Montana-Dakota is not aware of any persons who may be adversely impacted by the granting of this request for waiver.

WHEREFORE, Applicant respectfully requests that the Public Service Commission of the State of Wyoming:

1. Grant a permanent waiver of 49 C.F.R. § 192.285(c).

Dated this 14<sup>th</sup> day of September, 2010.

MONTANA-DAKOTA UTILITIES CO.,  
a Division of MDU Resources Group, Inc.

By:   
Tamie A. Aberle  
Pricing and Tariff Manager



# MONTANA-DAKOTA

UTILITIES CO.

A Division of MDU Resources Group, Inc.

400 North Fourth Street  
Bismarck, ND 58501  
(701) 222-7900

October 20, 2010

Ms. Blair Bales- Attorney  
Wyoming Public Service Commission  
Hansen Building, Suite 300  
2515 Warren Avenue  
Cheyenne, WY 82002

RE: Docket No. 30013-236-GA-10

Montana-Dakota Utilities Co. (Montana-Dakota), a Division of MDU Resources Group, Inc., herewith submits responses to Commission Information Request Set #1 issued on September 30, 2010. An electronic copy has also been transmitted on this date.

Please contact me if you have any questions.

Please acknowledge receipt by stamping or initialing the duplicate copy of this letter attached hereto and returning the same in the enclosed self-addressed, stamped envelope.

Sincerely,

Tamie Aberle  
Pricing and Tariff Manager

Attachment

cc: David Piroutek

IN THE MATTER OF THE APPLICATION OF MONTANA-DAKOTA UTILITIES CO.  
REQUEST FOR PERMANENT WAIVER OF THE FEDERAL PIPELINE SAFETY  
REGULATIONS 49 C.F.R. § 192.285(c)  
Docket No. 30013-236-GA-10 (Record No. 12622)

**Commission Information Request Set #1**

**Issued September 30, 2010**

- 1.1 Provide the CFR reference and language where it states that a **permanent** waiver of 49 CFR § 192.285(c) is permitted.

Response:

The State of Wyoming enforces federal pipeline safety standards under a certificate or agreement granted by the US Department of Transportation, Office of Pipeline Safety (OPS), pursuant to 49 U.S.C.A. § 60105, 60106. Pursuant to the certificate granted by the OPS, the state may grant a waiver of a federal pipeline safety regulation using process stated in 49 U.S.C.A § 60118. This allows the state to grant a waiver; however, the waiver must be submitted to OPS for review and OPS has 60 days to stay the waiver if it disagrees with the state.

IN THE MATTER OF THE APPLICATION OF MONTANA-DAKOTA UTILITIES CO.  
REQUEST FOR PERMANENT WAIVER OF THE FEDERAL PIPELINE SAFETY  
REGULATIONS 49 C.F.R. § 192.285(c)  
Docket No. 30013-236-GA-10 (Record No. 12622)

**Commission Information Request Set #1**

**Issued September 30, 2010**

- 1.2 Explain how having persons who have not made any joints under a procedure in the past twelve months will detrimentally affect MDU's ability to meet the requirements of 49 CFR § 192.285.

Response:

It is the opinion of Montana-Dakota that a slight variance in the testing flexibility will not detrimentally affect pipeline safety in any way. The requalification training will proceed on a yearly basis as before. Montana-Dakota is requesting this waiver to allow for a more flexible requalification interval to make certain that the requalification effort occurs in the most cost effective time of the year. This will promote more efficient use of the normal construction season and assure that the requalification effort does not detrimentally affect that construction production effort.



**IN THE MATTER OF THE APPLICATION OF MONTANA-DAKOTA UTILITIES CO.  
REQUEST FOR PERMANENT WAIVER OF THE FEDERAL PIPELINE SAFETY  
REGULATIONS 49 C.F.R. § 192.285(c)  
Docket No. 30013-236-GA-10 (Record No. 12622)**

**Commission Information Request Set #1**

**Issued September 30, 2010**

- 1.3 If a person successfully makes a joint under a procedure, what is their requalification interval?

Response:

Each employee is requalified under the training practice that exists today at Montana-Dakota. Montana-Dakota practices requalification whether a successful joint was made during the interval or not within the 12 month period. This procedure is beyond the requirements of 49 CFR 192. The waiver will simply assure that this effort can be contained within a specific time of the year without forcing this recertification during more productive construction time periods.

**IN THE MATTER OF THE APPLICATION OF MONTANA-DAKOTA UTILITIES CO.  
REQUEST FOR PERMANENT WAIVER OF THE FEDERAL PIPELINE SAFETY  
REGULATIONS 49 C.F.R. § 192.285(c)  
Docket No. 30013-236-GA-10 (Record No. 12622)**

**Commission Information Request Set #1**

**Issued September 30, 2010**

- 1.4 If this waiver is not approved, will MDU still have people qualified at all times to perform the joining procedures? Please explain.

Response:

Yes, it will be the practice of Montana-Dakota to continue to follow the 49 CFR 192 interval of 12 months and assure requalification using these minimum safety standards.

IN THE MATTER OF THE APPLICATION OF MONTANA-DAKOTA UTILITIES CO.  
REQUEST FOR PERMANENT WAIVER OF THE FEDERAL PIPELINE SAFETY  
REGULATIONS 49 C.F.R. § 192.285(c)  
Docket No. 30013-236-GA-10 (Record No. 12622)

Commission Information Request Set #1

Issued September 30, 2010

1.5 Provide the relevant sections of 49 CFR 192 as referenced in the application.

Response:

As referenced in the Company's Application in Paragraph III., the Company is specifically requesting a waiver of 49 CFR § 192.285 (c) noted below

(C) A person must be requalified under an applicable procedure, if during any 12-month period that person: (1) Does not make any joints under that procedure; or (2) Has 3 joints or 3 percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under §192.513.

The Company is proposing the following alternative:

A person must be requalified under an applicable procedure, at least once each calendar year at intervals not exceeding 15 months, if that person:

- Does not make any joints under that procedure in the preceding calendar year; or
- Has 1 joint or 1 percent of the joints made; whichever is greater, under that procedure that are found unacceptable by testing under 49 C.F.R. § 192.513.

IN THE MATTER OF THE APPLICATION OF MONTANA-DAKOTA UTILITIES CO.  
REQUEST FOR PERMANENT WAIVER OF THE FEDERAL PIPELINE SAFETY  
REGULATIONS 49 C.F.R. § 192.285(c)  
Docket No. 30013-236-GA-10 (Record No. 12622)

**Commission Information Request Set #1**

**Issued September 30, 2010**

- 1.6 Explain how it is in the public interest for the Commission to grant the requested waiver.

Response:

It is in the public interest to allow a more flexible time period to allow Montana-Dakota the flexibility to process requalification training within the most efficient time of the year. This avoids the busy construction cycle and allows for a more efficient and productive use of that season. This provides cost savings to the operation process. It is further the opinion of Montana-Dakota that this flexibility in the requalification interval period will not in any way compromise the safety of the pipeline system. The existing Montana-Dakota practice of requalification for every employee every year goes beyond the requirements of the 49 CFR 192 pipeline safety standards.



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## M E M O R A N D U M

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**TO:** Chairman Minier  
Deputy Chairman Oxley  
Commissioner Lewis

**COPY:** Chris Petrie

**FROM:** Dave Piroutek   
Blair Bales 

**DATE:** February 3, 2011

**RE:** Docket No. 30013-236-GF-10 (Record No. 12622) In the matter of the application of Montana-Dakota Utilities Co. request for a permanent waiver of the federal pipeline safety regulations 49 C.F.R. § 192.285(c)

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On September 14, 2010, Montana-Dakota Utilities Co. (MDU) filed an application requesting a permanent waiver of the federal pipeline safety regulations pertaining to the qualification requirements for an individual making plastic pipe joints, specifically 49 C.F.R. § 192.285(c). MDU states it requests this waiver to allow it to requalify its employees by an alternate means of assuring qualifications for persons making joints.

MDU requests a waiver of 49 C.F.R. § 192.285(c), which states:

A person must be requalified under an applicable procedure, if during any 12-month period that person: (1) Does not make any joints under that procedure; or (2) Has 3 joints or 3 percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under 49 C.F.R. § 192.513.

MDU proposes the following alternative:

A person must be requalified under an applicable procedure, at least once each calendar year at intervals not exceeding 15 months, if that person:

- Does not make any joints under that procedure in the preceding calendar year; or
- Has 1 joint or 1 percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under 49 C.F.R. § 192.513.

MDU explains it is in the public interest to grant the waiver to allow a more flexible time period to allow MDU the flexibility to process requalification training during the most efficient time of year. This avoids the busy construction season and allows for a more efficient and productive use of that season. This provides cost savings to the operation process. MDU states it is its opinion that the flexibility in the requalification interval period will not compromise the safety of

the pipeline system in any way and MDU's proposed alternative practice goes beyond the requirements of the 49 C.F.R. § 192 pipeline safety standards.

When asked, MDU stated it has no objection to limit the waiver requested to five years.

BEFORE THE PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE APPLICATION OF )  
MONTANA-DAKOTA UTILITIES CO. )  
REQUEST FOR A PERMANENT WAIVER OF )  
THE FEDERAL PIPELINE SAFETY )  
REGULATIONS 49 C.F.R. § 192.285(C) )

Docket No. 30013-236-GF-10  
(Record No. 12622)

ORDER  
(Issued February 14, 2011)

This matter is before the Wyoming Public Service Commission (Commission) upon the application of Montana-Dakota Utilities Co. (MDU or the Company) for a permanent waiver of § 192.285(c) of the federal pipeline safety regulations (49 C.F.R. § 192.285(c)), as more fully described below. The Commission, having reviewed the application, its files regarding MDU, applicable Wyoming utility law and federal pipeline safety law and regulations, and otherwise being fully advised in the premises, FINDS and CONCLUDES:

1. MDU is a public utility as defined by W.S. § 37-1-101(a)(vi)(D) and, as such, is subject to the Commission's jurisdiction under W.S. § 37-2-112.

2. On September 14, 2010, MDU filed an application requesting a permanent waiver of 49 C.F.R. § 192.285(c), a federal pipeline safety regulation pertaining to the qualification requirements for individuals making plastic pipe joints. MDU requests this waiver to allow it to requalify its employees by alternate means which, it states, will assure the proper qualification of such employees and the safety of the public.

3. 49 C.F.R. § 192.285(c) states,

A person must be requalified under an applicable procedure, if during any 12-month period that person: (1) Does not make any joints under that procedure; or (2) Has 3 joints or 3 percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under 49 C.F.R. § 192.513.

MDU proposes the following alternative requalification procedure:

A person must be requalified under an applicable procedure, at least once each calendar year at intervals not exceeding 15 months, if that person:

- Does not make any joints under that procedure in the preceding calendar year; or
- Has 1 joint or 1 percent of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under 49 C.F.R. § 192.513.

4. In its application, MDU explained it is in the public interest to grant the waiver to allow MDU the flexibility to process requalification and related training during the most efficient time of year. This would avoid the busy construction season and allow for a more efficient and

productive use of that season. It would, MDU argued, provide cost savings and provide flexibility in the requalification interval which will not compromise the safety of the pipeline system in any way. MDU noted its proposed alternative practice goes beyond the requirements of the standard set in 49 C.F.R. § 192.

5. MDU stated that, under a certificate granted by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA), a state may grant a waiver of a federal pipeline safety regulation using the process stated in 49 U.S.C.A. § 60118(d). The waiver must be submitted to PHMSA for review. Thereafter, PHMSA has 60 days to stay the waiver if it disagrees with the state. MDU assured the Commission that it had no objection to limiting the waiver requested to five years.

6. MDU's application came before the Commission for consideration pursuant to due notice at its open meeting of February 10, 2011. Tamie Abele, Pricing and Tariff Manager, and Darrell Anderson, Distribution Manager, participated by telephone on behalf of MDU. Aberle presented a summary of the application, stating the requested waiver of the plastic joint employee requalification process would not compromise public safety. Anderson said MDU has about 230 employees qualified to fuse plastic pipe. Commission Advisory Staff stated it agreed that public safety would not be compromised by granting this waiver and the process proposed by MDU is more stringent than that required by 49 C.F.R. § 192.285(c). Commission Advisory Staff indicated that if the waiver were approved, PHMSA would be provided with a copy of the order and the proposed requalifying procedures. Staff noted that, if there is no response from PHMSA, the waiver becomes effective 30 days following the 60 day review period. Commission Advisory Staff recommended approval of the waiver application for five years.

7. Based on the facts and representations of MDU and the analysis and recommendations of Commission Advisory Staff, the Commission finds and concludes approval of the waiver of 49 C.F.R. § 192.285(c) and the alternate process for requalifying individuals who make plastic pipe joints for a period five years is in the public interest.

IT IS THEREFORE ORDERED:

1. Pursuant to open meeting action taken on February 10, 2011, the application of Montana-Dakota Utilities Co. for a waiver of 49 C.F.R. § 192.285(c) in the federal pipeline safety regulations is approved, the same to be effective for a period of five years.

2. Commission Advisory Staff shall immediately initiate the required procedures with the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration, for federal approval of this waiver.

3. If Montana-Dakota Utilities Co. seeks to continue the waiver, and assuming it is approved by PHMSA, it may file to renew the waiver within five years of the issuance of this *Order*.



4. This *Order* is effective immediately.

MADE AND ENTERED at Cheyenne, Wyoming, on February 14, 2011.

PUBLIC SERVICE COMMISSION OF WYOMING

*Alan B. Minier*

ALAN B. MINIER, Chairman

*Steve Oxley*

STEVE OXLEY, Deputy Chairman

*Kathleen A. Lewis*

KATHLEEN A. LEWIS, Commissioner



Attest:

*J. Blair Bales*

J. BLAIR BALES, Assistant Secretary

**From:** "Aberle, Tamie" <Tamie.Aberle@MDU.com>  
**To:** 'Blair Bales' <bbales@state.wy.us>  
**CC:** David Piroutek <dpirou@state.wy.us>  
**Date:** 1/21/2011 6:57 AM  
**Subject:** RE: MDU Request for Waiver; Commission Data Requests Set 2

Blair & David, Montana-Dakota has no objection to limiting the waiver requested in Docket 30013-236-GA-10 to a five-year waiver.

Thank you.

Tamie Aberle

Montana-Dakota Utilities Co.

701.222.7856

-----Original Message-----

From: Blair Bales [mailto:bbales@state.wy.us]  
Sent: Friday, January 14, 2011 12:48 PM  
To: Aberle, Tamie  
Cc: David Piroutek  
Subject: MDU Request for Waiver; Commission Data Requests Set 2

Docket No. 30013-236-GF-10 (Record No. 12622) Request for Waiver

Attached please find Wyoming Commission Information Requests - Set 2. Responses are due by close of business on January 21, 2011. Should you have any questions, please contact me.

Thank You-