



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

# SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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July 13, 2007

Patricia Van Gerpen and SD PUC Commissioners

**Via electronic filing only**

RE: Mitchell, SD Natural Gas Pipeline Explosion

Dear Ms. Van Gerpen and Commissioners:

A natural gas explosion on March 8, 2007 at 1612 Bridle Drive, Mitchell, SD resulted significant property damage and destruction. A portion of a natural gas pipe from Northwestern Energy's (herein "NorthWestern") distribution system failed and natural gas leaking from the pipe is suspected to have caused the explosion. "While the Federal government is primarily responsible for developing, issuing, and enforcing pipeline safety regulations, the pipeline safety statutes provide for State assumption of the *intrastate* regulatory, inspection, and enforcement responsibilities." *Office of Pipeline Safety Website, Federal/State Authorities*. Chapter 49-34B of the South Dakota Codified Law establishes a compliance program by which this Commission enforces the federal pipeline safety standards.

Federal Safety Standards located in the Code of Federal Regulations Title 49 address explosion incidents such as the March 8, 2007 occurrence. Naturally, inspections, testing and reports must follow such an incident. This Commission has authority to assess fines or other penalties in the event pipeline safety standards were not met and resulted in the March 8, 2007 incident. Alternatively, this Commission may determine safety standards were met and outside forces caused the incident. In any event, SDCL 49-34B-27 allows the Commission, "to the extent necessary to carry out the enforcement responsibilities of this chapter, conduct investigations, make reports, issue records, take depositions, and conduct research, testing, development, demonstration and training activities."

Enforcement of the pipeline safety rules in this case will require extensive study and expert analysis. Ultimately, Commission Staff will file its investigation, conclusions, and recommendations with the Commission.

By way of review, Commission Staff conducted an informal fact finding investigation and interviews the days after the incident. The results of all such informal investigations are inconclusive. It is now apparent forensic tests are required. NorthWestern, in protecting itself in the event future litigation ensues, desires to conduct tests with an independent expert. Commission Staff understands NorthWestern's position and anticipates future interested parties or interveners will also desire independent tests. Ultimately, however, to best protect the public interest, the Commission must conduct a forensic test. Such forensic expert should be an independent third party without any preexisting relationship with NorthWestern or other interested parties or interveners. This process may require collaborative testing among all experts as destructive testing is anticipated.

Commission Staff narrowed the expert selection to at least three companies and will send Requests for Proposals to all respective companies. Commission Staff will present a recommended expert choice on August 7, 2007, during the next Commission meeting. Staff requests the ability to enter into contract with such expert and will pose the question on August 7, 2007.

Finally, although the March 8, 2007 incident is an ongoing investigation, Commission Staff requests it be formally docketed. The incident is of great public interest due to the clearly identifiable personal and property safety issues. Further, a variety of parties desire to have their interests known. Without a proper public docket and the opportunity to intervene, such parties and their respective interests go unidentified. Commission Staff requests intervention remain available for twenty days, or until August 27, 2007.

Sincerely,

A handwritten signature in black ink, appearing to read "Kara Van Bockern". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kara Van Bockern