



MidAmerican Energy
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Robert P. Jared
Senior Attorney

September 28, 2007

South Dakota Public Utilities Commission
Capitol Building, 1st Floor
500 East Capitol Avenue
Pierre, SD 57501-5070

Re: MidAmerican Energy Company
Request for Waiver
49 C.F.R. §192.285(a)(2) and 49 C.F.R. §192.285(c)

Dear Sir or Madam:

Enclosed is MidAmerican Energy Company's Request for Waiver concerning 49 C.F.R. §192.285(a)(2) and 49 C.F.R. §192.285(c).

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert P. Jared", written in a cursive style.

Attachments

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN RE:)
) Docket No. _____
MIDAMERICAN ENERGY COMPANY)

REQUEST FOR WAIVER

NOW COMES, MidAmerican Energy Company, hereinafter referred to as MidAmerican, and respectfully requests a permanent waiver of 49 C.F.R. §192.285(a)(2) and 49 C.F.R. §192.285(c). In support of its request, MidAmerican states as follows:

1. MidAmerican is a public utility serving approximately 80,000 gas customers in nine counties in southeastern South Dakota.
2. 49 C.F.R. Part 192 consisting of federal safety standards for the transportation of natural gas by pipeline.
3. 49 C.F.R. §192.285(a) requires that persons making plastic joints be qualified under the 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 192.513.”
4. MidAmerican 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. MidAmerican proposes the following procedure:

- “A person must be requalified under an applicable procedure at least once each calendar year, but at intervals not exceeding 15 month.
- In addition, if a joiner has 1 joint madder under the procedure that is found to be unacceptable by testing under 49 C.F.R. 192.513, that person must requalify under that procedure as an initial qualification.”

5. MidAmerican requests a permanent waiver since the requirements for testing will be required for the foreseeable future.

6. Application of this rule poses an undue hardship on MidAmerican. MidAmerican will not be able to perform 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.

7. Approval of the waiver will not prejudice the legal rights of any person since employees making plastic pipe joints will continue to be tested prior to the start of each construction period. Approval of the waiver would still require ten qualifications of a person over ten years with the test occurring approximately every 12 months.

8. 49 C.F.R. 192 contains provisions for requesting a waiver of pipeline safety provisions. Therefore, the rule subject to the petition for waiver is not specifically mandated by statute or another provision of law.

9. 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. 19.25(c).

10. MidAmerican 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 the fewest plastic joints are made and the beginning of the time when the most plastic joints will be made.

11. Because of scheduling considerations, travel, illness, group size and vacations, qualification is approximately a one-month process. The existing 12-month provision requires MidAmerican 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.

12. MidAmerican 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, MidAmerican 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 purchasing more test equipment, more travel time, less consistency in evaluation, and more administrative cost.

13. 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, 192.229(d)(1) sets the qualification of welders to “within the preceding 15 calendar months, but at least once each calendar year.”

14. 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 of knowledge will result in less opportunity for error.

15. 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 commissions in other jurisdictions after appropriate state and federal reviews of safety impacts. Copies of approved waivers from The State Corporation Commission of the State of Kansas, The Public Utilities Commission of the State of Colorado, the Nebraska State Fire Marshal, the Iowa Utilities Board (MidAmerican and other utilities) and the concurrences of the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration, are attached as Attachments A through D, respectively.

16. Approval of this request for waiver will enable MidAmerican to implement the same testing schedule in all of its operating areas, thereby promoting administrative efficiency and a proper allocation of resources.

17. MidAmerican is not aware of any persons who may be adversely impacted by the granting of this request for waiver.

MidAmerican welcomes the opportunity to respond to any questions concerning this Request.

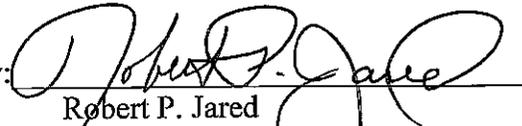
WHEREFORE, MidAmerican Energy Company respectfully requests the South Dakota Public Utilities Commission grant a permanent waiver of 49 C.F.R. §192.285(a)(2) and 49 C.F.R. §192.285(c).

Dated this 28th day of September, 2007.

Respectfully submitted,

MIDAMERICAN ENERGY COMPANY

By:

A handwritten signature in black ink, appearing to read "Robert P. Jared", written over a horizontal line.

Robert P. Jared
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Kansas Corporation Commission
 37 Jeffery S. Waseman

THE STATE CORPORATION COMMISSION
 OF THE STATE OF KANSAS

Before Commissioners: John Wine, Chair
 Cynthia L. Claus
 Brian J. Moline

In the Matter of the Application of Aquila, Inc.,)
 d/b/a Aquila Networks-KGO, f/k/a UtiliCorp)
 United Inc., d/b/a Peoples Natural Gas Company) Docket No. 02-AQLG-810-MIS
 (KGO), Filing a Request to Modify the Requirements)
 of 49 C.F.R. Part 192.285(c) as Adopted by K.A.R.)
 82-11-4 Last Amended February 25, 1999.)

ORDER

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission"). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. BACKGROUND

1. On March 11, 2002, Aquila, Inc., d/b/a Aquila Networks-KGO, f/k/a UtiliCorp United Inc., d/b/a Peoples Natural Gas Company (KGO) ("Aquila" or "Applicant"), filed an informal application for waiver of the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c), as adopted by K.A.R. 82-11-4, and requesting modification of the criteria utilized for re-qualification of their employees who engage in the joining of plastic pipe, as well as the frequency of re-qualification.

2. Aquila states that under the strict 12-month "clock" presently imposed by the criteria of 49 C.F.R. §192.285(c), large natural gas utility operators with numerous personnel qualified to make plastic joints are faced with the practical difficulties associated with tracking the joints made by each person on an individual basis as prescribed by the regulation. Consequently, Aquila, like many large operators, has opted to simply re-qualify their personnel

within the 12-month requirement. In order to comply with the current 12-month re-qualification language of the regulation, Aquila indicates that companies have found it necessary to establish training schedules on an 11-month basis in order to allow for scheduling conflicts. For efficiency reasons, operators generally attempt to schedule the re-qualification of personnel during periods of inclement weather in order to maximize total construction days. Aquila further states that the ability to efficiently schedule large numbers of employees to take advantage of these weather-related lulls in construction activity has been severely hampered by having to re-qualify every employee on an 11-month basis. Aquila indicates that it always strives to achieve the 12-month re-qualification, however, the company feels that a more reasonable approach could be implemented. In order to accommodate a degree of flexibility in scheduling, the company proposes that a person be re-qualified at least once each calendar year, but at intervals not exceeding fifteen (15) months, a practice that is permitted elsewhere in the pipeline safety regulations. Aquila maintains that their proposed approach will not jeopardize safety as the employees will still be required to re-qualify on an annual (calendar year) basis, but it will permit a measure of flexibility so that the scheduling of re-qualifications can occur when weather or other conditions do not permit normal work activities.

3. In addition to the requested waiver discussed in paragraph 2 above, Aquila also proposes an alternative with respect to the process for re-qualification of persons making mechanical and/or electrofusion joints. The company believes that each person, during his or her initial qualification regarding a plastic joint, should make a complete assembly of each type of mechanical and electrofusion joint. However, during subsequent annual re-qualification the company proposes that the person participate in a joining process review for each assembly procedure covering the knowledge needed for each specimen joint assembly and procedure, and demonstrate all steps leading up to the actual

production of a joint, but that the joint not be completed. Aquila maintains that the granting of its requested waiver and permitting implementation of the requested alternative means of re-qualification will not compromise safety. Additionally, the company believes the change will result in efficiency and cost benefits by saving training time and minimizing the number of non-reusable plastic mechanical joints that are destroyed in the training process.

4. 49 C.F.R. §192.285(a)(2) and §192.285(c), as adopted by K.A.R. 82-11-4, presently read as follows:

(a) *No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:*

(1) *Appropriate training or experience in the use of the procedure; and*

(2) *Making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section, (emphasis added)*

(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. (emphasis added)*

The Commission Staff ("Staff") has thoroughly investigated Aquila's request and concludes for the reasons indicated in the Memorandum of Leo M. Haynos, Chief of Pipeline Safety, dated April 11, 2002, that the changes proposed by Aquila in paragraphs 2 and 3 above are fully consistent with pipeline safety requirements, and under certain conditions, they are more stringent than current regulation. Staff recommends approval of Aquila's request for waiver and modification of the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c), as adopted by K.A.R. 82-11-4, as follows:

"(a) *No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:*

(1) *Appropriate training or experience in the use of the procedure; and*

(2) Except when re-qualifying for mechanical or electrofusion joints under §192.285(c)(1), making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section.

(c) A person must be requalified under an applicable procedure at the following frequencies:

(1) Once each calendar year, but at intervals not to exceed 15 months; or

(2) Whenever that person has 1 joint made under that procedure that is found unacceptable by testing under §192.513."

Staff recommends approval of Aquila's request to waive the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c) in accordance with modification of the procedures for re-qualification as set forth above. Staff further notes that Aquila's requested waiver will also require approval of the U.S. Department of Transportation under 49 U.S.C.A. 1671, *et seq.*, as amended, now 49 U.S.C. 60101, *et seq.*

5. Granting the requested waiver and modification will not compromise pipeline safety and offers efficiency in personnel testing and re-qualification, as well as cost benefits by minimizing the number of non-reusable plastic mechanical joints destroyed in the training process.

II. AUTHORITY

6. K.S.A. 66-1,150 authorizes the Commission to adopt such rules and regulations as may be necessary to be in conformance with the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C.A. 1671, *et seq.*, as amended, now 49 U.S.C. 60101, *et seq.*

7. This application seeks a waiver of the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c), as adopted by K.A.R. 82-11-4.

8. K.A.R. 82-11-9(b) provides that the Commission may grant waivers of compliance with gas pipeline safety regulations in K.A.R. 82-11-1, *et seq.*, after notice and opportunity for hearing, if the Commission determines that the waiver is consistent with pipeline safety. Staff has recommended that a waiver be granted as being consistent with pipeline safety.

9. Pursuant to K.A.R. 82-1-202(a), the Commission has the power to waive any of its

regulations, and can waive the requirement of notice and opportunity for hearing if the Commission determines that a waiver of the requirement contained in K.A.R. 82-11-9(b) is in the public interest.

10. Staff has reviewed the proposal and the applicable regulations, believes the proposed waiver is consistent with public safety, and recommends approval of the application, subject to adoption of Staff's recommendations.

III. FINDINGS

The Commission finds as follows:

a. Findings of Fact:

(1) The Commission, pursuant to K.S.A. 66-1,150, is authorized to adopt such rules and regulations as may be necessary to be in conformance with the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C.A. 1671, *et seq.*, as amended, now 49 U.S.C. 60101 *et seq.*

(2) Applicant is a certificated public utility authorized to transact the business of a natural gas public utility within the State of Kansas.

(3) The Commission has the authority to grant the waiver requested by Aquila under K.A.R. 82-11-9(b).

(4) The Commission has the authority, under K.A.R. 82-1-202(a), to waive requirements of its regulations, including the requirement for notice and opportunity for hearing under K.A.R. 82-11-9(b), and the Commission finds that it is in the public interest to do so in this matter.

(5) The Applicant's request for a waiver of the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c) and modification of the personnel re-qualification procedures is consistent with pipeline safety.

b. Conclusions of Law:

(1) The Commission concludes that it has the authority under applicable statutes and

regulations referenced above to grant the requested waiver and modification.

(2) The Commission finds that the waiver and modification requested is in the public interest, is consistent with pipeline safety and should be granted.

IT IS THEREFORE BY THE COMMISSION ORDERED THAT:

(A) The application for waiver is granted, subject to the following conditions:

- The requirements of 49 C.F.R. § 192.285(a)(2) and § 192.285(c) are hereby waived and modified in accordance with the revisions recommended by Staff in paragraph 4 above.
- Approval of Applicant's waiver by the U.S. Department of Transportation under 49 U.S.C.A. 1671, *et seq.*, as amended, now 49 U.S.C. 60101, *et seq.*

(B) The parties have fifteen (15) days from the date of this order, plus an additional three (3) days if service of this order is by mail, to file a petition for reconsideration of this order.

(C) The Commission retains jurisdiction of the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary and proper.

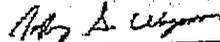
BY THE COMMISSION IT IS SO ORDERED.

Wine, Chr.; Claus, Com.; Moline, Com.

Dated: APR 26 2002

ORDER MAILED

APR 26 2002

 Executive Director

Jeffrey S. Wagaman
Executive Director

OAN

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Application of Aquila, Inc.,)
d/b/a Aquila Networks-KGO, f/k/a UtiliCorp)
United Inc., d/b/a Peoples Natural Gas Company) Docket No. 02-AQLG-210-MIS
(KGO), Filing a Request to Modify the Requirements)
of 49 C.F.R. Part 192.285(c) as Adopted by K.A.R.)
82-11-4 Last Amended February 25, 1999.)

STATE CORPORATION COMMISSION

APR 17 2002

Jeffrey A. Wagoner Docket
Room

Decision No. C05-0183

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, FOR A 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* 723-11-33 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

Commissioners

STATE OF NEBRASKA



Dave Heineman
Governor

April 5, 2005

Mr. James Reynolds
U.S. Department of Transportation
RSPA/Office of Pipeline Safety
400 Seventh Street, SW- Room 7128
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 Mr. Reynolds:

The Nebraska State Fire Marshal hereby gives notice to the Secretary of Transportation that it has granted Aquila Inc. a waiver from the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c) as adopted by Nebraska Administrative Code Title 155, Chapter 1 §001, with the following conditions:

- (1) The waiver would allow Aquila 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; and
- (2) A person who has been qualified shall requalify whenever that person has made one unacceptable joint under a qualified procedure.

Attached is Aquila's request.

Pursuant to 49 U.S.C. 60118, if the Nebraska State Fire Marshal's Office receives no objection from your office regarding this waiver, it will go into effect 60 days after your receipt of this notice.

Sincerely yours,

Clark Conklin
Chief of Pipeline Safety

cc: Ivan Huntoon, OPS Central Region
Ed Hatter, Aquila

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 DISTRICT A
246 South 14th Street
Lincoln, NE 68508-1804
(402) 471-2027

DISTRICT B
438 West Market
Albion, NE 68620-1241
(402) 395-2164

DISTRICT C
200 South Silber
North Platte, NE 69101-3200
(308) 535-8181

FUELS DIVISION
 FLST X PIPELINE
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Lincoln, NE 68508-1804
(402) 471-2027

TRAINING DIVISION
2410 North Wheeler Avenue
Suite 112
Grand Island, NE 68801-2358
(308) 385-6892

COPY



STATE FIRE MARSHAL
Dennis Hohbein
Fire Marshal



U.S. Department
of Transportation

**Pipeline and
Hazardous Materials Safety
Administration**

400 Seventh Street, S.W.
Washington, D.C. 20590

MAY 18 2005

Mr. Clark Conklin
Chief of Pipeline Safety
Nebraska State Fire Marshal
246 South 14th Street
Lincoln, NE 68508-1804

Dear Mr. Conklin:

The Pipeline and Hazardous Materials Safety Administration's Office of Pipeline Safety (OPS) has considered your letter of April 5, notifying us that the Nebraska State Fire Marshal 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 join under the 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 allows Aquila to requalify personnel once a year, but at intervals of not more than 15 months. In the case of mechanical and electrofusion joints, the waiver allows persons to requalify by reviewing the proper joining procedures during the time period specified in Aquila's Operations and Maintenance Manual and Operator Qualifications Plan, and taking all steps leading up to joint production without completing the joint. The waiver also requires a person or crew to requalify whenever one joint made under the qualified joining procedure is found unacceptable by testing under § 192.513.

OPS concurs with the conclusion of the Nebraska State Fire Marshal and has no objection to the waiver.

Sincerely,

Theodore L. Willke
Deputy Associate Administrator
for Pipeline Safety

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:
MIDAMERICAN ENERGY COMPANY,
AQUILA, INC., d/b/a AQUILA
NETWORKS, and INTERSTATE POWER
AND LIGHT COMPANY

DOCKET NO. WRU-07-8

ORDER GRANTING WAIVER REQUEST

(Issued April 19, 2007)

On March 13, 2007, MidAmerican Energy Company, Aquila, Inc., d/b/a Aquila Networks, and Interstate Power and Light Company (Applicants) filed a joint request with the Utilities Board (Board) to waive the requalification requirements for persons making plastic pipe joints found in 49 CFR 192.285(c), that have been adopted by the Board for Iowa natural gas utilities in 199 IAC 19.5(2)"a"(2). The Board enforces the federal natural gas pipeline safety regulations under a certificate granted by the U.S. Department of Transportation, Office of Pipeline Safety (OPS), pursuant to 49 U.S.C.A. § 60105. A certificated state may grant a waiver of provisions of the federal safety regulations in 49 CFR Part 192; however, pursuant to 49 U.S.C.A. § 60118, the grant must be submitted to OPS for review, and OPS has 60 days to stay the waiver if it finds it objectionable. The joint filing has been identified as Docket No. WRU-07-8.

Applicants point out that qualification requirements for persons making plastic pipe joints are established in 49 CFR 192.285(a) and requalification requirements are established in 49 CFR 192.285(c). Persons must be requalified under an applicable

procedure if, during a 12-month period, the person does not make any joints under that procedure or has three joints or 3 percent of the joints made, whichever is greater, under that procedure that are found to be unacceptable.

Applicants request a waiver of the requirements in 49 CFR 192.285(c) to allow them to requalify their employees under an alternate procedure. Applicants propose that a person requalify at least once each calendar year, but at intervals not exceeding 15 months, and if a person has one joint made under the procedure that is found to be unacceptable by testing under 49 CFR 192.513, that person must requalify under that procedure as an initial qualification. Applicants request the waiver be made permanent, since the requirements for testing will be required for the foreseeable future.

Subrule 199 IAC 1.3 establishes four criteria that must be met by clear and convincing evidence for the Board to grant a waiver. The criteria are: (1) the application of the rule would pose an undue hardship on the person for whom the waiver is requested, (2) the waiver would not prejudice the substantial legal rights of any person, (3) the provisions of the rule are not specifically mandated by statute or another provision of law, and (4) substantial equal protection of public health, safety, and welfare will be afforded by means other than that prescribed in the rule.

Applicants state that compliance with the existing requalification requirements poses an undue hardship by mandating requalification at other than the most advantageous times from a cost and quality perspective. Applicants contend the 12-month retest standard requires Applicants to establish evaluation schedules on an 11-month schedule to account for conflicts due to travel, illness, group size, and vacations.

Over time, completing requalifications under an 11-month schedule will push the requalification date back into the end of the construction season and eventually into the regular construction season. Applicants suggest that their proposed procedure requiring requalification just prior to the construction season provides the highest quality workmanship since requalification will coincide with the time when the most plastic joints are made and the testing can be performed by the same qualified testers.

Applicants state that the waiver, if granted, will not affect the substantial legal rights of any person. The employees making plastic pipe joints will continue to be tested prior to the start of each construction season under Applicants' proposed procedure and the proposed procedure will continue to ensure pipe joiners are properly qualified. Applicants state that although the safety standards are mandated in 49 CFR Part 192, the federal statute contains provisions for requesting a waiver of the safety standards; therefore, a waiver of the requalification standards, approved by the Board and OPS, would not violate any statute or other provision of law.

Applicants state that substantially equal protection of public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver is requested since both the Board and OPS, must approve the waiver. In addition, Applicants contend they are proposing an alternate procedure that meets the safety requirements of the federal regulations and ensures persons making pipe joints are properly qualified.

The Board has reviewed the support for the waiver request and finds that there is clear and convincing evidence that the request for waiver meets the four criteria

established in subrule 1.3. The Board has also adopted the federal natural gas pipeline safety regulations in 199 IAC 10.12(1)"b" and will grant Applicants a waiver of the requalification requirements in that rule in this order.

Applicants have shown that complying with the existing requirement for requalification based upon a 12-month period will ultimately force them to perform requalification after the construction season and, eventually, during the construction season. This would place an undue hardship on Applicants by requiring them to hire additional personnel and adjust their construction schedule to accommodate the requalification process. Use of the existing 12-month standard would also reduce Applicants' ability to ensure consistency in the testing and record keeping for requalification.

The hardships described by Applicants result from attempting to requalify all joiners within 12 months of their last qualification. Preferably, Applicants would attempt to do all requalification testing outside of the construction season, however, the 12-month standard forces testing to occur earlier every year until testing would no longer fall in the off season. The compressed time frame for requalification requires more testers and qualification teams and equipment and makes it more difficult to do make-up tests for persons who could not make the regular testing due to vacation or illness. Compliance with the existing 12-month standard adds to the complexity and expense of Applicants' requalification program.

In numerous other areas of the regulations, including requalification of welders, OPS has provided for more flexible scheduling of activities (for example, once each

calendar year at intervals not exceeding 15 months) and to prevent earlier and earlier compliance deadlines. Similar waivers have been granted by the applicable state authorities in Kansas, Colorado, and Nebraska and OPS has not objected to the granting of these waivers.

The Board has been presented with no evidence that the granting of the waiver, with the adoption of the alternate procedure proposed by Applicants, will prejudice the substantial legal rights of any person. Although the requalification standards are mandated by federal regulations, 49 U.S.C.A. § 60118 provides for a waiver of those regulations with OPS approval. Since federal statutes provide a waiver procedure, this criterion is met.

Substantially equal protection of public health, safety, and welfare will be afforded by the alternative procedure proposed by Applicants. The requalification standard as it currently exists creates practical and administrative difficulties that can be alleviated by the use of a longer window, the 15-month interval. This interval is similar to intervals provided for in other federal natural gas safety regulations and requalification of joiners before the construction season will better ensure safety standards are complied with consistently.

In addition, Applicants propose to require requalification of persons after one joint failure, rather than three as allowed by the existing requirements. This requirement was adopted when waivers were granted by Kansas, Colorado, and Nebraska. Even though defective joints typically fail some time after installation and testing, as stress over time causes defects to gradually enlarge, the more stringent standard of only one failure

provides more safety protection than the three-failure standard in the existing regulations.

The Board will grant the waiver request with the requirement that Applicants implement the alternative procedure described in this order. Granting applicants a waiver of the requalification standards will require them, pursuant to 192 CFR 192.285(d), to modify their existing requalification schedule and the requirements of their Operating and Maintenance Plan, or other procedural documents where this material is contained, to implement the alternate procedure. The Board will require that Applicants file a copy of those procedures with the Board.

The waiver of 49 CFR 192.285(c) will not become effective until it has been reviewed by OPS. OPS will either approve the waiver, stay the waiver, or if 60 days lapse without action by OPS, the waiver becomes effective pursuant to 49 U.S.C.A. § 60118(d). The Board will send a copy of this order to OPS.

The Board understands that other natural gas utilities in Iowa may face the same or similar problems with the existing requalification requirements. The Board will consider favorably other waiver requests that demonstrate similar hardships in complying with the existing requirements.

IT IS THEREFORE ORDERED:

1. MidAmerican Energy Company, Aquila, Inc., d/b/a Aquila Networks, and Interstate Power and Light Company are granted a waiver of the requalification requirements in 199 IAC 10.12(1)"b," 19.5(2)"a"(2), and 49 CFR 192.285(c).

2. MidAmerican Energy Company, Aquila, Inc., d/b/a Aquila Networks, and Interstate Power and Light Company shall establish alternate requalification procedures as described in this order and file a copy of those procedures with the Board within 30 days of adoption.

3. The waiver granted in this order shall not become effective until review of the waiver has been performed by the U.S. Department of Transportation, Office of Pipeline Safety, pursuant to 49 U.S.C.A. § 60118(d).

UTILITIES BOARD

/s/ John R. Norris

/s/ Curtis W. Stamp

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Krista K. Tanner

Dated at Des Moines, Iowa, this 19th day of April, 2007.



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**

JUL 3 2007

1200 New Jersey Ave., S.E.
Washington, DC 20590

RECEIVED

JUL 10 2007

IOWA UTILITIES BOARD

Mr. Donald J. Stursma, P.E.
Manager, Safety & Engineering Section
Iowa Utilities Board
350 Maple Street
Des Moines, IA 50319-0069

Dear Mr. Stursma:

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has reviewed your letter of April 27, 2007 notifying us that the Iowa Utilities Board (Board) granted the joint petitioners MidAmerican Energy Company, Aquila, Inc., and Interstate Power and Light Company a waiver of compliance with 49 CFR 192.285(c) as adopted by the Board for Iowa Natural Gas Utilities in 199 IAC 19.5(2)"a"(2) and 199 IAC 10.12(1)"b" on April 19, 2007.

Under § 192.285(c) a person must be requalified to make plastic pipe joints using an applicable procedure if during any 12-month period that person has not made any joints using the procedure. A person must also be requalified if three joints or three percent of the joints, whichever is greater, the person made using the procedure during any 12-month period are found to be unacceptable by testing under § 192.513.

The waiver requires MidAmerican Energy Company, Aquila, Inc., and Interstate Power and Light Company to establish alternate plastic pipe joint requalification procedures. The alternate procedures shall require each person making plastic pipe joints to be requalified at least once each calendar year, but not to exceed 15 months, regardless of whether or not the person has made a plastic pipe joint within the calendar year. The alternate procedures shall also require each person who has made one joint found unacceptable by testing under § 192.513 to be requalified as an initial qualification, regardless of when the joint was made.

PHMSA does not object to the waiver of 199 IAC 19.5(2)"a"(2) and 199 IAC 10.12(1)"b" if MidAmerican Energy Company, Aquila, Inc., and Interstate Power and Light Company each establish alternate plastic pipe joining procedures for their respective employees as described in the previous paragraph.

If you have any questions, Florence Hamn, Director of Regulations, (202) 366-4595 would be pleased to assist you.

Sincerely,

Jeffrey D. Wiese
Acting Associate Administrator
for Pipeline Safety