



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

October 10, 2008

Patricia Van Gerpen  
SD Public Utilities Commission  
500 E. Capitol Ave  
Pierre, SD 57501

Re: PS07-002

Ms. Patricia Van Gerpen:

We respectfully request the Commission reopen the above referenced docket for acceptance of the following amendments. Commission Staff conducted extensive research in the course of the investigation of a natural gas explosion in Mitchell, SD as part of our pipeline safety obligations. Despite such research, however, the report on file is not accurate and amendment is necessary.

In addition to the on site incident investigation, Staff submitted six data requests to NorthWestern Energy to better understand specific relevant factors. Facts presented by NorthWestern in a meeting on September 12, 2008, after completion of the discovery process and closure of docket PS07-002, require a report amendment. Pipeline Safety Staff appreciates the material provided by NorthWestern and revises its report accordingly. Staff regrets, however, the discovery process did not work as well as expected. Staff did not correctly interpret some of the material received. Additionally, upon the issuance of the current report NorthWestern did not file a response and thus supplemental information was not received until the September 12 meeting referenced earlier. Staff is aware NorthWestern may be restricted in this docket by other litigation outside the Commission. Nonetheless, Staff hopes to improve communication and accurate collection of information in the future.

Being unaware of NorthWestern's position regarding Staff's report and the supporting facts, Staff requested PS07-002, the investigation docket, be closed at the Commission Meeting on August 21, 2008.

Ultimately, the parties agreed to meet on September 12 in hopes of resolving PS08-003, a separate complaint docket filed by Staff as a result of its understanding of the facts. Since PS07-002 (the investigation docket) and PS08-003 (the complaint docket) involve the same facts; the suggested complaint docket resolution affects the current report on file

in the investigation docket. PS07-002 is currently a closed docket. For consistency sake and to accurately reflect operator's action surrounding the incident, Staff's amendments are necessary in PS07-002, the investigation docket. A separate document regarding the resolution of PS08-003, the Complaint docket, will be filed with the Commission.

Commission Staff's original report is divided among its areas of concern. Please accept the following explanation of each subpart as amended with the newly gathered information.

**Hazardous Scene:** Although the facts as Staff presented them remain unchanged, Staff does better understand NorthWestern's challenges and resulting action. NorthWestern believes, after the explosion in March 2007, that it adequately observed underground gas levels. The Company took readings both at the leak repair hole and at sewer manholes. The soil and ground conditions prevented any such positive reading that would normally occur. NorthWestern was unaware of such soil conditions and therefore did not do further soil contamination studies. NorthWestern and Staff agree it is important to understand where gas may have traveled in the case of an underground leak. Under normal circumstances if gas existed underground, it is likely positive gas readings would have registered where readings were taken.

As a result of the undetected gas and to prevent such a situation in the future, NorthWestern offered to include a gas migration determination in its emergency procedures as a requirement in an underground leak incident. Such a gas migration survey is one more tool to assess whether hazardous conditions exist due to situations like the unusual soil conditions in this incident. Staff amends its recommendation to the Commission based on both the Company's offer to include the migration survey and the challenges that unusual soil conditions presented during and in the days after the subject incident. Staff recommends the Commission accept the operator's offer to incorporate gas migration surveys into its emergency procedures for incidents of a similar nature. Staff rescinds the proposed notices of violation and the corresponding fines.

**Investigation of Failure:** Commission Pipeline Safety Staff followed a testing and reporting process guided both by applicable law and by PHMSA representatives. Due to the destructive nature of the necessary failure tests, all parties including NorthWestern, had an expert at the test facility. Although Staff believed it was understood by all that the tests it coordinated were intended to be for the benefit of all parties, NorthWestern believed otherwise. As a result, NorthWestern did not create an incident report regarding probable cause as staff anticipated it would. Although the tests themselves were done as a joint effort among all parties to this case, and cannot be repeated, Staff believes the operator, according to 49 CFR 192.617, is required to provide the Commission with its explanation of probable cause.<sup>1</sup> Although NorthWestern does not necessarily agree with the test process, it offered to produce an expert report. With such filing Staff believes it

---

<sup>1</sup> 49 CFR 192.617: Each operator shall establish procedures for analyzing accidents and failures, including the selection of samples of the failed facility or equipment for laboratory examination, where appropriate, for the purpose of determining the causes of the failure and minimizing the possibility of a recurrence.

is in compliance with relevant code provisions and rescinds the proposed Notice of Concern.

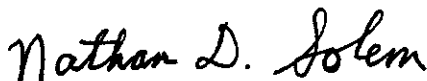
**Emergency Procedures:** NorthWestern produced information to show emergency procedures were properly reviewed and the Company is in full compliance. The operator's Standard 1500, Section 2.2 requires annual review of emergency procedures. A review of three sample years of annual review records indicates that in only one year was the actual Standard 1500 reviewed. Subsequent clarification of the documents submitted indicate that indeed in all three years Standard 1500 was reviewed. Staff finds the operator in full compliance and the recommendation of a Notice of Concern is rescinded

**Damage Prevention and Public Awareness:** Excavator damage data in Mitchell indicates a flat to declining trend since 2001 and may support the operator's conclusion that this is an isolated incident. Subsequent information provided indicates the operator voluntarily supplemented its efforts in its excavator damage prevention and public awareness programs as a result of this incident. With the recent implementation of additional public awareness requirements (API Recommended Practice 1162) in *49 CFR 192.616 Public Awareness Education*, an ordered continuation of the operator's supplemental efforts in Mitchell may not be warranted.

**Operator Qualifications:** Supplemental information shows technician Ryan Iedema worked under a qualified technician as allowed for under 192.805 (c).<sup>2</sup> The newly acquired information alleviates Staff's concerns regarding compliance. Staff rescinds its recommendation of a Notice of Concern for this issue.

**Reports:** Report number 20070060-1806 filed with PHMSA originally appeared incomplete due to a computer coding issue. Clarification provided by the operator gave Staff necessary information to conclude the report was filed complete. Although NorthWestern made some clarification on the other hard copy 7100.1 report submitted directly to the SDPUC, Staff's assertion remains that the filed incident report did not have a complete signature block as it was without a signature date or title. Since the PHMSA filed report is the report of record, Staff rescinds the Notice of Concern for these reports.

Sincerely,



Nathan Solem  
Pipeline Safety Program Manager



Kara Semmler  
Staff Attorney

---

<sup>2</sup> (c) Allow individuals that are not qualified pursuant to this subpart to perform a covered task if directed and observed by an individual that is qualified;