

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

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| IN THE MATTER OF THE FILING BY) | ORDER APPROVING |
| MONTANA-DAKOTA UTILITIES CO., A) | STIPULATION |
| DIVISION OF MDU RESOURCES GROUP, INC.) | |
| FOR APPROVAL OF WAIVER) | PS02-001 |

On June 6, 2002, the South Dakota Public Utilities Commission (Commission) received for approval a filing from Montana-Dakota Utilities Company (MDU), requesting a waiver of 49 CFR Part 192.59(a)(1). According to MDU, a shipping error was made in July 2000 by Chevron Phillips Chemical Company (Chevron) resulting in UPONOR receiving non-standard polyethylene raw materials (TR-130 resin) which was subsequently converted into pipe. MDU received several thousand feet of this pipe that had not been properly qualified to ensure compliance with ASTM D2513 as required by the referenced code, for use in its natural gas system. MDU did install that pipe near Rapid City, South Dakota. Since its installation, Chevron performed extensive testing and demonstrated the pipe does in fact meet the minimum requirements of ASTM D2513. MDU proposes to allow the pipe to remain in service and is requesting a waiver from the Commission and the Federal Department of Transportation Regulations to allow the pipe to remain in service.

On September 3, 2002, the Commission received a Stipulation from Staff and MDU.

At its regularly scheduled meeting of September 5, 2002, the Commission considered whether to approve the Stipulation. Commission Staff recommended its approval.

The Commission has jurisdiction over this matter pursuant to SDCL 49-34B. The Commission unanimously voted to approve the Stipulation. It is therefore

ORDERED, that the Commission approves and adopts the Stipulation, including the Findings of Fact and Conclusions of Law set forth therein; and it is further

ORDERED, that in conformity with the terms and conditions of the Stipulation, MDU shall:

Continue with its ongoing program to attempt to identify exactly where the 38,600 feet of TR-130 resin pipe has been installed. Montana-Dakota shall make this information reasonably available to the Commission upon request.

After a period of three years following the installation of the aforementioned pipe, three random samples of two-inch size PE pipe containing the TR-130 resin will be taken from the system and tested in accordance with ASTM D2513 Sections A.1.5.2, A.1.5.5, and A.1.5.8 product requirements for pipe and fittings. Specifically, those tests include measurement of pipe diameter, wall thickness, squeeze-off stability, and burst pressure.

Montana-Dakota shall report any failures of the TR-130 resin pipe to the Commission and to the American Gas Association Plastic Pipe Database Committee.

If the results are within acceptable ranges, no further action or future tests will be taken except for such actions required under 49 CFR Part 192.617.

If any pipe sample falls outside acceptable ranges, then three additional random samples will be taken and tested in accordance with the above-described procedure. If each of these results are within acceptable ranges, no further action or future tests will be taken except for such actions

required under 49 CFR Part 192.617. Should any one of these samples fall outside acceptable ranges, then Montana-Dakota, in collaboration with the DOT regulatory agencies, will meet to discuss what, if any, further action is appropriate and necessary, and develop a plan of action.

Montana-Dakota shall report the results of any such testing to the Commission.

Montana-Dakota shall report any failures of the TR-130 resin pipe to the Commission and to the American Gas Association Plastic Pipe Database Committee.

It is further

ORDERED, that subject to the terms and conditions set forth in the Stipulation and this order, a waiver of the requirements of 49 CFR Part 192.59(a)(1) is hereby granted pursuant to SDCL 49-34B-24, which shall permit Montana-Dakota to continue to maintain and operate the nonconforming pipe; and it is further

ORDERED, that the effective date of this order and waiver shall be the date sixty (60) days after the Associate Administrator, Office of Pipeline Safety, Research and Special Program Administration, United States Department of Transportation has received written notice of this order and waiver and has notified the Commission that it has no objection to the waiver.

Dated at Pierre, South Dakota, this 23rd day of September, 2002.

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| CERTIFICATE OF SERVICE | |
| 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, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon. | |
| By: | <u><i>Nellie Kalbo</i></u> |
| Date: | <u>9/23/02</u> |
| (OFFICIAL SEAL) | |

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Robert K. Sahr by RSW
ROBERT K. SAHR, Commissioner

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