

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

IN THE MATTER OF THE FILING OF THE)	
INVESTIGATION OF THE NATURAL GAS)	PROTECTIVE ORDER
INCIDENT OF FEBRUARY 20, 2008, ON)	
MONTANA-DAKOTA UTILITIES CO.'S SYSTEM)	PS08-001
IN PIERRE, SOUTH DAKOTA)	

On April 3, 2008, Commission Staff requested a formal docket be opened regarding an ongoing investigation into the February 20, 2008, natural gas incident in Pierre, South Dakota. A report, including Staff recommendation regarding whether all pipeline safety rules were properly observed, will be filed for Commission approval at the conclusion of Staff's investigation.

On April 10, 2008, the Commission electronically transmitted notice of the filing and the intervention deadline of April 25, 2008, to interested individuals and entities. On April 21, 2008, the Commission received a Petition to Intervene from South Dakota Intrastate Pipeline Company (SDIP). On April 23, 2008, the Commission received a Petition to Intervene from Montana-Dakota Utilities Co. (MDU). At its regularly scheduled meeting of May 6, 2008, the Commission granted intervention to SDIP and MDU.

On May 22, 2008, the Commission received the Pipeline Safety Staff Report. On June 26, 2008, the Commission received an Opinion Regarding Probable Cause of Failure to Piping System from Pressure Sciences Incorporated. On July 1, 2008, the Commission received MDU's Response to Staff's Pipeline Safety Report. On July 30, 2008, the Commission received SDIP's Response to Staff's Pipeline Safety Report. On September 3, 2008, the Commission received an Addendum to Staff's Initial Report. At its regularly scheduled meeting of September 23, 2008, the Commission considered the Pipeline Safety Staff Report and voted unanimously to approve Pipeline Safety Staff Report Revised Recommendations 2 and 3 and requested more information, including additional cost analysis, on Revised Recommendations 1 and 4, and on the installation of additional instrumentation and alarm equipment as described during the meeting.

On October 7, 2008, MDU filed a Request for Access to Confidential Information. On October 10, 2008 Staff filed a Response to Commission's Request for Additional Information. On October 17, 2008, SDIP filed a Response to Request for Confidential Information and Objection to MDU's Intent to Present Witnesses Testimony. On October 29, 2008, SDIP and MDU stipulated by e-filings to their respective releases to the other of the requested confidential operating manual documents, subject to an appropriate protective order.

The Commission has jurisdiction in this matter pursuant to SDCL Chapter 1-26, particularly 1-26-19.2 and 1-26-20, SDCL Chapter 15-6, particularly 15-6-26(c), and SDCL Chapter 49-34B, including 49-34B-1, 49-34B-4, 49-34B-5, 49-34B-6, 49-34B-12, 49-34B-19 and 49-34B-21 and ARSD Chapter 20:10:01, including 20:10:01:01.02, 20:10:01:17, 20:10:01:17.1, 20:10:01:19, 20:10:01:22.01 and 20:10:01:39 through 20:10:01:43, inclusive.

It is therefore

ORDERED that the following Protective Order is adopted by the Commission and shall be followed by the Parties to this proceeding and their Qualified Persons:

1. "Confidential Information" as used herein means (i) the materials produced by SDIP, MDU or Commission Staff (the "Parties"), whether by agreement or by order of the Commission, in response to any request by any other Party for production of or access to information designated by another Party as "confidential" and (ii) any document or other material produced hereafter in this matter which the producing Party conspicuously designates and marks as including such information by marking the information as "Confidential."

2. Information designated as Confidential Information by the producing Party shall not be disclosed to anyone other than the following individuals (the "Qualified Persons"):

- a. counsel of record for any Party in this action;
- b. paralegal, stenographic, clerical, or other employees of counsel of record in this action;
- c. court reporters and their employees engaged to record and transcribe testimony in this action;
- d. independent experts and consultants employed by counsel of record in this action to assist in the preparation or trial of this action;
- e. directors, officers, and employees of any Party in this action to the extent that disclosure of Confidential Information is necessary with respect to the active participation in this proceeding by such director, officer or employee of such Party;
- f. any witness from whom testimony is being taken during the course of his or her testimony or during the preparation thereof provided that such witness may not retain any Confidential Information; and
- g. a court of competent jurisdiction and employees of such court.

3. Information designated as "Confidential Information" shall not be disclosed to persons specified in 2.d., e., and f. until such persons have signed a confidentiality agreement in the form that is attached hereto and incorporated herein as Exhibit A, agreeing to be bound by the terms and conditions of this Protective Order. The agreement shall contain the signatory's full name, permanent address and employer, and the name of the Party with whom the signatory is associated. The completed Exhibit A shall then be distributed to the Parties in this proceeding. Each Party and each Qualified Person (i) shall not reveal any Confidential Information to anyone other than another person who meets any criteria established pursuant to paragraph 2 and, with respect to the persons described in paragraph 2. d., e., and f., who shall also have read this Order and completed and signed Exhibit A; (ii) shall utilize any Confidential Information solely for purposes of preparation for and conduct of this proceeding and not for any other purpose, including any other legal proceeding other than appeals arising directly out of this Docket; and (iii) shall keep all Confidential Information secure at all times in accordance with the purpose and intent of this Order. Where any qualified person currently has or may in the future have responsibilities for marketing, product development, market analysis, market entry, or strategic planning for a competitor of any of the Parties to this action now or in the future, that person shall take reasonable steps to limit his/her exposure to Confidential Information to those materials relevant to that person's testimony or involvement in this matter, and it shall be a violation of this Order for such person to rely on Confidential Information obtained through discovery in this case to carry out marketing, product development, market

analysis, market entry or strategic planning responsibility duties for any Party or any other entity employing the person now or in the future.

4. "Confidential Information" shall not include, and the protective provisions of this Protective Order shall not cover, any information that the Commission, a court or other tribunal having jurisdiction determines (i) is or has become publicly available without breach of this Protective Order; (ii) can be shown by documentation to have been known by the receiving Party at the time of its receipt from the producing Party; (iii) was rightfully received from a third person who did not acquire or disclose such information by a breach of a confidentiality agreement or protective order or a wrongful or tortious act; or (iv) can be shown by documentation to have been independently developed by the receiving Party without reference to any Confidential Information.

5. All Confidential Information shall be treated as confidential (unless such status is specifically waived by the producing Party or the Commission specifically finds that such material need not be so treated), shall be marked as "Confidential," shall be held in confidence and used only in connection with this Docket, and shall be treated in accordance with any restrictions on the person or classes of persons to whom such material may be disclosed which are established by any Party producing Confidential Information. All Parties shall exercise reasonable steps to safeguard the confidentiality of the Confidential Information.

6. Neither the Confidential Information nor any summaries or compilations of the whole or any part thereof disclosed by a producing Party to another Party's attorneys in this case shall be revealed or distributed to anyone other than Qualified Persons to this Order.

7. No more than five (5) copies shall be made of the Confidential Information. Copies shall prominently bear the statement "Confidential" or that disclosure of the contents is prohibited. All copies shall be returned, without further notice, to counsel for the producing Party or, at the option of the Parties receiving the copies, destroyed at the conclusion of this proceeding, including any rehearing or appeals. Notes, memoranda, or other written or recorded materials of any kind containing confidential and proprietary data or summaries or compilations of the whole or any part of any of the Confidential Information shall be destroyed when no longer needed in the conduct of this proceeding.

8. Any reference to Confidential Information filed with the Commission in testimony, exhibits or briefs shall be marked to readily identify the contents as Confidential Information and marked "Confidential," shall be separately filed with the Commission, shall be distributed only to individuals who are Qualified Persons to this Order and members of the Commission Staff participating in this proceeding and shall be retained by the Commission under seal and not as part of the public record.

9. This Order establishes a procedure for permitting access to Confidential Information that the producing Parties hereto claim contains information which is confidential or proprietary or a trade secret and shall not be construed as an agreement or concession by the Parties that any document or data provided under the terms of this Order in fact contains confidential or proprietary or trade secret information. This Order does not waive any Party's rights to contest before the Commission or a court or other tribunal having jurisdiction the designation of any particular document, data or portion thereof as containing confidential, proprietary or trade secret information.

10. It is further agreed that the Parties hereto shall not be deemed to have waived any objections to the relevancy, materiality, or admissibility in the record of this proceeding of any of the Confidential Information furnished or received pursuant to this Order.

11. This Order is binding with respect to each Party and Qualified Person in accordance with its terms and each executed copy of this Order shall be deemed the original by the Party executing the same.

Dated at Pierre, South Dakota, this 13th day of November, 2008.

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, electronically.
By: <u><i>Neilaine Kalbo</i></u>
Date: <u>11/13/08</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Steve Kolbeck
STEVE KOLBECK, Commissioner

Dustin M. Johnson
DUSTIN M. JOHNSON, Commissioner

EXHIBIT A
NONDISCLOSURE AGREEMENT

I hereby certify that I am familiar with the terms and conditions of the Protective Order entered by the Commission in the above-captioned docket and agree to be bound by the terms and conditions thereof.

I further agree that the information requested shall be used only for the valid purposes of these proceedings as provided in said Order.

DATED this _____ day of _____, 2008.

Signature: _____

Name (type or print): _____

Address and Telephone: _____

Representing: _____

Position: _____