



# MONTANA-DAKOTA

UTILITIES CO.

A Division of MDU Resources Group, Inc.

400 North Fourth Street  
Bismarck, ND 58501  
(701) 222-7900

September 14, 2010

Executive Secretary  
North Dakota Public Service Commission  
State Capitol Building  
Bismarck, ND 58505

RE: Docket No. GS-10-\_\_\_\_  
Request for Waiver of  
49 C.F.R. § 192.285(c)

Montana-Dakota Utilities Co. (Montana-Dakota), a Division of MDU Resources Group, Inc., respectfully submits the attached Application requesting a permanent waiver of the federal pipeline safety regulations, relating to qualification requirements for a person making plastic pipe joints. 49 C.F.R. § 192.285(a) requires persons making plastic joints be qualified under applicable joining procedures and Section 192.285(c) provides those procedures.

Montana-Dakota is requesting this waiver to allow it to re-qualify its employees by an alternate means of assuring qualifications for persons making joints.

Please see Exhibit A for additional documentation in support of this filing.

Please refer all inquiries regarding this filing to:

Scott Besmer  
Senior Engineer  
Montana-Dakota Utilities Co.  
400 North Fourth Street  
Bismarck, ND 58501

Also, please send copies of all written inquiries, correspondence and pleadings to:

Mr. Daniel S. Kuntz  
Associate General Counsel  
MDU Resources Group, Inc.  
P.O. Box 5650  
Bismarck, ND 58506-5650

Montana-Dakota respectfully requests that this filing be accepted as being in full compliance with the filing requirements of this Commission.

Please acknowledge receipt by stamping or initialing the duplicate copy of this letter attached hereto and returning the same in the enclosed self-addressed, stamped envelope.

Sincerely,



Tamie Aberle  
Pricing and Tariff Manager

Attachments

cc: Daniel Kuntz

**DEPARTMENT OF PUBLIC SERVICE REGULATION  
BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MONTANA**

IN THE MATTER of the                    ) Case No. GS-10- \_\_\_\_  
Request by Montana-Dakota         )  
Utilities Co. for a waiver from     ) REQUEST FOR WAIVER  
49 C.F.R. § 192.285(c)             )

\* \* \* \* \*

APPLICATION

COMES NOW Montana-Dakota Utilities Co. (Montana-Dakota) respectfully requests a permanent waiver from 49 C.F.R. § 192.285(c). In support of its request, Montana-Dakota states as follows:

I.

Montana-Dakota is a public utility providing electric and natural gas utility services in certain North Dakota communities in its service territory.

II.

49 C.F.R. § 192 consists of federal safety standards for the transportation of natural gas by pipeline.

III.

49 C.F.R. § 192.285(a) requires persons making plastic joints be qualified under 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 49 C.F.R. § 192.513.

#### IV.

Montana-Dakota 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. Montana-Dakota proposes the following procedure:

A person must be requalified under an applicable procedure, at least once each calendar year at intervals not exceeding 15 months, if that person:

- Does not make any joints under that procedure in the preceding calendar year; or
- Has 1 joint or 1 percent of the joints made; whichever is greater, under that procedure that are found unacceptable by testing under 49 C.F.R. § 192.513.

#### V.

Montana-Dakota requests a permanent waiver since the requirement for testing will be required for the foreseeable future.

## VI.

Application of the present rule poses an undue hardship on Montana-Dakota. Montana-Dakota will not be able to perform the 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.

## VII.

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

## VIII.

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. § 192.285(c).

## IX.

Montana-Dakota 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 fewest plastic joints are made and the beginning of the time when the most joints will be made.

X.

Montana-Dakota provides that because of scheduling considerations, travel, illness, group size and vacations, qualification is a longer process and can take up to a month. The existing 12-month provision requires Montana-Dakota 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.

XI.

Montana-Dakota 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, Montana-Dakota 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 less consistency in evaluation and more administrative costs.

XII.

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

### XIII.

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 knowledge will result in less opportunity for error.

### XIV.

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 commission in other jurisdictions after appropriate state and federal reviews of safety impacts. Of specific note is that the South Dakota Public Utilities Commission granted Montana-Dakota's request for waiver in its Order in Docket No. PS10-001. The South Dakota Public Utilities Commission also received final approval of Montana-Dakota's request for waiver in Docket No. PS10-001 from the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration.

### XV.

Approval of this request for waiver will enable Montana-Dakota to ultimately employ the same testing schedule in all of its operating areas, thereby promoting administrative efficiency and a proper allocation of resources.

XVI.

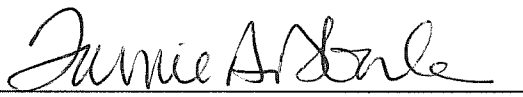
Montana-Dakota is not aware of any persons who may be adversely impacted by the granting of this request for waiver.

WHEREFORE, Applicant respectfully requests that the Public Service Commission of the State of North Dakota:

1. Grant a permanent waiver of 49 C.F.R. § 192.285(c).

Dated this 14<sup>th</sup> day of September, 2010.

MONTANA-DAKOTA UTILITIES CO.,  
a Division of MDU Resources Group, Inc.

By:   
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Tamie A. Aberle  
Pricing and Tariff Manager