

APR 9 1990

Mr. Alex J. Eliopoulos
Secretary
Public Service Commission of Wyoming
700 W. 21st Street
Cheyenne, Wyoming 82002

Dear Mr. Eliopoulos:

We have considered the Commission's order dated March 14, 1990, granting the Western Utility Company, Inc., a waiver from compliance with the drug testing rules in 49 CFR Part 199.

The Commission based the waiver on several factors. These include the small size of the utility (300 customers and 2 full-time employees); its location in a remote, sparsely populated area where medical personnel are generally unavailable; its historically safe and efficient service; its close monitoring of safety-related personnel and activities; the cost of compliance; and the existence of an "adequate and effective" drug monitoring provision in its operation and maintenance plan.

As you know, our policy is to waive, or approve a State waiver of, a pipeline safety rule only in unique circumstances not considered in adopting the rule, where implementing the rule would be unsuitable or unnecessary for safety. We find that the Western Utility Company circumstances do not qualify for a waiver under this test.

We considered factors like those on which the waiver is based in adopting the Part 199 rules for gas distribution systems in general, including small and remotely located systems. In the Part 199 proceeding, many persons raised the same arguments as Western Utility Company as reasons not to adopt the Part 199 rules or not to apply them to certain operators. We concluded, however, that because the threat of drug abuse is universal, all persons operating gas pipelines, particularly lines that distribute gas to homes and businesses, must be covered by the rules to provide for a safe and drug free transportation system.

We, therefore, object to the waiver, and under § 3 of the Natural Gas Pipeline Safety Act of 1968 (49 App. U.S.C. 1672), the Commission's order is stayed. Within 90 days the Commission may appeal this matter in writing and request an opportunity for a hearing.

Sincerely,

Original signed by

George W. Tenley, Jr.
Director
Office of Pipeline Safety

cc:

DPS-1/DPS-2/DPS-10/DPS-11/DPS-20/DPS-28; DCC-1; DRP-6

DPS-11:LMFurrow:rak:366-1540:3/21/90
FILE: §199.1, (Wyoming State File) ✓