

U.S. Department of Transportation  
Research and  
Special Programs Administration  
400 Seventh Street, S.W.  
Washington, D.C. 20590

APR - 2 1003

Leo M. Haynos  
Chief of Pipeline Safety  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka KS 66604-4027

Dear Mr. Haynos:

We have considered your letter of May 31, 2002, notifying us that the Commission has granted the Greeley Gas Company and Aquila Inc. a waiver from the plastic pipe joining requirements of 49 CFR 192.285(a)(2) and (c). Under § 192.285(a)(2), no person may make a plastic pipe joint using an applicable procedure until that person qualifies by making a specimen joint according to the procedure that passes an inspection and test. Under § 192.285(c), a person must requalify, if during any 12-month period that person does not join under the procedure, or has 3 joints or 3 percent of the joints made, whichever is greater, found unacceptable by pressure testing.

The waiver permits the gas companies to requalify personnel once a year, but at intervals not more than 15 months. In addition, in the case of mechanical and electrofusion joints, the waiver permits persons to requalify by reviewing and taking all steps leading up to joint production but without completing the joint.

The rationale for the waiver is that compliance with 49 CFR 192.285(c) involves extensive recordkeeping and does not allow sufficient flexibility in scheduling requalifications. Also, given the automated nature of electrofusion and mechanical joints, requalification by process review rather than by inspecting and testing a completed joint is considered a satisfactory measure of a person's ability to continue to make sound joints after initial qualification.

The Commission analyzed the alternatives allowed by the order and concluded that they are consistent with pipeline safety. The Commission has also concluded that under certain conditions, the alternatives are more stringent than current regulations. As an example, in addition to the requirement for personnel to requalify once a year, but at intervals not more than 15 months, the order requires a person to requalify whenever that person has made 1 joint under a qualified procedure that is found unacceptable by testing.

We concur with the conclusion of the Commission and have no objection to the waiver.

Sincerely,  
Stacey L. Gerard  
44 Associate Administrator for Pipeline Safety

U.S. Department of Transportation  
Research and  
Special Programs Administration  
400 Seventh Street, S.W.  
Washington, D.C. 20590

May 17, 2002

Mr. Haynos  
Chief of Pipeline Safety  
Kansas Corporation Commission  
1500 SW Arrowhead Road  
Topeka, KS 66604-4027

Dear Mr. Haynos:

We have considered your letter of February 28, 2002, notifying us the Commission has granted the Kansas Gas Service Company a waiver from the plastic pipe joining requirements of 49 CFR 192.285(a)(2) and (c). Under § 192.285(a)(2), no person may make a plastic pipe joint using an applicable procedure until that person qualifies by making a specimen joint according to the procedure that passes an inspection and test. Under § 192.285(c), a person must requalify, if, during any 12-month period that person does not join under the procedure, or has 3 joints or 3 percent of the joints made, whichever is greater, found unacceptable by pressure testing.

The waiver permits the gas company to requalify personnel once a year, but at intervals not more than 15 months. In addition, in the case of mechanical and electrofusion joints, the waiver permits persons to requalify by reviewing and taking all steps leading up to joint production but without completing the joint.

The rationale for the waiver is that compliance with 49 CFR 192.285(c) involves extensive recordkeeping and does not allow sufficient flexibility in scheduling requalifications. Also, given the automated nature of electrofusion and mechanical joints, requalification by process review rather than by inspecting and testing a completed joint is considered a satisfactory measure of a person's ability to continue to make sound joints after initial qualification.

We note that the Commission analyzed the alternatives allowed by the order and concluded they are consistent with pipeline safety. We concur and have no objection to the waiver.

Sincerely,  
Stacy L. Gerard

Associate Administrator for Pipeline Safety



4. 49 C.F.R. §192.285(a)(2) and §192.285(c), as adopted by K.A.R. 82-11-4, presently read as follows:

(a) No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:

- (1) Appropriate training or experience in the use of the procedure; and
- (2) Making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section, (emphasis added)

(c) 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 §192.513. (emphasis added)

The Commission Staff ("Staff") has thoroughly investigated Aquila's request and concludes for the reasons indicated in the Memorandum of Leo M. Haynos, Chief of Pipeline safety, dated April 11, 2002, that the changes proposed by Aquila in paragraphs 2 and 3 above are fully consistent with pipeline safety requirements and under certain conditions, they are more stringent than current regulation. Staff recommends approval of Aquila's request for waiver and modification of the requirements of 49 C.F. R. §192.285(a)(2) and §192.285(c), as adopted by K.A.R. 82-11-4, as follows:

"(a) No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:

- (1) Appropriate training or experience in the use of the procedure; and
- (2) Except when requalifying for mechanical or electrofusion joints under §192.285©(1), making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section.

(c) A person must be requalified under an applicable procedure at the following frequencies:

- (1) Once each calendar year but at intervals not to exceed 15 months; or
- (2) Whenever that person has 1 joint made under that procedure that is found unacceptable by testing under §192.513."

Staff recommends approval of Aquila's request to waive the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c) in accordance with modification of the procedures for re-qualification as set forth above. Staff further notes that Aquila's requested waiver will also require approval of the U.S. Department of Transportation under 49 U.S.C.A. 1671, et seq., as amended, now 49 U.S.C. 60101, et seq.

5. Granting the requested waiver and modification will not compromise pipeline safety and offers efficiency in personnel testing and re-qualification, as well as cost benefits by minimizing the number of non-reusable plastic mechanical joints destroyed in the training process.

## II AUTHORITY

6. K.S.A. 66-1,150 authorizes the Commission to adopt such rules and regulations as may be necessary to be in conformance with the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C.A. 1671, a seq., as amended, now 49 U.S.C. 60101, et seq.

7. This application seeks a waiver of the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c), as adopted by K.A.R. 82-11-4.

8. K.A.R. 82-11-9(b) provides that the Commission may grant waivers of compliance with gas pipeline safety regulations in K.A.R. 82-11-1, et seq., after notice and opportunity for hearing, if the Commission determines that the waiver is consistent with pipeline safety. Staff has recommended that a waiver be granted as being consistent with pipeline safety.

9. Pursuant to K.A.R. 82-1-202(a), the Commission has the power to waive any of its regulations, and can waive the requirement of notice and opportunity for hearing if the Commission determines that a waiver of the requirement contained in K.A.R. 82-11-9(b) is in the public interest.

10. Staff has reviewed the proposal and the applicable regulations, believes the proposed waiver is consistent with public safety, and recommends approval of the application, subject to adoption of Staff's recommendations.

### III FINDINGS

The Commission finds as follows:

a. Findings of Fact:

(1) The Commission, pursuant to K.S.A. 66-1,150, is authorized to adopt such rules and regulations as may be necessary to be in conformance with the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C.A. 1671, et seq., as amended, now 49 U.S.C. 60101 et seq.

(2) Applicant is a certificated public utility authorized to transact the business of a natural gas public utility within the State of Kansas.

(3) The Commission has the authority to grant the waiver requested by Aquila under K.A.R. 82-11-9(b).

(4) The Commission has the authority, under K.A.R. 82-1-202(a), to waive requirements of its regulations, including the requirement for notice and opportunity for hearing under K.A.R. 82-11-9(b), and the Commission finds that it is in the public interest to do so in this matter.

(5) The Applicant's request for a waiver of the requirements of 49 C.F.R. §192.285(a)(2) and § 192.285(c) and modification of the personnel re-qualification procedures is consistent with pipeline safety.

b. Conclusions of Law:

(1) The Commission concludes that it has the authority under applicable statutes and regulations referenced above to grant the requested waiver and modification.

(2) The Commission finds that the waiver and modification requested is in the public interest, is consistent with pipeline safety and should be granted.

IT IS THEREFORE BY THE COMMISSION ORDERED THAT:

(A) The application for waiver is granted, subject to the following conditions:

- The requirements of 49 C.F.R. § 192.285(a)(2) and § 192.285(c) are hereby waived and modified in accordance with the revisions recommended by Staff in paragraph 4 above.
- Approval of Applicant's waiver by the U.S. Department of Transportation under 49 U.S.C.A. 1671, et seq., as amended, now 49 U.S.C. 60101, et seq.

(B) The parties have fifteen (15) days from the date of this order, plus an additional three (3) days if service of this order is by mail, to file a petition for reconsideration of this order.

(C) The Commission retains jurisdiction of the subject matter and the parties for the purpose of entering

such further order or orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Wine, Chr.; Claus, Corn.; Moline, Corn

ORDER MAILED

Dated: April 26, 2002

Kansas Corporation Commission

May 31, 2002

Mr. James Reynolds  
U.S. Department of Transportation  
RSPA/Office of Pipeline Safety Room 7128  
400 Seventh Street, SW  
Washington, DC 20590

RE: Request for Waiver to Modify the Requirements of 49 C.F.R. Part 192.285(a)(2) and 192.285(c)

Dear Mr. Reynolds:

The Kansas Corporation Commission hereby gives notice to the Secretary of Transportation that it has granted Greeley Gas Company, a division of Atmos Energy Corporation, and Aquila Inc. a waiver to the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c) as adopted by K.A.R. 82-11-4. A copy of Docket Nos. 02-GRLG-809-MIS and 02-AQLG-810-MIS granting these waivers are attached for your review.

The waivers would allow Greeley and Aquila to qualify personnel for joining plastic pipe once each calendar year but at intervals not to exceed 15 months. It would also allow personnel to be requalified for mechanical and electrofusion connections by reviewing the procedures and not completing the process of making a specimen joint. It should be noted that a similar waiver was recently granted to the remaining major LDC, Kansas Gas Service, within the last month\_

Pursuant to 49 U.S.C. 60118, if the Commission receives no objection from your office regarding these waivers, they will go into effect 60 days after your receipt of this notice.

Sincerely yours,  
Leo M. Haynos  
Chief of Pipeline Safety

THE STATE CORPORATION COMMISSION  
OF THE STATE OF KANSAS

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Before Commissioners: John Wine, Chair Cynthia L. Claus Brian J. Moline

*OPS-02-0070*

In the Matter of the Application of Aquila, Inc., d/b/a )  
Aquila Networks-KGO, f/k/a UtiliCorp )  
United Inc., d/b/a Peoples Natural Gas Company )  
(KGO), Filing a Request to Modify the Requirements )  
Part 192.285(c) as Adopted by K.A.R. )  
82-11-4 Last Amended February 25, 1999. )

**Docket No. 02-AQLG-810-MIS**

of 49 C.F.R.

ORDER

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas ("Commission"). Having examined its files and records, and being duly advised in the premises, the Commission finds and concludes as follows:

I. BACKGROUND

**1.** On March 11, 2002, Aquila, Inc., d/b/a Aquila Networks-KGO, f/k/a UtiliCorp United Inc., d/b/a Peoples Natural Gas Company (KGO) ("Aquila" or "Applicant"), filed an informal application for waiver of the requirements of 49 C.F.R. §192.285(a)(2) and § 192.285(c), as adopted by K.A.R. 82-11-4, and requesting modification of the criteria utilized for re-qualification of their employees who engage in the joining of plastic pipe, as well as the frequency of re-qualification.

**2.** Aquila states that under the strict 12-month "clock" presently imposed by the criteria of 49 C.F.R. § 192.285(c), large natural gas utility operators with numerous personnel qualified to make plastic joints are faced with the practical difficulties associated with tracking the joints made by each person on an individual basis as prescribed by the regulation. Consequently, Aquila, like many large operators, has opted to simply re-qualify their personnel





OPS-02-0070

within the 12-month requirement. In order to comply with the current 12-month re-qualification language of the regulation, Aquila indicates that companies have found it necessary to establish training schedules on an 11-month basis in order to allow for scheduling conflicts. For efficiency reasons, operators generally attempt to schedule the re-qualification of personnel during periods of inclement weather in order to maximize total construction days. Aquila further states that the ability to efficiently schedule large numbers of employees to take advantage of these weather-related lulls in construction activity has been severely hampered by having to re-qualify every employee on an 11-month basis. Aquila indicates that it always strives to achieve the 12-month re-qualification, however, the company feels that a more reasonable approach could be implemented. In order to accommodate a degree of flexibility in scheduling, the company proposes that a person be re-qualified at least once each calendar year, but at intervals not exceeding fifteen (15) months, a practice that is permitted elsewhere in the pipeline safety regulations. Aquila maintains that their proposed approach will not jeopardize safety as the employees will still be required to re-qualify on an annual (calendar year) basis, but it will permit a measure of flexibility so that the scheduling of re-qualifications can occur when weather or other conditions do not permit normal work activities.

3. In addition to the requested waiver discussed in paragraph 2 above, Aquila also proposes an alternative with respect to the process for re-qualification of persons making mechanical and/or electrofusion joints. The company believes that each person, during his or her initial qualification regarding a plastic joint, should make a complete assembly of each type of mechanical and electrofusion joint. However, during subsequent annual re-qualification the company proposes that the person participate in a joining process review for each assembly procedure covering the knowledge needed for each specimen joint assembly and procedure, and demonstrate all steps leading up to the actual

production of a joint, but that the joint not be completed. Aquila maintains that the granting of its requested waiver and permitting implementation of the requested alternative means of re-qualification will not compromise safety. Additionally, the company believes the change will result in efficiency and cost benefit\$ by saving training time and minimizing the number of non-reusable plastic mechanical joints that are destroyed in the training process.

4. 49 C.F.R. § 192.285(a)(2) and §192.285(c), as adopted by K.A.R. 82-114, presently read as follows:

(a) No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:

**(1)** Appropriate training or experience in the use of the procedure; and

**(2)** Making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section, (emphasis added)

(c) 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 §192.513. (emphasis added)

The Commission Staff ("Staff") has thoroughly investigated Aquila's request and concludes for the reasons indicated in the Memorandum of Leo M. Haynos, Chief of Pipeline Safety, dated April 11, 2002, that the changes proposed by Aquila in paragraphs 2 and 3 above are fully consistent with pipeline safety requirements, and under certain conditions, they are more stringent than current regulation. Staff recommends approval of Aquila's request for waiver and modification of the requirements of 49 C.F.R. §192.285(aX2) and §192.285(c), as adopted by K.A.R. 82-114, as follows:

"(a) No person may make a plastic pipe joint unless that person has been qualified under the applicable joining procedure by:

(1) Appropriate training or experience in the use of the procedure; and

(2) Except when re-qualifying for mechanical or electrofusion joints under § 192.285(c)(1), making a specimen joint from pipe sections joined according to the procedure that passes the inspection and test set forth in paragraph (b) of this section.

(c) A person must be requalified under an applicable procedure at the following frequencies:

(1) Once each calendar year, but at intervals not to exceed 15 months; or

(2) Whenever that person has 1 joint made under that procedure that is found unacceptable by testing under §192.513."

Staff recommends approval of Aquila's request to waive the requirements of 49 C.F.R. §192285(a)(2) and §195.285(c) in accordance with modification of the procedures for re-qualification as set forth above. Staff further notes that Aquila's requested waiver will also require approval of the U.S. Department of Transportation under 49 U.S.C.A 1671, et seq., as amended, now 49 U.S.C. 60101, et mg

5. Granting the requested waiver and modification will not compromise pipeline safety and offers efficiency in personnel testing and re-qualification, as well as cost benefits by minimizing the number of non-reusable plastic mechanical joints destroyed in the training process.

IL AUTHORITY

6. K.S.A. 66-1,150 authorizes the Commission to adopt such mles and regulations as may be necessary to be in conformance with the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C.A. 1671, et seq., as amended, now 49 U.S.C. 60101, et seq.

7. This application seeks a waiver of the requirements of 49 C.F.R. §192.285(a)(2) and §192.285(c), as adopted by K.A.R. 82-11-4.

8. K.A.R. 82-11-9(b) provides that the Commission may grant waivers of compliance with gas pipeline safety regulations in K.A.R. 82-11-1, et seq., after notice and opportunity for hearing, if the Commission determines that the waiver is consistent with pipeline safety. Staff has recommended that a waiver be granted as being consistent with pipeline safety.

9. Pursuant to K.A.R. 82-1-202(a), the Commission has the power to waive any of its

regulations, and can waive the requirement of notice and opportunity for hearing if the Commission determines that a waiver of the requirement contained in KA.R 82-11-9(b) is in the public interest.

10. Staff has reviewed the proposal and the applicable regulations, believes the proposed waiver is consistent with public safety, and recommends approval of the application, subject to adoption of Staff's recommendations.

#### 111. FINDINGS

The Commission finds as follows:

a. Findings of Fact:

**(1)** The Commission, pursuant to KS.A. 66-1,150, is authorized to adopt such rules and regulations as may be necessary to be in conformance with the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C.A. 1671, et seq., as amended, now 49 U.S.C. 60101 et seq.

**(2)** Applicant is a certificated public utility authorized to transact the business of a natural gas public utility within the State of Kansas.

**(3)** The Commission has the authority to grant the waiver requested by Aquila under K.A.R. 82-11-9(b).

**(4)** The Commission has the authority, under K.A.R. 82-1-202(a), to waive requirements of its regulations, including the requirement for notice and opportunity for hearing under KA.R. 82-11-9(b), and the Commission finds that it is in the public interest to do so in this matter.

**(5)** The Applicant's request for a waiver of the requirements of 49 C.F.R. §192.285(aX2) and § 192.285(c) and modification of the personnel re-qualification procedures is consistent with pipeline safety.

b. Conclusions of Law:

**(1)** The Commission concludes that it has the authority under applicable statutes and

regulations referenced above to grant the requested waiver and modification.

(2) The Commission finds that the waiver and modification requested is in the public interest, is consistent with pipeline safety and should be granted.

IT IS THEREFORE BY THE COMMISSION ORDERED THAT:

(A) The application for waiver is granted, subject to the following conditions:

- The requirements of 49 C.F.R. § 192.285(a)(2) and § 192.285(c) are hereby waived and modified in accordance with the revisions recommended by Staff in paragraph 4 above.
- Approval of Applicant's waiver by the U.S. Department of Transportation under 49 U.S.C.A. 1671, et seq., as amended, now 49 U.S.C. 60101, et seq.

(B) The parties have fifteen (15) days from the date of this order, plus an additional three (3) days if service of this order is by mail, to file a petition for reconsideration of this order.

(C) The Commission retains jurisdiction of the subject matter and the parties for the purpose of entering such further order or orders as it may deem necessary and proper.

BY THE COMMISSION IT IS SO ORDERED.

Wine, Chr.; Claus, Corn.; Moline, Corn

ORDER MAILED

Dated: APR 2 6 2002

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Jeffrey S. Wagaman Executive Director

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