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November 22, 2004

RECEIVED  
NOV 29 2004

Mr. Steve Gaw, Chair  
Public Service Commission  
Governor Office Building, Suite 900  
200 Madison Street  
Jefferson City, Missouri 65102

Re: Waiver - City of Perry, Missouri

Dear Mr. Gaw:

I have enclosed an original and one copy of an Application for Permanent Waiver Upon Compliance With Specified Conditions to be filed on behalf of my client, the City of Perry, Missouri.

I ask that this Waiver Application be processed and granted at your earliest convenience.

If you have any questions, please do not hesitate to contact me.

Very Truly Yours,

Joseph A. Brannon

JAB:mg  
Enclosure

FILED  
DEC 07 2004  
Missouri Public  
Service Commission

RECEIVED

DEC 07 2004

Adjudication Division  
Public Service Commission

TO  
Data  
Center

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the matter of the Application        ]  
of various members of the Missouri       ]  
Association of Natural Gas                ]  
Operator for a Permanent Waiver         ]  
from Certain Provisions of                ]  
4 CSR 240-40.030                         ]

Case No. \_\_\_\_\_

**FILED**

DEC 07 2004

**APPLICATION FOR PERMANENT WAIVER  
UPON COMPLIANCE WITH SPECIFIED CONDITIONS**

**Missouri Public  
Service Commission**

*C*OMES NOW the below-listed member of the Missouri Association of Natural Gas Operators ("MANGO" or "the Applicant") in conjunction with the Plastic Joining Process Committee of MANGO, pursuant to 4 CSR 240-40.030(16) and 49 USC §60118(d), and for its Application for a Permanent Waiver Upon Compliance With Specified Conditions from certain provisions of 4 CSR 240-40.030, respectfully states as follows.

1. The Applicant in this proceeding is the City of Perry, Missouri. The Applicant operates a natural gas distribution system in Missouri. This Applicant, who is a corporation or other business entity, requests that it not be required to produce a certified copy of its Articles of Incorporation or certificate of authority to do business in Missouri or registration of fictitious name as otherwise required by 4 CSR 240-2.060(11) for this application because of the voluminous nature of the materials that would be required for this application and because it is already well-known to the Commission having obtained certificates of public convenience and necessity and having participated in numerous cases before the Commission. The Applicant is a political subdivision of the State of Missouri. The Applicant, in some fashion, is already subject to the regulations of the Commission.

2. Communications in regard to this application should be addressed to the following:

Joseph A. Brannon  
Attorney at Law  
Briscoe, Rodenbaugh & Brannon  
423 South Main Street  
P.O. Box 446  
New London, Missouri 63459

3. The Applicant requests that the Commission grant a permanent waiver, so long as certain specified alternative conditions are met, from a portion of 4 CSR 240-40.030 of the Commission's gas

safety rules, which adopted the minimum Federal Safety Standards as set out in the Code of Federal Regulations, 49 CFR Part 192.

4. The granting of such a waiver is authorized under 4 CSR 240-40.030(16) and 49 USC §60118(d) and will not be inconsistent with gas pipeline safety. In particular, the Applicant seeks a waiver applicable to the provisions of 4 CSR 240-040.030(6)(H)3 which corresponds to 49 CFR 192.285©). This provides that a person must be re-qualified under an applicable plastic joining procedure if, during any twelve (12)-month period, that person does not make any joints under that procedure, or if the person does not make such joints, there are either three (3) joints or three percent (3%) of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under subsection (10)(G) of the same rule (49 CFR 192.513).

5. The existing text of the portion of the rule reads as follows:

3. A person must be re-qualified under an applicable procedure if during any twelve (12)-month period that person:
  - A. Does not make any joints under that procedure; or
  - B. Has three (3) joints or three percent (3%) of the joints made, whichever is greater, under that procedure that are found unacceptable by testing under subsection (10)(G) (192.513).

6. The permanent waiver requested here would allow an alternative means of ensuring qualification for people making such joints. The alternative would be "A person must be re-qualified under applicable procedures at least once each calendar year, but at intervals not exceeding 15 months. Following the initial qualification for electrofusion and mechanical joining procedures, for re-qualification, a person must participate in a review on the proper joining procedures during such time period."

7. The first aspect of the proposed alternative involves allowing "re-qualification", if it is elected to be performed annually, to occur within each calendar year, but at intervals not exceeding 15 months. The existing provision establishes a strict 12-month "clock" for tracking a person performing plastic joints. This 12-month time period is used in determining whether a person has made a particular joint or has had the number or percentage of failures specified by the rule during this time period. Applicant has found that verifying this information is extremely difficult, especially for large natural gas utility operators with numerous (literally several hundred) persons who are qualified to perform plastic joints. Because of the practical difficulties involved in attempting to track

the joints made by each person on an individual basis, almost all operators have opted to simply re-qualify their personnel under 3.A. within the 12-month requirement.

8. The current 12-month re-qualification language, however, really requires the Applicant to establish training schedules on an 11-month basis to account for scheduling conflicts. For efficiency reasons, operators generally attempt to schedule the re-qualification during periods of the year when there is inclement weather so that they can maximize total annual construction days. The ability to efficiently schedule what can be literally hundreds of employees, in the case of some operators, so as 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. The Applicant always strives to achieve the 12-month re-qualification period. There is a more reasonable way, however, to achieve the same goal of annual re-qualification based upon an approach that is already used elsewhere in the gas safety rules. This approach generally requires that an action be taken each year or within a set period. The Applicant proposes to utilize the common phrasing in this proposal: "A person must be re-qualified ... at least once each calendar year, but at intervals not exceeding 15 months." This alternative approach appropriately balances the safety requirement of re-qualification once each calendar year with improvement in efficiency by giving the operator some flexibility in scheduling the employee for this re-qualification. This approach would not jeopardize safety as the employees will still be required to re-qualify on an annual (calendar year) basis, but it will allow some flexibility so that the scheduling of these activities can occur when weather or other conditions do not permit normal working activities.

9. The second aspect of the alternative proposed by the Applicant pertains to the re-qualification of persons making mechanical and/or electrofusion joints. The Applicant 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. All applicable inspections and specimen joint testing will be required during these initial qualifications, as it always has been. Thereafter, each qualified person will be required to participate in an annual joining process review for each assembly procedure. The review will cover the appropriate knowledge needed for each specimen joint assembly and procedure and involve all of the steps leading up to the actual production of a joint.

10. Qualifying a person on mechanical plastic joining generally requires the person to assemble the mechanical joint to where it has the same appearance as an identical mechanical joint pictured in the manufacturer's publication. It is imperative that each qualified person has the proper knowledge of the mechanical joint assemblies, and the proposed alternative will not compromise that. While initial qualifications and annual re-qualifications adequately convey this, most mechanical joints are packaged with the

instructions readily available to the employee making the installation, and each set of plastic joining procedures is kept in record format or within an operator's operations and maintenance manual.

11. The Applicant believes that safety will be enhanced, as described below, and not compromised, by granting this waiver with this alternative means of re-qualification. Efficiency and costs benefits will accrue as a result of minimizing the number of non-reusable plastic mechanical joints which are destroyed in the training process and the training time saved. These joints cost approximately \$45.00 each, and with several hundred being used each year, can present a substantial cost for large operators. The Applicant believes the cost and time savings can be better directed to increase employees' training experience in other facets of pipeline safety. The Applicant believes this parallels pipeline operators' efforts to comply with U.S. Department of Transportation (DOT) promulgation of operator qualification requirements that recently became effective.

12. Cost and time savings will also be realized, without sacrificing safety, by granting the waiver for electrofusion re-qualification. Electrofusion is a technological enhancement to the pipeline industry because of its facilitation of repairs. A computer processor determines the heat fusion of the plastic pipe during this joining process. All steps leading up to the point of "pushing the button" on a control box during electrofusion are important and should be reviewed during re-qualification. An annual review will also include the proper methods of surface preparation alignment of fitting and pipe, connections of electrical leads, and all required steps. Completing the fusion process by activating the control box serves only to test the operation of the system and does not give any indication of the employee's ability that could not be discerned from a review process.

13. If the electrofusion system has been proven to perform in an acceptable manner, then the mechanics of the assembly process are similar to mechanical joining and the testing of the actual fusion is not necessary. Safety would not be compromised, as the employee would still be required to review his or her knowledge of the appropriate steps to ensure an acceptable plastic joint.

14. Technological developments in plastic joining have complemented pipeline operators' goals to minimize excavation costs and facilitate the restoration of the customer's service during repairs. However, the technologically improved fittings have increased in cost. Expending costly plastic fittings re-qualification of employees creates an unnecessary cost that does not provide any additional safety benefits. The application of DOT pipeline safety regulation 49 CFR 192.805 will require all operators in the pipeline industry to incur additional training costs. The Applicant believes that the unnecessary costs associated with electrofusion and mechanical plastic joining re-qualifications could be used more effectively in meeting the changes in the pipeline

safety requirements. While pipeline operators continually adapt to the changes of the utility industry, the Applicant believes that safety regulations should also adapt to complement pipeline industry developments.

15. Granting this permanent waiver creates cost-effectiveness and promotes efficient training which provides increased safety and economical service to customers. The Applicant strives to provide more than adequate training to its employees to improve service to its customers. The safety policies and procedures of the Applicants will ensure that the waiver will not compromise the safety of the natural gas pipeline system.

**WHEREFORE**, the Applicant requests that the Commission issue an Order granting Applicant a permanent waiver from the provisions of 49 CFR 192.285(c) as adopted by the Commission in 4CFR 240.030(6)(H)3. A. and B. to re-qualify its respective employees for plastic joining if, instead, they meet the following criteria:

"A person must be re-qualified under applicable procedures at least once each calendar year, but at intervals not exceeding 15 months. Following the initial qualification for electrofusion and mechanical joining procedures, for re-qualification, a person must participate in a review on the proper joining procedures during such time period."

**BRISCOE, RODENBAUGH & BRANNON**

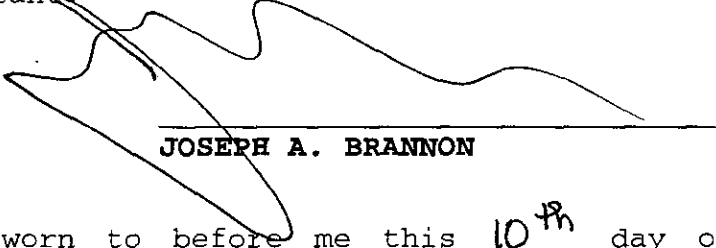
BY: 

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**ATTORNEYS FOR APPLICANT**

VERIFICATION

STATE OF MISSOURI            ]  
                                  ] ss.  
COUNTY OF RALLS            ]

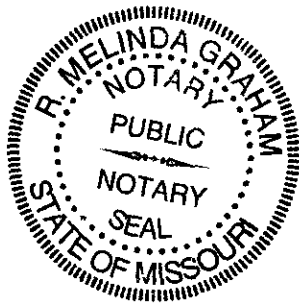
The undersigned, having been first duly sworn, states that he has read the foregoing Application for Waiver and that the facts contained therein are true and correct to the best of his knowledge, information and belief, and the undersigned is authorized to act as legal counsel for the Applicant.



JOSEPH A. BRANNON

Subscribed and sworn to before me this 10<sup>th</sup> day of November, 2004.

My Commission Expires: January 18, 2005



R. Melinda Graham  
R. MELINDA GRAHAM, Notary Public  
for Ralls County, Missouri