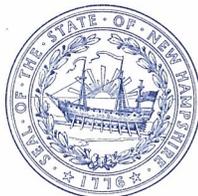


THE STATE OF NEW HAMPSHIRE

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November 18, 2011

Debra Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301



Re: DG 11-196, Unitil Show Cause Proceeding

Dear Ms. Howland:

In response to the procedural proposal filed on November 16, 2011, by Northern Utilities, Inc. (Unitil, Northern, or the Company) and supported by the Office of the Consumer Advocate (OCA) in the above-captioned docket, Staff suggests that where the record has established that standards agreed to in a settlement agreement approved by the Commission have not been met, the company in violation of those standards bears the burden of persuasion. *See, e.g., Wilton Telephone Company et al.*, Order No. 23,744 (July 26, 2001) at 22-25 (finding that once the basis of a complaint and an initial demonstration of non-compliance or violation of an order, rule or statutory requirement have been made, the ultimate burden of persuasion is on the public utility); *see also, Unitil Investigation into the Ice Storm of 2008*, Order of Notice (Jan. 8, 2010) (ordering Unitil to file testimony addressing the issues described in the order of notice). Staff previously filed a memorandum in this proceeding describing certain emergency response standards approved by Commission order, and Unitil's non-compliance with those standards. Northern filed a written response to Staff's memorandum that does not contest its non-compliance.

In its September 8, 2011 Order Setting Pre-Hearing Conference, the Commission found grounds for going forward with a show cause proceeding on the basis of memoranda filed by Staff and Northern. Those grounds are further substantiated by the Joint Stipulation of Facts filed by the Company and Staff on October 17, 2011. In its order, the Commission stated that Northern would be "required to show cause why the Company and its Officers should not be subject to fines and other sanctions for failure to comply with the Emergency Response Standards established by settlement agreement approved in Order No. 24,906."

Staff does not agree with either Unitil or the OCA that the proposed schedule is consistent with similar proceedings the Commission has conducted. Given the record established in this docket, Staff believes that this case should go directly to a show cause hearing. If the Commission decides that it needs to hear testimony for purposes of substantiating the record or clarifying party positions, then requiring Unitil to submit testimony first fully comports with due process.

As noted, the record has already established violation of settlement terms approved by the Commission in Order No. 24,906 (Oct. 10, 2008). Staff believes that because the recorded violations concern gas pipeline emergency response standards and customer safety, the Commission should establish an expedited procedural schedule to resolve the issues raised in this docket. Toward that end, Staff proposes the following schedule:

Unitil Testimony	December 2, 2011
Data Requests	December 7
Data Responses	December 13
Staff/Intervenor Response Testimony	December 23
Data Requests	December 29
Data Responses	January 4, 2012
Unitil Rebuttal Testimony	January 11
Hearing	January 17
Briefing on appropriate remedies	

If you should have any questions, please do not hesitate to contact me at 603.271.6030. Thank you for your attention to this matter.

Sincerely,



Lynn Fabrizio
Staff Attorney

cc: Service List (via electronic mail)