

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

Docket No. DG 07-033

**NORTHERN UTILITIES, INC.
2007 SUMMER COST OF GAS**

**RESPONSE TO STAFF'S LETTER /MOTION TO AMEND
AND TO AMENDED OBJECTION**

NOW COMES Northern Utilities, Inc. ("Northern"), by and through its undersigned attorneys, and responds to the letter filed with the New Hampshire Public Utilities Commission ("Commission") by Staff, through Staff Attorney Anne Ross, dated November 16, 2007 and to the pleading filed therewith by stating as follows:

1. The above-referenced letter seeks a waiver of Admin. Rule Puc 203.07 (f) which requires that objections to motions for rehearing be filed within 5 days. As such, the letter is actually a motion which does not conform to the requirements of Rule Puc 203.07 (b).
2. As the above-referenced letter indicates, Staff is seeking to amend its originally-filed objection to Northern's Motion for Reconsideration, Rehearing and Clarification of Order No. 24, 786. The letter states that "Staff believes that this late filing may be helpful in clarifying Staff's position in this case..." and that the amendment is necessary to correct an inaccurate statement contained in the original objection filed in the instant action. Staff's letter asserts that it "did not realize the need to amend this

objection until it heard the testimony of Ms. Leary on behalf of Energy North Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England on November 8, 2007 in docket DG 07-050.”

3. Although Staff asserts that it needs to amend its objection to correct an “inaccurate statement”, what Staff’s amendment really accomplishes is to replace the faulty reasoning which Staff initially used to support its position (regarding how to transition from the “billed revenues” to the “accrued revenues” accounting methodology) with a new rationale. Staff’s position in the instant docket is that when transitioning to the “accrued revenues” methodology, Northern should record one and one half months of revenue and only one month of costs for the month of October 2005. Staff’s original reason for this transition approach was to correct “an error made when the billed revenue accounting methodology was first implemented: namely, the inclusion of only half a month’s revenue in the initial month.” Commission Staff Objection to Motion for Reconsideration, Rehearing and Clarification, October 22, 2007, p. 5. As Ms. Leary’s testimony in DG 07-050 clearly revealed, no such error occurred when the billed revenue methodology was instituted because a full month of revenue was, in fact, recorded at that time. DG 07-050, Tr. Day II, p. 48, lines 8-12. Thus, Staff’s original argument in support of its transition methodology has been, in point of fact, proven to be completely wrong.

4. Through its amended objection in the instant docket, Staff now seeks to reform its rationale and promote a brand new basis for its flawed transition methodology. Staff’s new thinking is that it is necessary to adjust the starting balance for accrued revenue accounting in order to avoid overstating Northern’s actual under-collection or,

conversely, understating Northern's actual over-collection. Staff believes that this adjustment "will eliminate a benefit (i.e., high interest receipts due to the failure to recognize October unbilled revenue) that the Company was never entitled to." Id. However, neither of these reasons supports Staff's transition methodology.

5. As KeySpan has done, Northern has always calculated interest on deferred gas cost balances based upon one month of revenues and one month of costs. Staff's recent dissatisfaction with and attacks on the amount of interest that Northern receives on its deferred balances does not mean that Northern has been receiving a benefit to which it was never entitled, and certainly does not mean that Northern received a benefit from reflecting less than one month of revenue while reflecting a full month of costs--- something that Northern has never done.

6. While Staff has put forward its preferred accounting and transition methodologies, it has presented no evidence to support the position that Northern was never entitled to collect interest on the deferred gas cost balances produced by the "billed revenues" methodology, nor has Staff argued that this methodology has produced rates that were unjust or unreasonable. Significantly, the Commission has never found that the rates produced by Northern's cost of gas ("COG") methodology were unjust or unreasonable. Staff's argument for its preferred COG accounting is that Northern's calculation of monthly interest on its under or over collection balance needs to be changed to reflect one month of accrued (calendar month) collections matched against one calendar month of costs. However, Staff's position on its preferred implementation of this accounting change results in impacting the calculation of monthly interest beginning November 2005, and cumulatively going forward on a permanent basis, by

(mis)matching one and one-half months of collections with one calendar month of costs in the initial implementation month. Creating an under or over collection balance at that point in time which reflects an extra one-half month of collections impacts the interest calculation in that initial month, as well as in every subsequent month as that balance is carried forward. While Northern remains opposed to the accrued revenue accounting change, Northern expects that in the event that a final decision mandates a change in the COG accounting methodology, the impact on monthly interest would occur by virtue of matching in every month beginning in November 2005 one month of accrued calendar month collections with one calendar month of costs, and not by the mismatch advocated by Staff.

7. Almost of surmounting concern relative to the substantive issues raised by Staff's request to amend its objection, Northern fears that significant procedural issues have been implicated. Northern has not (thus far) been accorded the same procedural due process granted to KeySpan in order to adequately and affirmatively address Staff's changing positions on the transition methodology. KeySpan was heard and able to cross-examine Staff on the "transition issue" presented by Order No. 24,786 during two days of hearings on November 5 and November 8, 2007, while Northern had no such opportunity. Although KeySpan was provided with a hearing, it could not rebut Staff's new rationale for its transition position because Staff's closing argument in DG 07-050 occurred after KeySpan's. That Staff has the last word seems to contradict the Commission's holding in Northern's Order No. 24, 786 that the Company should bear the burden of proof in a COG hearing even if Staff puts forward a new methodology for revising a historically just and reasonable calculation of the COG.

8. In addition to the above-described procedural deficiencies, Northern has been subjected to disparate and disadvantageous procedural treatment in this docket for no apparent good reason. For example, Northern was forced to litigate the issue of whether it is appropriate to switch from its long-standing "billed revenues" COG accounting methodology to Staff's preferred "accrued revenues" methodology in the context of its Summer COG case, while KeySpan was given the opportunity to deal with that and related issues in a docket separate and apart from its Summer COG case. Northern's request for a separate proceeding was denied just one day after that request was made in its Motion to Defer Issues Raised by Staff. Northern then proceeded to a hearing on the merits just two business days following the denial of its Motion to Defer. KeySpan, on the other hand, had several months to work on the issues in DG 07-050. However, even though KeySpan had a lengthier process than did Northern, KeySpan now finds itself having to deal with a brand new Staff position introduced at the day of hearing. The troubling procedural and substantive issues raised by Staff's amended objection are obvious.

9. Admin. Rule Puc 203.10 (a) authorizes the Commission to permit the amendment of any document filed with the Commission provided that (1) notice is given to all persons on the service list; and (2) the Commission finds "that the amendment shall encourage the just resolution of the proceeding and will not cause undue delay." In addition, Puc 203.10 (b) states that the Commission shall not allow any amendment that has the effect of broadening the scope of the proceeding unless it provides notice to those affected and an opportunity to comment prior to final Commission action.

10. Staff's amendment, standing alone, will not encourage the just resolution of this proceeding. If the amendment is allowed to stand in the record without Northern having the opportunity to cross-examine Staff and to rebut the information in the amendment, Northern's procedural due process rights will be violated. Accordingly, for this reason and for all of the reasons set forth in Northern's Motion for Reconsideration, Rehearing and Clarification, the Commission should either deny Staff's amendment or promptly convene a rehearing of this matter.

11. In addition, because the amendment introduces a new argument, it has the effect of broadening the scope of this proceeding. Thus, under Puc 203.10 (b), the request for amendment must be denied unless Northern is given an opportunity to comment. Given the significant financial impacts as well as the procedural defects in this case, Northern's right to comment under Puc 203.10 (b) should take the form of a rehearing so that Northern will have the opportunity to cross-examine Staff witnesses and to present its own witness to answer any questions the Commission might have about Staff's new argument and about the other matters for which Northern has previously requested a rehearing.

WHEREFORE, Northern respectfully requests that this honorable Commission:

A. Grant a rehearing of this matter so that Northern, *inter alia*, may have the opportunity to address in a hearing before the Commission the matters set forth in Staff's amended objection as well as other matters that bear on the appropriateness of applying a different accounting methodology to determine its cost of gas rates and any associated transition issues;

B. Grant such further relief as it deems appropriate.

Respectfully submitted,
NORTHERN UTILITIES, INC.

By its attorneys,

Patricia M. French (ssg)

Patricia M. French
Lead Counsel
NiSource Corporate Services
300 Friberg Parkway
Westborough, MA 01581
508.836.7394
pfrench@nisource.com

Susan S. Geiger
Susan S. Geiger
Orr & Reno, P.A.
One Eagle Square
P.O. Box 3550
Concord, NH 03302-3550
603.223.9154
sgeiger@orr-reno.com

Date: November 20, 2007

Certificate of Service

I hereby certify that on this 20th day of November, 2007, a copy of the within Motion was sent to the Service List via electronic mail.

452996_1.DOC

Susan S. Geiger
Susan S. Geiger