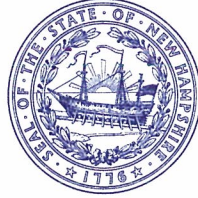


THE STATE OF NEW HAMPSHIRE

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March 15, 2016

Re: DG 16-240, Northern Utilities, Inc.
Request for Waiver of Puc 511

To the Parties:

On January 13, 2016 and January 27, 2016, the Commission's Safety Division (Staff) issued two notices of proposed violation (NOPV PS1601NU and NOPV PS 1602NU) to the New Hampshire Gas Division of Northern Utilities, Inc. (Northern or the Company). NOPV PS 1601NU relates to Northern's alleged failure to properly pressure test two plastic service lines in Dover at the time of their installation. NOPV PS1602 relates to Northern's alleged failure to properly uprate the maximum allowable operating pressure (MAOP) of the Company's Dover-Durham High Pressure System.

On February 11, 2016, Northern moved for a stay of proceedings under the enforcement provisions of the Commission's gas safety rules, Puc Part 511 (Northern Letter). The Company also moved pursuant to Puc 201.05(a) for a waiver of the entirety of Puc Part 511 in favor of a meeting with the Commissioners and Staff to establish "an alternate cooperative process" to rules-based enforcement. Request at 1. Northern raised the possibility that other systems within its service territory may require additional pressure testing to conform to minimum safety standards. *See, e.g.* Northern Letter at 4 and 12. Northern stated an intent to conduct these pressure tests and a "desire[]" to work cooperatively with the Commission and its Safety Staff to develop and implement a mitigation plan that is acceptable to the Commission while causing the least disruption to Northern's customers, and avoiding the time and expense of litigation through the NOPV and NOV process." *Id.* at 2. Northern asserted that "the public interest would not be served by imposing a series of civil penalties upon . . . current ownership for events that occurred . . . prior to Unutil Corporation's acquisition of [the Company]. *Id.* at 1.

Staff objected to the Company's request. Staff argued that the public interest would not be served by a waiver of Puc Part 511, and that waiver would disrupt rather than further the orderly and efficient resolution of the NOPVs. Staff argued that it would be improper for the Commission to meet with the Company "outside of a public and formal process without full transparency." Staff Recommendation at 2. Staff stated its concern that a waiver of Puc Part 511 might "indirectly lead to a waiver of . . . federal regulations." *Id.* at 3. Staff objected to consolidation of the NOPVs, and represented that Staff would likely recommend an investigation of MAOPs that were previously established by uprating. *Id.*

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Northern responded to Staff's recommendation by clarifying that the Company does not seek a waiver of federal minimum safety regulations, and by reiterating its intent to achieve compliance with those requirements. Northern also clarified that it requests an open and public meeting with the Commissioners and Staff.

The Commission reviews requests for a rule waiver under Puc 201.05, and grants the requested waiver if the waiver serves the public interest and will not disrupt the orderly and efficient resolution of matters before the Commission. Puc 201.05(a). In determining the public interest, the Commission waives a rule if compliance with the rule "would be onerous or inapplicable given the circumstances of the affected person," or if the "purpose of the rule would be satisfied by an alternative method proposed." Puc 201.05(b).

In this case, the Commission determined that Northern's request fails to meet either prong of the "public interest" standard set forth in Puc 201.05(b). The Commission found that Puc Part 511 is neither onerous nor inapplicable merely because civil penalties may be imposed, or that some of the acts alleged occurred prior to an exchange of company ownership. The Commission found that Puc Part 511 sets forth an expedited, efficient, and cooperative method for determining violations, applying civil penalties when warranted, and achieving compliance with minimum safety standards, and that Northern's proposal would undermine the orderly and efficient resolution of the violations alleged in the two NOPVs at issue. The Commission therefore denied Northern's request for a waiver and declined to stay enforcement proceedings.

Additionally, the Commission noted Northern's commitment to identify other systems within its service territory that might require additional pressure testing to conform to minimum safety standards and to mitigate any deficiencies. The Commission decided to allow the investigation of those potential deficiencies by the Safety Division. The Commission would encourage Northern to promptly complete its review of systems that have been updated, as referenced in Section B of the Northern Letter, and to provide the results of the Company's review and any proposed corrective action plans to Staff as soon as possible.

For administrative efficiency, the Commission has elected to issue this Secretarial Letter as its order on the motion filed February 11, 2016.

Sincerely,

A handwritten signature in blue ink, appearing to read "Debra A. Howland".

Debra A. Howland
Executive Director

cc: Docket File/Service List (Electronically)

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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Docket #: 16-240-1 Printed: March 15, 2016

FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with: DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.