

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 21-144

NORTHERN UTILITIES, INC.

**Petition for Approval of Seventh Amendment to
Special Contract with Foss Manufacturing Company, LLC**

**COMMENCEMENT OF ADJUDICATIVE PROCEEDING
AND NOTICE OF PREHEARING CONFERENCE**

On December 29, 2021, Northern Utilities, Inc. (Northern or the Company) filed a Petition for Approval of Seventh Amendment to Special Contract with Foss Manufacturing Company, LLC, now known as Foss Performance Materials, LLC (Foss) to extend the discounted rate terms and conditions of its existing contract for two years, until February 29, 2024, with an option to extend on a monthly basis for a period of one year. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission's website at www.puc.nh.gov/Regulatory/Docketbk/2021/21-144.html.

I. BACKGROUND AND PROCEDURAL HISTORY

The Commission first approved, pursuant to RSA 378:18, a five-year special contract between Northern and Foss for firm gas transportation service in *Northern Utilities, Inc.*, Order No. 23,381 (January 6, 2000) (the Contract). The Contract expired on February 28, 2005. Subsequently, Northern has sought periodic extensions through sequential amendments of the original contract terms.

On February 28, 2018, the Commission issued Order No. 26,107 in Docket No. DG 16-855, approving a four-year extension to the Contract, to February 28, 2022. In that order, the Commission denied a concurrent request for approval of five automatic

one-year renewals thereafter, as submitted in the Company's petition filed on December 1, 2016 in Docket No. DG 16-855. In its current petition, Northern requests the Commission's approval of a seventh amendment to the Contract with Foss, which would extend the Contract to February 29, 2024, with an option to extend on a monthly basis for a period of one year thereafter.

II. ISSUES PRESENTED

The filing presents the following issues: whether special circumstances exist which render a special contract for firm gas transportation service between Northern and Foss just and in the public interest pursuant to RSA 378:18 for the reasons presented in Northern's petition, including, *inter alia*, current economic and market conditions. The petition also warrants review of the steps Foss has taken pursuant to the "Checklist for Economic Development and Business Retention Discounted Rates" approved in Docket No. DR 91-172 by Order No. 20,882, issued on June 23, 1993, including the energy audit Foss filed on December 29, 2021, pursuant to Order No. 26,107 issued on February 28, 2018,¹ and Foss's intent to transition away from relying primarily on natural gas to fuel its operations. Finally, the Commission notes that Northern modified how it calculates the marginal costs to serve the load required by Foss under the special contract, and the pending rate case in Docket No. DG 21-104 may raise further issues regarding that calculation. For these reasons, an adjudicative proceeding will be convened to address the Contract and issues related to the Contract in the current docket.

The Commission will conduct the prehearing conference and any hearings scheduled in this matter in person. The Commission will consider requests to conduct

¹ Foss filed its Audit Report pursuant to an extension of time granted by Order No. 26,526 issued on September 23, 2021.

hearings using a hybrid format to permit remote participation only if the Commission has determined that a sufficient reason has been provided for why one or more of the participants are unable to attend in person. Any party requesting a hybrid hearing format to accommodate those who will be participating remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the prehearing conference or hearing date. If the Commission determines that a hybrid approach will be used, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform, and a remote hearing link will be posted on the Commission's website.

Based upon the foregoing, it is hereby

ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A, RSA 378:18, and the Commission's procedural rules; and it is

FURTHER ORDERED, that the Contract between Northern and Foss, as amended and approved by Order No. 26,107 on February 28, 2018 (Sixth Amendment of Special Contract), is hereby extended for one year until February 28, 2023; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on September 13, 2022, at 9:00 a.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule

by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, Northern shall make appropriate personnel available for the parties, to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is,

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to Northern and any other parties on the service list, on or before August 16, 2022. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before August 26, 2022; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at

<https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper

copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, Northern shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before March 10, 2022. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this twenty-third day of February, 2022.



Daniel C. Goldner
Presiding Officer
Chairman

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

Service List - Docket Related

Docket# : 21-144

Printed: 2/23/2022

Email Addresses

ClerksOffice@puc.nh.gov
Energy-Litigation@energy.nh.gov
sgeiger@orr-reno.com
thomas.getz@mclane.com
Jim.Gibson@astjohnson.com
donald.m.kreis@oca.nh.gov
ocalitigation@oca.nh.gov