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April 9, 2015

NHPUC 10APR'15PM2:21

Debra A. Howland, Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

Re: Northern Utilities, Inc.
Request for Hearing on Notices of Violations PS1501NU and PS1502NU

Dear Ms. Howland:

I write on behalf of the Commission's Safety Division in response to Attorney William D. Hewitt's letter requesting a hearing on the two Notices of Violation (NOV) referenced above. A copy of Mr. Hewitt's letter is attached.

First, Staff does not object to the hearing request. Puc 511.09 grants Northern the right to a hearing and Puc 511.10(b) states that such a request "shall be treated as a request for an adjudicatory proceeding."

Second, Staff objects to Northern's request for a proceeding that includes prefiled testimony and discovery. Although Puc 203.09 grants a general right to discovery, in this case the material facts are undisputed. Both NOV's will turn on interpretations of the rules and regulations that each party will argue apply to the undisputed facts of what happened in the field. Staff's NOV's are detailed and descriptive. Staff previously issued similarly detailed Notices of Probable Violation. The parties also met in an informal conference pursuant to Puc 511.07 and discussed the facts and legal issues at length. There was no dispute over the underlying facts. Staff proposes that the hearing consist of a brief evidentiary presentation and legal argument. There is no need for prefiled testimony, discovery, or post-hearing briefs.

Third, Staff does not object to Northern's request to consolidate the two NOV's "for purposes of the adjudicatory proceedings," although Staff asks that the Commission address and rule upon the two NOV's separately.

Finally, Staff objects to Northern's request to stay "all proceedings" in order to wait for an interpretation from PHMSA, for three reasons. First, PHMSA is under no deadline to answer Northern's request for an interpretation. Staff's experience is that PHMSA sometimes does not

respond for years. Second, Northern's request was sufficiently imprecise and was limited to one of the NOVs. Any interpretation from PHMSA will thus have no bearing on the other NOV and will likely not provide much assistance with the first. Last, PHMSA's interpretations are not binding on Staff's enforcement of the pipeline safety rules in New Hampshire, nor are they binding on the Commission. The Commission may reach its own conclusions.

Staff supports Northern's request for a prehearing conference to discuss and resolve these procedural issues.

Sincerely,



Michael J. Sheehan
Staff Counsel

enclosure

cc: William D. Hewitt, Esq.
Randall S. Knepper



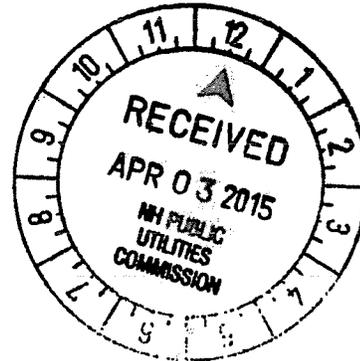
**Roach Hewitt Ruprecht
Sanchez & Bischoff, P.C.**

William D. Hewitt
whewitt@RoachHewitt.com

VIA OVERNIGHT DELIVERY

April 2, 2015

Ms. Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit St., Suite 10
Concord, NH 03301-2429



Re: PS1501NU (Dover Low Pressure System)
PS1502NU (Portsmouth Intermediate Pressure System)

Dear Ms. Howland:

Northern Utilities, Inc. ("Northern" or the "Company") has received the above-referenced Notices of Violation ("NOVs") issued by Commission Staff on March 26, 2015.

Northern disputes the NOVs. Pursuant to N.H. Code of Administrative Rules Puc 511.09(b) and 511.10(b), Northern respectfully requests that the Commission commence an adjudicatory proceeding for the purpose of deciding the NOVs. Consistent with Part Puc 203 (Adjudicative Proceedings) et seq., Northern requests that the following procedural components of an adjudicatory proceeding be adopted: prefiled testimony, discovery, evidentiary hearings and briefing.

In addition, as Staff notes in the NOV for PS1502NU (at pp. 3-4), Northern has requested from the Pipeline and Hazardous Materials Safety Administration ("PHMSA") a formal interpretation of whether the events related to PS1502NU constitute a violation of 47 U.S.C. Part 192 as alleged by Staff. Northern believes that the impending PHMSA interpretation is material to the Company's defense to the Staff's allegations. Specifically, although the Company's request for a formal interpretation is based on the facts of PS1502NU, PHMSA's interpretation may include analysis that is also applicable to PS1501NU (both NOVs allege violations of identical provisions of federal code, namely 47 U.S.C. §§ 192.619 and 192.195). Moreover, the Company intends to use the same witnesses to provide testimony on the two NOVs. Given the common alleged federal code violations and witnesses between the two NOVs, the Company requests that the NOVs be consolidated for purposes of the adjudicatory proceedings.

Ms. Debra Howland
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Finally, the Company was advised by PHMSA earlier this week that the formal interpretation is being finalized and will issue soon. Accordingly, Northern requests that all proceedings on the NOVs be stayed until April 30, 2015 to allow PHMSA to finalize its interpretation and the Company and Commission Staff time to assess the implications of the interpretation with regard to the NOVs.

Please do not hesitate to contact me if you have any questions concerning this matter.

Very Truly Yours,



William D. Hewitt

And

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