

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: August 11, 2014

AT (OFFICE): NHPUC

FROM: Amanda O. Noonan *AO*

SUBJECT: DG 13-321 Spinnaker Point Condominium Association Complaint
Against Unitil

TO: Amy Ignatius
Martin Honigberg
Robert Scott
Debra Howland

NHPUC 12AUG14AM7:33

CC: David Wiesner

Summary:

In a letter dated October 29, 2013, the Spinnaker Point Condominium Association (Spinnaker) filed a formal complaint against Unitil with the New Hampshire Public Utilities Commission regarding the disconnection of gas service to certain of its unit owner members. During its investigation of the complaint, Staff engaged in numerous discussions with Unitil and reached an agreement with Unitil which Staff believes addresses the issues raised by Spinnaker's complaint. Pursuant to this agreement, Unitil has established two distinct procedures to address identified code violations and safety issues with respect to customer gas appliances, piping, and other service equipment. Staff recommends the Commission find that the new procedures appropriately resolve the issues raised by Spinnaker, without requiring that Unitil provide additional notice to any non-customer property owners or managers. Staff recommends that the Commission dismiss the Spinnaker complaint based on this resolution.

Background:

On October 21, 2013, Unitil responded to a customer request to discontinue natural gas service to a condominium unit in the Spinnaker Point Condominium in Portsmouth. While on site, Unitil observed un-sleeved piping entering the concrete wall of the unit for which the discontinuance of service had been requested, as well as un-sleeved piping entering the concrete wall to the three adjacent units. Under the current New Hampshire Fire Safety Code, sleeving or other protection is required on steel piping which passes through concrete. Consistent with Unitil's then current procedures for addressing identified code violations, service was disconnected to all four units and a notice was left on-site, advising each customer to contact a plumber to make repairs and informing the customers that Unitil would restore the service once the repairs had been completed.

On October 29, 2013, Spinnaker filed a formal complaint with the Commission regarding

the disconnection of gas service which occurred on October 21, 2013. In its complaint, Spinnaker stated that gas service to the four units was disconnected without prior notification, without due cause, and without evidence of any imminent danger. Spinnaker further stated that the utility service disconnections created a needless health and safety hazard, given the time of year and the onset of cold temperatures. Spinnaker requested the Commission intervene to prevent Unitil from disconnecting service to any customer without adequate notice where no immediate threat to health and safety exists. Unitil responded to Spinnaker's complaint on November 26, 2013. On December 24, 2013, Spinnaker responded to Unitil's November 26, 2013 response.

Staff met with representatives of Unitil in November 2013 to review the policies and procedures followed when identifying unsafe conditions on customer appliances and gas piping. Staff advised Unitil that Staff found the then current Unitil policies and procedures to be overly broad and potentially not in compliance with the Commission's customer service rules. The Unitil procedures then in effect did not differentiate between identified code violations that did not present an immediate hazard to public safety and those which did present an immediate hazard. After numerous discussions with Unitil, Staff and Unitil reached an agreement which Staff believes addresses the issues raised by Spinnaker's complaint.

Pursuant to this agreement, Unitil has established and implemented two distinct procedures to address identified code violations and safety issues with respect to customer gas appliances, piping, and other service equipment. The first procedure, called a "yellow tag procedure," will be followed when a Unitil technician identifies a gas appliance or gas piping that is in violation of a state code or a company standard, but does not present an immediate hazard to public safety. Examples include unprotected piping passing through masonry walls deemed to be non-hazardous (for example, where there may be minor pitting of the piping but no visible sign of corrosion significant enough to indicate an immediate hazard); non-bonded CSST gas piping; or other non-hazardous violations of a state code or company standards. The first example, unprotected piping passing through masonry walls, was the situation which resulted in the immediate disconnection of gas service to four condominium units at Spinnaker Point in October 2013. Under the agreed-to yellow tag procedure, gas service will not be disconnected in such circumstances. Instead, a notice will be provided to or left for the customer explaining the condition that was identified as non-compliant with the state code or company standard and the corrective action that must be taken to address the condition. The notice will advise the customer that he or she has 30 days to have any necessary repairs made, and that Unitil will return to inspect the repairs once completed. If at the end of the 30 day period, the repairs needed to correct the non-compliant condition have not been made, then Unitil will be authorized to disconnect the gas service.

The second procedure, called a "red tag procedure," will be followed when a Unitil technician identifies a situation where a hazardous condition does exist. Examples of hazardous conditions include a gas leak at a gas appliance or gas piping; unsafe gas appliances, which may include improperly vented appliances or appliances leaking carbon monoxide; customer piping that due to severe corrosion or lack of support presents a gas leak hazard; or an unsafe chimney. When such a condition exists, Unitil will immediately

disconnect the gas appliance or the gas service, whichever is necessary to eliminate the hazardous condition. If the customer is present, Unitil will notify the customer of the hazardous condition and the need to disconnect the appliance or the service. Information regarding the repairs needed to correct the hazardous condition will also be provided. If the customer is not present, a notice will be left on-site that provides this information. Service will not be reconnected until such time as the necessary repairs have been completed and an inspection has been conducted.

On May 14, 2014, Staff sent a letter to Spinnaker explaining the revised Unitil procedures described above and asking Spinnaker to confirm by June 1, 2014 that the separate yellow tag and red tag procedures adopted by Unitil resolve the concerns raised by the Spinnaker complaint. On May 23, 2014, Robert Hogan, President of the Spinnaker Point Condominium Association Board of Directors, responded by e-mail to the Staff letter, thanking the Commission for reviewing and working to revise Unitil's yellow tag and red tag policy. Mr. Hogan noted that, while the Unitil policy was much improved, it did not address the Spinnaker situation where there is dual ownership of two distinct portions of the gas line. Mr. Hogan stated that condominiums differ from duplexes, apartments, commercial buildings, and private homes, whether owner-occupied or tenant-occupied, in the matter of who has the authority and the responsibility to make repairs and improvements required to maintain safety. As a result, Mr. Hogan recommended that Unitil keep records of whether the service provided is to a condominium where part of the gas service line is owned by and the responsibility of the condominium unit owner and part of the line is owned by and the responsibility of the condominium association. In those cases, Mr. Hogan believes both parties should be notified in the situations described by the yellow tag and red tag procedures.

Analysis and Recommendation:

The applicable state codes and Unitil standards provide important safety protections for Unitil gas customers and for all New Hampshire residents. The separate yellow tag and red tag procedures adopted by Unitil appropriately recognize that not all violations of state codes and company standards rise to the level of an immediate safety hazard warranting immediate disconnection without prior customer notice. The adoption of separate yellow tag and red tag procedures provide the relief initially sought by Spinnaker in its October 29, 2013 complaint, as gas service will not be disconnected without adequate prior notice where no immediate threat to health and safety exists.

Regarding the concern raised by Spinnaker in its May 23, 2014 e-mail to Staff, Staff does not recommend that the Commission require Unitil to identify those instances where gas service is provided to a condominium unit where part of the gas service line is owned by and the responsibility of the condominium unit owner and part is owned by and the responsibility of the condominium association. Staff believes such a requirement would represent an undue administrative burden on the utility.

Based upon discussions with Unitil, Staff understands that Unitil does not typically obtain the information necessary to provide such additional notices to other property owners, nor does Unitil believe it should be expected to give these additional notices to non-customers.

Staff agrees with the Unitil position on this issue. Although condominiums may have dual ownership and maintenance responsibility issues regarding gas service lines, other types of properties have similar issues. The gas service customer at a residential or commercial rental property is often the tenant rather than the owner of the property, and would not be responsible for maintenance of the gas service line. As the yellow tag or red tag notice is left at the customer's service location, communication between the tenant and the property owner or manager must occur before any necessary repairs may be made. In the case of a condominium property, communication must occur between the occupant of the condominium, whether the unit owner or a tenant, and the condominium association or property manager before repairs may be completed. Requiring Unitil to maintain records that would identify other property owners or interested parties, whether the property is part of a condominium association or some other ownership arrangement in which there is or may be dual ownership of or responsibility for the gas service line, and whether the utility service customer is the property owner, a unit owner or a tenant, would create an administrative burden for the utility.

Staff has attempted to reach Mr. Hogan to discuss the comment and suggestion set forth in his May 23, 2014 e-mail, but has been unable to arrange for such a discussion. Accordingly, Staff recommends the Commission find that the issues raised in the Spinnaker complaint have been resolved by the revised procedures and policies adopted by Unitil, and that the Commission dismiss the Spinnaker complaint based on such resolution.

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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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
EXECUTIVE 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.