

# STATE OF NEW HAMPSHIRE

Inter-Department Communication

NHPUC 24AUG18PM3:15

DATE: August 24, 2018

AT (OFFICE): NHPUC

FROM: Randy Knepper   
Director of Safety & Security

SUBJECT: Docket No. DG 18-103 Northern Utilities, Inc. request for a franchise territory expansion for the remainder of Atkinson and for a new territory in Kingston

## Safety Division Recommendation

TO: Debra Howland, Executive Director  
Steve Frink, Director, Gas and Water Division  
Anne Ross, Staff Attorney  
Lynn Fabrizio, Staff Attorney

CC: Paul Kasper, Assistant Director, Safety Division

The Safety Division submits this recommendation as part of its role as a technical resource for examining compliance with existing statutes and rules regarding franchise territories. The Safety Division maintains geographical mapping and Geographic Information System (GIS) capability for the Commission. This includes reviewing gas, electric, telecommunications, water, and cable system franchise territories. Duties include the recording of franchise territories in an electronic format and the development of a system to depict franchise territories overlaid in context with other utilities, physical geographic features, available land parcels, and tax maps. This requires adherence to state mapping policies and developing internal procedures in an effort to maintain a consistent overall geographical depiction of public services provided in the State of New Hampshire.

The Safety Division believes the Commission's review of the Northern Utilities, Inc. ("Northern") petition for authorization to expand its Atkinson franchise territory includes the examination of how the utility has complied with applicable statutes, rules, and Commission orders regarding utility franchise territories. Indeed, the Commission Order of Notice specifically requires such review. The Order states "*The filing raises, inter alia, issues related to statutory requirements under RSA Chapters 374 and 378, specifically RSAs 374:8 and 374:1, whether Northern keeps, and will continue to keep, accounts and records in the forms prescribed by the Commission in connection with its existing franchises and the proposed franchise in Kingston and Atkinson; RSA 374:22 and 374:26 "granting the Commission authority to determine whether Northern possesses the financial, technical, and managerial capability to own and operate the*

*proposed natural gas main extension and associated facilities in Kingston and Atkinson ..and whether terms and conditions for the franchise privilege should be applied by the Commission for the public interest.*” Thus, the Safety Division’s review concentrated on the above 3 areas:

- (1) RSAs 374:8 and 374:1, whether Northern **keeps, and will continue to keep, accounts and records in the forms prescribed by the Commission in connection with its existing franchises** and the proposed franchise in Kingston and Atkinson;
- (2) RSA 374:22 and 374:26 granting the Commission authority to determine whether Northern possesses the financial, technical, and managerial capability to own and operate the proposed natural gas main extension and associated facilities in Kingston and Atkinson, and
- (3) **Whether terms and conditions** for the franchise privilege should be applied by the Commission for the public interest.

The Safety Division wishes to call to the attention of the Commission that Northern has been operating outside its authorized franchise Atkinson territory for approximately 28 years. In docket DG 88-086, Northern petitioned for a limited franchise territory and was ultimately authorized by Commission Order No. 19,147 to operate in the limited franchise territory sought in the petition. The Safety Division has no knowledge at this time regarding whether the operation outside franchise boundaries is a result of an oversight, misunderstanding, or another reason. Attachment 1 depicts the area in question.

Northern’s petition in this proceeding neither mentions nor states that they have already been operating and serving customers beyond the previously authorized Atkinson franchise territory<sup>1</sup>. Based on discovery requests,<sup>2</sup> the Safety Division believes 20 customer accounts are currently being served beyond the existing franchise territory. These accounts include 8 residential and 12 commercial customer accounts on the following three streets: Lewis Lane, Robie Lane, and Indian Ridge Road. The main extension is approximately 6,400 feet beyond the authorized service territory. The Safety Division believes that Northern Utilities has been operating for 28 years out of compliance with RSA 374:22 without seeking permission for authority to expand its franchise in Atkinson. Approximately 10 of those 28 years have been under current management. A preliminary estimate reveals Northern has been collecting nearly \$30,000 per year in deliveries charges (including LDAC charges, distribution, and customer charges), based on the last 2 years of usage and applying current rates.

Maintaining records in connections with franchise territories is a fundamental obligation as required by Puc 1603.02 (h) through (l). RSA 374:13 requires accurate records be kept, as outlined in regulatory rules. Northern has not maintained accurate records regarding its Atkinson franchise. RSAs 365:40 and 41 outline the Company’s obligation to adhere to Commission orders and laws and provides authorization to apply a penalty to

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<sup>1</sup> Carroll Testimony p7 line 15 states “In the past thirty years, the Company has expanded service *within* its previously approved franchise territory in Atkinson”

<sup>2</sup> Discovery Request Staff 1-13 and 1-14.

violations when warranted. The Safety Division believes the Commission may sanction the Company if it chooses, and that it may do so either as part of this proceeding or a separate proceeding. Although an Order Nisi was requested by Northern, the Safety Division believes a hearing may be necessary and in the public interest if the Commission wishes to inquire further prior to granting an expanded franchise.

The Safety Division believes establishing and observing franchise territories is an essential requirement of the Company and hence requires strict observance of the RSAs mentioned in the order of notice, including RSA 374:22, RSA 374:26, and RSA 374:13.

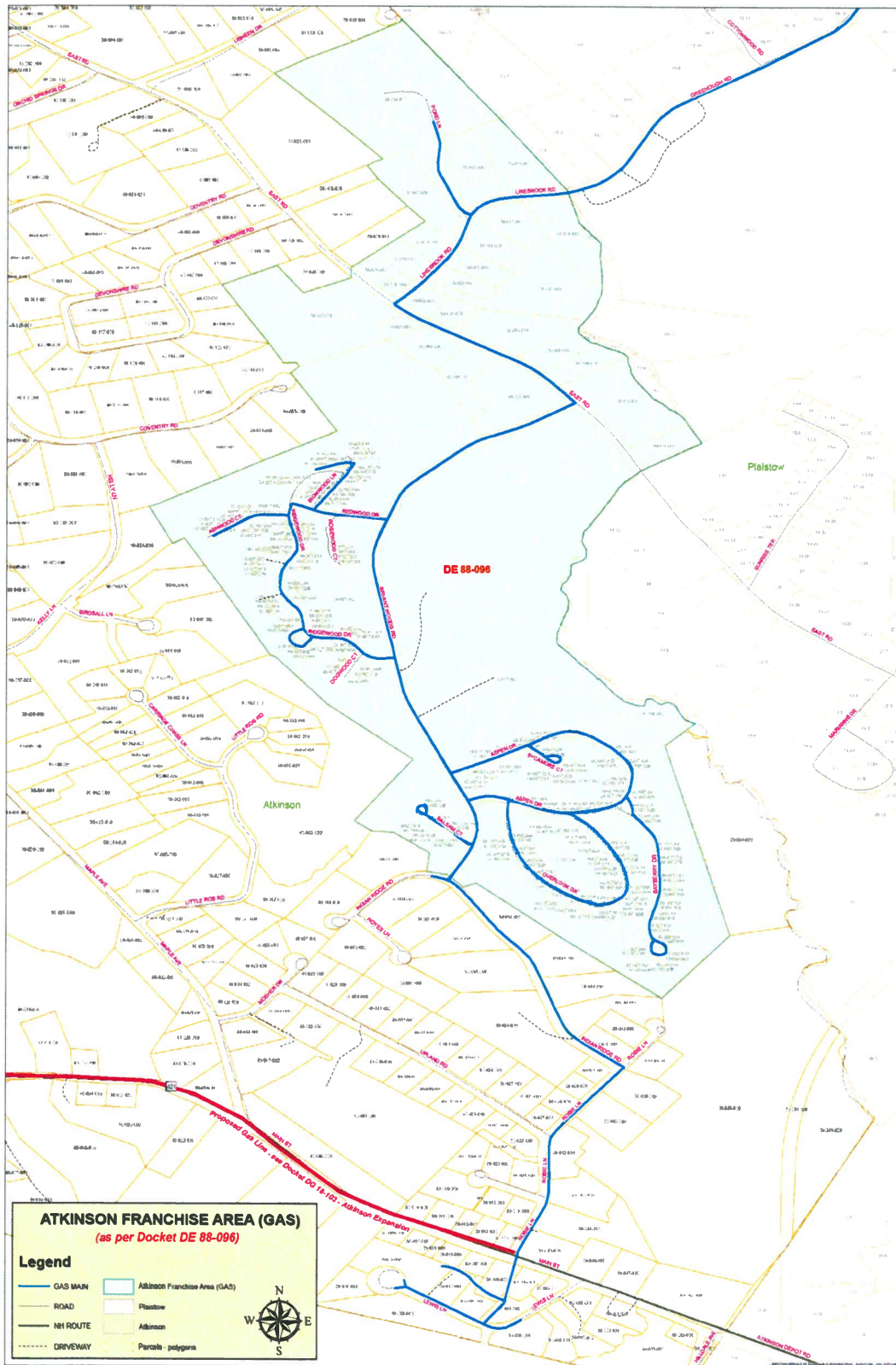
The Safety Division recommends that any authority granted for the expansion of Northern's Atkinson franchise include the condition that Northern should annually provide to the Commission, in an electronic format, a compatible layer<sup>3</sup> of its gas locations for Atkinson, Kingston and all other franchises<sup>4</sup> so that the Safety Division can verify that franchise territory boundaries are not being exceeded.

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<sup>3</sup> Such as a shape file or other mutually agreed upon format that is ESRI compatible. Currently Northern's and the Commission's GIS analysts exchange data electronically as the need arises.

<sup>4</sup> Safety Division has reason to believe that Rollinsford also has gas facilities installed beyond the existing authorized franchise territory.

# Attachment 1



**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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**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.**