

**STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION**

Docket No. DG 24-050
PNGTS, TCP, NNEIC, BGIF IV and AIV-B
Petition to Transfer Partnership Interests

THE NEW HAMPSHIRE DEPARTMENT OF ENERGY’S MOTION TO MAKE NORTHERN
UTILITIES’ INC. A MANDATORY PARTY TO THIS PROCEEDING

NOW COMES the New Hampshire Department of Energy (“DOE” or “the Department”) and consistent with RSA 541-A:32, NH Administrative Rules Puc 203.17 (regarding intervention) respectfully moves the New Hampshire Public Utilities Commission (the “Commission”) to make Northern Utilities Inc. (“Northern” or the “Company”) a mandatory party to this proceeding, consistent with the Commission’s intervention deadline in this docket. *See Commencement of Adjudicative Proceeding and Notice of Hearing* (April 17, 2024). In addition, the Department asks that the Commission, by waiver, shorten the period of time allotted to Northern to respond to this motion to 5 business days making Northern’s filing deadline May 10, 2024, the deadline established for parties’ objections to any motion to intervene in this docket. *See id.*

In support of this Motion, the Department states as follows:

I. BACKGROUND

1. On March 26, 2024, Portland Natural Gas Company (PNGTS), TC Pipelines, L.P., Northern New England Investment Company, Inc., BlackRock Global Infrastructure Fund IV, and North Haven Infrastructure Partners III (hereinafter “Petitioners”) filed a petition to transfer partnership interests.

2. PNGTS, a Maine general partnership, maintains an office in Lancaster, New Hampshire. It owns and operates a FERC-regulated pipeline for the transportation of natural gas in interstate commerce that extends 295 miles from the Canadian border to connections in New Hampshire, passes through Maine, re-enters New Hampshire and terminates at Dracut Massachusetts. *See* Petition (March 26, 2024) at 2.

3. Northern is a shipper with PNGTS. *See* Docket No. DG 23-087, Order No. 26,939 (January 26, 2024) (Commission approves a settlement agreement entered into by Northern and the Department relating to natural gas capacity agreements with PNGTS and TransCanada Pipelines, Ltd); *See* Technical Statement of Arif and Blair, Attachment B, Petitioner’s Response to DOE DR 2-9 (Northern has four firm capacity contracts with PNGTS.)

II. NORTHERN SHOULD BE MADE A MANDATORY PARTY

4. Northern is not currently a party to this docket, and to date has not filed a petition to intervene. Nonetheless, as a shipper with PNGTS, Northern’s rights, duties, privileges and other substantial rights may be affected by the proceeding. *See* RSA 541-A:32, I (b)(c) (intervention); Puc 203.17 (intervention). As a PNGTS customer, Northern has a significant interest in the transfer being one which is without adverse effect with regard to PNGTS rates, terms, service and operation, and a valuable perspective on whether the transfer is consistent with the public good. *See* RSA 369:8; RSA 374:30.

5. In the opinion of the Department, Northern’s input on the above matters is an essential component of a complete record in this docket. Moreover, making Northern a mandatory party has the additional benefit of providing Northern with the standard confidentiality protections available through the Puc Chapter 200 rules, and providing the Department with a well-established

discovery process, consistent with timelines and discovery instructions, to formally document Northern's position.

6. In the opinion of the Department, the Commission and the Department would both benefit from an opportunity to ask Northern questions at hearing and thus create a public record regarding the position of a shipper directly engaged with PNGTS.

7. Based upon information and belief, it is the Department's understanding that TC Pipelines LP, an affiliate thereof and/or Northern New England Investment Company, Inc. first notified shippers of an agreement to sell PNGTS' partnership shares on March 4, 2024. Thus, shippers have had at least as much notice as other parties to consider the impact of the proposed transfer.

8. The Department contacted Northern on April 12 and April 14, 2024 seeking informal input on the proposed transaction. Based upon informal communication with the Department, as of April 19, 2024, Northern anticipated evaluating the proposed transfer and had not yet reached a position to share with the Department. Northern has not yet filed a quarterly update with regard to the conditions precedent in the 2027 TCPL precedent agreement either, which might provide some information with regard to the proposed transfer. *See* Dkt. No. 23-087, *Corrected Settlement Agreement* (January 16, 2024) at Section II, para 7.

9. While both the Department and the Commission might obtain information pursuant to the "specific answers" provision, those provisions do not include mandatory timeframes or standard discovery protocols or protections. *See* RSA 12-P:10. Accordingly, because Northern meets the criteria for intervention in this docket, and for other reasons discussed above, the Department respectfully requests that the Commission make Northern a mandatory party at its earliest convenience. *See e.g.*, Dkt. No. DW 22-012 *Bodwell Waste Services Corporation*, Petition to Discontinue Operations and Transfer Assets and Franchise *Commencement of Adjudicative*

Proceeding (May 10, 2022) at 4 (Cities of Manchester and Londonderry are mandatory parties); Dkt. No. DE 19-197 Electric and Natural Gas Utilities, Development of a Statewide, Multi-Use Online Energy Data Platform, *Order of Notice* (December 13, 2019) at 2 (all electric and natural gas utilities regulated by the Commission shall participate as mandatory parties); Dkt. No. DE 23-026, Electric Distribution Utilities, Potential Jurisdictional Conflicts Related to Authorization of Pilot Programs Under RSA 362-A:2-b, *Commencement of Adjudicative Proceeding And Notice of Prehearing Conference* (March 9, 2023) at 1 (Electric Utilities are mandatory parties).

III. SHORTENING THE 10-DAY RESPONSE PERIOD TO 5 DAYS IS APPROPRIATE

10. Pursuant to Puc 203.07 (e), Northern would have ten business days in which to reply to the Department's motion seeking to make the Company a mandatory party. However, in this compressed docket, and given that objections to intervention are due on or before May 10, 2024, the Department asks the Commission to waive the standard time frame and require Northern to respond on or before May 10, 2024.

11. The Department's request for waiver is consistent with Puc 201.05, *Waiver of Rules*, and with the deadline the Commission has established for any objections to motion to intervene. *Commencement of Adjudicative Proceeding and Notice of Hearing* (April 17, 2024). The waiver allows the Commission to issue orders and identify all docket participants on or after May 10, 2024. Accordingly, it will not disrupt the orderly and efficient resolution of matters before the commission. *See 201.05 (a)(2)* For the reasons discussed above in support of making Northern a mandatory party, the waiver also serves the public interest by creating a more complete record in this proceeding by including the perspective of one of PNGTS' New Hampshire shippers. *See 201.05(a)(1)*. (DOE also seeks to make PNGTS's other New Hampshire shipper a mandatory party through a separate motion filed today.) Finally, compliance with the standard ten-day

response period would eliminate a full week of discovery, in a procedural schedule with a hearing scheduled for June 13, 2024 and in which Northern currently remains entitled to ten days to respond to any data requests. See Puc 201.05 (b)(1) and 203.09 (f). Because the Department's request meets the waiver requirements, the Department asks the Commission to grant the waiver and shorten Northern's response time.

WHEREFORE, for the reasons discussed above, the New Hampshire Department of Energy respectfully requests that the Commission:

- A. MAKE Northern Utilities Inc. a mandatory party to this proceeding, subject to standard Puc Chapter 200 rules of discovery and to support the creation of a complete public record, *see* RSA 541-A:32, Puc 203.17;
- B. SHORTEN (by waiver) Northern's time to respond to this motion to 5 business days, i.e. May 10, 2024, *see* PUC 201.05 and 203.07 (e); and
- C. GRANT such additional relief as is just and appropriate.

May 3, 2024

Respectfully Submitted,

NH DEPARTMENT OF ENERGY
By Its Attorney,

s/ Mary E. Schwarzer

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