

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

**DOCKET NO. DG 11-196**

**UNITIL AND NORTHERN UTILITIES**

**SHOW CAUSE PROCEEDING**

**Stipulation of Facts**

Northern Utilities (“the Company”) and the Staff of the Commission (Staff) hereby stipulate to the following facts for purposes of the Commission's consideration of the issues raised in the above-captioned docket:

1. On August 15, 2008, a settlement agreement was signed and filed by Mark H. Collin, Senior Vice President, Chief Financial Officer and Treasurer, on behalf of Unitil Corporation; Stephen H. Bryant, President, on behalf of Northern Utilities, Meredith Hatfield, Consumer Advocate, on behalf of the Office of the Consumer Advocate (OCA), New Hampshire Legal Assistance on behalf of Mary Polcheis, and Edward Damon, Staff Counsel, on behalf of Staff in Docket No. DG 08-048 in resolution of issues raised in that proceeding.
2. The settlement agreement set forth certain emergency response time standards that were approved by the Commission in Docket No. DG 08-048 by Order No. 24,906 (Oct. 10, 2008) (Emergency Response Standards). (*See Attachment A for the standards established in that proceeding.*)
3. The Emergency Response Standards provide specific emergency response timeframes against which the utility’s actual performance is measured. A total of nine benchmarks were established, covering 30, 45 and 60 minute response times, each broken out by “normal hours,” “after hours,” and “weekends and holidays.” Performance relative to the benchmark is expressed as a percentage representing how often the Company has met the benchmark.
4. In accordance with the terms of the settlement agreement, the Company worked with Staff to develop a monthly reporting format through which the Company would provide data to the Commission with respect to compliance with the Emergency Response Standards.
5. The Company has filed monthly reports with Staff, as required by the settlement, since January 2009.
6. On April 22, 2011, Staff submitted a memorandum to the Commission outlining the results of the monthly data reporting, stating Staff’s concerns regarding the rate of non-compliance, and recommending the Commission take action. Staff compiled the data received in the monthly reports and created graphs that depict the Company’s compliance status with respect to the

Emergency Response Standards. The data show that the Company failed to meet the Emergency Response Standards in 58 of the 234 benchmarks during the 26 month period from January 2009 through February 2011.

7. On June 20, 2011, the Company filed a response to Staff's memorandum, stating, in part, that it acknowledged that it has been unable to meet the Emergency Response Standards in each of the nine benchmarks during each month of the reporting periods in question. The Company does not dispute the data provided in Attachments A and B of the Staff memorandum.

8. On September 8, 2011, the Commission issued Order No. 25,266, finding that a show cause proceeding is warranted to determine the appropriate remedies for Northern's failure to meet the Emergency Response Standards agreed to and approved in Docket No. DG 08-048. The Commission's order scheduled a pre-hearing conference to establish procedures and a schedule for a proceeding in which Northern will, *inter alia*, be required to show cause why the Company and its Officers should not be subject to civil penalties pursuant to RSA 365:41 and RSA 365:42 for non-compliance with Commission Order No. 24,906.

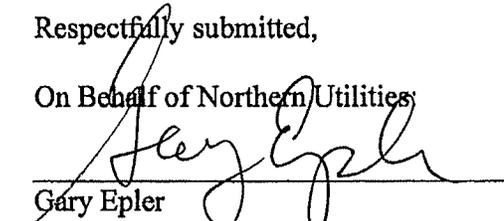
9. A prehearing conference was held before the Commission on October 4, 2011, during which the Company and Staff reiterated the positions set out in their filings. The OCA stated that, while it did not have a specific position in this case, it generally takes the position that when a company agrees to performance metrics in the context of a settlement agreement, which is approved by the Commission, the Company should abide by those metrics.

10. In a technical session immediately following the October 4 prehearing conference, the Company, OCA, the USWA and Staff met to discuss the issues raised. Further exchange of information was requested of the Company and of Staff and completed on October 10 and 11.

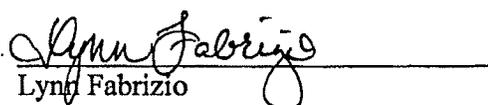
11. The Parties, the OCA and Staff have agreed to meet in a second technical session to review the information exchanged after the last session and allow for further discussion of the issues.

Respectfully submitted,

On Behalf of Northern Utilities

  
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Gary Epler  
Chief Regulatory Counsel  
UNITIL SERVICE CORP

On Behalf of Commission Staff:

  
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Lynn Fabrizio  
Staff Attorney

October 17, 2011