

# STATE OF NEW HAMPSHIRE

Inter-Department Communication

NHPUC 15FEB'17PM3:23

**DATE:** February 15, 2017

**AT (OFFICE):** NHPUC

**FROM:** Al-Azad Iqbal   
Utility Analyst

**SUBJECT:** DG 16-855  
Northern Utilities, Inc.  
Petition for Approval of 6th Amendment to the Special Contract  
with Foss Manufacturing Company

**TO:** Commissioners  
Docket File  
Service List

On December 1, 2016, Northern Utilities, Inc. (Northern or the Company), filed a petition for approval of a Sixth amendment to its Special Contract with Foss Manufacturing Company (Foss). The Sixth Amendment seeks to extend the current agreement for an additional five years with an option to renew it yearly for an additional five years. The Special Contract covers firm transportation (delivery) service for Foss's specialty fibers and engineered fabrics manufacturing facility at 380 Lafayette Road in Hampton, New Hampshire. According to Northern, Foss is the Company's second largest customer and an important employer in the seacoast area.

Northern initially provided sales service to Foss on an interruptible basis beginning in 1988 and has been serving Foss under a special contract for firm (year-round) delivery service since late 1999. *See Northern Utilities, Inc.*, Order No. 23,381 (Jan. 6, 2000). As a condition of its final approval, the initial Special Contract was amended to limit the term to five years, removing the contract language that would have allowed for continuance of the agreement beyond the five-year term for successive one-year periods. In its place, the amended contract required the parties to obtain approval from the Commission for any extension of the term beyond the initial term of five years. The first Special Contract expired on February 28, 2005. It was extended for five years, by means of a Second Amendment which was subject to Commission approval. Commission Staff concluded that the rates contained in the original contract should be increased. Northern and Foss negotiated a Third Amendment to address Staff's concerns related to the transportation rates to be charged by Northern to Foss under the extended Special Contract. The Commission then approved both the Second and Third Amendments of the agreement. *See Northern Utilities, Inc.*, Order No. 24,478 (July 1, 2005). On February 16, 2010 Northern and Foss negotiated a Fourth Amendment to extend the Agreement for an additional two years. Again, this Fourth Amendment was subject to Commission approval. The Commission approved the Fourth Amendment to the Special Contract in *Northern*

*Utilities, Inc.*, Order No. 25,085, (March 25, 2010). The Special Contract, as extended, expired on February 29, 2012. On January 26, 2012, Northern filed a petition requesting approval for a Fifth Amendment to the Special Contract that would extend the term of the special contract for five more years in order to allow Foss to have its long-term energy needs met in an economic and stable fashion. On February 6, 2012, the Commission approved the Fifth Amendment to the Special Contract in Order No. 25,330.

In the context of Sixth Amendment for an extended term, Foss informed Northern that if it is unable to obtain approval of the Sixth Amendment to the Special Contract with Northern for delivery service it would need to seriously consider other options in order to mitigate its increased operating costs which could lead it to move parts of its New Hampshire operations to more cost effective locations within the United States. Foss desires to remain competitive with companies from Mexico and China, as well as others located in southern states in the U.S. Foss alleges that it competes with other manufacturing facilities that in many cases experience lower energy, raw materials and labor costs, located throughout the global economy.

During the review of the current filing, Staff propounded one set of data requests on the Company and came across new and useful information including the unavailability of a dual-fuel option of Foss. In previous approvals, the dual-fuel capability was an important factor in deciding the special circumstances of Foss and the Commission's decision to approve the special contracts. On February 8, 2017 Staff discussed the issue with the Company in a technical session and came to a unanimous conclusion that the issue needs to be explored further. The current approval of the Special Contract expires on February 28, 2017. To accommodate further review of the issues, the parties believe that the contract should be continued until all the issues are examined. Staff recommends that the Commission approve the contract Sixth Amendment) for a one year period with an expiration date of February 28, 2018. During that time, the parties should continue to exchange information to determine if further extension of the Special Contract is in the public interest.

**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.**