

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

DATE: January 31, 2018

AT (OFFICE): NHPUC

FROM: Al-Azad Iqbal   
Utility Analyst

NHPUC 31JAN18PM1:15

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

### Summary:

Staff recommends that the Commission approve the Northern Utilities, Inc.'s Special Contract with Foss Manufacturing Company for a term of five years from the end of current approved Contract term.

### Background:

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 6, 2010, Northern and Foss negotiated a Fourth Amendment to extend the Agreement for an additional two years. 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 to be 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 its review Staff came across new and useful information including the unavailability of a dual-fuel option of Foss which was an important factor in deciding the special circumstances of Foss and the Commission's decision to approve the special contracts. To accommodate further review of the issues, Staff filed a recommendation that the Commission approve the contract Sixth Amendment for a one-year period with an expiration date of February 28, 2018. On February 24, the Commission extended the existing special contract (Fifth Amendment) for a year to accommodate the review process (Order No 25,993).

On November 1, 2017, Northern submitted a Supplemental Joint Testimony of Michael Smith (or Northern) and Paul Koroski and Bill Cummings (of Foss) in support of the Company's Petition. The Supplemental Testimony addresses issues raised by Staff. It also addressed ownership and other changes occurred in the interim period. In the supplemental testimony, the Company provided the details of steps Foss has taken to mitigate its operating costs in New Hampshire, including the assistance of the New Hampshire Business Finance Authority ("BFA") and the Coastal Economic Development Commission ("CEDC"), preferable financial arrangement with financial institution, reduction of property taxes by the town, amending the property lease agreement to eliminate rental override, and the tax credit generated from new hire. The Company provided descriptions of its initiatives to be energy efficient. It also mentioned that the Company has added approximately 135 jobs at its New Hampshire facilities in the last decade and anticipates that it will retain its existing workforce level (435 employees) and add new jobs during the term of the Special Contract. Energy costs are the Company's third-highest expense which is mostly natural gas cost. An updated analysis is provided with the supplemental testimony where it shows that the Special Contract rates exceed Northern's projected long-

run marginal costs over the length of the Special Contract. Northern also confirmed that the Special Contract and the rates set forth therein are consistent with Northern's most recent Integrated Resource Plan.

**Recommendation:**

Staff reviewed the information provided in the Supplemental Testimony and during the proceeding. Staff believes that the special contract meets the requirements set forth in Order No. 20,882 (Docket DR 91-172) where the Commission approved the Checklist for Economic Development and Business Retention Special Contracts, and the standards of RSA 378:18, as approval of this special contract would be just and consistent with the public interest, especially in light of Foss' economic importance to the Seacoast region. Staff does not support the continuation beyond the five year term without Commission approval as proposed in the Sixth Amendment. Staff believes that the review of special contracts by the Commission, as required by RSA 378:18, is a reasonable regulatory practice to make sure that the special contracts meet the requirements in changing circumstances for the Gas Utility and the Customer.

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

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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:**

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EXECUTIVE DIRECTOR  
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**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.**