

DG 99-123

NORTHERN UTILITIES, INC.

Petition for Approval of a  
Special Firm Gas Transportation Agreement  
with National Gypsum Company

Order NISI Approving with Conditions Special Contract No. 99-02

O R D E R    N O.    23,314

October 5, 1999

On August 26, 1999, Northern Utilities, Inc. (Northern) filed with the New Hampshire Public Utilities Commission (Commission) a Petition for Approval of a Special Firm Gas Transportation Agreement (Special Contract) with National Gypsum Company (National). National is a manufacturer of gypsum wallboard and its manufacturing plant is located on Succo Drive in Portsmouth, New Hampshire. Northern's filing included Special Contract No. 99-02, which was executed on August 2, 1999, and the supporting testimony and exhibits of Paula A. Strauss, Senior Pricing Analyst.

On August 26, 1999, Northern also filed a Motion for Protective Order requesting confidentiality of the name of the customer, pricing information, the term of the contract, cost information, customer-specific marginal cost information, and financial analyses supporting the contract and the customer's selection of the contract over other alternatives. On September 16, 1999, Northern filed a letter with the Commission to withdraw its request for confidential treatment as it relates to the

customer's name and the length of the contract.

National is currently an interruptible transportation customer of Northern. However, National now wishes to obtain firm transportation service. National has the option to bypass Northern by connecting directly with an interstate pipeline recently constructed by Portland Natural Gas Transmission System (PNGTS) and Maritimes and Northeast Pipeline, L.L.C. (Maritimes). National can also obtain firm transportation service from Northern, however, Northern must upgrade its existing distribution system so that Northern will have sufficient capacity when the weather begins to approach design day capacity requirements. The investment in the distribution system meets Northern's twenty-five percent (25%) net investment test as outlined in Northern's tariff. The results of the test reflect the relatively low investment necessary to serve National's load. Accordingly, Northern negotiated a special contract with National for firm transportation service.

In its petition, Northern asserts that Special Contract No. 99-02 is designed to retain National's load at a competitive price. Northern believes that, absent approval of Special Contract No. 99-02, National will bypass the distribution system and connect directly with the joint facilities of PNGTS and Maritimes. Northern conducted a value of service analysis which indicated that National's proposed bypass is a viable alternative to remaining a customer of Northern. Northern has, therefore,

priced Special Contract No. 99-02 to provide National with a discount sufficient to make bypass unattractive. Additionally, National is subject to all charges and fees as detailed in Northern's General Terms and Conditions and Transportation Terms and Conditions, as are in effect from time to time. The Special Contract has an initial term of ten years. After the first ten years, the contract will continue for successive one-year periods unless terminated by Northern or National.

Northern argues that obtaining National's load on a firm transportation basis and the resulting contribution to fixed costs, among other things, will help to mitigate upward pressure on rates thereby protecting Northern's customers from the effects of lost revenues and sales. The pricing in Special Contract No. 99-02 consists of rates for natural gas service that are lower than otherwise available under applicable tariff rates. National has also agreed to certain take or pay provisions, not included in Northern's tariff.

Northern performed an analysis of its long-run marginal cost of serving National. National's gas usage is characteristic of the Extra Large Volume (XLV) Customer Class and the marginal costs associated with the XLV Class were applied to National's specific load characteristics. Northern updated the marginal cost of service study that was filed in Docket DE 95-121 to reflect: actual sales and cost data through 1998; a ten year forward-looking distribution reinforcement study; current costs

to add peaking capacity and pressure support; a reassignment of an appropriate portion of uncollectible accounts expense to the gas component; and a revision to carrying charges rates based on current estimates of cost of capital, inflation rate, and property tax rate. The updated marginal cost of service study includes: a monthly customer charge; pressure support from Northern's manufactured gas facilities per design day dekatherm; main reinforcement costs per design day dekatherm; and main extension costs per design day dekatherm. The analysis showed that the rates in the Special Contract exceed Northern's long-run marginal cost to serve National's facility.

On October 1, 1999, Commission Staff (Staff) filed a recommendation that the Commission approve Northern's Special Contract No. 99-02 with National. Staff stated it had reviewed the filing and engaged in informal discovery with Northern. Staff stated that approval of this contract would enable Northern to retain load that might otherwise be lost to bypass and that the Special Contract rates exceed the marginal cost of serving National. Additionally, Northern's ratepayers will see the additional benefit of National's contributions to the Environmental Response Costs, a surcharge National avoided previously because of its use of Northern's interruptible service.

However, Staff did note its concern regarding the duration of the Special Contract. Although the Special Contract

states that either Northern or National can terminate the contract after the initial ten-year period, Staff recommended that the Commission retain its right to review the appropriateness of the continuance of the Special Contract and its terms after the initial ten-year period. Staff stated that the natural gas industry is continuously evolving and the circumstances which justify a special contract today may not exist in the future. Staff noted that given the significant length of the initial term, it would be appropriate for the Commission to be afforded an opportunity to re-examine whether special circumstances exist at the expiration of the contract which would justify a continuance.

We have reviewed Special Contract No. 99-02 and the supporting materials. We have conducted our review pursuant to the language of RSA 378:18, which gives the Commission the authority to approve special contracts when "special circumstances exist which render such departure from the general schedules just and consistent with the public interest..."

Based upon our review of the filing and Staff's recommendation, we will approve Special Contract No. 99-02 between Northern and National subject to conditions. In approving this contract, we note that National has a viable bypass option. Thus, there are special circumstances that qualify it for departure from standard tariff rates pursuant to RSA 378:18. We also note that the rate negotiated with National

exceeds Northern's long-run marginal cost, a requirement we established in Order No. 20,633, Re Generic Discounted Rates Docket 77 NHPUC 650 (1992).

However, we agree with Staff's concern that the ultimate duration of the Special Contract should not be decided upon solely by Northern and/or National and that there are other factors which must be considered. Therefore, we will approve Special Contract No. 99-02 for a ten-year period. As a condition of our approval, we will require that the provision of the Special Contract that delineates the term of the contract be revised to require Commission approval for any extension period beyond ten (10) years.

Lastly, we note that our approval of this special contract does not authorize Northern to recover from ratepayers any revenue loss resulting from the special contract. We reserve the right to address this issue at an appropriate time in the future. See Order No. 20,633, Re Generic Discounted Rates, 77 NHPUC 650, 655 (1992).

**Based upon the foregoing, it is hereby**

**ORDERED NISI**, that the Special Contract between Northern and National, as filed on August 26, 1999, is APPROVED subject to the condition that Northern files an amendment to Special Contract No. 99-02 as indicated herein and makes no other changes; and it is

**FURTHER ORDERED**, that Northern shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than October 12, 1999 and to be documented by affidavit filed with this office on or before October 22, 1999; and it is

**FURTHER ORDERED**, that all persons interested in responding to this petition be notified that they may submit their comments or file a written request for a hearing on this matter before the Commission no later than October 22, 1999; and it is

**FURTHER ORDERED**, that any party interested in responding to such comments or request for hearing shall do so no later than October 27, 1999; and it is

**FURTHER ORDERED**, that this Order Nisi shall be effective November 5, 1999, unless the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New  
Hampshire this fifth day of October, 1999.

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Douglas L. Patch  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Thomas B. Getz  
Executive Director and Secretary