

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 11-196

UNITIL CORPORATION AND NORTHERN UTILITIES, INC.

Show Cause Proceeding

Order Setting Pre-hearing Conference

ORDER NO. 25,266

September 8, 2011

By Order No. 24,906 (October 10, 2008), the New Hampshire Public Utilities Commission (Commission) authorized Unitil Corporation's acquisition of Northern Utilities (Unitil, and Northern or the Company, respectively) by approving a settlement agreement signed by Unitil, Northern, the Office of the Consumer Advocate, Mary Polcheis (through New Hampshire Legal Assistance) and Commission Staff. The settlement agreement set forth a number of conditions to the acquisition designed to ensure that the transaction would be lawful, proper, and consistent with the public interest, pursuant to RSA 374:33, and would not adversely affect the rates, terms, service, or operations of Northern, under RSA 369:8, II (b).

Article VI, section 6.6 of the settlement agreement includes Emergency Response Standards agreed to by the signatories. Under section 6.6 of the agreement, Northern is required to meet certain minimum standards for emergency response times to calls reporting gas leaks and odors. Those standard, require certain minimum performance benchmarks to be met and reported on monthly. Maximum response times, agreed to between Northern and Staff and approved by the Commission, are 30, 45, and 60 minutes during Normal Business Hours, After

Business Hours, and Weekend/Holiday Hours, respectively. The settlement agreement established that Northern would work with Staff to develop a monthly reporting system within six months of the Commission's approval of the agreement. The parameters of the report were listed in the settlement agreement and have remained as originally listed.

On April 22, 2011, Staff filed a memorandum noting that Unitil was not in compliance with the Emergency Response Standards approved in Order No. 24,906. Staff's memorandum included attachments depicting compliance data covering the period January 2009 to February 2011, as well as detailed data submitted for the years 2009 and 2010, including locations, dispatch times, emergency response times, types of calls, and employee personnel involved. Staff noted that it had met with Unitil representatives to discuss the performance metrics, and that Unitil had summarized actions taken to-date and emphasized their commitment to meeting the standard in a cost effective manner. Despite these efforts, the Company remained out of compliance.

Staff concluded that Unitil's failure to meet the agreed-upon performance standards is unacceptable, noting that emergency response standards are a cornerstone of an operator's requirement for planning, preparing, and implementing an effective emergency response. Staff set forth a number of options for the Commission to consider, including a civil penalty pursuant to RSA 365:41 and RSA 374:7-a; a show-cause hearing pursuant to RSA 365:5 to determine why civil penalties should not be imposed for non-compliance with Commission Order No. 24,906; linking compliance with emergency response thresholds with executive incentive compensation plans; and requiring Unitil to submit a written report each month, signed by a senior executive and explaining each instance of non-compliance.

On June 20, 2011, Northern filed a response to Staff's memorandum, in which it acknowledged that it has not been able to meet the performance criteria, but disagreed with Staff's analysis, conclusions, and recommendations. Northern noted that it maintains strict compliance with all applicable federal and state pipeline safety rules and engages in industry best practices that often exceed code mandated requirements. In its response, Northern further argued that the performance standards approved by the Commission in Order No. 24,906 were the result of a negotiated settlement, not the result of an investigation of emergency response times. Nor, according to the Company, are the standards part of any code or industry guidelines or otherwise recognized utility objectives. In its memorandum Northern also argued that the Emergency Response Standards approved in Order No. 24,906 did not specify a monthly compliance objective or applicable penalties for non-compliance.

In the Company's view, the Commission should look at the number of times Northern meets the performance standards compared to the number of times it does not, in order to evaluate improvement over time. Northern added that it has devoted extensive efforts to meeting the Emergency Response Standards, that its overall emergency response has been excellent and improving each year, as reflected in average response times, and that the 30-minute benchmark itself is impractical. Finally, Northern requests that the Commission direct it to work with Staff to determine whether it is possible to arrive at an alternative performance standard.

Based on our review of the memoranda submitted by Staff on April 22, 2011, and by Northern on June 20, 2011, it appears that Northern does not dispute Staff's factual assertions, though it does oppose Staff's recommended actions. Specifically, Northern, at p. 2 of its response filed on June 20, 2011, stated that it "does not dispute that it has been unable to meet

the performance criteria in each of the nine benchmarks, but disagrees with the Staff's analysis of the Company's performance, its conclusion and the proffered recommendations." We find 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. Thus, we will schedule 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.

Based upon the foregoing, it is hereby

ORDERED, that Northern appear before the Commission in a pre-hearing conference at the offices of the Commission, 21 South Fruit Street, Concord, New Hampshire, on October 4, 2011 at 10:00 a.m., to establish procedures and a schedule for a proceeding in which Northern will be required to show cause why the Company and its Officers should not be subject to fines and other sanctions for failure to comply with the Emergency Response Standards established by settlement agreement approved in Order No. 24,906; and it is


FURTHER ORDERED, that pursuant to N.H. Code Admin. Rules Puc 203.12, Northern shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than September 16, 2011, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before October 4, 2011; and it is

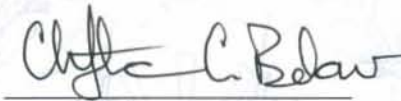
FURTHER ORDERED, that pursuant to N.H. Code Admin. Rules Puc 203.17, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a

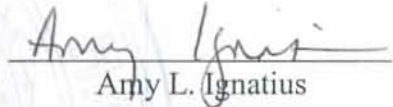
Petition to Intervene with copies sent to Northern and the Office of the Consumer Advocate on or before September 28, 2011, such Petition stating the facts demonstrating how its rights, duties, privileges, immunities or other substantial interest may be affected by the proceeding, as required by N.H. Code Admin. Rule Puc 203.17 and RSA 541-A:32,I(b); and it is

FURTHER ORDERED, that any party objecting to a Petition to Intervene make said Objection on or before October 4, 2011.

By order of the Public Utilities Commission of New Hampshire this eighth day of September, 2011.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.