

April 11, 2005

MAINE PUBLIC UTILITIES COMMISSION
Investigation Into Maintenance and Replacement
Program for Northern Utilities, Inc.'s Cast
Iron Facilities

ORDER APPROVING
STIPULATION

Welch, Chairman; Diamond and Reishus, Commissioners

I. SUMMARY

We approve a stipulation under which Northern Utilities, Inc. (Northern) will replace its cast iron facilities in Lewiston and Auburn by December 1, 2008. On January 1, 2008, Northern will propose how to replace the remaining cast iron facilities in Portland and Westbrook based on its experience in Lewiston/Auburn.

II. PROCEDURAL HISTORY

On December 14, 2004, the Commission opened an investigation into the maintenance and replacement of the cast iron mains and services in Northern's underground distribution system in Maine. See Notice of Investigation, Dec. 14, 2004 at 2.¹ The Office of Public Advocate (OPA) intervened in this proceeding.

Also in December, Northern filed the prefiled testimony of Stephen Bryant, Northern's President, and Danny Cote, Northern's General Manager, stating the Company's views on an adequate cast iron replacement program, whether it could evaluate the extent of graphitization in its system, and how it might achieve accelerated replacement of cast iron facilities in 10 years. Northern's 10-year plan called for replacing all the cast iron facilities in Lewiston/Auburn during the first four years and then replacing the Portland/Westbrook pipe in the subsequent six years. Northern maintained that no accelerated program was necessary to protect or to promote public safety, but that if the Commission determined an accelerated replacement was required, a 10-year replacement would be the most cost-effective, administratively efficient, and operationally sound method.

Following the first technical conference, the OPA filed the testimony of Michael McGarry, Sr., Rudolph Krizan, P.E., and Howard Solganick, P.E. of Blueridge Consulting in

¹ Cast iron pipes were typically installed prior to the 1960's for use in manufactured gas distribution systems. These systems were later converted for use in distribution of natural gas. Cast iron is susceptible to breakage from ground subsidence or movement which may occur during freeze-thaw cycles or other events such as construction or earthquakes.

support of its position that Northern's current "opportunistic" approach to cast iron replacement, coupled with its leak detection practices, is consistent with industry practice and therefore could be considered adequate to promote public safety and protect against a serious incident involving Northern's low pressure cast iron mains. In addition, the OPA expressed concern that the incremental costs of an accelerated cast iron replacement program might not represent a socially optimal use of public resources devoted to public safety, as compared to other expenditures, and therefore might not be acceptable to Northern's ratepayers.

On March 2, 2005, the Staff issued a Bench Analysis recommending adoption of a 10-year accelerated replacement program for all cast iron facilities in Northern's system. During this proceeding, the participants engaged in multiple rounds of discovery and technical conferences on Northern's and OPA's testimony and on Staff's Bench Analysis.

On March 17, 2005, Northern filed a Stipulation (attached and incorporated with this Order), executed with the Office of the Public Advocate (OPA), proposing a resolution of the issues in this proceeding. On March 22, 2005, the Commission held a hearing on the Stipulation attended by Steve Bryant, President, and Dan Cote, Vice President of Operations, for Northern and by Michael McGarry for the OPA.

II. DESCRIPTION OF STIPULATION

The Stipulation states that Northern will replace all cast iron mains and services in Lewiston and Auburn during the period from April 1, 2005 to December 1, 2008. Whenever possible, this will be achieved by inserting plastic main into existing cast iron mains. This method is expected to result in lower costs than would full-scale excavation. Northern will use competitive bidding and prudent, cost-effective practices in this project. While engaged in this project, Northern will continue to replace cast iron facilities using its "opportunistic" approach and when cast iron main segments exceed the replacement threshold on the Cast Iron Main Assessment Model developed in consultation with the Commission's Gas Safety Inspector in Docket No. 2000-322. Under Northern's "opportunistic" replacement program, mains and services are replaced in conjunction with all state and municipal road improvement projects when there is an economic advantage to doing so or when construction in proximity to Northern's facilities may jeopardize the integrity of its facilities.

In addition, the Stipulation establishes that Northern may seek cost recovery in rates during its next base rate case and may propose a rate recovery mechanism for successive years of this project. At the time of the rate case, Northern agrees to file a proposed alternative rate-making mechanism but may take any position with regard to the desirability of such a mechanism. In considering the alternative ratemaking mechanism, parties will be free to propose inclusion of appropriate revenue adjustments such as incremental investment costs, depreciation, property taxes, productivity offsets and operational savings due to the accelerated program or other causes.

On January 1, 2008, Northern will file a plan for cast iron replacement in Portland and Westbrook. The parties to the stipulation anticipate that the Portland/Westbrook plan will employ lessons learned from the Lewiston/Auburn project. All parties are free to put forth their views on what form of replacement plan should be approved for Portland and Westbrook.

IV. DISCUSSION

In considering whether to approve a stipulation, we must determine whether the stipulated result is in the public interest. We also determine whether a broad spectrum of interests were involved in arriving at the settlement and whether the settlement process was fair. The parties in this proceeding, Northern and the Public Advocate, cover a sufficiently broad spectrum of interests in this context. There are no other parties and no opposing interests in this particular case. The parties worked in consultation with Staff, including our Gas Safety Inspector, to develop the proposed resolution without indication of unfairness in the settlement process. We now turn to the question of whether the stipulated result serves the public interest.

Throughout this proceeding, Northern has maintained that accelerated replacement of its cast iron facilities is not necessary to ensure public safety, given its diligent leak monitoring and operational practices. However, if allowed adequate rate recovery, it would replace its cast iron facilities on an accelerated schedule. Northern asserts that the optimal time frame for accelerated replacement of all its cast iron facilities in Lewiston, Auburn, Portland, and Westbrook is 10 years because this allows it to take advantage of construction economies yet avoids placing undue burdens on the municipalities in which it is working. Northern's replacement of its cast iron facilities, using insertion of plastic pipe where possible, will result in lower costs than excavation, largely due to savings in road reclamation costs. Northern proposes to begin replacement in Lewiston/Auburn because of its belief that the area's typical frost levels and the frequency of its freeze-thaw cycles tend toward greater incidence of soil disruption and, therefore, cast iron main breaks, than in the Portland and Westbrook areas.

OPA initially opposed an accelerated replacement of Northern's cast iron facilities. OPA argues that the costs of doing so were disproportionate to the increased public safety, especially when compared to other risks in society. OPA opposed incurring the incremental cost of a 10-year replacement program, estimated to be \$278 per customer, and preferred and approach closer to the "opportunistic" replacement program, which Northern estimated would take 43 years to complete.

The Commission's Gas Safety Inspector supported a comprehensive 10-year replacement program based on the safety gains that would be achieved as demonstrated by statistical evidence provided in the American Gas Foundation Report using historical numbers and causes of distribution system failures in the nation and the northeast region.

Under the Stipulation, Northern will proceed with accelerated replacement in Lewiston and Auburn during the next four years, and Northern's experience with that effort

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.