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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

September 15, 2008 - 10:04 a.m.  
Concord, New Hampshire

RE: DRM 08-091 RULEMAKING:  
Puc 800, Rules for Underground Utility  
Damage Prevention Program, representing  
a readoption, with amendment, of existing  
Puc 800 rules.

PRESENT: Chairman Thomas B. Getz, Presiding  
Commissioner Graham J. Morrison  
Commissioner Clifton C. Below

Jennifer Boucher, Clerk

APPEARANCES: (No appearances taken)

Court Reporter: Steven E. Patnaude, LCR No. 52

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## 1 P R O C E E D I N G S

2 CHAIRMAN GETZ: Okay. Good morning,  
3 everyone. I'll open the hearing in docket DRM 08-091.  
4 The hearing this morning is held pursuant to RSA 541-A:11  
5 under the state Administrative Procedures Act for the  
6 purpose of taking public comment on the proposed rules.  
7 I'll note for the record that all three Commissioners are  
8 present this morning, and that, pursuant to 541-A:11, a  
9 quorum of the members of the Commission is required for  
10 rules that are proposed by the Commission. On July 31,  
11 2008, the Commission voted, pursuant to 541-A, to initiate  
12 a rulemaking with respect to New Hampshire Administrative  
13 Rules Chapter PUC 800, rules for Underground Utility  
14 Damage Prevention Program. The proposal represents a  
15 readoption with amendment of the existing rules for  
16 Underground Utility Damage Prevention Program. The rules  
17 set forth the procedures and standards used by the  
18 Commission in implementing the Dig Safe Program, which  
19 protects the public operators and excavators from physical  
20 harm, damages and interrupted service resulting from  
21 damage to underground facilities. A rulemaking notice was  
22 filed with the Office of Legislative Services on  
23 August 6th. And, both that notice and the order of notice  
24 indicated that a public hearing to take comment would be

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1 held today at 10:00 a.m., and it also sets forth that the  
2 deadline for submitting written materials is September 30.

3 I'll actually turn to counsel, is there  
4 any administrative matters I may have overlooked before we  
5 turn to public comment?

6 MS. AMIDON: Yes. The order of notice  
7 indicates that a technical session will be held following  
8 the hearing, if necessary. And, that was inadvertent.  
9 This is a public process, as you know, under RSA 541-A,  
10 and therefore there will be no technical session following  
11 this hearing. At this point, anyone with comments should  
12 submit them directly to the Commission.

13 CHAIRMAN GETZ: Okay. Thank you. Okay.  
14 Then, we will just turn to the forms that have been  
15 submitted and take them in the order that I have them.  
16 And, the first person indicated they would like to speak  
17 is Tim Roukey, from Public Service Company of New  
18 Hampshire.

19 MR. ROUKEY: Good morning.

20 CHAIRMAN GETZ: Yes, you can just stay  
21 seated and use the microphone.

22 MR. ROUKEY: There were a few items that  
23 I'd like to talk about and address. The first one,  
24 804.03, Training of Locators. I represent an Advisory

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1 Group Committee to this 800 rule change, of which we met  
2 with Mr. Knepper on two different occasions, and we had  
3 some dialogue and conversation regarding that. And, the  
4 clarification point that we would like to have on that,  
5 the Advisory Group is in agreement with the NULCA standard  
6 or equivalent. But what we would like is some  
7 clarification points like how do we keep track of that?  
8 You know, do we need to provide certificates? Do we need  
9 to keep something on file? Is that something that we need  
10 to put in our contracts and agreements with our locators?  
11 So, it's more of a clarification question than anything  
12 else. We are in agreement that all locators should be  
13 NULCA qualified.

14 CHAIRMAN GETZ: Well, is there an  
15 expectation that you'll be following up in writing with  
16 specific proposals?

17 MR. ROUKEY: Not knowing, this is my  
18 first hearing, so not knowing, Kathy, is that "yes"?

19 MS. DUMAINE: Yes.

20 MR. ROUKEY: Yes.

21 CHAIRMAN GETZ: I guess, Mr. Patnaude,  
22 if we can find out later who Kathy is, then we'll have a  
23 complete record. Please continue.

24 MR. ROUKEY: Okay. Rule 806.03, that

1 has to do with location of utilities. PSNH and the  
2 Advisory Committee would like to state that there's a  
3 desire to keep that rule unchanged. The rule calls for  
4 extra marking and graffiti. I guess I'll use the word, at  
5 utility locations. For example, you know, for electrical,  
6 you know, that's red, an identifying mark. This rule  
7 calls for additional markings, "E" for electrical, "P" for  
8 PSNH being the owner. And, in some cases, the rule, as we  
9 read it, is calling for making nominal diameter inch  
10 readings. So, again, we would like to not have that  
11 included in the new rule and leave as was the case before.

12 And, then, lastly, 806.05, which is a  
13 new rule, this is not existing in the old rule, it's  
14 called "Marking certain newly installed underground  
15 facilities". And, this is one that calls for, when  
16 there's an active Dig Safe ticket at a location that has  
17 previously been obtained where a utility would have come  
18 in during the time period where that ticket was still  
19 active and energized or pulled the utility through an  
20 underground location. And, what this is asking is that  
21 the utility mark or communicate or indicate that a new  
22 facility has been installed at this location. And, we're  
23 taking the position that this is really not required.

24 CMSR. BELOW: So, are you asking the

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1 whole section, the whole proposed new section not be  
2 adopted?

3 MR. ROUKEY: Correct.

4 CMSR. BELOW: Thank you.

5 CHAIRMAN GETZ: And, when you say "we're  
6 asking", you're talking about the Advisory Committee or  
7 PSNH?

8 MR. ROUKEY: PSNH and the Advisory  
9 Group, which I'm sure you'll hear from other Advisory  
10 Group members later.

11 CHAIRMAN GETZ: Is that it?

12 MR. ROUKEY: Yes."

13 CHAIRMAN GETZ: Thank you.

14 MR. ROUKEY: Thank you.

15 CHAIRMAN GETZ: Guy Chabot, from  
16 Manchester Water Works. Or "Guy Chabot"?

17 MR. CHABOT: You had it right the first  
18 time. Thank you very much. It is Guy Chabot, from  
19 Manchester Water Works. A couple of comments relative --  
20 the first one is relative to 804.02, Paragraph (e).  
21 Manchester Water Works' concern with this item is the need  
22 to notify excavators when you don't have the facility  
23 within the limits of their premark. Manchester Water  
24 Works does not own the water facilities on private

1 property. And, we only own what's in the right-of-way or  
2 an easement area. And, we do get many Dig Safe tickets  
3 that come in for private property work, fences, things  
4 like that. And, we feel that it would be a lot of extra  
5 work for our personnel to go out and notify or mark areas  
6 that are within private property, basically areas that we  
7 don't currently own the facilities within. Our  
8 maintaining of our Dig Safe personnel and equipment, the  
9 Water Works does it on a voluntary basis, and we're trying  
10 to keep the costs as down as possible, you know, as much  
11 as possible. So, that's one item that we'd like to see if  
12 we could get revised to allow for the non-notification of  
13 private property.

14 The next item is 804.03, and it relates  
15 to the certification of Dig Safe locating personnel, as  
16 was mentioned earlier. We currently do all our own Dig  
17 Safes in-house. So, I'm not sure if that would put us  
18 under the "or equivalent" status for that item. But we'd  
19 like to continue doing that. And, obviously, once again,  
20 we'd like to attempt to limit the financial burden of the  
21 Dig Safe system. And, that's it. Thank you.

22 CHAIRMAN GETZ: Thank you. Thomas  
23 O'Neill, from National Grid.

24 MR. O'NEILL: Good morning,

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1       Commissioners. I'm here on behalf of National Grid, which  
2       has subsidiaries in New Hampshire, Granite State Electric  
3       and EnergyNorth Natural Gas, Inc., both of whom would be  
4       affected by these rules. At the present time, we're  
5       evaluating the rules and their possible impact on the  
6       companies. So, this morning we have no substantive  
7       comments. We do, however, expect to file written comments  
8       by September 30th. And, I suspect that our concerns will  
9       be similar to the concerns that you've heard from other  
10      utility companies.

11                   CHAIRMAN GETZ: Thank you. Kathleen  
12      Dumaine, FairPoint.

13                   MS. DUMAINE: Yes. Thank you for  
14      listening to my comments. And, I am Kathleen Dumaine. I  
15      work for FairPoint Communications, and I'm also  
16      representing the New Hampshire MUST Group, of which I am  
17      the Chairman. And, that group is derived of several  
18      utilities, contractors, locators, and other interested  
19      parties who are -- our main goal is to educate and train  
20      for underground damage prevention. And, we are very  
21      active with the Advisory Committee to the PUC for any Dig  
22      Safe concerns or Dig Safe rule changes. We sat through  
23      the sessions in committee for the evaluation of all the  
24      rules that are being presented today. And, there were a

1 few that we felt were a little premature and one that, in  
2 particular, that needed additional comments. We will  
3 formalize that in writing by September 30th. And, I'm  
4 sure we'll do it both as a group, the MUST Committee, and  
5 as individual utility members.

6 And, the three areas of concern was  
7 804.03, the Training of Locators. We felt that that just  
8 needed additional clarification. And, 806.03, which was  
9 the identification. And, we can elaborate in writing, but  
10 the basic of it is that we felt that no additional  
11 graffiti would be necessary, that it would only cause  
12 confusion to the excavators out there. We have a system  
13 that is color coded and works quite well. And, I think  
14 adding additional graffiti is only going to add confusion.  
15 And, we'll elaborate on that in writing.

16 And, the third thing was the 806.05,  
17 Marking of Newly Installed Facilities. We had been  
18 waiting, from Randy Knepper's office, for information  
19 relative to the cause and effect of this additional rule  
20 in the Dig Safe laws. And, on Friday, we did receive,  
21 Friday afternoon, we did receive a report, but it wasn't  
22 the detail that we were looking for, which we had been  
23 asking for since last June.

24 So, we will present all this in writing,

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1 and I appreciate your time this morning.

2 CHAIRMAN GETZ: Thank you. Suzanne  
3 Amidon.

4 MS. AMIDON: Thank you. My name is  
5 Suzanne Amidon. I'm a Staff Attorney with the Public  
6 Utilities Commission, and I'm representing the Safety  
7 Division in my comments today. We propose changes to  
8 805.05, Damage to an Underground Facility. Mr. Knepper,  
9 who's been referred to today, is the Director of the  
10 Safety Division, and he had some conversations with  
11 interested parties about RSA -- about PUC 805.05(a)(4),  
12 which would prohibit anybody from attempting any repairs  
13 whenever there was a damage to an underground facility.  
14 The comment was "well, what if we own that facility, can't  
15 we go ahead and make those repairs?" And, Randy thought  
16 that was reasonable, Mr. Knepper thought that was  
17 reasonable, and proposes the following change: In (a),  
18 following the words "any underground facility", add the  
19 words "not owned or operated by the excavator". And, in  
20 Subparagraph (4), "Attempt no repairs unless directed to  
21 by the facility owner." This would make it possible for a  
22 facility owner to immediately begin repairs, without  
23 having to wait for further direction from the Safety  
24 Division Staff. And, that's our only comment today.

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1                   CMSR. BELOW:  Might there be a situation  
2                   where the facility operator, but not the facility owner,  
3                   would be in a position to direct repairs?  Should we  
4                   consider having that say "unless directed to by the  
5                   facility owner or operator"?

6                   MR. BURNELL:  It could, yes.

7                   MS. AMIDON:  Yes, that would be  
8                   reasonable.  We could add that as well.

9                   CMSR. BELOW:  Okay.  Thank you.

10                  MS. AMIDON:  Thank you.

11                  CHAIRMAN GETZ:  Okay.  I do not see any  
12                  other forms indicating anyone would like to speak this  
13                  morning.  Is there anyone that I've overlooked or missed  
14                  that would like to make a public comment?

15                  (No verbal response)

16                  CHAIRMAN GETZ:  Okay.  Then, there's no  
17                  questions from the Bench, and looks like everyone's had an  
18                  opportunity to make their comments.  We will be looking  
19                  forward to the written comments as well.  And, we will  
20                  close this public hearing and take the matter under  
21                  advisement.  Thank you, everyone.

22                  (Whereupon the hearing ended at 10:20

23                  a.m.)

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