

STATE OF NEW HAMPSHIRE

DRM 04-149



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January 12, 2005

Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

Re: Conditional Approval Confirmation of Final Proposal 2004-141

Dear Commission Members:

At its meeting on December 30, 2004, the Joint Legislative Committee on Administrative Rules (Committee) voted, pursuant to RSA 541-A:13, V(a), to conditionally approve Final Proposal 2001-141 of the Public Utilities Commission (Commission) relative to rules for gas service. The Committee's approval was conditioned upon the Commission making the changes to the final proposal as requested in the letter dated December 29, 2004 and rule text dated December 30, 2004 submitted to the Committee by Suzanne Amidon on behalf of the Commission.

It was also the understanding of the Committee, separate from the conditional approval itself, that all Incorporation by Reference Statements required by RSA 541-A:12, III and IV relative to Final Proposal 2004-141 would also be submitted by the Commission. These Statements were received on January 3 and 4, 2005.

On January 12, 2005, our office received your written response indicating how Final Proposal 2004-141 was amended in accordance with the conditional approval. We have reviewed the explanation pursuant to RSA 541-A:13, V(a). Our office has noted that the Commission has added the phrase "incorporated by Puc 512.03(a)" in a reference to NFPA 54 in Puc 512.09(c). The Commission has also changed the phrase "adopted by Puc 512.02(b)" in Puc 512.15(g)(1) to "adopted by Puc 512.03(a)." We have determined that the different wording constitutes editorial changes that do not affect the substance of the conditional approval, and therefore that the final proposal has been amended in accordance with the conditional approval and RSA 541-A:13, V(a). Therefore, you may now adopt and file the rules in Final Proposal 2004-141 as amended.

In reference to a recent request by Suzanne Amidon, editorial changes at the time of adoption pursuant to RSA 541-A:14, II, may also, in the view of this office, include insertion of references to (1) the "1999 edition" in the rules where NFPA 54 is incorporated by reference, and (2) the "2004 edition" in the rules where NFPA 58 is incorporated by reference. This is permissible because it is consistent with the Committee's understanding on December 30, 2004 relative to the documents incorporated by reference, and the edition dates are provided in the Incorporation by Reference Statements submitted by the Commission for these NFPA standards. Otherwise, such changes would not be considered editorial, and they will not be acceptable in future rulemaking as a change made at the time of adoption.

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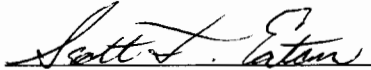
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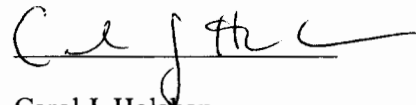
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If you have any questions concerning the provisions in RSA 541-A relative to conditional approvals or adoptions, please call Scott Eaton at 271-3680.

Very truly yours,



Scott. F. Eaton
Administrative Rules Director



Carol J. Holahan
Director

SFE/CJH

cc: Suzanne Amidon, Esq., Staff Attorney/Hearings Examiner
Ann F. Larney, Esq., DoJ, Assoc. A.G.