

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 20-013

**RESIDENTIAL LOW INCOME ASSISTANCE PROGRAM FOR
NATURAL GAS CUSTOMERS A/K/A GAS ASSISTANCE PROGRAM**

Consideration of Program Design Change

Order Approving Settlement Agreement

ORDER NO. 26,397

August 27, 2020

APPEARANCES: Michael J. Sheehan, Esq., on behalf of Liberty Utilities (EnergyNorth Natural Gas) d/b/a Liberty Utilities; Patrick H. Taylor, Esq., on behalf of Northern Utilities, Inc.; New Hampshire Legal Assistance by Stephen Tower, Esq., on behalf of The Way Home; Jeanne Agri on behalf of the New Hampshire Community Action Agencies; the Office of the Consumer Advocate, by D. Maurice Kreis, Esq., on behalf of residential customers; and Mary E. Schwarzer, Esq., on behalf of Commission Staff.

In this order, the Commission approves the parties' joint proposal to modify the Residential Low Income Customer Assistance Program for natural gas. This order extends the bill credit from distribution charges to both distribution charges and supply charges (exclusive of the local distribution adjustment charge) and replaces what was a 60 percent bill credit on distribution charges over twelve months with a 45 percent bill credit on both distribution and supply during the winter months November 1 through April 30. The modifications to the program will be implemented and in effect beginning November 1, 2020.

I. PROCEDURAL HISTORY

On January 23, 2020, Commission Staff (Staff) filed a recommendation, asking the Commission to open a docket to consider changes to the Residential Low Income Customer Assistance Program for natural gas (RLIAP). Hearing Exhibit (Exh.) 1. The RLIAP program was first implemented in 2005 as a pilot program to provide qualifying customers with overall

bill credits of approximately 15 percent, to be recovered from all customers through the local distribution adjustment charge (LDAC). It was expected that the target overall bill credits would be achieved through a 50 percent discount on residential heating delivery service base rates. *See id.*, citing Order No. 24,508 (September 1, 2005). The pilot program became a full program in 2006 and the discount on base rates was increased to 60 percent on distribution to better achieve the overall bill credit target. *See id.*, citing Order No. 24,669 (September 22, 2006). The Commission also established RLIAP cost parameters, and requested notification if the overall program cost exceeded one percent of utilities' gross revenues, or one percent of the typical residential customer's total bill. *See id.*, citing Order No. 24,508 (September 1, 2005); Order No. 24,669 (September 22, 2006).

On January 30, 2020, the Commission opened this docket, issued an order of notice, scheduled a prehearing conference, and made New Hampshire's two gas utilities, Liberty Utilities (EnergyNorth Natural Gas) d/b/a Liberty Utilities (Liberty) and Northern Utilities, Inc. (Northern), mandatory parties. On February 28, the NH Community Action Agencies (NHCAA) petitioned to intervene in the docket. The Way Home, by and through New Hampshire Legal Assistance (NHCLA), followed suit on March 10. On the same day, the Office of the Consumer Advocate (OCA) filed a notice of participation in this proceeding pursuant to RSA 363:28.

The prehearing conference was held on March 13, 2020. Motions to intervene were granted without objection. Thereafter, the Settling Parties (all the parties in this docket) engaged in multiple rounds of discovery and held four technical sessions. On July 27, Staff filed the testimony of Al-Azad Iqbal. Exh. 4. A Joint Proposal on Program Modifications (Settlement Agreement) was filed on July 27. Exh. 3.¹

¹ On July 27, 2020, the Settling Parties were in universal agreement on all aspects of the settlement with the exception of Settlement Agreement Section III (D) (outreach). The Way Home signed the Settlement Agreement

The Settlement Agreement as well as other docket filings, other than any information for which confidential treatment is requested of or granted by the Commission are available at <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-013.html>.

II. POSITIONS OF THE PARTIES AND STAFF

A. Staff

Staff's January 23, 2020, recommendation noted that RLIAP bill credits were approximately double the targeted 15 percent level, and that program costs were slightly higher than one percent of Liberty Utilities' gross revenues. Therefore, Staff recommended that the Commission open a docket to address that issue and to explore improvements and potential increased efficiencies in the RLIAP program. Staff noted that the increase in overall bill credits and program costs was due to market conditions, including an increase in base rates and decrease in supply rates (cost of gas). Exh. 1.

On March 10, 2020, the day of the prehearing conference, Governor Sununu declared a State of Emergency in response to COVID-19. Exh. 4 at 4.² Given the on-going pandemic, associated uncertainty, and a potential increase in both the number of gas heat customers needing financial assistance, and in the amount of assistance that could be needed, the parties expanded the focus of the investigation. *Id.* Goals included keeping the percentage bill credits for qualifying customers consistent with last year's benefit; creating consistent discounts; maximizing benefits when heating assistance is most needed; and limiting program

"pending further consideration of that provision [III (D)]." See Exh. 3 at 9-10. Thereafter, The Way Home reached full agreement, and filed notice into the docket on August 3, 2020. By agreement, the Settlement Agreement was updated to reflect this change and filed on August 4. With the exception of The Way Home's signature page, the two documents are identical. For convenience, this order shall reference the Settlement Agreement as Exh. 3. All page citations for Exh. 3 are to Bates pages.

² All page citations for Exh. 4 are to Bates pages.

modifications to those that did not require significant changes, thereby keeping implementation and administrative costs low and permitting implementation for the upcoming winter. *Id.*, at 4-5.

During the RLIAP review, Staff proposed expanding the bill credit to include supply charges as well as distribution charges (exclusive of the LDAC), to provide 35 percent in bill credits, equivalent to the 60 percent reduction currently provided on distribution rates (exclusive of the LDAC) for the twelve month period November 1 through October 31. *See* Exh. 4 at 7. Staff stated that including the supply charges will better assist customers in managing volatile supply costs, if and when markets change. *Id.* 6.

The parties investigated Staff's proposed 35 percent annual bill savings. Ultimately, Staff explained that the parties, including Staff, preferred to create a targeted bill credit of 45 percent of a qualifying customer's distribution and supply charges (exclusive of the LDAC) during the winter months (November 1 to April 30). *See* Exh 3; Exh. 4 at 5-6. The OCA suggested that the credit be concentrated in winter months when qualifying consumers have higher gas heating bills, a proposal all parties considered and recommend. *See* Exhs. 3-4.

Staff testified that the parties strove to maintain existing program costs, which are presently slightly more than one percent of gross revenues for Liberty, under one percent of gross revenues for Northern, and less than one percent of the typical residential customer's total bill for both utilities. Ultimately, given the circumstance of the COVID-19 pandemic, Staff proposed eliminating financial parameters and immediate notification requirements. *See* Exh. 4 at 5 and 11; Hearing Transcript of August 4, 2020 (Tr.) at 49-51; Exh. 3 at 2. The proposed modifications to the calculation of bill credits are not expected to increase program costs. *See* Exh. 4 at 4 and 11. Assuming the population of qualified customers remains essentially

unchanged, program costs should remain in line with previous years. Staff expects participation rates to be higher, however, due to COVID. *See id.*; Tr. at 51.

Staff stated that, from the beginning, the review of the RLIAP was a collaborative effort among the participating parties. Exh. 4 at 3. Staff supported the Settlement Agreement as just and reasonable, and recommended that the Commission approve it. Tr. at 30-31, 48, 60-61.

B. OCA

The OCA supported the Settlement Agreement and stated that program costs are reasonable at this time. Tr. at 30. Dr. Pradip Chattopadhyay testified that the current RLIAP program is suboptimal in that it allocates benefits during twelve months of the year, instead of allocating benefits to the winter months when gas heating customers experience higher usage and costs. Tr. at 18-19.

The OCA also commented on the interactions of the RLIAP program with the federal fuel assistance program (FAP). The OCA explained that specific circumstances would dictate whether the 35 percent approach proposed by Staff or the 45 percent discount proposed in the settlement maximize household benefits on a case-by-case basis. The OCA stated that it believed customers would benefit more with a 45 percent discount during winter months than a 35 percent discount year round. Tr. at 20. The OCA also noted that circumstances under which the 35 percent model could provide a greater benefit for individual qualified customers, in combination with FAP, are if the 45 percent RLIAP benefit moved the customer to a lower FAP tier. Nonetheless, the OCA recommended the RLIAP not be overly reactive to the FAP program. Tr. at 25.

C. The Way Home

The Way Home supported the Settlement Agreement. Tr. at 57-58. According to The Way Home, the proposed 45 percent model “is not going to have far-reaching unforeseen consequences on other public benefits that low-income households [that qualify for the RLIAP benefit] may receive.” Tr. at 42. The Way Home valued re-allocating the bill credit exclusively to the winter months, because that will create more balance between high winter heating bills and the generally much lower gas bills of the non-heating season. The Way Home also represented that the proposed modifications would allow low-income households to better manage their finances and make them less likely to fall into arrears on their gas bills. Tr. at 57-58.

D. Liberty Utilities

Liberty Utilities supported the Settlement Agreement, endorsed the settlement as just and reasonable, and recommended that it be approved by the Commission. *See* Tr. at 58-59.

E. Northern Utilities

Northern Utilities supported the settlement agreement, noted that the settlement is just and reasonable, and recommended that it be approved by the Commission. Tr. at 58.

F. NH Community Action Agencies

The NH Community Action Agencies supported the Settlement Agreement. Tr. at 58.

III. SUMMARY OF SETTLEMENT AGREEMENT

The Settlement Agreement proposes to replace qualified customers’ 60 percent bill credit on distribution rates (exclusive of the LDAC) over twelve months, with a 45 percent bill credit on distribution and supply rates (exclusive of the LDAC) during the winter months, November 1 to April 30. The Settling Parties expect the change to have minimal impact on the current cost of the RLIAP program and on qualifying low-income customer annual bill credits. The change

would provide greater rate relief to qualifying customers when most needed during the winter months, when gas heating bills are the highest, and would remain consistent year to year regardless of volatility in distribution and supply rates. *See* Tr. at 14-15; Exhs. 3- 4. The new target bill credit, is consistent with bill credits in recent years and represents a significant increase in the target credit as originally conceived. *Compare* Exh 1. (15 percent target) *with* Exh. 3 (45 percent winter target, approximately equivalent to an annual 35 percent target).

The Settlement Agreement proposes eliminating immediate notification to the Commission if program costs exceed one percent of utility gross revenue, or one percent of a typical customer's annual bill, and instead provides for review of RLIAP costs in the context of annual cost of gas proceedings. Exh. 4 at 8 (as part of cost of gas proceeding, further review possible, if necessary).

The Settlement Agreement also provides for the opportunity for future review of the RLIAP program as a whole as well as review of appropriate program costs. Exhibit 3 at 3 (“Commissioners, Staff, or other parties [may] recommend that a docket be opened to investigate further modifications, post-COVID”); Exh. 4 at 5 (“Staff believes that any more robust changes should be considered in future proceedings, if necessary;”); *see also* Tr. at 28 (Mr. Iqbal noted overall program costs “will be discussed in future cost of gas docket or maybe another docket like this”).

Finally, the Settlement Agreement recommends renaming the program. Instead of being known as the “RLIAP,” the program would be known as the “Gas Assistance Program (GAP).”

IV. COMMISSION ANALYSIS

Prior to approving disposition of a contested case by settlement, the Commission must determine that settlement results are just and reasonable and serve the public interest under

N.H. Admin R., Puc 203.20(b). Even when all parties join a settlement agreement, the Commission cannot approve it without independently determining that the results comport with applicable standards. *EnergyNorth Natural Gas Inc. d/b/a National Grid NH*, Order 25,202 at 18 (March 10, 2011).

We encourage parties to settle through negotiation and compromise because it is an opportunity for creative problem solving, allows the parties to reach a result in line with their expectations, and is often a better alternative to litigation. *Granite State Electric Co.*, Order No. 23,966, at 10 (May 8, 2002); *see* RSA 541-A:31, V (a) (“informal disposition may be made of any contested case...by stipulation [or] agreed settlement”).

We commend Staff and the parties for the efforts they took in analyzing the program, and appreciate the recommendation to reallocate the bill savings to winter months when customers are most likely to need assistance with heating bills. Program costs have historically exceeded one percent of Liberty’s gross revenue. The Settlement Agreement reallocates approximately the same level of costs as currently exist. Because Staff testified that participation rates, or usage, and therefore costs of the program, could be higher in the coming year due to the COVID-19 pandemic, we will condition our approval on a modification of the Settlement Agreement to require the parties to review overall program costs over the coming year. If costs exceed any of the one percent benchmarks, Staff and the parties shall make a further recommendation to the Commission in this docket no later than September 25, 2021. *See* Tr. 49, 52.

Based on this modification, and the analysis above, we find the Settlement Agreement is just and reasonable and in the public interest, and we approve it.

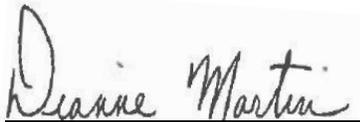
Based upon the foregoing, it is hereby

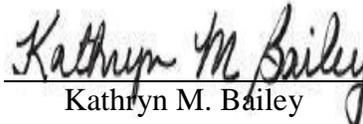
ORDERED, that the Settlement Agreement reached by the parties in this proceeding, as filed on July 27, 2020, and updated on August 4, 2020, renaming the RLIAP program the “Gas Assistance Program” is hereby **APPROVED**, consistent with the conditions set forth above; and it is

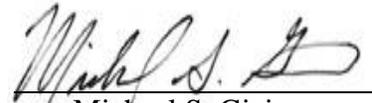
FURTHER ORDERED, that Liberty Utilities and Northern Utilities Inc. shall file properly annotated tariff pages in compliance with this order, as required by N.H. Admin. R., Puc 1603, no later than 15 days from the issuance of this order; and it is

FURTHER ORDERED, that these program modifications shall be implemented and in effect beginning November 1, 2020.

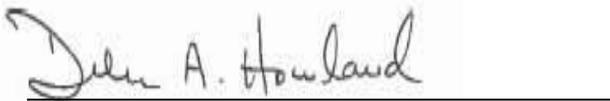
By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of August 2020.


 Dianne Martin
 Chairwoman


 Kathryn M. Bailey
 Commissioner


 Michael S. Giaimo
 Commissioner

Attested by:


 Debra A. Howland
 Executive Director

Service List - Docket Related

Docket# : 20-013

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