

DG 07-034

**ENERGYNORTH NATURAL GAS, INC. D/B/A
KEYSPAN ENERGY DELIVERY NEW ENGLAND**

2007 Summer Season Cost of Gas

Order Approving Cost of Gas Rates

ORDER NO. 24,744

April 27, 2007

APPEARANCES: Steven V. Camerino, Esq., of McLane, Graf, Raulerson, and Middleton, on behalf of EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England; Meredith A. Hatfield, Esq., of the Office of the Consumer Advocate, on behalf of residential utility ratepayers; and Edward N. Damon, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On March 16, 2007, EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan) filed with the New Hampshire Public Utilities Commission (Commission) proposed rate adjustments pursuant to the Cost of Gas (COG) clause in its tariff for the period May 1, 2007 through October 31, 2007 (2007 Summer Season), applicable to KeySpan's natural gas operations in southern and central New Hampshire and in the City of Berlin. The filing was accompanied by supporting attachments and the direct testimony of Ann E. Leary, manager of rates, and Theodore E. Poe, manager of energy planning. The filing was preceded by KeySpan's filing with the Commission, on March 15, 2007, of a motion for protective order and confidential treatment regarding certain information contained in the 2007 summer season COG filing.

On March 20, 2007, the Commission issued an order of notice scheduling a hearing for April 10, 2007. On March 26, 2007, the Office of the Consumer Advocate (OCA) entered an appearance on behalf of residential ratepayers pursuant to RSA 363:28. There were no other intervenors.

The hearing was held as scheduled on April 10, 2007. On April 19, 2007, KeySpan filed confidential and redacted copies of certain of its supply and transportation contracts in accordance with *EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England*, 89 NH PUC 274 (2004), as well as a second motion for protective order and confidential treatment.

II. POSITIONS OF THE PARTIES AND STAFF

A. KeySpan

Among other things, KeySpan witnesses Leary and Poe addressed the calculation of the proposed COG rates and customer bill impacts as well as the reasons for the rate increases. KeySpan also challenged the propriety of Staff's testimony regarding certain issues to be addressed in a separate docket, No. DG 07-050, that may affect the costs to be recovered pursuant to a Commission order in this docket.

1. Calculation of the Proposed Firm Sales COG Rates and Bill Impact

Pursuant to the COG clause, KeySpan may, subject to the Commission's jurisdiction, adjust on a semiannual basis its firm gas sales rates in order to recover the costs of gas supplies, capacity and certain related expenses, net of applicable credits, as specified in KeySpan's tariff. The average COG rate, which is the COG rate payable by residential customers, reflects anticipated indirect gas costs and anticipated direct gas costs, as well as various adjustments, including the over- or under-collection of allowable prior period costs. KeySpan's filing proposes a residential COG rate of \$1.0388 per therm. Anticipated indirect gas costs, consisting of working capital, bad debt, and overhead charges, total \$878,158. Anticipated direct gas costs total \$24,463,051 and are decreased by adjustments totaling (\$60,525), consisting of a prior period over-collection of (\$252,111), interest of \$56,900 and prior period adjustments of

\$134,686. The net gas costs to be recovered in connection with the 2007 summer season total \$25,280,684 and are divided by projected summer season sales of 24,335,674 therms to arrive at KeySpan's proposed residential COG rate.

KeySpan's proposed 2007 summer season residential COG rate of \$1.0388 per therm represents an increase of \$0.0680 per therm from the average weighted 2006 summer season residential COG rate of \$0.9708 per therm. The combined impact of the proposed firm sales COG and local delivery adjustment clause rates is an increase in the typical residential heating customer's summer gas costs of \$25, which represents a 5.7 percent increase above last summer's rates.

KeySpan proposed commercial and industrial (C&I) low winter use (LW) and high winter use (HW) COG rates as follows: \$1.0370 per therm for the LW COG rate and \$1.0409 per therm for the HW COG. (C&I LW customers have high load factors while C&I HW customers have low load factors.)

2. Reasons for the Increase in the COG Rates

According to KeySpan, the increase in the proposed COG rates, as compared to last summer's rates, can be primarily attributed to increases in gas costs that increased the rate by approximately ten cents, which are off-set by a five cent decrease due to the change in the prior period over/under recovery.

3. Challenge to Staff Testimony

KeySpan challenged Staff's testimony, noting that Staff did not file written testimony as contemplated in the procedural schedule for witnesses planning to testify at hearing. KeySpan also asserted that Staff had indicated to the Company that it did not intend to file testimony. According to KeySpan, Staff's testimony touched upon four very complicated issues that are the

subject of Docket No. DG 07-050, and as to which there is no agreement that any rate adjustments should be made. KeySpan further maintained that two of the issues are not even properly before the Commission. KeySpan stated that all four issues should be addressed in another docket and that Staff's offering of substantive testimony in this proceeding would be improper, unfair, and in violation of due process and Order No. 24,688 (October 27, 2006). Nevertheless, KeySpan acknowledged that the Commission would not be constrained in DG 07-050 as the result of Staff not pursuing the issues in this docket.

6. Motions for Protective Order and Confidential Treatment

KeySpan requested confidential, protective treatment for certain information contained in Schedules 1, 2, 5, 6, 7, and 14 of its 2007 summer season COG filing (and in discovery, argument and briefing related to the confidential information) and, in particular, the commodity and demand charges associated with specific suppliers. KeySpan asserted that this information constitutes trade secrets and should be protected as confidential commercial information. KeySpan further stated that it does not disclose this information to anyone outside of its corporate affiliates and their representatives. According to KeySpan, release of this information would likely result in competitive disadvantage for KeySpan in the form of less advantageous or more expensive gas supply contracts since gas suppliers possessing the information would be aware of KeySpan's expectations regarding gas supply costs and other contract terms and would be unlikely to propose to supply such goods and services on terms significantly more advantageous to KeySpan. KeySpan also requested confidential, protective treatment on similar grounds for certain information contained in seven gas supply and capacity contracts (and in discovery, argument and briefing related to the confidential information), and, in particular, the prices in such contracts and the terms on which supply or capacity is provided.

B. OCA

The OCA did not object to KeySpan's filing and supported Staff's proposal to reserve the Commission's rights in this docket related to the issues to be addressed in Docket No. DG 07-050.

C. Staff

Staff witness Stephen P. Frink, assistant director of the gas and water division, testified regarding the effect four issues that are the subject of Docket No. DG 07-050 could have on the 2007 summer season COG filing.

According to Staff, two of those issues affect the 2006 and 2007 summer gas costs included in this filing: (1) whether the carrying charges calculated in the monthly COG reconciliation and the carrying charges recovered through the COG working capital allowance constitute a double recovery of carrying costs, and (2) whether it is appropriate for KeySpan to use the Company's overall cost of capital as a proxy of the working capital, carrying charge rate. Staff stated that the other two issues affect projected costs in the current and future proceedings because they relate to changes in indirect gas costs proposed and implemented by KeySpan on November 1, 2006. Those issues are (1) the appropriate bad debt percentage to be applied to gas costs and recovered through the COG, and (2) the reasonableness of the revised lead/lag study.

Mr. Frink testified that if the issues were resolved fairly quickly and with a limited rate impact, any changes to the costs approved for recovery through the COG rates could be implemented through a monthly rate adjustment. He further stated that if the issues are not resolved until late in the summer season and/or have a substantial rate impact, the adjustment could be included in the 2007 summer season reconciliation and reflected in the 2008 summer season COG rates.

Subject to resolution of the issues to be addressed in DG 07-050, Staff supported KeySpan's proposed 2007 summer season COG rates as filed. Staff noted that the Commission Audit Staff reviewed the 2006 summer season reconciliation and found no exceptions. Staff confirmed that the sales forecast for summer 2007 is consistent with past experience and expected growth, the supply plan is based on least cost planning and the direct gas costs are based on actual or hedged prices and projected pricing that reflect market expectations. In addition, Staff noted that there will be a reconciliation of forecast and actual gas costs for the summer 2007 period that will be filed prior to next summer's COG proceeding and any concerns that may arise related to the 2007 gas planning and dispatch may be raised and addressed in the 2008 Summer Season COG.

Staff recognized that at this point the Company has little control over what the 2007 summer season gas costs will be, but stated that KeySpan has the opportunity to offset those costs through capacity releases and/or off-system sales. Last year the Company began reporting its capacity release activity to Staff on a monthly basis, and Staff expressed its appreciation for these regular updates and looks forward to similar updates this year.

III. COMMISSION ANALYSIS

KeySpan generally objected to Staff's testimony regarding the issues to be addressed in DG 07-050. However, in our view, admission of Staff's testimony on these issues has no adverse impact on the Company's right to due process. Staff simply explained what those issues are and the time periods to which they relate. Staff's testimony did not extend to the merits of those issues or the question of whether they are properly before the Commission in DG 07-050. KeySpan urged that those issues be left to another docket. We also note that KeySpan acknowledged that the Commission would not be foreclosed from addressing these issues in DG

07-050 by virtue of Staff not pursuing them further here. Staff recommended that the Commission avoid for the present ruling on those issues, the time periods to which they relate, and the effect, if any, of a decision in DG 07-050 upon gas costs to be recovered through the COG Clause. We find Staff's recommendation to be reasonable and, accordingly, we will defer ruling on the 2006 summer season reconciliation and how any such gas costs should be recovered, pending the decision in DG 07-050. This action renders moot the Company's due process arguments.

Based on our review of the record in this docket, and subject to the foregoing determinations, we approve the proposed Summer Season COG rates as just, reasonable and lawful pursuant to RSA 378:7.

Regarding KeySpan's two motions for protective order and confidential treatment, the Right-to-Know Law provides each citizen with the right to inspect all public records in the possession of the Commission. *See* RSA 91-A:4, I. The statute contains an exemption, invoked here, for "confidential, commercial or financial information." RSA 91-A:5, IV. In most cases, a balancing test is used to determine whether confidential treatment should be granted. *See e.g., Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540 (1997).

We note that no parties have objected to the motions and that the information for which confidential, protective treatment is sought is similar to information for which the Commission has granted such treatment in the past. In balancing the interests for and against public disclosure of the information for which confidential, protective treatment is sought, we are persuaded on the basis of the record in this docket that the interests of KeySpan and ultimately its ratepayers in non-disclosure outweigh the public's interest in obtaining access to the information. We therefore grant the motions. Consistent with our practice, the protective

treatment provisions of this order will be subject to the on-going rights of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider in light of RSA 91-A, should circumstances so warrant.

Based upon the foregoing, it is hereby

ORDERED, that KeySpan's proposed 2007 Summer Season COG rates for the period May 1, 2007 through October 31, 2007 are **APPROVED** as set forth in this Order, effective for service rendered on or after May 1, 2007, as follows:

	Cost of Gas	Minimum COG	Maximum COG
Residential	\$1.0388	\$0.8310	\$1.2466
C&I, Low Winter Use	\$1.0370	\$0.8296	\$1.2444
C&I, High Winter Use	\$1.0409	\$0.8327	\$1.2491

FURTHER ORDERED, that KeySpan may, without further Commission action, adjust the approved COG rates upward or downward monthly based on KeySpan's calculation of the projected over- or under-collection for the period, but the cumulative adjustments shall not vary more than twenty percent (20%) from the approved unit cost of gas; and it is

FURTHER ORDERED, that KeySpan provide the Commission with its monthly calculation of the projected over- or under-collection, along with the resulting revised COG rate for the subsequent month, not less than five (5) business days prior to the first day of the subsequent month. KeySpan shall include a revised tariff page 84 - Calculation of Cost of Gas Adjustment for firm sales and revised firm rate schedules under separate cover letter if KeySpan

elects to adjust the COG rate, with revised tariff pages to be filed as required by N.H. Code Admin. Rules Puc 1603; and it is

FURTHER ORDERED, that the over- or under-collection shall accrue interest at the monthly prime lending rate as reported by the Federal Reserve Statistical Release of Selected Interest Rates; and it is

FURTHER ORDERED, that the two pending motions for protective order and confidential treatment are GRANTED to the extent set forth in this Order; and it is

FURTHER ORDERED, that KeySpan shall file properly annotated tariff pages in compliance with this Order no later than 15 days from the issuance date of this Order, as required by N.H. Admin. Rules, Puc 1603.

By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of April, 2007.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Attested by:

ChristiAne G. Mason
Assistant Executive Director & Secretary