

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 20-152

**LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.
d/b/a LIBERTY UTILITIES KEENE DIVISION**

Winter 2020-2021 Cost of Gas

Order Approving Interim Cost of Gas Rates

ORDER NO. 26,421

October 30, 2020

APPEARANCES: Michael J. Sheehan, Esq., for Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities Keene Division; the Office of the Consumer Advocate by Christa Shute, Esq., on behalf of residential ratepayers; and Mary E. Schwarzer, Esq., on behalf of Commission Staff.

This order approves a winter 2020-2021 cost of gas (COG) rate and a fixed price option (FPO) rate for Liberty-Keene customers for the winter period (November 1, 2020, through April 30, 2021), on an interim provisional basis. A final order on Liberty Keene COG and FPO rates will be issued following a hearing to adjudicate outstanding issues raised at the October 23, 2020, hearing.

The interim COG rate for the winter period 2020-2021 will be \$1.0253 per therm. The interim FPO rate for the winter period 2020-2021 will be \$1.2300 per therm. These rates represent Commission Staff's proposed COG rate and Liberty Keene's proposed, advertised FPO rate, respectively. *See* Exhibit (Exh.) 9 at Bates 04 and attachment SPF-1 (as amended at hearing); Hearing Transcript of October 23, 2020, (Tr.) at 114-18 (amending Staff's recommended COG rate from \$1.0225 to \$1.0253 based upon revised data from the Company); Exh. 5 (Bates 007R).

As agreed by the parties, the Commission is issuing an interim order because several issues related to the Liberty Keene and Staff rate proposals could not be resolved prior to the start of the 2020-2021 winter period and the current rates in effect expire on October 31, 2020.

I. PROCEDURAL HISTORY

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities Keene Division (Liberty Keene or the Company) is a public utility distributing propane-air and natural gas in Keene, New Hampshire. On September 17, 2020, Liberty Keene filed its proposed COG and FPO rates for winter 2020-2021. The filings included the joint testimony of David B Simek, Manager, Rates and Regulatory Affairs, Liberty Utilities Services Corp.; Deborah M. Gilbertson, Senior Manager, Energy Procurement, Liberty Utilities Services Corp.; and Catherine A. McNamara, Rates Analyst II, Liberty Utilities Services Corp., as well as proposed revised tariffs and schedules.

This is the second winter period in which Liberty Keene will be using compressed natural gas (CNG) to meet some Keene customer supply requirements. *See* Order No. 26,305 at 4, 9 (October 31, 2019). The Company's proposed rates are based on forecasted propane and natural gas supply costs, CNG supply contract demand charges incurred prior to the Company commencing natural gas service (a period of 26 months), an under-recovery of 2019-2020 winter supply costs, and a 2020-2021 winter sales forecast. The under-recovery includes the incremental cost of CNG (as compared to propane air) for the 2019-2020 winter period.

The Commission issued an Order of Notice on September 25, 2020. On September 28, the Office of the Consumer Advocate (OCA) notified the Commission of its participation on behalf of residential ratepayers pursuant to RSA 363:28. There were no intervenors.

Commission Staff (Staff) conducted discovery and held a technical session on October 6. The parties agreed to a procedural schedule, which was filed on October 7. On October 15, 2020, Staff filed the testimony of Stephen P. Frink, Director of the Gas and Water Division, and Randall S. Knepper, Safety and Security Director of the Safety Division.

On October 16, Liberty Keene filed revised pages updating the tariff, testimony, and bill impact schedules to incorporate a revision to the revenue decoupling adjustment factor (RDAF) in the Company's local distribution adjustment clause (LDAC), and to revise Schedule B to specify the separate costs of propane and CNG as required by Order 26,241. On October 19, at the request of Staff, Liberty Keene filed redlined revised testimony, tariffs and schedules. On October 20, the Company filed Rebuttal Testimony of Steven M. Mullen, Director, Rates and Regulatory Affairs for Liberty Utilities (EnergyNorth Natural Gas) Corp.

The Commission held a hearing on October 23, 2020. At hearing, Staff and the parties agreed the Commission had sufficient information to put interim rates in place and further agreed to continue the hearing on the COG supply matters related to CNG demand costs incurred prior to commencing CNG service and recovery of 2019-2020 winter incremental CNG costs. Because testimony with regard to CNG demand charges and incremental CNG costs for the winter period 2019-2020 was not concluded at the October 23, 2020, hearing, we do not address those issues in this interim order.

Pursuant to this order, the hearing on the Liberty Keene COG and FPO 2020-2021 winter rates will continue at 10 a.m. on November 2, 2020. It is not anticipated that additional exhibits will be filed.

Liberty Keene's filing and all parties and Staff's subsequent docket entries, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at: <https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-152.html>.

II. COST OF GAS ADJUSTMENT MECHANISM

The Cost of Gas adjustment mechanism was implemented in 1974 during a time of rapidly changing prices as a way to reflect increases and decreases in energy supply costs in customer rates without having to go through extended proceedings to change fuel delivery rates. Supply costs are expected to comprise approximately half of a residential heating customer's annual bill. Liberty Keene has limited control over the market price of propane and CNG, which are unregulated commodities. Similarly, it has limited control over items such as fuel transportation. The COG adjustment mechanism allows the Company to pass those costs on to its customers directly and efficiently without mark-up or profit. COG rates are initially set using projected costs and sales for the upcoming winter period, which runs from November 1 through April 30. Through the COG adjustment mechanism, the Company may adjust COG rates monthly to take into account changes in the propane and natural gas markets based on actual costs to date and projected costs for the remainder of the period. While there is no limitation on reductions to COG rates, rates may be adjusted upward without Commission action up to a cumulative maximum of 25 percent above the approved rate. To the extent that adjustments are based on projected costs, they are subject to periodic reconciliation, after all actual costs are known and reported. As in prior years, Liberty Keene offers customers the opportunity to lock in a specific price per therm for gas supply through its FPO program. Under the program, a customer pays one price per therm for the gas supply portion of the monthly bill from November 1 through April 30, regardless of market-price fluctuations. In contrast, the non-FPO

rate fluctuates with market prices and is subject to monthly increases or decreases, depending on the actual cost paid for the gas supply required to serve customers.

III. POSITIONS

a. Liberty Keene

Liberty Keene proposed a non-fixed-price 2020-2021 winter COG rate of \$1.2100 per therm comprised of the expected costs for propane blended with the expected costs for CNG (blended rate), including a portion of historic CNG supply contract demand charges during the period 2017 through 2019 (when no CNG was served) and incremental costs for CNG for the 2019-2020 winter period. The Company also proposed an FPO rate of \$1.2300 per therm. The proposed FPO rate includes a \$0.02 premium over the Company's proposed COG rate for the customer benefit of price certainty. The FPO rate has already been advertised and accepted by a percentage of customers roughly equivalent to last year's FPO customers.

A typical residential heating customer winter gas cost would be approximately \$914 at the Company's proposed 2020-2021 winter COG rate, compared to a 2019-2020 winter cost of \$722, an increase of \$192 or 27%. *See* Exh. 5, Bates 33R.

Non-supply costs, i.e. all production costs, were removed from Liberty Keene COG rates by agreement in a prior docket, and continue to be excluded from this COG proceeding. *See* Tr. at 52-53. Production costs will be determined in Liberty Utilities' next distribution rate case, and then recovered in Liberty Keene COG rates after that determination is made. *See* Order No. 26,305 at 4, 9 (October 31, 2019). By way of background, when seeking Commission approval for its acquisition of Keene in 2014, Liberty EnergyNorth mentioned future plans to convert the existing Keene propane-air gas system to a natural gas system. On October 4, 2019, Liberty-Keene began providing CNG service to approximately twenty customers located in the

Monadnock Marketplace, representing approximately 15 percent of the forecasted Keene winter demand. *See id.* at 4-5.

b. OCA

The OCA recommended approval of Staff's alternate COG in the amount of \$1.0253 per therm and alternate FPO in the amount of \$1.0453 per therm. The OCA agreed with Staff that recovery of CNG demand costs incurred prior to the Company commencing CNG service be disallowed. The OCA also agreed that recovery of incremental CNG costs from the 2019-2020 winter period should not be allowed. The OCA supported Staff's recommendation that the Company be allowed to recover projected 2020-2021 winter CNG costs in the 2021 Winter COG and FPO, and recommended Liberty Keene be required to continue to calculate and report the incremental supply savings or costs resulting from the use of CNG. The OCA said that incremental costs subsequently determined to be imprudent should continue to be subject to refund.

c. Staff

Staff recommended that the Commission reject the Company's proposed COG and FPO rates. Staff also recommended that the Commission disallow recovery of CNG demand costs incurred prior to the Company commencing CNG service and not allow recovery of incremental CNG costs from last winter at this time. Staff recommended that the Commission provisionally allow recovery of projected 2020-2021 winter CNG costs, provided that incremental CNG costs or savings continue to be tracked and reported in the Liberty Keene 2020-2021 winter reconciliation so that incremental costs determined to be imprudent in the future would be subject to refund. *See Exhibit 9 at Bates 002, 014-16, 020-23, Tr. at 114-18.*

With the above caveats, Staff recommended a COG rate of \$1.0253 per therm and an FPO rate of \$1.0453 per therm.

IV. COMMISSION ANALYSIS

The Commission has broad statutory authority to set rates in addition to “powers inherent within its broad grant” of express authority. *See Appeal of Verizon New England, Inc.*, 153 N.H. 50, 64-66 (2005) (citations omitted). The Commission applies the “just and reasonable” ratemaking standard of RSA 374:2 and RSA 378:7 when setting COG rates.¹ While we find it just and reasonable to fix interim, adjustable, and reconcilable COG rates as we do below, that finding is conditional and provisional because we have not heard all of the evidence. All parties have agreed that the findings we make and the rates we set here are without prejudice to the evidence and argument we take at the continued hearing in this matter and the final rates set thereafter. At this time, as an interim rate and compromise, the Commission adopts Staff’s proposed COG rate of \$1.0253 per therm, which excludes recovery of CNG demand charges and the incremental cost of CNG from last winter, and the Company’s proposed (and advertised) FPO rate of \$1.2300. We expect to issue an order setting the final cost of gas rate following the continued hearing, and in time for the Company to adjust rates for the remainder of this period for rates effective December 1.

Because the COG rates and LDAC rate components are reconciled each year, and the Company has the ability to adjust rates monthly during this period, any adjustments needed to reconcile: a) the interim and final rates for this period, and b) actual cost and revenue, subject to

¹The local distribution adjustment clause (LDAC) rates applicable to Liberty Keene customers is determined in Liberty EnergyNorth’s annual COG proceeding. *See* Order No. 26,419 (October, 30, 2020) (Liberty EngeryNorth Winter 2020-2021 COG).

such caveats as the Commission may deem appropriate, may be made in the Commission’s final order for the winter period 2020-2021, or in Liberty Keene’s future winter COG filings.

Depending on the outcome of our eventual prudence review, Liberty Keene may be required to refund all or a portion of CNG and LNG incremental costs including production and supply costs, through an adjustment to COG rates.

Based upon the foregoing, it is hereby

ORDERED, that consistent with Governor Christopher T. Sununu’s Emergency Order #12, the Commission will continue the hearing in this matter, as a web-enable hearing, pursuant to New Hampshire Administrative Rules Puc 203.12, on November 2, 2020, at 10:00 a.m. to establish final rates for Liberty Keene Winter 2020-2021 COG. This November hearing is a continuation of proceedings in this docket which began on October 23, 2020. Members of the public who wish to access the hearing may do so by clicking here:

<https://www.puc.nh.gov/Regulatory/Calendar-Remote.thml>. **If you have any difficulty obtaining access to this remote event, please notify the Commission by calling (603) 271-2431 as soon as possible;** and it is

FURTHER ORDERED, that Liberty-Keene’s interim winter 2020-2021 period per term rates effective for service rendered on or after November 1, 2020, are approved as set forth in this order, as follows:

Customer Class	Interim 2020-2021 Winter COG	Interim 2020-2021 Winter Maximum COG
Non-FPO	\$1.0253	NA
FPO	\$1.2300	NA

In the event that these rates are adjusted in the final rate order, any difference for customer charges will be taken into account in the rates established for the remainder of the period, and reconciled in a subsequent Liberty Keene Winter COG docket; and it is

FURTHER ORDERED, that Liberty Keene track and report incremental natural gas savings and costs in COG reconciliations to be determined by comparing the individual CNG and LNG supply cost at the time of delivery with spot propane prices at that time; and it is

FURTHER ORDERED, that Liberty-Keene shall ensure that, in all future initial filings, for all fuel types planned for use in supplying customers (including CNG, LNG, propane) the fuel types and costs for fuels shall be specified in summaries as well as in discrete schedules, and Summary Schedule A, as currently configured, shall remain a component of future filings unless otherwise ordered; and it is

FURTHER ORDERED that if the Commission ultimately finds that conversion of the Liberty Keene system from propane-air to CNG, or any other natural gas, was imprudent, then all incremental costs related to the conversion and recovered through the COG will be subject to refund through a future Liberty Keene COG; and it is

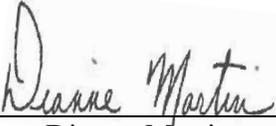
FURTHER ORDERED, that Liberty Keene shall provide the Commission with its monthly calculation of the projected over- or under-collection, along with the resulting revised COG rates for the subsequent month, not less than five business days prior to the first day of the subsequent month; and it is

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

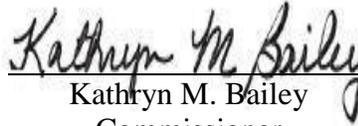
FURTHER ORDERED, that Liberty Keene shall promptly file properly annotated tariff pages for interim rates in compliance with this order no later than 15 days from the issuance date of this order, as required by N.H. Admin. R., Part Puc 1603; and it is

FURTHER ORDERED, that Liberty Keene shall file its customer notice of proposed rate change for the 2021 summer, 2021-2022 winter, and 2022 summer periods with the Director of the Consumer Services and External Affairs Division, prior to delivery to its customers.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of October, 2020.

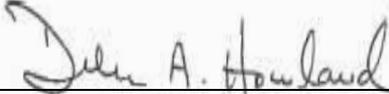


Dianne Martin
Chairwoman



Kathryn M. Bailey
Commissioner

Attested by:



Debra A. Howland
Executive Director

Service List - Docket Related

Docket#: 20-152

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