

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

April 10, 2017 - 1:36 p.m.
Concord, New Hampshire

19 APR '17 PM 3:01

RE: DG 16-812
LIBERTY UTILITIES (ENERGYNORTH NATURAL
GAS) CORP. d/b/a LIBERTY UTILITIES -
KEENE DIVISION:
2016-2017 Cost of Gas.

PRESENT: Chairman Martin P. Honigberg, Presiding
Commissioner Robert R. Scott
Commissioner Kathryn M. Bailey

Sandy Deno, Clerk

APPEARANCES: Reptg. Liberty Utilities (EnergyNorth
Natural Gas) Corp. d/b/a Liberty
Utilities - Keene Division:
Michael J. Sheehan, Esq.

Reptg. PUC Staff:
Alexander F. Speidel, Esq.
Stephen Frink, Asst. Dir./Gas & Water
Al-Azad Iqbal, Gas & Water Division

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

**CERTIFIED
ORIGINAL TRANSCRIPT**

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I N D E X

PAGE NO.

**WITNESS PANEL: DAVID B. SIMEK
 STEPHEN P. FRINK**

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E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
2	Settlement Agreement regarding Productions Costs (03-08-17)	5
3	Staff Recommendation (12-22-16)	6

1 Water Division.

2 CHAIRMAN HONIGBERG: So, how are we
3 proceeding this afternoon? Mr. Sheehan.

4 MR. SHEEHAN: Sure. First, we'd like
5 to mark the Settlement Agreement as "Exhibit
6 No. 2". Number 1 was the filing last fall.

7 (The document, as described, was
8 herewith marked as **Exhibit 2** for
9 identification.)

10 MR. SHEEHAN: And, second, I
11 understand that Mr. Simek and Mr. Frink will
12 get on the stand and present the Agreement, and
13 answer any questions that you may have.

14 CHAIRMAN HONIGBERG: Are there any
15 preliminary issues we need to deal with before
16 Mr. Simek and Mr. Frink take their places?

17 MR. SPEIDEL: Well, this could be
18 considered a preliminary issue, given the
19 relatively formal structure of the hearing. We
20 could have two hearing exhibits marked perhaps?

21 CHAIRMAN HONIGBERG: Why not.

22 MR. SPEIDEL: We would have the
23 Settlement Agreement tentatively marked as
24 "Hearing Exhibit Number 1".

[WITNESS PANEL: Simek ~ Frink]

1 CHAIRMAN HONIGBERG: No. I think
2 Mr. Sheehan dealt with that, and it's "2",
3 because 1 was marked in an earlier go-round in
4 this.

5 MR. SPEIDEL: Oh, I'm sorry. Then,
6 it would be number "2". And, then, number "3"
7 would be the Staff Recommendation. Which is
8 under Docket Tab Number 14, and it's dated
9 December the 22nd.

10 (The document, as described, was
11 herewith marked as **Exhibit 3** for
12 identification.)

13 CHAIRMAN HONIGBERG: All right.
14 Anything else?

15 (Atty. Speidel indicating in the
16 negative.)

17 CHAIRMAN HONIGBERG: All right.
18 Seeing none, why don't Mr. Simek and Mr. Frink
19 proceed to the witness box.

20 (Whereupon **David B. Simek** and
21 **Stephen P. Frink** were duly sworn
22 by the Court Reporter.)

23 CHAIRMAN HONIGBERG: Mr. Sheehan.

24 MR. SHEEHAN: Thank you. I suppose I

[WITNESS PANEL: Simek ~ Frink]

1 will introduce Mr. Simek, and then turn it over
2 to counsel to introduce Mr. Frink, and to give
3 an explanation of the Settlement Agreement.

4 **DAVID B. SIMEK, SWORN**

5 **STEPHEN P. FRINK, SWORN**

6 **DIRECT EXAMINATION**

7 BY MR. SHEEHAN:

8 Q. Mr. Frink [Simek?], your name and position with
9 the Company please.

10 A. (Simek) David Simek, and I am a Utility
11 Analyst.

12 Q. And have you worked on the various issues
13 involved with this docket, the Keene Winter
14 '16-17 Cost of Gas?

15 A. (Simek) Yes, I have.

16 Q. And, in particular, the issues that arose after
17 the order initially approving the winter cost
18 of gas rates?

19 A. (Simek) Yes, I have.

20 Q. And you were involved in some of the
21 discussions or all of the discussions that
22 resulted in the Settlement Agreement we have
23 before us now as "Exhibit 2", is that correct?

24 A. (Simek) Yes, it is.

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[WITNESS PANEL: Simek ~ Frink]

1 Q. And the Settlement Agreement, is it your
2 opinion that the Settlement Agreement fairly
3 resolves those issues resulting in just and
4 reasonable rates for the Keene customers?

5 A. (Simek) Yes, it does.

6 MR. SHEEHAN: That's all I have.

7 Thank you.

8 CHAIRMAN HONIGBERG: Mr. Speidel.

9 BY MR. SPEIDEL:

10 Q. Mr. Frink, could you please state your full
11 name for the record.

12 A. (Frink) Stephen Frink.

13 Q. And what is your position and responsibility
14 here at the Commission?

15 A. (Frink) The Assistant Director of the Gas &
16 Water Division.

17 Q. Are you familiar with the document that was
18 preliminarily marked hearing "Exhibit
19 Number 3", your Staff Recommendation of
20 December the 22nd?

21 A. (Frink) Yes.

22 Q. Would you still adopt, in general terms, the
23 findings and recommendations that you
24 delineated therein?

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[WITNESS PANEL: Simek ~ Frink]

1 A. (Frink) Yes, I do.

2 Q. And you're also familiar with the hearing
3 exhibit that is preliminarily marked number
4 "2", the Settlement Agreement?

5 A. (Frink) Yes, I am.

6 Q. And do you support all of the provisions of the
7 Settlement Agreement?

8 A. (Frink) Yes, I do.

9 Q. And you still support it at the present time?

10 A. (Frink) I do.

11 MR. SPEIDEL: Very well. If I may,
12 would Mr. Sheehan like to begin the
13 questioning, direct questioning, or shall I?

14 MR. SHEEHAN: I'm happy to defer.
15 Thank you.

16 MR. SPEIDEL: Okay.

17 BY MR. SPEIDEL:

18 Q. Well, I'll address this to the panel generally,
19 and I invite whatever panelist feels it is
20 appropriate to answer. This would probably be
21 for Mr. Frink in particular.

22 The Staff Recommendation filed on
23 December 22, 2016 raised a number of issues
24 regarding the recovery of production costs

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[WITNESS PANEL: Simek ~ Frink]

1 through the cost of gas. How does the
2 Settlement address Staff's concerns?

3 A. (Frink) Well, Staff was primarily concerned
4 with the recovery of production costs through
5 the cost of gas is delivery rates reflect
6 production costs, and have traditionally. And,
7 so, Staff didn't take a position as to whether
8 today's production costs are fully recovered
9 through delivery rates. But Staff's position
10 is there shouldn't be a change -- that you
11 shouldn't start recovering those costs through
12 the cost of gas until it's been raised and
13 addressed as part of a general rate case. So,
14 that was what was in the Recommendation.

15 Q. Thank you. What was the expected rate impact
16 of the Settlement Agreement being applied to
17 the cost of gas for the upcoming seasons?

18 A. (Frink) Well, the Commission order came out
19 that required the Company to remove their
20 2016-'17 Winter production costs through its
21 monthly adjustment when it does its
22 reconciliation, it would eliminate that cost.
23 And, so, the Company did that effective
24 April 1 -- no, that would be effective

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[WITNESS PANEL: Simek ~ Frink]

1 March 1st. And, then, we reached a settlement
2 prior to the April rates, and the Company again
3 filed their monthly over/under projection
4 effective April 1. But, after consulting with
5 Staff, both the Company and Staff agreed that,
6 in light of this Settlement that we fully
7 expect to be settled, it would make sense only
8 to adjust the rates to recover half of the
9 production costs proposed for recovery under
10 the terms of the Settlement. So, in effect,
11 \$100,000 in expenses, total production expenses
12 for the winter were approximately 200,000, and
13 100,000 have been reflected in this winter's
14 rates. So, if the final reconciliation comes
15 in close, then there should be basically a zero
16 over/under recovery carried forward to next
17 winter.

18 So, essentially, 100,000 came out of the
19 rates in the last two months of this winter.
20 We saw the rates drop almost 50 cents when that
21 happened. And there were other offsetting
22 costs in the April adjustment that, basically,
23 there was another 10 cent reduction in the
24 Keene rates. So, Keene customers saw a very

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[WITNESS PANEL: Simek ~ Frink]

1 substantial decrease in April, and then a
2 smaller one again in -- well, in March, and
3 then a smaller one in April. But that's -- so,
4 that was the impact on the winter rates.

5 For the summer rates, the 2016 production
6 costs were approximately 100,000. And one can
7 assume that, absent the Settlement, those costs
8 would be in the summer cost of gas, and the
9 2017 production costs would be reflected in
10 summer rates. That would have been \$200,000 in
11 expenses. That now will not be showing up in
12 the summer cost of gas. And the total -- well,
13 the summer cost of gas production -- propane
14 expenses are approximately 300,000. So, that
15 gives you an idea of the magnitude of what that
16 impact would be.

17 So, those are not -- those won't be in the
18 summer rates. So, it's had a fairly
19 significant impact. It basically has saved
20 ratepayers -- Keene ratepayers \$300,000 in
21 expenses.

22 Q. So, Mr. Simek, you're nodding a little bit.
23 Would you be able to concur that the Company
24 finds this to be a reasonable resolution of

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[WITNESS PANEL: Simek ~ Frink]

1 matters?

2 A. (Simek) I do, yes. And I agree with the
3 numbers that Mr. Frink just presented.

4 Q. Okay. Do you happen to have any sense of how
5 the recovery of the summer figures are expected
6 to be rolled into the upcoming distribution
7 rate case? Do you have any sense of the
8 dynamics of that or not really at the present
9 time?

10 A. (Simek) Not really. We do plan on, obviously,
11 including it within the revenue requirement
12 portion. I'm assuming it will probably just be
13 a line item, and then, of course, prudence will
14 come up and we'll work through it at that
15 point.

16 Q. Do you happen to know the status of the ongoing
17 operation of the plant on a 24/7 manned basis?

18 A. (Simek) I believe we had stopped doing the 24/7
19 manning.

20 Q. Oh, you have. When was that, do you know?

21 A. (Simek) I don't know the date.

22 Q. Okay. Well, that's --

23 MR. SPEIDEL: Thank you for your
24 reply. I have no further direct questions.

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[WITNESS PANEL: Simek ~ Frink]

1 CHAIRMAN HONIGBERG: Mr. Sheehan.

2 MR. SHEEHAN: I have no further
3 questions. Thank you.

4 CHAIRMAN HONIGBERG: Commissioner
5 Scott.

6 CMSR. SCOTT: Good afternoon. I
7 think I only have one question.

8 BY CMSR. SCOTT:

9 Q. I was curious, Mr. Simek, looking at your March
10 24th filing to adjust the tariff, I was just
11 curious, if I'm a Fixed Price Offering
12 customer, does that impact me at all? Or how
13 does this all impact me, if I locked in?

14 A. (Simek) Yes. If you're locked in, all these
15 production costs do not affect the locked-in
16 price.

17 Q. And, roughly, what kind of percentage of your
18 customers is that?

19 A. (Simek) I believe it's around 30 percent. I
20 believe it is a high percentage for Keene.

21 CMSR. SCOTT: Interesting. I guess
22 that's all I have. Thank you.

23 CHAIRMAN HONIGBERG: Commissioner
24 Bailey.

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[WITNESS PANEL: Simek ~ Frink]

1 BY CMSR. BAILEY:

2 Q. So, the Fixed Price customers then have
3 contributed toward these costs?

4 A. (Simek) Correct.

5 Q. And have their contribution been removed from
6 the \$200,000 in expenses?

7 A. (Simek) No, they have not.

8 A. (Frink) Well, it's only 100,000 that's been
9 removed under the Settlement from the winter
10 costs.

11 Q. Right. So, they're going to be allowed to
12 recover another 100 -- the other 100,000,
13 right?

14 A. (Frink) No. Originally, their rates
15 included -- well, actually, original rates only
16 included 124,000 for projected 2016-17 Winter
17 production costs. And, then, as those actual
18 projected costs were changing throughout the
19 winter, they went up some, and then -- so, I
20 don't know what the final amount was, the
21 actual costs, production costs, would have
22 been, based on the last filing, would have been
23 approximately 214,000. But what was actually
24 reflected in the winter rates was 124

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[WITNESS PANEL: Simek ~ Frink]

1 originally.

2 So, really, I forget how the rates went up
3 over each month. But odds are the 124,000 that
4 was reflected, 100,000 in production costs will
5 actually wind up in rates for everybody. So, I
6 don't think it's really a significant
7 difference between the two. Because, again,
8 those rate increases throughout the winter
9 period would have only been on the non-Fixed
10 Price customers. So, those increases would
11 been recovered from existing customers,
12 non-Fixed Price customers.

13 Q. But some of it would have been recovered by the
14 Fixed Price customers?

15 A. (Frink) Absolutely.

16 Q. I just want to make sure we're not over
17 recovering more than 124,000 this year. But
18 what you're saying is that 100,000 -- you're
19 not going back to recover this?

20 A. (Frink) No. Basically, what happens is, the
21 forecast was for 124,000 in production costs.
22 At the end of the winter period, actual
23 production costs are going to be about 214,000.
24 The Company, either through rate adjustments

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[WITNESS PANEL: Simek ~ Frink]

1 this winter or through the over/under recovery
2 that will be reflected in next winter's rates,
3 will reflect \$107,000, assuming that
4 actual/projected winds up that that's half of
5 the projected costs, will be recovered through
6 rates. And, so, in essence, the Fixed Price
7 customers are paying almost exactly what was
8 anticipated for those costs in their rates.

9 Q. I'm sorry to be so dense about this. So, these
10 production costs were included in the rates,
11 but they were removed on March 1st?

12 A. (Frink) Production costs, the order that came
13 out and said "remove these costs from your
14 monthly projected over/under recovery", that's
15 based on projected and actuals. So, at the
16 start of the winter, the projection, the
17 Company used the prior year's production costs,
18 which were 124,000. Ultimately, those costs
19 wound up being a lot higher throughout the
20 winter. So, those rates were adjusted upwards
21 as actual costs came in and projections
22 changed. And, so, the final March rate was
23 probably intended to recover 200,000 in
24 production costs over the remainder of the

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[WITNESS PANEL: Simek ~ Frink]

1 winter period.

2 Well, then, the Commission ordered that
3 they remove half of those costs from their
4 winter rates. So, the Company made an
5 adjustment, effective March 1st, that dropped
6 rates almost 50 cents for the non-Fixed Price
7 customers. So, now, basically, the Company was
8 covering that 107,000 for the winter period.

9 Q. Okay. I got it. Thank you. Was this
10 production facility manned during the Summer of
11 2016 or is this just a winter --

12 A. (Simek) Yes, it's manned. It's not manned 24/7
13 in the summer, but it is still a manned
14 production facility.

15 Q. Okay. Is the manning of the facility back to
16 the staffing level that you had prior to the
17 outage that created the requirement for 24/7
18 manning?

19 A. (Simek) I don't know that answer exactly. I'm
20 assuming it's back to where we were to begin
21 with. But I don't know the exact count and how
22 often they were there, whether it was eight
23 hours a day or ten hours a day or what that
24 answer is.

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[WITNESS PANEL: Simek ~ Frink]

1 A. (Frink) I would just like to say, the
2 Settlement resolves the issue in the cost of
3 gas. But -- and Liberty is expected to file,
4 well, actually, they already filed an intent
5 for a delivery rate increase. Since they're
6 not recovering it in the cost of gas, that
7 those -- if that issue comes up again as part
8 of the distribution rates or even in a future
9 cost of gas, that would be subject to dispute,
10 and, you know, could be addressed or resolved
11 as part of that proceeding.

12 Basically, what this Settlement does is
13 just takes that issue off the table as part of
14 this cost of gas and for this summer. But it
15 doesn't prohibit the Staff from taking a
16 different position or the Company seeking
17 recovery or not seeking recovery in some future
18 proceeding.

19 CMSR. BAILEY: Okay. Thank you.

20 CHAIRMAN HONIGBERG: Mr. Frink,
21 you've just answered the only question I had.

22 So, Mr. Sheehan, Mr. Speidel, do you
23 have any further questions for the panel?

24 MR. SHEEHAN: I do not.

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1 MR. SPEIDEL: None.

2 CHAIRMAN HONIGBERG: All right. If
3 there's nothing else, then, without objection,
4 we'll strike the ID on Exhibits 2 and 3.

5 Is there anything else we need to do
6 before you sum up?

7 *[No verbal response.]*

8 CHAIRMAN HONIGBERG: Mr. Speidel, why
9 don't you go first.

10 MR. SPEIDEL: Thank you, Mr.
11 Chairman. Staff would recommend approval of
12 the Settlement Agreement as delineated. And we
13 thank the Company for its cooperation in
14 developing the Settlement Agreement. And we
15 expect that this will provide some level of
16 rate relief to Keene Division customers during
17 this transitional period. Thank you.

18 CHAIRMAN HONIGBERG: Mr. Sheehan.

19 MR. SHEEHAN: Thank you. As I said
20 briefly at the beginning, this was an issue
21 that came up before, during, and after the
22 first hearing. It's an issue of, not dispute,
23 but just it's "what bucket do these costs go
24 into?"

1 And, I think, as Mr. Speidel just
2 said, the resolution we have in front of you
3 today is probably the best way to handle it
4 through the cost of gas. And, to the extent
5 these dollars are recovered, it's more
6 appropriate to address that at the rate case,
7 which is coming soon.

8 So, we think this is an appropriate
9 way to resolve it. And we also appreciate
10 Staff working with us to get to where we are.
11 Thank you.

12 CHAIRMAN HONIGBERG: All right.
13 Well, thank you all. We will adjourn, take
14 this matter under advisement, and issue an
15 order as quickly as we can.

16 *(Whereupon the hearing was*
17 *adjourned at 1:55 p.m.)*