

DG 99-060

ENERGYNORTH NATURAL GAS, INC.

**Petition for Approval of Recovery Mechanism for Costs Related
to Clean-up of Manufactured Gas Sites**

Order Approving Procedural Schedule

O R D E R N O. 23,223

June 7, 1999

APPEARANCES: McLane, Graf, Raulerson and Middleton by Steven V. Camerino, Esq., for EnergyNorth Natural Gas, Inc.; the Office of the Consumer Advocate by Kenneth E. Traum for residential ratepayers; and Larry S. Eckhaus, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On April 20, 1999, EnergyNorth Natural Gas, Inc. (ENGI) filed with the New Hampshire Public Utilities Commission (Commission) a Petition for Approval of Recovery Mechanism for Costs Related to Clean-up of Manufactured Gas Sites. ENGI has identified six sites in New Hampshire at which ENGI or its predecessors operated manufactured gas plants (MGP). These sites are in Concord, Dover, Keene, Laconia, Manchester, and Nashua. In addition, a seventh property in Franklin is the site of a former gas holder that may have contaminants from manufactured gas that was stored there. It is ENGI's position that the MGP related sites were owned and operated by ENGI or its predecessors in compliance with applicable laws and standards of the day, but that changes in environmental laws and regulations since the MGPs ceased operations have created actual and potential liability for

ENGI relating to the investigation and remediation of environmental contamination at these sites.

ENGI seeks Commission approval of a mechanism under which it will ultimately be able to recover deferred environmental expenses after a showing by ENGI that such clean-up expenses have in fact been prudently incurred. Approval of such a mechanism is not intended to provide for such recovery unless and until ENGI establishes that the clean-up expenses were prudent. Under this process the Commission would not reinvestigate or review whether the MGP operations were prudent each time it reviewed the environmental remediation expenses.

By an Order of Notice issued May 5, 1999, the Commission scheduled a Prehearing Conference for May 21, 1999, set deadlines for intervention requests and objections thereto, and outlined a proposed procedural schedule. There were no motions for intervention filed. The Office of the Consumer Advocate (OCA) is a statutorily recognized intervenor.

At the Prehearing Conference, ENGI, OCA, and Staff agreed to modify the procedural schedule as outlined in the Order of Notice. The revised procedural schedule is as follows:

Data Requests by Staff and Intervenors	June 2, 1999
Company Data Responses	June 16, 1999
Technical Session	June 28, 1999
Data Requests by Staff and Intervenors	July 2, 1999
Company Data Responses	July 14, 1999
Technical Session/Settlement Conference	July 20, 1999
Testimony by Staff and Intervenors	August 3, 1999
Data Requests by the Company	August 9, 1999
Data Responses by Staff and Intervenors	August 16, 1999
Settlement Conference	August 19, 1999
Filing of Settlement Agreement, if any	August 26, 1999
Hearing	September 8, 1999.

Also at the Prehearing Conference, ENGI, OCA, and Staff stated their positions with regard to the filing for the record.

ENGI stated that it filed the petition to establish a generic recovery mechanism related to its former MGP sites other than the Concord site in particular because ENGI has begun to incur investigation expenses at some of these sites. ENGI has been put on notice by state and federal authorities that it will need to investigate some of the identified sites. The Company has incurred expenses related to efforts to recover investigation and remediation expenses from third parties, primarily insurance

carriers. ENGI is seeking the same rate recovery mechanism that was established for the Concord site, which is a seven year amortization period without carrying costs. Although ENGI believes that there is precedent for providing for a five year recovery mechanism, ENGI also believes that the mechanism that was established by stipulation in prior proceedings in New Hampshire would be appropriate in this case and is prepared to support such a mechanism. ENGI also stated that since the filing of the petition, it has been notified by the New Hampshire Department of Environmental Services that it is a potentially responsible party with regard to the Dover, New Hampshire site. That notification had not been received prior to the filing of the petition.

OCA stated that it supported ENGI's establishment of a deferral account for environmental costs as long as the Commission conveyed that such establishment does not equate to the presumption of the approval of the deferred amounts. The OCA also stated that if the issues surrounding these other sites were similar to the Concord site where the OCA entered into a stipulation with ENGI and Staff, then the OCA would consider a similar recovery mechanism.

Staff stated its issues relate primarily to what the appropriate mechanism is: to recover any authorized pass-through of remediation costs to ratepayers; what the appropriate sharing allocation of remediation costs is between utility shareholders

and ratepayers; whether the MGPs' operations and disposal practices were prudent at the time; what the extent of ENGI's financial liability is for remediating the sites; what the potential is for recovery of those costs from insurance carriers and previous owners or operators of those sites; what the potential rate impact is to ENGI's customers; and whether there should be a rate cap established to mitigate rate impacts associated with the remediation costs.

II. COMMISSION ANALYSIS

We find the proposed procedural schedule to be reasonable and will, therefore, approve it for the duration of the proceeding.

Based upon the foregoing, it is hereby

ORDERED, that the procedural schedule delineated above is APPROVED.

By order of the Public Utilities Commission of New
Hampshire this seventh day of June, 1999.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary