

DG 99-193

ENERGYNORTH NATURAL GAS, INC.

**Petition for Approval of the Acquisition of EnergyNorth
Natural Gas, Inc. by Eastern Enterprises and KeySpan
Corporation**

Order Approving Interventions and Procedural Schedule

O R D E R N O. 23,382

January 6, 2000

APPEARANCES: McLane, Graf, Raulerson, and Middleton by Steven V. Camerino, Esq., and Keegan, Werlin & Pabian, LLP by Robert J. Keegan, Esq., and Cheryl M. Kimball, Esq., on behalf of EnergyNorth Natural Gas, Inc., EnergyNorth Inc., Eastern Enterprises, and KeySpan Corporation; Wynn E. Arnold, Esq., on behalf of the Governor's Office of Energy and Community Services; F. Anne Ross, Esq., for the Office of Consumer Advocate; and Larry S. Eckhaus, Esq., for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On December 3, 1999, EnergyNorth Natural Gas, Inc. (ENGI), EnergyNorth, Inc. (EnergyNorth), Eastern Enterprises (Eastern) and KeySpan Corporation (KeySpan) (together the Joint Petitioners) jointly filed, pursuant to RSA 369:8, II and RSA 374:33, with the New Hampshire Public Utilities Commission (Commission) a Petition for Approval of the Acquisition of ENGI by Eastern and KeySpan. According to the petition, ENGI will be acquired indirectly by KeySpan: Eastern will acquire EnergyNorth, the parent of ENGI, and Eastern will be acquired by KeySpan. In the event the Eastern merger with

KeySpan terminates or expires, it is intended that the merger of Eastern and EnergyNorth will proceed. A summary of the petition was provided in Commission Order No. 23,367 (December 13, 1999).

By Order No. 23,367, the Commission scheduled a Prehearing Conference and first technical session for December 23, 1999, set deadlines for intervention requests and objections thereto, and required the Parties and Staff to propose a procedural schedule. On December 20, 1999, the Governor's Office of Energy and Community Services (ECS) filed a Motion to Intervene. On December 21, 1999, ECS filed a corrected Motion to Intervene. On December 23, 1999, Steven V. Camerino, counsel for the Joint Petitioners, filed a Motion to Admit Robert J. Keegan *Pro Hac Vice* and a Motion to Admit Cheryl M. Kimball *Pro Hac Vice* to appear and practice at the Commission in this proceeding on behalf of the Joint Petitioners.

At the Prehearing Conference, the Joint Petitioners, ECS, the Office of the Consumer Advocate (OCA), and Commission Staff (Staff) agreed to the following procedural schedule:

First Technical Session	January 7, 2000
Rolling Data Requests by Staff and Intervenors (responses due within 14 days)	February 4, 2000

Settlement Conference	February 15, 2000
Testimony by Staff and Intervenors	February 23, 2000
Joint Petitioners' Rebuttal Testimony	March 3, 2000
Hearings	March 9 & 10, 2000
Briefs filed	March 24, 2000
Reply Briefs filed	April 7, 2000

The Parties and Staff agreed that the proposed procedural schedule allows them to proceed under the time frame set out in RSA 369:8 and allows the Commission to analyze the proposed merger under the standards set forth in RSA 374:33. The parties and Staff anticipate a Commission order by May 1, 2000.

At the Prehearing Conference, the Joint Petitioners, ECS, OCA, and Staff stated their positions with regard to the filing for the record. The Joint Petitioners stated that the proposed mergers more than meet the "no net harm" test set forth in RSA 374:33. The Joint Petitioners state that there are substantial synergies and efficiencies that will result from the merger, in particular, because of the proximity of Eastern and its existing local distribution companies to ENGI's service territory. Further, the Joint Petitioners state that there are immediate savings that will occur through a lower cost of gas that will be passed through to ENGI customers upon consummation of the merger. Therefore, the Joint

Petitioners state that the merger, as proposed, is in the public interest.

ECS stated that it intended to monitor the proceeding at first and to review the filing with a primary interest on the precedential nature of this proceeding to other mergers in the state. ECS also stated that it would like to reserve the opportunity to participate more fully, should circumstances so warrant.

The OCA's preliminary issues related to the proposal to eliminate or shift 60 plus positions out-of-state, the movement of daily management decision-making from New Hampshire-based employees to out-of-state management, safety and operations, and the treatment of the acquisition premium.

As a preliminary issue, Staff stated that it did not object to any of the requested interventions, although the OCA did not file a petition to intervene under RSA 541-A:32, I; however, Staff stated that the Commission may, under RSA 541-A:32, II, grant intervention to the OCA. Staff stated that although it has no initial position on the petition, Staff had identified several issues that it intended to investigate including the treatment of the acquisition premium and the loss of jobs, in regard to customer service.

II. COMMISSION ANALYSIS

We find the proposed procedural schedule to be reasonable and will, therefore, approve it for the duration of the proceeding. Further, we will grant the requested interventions of ECS and the OCA.

In so far as the motions to admit *Pro Hac Vice* are concerned, they are not necessary. RSA 365:10-a gives the Commission broad discretion in granting appearances and we will grant the requested appearances subject, of course, to the provisions of this statute.

Based upon the foregoing, it is hereby

ORDERED, that the procedural schedule delineated above is APPROVED; and it is

FURTHER ORDERED, that the interventions of the Governor's Office of Energy and Community Services and the Office of the Consumer Advocate are APPROVED; and it is

FURTHER ORDERED, that the Motion to Admit Robert J. Keegan *Pro Hac Vice* and the Motion to Admit Cheryl M. Kimball *Pro Hac Vice* are APPROVED.

By order of the Public Utilities Commission of New
Hampshire this sixth day of January, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary