

DE 98-124

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

**Gas Restructuring  
To Address Unbundling and Competition in the Gas Industry**

**Order Granting Motion for Protective  
and Confidential Treatment**

**O R D E R    N O. 23,853**

**November 30, 2001**

**I.    PROCEDURAL HISTORY**

On November 8, 2001, EnergyNorth Natural Gas, Inc. d/b/a/ KeySpan Energy Delivery New England (KeySpan), a public utility engaged in the business of distributing natural gas in New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission) its proposed Peaking Demand Charge and supporting information. KeySpan concurrently filed a Motion for Protective Order and Confidential Treatment (Motion) in which it requested confidential treatment of certain information, pursuant to RSA 91-A:5,IV, Puc 204.06, and Puc 204.05(b).

The Motion requests confidential treatment of information supporting the calculation of the proposed Peaking Demand Charge, which is also contained in a contract between KeySpan and AES Londonderry, LLC and in invoices from gas suppliers.

In its Motion, KeySpan states that: (1) The information

relates to terms on which KeySpan acquires certain of its peaking supplies and is maintained in confidence; (2) The information constitutes trade secrets of KeySpan; (3) Disclosure of the information could result in a competitive disadvantage for KeySpan in the form of less advantageous or more expensive gas supply contracts; and (4) Gas suppliers possessing the confidential information described above would be aware of KeySpan's expectations regarding gas supply costs and other contract terms and would be unlikely to offer such goods and services on terms significantly more advantageous to KeySpan.

## **II. COMMISSION ANALYSIS**

In Order No. 23,652 (March 15, 2001), this Commission determined the reasonableness of charging fees for certain services. Commission Order No. 23,824 (November 1, 2001) set forth approved calculation methodologies for the fees for those services. Subsequently, KeySpan discovered it had omitted filing for approval of a Peaking Demand Charge, as allowed by the Model Delivery Tariff approved in Order No. 23,652, and filed supporting documentation for the charge and relevant annotated tariff pages.

We recognize that the Peaking Demand Charge supporting information identified above is important to tracking the

development of competition in the gas industry. In order to monitor the development of competition, and the reasonableness of the fees proposed, this Commission required KeySpan to track its costs for the services and its participation in those services competitively priced. (Order No. 23,823, at p. 8)

We also recognize that the Peaking Demand Charge supporting information contained in the filing is sensitive commercial information in a competitive market. Thus, based on KeySpan's representations, under the balancing test we have applied in prior cases, e.g., Re NET (Auditel), 80 NHPUC 437 (1995), Re Eastern Utilities Associates, 76 NHPUC 236 (1991), and EnergyNorth Natural Gas, Inc., Order No. 23,559, Docket DG 00-193 (September 25, 2000), we find that the benefits to KeySpan of non-disclosure in this case outweigh the benefits to the public of disclosure. The information, therefore, is exempt from public disclosure pursuant to RSA 91-A:5,IV and N.H. Admin. Rules, Puc 204.06.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the Motion for Protective Order and Confidential Treatment of EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England, as it relates to the Peaking Demand Charge supporting information, as described above, is GRANTED; and it is

**FURTHER ORDERED**, that protective treatment of this information shall extend to its inclusion in any discovery, testimony, argument or briefing submitted in this docket; and it is

**FURTHER ORDERED**, that in future filings, KeySpan shall continue to submit, concurrent with its request for confidential treatment, both redacted and unredacted filings which the Commission shall protect from disclosure during the pendency of its review of the request for confidentiality, pursuant to N.H. Admin. Rules, Puc 204.06; and it is

**FURTHER ORDERED**, that this Order is subject to the ongoing authority of the Commission, on its own motion or on the motion of Staff or any party or any other member of the public, to reconsider this Order in light of RSA 91-A, should circumstances so warrant.

By order of the Public Utilities Commission of New  
Hampshire this thirtieth day of November, 2001.

---

Thomas B. Getz  
Chairman

---

Susan S. Geiger  
Commissioner

---

Nancy Brockway  
Commissioner

Attested by:

---

Claire D. DiCicco  
Assistant Secretary