

DG 03-160

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

2003/2004 Winter Cost of Gas

**Order Suspending Deliberations and
Approving Revised Environmental Remediation Surcharge**

O R D E R N O. 24,270

January 30, 2004

On August 15, 2003, 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 29 cities and towns in southern and central New Hampshire and the City of Berlin in northern New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission) its 2003/2004 winter Cost of Gas (COG). On August 25, 2003, the Commission issued an Order of Notice opening an investigation into KeySpan's filing.

On August 26, 2003, the Office of Consumer Advocate filed its notice of intent to participate in the docket on behalf of residential ratepayers. The Commission held a hearing on October 21, 2003 on KeySpan's 2003-2004 COG filing.

On October 29, 2003, by Order No. 24,227, the Commission approved KeySpan's Fixed Price Option Rate, Supplier Balancing Charges, interim COG Rate and certain portions of the Local Distribution Adjustment Charge (LDAC).¹

¹ One of the LDAC components is the Environmental Remediation Surcharge.

On November 17, 2003, New Hampshire Legal Assistance (NHLA) requested late intervention on behalf of Pamela Locke, Sandra Desruisseaux and George Desruisseaux. On November 19, 2003, Staff filed the direct testimony of Stephen P. Frink and on December 12, 2003 KeySpan filed the direct testimony of A. Leo Silvestrini. The Frink and Silvestrini testimonies addressed the issue of the Environmental Surcharge. Staff Analyst Robert Wyatt also submitted testimony on issues to be addressed in a subsequent order. A duly noticed hearing was held December 17, 18 and 22, 2003.

On January 23, 2004, Staff filed a letter on behalf of the Staff, KeySpan, the OCA and the Intervenors requesting that the Commission postpone its deliberations on the disputed issues to allow the parties the opportunity to reach a settlement for the Commission's consideration. The request asks that the Staff and the parties have until February 11, 2004 to report on the status of their discussions.

The Commission has designated Mr. Wyatt as a staff advocate in this proceeding and KeySpan has stated that Mr. Wyatt's participation in the January 28, 2004 settlement discussions would not violate that designation. KeySpan did not waive its right with regard to Mr. Wyatt's designation as a staff advocate as to any other aspects of this proceeding.

As set forth in the January 23, 2004 letter request, Staff, OCA and KeySpan requested that the Commission not delay the consideration of the Environmental Remediation Surcharge. The Commission approved the Environmental Remediation Surcharge component of KeySpan's original filing on an interim basis by Order No. 24,227, dated October 29, 2003. In Mr. Silvestrini's rebuttal testimony filed December 12, 2003, KeySpan revised its initial environmental filing by removing third-party recoveries and associated expenses. Staff and KeySpan agreed that it would be appropriate to submit such recoveries and expenses for review at a later date. The amount remaining in the proposed Environmental Remediation Surcharge consists of investigation and remediation expenses. Those expenses are consistent with expenses allowed by the Commission in *EnergyNorth Natural Gas, Inc.*, 84 NHPUC 489 (1999).

As illustrated in Exhibit ALS-R4 attached to Mr. Silvestrini's December testimony, the revised amount for which recovery is sought totals \$1,414,328, of which \$547,893 is projected to have been recovered through January 31, 2004. That leaves \$866,436 to be recovered between February and October 2004. The current interim Environmental Remediation Surcharge of \$0.0108 per therm would be reduced to \$0.0090 per therm as of February 1, 2004, as outlined in Exhibit ALS-R4. Staff and OCA concur with this recovery rate and KeySpan's request to recover

the remaining \$866,436 from February 1, 2004 through October 2004.

The Intervenors Desruisseaux and Locke have been consulted and do not object to Staff, OCA and KeySpan's requests that the Commission temporarily suspend its deliberations in DG 03-160; that the Staff and parties be allowed time to discuss the disputed issues in this docket and notify the Commission of the outcome of those discussions by February 11, 2004; and that the Environmental Remediation Surcharge be changed from \$0.0108 to \$0.0090 per therm effective February 1, 2004.

As requested by the parties and Staff, we will suspend our deliberations of the disputed issues pending receipt of a filed settlement agreement or a report on the progress of settlement negotiations between the Staff and the parties, to be filed with the Commission no later than February 11, 2004. In the event of a settlement, a settlement agreement is to be filed with the Commission and presented at a public hearing. Mr. Wyatt's participation in settlement discussions as a staff advocate ensures that all positions on the disputed issues will be taken into consideration and addressed in a settlement. Ultimately, however, the Commission will have the final decision as to outcome of the disputed issues and how best to protect the public interest.

We will approve the revised Environmental Remediation Surcharge of \$0.0090 per therm, a \$0.0018 per therm decrease from the current interim rate of \$0.0108 per therm, effective February 1, 2004. As explained in Mr. Frink's testimony, due to the complex nature of the other issues in this docket and the limited amount of time before the December hearing, it is preferable to address this issue in a future docket. Mr. Silvestrini's testimony states that the revised surcharge allows for the recovery of environmental remediation expenses consistent with those approved by the Commission in prior orders, but defers the issue of third party recoveries and expenses for a future proceeding. Because those recoveries and expenses are being recorded in a deferred account, as they have been for a number of years, deferring a decision to a later date should not harm either ratepayers or shareholders and will allow for a more thorough investigation.

Based upon the foregoing, it is hereby

ORDERED, that the Commission suspend its deliberations in DG 03-160 pending either a settlement or report on settlement discussions, on or before February 11, 2004; and it is

FURTHER ORDERED, that the proposed environmental remediation surcharge of \$0.0090 per therm is APPROVED effective February 1 through October 31, 2004, and the Local Distribution Adjustment Charge per therm rates effective for service rendered

on or after February 1, 2004, are as follows:

	Demand Side Mgmt.	Envir. Sur.	Energy Efficiency	LDAC
Residential Heating	\$0.0005	\$0.0090	\$0.0118	0.0213
Residential Non-heating	\$0.0000	\$0.0090	\$0.0118	0.0208
Small C&I	(\$0.0001)	\$0.0090	\$0.0089	0.0178
Medium C&I	(\$0.0001)	\$0.0090	\$0.0089	0.0178
Large C&I	(\$0.0001)	\$0.0090	\$0.0089	0.0178

FURTHER ORDERED, that KeySpan file properly annotated tariff pages in compliance with this Order no later than 15 days from the issuance date of this Order, as required by N.H. Admin. Rules, Puc 1603.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of January, 2004.

 Thomas B. Getz
 Chairman

 Susan S. Geiger
 Commissioner

 Graham J. Morrison
 Commissioner

Attested by:

 Michelle A. Caraway
 Assistant Executive Director