DG 04-040

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

2004 Summer Cost of Gas

Order Approving the Cost of Gas

O R D E R N O. _24,317_

April 30, 2004

APPEARANCES: McLane, Graf, Raulerson, and Middleton by Steven V. Camerino, Esq. on behalf of EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England; Office of the Consumer Advocate by F. Anne Ross, Esq. on behalf of residential utility consumers; and Marcia A.B. Thunberg, Esq. and Edward N. Damon, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On March 17, 2004, 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 southern and central New Hampshire and the City of Berlin in northern New Hampshire, filed with the New Hampshire Public Utilities Commission (Commission) its Cost of Gas (COG) for the 2004 Summer period. KeySpan's filing included the direct testimony and supporting attachments of A. Leo Silvestrini, Director of Rates and Regulatory Affairs, and Theodore E. Poe, Senior Resource Planning Consultant with Boston Gas Company. On March 22, 2004, KeySpan filed a Motion for Protective Order and Confidential Treatment regarding the 2004 Summer COG filing.

The Commission issued an Order of Notice on March 26, 2004 setting a hearing for April 27, 2004. On April 20, 2004, the Commission issued a letter changing the hearing date to April 26, 2004.

On April 13, 2004, the Office of the Consumer Advocate (OCA) filed a Notice of Intent to Participate in this docket on behalf of residential utility consumers pursuant to RSA 363:28,II. There were no other intervenors in this docket.

II. POSITIONS OF THE PARTIES AND STAFF

A. KeySpan

KeySpan witnesses A. Leo Silvestrini and Theodore E. Poe testified as to the following issues: 1) calculation of the Firm Sales COG rate and the impact on customer bills; 2) factors contributing to the decreased rate; and 3) reasons for the 2003 Summer COG over-collection.

1. Calculation and Impact of the Firm Sales COG Rate

KeySpan's proposed 2004 Summer COG average cost of gas (residential firm sales rate) of $0.6829 per therm is comprised of anticipated direct gas costs, indirect gas costs and various adjustments. Anticipated direct gas costs total $17,913,221 and are comprised of commodity and transportation charges, adjusted for a prior period over-collection of $753,900 and interest of $39,035. Anticipated indirect gas costs total $421,740, consisting of working capital, bad debt and overhead charges. The gas costs to be recovered over the 2004 summer period (anticipated direct and indirect costs and adjustments based on the prior period reconciliation) total $18,334,961 for recovery over the 2004 summer period. The gas costs for recovery over the upcoming summer period are divided by projected sales of 26,848,329 therms (based on 2003 summer normalized sales and projected sales growth) to arrive at the average cost of gas rate.

KeySpan's proposed 2004 summer COG residential rate of $0.6829 per therm is a decrease of $0.1921 per therm from the 2003 summer weighted average Firm Sales COG rate of

$0.8750 per therm. The impact of the proposed firm sales COG rate is a decrease in the typical residential heating customer's summer gas costs of $62, a 15% decrease compared to last summer.

2. Reasons for the Decreased Summer 2004 COG Rate

KeySpan testified that there were three factors primarily responsible for the decrease in the proposed COG rate: 1) a decrease in the projected commodity gas costs of approximately $2 million; 2) a change in the prior period under-collection to an over-collection; and 3) a forecast supply mix that shows no need for underground storage gas during the summer period.

The natural gas prices as quoted on the New York Mercantile Exchange (NYMEX) are slightly lower than they were in the 2003 summer COG filing, although the NYMEX prices remain high compared to historical summer prices, due to high oil prices and continued uncertainty about the balance between natural gas supply and demand.

A portion of the rate decrease can be attributed to a prior period over-collection. The 2004 summer COG rate is designed to refund a prior period over-collection of $753,900. In comparison, last summer's rate was designed to recover a prior period under-collection of $1,019,852. Thus, the cumulative impact on gas costs of the current over-collection comparing last summer to this summer is a difference of over $1.7 million.

Also contributing to a lower rate this summer compared to last summer is the absence of underground natural gas storage to meet summer period demand. The 2004 summer supply portfolio does not include underground storage to meet the forecast demand for the period, whereas the 2003 summer period included a limited amount of underground storage to satisfy October demand. Pipeline supplies during the summer period are typically less expensive than underground storage.

3. Reasons for the 2003 Summer Over-Collection

The primary reason for the over-collection of $753,900 was due to actual commodity prices during the 2003 summer period being lower than those projected at the time of the filing. KeySpan, based on its monthly COG reporting that forecasts a final period over- or under-collection using actual costs to date and updated cost projects for the remaining months, made monthly rate changes to eliminate forecasted under-and over-collections for the period. The prior period over-collection represents less than 4% of the approved gas costs to have been recovered during the 2003 summer period.

4. Motion for Protective Order and Confidential Treatment

KeySpan seeks to protect from public disclosure information relating to the identity of specific gas suppliers and certain commodity and demand charges contained in schedules provided with KeySpan's COG filing. Specifically, KeySpan seeks to protect:

Schedule 1	Summary of Supply and Demand Forecast
Schedule 2	Contracts Ranked on a per Unit Cost Basis
Schedule 5	Detail of Demand Volumes, Costs, Tariff Rates and Costs per Unit
Schedule 6	Detail of Commodity Volumes, Costs, Tariff Rates and Costs per Unit
Schedule 7	NYMEX Futures @ Henry Hub, Development of Commodity Rates by Content
Schedule 11	Normal and Design Year Volumes and Capacity Utilization
Schedule 12B	Agreements for Gas Supply and Transportation
Schedule 13	2003 Summer Cost of Gas Reconciliation

In support of the Motion, KeySpan asserts that the information constitutes trade secrets of KeySpan and that KeySpan does not share this information with any person outside of the Company or its representatives; that release of the information would place KeySpan at a competitive disadvantage; and that the Commission has granted confidential treatment to similar information in previous cost of gas dockets.

B. Staff

Staff recommended approval of the proposed COG rates, explaining that the summer gas supply portfolio presented in the filing efficiently utilizes a balance of gas assets in meeting the demands of its firm sales customers, as well as a limited amount of hedging to provide a level of price stability.

Staff, nevertheless, expressed concerns regarding KeySpan's utilization of its 151 day DOMAC FCS supply, referred to by Staff as *Distrigas 151 Day Winter Base Load Vapor* during last winter's COG proceeding in Docket No. 03-160, a contract that allows for up to 151 days of either pipeline supply delivered to New Hampshire city gates or Liquid Natural Gas (LNG) to be taken at the Distrigas terminal in Massachusetts.

Mr. Wyatt testified in DG 03-160 that under the terms of the contract, KeySpan pays a significant demand charge whether the supply is or is not used, and a fixed commodity rate that is determined based on the prior year's commodity pricing for volumes that are used or sold off-system. Commodity costs during the November 1, 2002 – October 31, 2003 contract (2002/03 contract) period were substantially higher than for the prior year, resulting in a DOMAC FCS commodity rate under the 2002/2003 contract that was considerably cheaper than alternative supplies dispatched by KeySpan over the November 1, 2002 – October 31, 2003 period.

Staff raised the issue during last winter's COG proceeding, recommending disallowance for the additional costs incurred as a result of using higher priced alternative supplies. During the winter proceeding, in response to Staff's recommended disallowance, KeySpan argued that: 1) DOMAC FCS supplies were peaking supplies; 2) that the LNG form of supply under the contract was equally or more valuable than the vapor form; and 3) that the unused portion could be used during the summer period as pipeline vapor in place of higher priced market purchases and/or as LNG liquid to refill on-site peakshaving plant inventories in New Hampshire, thus mitigating the need to use the supply as a winter-only resource.

Mr. Wyatt stated that due to the time constraints inherent in the instant COG filing, Staff had not completed its investigation into the prudence of KeySpan dispatch decisions regarding the DOMAC FCS supplies and therefore does not recommend any disallowance in this proceeding. Staff intends to report to the Commission following its completion of the investigation into the issue, and will make a recommendation based upon its findings.

C. OCA

The OCA recommended approval of the proposed COG rates. In addition, the OCA agrees with Staff's position that the DOMAC FCS supplies should be reviewed closely.

III. COMMISSION ANALYSIS

1. Summer 2004 Cost of Gas Rate

After review of the record in this docket, we find that KeySpan's proposed COG rates will result in just and reasonable rates. The demand forecast and supply portfolio are similar to prior years and the actual results of the summer period will be reviewed both during the summer, through monthly reporting, and following the period, through the final reconciliation. The 2005 summer COG proceeding will provide a forum to address any supply related issues that may arise during the 2004 summer COG period.

2. Dispatch of DOMAC FCS supplies

It is clear that KeySpan and Staff do not agree on the proper dispatch of KeySpan's DOMAC FCS supplies. The dispatch of DOMAC FCS supplies was an issue raised in great detail during KeySpan's 2003-2004 winter COG proceeding, DG 03-160. We have approved the Settlement Agreement in that proceeding between Staff and Parties, which resolved all disputed items, with the exception of the dispatch of DOMAC FCS supplies. The Settlement Agreement requires the Staff and Parties to hold further discussions and collect more data related to dispatch of DOMAC FCS supplies in an effort to resolve this issue in a satisfactory manner. Those steps are to take place this summer.

The Settlement Agreement precludes any winter 2002/03 COG disallowances related to KeySpan's supply dispatch decisions. The issue as to whether KeySpan properly dispatched the DOMAC FCS supplies during the summer period included in the contract year of November 1, 2002 through October 31, 2003, however, has not been addressed.

We now have a full contract year for evaluating the cost and benefits of the DOMAC FCS contract, a year that includes a design winter. According to Staff's testimony, KeySpan did not realize the full value of that contract. We understand the issue is complicated and that more investigation is necessary, and that going forward, the dispatch of DOMAC FCS supplies may not be an issue, but in order to resolve the issue as it relates to the 2003 summer period costs, we direct Staff to report its findings and recommendations to the Commission upon completion of its investigation. If those recommendations affect KeySpan adversely, then we shall require a formal filing and set a procedural schedule to hear the issue.

3. Motion for Protective Treatment

N.H. Admin. Rule Puc 204.06 provides that "the Commission shall grant confidentiality upon its finding that the documents sought to be made confidential are within the exemptions permitted by RSA 91-A:5,IV, or other provisions of law based on the information submitted. . . ." RSA 91-A:5, IV provides an exception to the general rule of public disclosure for "confidential, commercial or financial information." Interpreting this provision, the New Hampshire Supreme Court has instructed agencies of state government to construe this exemption narrowly, applying a balancing test in order to determine whether "the asserted private, confidential, commercial or financial interest" is outweighed by "the public's interest in disclosure." *Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540, 552-53 (1997). Based on KeySpan's representations and the Commission's previous treatment of similar gas supply, commodity, and demand information, we find that the benefits to the Company of non-disclosure in this case outweigh the benefits to the public of disclosure. The Commission finds that the information contained in the COG filing are exempt from public disclosure pursuant to RSA 91-A:5,IV and Puc 204.06.

Based upon the forgoing, it is hereby

ORDERED, that KeySpan's Firm Sales Summer COG per therm rate for the period of May 1, 2004 through October 31, 2004, is APPROVED, effective for service rendered on or after May 1, 2004 as follows;

	Cost of Gas	Minimum COG	Maximum COG
Residential	$0.6829	$0.5463	$0.8195
C&I, low winter use	$0.6655	$0.5324	$0.7986
C&I, high winter use	$0.6954	$0.5563	$0.8345

; and it is

FURTHER ORDERED, that KeySpan may, without further Commission action, adjust the COG rates upward or downward monthly based on KeySpan's calculation of the projected over or under-collection for the period, subject to the minimum and maximum rates as set above; and it is

FURTHER ORDERED, that the over or under-collection shall accrue interest at the Prime Rate reported in the Wall Street Journal. The rate is to be adjusted each quarter using the rate reported on the first date of the month preceding the first month of the quarter; and it is

FURTHER ORDERED, that KeySpan provide the Commission with its monthly calculation of the projected over or under-collection, along with the resulting revised COG rate for the subsequent month, not less than five (5) business days prior to the first day of the subsequent month. KeySpan shall include a revised tariff page 20 - Calculation of Cost of Gas Adjustment for firm sales and revised firm rate schedules if KeySpan elects to adjust the COG rate; and it is

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; and it is

FURTHER ORDERED, that KeySpan's Motions for Protective Order and Confidential Treatment, described above, are GRANTED.

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

Thomas B. Getz Chairman	Susan S. Geiger Commissioner	Graham J. Morrison Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary