

DG 04-162

NORTHERN UTILITIES, INC.

2004/2005 Winter Cost of Gas

**Order Approving the Cost of Gas Rate, Local Distribution
Adjustment Clause Rates and Other Rates**

ORDER NO. 24,389

October 29, 2004

APPEARANCES: Patricia M. French, Esq., on behalf of Northern Utilities, Inc.; Kenneth E. Traum on behalf of residential utility consumers; and Edward N. Damon, Esq., for the Staff of the New Hampshire Public Utilities Commission

I. PROCEDURAL HISTORY

On September 15, 2004, Northern Utilities, Inc. (Northern) filed with the New Hampshire Public Utilities Commission (Commission) its Cost of Gas (COG) for the period November 1, 2004, through April 30, 2005, for Northern's natural gas operations in the Seacoast area of New Hampshire. The filing was accompanied by supporting attachments and the Direct Testimony of Joseph A. Ferro, Manager of Regulatory Policy, and Francisco C. DaFonte, Director of Gas Control. Also on September 15, 2004, Northern filed with the Commission revised tariff sheets regarding the annual update of Appendices A and C of the Delivery Terms and Conditions pursuant to the requirements of *Gas Restructuring-Unbundling and Competition in the Natural Gas Industry*, Order No. 23,652, 86 NH PUC 131 (2001), together with a Motion for Standing Order of Protection and Confidential Treatment. On September 20, 2004, the Office of the Consumer Advocate (OCA) filed a notice of intent to participate in this docket on behalf of residential utility ratepayers pursuant to RSA 363:28,II. There were no other

intervenors in this docket. On September 21, 2004, the Commission issued an Order of Notice setting a hearing for October 19, 2004. On October 15, 2004, Northern filed a revised COG.

II. POSITIONS OF THE PARTIES AND STAFF

A. Northern

Northern witnesses Joseph A. Ferro and Francisco C. DaFonte addressed the following issues: 1) calculation of the COG rates; 2) reasons for the increase and customer bill impacts; 3) the Local Distribution Adjustment Clause (LDAC) charges and rates; 4) Energy Efficiency Agreement; 5) the Transportation Supplier Balancing Charge, Peaking Service Demand Charge and capacity allocators; and 6) allocation of fixed demand costs between Northern's New Hampshire and Maine Divisions.

1. Calculation and Impact of the Firm Sales COG Rates

According to Northern's revised COG filing, the proposed 2004/2005 winter average residential firm sales COG rate of \$0.9798 per therm is comprised of anticipated direct gas costs, indirect gas costs and various adjustments. Anticipated direct gas costs total \$36,588,425 and are decreased by adjustments totaling \$298,886 (prior period over collection of \$311,393 and interest of \$12,507). Anticipated indirect gas costs total \$1,032,568, consisting of production and storage capacity, working capital, bad debt and overhead charges. The gas costs to be recovered over the 2004/2005 winter period (anticipated direct and indirect costs and adjustments) total \$37,322,107 and are divided by projected winter period sales of 38,094,890 therms (based on 2003/2004 winter normalized sales and projected sales growth of one percent) to arrive at the average COG rate.

Northern applied the ratios established in its revenue-neutral rate redesign proceeding, *see Northern Utilities, Inc.*, 86 NH PUC 229 (2001), to the average residential COG

rate to determine the proposed Commercial/Industrial (C&I) low winter use COG rate of \$0.7063 per therm and the C&I high winter use COG rate of \$1.0462 per therm.

Northern's proposed 2004/2005 winter COG residential rate of \$0.9798 per therm represents a decrease of \$0.0142 per therm from the average weighted 2003/2004 winter COG rate of \$0.9940 per therm. The combined impact of the proposed firm sales COG and LDAC rates is an increase in the typical residential heating customer's winter gas costs of \$7.39, which represents a 0.57% increase above last winter's rates.

2. Reasons for the Increase

According to Northern, the increase in the proposed COG rate, as compared to last winter's rate, can be attributed to increases in the actual and projected natural gas fuel prices and demand charges, with those increases being partially offset by a prior period over-collection.

3. Local Distribution Adjustment Clause Charges and Rates

Under Northern's proposal, surcharges and credits to be included in the LDAC for the winter period are related to environmental costs to remediate Manufactured Gas Plant (MGP) sites, costs related to exiting the Wells LNG peak shaving facilities contract and energy efficiency programs.

In *Northern Utilities, Inc.*, 84 NH PUC 669 (1999), the Commission approved a plan for the recovery of costs related to early termination of Northern's Wells LNG peak shaving facilities contract. Northern indicated the settlement provided for recovery of \$358,285 in year six, which commences November 1, 2004. Northern's reconciliation of prior period costs and revenues resulted in an under-recovery which has been added to this year's recovery amount, resulting in a proposed surcharge of \$0.0068 per therm.

In *Northern Utilities, Inc.*, 83 NH PUC 580 (1998), the Commission approved a recovery mechanism for environmental remediation costs (ERC) associated with former MGP sites. These costs are filed during Northern's winter COG proceeding for Commission review and are recovered over a seven-year period. Northern filed for recovery of unamortized deferred environmental remediation costs of \$291,630, incurred from July 1, 2003 through June 30, 2004. The remediation expenses, combined with a prior period under collection of \$21,909 and an audit adjustment reducing expense of \$314, result in \$571,941 to be recovered from ratepayers. This yields a proposed ERC rate of \$0.0105 per therm to be applied for the upcoming winter period.

In *Energy-Efficiency Programs for Gas Utilities*, 87 NH PUC 892 (2002), the Commission approved the implementation of energy efficiency programs for New Hampshire's natural gas utilities. The LDAC includes a proposed energy efficiency surcharge of \$0.0003 per therm for residential customers and a credit of \$0.0058 per therm for C&I customers, effective November 1, 2004 through October 31, 2005.

4. Energy Efficiency Agreement

A letter of agreement (Exhibit No. 3) was submitted at the hearing summarizing an agreement reached between Northern and Staff pertaining to (1) Performance Incentives for Program Year One, (2) four new energy efficiency programs for Program Year Two (2004/2005) and (3) Program Goals for Program Year Two. Northern also agreed at the hearing to file its proposed Performance Incentive Baseline Template for Program Year Two (reserved as Exhibit No. 5).

5. Revised Transportation Charges and Allocators

In Re Gas Restructuring-Unbundling and Competition in the Natural Gas

Industry, supra, the Commission approved a Supplier Balancing Charge and Peaking Service Demand Charge to be updated once a year, commencing with the November billing month. Supplier Balancing charges are the charges that suppliers are required to pay Northern for balancing services as Northern attempts to meet the shifting loads for the supplier's customer pools. Peaking Service Demand charges reflect Northern's peaking resources and associated costs.

Northern proposes to increase the Supplier Balancing Charge from \$0.70 per MMBtu to \$0.75 per MMBtu of Daily Imbalance Volumes and the Peaking Service Demand Charge from \$17.07 per MMBtu of Peak MDQ to \$18.00 per MMBtu of Peak MDQ. The increases are based on an update of volumes and costs used in calculating the charges. Finally, the capacity allocator percentages, which are used to allocate pipeline, storage and local peaking capacity to a customer's supplier under the mandatory capacity assignment required by New Hampshire for firm transportation service, have been updated to reflect Northern's supply portfolio for the upcoming year.

6. Allocation of Fixed Demand Costs

In Northern Utilities, Inc., 80 NH PUC 685 (1995), the Commission approved Northern's use of the "Proportional Responsibility" (PR) allocation methodology to assign annual fixed demand costs to New Hampshire, contingent upon acceptance of the same methodology by the Maine Public Utilities Commission (MPUC). The PR methodology was approved by both Commissions and has been used by Northern to allocate fixed demand costs since 1995. *In Re Gas Restructuring-Unbundling and Competition in the Natural Gas Industry*,

supra, the Commission approved mandatory capacity assignment for Northern's New Hampshire customers shifting from firm sales service to transportation service, thereby avoiding potential stranded costs that the remaining firm sales customers would have been required to pay. The MPUC does not require mandatory capacity assignment for firm sales customers switching from firm sales to transportation service and, consequently, there may be stranded fixed annual capacity costs related to Maine transportation customers that are being assigned New Hampshire under the PR allocation methodology. Northern has begun discussions with Staff and the OCA regarding the issue and plans to resolve the issue prior to next winter's COG proceeding.

7. Motion for Standing Order of Protection and Confidential Treatment

Northern requested that the Commission issue a "standing" protective order regarding certain confidential information provided annually to the Commission. In particular, Northern requested protective treatment for resource, supplier identity and cost information contained in its update to its Model Delivery tariff. In this year's filing, protective treatment is sought for information provided in connection with the calculation of the Peaking Service Demand Charge. In support of its request, Northern states that this information constitutes a trade secret; Northern does not disclose this information outside a close circle of Northern employees with a need to know; release of this information is likely to result in competitive disadvantage for Northern and possibly also its suppliers; and release of this information is likely to be very beneficial to a competitor of Northern or NiSource, or their suppliers, who may gain a competitive advantage as a result of disclosure. Northern seeks a "standing" order such that the order for protection will remain in effect over supplier and cost information in this and future dockets until such time as another party should appear and request such information.

B. OCA

The OCA supported the rate changes proposed by Northern in its COG filing. The OCA also supported the letter agreement regarding energy efficiency (Exhibit No. 3).

C. Staff

Staff stated that it had reviewed Northern's demand and supply forecasts for the upcoming winter period and recommended approval. Staff stated that the plan is designed to provide reliable service at a reasonable cost to ratepayers and is consistent with those filed by Northern and approved by the Commission in the past.

Staff noted that the COG reconciliation of the forecasted and actual costs will be filed prior to next winter's COG and any concerns that may arise related to the 2004/2005 gas planning and dispatch will be addressed in the 2005/2006 COG proceeding. Staff reserved its rights to recommend a disallowance related to the allocation of fixed costs between the Northern's New Hampshire and Maine Divisions for the 2003/2004 winter period based on the outcome of discussions currently underway between the Staff, OCA and Northern.

Staff also noted that the Commission has granted Northern's requests for protective treatment in previous COG filings. However, Staff said that the current request poses a policy question because the Commission has not approved protective treatment on a "standing" basis.

III. COMMISSION ANALYSIS

After careful review of the record in this docket, we find that Northern's proposed COG rates and surcharges will result in just and reasonable rates pursuant to RSA 378:7. Accordingly, we approve Northern's proposed 2004/2005 winter COG rates and the proposed Energy Efficiency, Wells Exit Fee and ERC Surcharges. We will consider any future

recommendations by the Staff, OCA or Northern regarding possible adjustments to the 2003/04 fixed costs assigned to Northern's New Hampshire Division that may be filed with the Commission in a future proceeding.

Regarding Northern's Motion for Standing Order of Protection and Confidential Treatment, the New Hampshire Right-to-Know Law provides each citizen with the right to inspect all public records in the possession of the Commission. *See* RSA 91-A:4, I. The statute contains an exception for "confidential, commercial or financial information." RSA 91-A:5, IV. The case law interpreting whether information is considered confidential requires an objective test; it is not based on the subjective expectations of the party generating the information. *See Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540 (1997). In order to show that the information is sufficiently "confidential to justify nondisclosure the party resisting disclosure must prove that the disclosure is likely to (1) impair the state's ability to obtain necessary information in the future; or (2) cause substantial harm to the competitive position of the person from whom the information was obtained." *Id.*

The information for which Northern seeks protective treatment is similar to information for which the Commission has granted protective treatment in previous COG dockets. *See e.g., Northern Utilities, Inc.*, Order No. 24,228 (October 30, 2003). We find that Northern has provided credible arguments regarding the commercial sensitivity of the information for which protection is sought. In balancing the interests for and against public disclosure of the information for which confidential treatment is sought, we are persuaded that the interest of Northern, its suppliers and its ratepayers in non-disclosure outweighs the public's interest in obtaining access to the information. We will therefore grant the request for protective treatment of the redacted information at this time. Consistent with our practice, the protective

treatment provisions of this Order are subject to the on-going authority of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider the protective order in light of RSA 91-A, should circumstances so warrant.

Northern requests that we approve protective treatment on a “standing” basis such that the order for protection will remain in effect over supplier and cost information in this and future dockets, until such time as another party should appear and request such information. Northern suggests that the Commission could then weigh the competing interests of Northern’s need to protect this information from disclosure and any other party’s expressed need to obtain the same information.

We will deny the request for a standing order at this time. In the first instance, the filing requirement to seek confidential treatment is not burdensome. Secondly, requiring a separate request in each proceeding is an administratively useful device for the Commission that helps ensure that sensitive material is not inadvertently released and that protection from public disclosure is only afforded to information meeting the standards of RSA 91-A.

Based upon the foregoing, it is hereby

ORDERED, that Northern's proposed 2004/2005 Winter COG and FPO per term rates for the period of November 1, 2004 through April 30, 2005 are **APPROVED** effective for service rendered on or after November 1, 2004 as follows:

	Cost of Gas	Minimum COG	Maximum COG
Residential	\$0.9798	\$0.7838	\$1.1758
C&I, low winter use	\$0.7063	\$0.5650	\$0.8475
C&I, high winter use	\$1.0462	\$0.8369	\$1.2554

FURTHER ORDERED, that Northern may, without further Commission action, adjust the approved COG rates upward or downward monthly based on Northern's calculation of the projected over or under-collection for the period, but the cumulative adjustments shall not exceed twenty percent (20%) of the approved unit cost of gas, *i.e.*, the minimum and maximum rates as set above; and it is

FURTHER ORDERED, that Northern shall provide the Commission with its monthly calculation of the projected over or under-calculation, along with the resulting revised COG rates for the subsequent month, not less than five (5) business days prior to the first day of the subsequent month. Northern shall include revised tariff pages 38 & 39 - Calculation of Cost of Gas Adjustment and revised rate schedules if Northern elects to adjust the COG rates; 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 Northern's proposed 2004/2005 Local Distribution Adjustment Clause per therm rates for the period of November 1, 2004 through April 30, 2005 as

filed in Proposed Seventh Revised Page 56, Superseding Sixth Revised Page 56, are APPROVED effective for service rendered on or after November 1, 2004 as follows:

	Energy Effic.	Envir. Remed. Costs	Wells Exit Fee	LDAC
Residential Heating	\$0.0003	\$0.0105	\$0.0068	0.0176
Residential Non-heating	\$0.0003	\$0.0105	\$0.0068	0.0176
Small C&I	\$(0.0058)	\$0.0105	\$0.0068	0.0115
Medium C&I	\$(0.0058)	\$0.0105	\$0.0068	0.0115
Large C&I	\$(0.0058)	\$0.0105	\$0.0068	0.0115

FURTHER ORDERED, that Northern's proposed Transportation Supplier Balancing Charge of \$0.75 per MMBtu of Daily Imbalance Volumes, as filed in Proposed Fourth Revised Page 154, Superseding Third Revised Page 154, is APPROVED; and it is

FURTHER ORDERED, that Northern's proposed Transportation Peaking Service Demand Charge of \$18.00 per MMBtu of Peak MDQ, as filed in Proposed Fourth Revised Page 154, Superseding Third Revised Page 154, is APPROVED; and it is

FURTHER ORDERED, that Northern's proposed Transportation Capacity Allocators as filed in Proposed Third Revised Page 169, Superseding Second Revised Page 169, are APPROVED; and it is

FURTHER ORDERED, that Northern shall 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 Northern's Motion for Standing Order of Protection and Confidential Treatment is GRANTED in part and DENIED in part, in accordance with the discussion above; and it is

FURTHER ORDERED, that to the extent the Motion for Standing Order of Protection and Confidential Treatment is granted, the determination as to confidential treatment made herein is subject to the ongoing authority of the Commission, on its own motion or on the motion of Staff, 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 twenty-ninth day of October, 2004.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Attested by:

Michelle A. Caraway
Assistant Executive Director