DG 05-076

NEW HAMPSHIRE NATURAL GAS UTILITIES

Investigation of the Benefits of a Low Income Assistance Program for Natural Gas Customers

Order Approving a Pilot Program

O R D E R   N O.   24,508

September 1, 2005

APPEARANCES: Steven V. Camerino, Esq., of McLane, Graf, Raulerson & Middleton, for EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England; Seth L. Shortlidge, Esq., of Gallagher, Callahan & Gartrell, for Northern Utilities, Inc.; Stephen Eckberg, for the New Hampshire Community Action Association; Jack K. Ruderman, Esq., for the New Hampshire Office of Energy & Planning; Alan Linder, Esq., of New Hampshire Legal Assistance, for Pamela Locke; Rorie E.P. Hollenberg, Esq., of the New Hampshire Office of Consumer Advocate, on behalf of residential ratepayers; and Donald M. Kreis, Esq., for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On May 12, 2005, the New Hampshire Public Utilities Commission (Commission) issued an Order of Notice to investigate whether a low income customer assistance program for natural gas customers should be established. This investigation followed the Commission's orders in *EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England*, Order No. 24,323 (2004), where the Commission approved a settlement agreement recommending the opening of a docket to consider such a program, and *EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England*, Order No. 24,388 (2004), where the Commission found it was reasonable to investigate the benefits of such a program. The Order of Notice made EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan) and Northern Utilities, Inc. (Northern) parties to the docket and provided for a Prehearing Conference and Technical Session to be held at the Commission on June 7, 2005.

The Prehearing Conference and Technical Session were held as scheduled on June 7, 2005. On June 15, 2005, Commission Staff (Staff) filed a letter with the Commission recommending approval of an agreed upon procedural schedule. On June 24, 2005, in Order No. 24,477, the Commission approved the proposed procedural schedule, noted the Office of Consumer Advocate's (OCA) notice of participation on behalf of residential ratepayers and granted the petitions to intervene filed by New Hampshire Legal Assistance (NHLA), New Hampshire Community Action Association (NHCAA) and the New Hampshire Office of Energy & Planning (NHOEP). In addition, the Commission stated that supplemental notice of the possibility of a rate increase resulting from implementation of a low income assistance program, while not required, would be useful; accordingly, the Commission ordered KeySpan and Northern to publish a copy of Order No. 24,477, which also included an extension of the date for intervention requests, no later than June 29, 2005. On July 12, 2005, KeySpan filed with the Commission an affidavit disclosing publication of Order No. 24,477 and requesting authorization of late publication.

Technical sessions were conducted on June 22 and 30, 2005, and (by conference call) on July 20, 2005, as contemplated by Order No. 24,477. On August 2, 2005, KeySpan and Northern filed with the Commission joint testimony of Amy Smith and Virginia Anthony describing the agreement reached by all the parties and Staff and attaching a copy of the proposed New Hampshire Low Income Assistance Pilot Program Description (Pilot Program). On August 9, 2005, NHLA filed with the Commission a legal memorandum regarding the Commission's authority to approve a low income bill assistance program. On August 10, 2005, the Commission held a hearing at which KeySpan and Northern representatives testified.

II. POSITIONS OF THE PARTIES AND STAFF

A. KeySpan and Northern

The Pilot Program is described, in detail, in the pre-filed testimony and attachments of Amy Smith and Virginia Anthony. At the hearing, these witnesses also addressed the salient provisions of the Pilot Program.

According to the witnesses, the purpose of the Pilot Program is to provide eligible low income customers with a reduced rate in order to lessen the impact of escalating gas costs on their utility bills. Residential heating customers who provide proof that the customer or a member of the customer's household is qualified to receive a benefit through one of thirteen means-tested assistance programs, including the Low Income Home Energy Assistance Program (LIHEAP), the New Hampshire Electric Assistance Program (EAP) and the Food Stamps Program, would be eligible for the Pilot Program. The benefit is provided by a Low Income Heating Rate which would reflect a 50% reduction in each utility's non-low income residential heating base rate for delivery service. The commodity charge for the gas will not be affected by this program. During the first year of the program, the benefit is anticipated to be approximately 15% of the total bill for an average natural gas customer, based on 2004-2005 gas rates; however, the actual benefit would depend on gas usage and the cost of gas. A participating customer would be enrolled in the Pilot Program for one year from the date the utility is notified. Customers who are eligible for LIHEAP would receive a benefit retroactive to November 1 of the current program year. The design of the Pilot Program is intended to be consistent with the discount rate programs the utilities offer in Massachusetts. The total costs for the 2005-2006 program year are expected to be approximately $1,118,787 for KeySpan and approximately $267,563 for Northern. Program goals include limiting the cost of the program to not more than one percent of each utilities' firm gross sales and transportation revenues and also up to an amount that does not impact the typical customer of any firm sales or transportation class by more than one percent of the total bill.

The witnesses also testified about (1) administrative costs, (2) the revenue shortfall created by the program discounts, (3) the recovery mechanism and bill impacts, (4) participation levels, (5) the outreach plan, and (6) reporting requirements.

(1) Administrative Costs. The administrative costs include start-up costs associated with information technology (IT) and programming as well as the ongoing costs associated with internal administration, marketing and outreach, and quarterly reporting. Ms. Smith and Ms. Anthony indicated that such costs are minimized, in part, because the Pilot Program is designed to be similar to the low income programs offered by KeySpan and Northern's affiliate, Bay State Gas, in Massachusetts. By starting with the IT and programming already developed for the Massachusetts programs and adapting it for the Pilot Program proposed for New Hampshire, start-up costs are kept as low as possible. Once the IT and programming work is complete, Ms. Smith and Ms. Anthony do not anticipate significant ongoing administrative costs to operate the program. KeySpan anticipates first year administrative expense of not more than $100,000 while Northern anticipates expense of not more than $40,000.

(2) Revenue Shortfall/Program Discounts. Offering a reduced rate to those customers who participate in the Pilot Program would result in a revenue shortfall for Northern and KeySpan. The shortfall is the difference between what a participating customer would have been billed under the non-discounted rates and what the customer is billed under the discounted rate.

Approximately $1,018,787 of KeySpan's proposed budget and $227,563 of Northern's proposed budget is expected to be spent on discounts to participating customers. KeySpan's per customer discount is, on average, anticipated to be approximately $169 per year while Northern's discount is, on average, anticipated to be approximately $223 per year.[1] Both discounts reflect the 50% reduction in the base rate component (i.e., delivery component) of the tariff.

(3) Recovery Mechanism and Bill Impacts. Both KeySpan and Northern propose to recover Pilot Program costs from all firm sales and transportation customers at a uniform per therm rate, through a new component of their respective Local Distribution Adjustment Clause (LDAC) mechanisms, to be called the Residential Low Income Assistance Program (RLIAP) rate. Recovery would begin on November 1, 2005. KeySpan estimates a first year recovery rate of $0.0075 per therm and Northern estimates a first year recovery rate of $0.0049 per therm based in part on the annual firm throughput estimated in the companies' testimony. The LDAC revenue recovery amounts will be reconciled on an annual basis to actual costs incurred with interest on over and under recoveries applied at the prime rate.

Recovery of the Pilot Program costs is estimated to result in a .58% increase in the total bill for KeySpan residential heating customers, the equivalent of $7.06 per year on the average heating customer's bill of 941 therms per year. For a KeySpan residential non-heating customer, the total bill increase is estimated to be .49%, or $1.84 per year for the average non-heating customer's bill of 245 therms per year. Northern's residential heating customers are anticipated to have a total bill increase of .33%, or $4.63 per year for the average residential heating customer using 944 therms per year. A residential non-heating customer of Northern is

[1] The amount of the customer's discount will vary based on the customer's actual usage.

anticipated to experience a total bill increase of .23%, or $.80 per year for usage of 163 therms per year.

(4) Participation Levels. KeySpan estimates that as many as 6,034 of its residential heating customers would participate in the Pilot Program. Northern estimates that as many as 1,022 of its residential heating customers would participate. KeySpan and Northern base their estimates of program participation on their experience with their low income programs in Massachusetts where approximately 60% of program participants also received benefits from LIHEAP and the remaining 40% qualified for the program through participation in another qualifying means-tested program. By identifying the number of their customers that had received benefits from LIHEAP during the most recent heating season, Key Span and Northern were then able to estimate the total number of participants.

(5) Outreach Plan. KeySpan and Northern have developed an outreach plan to make customers aware of the Pilot Program. The plan outlines how the two companies would promote the Pilot Program and anticipates coordination of efforts with the Community Action Agencies and other social service agencies involved in the administration of the thirteen qualifying means-tested programs. KeySpan and Northern have proposed the use of a variety of media to communicate with their customers and make them aware of the Pilot Program.

(6) Reporting Requirements. On a quarterly basis, KeySpan and Northern would file separate reports which summarize the actual monthly data. Among other things, included in the reports will be data about the number of customers participating in the program, the amount of dollars collected through the proposed RLIAP component of the LDAC, and program costs. The parties would meet no later than June 30, 2006 to review the data provided by the quarterly reports and the status of the Pilot Program and discuss any program modifications for the 2006-

2007 program year to be proposed to the Commission for its review and approval. In its closing comments, KeySpan requested that the Commission authorize the late publication of Order No. 24,477.

B. NHCAA

The NHCAA supports the proposed Pilot Program. It states that the program would provide a much needed benefit to New Hampshire's low income households that are most burdened by high fuel costs during the winter months. The NHCAA avers that the program design is administratively efficient because it takes advantage of systems currently in place to deliver low income programs at KeySpan's and Northern's Massachusetts affiliates. The NHCAA expresses interest in participating in the Pilot Program review scheduled for June 2006.

C. NHOEP

The NHOEP strongly supports the proposed Pilot Program. According to the NHOEP, the stakeholder process was very productive and has resulted in a cost effective program design that delivers an important benefit to an important segment of natural gas customers.

D. NHLA and Pamela Locke

On behalf of its client, Pamela Locke, NHLA supports the Pilot Program and the authority of the Commission to approve the Pilot Program. In a legal memorandum submitted to the Commission, NHLA maintains that the Pilot Program would result in just and reasonable rates and is designed to accomplish a lawful purpose, citing various statutes and prior Commission orders. At hearing, Ms. Locke presented a statement of her own in support of the Pilot Program. She believes the amount of the proposed discount would provide a benefit to low income customers. She states that outreach efforts must be constant and thorough in order for low income customers to be informed of the discount as soon as possible.

E. OCA

The OCA states it has advocated for a low income program for gas customers for a number of years and it supports the Pilot Program. The OCA affirms that the Pilot Program provides assistance to the most needy customers while limiting the cost exposure to other customers. The OCA intends to continue to monitor the progress of the Pilot Program and participate in the program review to be conducted in June 2006.

F. Staff

Staff supports the proposed Pilot Program. Staff states that the Pilot Program will serve the most vulnerable customers, low income residential heating customers. At the same time, Staff believes the Pilot Program keeps administrative costs to a minimum and is designed to have minimal impact on other low income customers. Staff emphasized that the program is designed to be implemented by November 1, 2005, providing assistance to customers during the upcoming winter heating season. Staff states that the Pilot Program adequately balances the interests of the customers and the companies. According to Staff, the interest rate applied in reconciling estimated to actual costs is reasonable. Staff notes that the Commission has maximum flexibility to continue, modify or terminate the Pilot Program. In addition, Staff notes that the Pilot Program reflects Commission precedent as the Commission previously approved a low income program for Northern in 1984. Staff also notes that the Pilot Program enhances KeySpan’s and Northern’s ability to work with payment-troubled customers. According to Staff, although difficult to quantify, the Pilot Program could potentially reduce the amount of utilities’ costs associated with bad debt and collection of unpaid bills. Staff states that the savings to low income customers, particularly during the winter time, are a significant adjunct to other available sources of assistance.

III. COMMISSION ANALYSIS

As a preliminary matter, we will waive the publication date of Order No. 24,477, which was inadvertently missed. The actual publication date, which was six days later than that specified in the Order, conforms to the principle we endeavored to achieve by requiring supplemental notice of the possibility of a rate increase. In addition, no interveners have come forward in response to the publication of the supplemental notice and no parties' rights are prejudiced by the delayed publication.

The Commission has long recognized the validity of discounted tariffed rates for low income customers. For example, the Commission approved an elderly low income rate for Northern's customers in 1983. *See Northern Utilities, Inc.*, 68 NH PUC 603 (1983) (temporary rate), 69 NH PUC 30 (1984) (permanent rate). Although Northern's low income residential rate classes were closed to new customers in 2001 in connection with Northern's rate redesign, the Commission foresaw the possible need to reintroduce the program in the future. *See Northern Utilities, Inc.*, 86 NH PUC 229, 242 (2001).

The Commission has also approved lifeline rates for electric utility customers based on generally applicable utility statutes. For example, the Commission concluded in *Lifeline Rates*, 66 NH PUC 166, 169-171 (1981) that lifeline rates were authorized by New Hampshire law, specifically citing RSA 374:1, 378:7 and 378:11.[2] *See also Lifeline Rates*, 68

---

[2] The Commission found that there was no legal barrier to the establishment of a lifeline rate, citing RSA 374:1 (requiring adequate service to be provided to all customers in a utility's franchise area), RSA 378:7 (establishing the just and reasonable standard as the universal standard for regulatory practice) and RSA 378:11 (providing for a necessary degree of flexibility in setting rates so as to allow for the differing needs of the various customer classes). In the Order, the Commission chose to adopt the option of a general lower rate for all residential customers for a set level of kilowatt-hour usage instead of a targeted lifeline rate based on income.

NH PUC 216, 220 (1983) (reaffirming the basic findings of Order No. 14,872); *Public Service Company of New Hampshire*, 69 NH PUC 67, 88-91 (1984) (Commission was convinced that there were good reasons to consider a targeted lifeline program even though such "social" ratemaking would vary from traditional ratemaking principles).

More recently, the Commission has noted that the statutory standards for sufficiency of ratemaking decisions do not require the Commission to "determine the outcome using any specific methodology, so long as the result is consistent with the 'public interest' and the rates are 'just and reasonable.'" *Northern Utilities, Inc.*, 86 NH PUC 229, 241-242 (2001). In *Statewide Low-Income Electric Assistance Program*, 87 NH PUC 349, 371 (2002), the Commission approved Connecticut Valley Electric Company's voluntary implementation of an electric assistance program prior to restructuring and its recovery of a modest surcharge to fund the program. The Commission stated,

> "[w]hile 374-F:3(V)(a) expressly authorizes the Commission to establish low-income assistance programs as a part of restructuring, there is nothing that prohibits the Commission from establishing such programs as part of our traditional regulatory oversight role. Both Northern Utilities and PSNH have had discounted tariffed rates for low-income and/or elderly customers in the past."

The most general statement of this role is found in RSA 374:3 (Commission has "general supervision of all public utilities . . . so far as necessary to carry into effect the provisions of this title"). Based on such precedent, we find that the Pilot Program is consistent with New Hampshire law and long-standing ratemaking practices followed by the Commission.

Regarding the merits of the Pilot Program, all parties affirmed the need for a low-income assistance program for natural gas customers at this time. Such a program benefits low income residential heating customers who are impacted by escalating gas costs. Although the benefits provided to these customers under the Pilot Program are modest, the record indicates they are meaningful for the customers eligible to receive them. At the same time, there is only a nominal impact on non-participating customers.

KeySpan's estimated Pilot Program cost of $1.118 million and Northern's estimated Pilot Program cost of $267,000 are based on the companies' experience with similar programs offered by their Massachusetts affiliates, Northern's experience with its grandfathered elderly low income rate, information regarding the EAP, and the best available information about KeySpan's and Northern's respective service areas and customer demographics. As this would be a new program in New Hampshire and one with which Northern and KeySpan have no New Hampshire specific experience, we find it reasonable for the companies to rely on the experience of their affiliates in other states in developing its estimates for program participation and program cost.

One of the parameters of the proposed Pilot Program is that cost shall be limited to no more than one percent of the gas utilities' firm gross sales and transportation revenues. The impact on a typical customer's bill in any firm sales or transportation class would also be limited to one percent of the total bill. If the Pilot Program costs exceed one percent, modifications would be proposed to the program to reduce the program costs on a going-forward basis so that the costs are forecasted not to exceed one percent. Given that all natural gas customers are sensitive to increases in their gas bills, by limiting spending, the impact on customer bills to fund the proposed Pilot Program would be minimized. In addition, by keeping the impact on customer bills low, the risk of customers choosing to leave their natural gas company and switch to another fuel, such as oil, in the event the price of natural gas gets too high, is minimized.

There are two components of the estimated Pilot Program costs, administrative costs and program discounts or revenue shortfall. The estimated costs were based on the experience of KeySpan's and Northern's Massachusetts affiliates with similar low income programs. KeySpan's proposed administrative costs are estimated at $100,000 and include information technology (IT) and programming start-up costs. Northern's administrative costs, which are estimated at $40,000, also include IT and programming start-up costs. The witnesses for both companies have indicated that they do not expect the ongoing administrative costs for the Pilot Program to be significant. Given that Pilot Program costs are projected by incorporating the many years of experience in running similar programs in Massachusetts, the estimated costs of running the programs are assumed to be reliable. We also find that the amount of the estimated start-up and administrative costs is reasonable. If the projected costs vary from those anticipated, the excess costs will be refunded to or collected from ratepayers, with interest applied. In any event, the Commission retains the right to review and approve the actual start-up and on-going administrative costs.

KeySpan and Northern have also provided costs of the estimated program discounts or revenue shortfall. As explained by Ms. Smith in her testimony, the revenue shortfall is the difference between what participating customers are billed and what they would have been billed absent a low income program. In determining the amount of program discounts, KeySpan and Northern relied on the experience of their Massachusetts affiliates and their direct experience with the participation of their customers in the federal LIHEAP program. Northern and KeySpan have appropriately considered the information available to them and developed reasonable estimates for participation levels. We also find the two companies have reasonably estimated the amount of the discount per participant. The discounts are calculated using a consistent formula which is based on a 50 percent reduction of each company's tariffed base rate, yielding a total bill discount of approximately 15 percent of the average residential heating bill.

The Commission notes that the parties have agreed to the outreach efforts and reporting requirements summarized in Appendix A and Appendix B of the program description. The Commission believes that the timing and the components of these plans are reasonable.

KeySpan and Northern are requesting that the Pilot Program costs be recoverable through the LDAC mechanism in the upcoming 2005-2006 Winter Period Cost of Gas, effective November 1, 2005. The Commission finds this recovery mechanism to be reasonable. KeySpan and Northern will record their Pilot Program costs in their respective deferred Pilot Program accounts. Each company will reconcile these costs with corresponding LDAC revenues such that any over-collection or under-collection will be refunded to or collected from ratepayers, with interest applied at the prime rate. The Commission finds this recovery mechanism to be consistent with other reconciling mechanisms, such as the Cost of Gas reconciling mechanism, and believes that it is reasonable to use this mechanism for recovery of Pilot Program costs.

Clearly, the Pilot Program is a worthy policy measure particularly in a time of rapidly escalating energy prices, and, in accordance with the discussion above, we conclude that the Pilot Program is permissible as a matter of law, consistent with the public interest, will result in just and reasonable rates, and should be approved for the 2005-2006 program year. We commend the parties and Staff for working together in an expedited manner to bring forward this Pilot Program in time for implementation prior to the upcoming winter season.

At the same time, we note that in the context of electric rates the Legislature specifically instituted a comparable policy measure by providing in RSA 369-B:3 for a system benefits charge with a portion designated to assist low income customers. Under the circumstances, however, there is not time for the Legislature to take such action for the upcoming winter. Therefore, we conclude that it is necessary and appropriate that we exercise our authority to approve the Pilot Program. We will forward copies of this Order to the attention of the relevant House and Senate Committees in order that they may be in a position to provide guidance that would inform the Commission's review of the Pilot Program slated to take place in the summer of 2006.

Based upon the foregoing, it is hereby

ORDERED, that the New Hampshire Low Income Assistance Pilot Program for eligible residential natural gas heating customers of KeySpan and Northern is hereby approved; and it is

FURTHER ORDERED, that KeySpan and Northern will be allowed to recover the costs of the Pilot Program through a RIALP component of the 2005-2006 Winter Period Cost of Gas - LDAC recovery mechanism. The initial recovery rate for each utility shall be based on the respective Pilot Program costs outlined above and updated annual firm throughput estimates as reflected in the upcoming Winter Period cost of gas filings and Commission approval of the 2005-2006 Winter Period LDAC rate; and it is

FURTHER ORDERED, that KeySpan and Northern file 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 the timing requirement for the publication of Order No. 24,477 be waived.

By order of the Public Utilities Commission of New Hampshire this first day of September, 2005.

Thomas B. Getz Chairman	Graham J. Morrison Commissioner	Michael D. Harrington Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary