

DG 06-045

**ENERGYNORTH NATURAL GAS, INC. d/b/a
KEYSPAN ENERGY DELIVERY NEW ENGLAND**

Petition for Termination of Propane Service to Kaunas Circle

Order Following Hearing

ORDER NO. 24,657

August 24, 2006

APPEARANCES: McLane, Graf, Raulerson, and Middleton, P.A. by Steven V. Camerino, Esq., on behalf of EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England, and Edward N. Damon, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On March 20, 2006, EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to terminate propane service to the twelve residential customers served by the propane tank farm located at 1010 Goffstown Road in Manchester, New Hampshire, all located in a development known as Kaunas Circle. KeySpan also seeks permission to remove the propane storage tank farm serving these customers, and to abandon in place the balance of the associated distribution system. In addition, KeySpan requests authority to install individual propane supply tanks and appurtenant equipment on the property of each of the customers and to convert such customers to retail propane service, to be provided by a retail propane service dealer.

On April 5, 2006, the Commission issued an order of notice scheduling a prehearing conference for May 9, 2006, which took place as scheduled. A technical session followed. Commission Staff filed its report of the technical session on May 10, 2006, including a proposed procedural Schedule for the docket. The report also included requests of two Kaunas Circle

customers, Mr. and Mrs. Scott Hill and Mr. and Mrs. John Loveday, for intervenor status, to which there were no objections. On May 15, 2006, the Commission issued a secretarial letter approving the procedural scheduled and granting the intervention requests. On June 16, 2006, the Commission issued a secretarial letter rescheduling the hearing in this docket to July 25, 2006. On July 11, 2006, Staff filed its testimony. The hearing took place as scheduled on July 25, 2006.

II. POSITIONS OF THE PARTIES AND STAFF

A. KeySpan

KeySpan stated that it currently has twelve customers receiving propane service through a distribution system installed in 1964 and situated on property currently owned by Mr. and Mrs. Hill. According to KeySpan, propane is delivered to each customer via a propane tank farm, consisting of four 1,000-gallon liquid propane, above-ground tanks. The rights under which KeySpan placed tanks on property now belonging to the Hills were established by Commission Order No. 8,320 (for the construction and maintenance of a temporary propane gas installation). Manchester Gas Company installed the tank farm shortly after issuance of Order No. 8,320.¹ In 1995, EnergyNorth Natural Gas, Inc. entered into a new ten-year right-of-way agreement regarding property currently owned by the Hills.² KeySpan has access to the tank farm (through an easement granted in Commission Order No. 13,490) through property currently owned by Mr. and Mrs. Loveday.³ Upon the expiration of the right-of-way agreement on August 1, 2005,

¹ A copy of the Commission order establishing KeySpan's easement to the Hill's property is attached as "RGM-1" to written testimony of Richard MacDonald, which testimony was marked as Exhibit 1 at the hearing.

² A copy of the Right-of-Way Agreement was submitted to the Commission as part of Richard MacDonald's written testimony as "RGM-3."

³ A copy of the Commission order allowing an easement through the Lovedays' property is attached as "RGM-2" to written testimony of Richard MacDonald.

KeySpan and the Hills entered into a license agreement for one year.⁴ KeySpan claimed that the Hills have requested that KeySpan remove the tank farm from their property, in accordance with the terms of the agreement.

KeySpan averred that it had explored various options to continue service to the Kaunas Circle customers and determined that the alternatives would substantially increase the subsidy currently provided to these customers by those KeySpan customers not on the Kaunas Circle system.⁵ KeySpan stated that it seeks to terminate regulated utility service to the twelve customers located at Kaunas Circle and to put them in a position to receive retail propane service from competitive suppliers. KeySpan maintained that this proposed alternative would be implemented at no cost to the Kaunas Circle customers, aside from any cost differential between retail propane service and the regulated natural gas service provided to other KeySpan customers. KeySpan asserted that it was unlikely that the Company would extend natural gas to the Kaunas Circle area, which is over a mile from KeySpan's nearest natural gas distribution system. KeySpan estimated that it would cost approximately \$350,000 to extend natural gas to Kaunas Circle. KeySpan stated it believed that extending natural gas service to these twelve customers would be cost-prohibitive, an imprudent investment and not financially beneficial for the Company. Additionally, KeySpan hypothesized that in order to continue propane service to Kaunas Circle the Company would need to relocate the facility to another site which would involve substantial cost. KeySpan stated that a third option would be for KeySpan to seek condemnation rights in order to keep the tanks situated on property currently owned by the Hills.

⁴ A copy of the License Agreement is attached as "RGM-4" to written testimony of Richard MacDonald.

⁵ The current subsidy as calculated by KeySpan is \$2,508, which is in a response to Staff's Data Request provided by KeySpan and attached as SPF-4 to written testimony of Stephen P. Frink, which testimony was marked as Exhibit 2 at the hearing.

KeySpan affirmed that it had determined that retail propane suppliers are willing to serve the Kaunas Circle customers. KeySpan stated that it had already spoken with EnergyNorth Propane (unaffiliated with KeySpan) which would be willing to supply these customers. KeySpan affirmed that it had assessed the rate impact of switching to unregulated propane service and estimated that, based upon the price for retail propane service as of July 2006, Kaunas Circle customers would see a 37 percent increase in their bills. The Company stated that it had sent four separate letters to each of its Kaunas Circle customers, the first of which included the order of notice entered in this docket. KeySpan indicated that it had not received any questions or comments from any of the twelve customers in response to this correspondence. In addition, a public meeting was held on June 5, 2006, and was attended by at least nine of the twelve customers. The Company maintained that a feasibility study, consisting of a door-to-door survey, was undertaken to ensure that a 500-gallon propane tank could be installed on each customer's property.

During the hearing, KeySpan stated that it was willing to accept the option described in the testimony of Staff witness Stephen P. Frink whereby KeySpan would fund conservation measures and split the conservation funding and customer conversion costs equally between its ratepayers and shareholders.⁶ KeySpan stated that to help mitigate a potential increase in energy costs caused by switching from regulated to unregulated propane service the Company would be willing to assist the Kaunas Circle customers as outlined below:

- KeySpan would offer each customer energy efficiency measures available under KeySpan's Residential Energy Efficiency Program and, following an energy audit, would pay up to \$1,000 per customer of the required customer contribution to install the measures;

⁶ A "Summary of Proposal for Termination of Services to Kaunas Circle" was marked as Exhibit 7.

- KeySpan would allow the Kaunas Circle customers to remain eligible for participation in its Residential Energy Efficiency Program for a period of one year, and Kaunas Circle customers would have the opportunity to take advantage of energy efficiency rebate offers under the program;
- KeySpan would pay for propane tanks at an estimated cost of \$16,200 (\$1,350 per tank), which would immediately become the property, and responsibility, of the homeowner;
- KeySpan would pay conversion costs estimated at \$13,200 for the installation of individual propane storage tanks for Kaunas Circle customers;
- KeySpan would pay interior piping on customer premises necessary for conversion at an estimated cost of \$4,200; and
- KeySpan would pay an allowance of \$2,800 (equivalent to the estimated cost of conversion, a propane tank and interior piping) to any Kaunas Circle customer choosing an energy source other than propane.

KeySpan would split the above costs 50/50 between ratepayers and shareholders through a one-time adjustment in KeySpan's cost of gas "COG" mechanism.

B. Staff

On July 11, 2006, Staff filed testimony that described a number of options for serving Kaunas Circle customers and subsequently discussed with KeySpan a particular option that Staff would be willing to support. Staff testimony was made available on the Commission website and customers were encouraged to comment either through attending the hearing or providing oral or written comments to the Commission. None of the Kaunas Circle customers contacted Staff regarding the described options or attended the hearing.

Staff testified regarding four options available to the Commission in response to KeySpan's petition to terminate service to Kaunas Circle: (1) have KeySpan install propane tanks for Kaunas Circle customers and discontinue service; (2) have KeySpan buy and install tanks for customers (or provide an allowance), discontinue service and fund conservation measures; (3) deny KeySpan's petition to terminate service to Kaunas Circle and Kaunas Circle

customers would continue to pay natural gas COG rates; and, 4) deny KeySpan's petition to terminate service to Kaunas Circle and implement a propane COG rate to be charged to Kaunas Circle customers.

Staff evaluated the costs associated with each of the four identified options. In its evaluation, Staff assumed full recovery of the license agreement fees noting, however, that Staff expected to contest the recovery of such expense if KeySpan were to seek recovery in a future proceeding. Staff's evaluation of each the four options is described below:

Option 1 – Install propane tanks and discontinue service

Installing propane tanks and discontinuing service would eliminate the subsidy to Kaunas Circled customers from other natural gas customers. Kaunas Circle customers could expect a 35-38 percent increase in annual energy costs as a result of switching to unregulated propane service, an increase of approximately \$500 per year.

Option 2 – Buy and install tanks, fund conservation measures, discontinue service

Natural gas customers would pay a one time subsidy of approximately \$23,000, Kaunas Circle customers that chose to own their own tank would receive a lower propane rate (a discount of \$0.10 per gallon for an average annual savings of approximately \$100) and conservation measures funded by Key Span would reduce energy usage, further reducing annual energy costs for the Kaunas Circle customers. On average, residential energy efficiency measures offered through KeySpan's Energy Efficiency Residential Program save over \$3 for every \$1 invested⁷. Using that energy efficiency savings rate, a \$1,500 investment in conservation measures would be expected to yield \$4,500 in energy savings over the life of the measures. Individual customers will see varied savings depending on their unique circumstances.

Option 3 – Regulated service continued under current rate structure

Other natural gas customers would continue to subsidize Kaunas Circle customers, with an estimated subsidy of approximately \$14,000 in 2006 that would increase annually and reach approximately \$24,000 by 2012. Kaunas

⁷ Benefit/Cost Analyses of KeySpan Energy Efficiency Programs – New Hampshire, March 1, 2006, approved Settlement Agreement p. 79. Docket No. DG 06-032, KeySpan's Demand-Side Management and Market Transformation Plan, *EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England*, Order No. 24,636 (June 8, 2006).

Circle customers would continue to receive regulated propane service and be charged the natural gas COG rate.

Option 4 – Regulated service continued and propane COG rate implemented

Implementing a propane COG rate for Kaunas Circle designed to fully recover the cost of providing regulated propane service would eliminate the subsidy from natural gas customers and would increase 2006 Kaunas Circle gas costs 87 percent.

Staff recommended Commission approval of Option 2, whereby KeySpan would purchase and install propane tanks, discontinue service to Kaunas Circle and fund conservation measures.

Option 2 eliminates future subsidies from natural gas customers and would not significantly increase the energy costs paid by Kaunas Circle customers.

Staff opposed KeySpan's proposal to add the conversion costs related to providing the Kaunas Circle customers unregulated propane service to rate base. Staff testified that KeySpan would not have title to the property and that the related assets would not be used and useful in providing utility service. Staff recommended that KeySpan be allowed recovery of one half the Kaunas Circle conversion and conservation costs through a one-time charge to the COG.

III. COMMISSION ANALYSIS

The Commission may authorize a public utility to discontinue service permanently and to remove any equipment required to provide that service "whenever it shall appear that the public good does not require the further continuance of such service." RSA 374:28. "The statutory term 'public good' has been . . . held not only to include the needs of particular persons directly affected by curtailment of the service but also to the needs of the public at large and the general welfare of the utility involved." *Boston & Maine R. R. v. State*, 102 NH 9, 10 (1959). In this case we must consider the impacts of this proposed service discontinuance on the Kaunas Circle customers, the remaining KeySpan customers and the Company itself.

At the July 25th hearing, Staff and the Company supported a proposal for termination of service under which KeySpan would:

- (1) remove and abandon the present system, with the cost, estimated to be \$20,539, reflected in indirect gas rates;
- (2) pay for all conversion costs for Kaunas Circle customers electing to take propane service, including a propane storage tank if customers choose to own their own tank, with a total estimated cost of \$33,600;
- (3) provide customers choosing an energy source other than propane an allowance of up to \$2,800 in lieu of conversion costs;
- (4) allow Kaunas Circle customers to participate in KeySpan's Residential Energy Efficiency Program for up to one year beyond their service termination date and pay up to \$1,000 of the customer funded portion of installation measures, subject to the requirement that, to be eligible for the \$1,000 funding beyond that offered under the current conservation program, a customer have an energy audit performed, which is provided at no cost to the customer under KeySpan's conservation program; and
- (5) be allowed to recover one half of: the conversion; the \$2,800 allowance; and \$1,000 energy efficiency costs, through a one time charge to the COG.

The propane system at Kaunas Circle was installed in the 1960s with the expectation that increased demand for natural gas in the area would justify an extension of the natural gas distribution system to Kaunas Circle. In the years since, increased demand has not materialized and KeySpan testified that it is not likely to be achieved in the foreseeable future.

The proposal described at the hearing eliminates an ongoing subsidy, consisting of propane costs and costs related to land rights for the propane system, paid by natural gas customers. The one-time charge to the COG is less than two years of right-of-way payments under the current license agreement, a cost natural gas customers would be required to pay indefinitely under the current rate structure if service to Kaunas Circle were continued.

The Commission approved two temporary easements on two properties necessary to provide propane service to the Kaunas Circle customers, one in 1964 for the tank farm itself and

one in 1979 for access to the tank farm. Terminating regulated service resolves any issue as to whether the easements continue to be, in fact, temporary.

If a customer opts for tank ownership, the cost of the propane tank is fully funded by KeySpan. We heard testimony as to the advantage of a customer owning the tank (a 10 cent per gallon discount) and the disadvantage (maintenance) and liability. For the average Kaunas Circle customer, a 10 cent discount translates to an annual savings of approximately \$100 which may be offset by maintenance costs. Kaunas Circle customers should experience similar savings whether electing to take ownership of the tank or not. In an effort to balance net savings, as a condition of terminating service to Kaunas Circle, KeySpan will be required to provide an allowance equal to one-half of the estimated cost of a propane storage tank for those customers who choose not to own their own tank, a one time payment of \$675. The cost of the allowance will be treated the same as all other conversion expenses, split equally between shareholders and natural gas rate payers.

KeySpan estimated that the average Kaunas Circle customer would have paid an additional 35 to 38 percent more in annual energy costs last year if served by an independent propane dealer. The proposal provides for company-funded conservation measures that should greatly reduce the anticipated increase in energy costs the Kaunas Circle customers might otherwise experience in moving from natural gas to an alternative energy source. Any potential increase will be further offset by customers having the option of either owning their own tanks and thereby receiving a discounted rate, not owning a tank but receiving a one-time allowance equal to one-half the cost of a tank, or electing an alternative energy source and receiving a one time allowance equal to the full cost of converting to propane service.

We approve the proposal for termination outlined above, conditioned upon a one-time payment to Kaunas Circle customers not electing to own a propane storage tank. We find that the proposal, as modified by this Order, meets the public good requirement by minimizing cost impacts to the Kaunas Circle customers, eliminating a growing subsidy which had been paid by the remaining natural gas customers, and requiring the Company's shareholders to assume some of the costs of terminating service to the Kaunas customers.

IV. MOTION FOR CONFIDENTIAL TREATMENT

In connection with the discovery provided to Staff in this proceeding, KeySpan moved on May 17, 2006 for confidential treatment pursuant to RSA 91-A:5, IV of the Company's list of Kaunas Circle customers affected by this proceeding. Mr. and Mrs. Hill and Mr. and Mrs. Loveday assented to the motion; no oppositions were submitted. According to KeySpan, the list is entitled to confidential treatment because the Company keeps this data private as a matter of course and the Commission has granted confidential treatment to such lists in other proceedings. Applying the relevant balancing of the privacy interest involved and the public's interest in disclosure, the New Hampshire Supreme Court has held that names and addresses of residential utility customers are entitled to confidential treatment under RSA 91-A:5, IV. *See Lamy v. New Hampshire Public Utilities Commission*, 152 N.H. 106, 113 (2005). We apply that precedent here and grant the confidentiality motion.

Based upon the foregoing, it is hereby

ORDERED, that the settlement agreement between Staff and KeySpan described above, modified to include a one-time payment of \$675 to Kaunas Circle customers that elect not to own their own propane tank, is APPROVED; and it is

FURTHER ORDERED, that regulated service to Kaunas Circle be terminated no later than November 1, 2006; and it is

FURTHER ORDERED, that the existing tank farm be dismantled and removed no later than December 31, 2006; and it is

FURTHER ORDERED, that KeySpan deliver a copy of this Order to the Kaunas Circle customers within one week and provide a cover letter that lists propane dealers serving the area and includes an information packet on KeySpan's Residential Energy Efficiency Program; and it is

FURTHER ORDERED, that KeySpan provide a full accounting of the cost of conversion to the Commission no later than January 31, 2007; and it is

FURTHER ORDERED, that the motion of KeySpan for confidential treatment of certain information submitted to Staff in discovery is GRANTED; and it is

FURTHER ORDERED, that the determination as to protective treatment contained herein shall be subject to the ongoing authority of the Commission, on its own motion or on the motion of Staff, any party or any other person, 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-fourth day of August, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

ChristiAne G. Mason
Assistant Executive Director & Secretary