STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 07-093

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

2007/2008 Winter Cost of Gas

Order Regarding the Cost of Gas Rates, Local Distribution Adjustment Clause Rates and Other Rates

O R D E R N O. 24,797

October 31, 2007

APPEARANCES: Steven V. Camerino, Esq., of McLane, Graf, Raulerson, and Middleton, on behalf of EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England; Kenneth E. Traum, of the Office of the Consumer Advocate, on behalf of residential utility ratepayers; and Edward N. Damon, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On August 31, 2007, EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan), a public utility that distributes natural gas in 29 cities and towns in southern and central New Hampshire and the City of Berlin, filed its cost of gas (COG) and other rate adjustments for the 2007-2008 winter period. KeySpan's filing included the direct testimony and supporting attachments of Ann E. Leary, manager of rates and regulatory affairs, Theodore E. Poe, Jr., energy planning manager, and Patricia A. Haederle, manager of the New England manufactured gas plant (MGP) program. Accompanying KeySpan's COG filing was a motion for protective order and confidential treatment.

On September 11, 2007, the Commission issued an order of notice scheduling a hearing for October 11, 2007. On September 14, 2007, the Office of the Consumer Advocate (OCA) entered an appearance on behalf of residential utility ratepayers pursuant to RSA 363:28. There are no other intervenors in this docket. On September 24, 2007, KeySpan filed copies of its wholesale supply agreements with Eastern Propane Gas, Inc. (Eastern Propane). On October 5, 2007, Staff filed the direct testimony and supporting attachments of Stephen P. Frink, assistant director of the gas and water division. On October 11, 2007, KeySpan filed a second motion for protective order and confidential treatment regarding the Eastern Propane agreements and responses to certain Staff data requests.

II. POSITIONS OF THE PARTIES AND STAFF

A. KeySpan

KeySpan witnesses Leary and Poe testified about: (1) calculation of the firm sales COG and fixed price option (FPO) rates and customer bill impacts; (2) supply reliability and price stability; (3) firm transportation COG rate; (4) transportation supplier balancing charge, peaking service demand charge and capacity allocators; and (5) local distribution adjustment clause (LDAC) rates.

KeySpan witness Haederle testified regarding the status of site investigation and remediation efforts at the various MGP sites in New Hampshire and KeySpan's efforts to seek reimbursement of its MGP-related costs from third parties in order to reduce the costs recovered from KeySpan's customers. The costs associated with these efforts and the amounts recovered from third parties are detailed in testimony and supporting schedules and other data supplied to the Staff by Ms. Leary.

1. Calculation and Impact of the Firm Sales COG & FPO Rates

The proposed 2007-2008 winter COG average residential firm sales rate of $1.1843 per therm is composed of anticipated direct gas costs, indirect gas costs and various adjustments. Unadjusted anticipated direct gas costs total $106,130,431, and adjustments collectively comprise an additional cost of $942,337. Anticipated indirect gas costs total $6,059,424, consisting of working capital, bad debt, production and storage capacity, and overhead charges. The gas costs proposed for recovery over the 2007-2008 winter period (the anticipated direct and indirect costs and adjustments) total $113,132,191 and are divided by projected winter period sales of 95,527,931 therms to arrive at the average proposed COG rate of $1.1843 per therm.

The 2007-2008 winter FPO rates are set $0.02 above the COG rates proposed in KeySpan's initial COG filing, in accordance with the method approved in *EnergyNorth Natural Gas, Inc*., 90 NH PUC 441 (2005). The per therm FPO rates are as follows: residential, $1.2043; commercial and industrial (C&I) low winter use, $1.2038; and C&I high winter use, $1.2044.

Using the method approved in *EnergyNorth Natural Gas, Inc.*, Order No. 24,618 (2006), KeySpan applied updated load factor ratios to the unit demand cost component, multiplied by the correction factor, and added the remaining average COG unit rate to determine the proposed C&I low winter use COG rate of $1.1838 per therm and the C&I high winter use COG rate of $1.1844 per therm.

Assuming no subsequent adjustment to the initial rate, the combined estimated impact of the proposed firm sales COG rate and LDAC rate produces winter gas costs for a typical residential heating customer comparable to last year,.

2. Supply Reliability and Price Stability

KeySpan testified that it holds a diverse gas supply portfolio, with winter supplies coming from three major sources – Canada, the Gulf of Mexico and underground storage, primarily in Pennsylvania and New York. In addition to those supplies, KeySpan has secured liquefied natural gas (LNG) and propane for use in its peaking facilities, as well as peaking contracts with Distrigas of Massachusetts, LLC and AES Londonderry, LLC for additional supplies to be delivered directly to KeySpan's city gates.

KeySpan testified that along with pre-purchased supplies in storage, a substantial volume of index-priced supplies have been hedged for this winter pursuant to its hedging plan, effectively locking in prices for approximately 73 percent of its winter supply. As a result of KeySpan's storage supplies and hedging practices, the remaining 27 percent of its forecasted winter supply is subject to changes in the natural gas commodity market.

3. Firm Transportation COG Rate

The proposed firm transportation COG rate of $0.0042 per therm is an increase of $0.0034 from last winter's rate of $0.0008 per therm. This increase is largely a result of a prior period under-collection of $4,474 to be recovered through this year's rate, compared to a prior period over-recovery of $38,986 refunded through last year's rate.

4. Revised Transportation Rates and Allocators

In *Gas Restructuring-Unbundling and Competition in the Natural Gas Industry*, 86 NH PUC 131 (2001), 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 relate to daily imbalances in each supplier's resource pool at KeySpan delivery points (city gates). The suppliers pay Keyspan supplier balancing charges as compensation for costs incurred by KeySpan to stay within daily operational balancing tolerances on the Tennessee Gas Pipeline. Peaking service demand charges reflect KeySpan's peaking resources and associated costs. KeySpan proposes to decrease the supplier balancing charge from $0.13 per MMBtu to $0.10 per MMBtu of daily imbalance volumes and increase the peaking service demand charge from $10.66 per MMBtu of peak maximum daily quantity

(MDQ) to $14.41 per MMBtu of peak MDQ. The changes 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 KeySpan's supply portfolio for the upcoming year.

5. LDAC Rates

The LDAC rates that KeySpan proposes to bill from November 1, 2007 through October 31, 2008, include charges for demand-side management (DSM) lost revenues, energy efficiency programs, certain environmental remediation costs for the clean up of MGP sites in New Hampshire, and lost revenues and program costs associated with the Residential Low Income Assistance Program (RLIAP). KeySpan proposes a $0.0005 per therm DSM charge for residential heating customers to recover lost revenues that resulted from discontinued DSM programs. KeySpan proposes a $0.0000 per therm DSM charge for its non-heating residential and C&I customers.[1]

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. *EnergyNorth Natural Gas, Inc.*, Order No. 24,636 (June 8, 2006), authorized the continuation of energy efficiency programs for an additional three years. The proposed LDAC rate includes a proposed energy efficiency surcharge of $0.0133 per therm for residential customers and $0.0047 per therm for C&I customers.

The proposed energy efficiency and demand side management surcharges, referred to as the conservation charge, represent a decrease of $0.0040 per therm for residential non-heating

[1] The calculation for the C&I customers rounds to zero at the fourth decimal.

customers and $0.0041 per therm for residential heating customers. There is a decrease of $0.0080 per therm for C&I customers compared to energy efficiency rates currently in effect.

In *Residential Low-Income Assistance Program for Natural Gas Customers*, Order No. 24,669 (2006), the Commission approved continuation of the Residential Low Income Assistance Program (RLIAP), originally approved as a pilot program in *New Hampshire Natural Gas Utilities*, Order No. 24,508 (2005). The LDAC rate includes a proposed RLIAP surcharge of $0.0054 per therm for all firm sales and transportation customers effective November 1, 2007 through October 31, 2008. The proposed surcharge is a decrease of $0.0009 from the current RLIAP surcharge of $0.0063 per therm.

In *EnergyNorth Natural Gas, Inc*., 84 NH PUC 489 (1999), the Commission approved a recovery mechanism for environmental remediation costs, including legal costs incurred in connection with the pursuit of recoveries from third parties (i.e., plant operators and insurance carriers) associated with MGP sites. These costs are filed during KeySpan's winter COG proceeding for Commission review and are recovered over a seven-year period. Third-party recoveries are credited against unamortized balances authorized for recovery and used to reduce the amortization period. Additional environmental remediation costs of $2,937,785 and litigation costs related to third party recoveries of $377,106 have been incurred over the past year, which were offset by third party recoveries of $12,202,646, resulting in recoveries that exceed costs by $8,887,756. Applying the over-recovery to amortized environmental costs from prior years not yet recovered, that is, $5,229,432, reduces the year-end over-recovery to $3,658,324. KeySpan continues to incur environmental remediation costs and applying the over-recovery to future costs is expected to eliminate the over-recovery within a year. Therefore, KeySpan has proposed an environmental surcharge for the upcoming year of $0.0000 per therm, with the over-recovery to be applied against future environmental remediation costs. The net impact on the total environmental surcharge is a decrease of $0.0152 per therm.

6. Environmental Remediation Expense Recovery

Total environmental remediation revenues, consisting of recoveries from insurance carriers, other responsible parties and ratepayers exceed total environmental remediation costs by approximately $3.6 million as of July 31, 2007. To refund the over-recovery over the upcoming year, KeySpan would have to implement an environmental remediation credit of $0.0230 per therm, which would reduce a typical residential heating customer's annual gas cost by $29. Refunding the over-recovery would increase the anticipated under-recovery for next year by $3.6 million, increasing a typical residential heating customer's annual gas costs by $29 for that year.

KeySpan does not earn interest on environmental remediation cost under-recoveries and does not believe it is appropriate to pay interest during the very brief period during which there is an over-recovery. KeySpan proposed that the Commission defer the interest issue until next winter's COG proceeding, though the utility was also amenable to Staff's suggestion that the issue be deferred to next summer's COG proceeding.

7. Occupant Accounts

When a customer moves out of a location served by the Company, KeySpan does not shut off the meter at that location; rather, the Company continues to bill that location in the name of "occupant." Occupant account gas is treated as unaccounted for gas in the COG and recovered from firm sales customers. KeySpan estimated that occupant account usage amounted to approximately 400,000 therms in 2006, 300,000 of which would have been in the winter period. Multiplying the winter occupant account usage by the 2006 weighted average COG rate results in approximately $450,000 of additional gas costs in the winter COG. The additional cost translates to $0.0037 per therm, with an expected bill impact of 0.25 percent for a typical residential heating customer.

KeySpan believes its occupant account policy is reasonable but acknowledges that Staff has not completed its discovery on the issue. Keyspan supports Staff recommendation that the issue be deferred until next summer’s COG proceeding.

8. Motions for Confidential Treatment

KeySpan requests that the Commission determined that certain information provided to the Commission be treated as confidential. In the motion for confidential treatment filed on August 31, 2007, KeySpan seeks such treatment for the following information, which, according to KeySpan, identifies specific suppliers and commodity and demand charges or such information that can be determined from the data provided: Schedule 1, summary of supply and demand forecast; Schedule 2, contracts ranked on a per unit cost basis; Schedule 4, summary of adjustments to gas costs; Schedule 5A, demand costs; Schedule 5C, demand rates; Schedule 6, supply and commodity costs, volumes and rates; Schedule 7, hedged contracts; Schedule 16, storage inventory, underground, LPG and LNG including calculation of money pool interest costs associated with natural gas; and Tariff Page 153, Attachment B in worksheets showing peaking demand rate calculation.

KeySpan asserts that this information constitutes trade secrets of KeySpan and should be protected as confidential commercial information. KeySpan states that it does not disclose this information to anyone outside of its corporate affiliates and their representatives. KeySpan further asserts that release of this information would likely result in competitive disadvantage for KeySpan in the form of less advantageous or more expensive gas supply contracts and that gas suppliers possessing the confidential information described above would be aware of KeySpan's expectations regarding gas supply costs and other contract terms, and would therefore be unlikely to propose to supply such goods and services on terms significantly more advantageous to KeySpan.

In the motion for confidential treatment filed on October 11, 2007, KeySpan directs the Commission's attention to the Eastern Propane agreements and the responses to Staff data requests 1-3, 1-5 and 1-6, all of which are said to contain pricing information that KeySpan normally maintains in confidence. KeySpan argues that the pricing information included in the responses constitutes trade secrets of KeySpan and should be protected as confidential commercial information. KeySpan reports that it does not disclose the information to anyone outside of its corporate affiliates and their representatives, and that release of the information would likely result in a competitive disadvantage for KeySpan.

B. OCA

The OCA did not object to the proposed rates. It also agreed with deferring to a future proceeding issues of whether KeySpan should be allowed to include occupant account usage in the COG and required to pay interest on the over-recovery of environmental remediation costs.

C. Staff

Mr. Frink's testimony noted that Staff had completed its review of the cost of gas forecast for the upcoming winter period and recommended approval of the proposed rates, with the understanding that there are a number of outstanding issues being addressed in other dockets, including Docket No. DG 07-050. It also agreed that next summer's COG docket will address occupant accounts and interest on the environmental over-recovery.

Staff noted that the forecast is consistent with those filed and approved in previous winter periods. Also, Staff stated that it had reviewed and audited the 2006-07 COG reconciliation and found the costs to be reasonable and accurately reported, with the understanding, however, that the Audit Staff had not completed its review of the environmental remediation annual costs and recoveries.

Staff recommended that the Commission approve the proposed environmental response cost surcharge of zero at this time but reserve judgment on the final approval of the annual costs and recoveries included in the filing. Staff stated that it would inform the Commission of any exceptions prior to the 2008 summer COG, at which time the issue of the environmental over-recovery may be addressed.

Staff reviewed the reconciliations and forecasts used to calculate the other proposed tariff changes and surcharges, and recommended approval of the proposed rates, noting there was one minor error in the energy efficiency surcharge calculation which will be addressed through the environmental response cost reconciliation.

Staff recommended that Commission decisions on two issues, environmental remediation cost recovery and KeySpan's occupant account policy, be deferred until KeySpan's 2008 summer COG filing. Staff explained that due to the time constraints inherent in COG proceedings these issues could not be fully explored in the current docket. Staff recommended that the Commission open the 2008 summer COG docket immediately upon the conclusion of the 2007-2008 winter proceeding.

1. Interest on Environmental Remediation Cost Over-Recovery

Regarding the environmental remediation cost recovery issue, Staff explained that the recovery mechanism has been in effect since 1999 and was designed to provide for a sharing of the burden of environmental remediation costs between ratepayers and shareholders by prohibiting carrying charges on costs. By excluding carrying charges, shareholders were expected to bear approximately 20 percent of the remediation costs over the seven-year recovery period.

The recovery mechanism also allows for the recovery of legal expenses related to seeking recoveries from insurance carriers and responsible third parties and crediting recoveries against costs. But rather than apply recoveries to immediate costs and recover the balance over seven years, recoveries are used to reduce the amortization period. For ratepayers, the amount of the surcharge remains the same but ends sooner.

For the first time since the mechanism has been in place, recoveries exceeded unrecovered remediation costs, meaning an over-recovery exists, raising the question of how to treat excess revenues. Staff explained that the Company could refund ratepayers through a credit or, as proposed by the Company, set the surcharge at zero and apply the over-recovery to future costs.

Staff adopted the utility's recommendation, as this would reduce the under-recovery and surcharge projected for next year. According to Staff, such an approach would result in more stable rates, as an environmental credit this year would result in a higher surcharge next year and a larger swing between this year's and next year's rates.

Staff recommended that interest accrue on the over-recovery, explaining that ratepayers have overpaid environmental remediation costs and should earn interest on the overpayment. Staff noted that if interest is not included in the over-recovery calculation, ratepayers would be better off with an environmental credit this year and a higher surcharge next year, as they would have the use of those funds realized through the credit until paid at a later date through the higher surcharge. Staff also pointed out that Northern Utilities, Inc., New Hampshire's only other natural gas utility, has a similar environmental remediation recovery mechanism and applies interest to over-recoveries.

2. Occupant Accounts

Staff explained that KeySpan provides service to locations without a customer of record, billing "Occupant." Occupant account usage is reported as unaccounted for gas in the COG and recovered from firm sales customers. Staff testified that KeySpan should not provide service to locations where there is no customer of record, that those volumes are not "unaccounted for gas" and that the cost should not be recovered through the COG.

III. COMMISSION ANALYSIS

Based upon a review of the record in this docket, we find that KeySpan's proposed rates will result in just and reasonable rates as required by RSA 378:7. Specifically, we approve the proposed 2007-2008 COG and FPO rates as well as KeySpan's proposed firm transportation winter COG rate, LDAC rate components (including conservation charges, environmental cost recovery surcharge, and residential low income assistance program surcharge), transportation supplier balancing rate, transportation peaking service demand rate, and transportation capacity allocators.

We approve KeySpan's rates based upon the record developed in the proceeding to date. We note that two issues raised by the parties in this docket merit further inquiry. Given the timing of KeySpan's filing and the need to have rates in place by November 1, 2007, we reserve the issues of applying interest to the environmental remediation cost over-recovery and occupant account costs in COG rates for consideration in KeySpan's 2008 summer COG proceeding, the docket to be opened upon the issuance of this order. In addition, our approval is subject to the Commission Audit Staff's review of environmental remediation costs and the results of Docket

No. DG 07-050. Since the COG rates are reconciled year over year, any adjustments needed as a result of further inquiry into these matters can be made in KeySpan's next winter COG proceeding. Because we have reserved those matters for further consideration, we cannot approve the reconciliation of the 2006-2007 COG until the outstanding issues are resolved.

Regarding KeySpan's two motions for confidential treatment, the 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 exemption, invoked here, for "confidential, commercial, or financial information." RSA 91-A:5, IV. Our applicable rule, N.H. Code Admin. Rules Puc 203.08, is designed to facilitate the implementation of the statute as it as been interpreted by the courts. In most cases, a balancing test is used to determine whether confidential treatment should be granted. *See, e.g., Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540 (1997).

We note that no parties have objected to the two motions for confidential treatment and that the information for which such treatment is sought is similar to information for which the Commission has granted confidential treatment in the past. In balancing the interests for and against public disclosure of the information for which confidential treatment is sought, we are persuaded on the basis of the record in this docket that the interests of KeySpan and ultimately its ratepayers in non-disclosure outweigh the public's interest in obtaining access to the information. We will therefore grant confidential treatment to the material described in the two motions. Consistent with past practice, the confidential treatment provisions of this order are subject to the on-going rights of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider in light of RSA 91-A, should circumstances so warrant.

Based upon the foregoing, it is hereby

ORDERED, KeySpan's 2007/2008 winter COG and FPO per therm rates for the period November 1, 2007 through April 30, 2008 are APPROVED, effective for service rendered on or after November 1, 2007 as follows:

	Cost of Gas	**Minimum COG**	**Maximum COG**	**Fixed Price**
Residential	$1.1843	$0.9474	$1.4212	$1.2043
C&I, low winter use	$1.1838	$0.9470	$1.4206	$1.2038
C&I, high winter use	$1.1844	$0.9475	$1.4213	$1.2044

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, but the cumulative adjustments shall not exceed 20 percent of the approved unit COG, *i*.e., the minimum and maximum rates as set above; and it is

FURTHER ORDERED, that KeySpan 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 business days prior to the first day of the subsequent month. KeySpan shall include a revised tariff page 84 - Calculation of Firm Sales Cost of Gas Rate and revised rate schedules if KeySpan elects to adjust the COG rates; and it is

FURTHER ORDERED, that the over- or under-collection shall accrue interest at the monthly prime lending rate as reported by the Federal Reserve Statistical Release of Selected Interest Rates; and it is

FURTHER ORDERED, that KeySpan's proposed 2007/2008 LDAC per therm rates for the period November 1, 2007 through October 31, 2008, are APPROVED effective for service rendered on or after November 1, 2007 as follows:

	Demand Side Management	Environmental Remediation	Energy Efficiency	Residential Low Income	LDAC
Residential Heating	$0.0005	$0.0000	$0.0133	$0.0054	0.0192
Residential Non-heating	$0.0000	$0.0000	$0.0133	$0.0054	0.0187
Commercial & Industrial	$0.0000	$0.0000	$0.0047	$0.0054	0.0101

FURTHER ORDERED, that KeySpan’s proposed firm transportation winter COG rate of $0.0042 per therm for the period November 1, 2007 through April 30, 2008, is APPROVED; and it is

FURTHER ORDERED, that KeySpan’s proposed transportation supplier balancing charge of $0.10 per MMBtu of daily imbalance volumes, is APPROVED; and it is

FURTHER ORDERED, that KeySpan’s proposed transportation peaking service demand charge of $14.41 per MMBtu of peak MDQ, is APPROVED; and it is

FURTHER ORDERED, that KeySpan’s proposed transportation capacity allocators as filed in Proposed Seventh Revised Page 155, Superseding Sixth Revised Page 155, are APPROVED; and it is

FURTHER ORDERED, that KeySpan 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. Code Admin. Rules Puc 1603; and it is

FURTHER ORDERED, that KeySpan's two motions for confidential treatment are GRANTED, provided that the confidential treatment provisions of this order be subject to the on-going rights of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider in light of RSA 91-A, should circumstances so warrant.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of October, 2007.

Thomas B. Getz Chairman	Graham J. Morrison Commissioner	Clifton C. Below Commissioner

Attested by:

Lori A. Normand
Assistant Secretary