STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 09-057

NEW HAMPSHIRE GAS CORPORATION

2009 Summer Season Cost of Gas

Order Approving Cost of Gas Rate

O R D E R N O. 24,962

April 30, 2009

APPEARANCES: Meabh Purcell, Esq. of Dewey & LeBoeuf LLP, on behalf of New Hampshire Gas Corporation and Matthew Fossum, Esq., for the Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

On March 20, 2009, New Hampshire Gas Corporation (NHGC or Company), a public utility that distributes propane air gas in Keene, filed with the Commission its proposed cost of gas (COG) rate for the summer season, May 1, 2009 through October 31, 2009. NHGC's filing was accompanied by the pre-filed testimony and supporting attachments of Jennifer M. Boucher, manager of regulatory economics for Berkshire Gas Company (Berkshire). Berkshire is an affiliate of NHGC and provides the utility with management services. An order of notice was issued on March 24, 2009, scheduling a hearing for April 21, 2009. On April 15, 2009, Staff filed the direct testimony of Robert J. Wyatt, Senior Utility Analyst, Public Utilities Commission. NHGC filed a revised proposed COG rate for the summer season on April 17, 2009, and the hearing was held as scheduled. There were no intervenors.

II. POSITIONS OF THE PARTIES AND STAFF

A. NHGC

NHGC witness Jennifer M. Boucher addressed: (1) calculation of the COG rate and customer impact, (2) reasons for the decrease, (3) the propane purchasing stabilization plan, and (4) rate changes on a bills-rendered basis.

1. Calculation and Impact of the COG Rate

NHGC's revised filing, as testified to by Ms. Boucher, proposes a COG rate, applicable to both residential and commercial and industrial customers, of $1.0537 per therm. This rate is calculated by decreasing the anticipated cost of gas of $348,474 by a prior period over-collection of $21,833, plus interest earnings of $1,096, and then dividing the resulting anticipated costs of $325,545 by projected sales of 308,940 therms. NHGC's proposed 2009 summer season COG rate of $1.0537 per therm represents a decrease of $1.2011 per therm from the 2008 weighted average summer season COG rate of $2.2548 per therm.

The proposed 2009 summer season COG rate was calculated by using the most recently projected per unit costs of propane based on the Mont Belvieu futures prices posted on the New York Mercantile Exchange multiplied by anticipated demand. The calculation used futures prices as of April 15, 2009, for the months of May 2009 through October 2009, plus brokers' fees, Propane Education and Research Council (PERC) charges, pipeline transportation costs and trucking charges. Projected summer season sales of 308,940 therms are based on weather normalized usage and a small amount of anticipated additional load growth.

The impact of the proposed COG rate is a $211 decrease in the average residential heating and hot water customer's summer season gas costs, which represents a 36 percent decrease from last summer's costs ($370 compared to $581). Also, Ms. Boucher stated that the Company supported the change recommended by Staff relative to the COG adjustment mechanism.

2. Reasons for the Decrease in the COG Rate

According to NHGC, the decrease in the proposed COG rate, as compared to last summer's rate, can primarily be attributed to decreases in the projected spot market price of propane.

3. Propane Purchasing Stabilization Plan

In Order No. 24,617 (October 31, 2006) the Commission approved NHGC's propane purchase stabilization plan as a pilot program. The stabilization plan provides for NHGC's pre-purchase of up to 65 percent of its winter supplies over a six-month period, thereby reducing rate volatility, and for the diversification of NHGC's receipt locations at two propane terminals. In Order No. 24,745 (April 27, 2007), the Commission approved NHGC's continued hedging under the plan and directed NHGC to report at each COG proceeding the status of its hedging activities and provide an analysis of the results.

NHGC reported that it was able to hedge supplies last year by paying a $0.04 per gallon premium, approximately 2 percent of the cost of the pre-purchased gallons. The hedged supply provided a level of price stability throughout the winter period. NHGC issued a request for bids to three suppliers for the upcoming year and received one response. The bid for the NHGC pre-purchased propane supply for the upcoming winter is currently being evaluated by the Company. The Company stated at hearing that it has made attempts to solicit more bids, but its specific requirements apparently are not attractive to suppliers.

4. Rate Changes on a Bills-Rendered Basis

In her direct testimony, Ms. Boucher requested a waiver of N.H. Code Admin. Rules Puc 1203.05, which requires rate changes to be implemented on a service-rendered basis, in order to enable NHGC to bill the new rates on a bills-rendered basis. Ms. Boucher testified that it would be less confusing to NHGC customers who are accustomed to being billed on a bills-rendered basis and that the current NHGC billing system would have to be replaced at a substantial cost to allow for service-rendered billing.

B. Staff

Mr. Wyatt testified that Staff had completed its review of the COG forecast for the upcoming summer period and recommended approval of the proposed rates.
Staff noted that the forecast is consistent with those filed and approved in previous summer periods. Also, Staff stated that it had reviewed and audited the 2008 COG reconciliation and found the costs to be reasonable and accurately reported. Staff noted that actual gas costs will continue to be fully reconciled, reviewed and audited at the end of each COG period.

Staff also recommended a modification to the monthly over/under adjustment mechanism. Mr. Wyatt testified that currently, without further Commission action, NHGC, as well as the other regulated gas utilities in New Hampshire, can adjust the COG rate upward or downward within a +/- 20 percent bandwidth of the initially approved COG rate in order to reduce monthly over- or under-collections in the period. He explained that, during the 2008 summer period, NHGC experienced substantial fluctuations in actual and projected propane gas costs. The Company increased the COG rate to the maximum allowed and filed a revised COG calculation to establish a rate that would eliminate the projected under collection. Following a duly noticed hearing, the Commission approved the proposed rate increases effective August 1, 2008. *See* Order No. 24,882 (July 31, 2008). Subsequent to the filing, actual and projected propane gas costs dropped to such an extent that reducing the approved rates by the maximum allowed without further Commission action was insufficient to eliminate the projected over-collection. Because of the limited time remaining in the summer period there was insufficient time to file and process a second revised COG.

Staff’s proposed modification is slightly different from one proposed, then tabled for further study, in the winter 2008/09 COG proceeding (Docket No. DG 08-117). The new proposal is to increase the upper bandwidth adjustment limit to 25% of the initially approved rate and eliminate the lower bandwidth adjustment limit. NHGC, as well as the other gas utilities, would continue to file the required monthly over/under reports five business days before the beginning of each month during each COG period.

Mr. Wyatt testified that the modification will enable the Company to more efficiently react to gas price volatility in the same period in which it occurs, thus reducing end-of-period revenue imbalances and associated carrying costs which are carried forward to future COG periods. The extra 5% added to the upper bandwidth will allow for additional adjustment range when tracking upward market price volatility, helping to reduce projected under-collections. By eliminating the lower bandwidth limit completely, the Company will be able to lower gas rates as much as necessary to track downward movement in market prices, helping to reduce over-collections. In cases where a revised COG filing can be avoided, it would reduce administrative costs while increasing administrative efficiency.

Finally, Staff did not oppose NHGC's request to implement rates on a bills-rendered basis for the reasons provided by NHGC.

III. COMMISSION ANALYSIS

Based on our review of the record in this docket, for the reasons stated by Staff in its recommendation, we approve the proposed 2009 summer season COG rate as a just and reasonable rate pursuant to RSA 378:7.

As noted, Staff and the Company have both supported a change to the upper limit of the "bandwidth" applicable to the COG rate from twenty to twenty-five percent of the established rate. We note that this type of adjustment to the COG rate without further Commission action was introduced in 1998 and has been in existence, in some form, for over 10 years. *See, e.g., EnergyNorth Natural Gas, Inc.*, Order 22,890 (March 31, 1998). It has generally proved to be a useful means to limit or eliminate over- and under-collections, match costs to the period in which they are incurred, and reduce "rate-shock" and carrying costs, all while reducing administrative costs for the Company as well as the Commission. Further, changes to the COG rate serve the goal of matching prices to fluctuations in the propane markets – a matter substantially out of the control of the Company.

The use of the "bandwidth" to match costs and recoveries, while generally successful has, on occasion, been amended to accommodate changes in energy markets. For example, the bandwidth was once established at ten percent above or below the set rate, but in 2000 was revised to the current twenty percent. *See New Hampshire Gas Corp.*, Order 23,583 (October 31, 2000). This was done to account for increased volatility in the marketplace which had rendered the ten percent limit unsuitable. In recent history, the volatility in the marketplace has again necessitated a review of the bandwidth to determine whether it meets the goals for which it has been established. A review of the Company's recent history demonstrates that the bandwidth may no longer supply sufficient flexibility to fulfill its intended purposes.

As noted by Mr. Wyatt, in the Summer 2008 period, the Company, in response to rapidly rising prices, adjusted its COG rate to the maximum allowed and was still unable to match the prices in the marketplace. The Company, therefore, filed for a mid-period revised COG. Once the mid-period COG rate was approved, prices dropped precipitously and the Company was restricted by the 20% lower bandwidth adjustment limit which was not sufficient to match the drop. The result was an over-collection for the period. Similar fluctuations occurred in the Winter 2008/2009 period with similar results. In such a marketplace, providing the Company greater flexibility would allow it to better fulfill the intent of the COG bandwidth. Thus, we conclude that permitting the Company greater flexibility in light of the volatility in the markets is a reasonable means to meet the objectives of the COG adjustments. Should the markets appear to stabilize in the future, we may revisit this matter. For the time, however, we conclude that increasing the upper bandwidth limit from twenty to twenty-five percent of the approved rate is proper.

With regard to the lower limit, the OCA in other COG filings raised an issue about eliminating the lower limit entirely. OCA stated that setting the lower limit as "no limit" might not comply with the requirements of RSA 378:7 pertaining to a change in rates. April 9, 2009 Transcript of EnergyNorth Natural Gas, Inc. COG (DG 09-050) Hearing (Trans.) at 57. OCA suggested that the statutory requirements could be satisfied "if you identified the lower limit as '100 percent limit,' as opposed to a 'no limit.'" Trans. at 57.

RSA 378:7 provides, in pertinent part:

> Whenever the commission shall be of opinion, after a hearing had upon its own motion or upon complaint, that the rates, fares or charges demanded or collected, or proposed to be demanded or collected, by any public utility for service rendered or to be rendered are unjust or unreasonable, or that the regulations or practices of such public utility affecting such rates are unjust or unreasonable, or in any wise in violation of any provision of law, or that the maximum rates, fares or charges chargeable by any such public utility are insufficient, the commission shall determine the just and reasonable or lawful rates, fares and charges to be thereafter observed and in force as the maximum to be charged for the service to be performed . . . .

The OCA did not contend that the rates, fares or charges, or that the regulations or practices of the Company are, or would be, unjust, unreasonable or in violation of law if the Company lowered its rates under the proposed adjustment mechanism. Instead, the OCA suggested only that the objectives of proper notice and hearing may not be met in the absence of an undefined lower limit. We do not understand RSA 378:7 to impose such a requirement.

First, we note that while a hearing is contemplated by the statute, notice is not discussed or defined. Notice is, however, referenced in another statute related to rates and charges. RSA 378:3 states:

> *Unless the commission otherwise orders,* no change shall be made in any rate, fare, charge or price, which shall have been filed or published by a public utility in compliance with the requirements hereof, except after 30 days' notice to the commission and such notice to the public as the commission shall direct.

(Emphasis added). Under this provision, notice of 30 days is required prior to a change in rates, unless otherwise ordered by the Commission. For years, notice that COG rates could be raised or lowered was contained in the Commission's orders setting the rate and the bandwidth for a given period. The Commission has thus "otherwise ordered" what notice is necessary. There is no contention that this notice has been insufficient. The issue appears to be that without a firm lower number, customers would not have notice of exactly how low their rates may go.

Initially, it is not clear how a notice stating a 100 percent lower limit would be functionally different than stating that there is no lower limit. In either case, the COG rate could be lowered to the extent necessary to reflect the price of propane in the marketplace, regardless of what that price might be. Customers would, in either event, be on notice that the commodity portion of their bills could be lowered to the degree necessary to track the prices in the marketplace. Moreover, we are not persuaded that stating that the lower limit is a "100 percent limit" would provide any more informative notice to customers than an indication that there simply is no lower limit.

Accordingly, because there is no contention that having no lower limit would result in rates that are unjust or unreasonable, or in violation of law, or that they would otherwise violate RSA 378:7, we conclude that a defined lower limit is not required by that statute. Furthermore, as RSA 378:3 permits the Commission, by order, to alter the notice required, and as the Commission has been doing so in COG matters for many years, we conclude that the notice provided by this order that the COG rate may be lowered so far as is necessary, is appropriate. For the same reasons stated in reference to the alteration of the upper limit, we conclude that a change to the lower limit is justified. Thus, we will order that the Company's COG rate for the Summer 2009 period is $1.0537 per therm, with a permissible adjustment up to $1.3171 without further Commission action, and that the Company may adjust the rate downward so far as is necessary without further Commission action. Should such latitude in rate adjustments become unnecessary or inappropriate in the future, we may revisit the matter for further adjustments and refinements.

Regarding the request for a waiver of N.H. Code Admin. Rules Puc 1203.05, we note that the rule provides in general that, absent a waiver, rate changes must be implemented on a service-rendered basis. To obtain a waiver, the Company is required to address, to the extent possible, such issues as potential customer confusion, implementation costs, the matching of revenue with expenses and the objective of adequate customer notice. N.H. Code Admin. Rules Puc 1203.05(c). In that regard, NHGC asserted, as it has in previous COG proceedings, that its customers would be less confused by being billed on a bills-rendered basis, and that its current billing system would have to be replaced at a substantial cost to allow for service-rendered billing. We find NHGC's contentions to be persuasive and, accordingly, we grant NHGC's request for a waiver of the requirement that rate changes be implemented on a service-rendered basis pursuant to Puc 201.05.

Based upon the foregoing, it is hereby

ORDERED, that NHGC's proposed 2009 summer season COG rate of $1.0537 per therm for the period of May 1, 2009 through October 31, 2009 is APPROVED, effective for bills rendered on or after May 1, 2009; and it is

FURTHER ORDERED, that NHGC may, without further Commission action, adjust the COG rate based upon the projected over-/under-collection for the period, the adjusted rate to be effective the first of the month and not to exceed a maximum rate of 25 percent above the approved rate and with unlimited rate reductions; and it is

FURTHER ORDERED, that NHGC shall provide the Commission with its monthly calculation of the projected over- or under-collection, along with the resulting revised COG rate for the subsequent month, not less than five (5) business days prior to the first day of the subsequent month. NHGC shall include a revised tariff page 24 - Calculation of Cost of Gas and revised tariff pages if NHGC elects to adjust the COG rate; and it is

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

FURTHER ORDERED, that NHGC 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.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 2009.

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

Attested by:

Debra A. Howland
Executive Director