STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 14-220

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.
D/B/A LIBERTY UTILITIES

Winter 2014-2015 Cost of Gas

Order Approving Cost of Gas Rates and Other Charges

O R D E R   N O. 25,730

October 31, 2014

APPEARANCES: Sarah B. Knowlton, Esq., for Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty Utilities; Rorie E.B. Hollenberg, Esq., of the Office of the Consumer Advocate, on behalf of residential ratepayers; and David K. Wiesner, Esq., for the Staff of the Public Utilities Commission.

In this order, the Commission approves Liberty Utilities (EnergyNorth Natural Gas) Corp.'s proposed 2014-2015 winter cost of gas rate and fixed-price option rate, which are $1.1630 per therm and $1.2425 per therm, respectively, and the proposed residential local distribution adjustment rate of $0.0772 per therm. For non-fixed-price customers, this represents a $0.0562 per therm increase compared to the actual weighted average residential cost of gas rate of $1.1068 per therm during the 2013-2014 winter period and a $0.0482 per therm increase in the current local distribution adjustment rate of $0.0029 per therm. The impact of the cost of gas rate increase, coupled with other proposed rate changes and previously approved increases in base distribution rates, is an overall increase in the typical residential heating customer's winter costs over last winter of approximately $72, or 7.1 percent, assuming gas supply conditions are as the company projects and normal weather conditions prevail.

I. PROCEDURAL HISTORY

On September 2, 2014, Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty Utilities (Liberty), a public utility distributing natural gas in 29 cities and towns in southern and central New Hampshire and in the City of Berlin in northern New Hampshire, filed its proposed cost of gas (COG) and other rate adjustments for the 2014-2015 winter period from November 1, 2014, through April 30, 2015. Liberty's filing included the direct testimony and supporting attachments of Senior Utility Analyst David B. Simek, Senior Director of Energy Procurement Francisco C. DaFonte, and Environmental Program Manager Mary E. Casey. Liberty revised and updated its filing on October 15, 2014. Exhibits 1 and 2.[1] Liberty also filed a motion for confidential treatment with respect to its settlement agreement with Public Service Company of New Hampshire (PSNH) regarding the allocation of costs incurred in connection with the remediation of a manufactured gas plant (MGP) site in Keene, New Hampshire. The PSNH settlement agreement is marked as confidential Exhibit 3.

The Commission issued an order of notice scheduling a hearing for October 22, 2014. The Office of Consumer Advocate (OCA) notified the Commission of its participation on behalf of residential ratepayers pursuant to RSA 363:28. There were no intervenors. The hearing was held as scheduled before Hearing Examiner Alexander F. Speidel. During the hearing, the witnesses referenced above adopted their pre-filed testimony, with corrections, and provided additional live testimony. *See* Transcript of October 22, 2014, Public Hearing (Tr.). Hearing Examiner Speidel filed a report regarding this hearing on October 27, 2014, in which he

[1] Exhibit 2 contains information for which the rules require confidential treatment pending a later determination of confidentiality should a non-party request disclosure, including supplier commodity pricing, terms of supply agreements, and other non-public financial information. N.H. Admin. Rules, Puc 201.06(a)(26). Liberty filed a redacted version of Exhibit 2, marked as Exhibit 1, which is available for public review.

recommended admission of all exhibits into the record, approval of Liberty's 2014-2015 winter season COG rates, and granting of the Company's motion for confidential treatment. *See* Hearing Examiner's Report of Alexander F. Speidel at 2-4.

II. POSITIONS OF THE PARTIES AND STAFF

A. Liberty

As set out more fully below, Mr. Simek and Mr. DaFonte addressed: (1) the calculation of the proposed COG rate and fixed-price option (FPO) rate and the resulting customer bill impacts; (2) the reasons for the change in COG rates; (3) explanation of Liberty's supply reliability and price stability through its hedging program; (4) the proposed transportation rates, allocators, and other charges; and (5) Liberty's proposed changes to the local distribution adjustment charge (LDAC). Ms. Casey described the status of site investigation and remediation efforts at various MGP sites in New Hampshire.

1. Calculation of the Proposed COG Rates and Bill Impacts

Pursuant to its COG clause, Liberty may adjust its rates to recover the costs of gas supplies, capacity, and certain related expenses as specified in its tariff. Liberty proposed a 2014-2015 winter residential COG rate of $1.1630 per therm. This represents a $0.0562 per therm increase compared to the actual weighted average residential COG rate of $1.1068 per therm during the 2013-2014 winter period. The impact of the COG rate increase, coupled with other changes in the LDAC and approved increases in base distribution rates, is an overall increase in the typical residential heating customer's winter costs over last winter of approximately $72, or 7.1 percent. Simek Testimony at 17; Exhibit 2, Schedule 8. Liberty's proposed commercial and industrial (C&I) low winter use and high winter use COG rates are

$1.1384 and $1.1666 per therm, respectively. *Id.* The total bill impact for an average C&I customer is an increase of approximately $146, or 5.1 percent. *Id.*

Liberty's filing proposed an FPO rate for residential customers of $1.2425 per therm, which Liberty set by adding $0.02 to the proposed COG rate, the method approved in *EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England*, Order No. 24,529 (Oct. 14, 2005). Liberty no longer provides an FPO service option for C&I customers, pursuant to Order No. 25,691 (July 10, 2014). After accounting for other charges and rate adjustments, the estimated winter bill for a typical residential customer using the FPO would be about $13, or 1.0 percent, higher than under the proposed COG rate, assuming no later adjustments are made to the COG rate. Simek Testimony at 10.

Pursuant to the terms of Liberty's COG Tariff, Liberty may adjust COG rates on a monthly basis in response to changing supply costs without further Commission approval, provided monthly adjustments do not cumulatively exceed 25 percent above the approved COG rate. Therefore, the expected rate impacts may vary during the upcoming COG period depending on monthly rate adjustments and usage.

2. Reasons for the Increase in the COG Rates

Liberty stated that the increase in the COG rates for this winter was driven mostly by an increase in commodity costs. According to Liberty, its total cost of gas will increase by $20.8 million or 30.7%, accounting for a $12.8 million increase in commodity costs, a $1.7 million decrease in demand costs, and a $9.7 million increase in adjustments. Simek Testimony at 5-6.

The $9.7 million increase in adjustments was primarily due to a $9.8 million increase in prior period under-collections, which was partially offset by broker revenues, capacity release, and off system sales margins. Simek Testimony at 6. Mr. Simek testified that the prior period under-collections of $14,889,808 were primarily the result of sharp increases in gas prices in Tennessee's Zone 6 market area, where Liberty bought a substantial amount of its natural gas supplies last winter. Simek Testimony at 9. These price increases were attributable to a combination of increased demand from utilities and gas fired generators and a commensurate decrease in supply caused in part by a reduction of LNG imports and a continued lack of new pipeline infrastructure needed to bring incremental shale gas supplies into New England. *Id.*

3. Supply Reliability and Price Stability - Hedging

Liberty described the availability of its supply from Canada, the Gulf coast, shale gas, and from Liberty's own storage capacity. Mr. DaFonte stated that Liberty's LNG and propane facilities provide gas when the other sources are not available. DaFonte Testimony at 9.

Mr. DaFonte described Liberty's modified hedging program, approved by the Commission in Order No. 25,691 (July 10, 2014), pursuant to which Liberty no longer hedges the NYMEX futures price but instead hedges its anticipated market area base load purchases by conducting a request for proposals (RFP) process each summer, which seeks bids to lock-in the basis for those months in which the base load volumes are purchased. DaFonte Testimony at 11. Mr. DaFonte summarized the status and results of Liberty's RFPs for various sources of gas supplies. DaFonte Testimony at 5-7. Liberty testified it has hedged a total of 490,100 Dekatherms (4.9 million therms) at a weighted average fixed price of $4.4508 per Dekatherm, the hedged price reflecting the higher cost of gas during the period that the hedged volumes were locked in. Simek Testimony at 11.

Liberty described the supply and reliability risks associated with the potential peak period return of significant numbers of Liberty's capacity-exempt transportation customers, commonly referred to as reverse migration. Mr. DaFonte testified that reliability risks are mitigated by the advance notice required to be given by such customers and the right of the Company to refuse to accept a returning customer if service reliability would be adversely affected. Tr. at 37-38. Mr. DaFonte acknowledged that unanticipated reverse migration of capacity-exempt customers during peak periods could strain supply resources and increase overall seasonal gas costs. *Id.* Liberty expressed willingness to communicate with Commission Staff (Staff) on an ongoing basis regarding any material increases in customer reverse migration. Liberty also expressed willingness to coordinate with Staff to develop contingency plans to manage the potential effects of such reverse migration on the Company's supply resources and associated costs. Tr. at 51-53.

4. Transportation Rates, Allocators, and Other Charges

Liberty's proposed firm transportation COG rate is $0.0079 per therm, an increase from last winter's rate of $0.0022 per therm, partly due to prior period under-collections and the anticipated use of propane this winter. Simek Testimony at 6-7; Exhibit 2, Liberty Tariff No. 7-Gas Proposed Third Revised Page 89 Superseding Second Revised Page 89. As to other charges, the Commission approved a supplier balancing charge and peaking service demand charge to be updated once a year, beginning with the November billing month. *See Gas Restructuring-Unbundling and Competition in the Natural Gas Industry*, Order No. 23,652 (March 15, 2001). Supplier balancing charges relate to daily imbalances in each supplier's resource pool at Liberty delivery points (city gates). The suppliers pay Liberty's supplier balancing charges as compensation for costs incurred by Liberty to stay within daily operational balancing tolerances on the Tennessee Gas Pipeline. Peaking service demand charges reflect Liberty's peaking resources and associated costs.

Liberty proposed to reduce the peaking demand charge from $21.00 per MMBtu of peak maximum daily quantity (MDQ) to $18.22 per MMBtu of Peak MDQ, a $2.78 decrease. Simek Testimony at 18; Exhibit 2, Schedule 21. Finally, the capacity allocator percentages, which are used to allocate pipeline, storage and local peaking capacity to high and low load factor customers under the mandatory capacity assignment requirement for firm transportation service, have been updated to reflect Liberty's supply portfolio for the upcoming year, together with Liberty's company gas allowance factor percentage. Simek Testimony at 18; Exhibit 2, Schedule 22.

5. Local Distribution Adjustment Clause (LDAC)

Liberty's filing proposed a per therm LDAC of $0.0772 for the residential classes (an increase from $0.0290 per therm), and $0.0628 for the Commercial and Industrial classes (an increase from $0.0357 per therm), to be billed from November 1, 2014, through October 31, 2015. Simek Testimony at 11; Exhibit 2, Liberty Tariff No. 7-Gas Proposed Third Revised Page 94 Superseding Second Revised Page 94. The LDAC is a combined rate of various surcharges by Liberty, including the energy efficiency charge, the environmental surcharge for MGP remediation, and the residential low income assistance program (RLIAP). Simek Testimony at 11-12.

Regarding the energy efficiency charge, which recovers expenses to administer Liberty's energy efficiency programs, Liberty proposed a residential rate of $0.0646 per therm (an increase from $0.0197 per therm), and a C&I rate of $0.0502 (an increase from $0.0264 per therm). Exhibit 2, Schedule 19.

Liberty seeks approval for the environmental surcharge for MGP remediation to be increased from $0.0018 to $ 0.0055 per therm for November 1, 2014, until October 31, 2015. Exhibit 2, Schedule 20. Ms. Casey provided background regarding Liberty's ongoing MGP environmental remediation efforts at several sites in New Hampshire. Casey Testimony at 2-8.

For the RLIAP, which recovers administrative and other costs relating to discounts for low-income customers, Liberty proposed a charge of $ 0.0071 per therm (a decrease from $0.0075 per therm). Simek Testimony at 12-13; Exhibit 2, Schedule 19.

B. OCA

The OCA had no objection to Liberty's COG rates as presented to the Commission. Tr. at 56.

C. Staff

Commission Staff supported Liberty's proposed 2014-2015 winter period COG rates as filed. Staff indicated that Audit Staff reviewed the 2013-14 peak period cost of gas reconciliation and verified that the costs and revenues were properly accounted for without exception. Audit Staff completed its review of the Company's environmental remediation costs, and there were no material exceptions. Audit Staff did note a disparity between the balances in the filing and those on Liberty's general ledger, and is working with the Company to resolve those differences. Staff reserved the right to address this issue in a future cost of gas proceeding. Tr. at 56-57.

Staff noted that the LDAC is comprised of a number of surcharges, all of which have been established in other proceedings, with the actual rate determined in the winter cost of gas proceeding and effective for one year. Staff recommended approval of the revised cost of gas rates and LDAC rate as just and reasonable. Staff indicated it had also reviewed the proposed updated supplier balancing charges, the company gas allowance factor, and the capacity allocator percentages for this year for reasonableness and accuracy. Staff recommended that the Commission approve the updated charges, factor, and allocators. Tr. at 57.

III. COMMISSION ANALYSIS

A. Winter 2014-2015 COG Rates

As an initial matter, we accept the recommendation of the Hearing Examiner with respect to the proffered hearing exhibits and admit Exhibits 1-3 into evidence in this proceeding. We find that Liberty's proposed adjustments will result in just and reasonable rates as required by RSA 378:7. Specifically, we approve the proposed 2014-2015 winter period COG, FPO, and Transportation COG rates. We also approve Liberty's LDAC rate components (including the energy efficiency charge, environmental cost recovery charge, and residential low income assistance program charge), the updated peaking service demand rate, and the proposed transportation capacity allocators. 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 Liberty's next winter COG proceeding for 2015-2016.

We agree with the Hearing Examiner's assessment that contingency planning for the potential peak period return of significant numbers of Liberty's capacity-exempt transportation customers is an important consideration. We direct Liberty to provide timely communication to Staff regarding material increases in reverse customer migration and to coordinate with Staff to develop proactive contingency plans to manage the potential effects of such reverse migration on Liberty's supply resources and associated costs.

B. Motion for Confidential Treatment

RSA 91-A:5, IV states, in relevant part, that records of "confidential, commercial, or financial information" are exempted from disclosure. *See Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (September 22, 2009) at 2. In determining whether commercial or financial information should be deemed confidential, we consider whether there is a privacy interest that would be invaded by the disclosure. *Id.* at 2-3. Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id.* at 3. Disclosure should inform the public of the conduct and activities of its government. If the information does not serve that purpose, disclosure is not warranted. *Id.* Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interests in non-disclosure. *Id.* This is similar to the Commission's rule on requests for confidential treatment. *See* N.H. Code Admin. Rules Puc 203.08; *see also Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (September 22, 2009) at 3.

Applying the above considerations, and consistent with the Hearing Examiner's recommendation, we conclude that the information subject to Liberty's motion is of a sufficiently sensitive nature that it need not be disclosed. Disclosure of the terms of Liberty's settlement agreement with PSNH (Exhibit 3) regarding the allocation of costs incurred in connection with the remediation of the Keene MGP would make public the terms upon which Liberty was willing to settle its environmental remediation liability, thus placing it in a compromised negotiating position during settlement discussions in any future cases, because opponents would be given insight not only into the issues upon which Liberty would settle but also the specific terms of settlement. As such, disclosure would invade Liberty's legitimate privacy interest and could damage its competitive position, potentially to the detriment of its ratepayers, because the costs of environmental settlements have typically been included in rates.

Further, there is no indication that disclosure of the information would inform the public about the workings of the Commission, No party or person has objected to confidential treatment or asserted that disclosure would inform the public about the activities of the government. Accordingly, in balancing the interests of Liberty in protecting its information with the public's interest in disclosure, we conclude that the information may be protected. We therefore grant Liberty's motion. Consistent with Puc 203.08(k), our grant of this motion is subject to our on-going authority, on our own motion, on the motion of Staff, or on the motion of any member of the public, to reconsider our determination.

Based upon the foregoing, it is hereby

ORDERED, that Exhibits 1-3 proffered as evidence and marked for identification at the hearing are admitted into evidence and shall become part of the record of this proceeding; and it is

FURTHER ORDERED, that Liberty's 2014-2015 winter COG per therm rates for the period November 1, 2014, through April 30, 2015, are APPROVED, effective for service rendered on or after November 1, 2014, as follows:

	Cost of Gas	**Maximum COG**
Residential	$1.1630	$1.4538
C&I, low winter use	$1.1384	$1.4230
C&I, high winter use	$1.1666	$1.4583

and it is

FURTHER ORDERED, that Liberty's FPO 2014-2015 winter COG per therm rate of $1.2425 for the period November 1, 2014, through April 30, 2015, is APPROVED, effective for service rendered on or after November 1, 2014; and it is

FURTHER ORDERED, that Liberty may, without further Commission action, adjust the COG rates upward by no more than 25 percent and downward so far as is necessary based upon its projected over-collection or under-collection, consistent with *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, Order No. 24,963 (April 30, 2009); and it is

FURTHER ORDERED, that Liberty shall provide the Commission with its monthly calculation of its projected over-collection or under-collection, along with resulting revised COG rates for the subsequent month, if applicable, not less than five business days prior to the first day of the subsequent month. Liberty shall include a revised tariff page 87, Calculation of Firm Sales Cost of Gas Rate, and revised rate schedules if it elects to adjust the COG rates; and it is

FURTHER ORDERED, that any over-collection 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 Liberty's proposed 2014-2015 LDAC per therm rates for the period November 1, 2014, through October 31, 2015, are APPROVED, effective for service rendered on or after November 1, 2014, as follows:

	Envir.	**Energy Efficiency**	**Low Income**	**LDAC (total)**
Residential	$0.0055	$0.0646	$0.0071	$0.0772
Commercial & Industrial	$0.0055	$0.0502	$0.0071	$0.0628

and it is

FURTHER ORDERED, that Liberty's proposed firm transportation winter COG rate of $0.0079 per therm for the period November 1, 2014, through April 30, 2015, is APPROVED; and it is

FURTHER ORDERED, that Liberty's proposed transportation supplier balancing charge of $0.21 per MMBtu of daily imbalance volumes is APPROVED; and it is

FURTHER ORDERED, that Liberty's proposed transportation peaking service demand charge of $18.22 per MMBtu of peak MDQ is APPROVED; and it is

FURTHER ORDERED, that Liberty's company gas allowance factor of 2.9 percent is APPROVED; and it is

FURTHER ORDERED, that Liberty's proposed transportation capacity allocators as filed in Proposed Third Revised Page 156, Superseding Second Revised Page 156 are APPROVED; and it is

FURTHER ORDERED, that Liberty's motion for confidential treatment is GRANTED as set forth in this Order; and it is

FURTHER ORDERED, that Liberty 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 thirty-first day of October, 2014.

Robert R. Scott (KNS)
Robert R. Scott
Commissioner

Martin P. Honigberg
Commissioner

Attested by:

Debra A. Howland
Executive Director