STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 20-152

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.
d/b/a LIBERTY UTILITIES KEENE DIVISION

Winter 2020-2021 Cost of Gas

Order Approving Cost of Gas Rates

O R D E R N O. 26,428

December 2, 2020

APPEARANCES: Michael J. Sheehan, Esq., for Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities Keene Division; the Office of the Consumer Advocate by Christa Shute, Esq., on behalf of residential ratepayers; and Mary E. Schwarzer, Esq., on behalf of Commission Staff.

This order approves a cost of gas (COG) rate and a fixed price option (FPO) rate for Liberty Keene customers for the winter period, November 1, 2020, through April 30, 2021, on a provisional basis and defers the decision regarding whether Liberty Keene may recover historic demand charges for the period from August 2017 to September 2019. The COG rate for the winter period 2020-2021 will be $1.0253 per therm. The per therm FPO rate for the winter period 2020-2021 will be $1.0453, adjusted to $1.0277 for the December 2020-April 2021 period, to account for a higher FPO interim rate.

A typical nonresidential heating customer will pay approximately $831 for the 2020-2021 winter season compared to $722 for last winter, a bill impact of 15.2 percent. A typical FPO residential heating customer will pay approximately $840 for the 2020-2021 winter season compared to $787 for last winter, a bill impact of 6.8 percent.

I. PROCEDURAL HISTORY

Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities Keene Division (Liberty Keene or the Company) is a public utility distributing propane-air and natural gas in Keene. On September 17, 2020, Liberty Keene filed its proposed COG and FPO rates for winter 2020-2021. The filings included the joint testimony of David B. Simek, Manager, Rates and Regulatory Affairs, Liberty Utilities Services Corp.; Deborah M. Gilbertson, Senior Manager, Energy Procurement, Liberty Utilities Services Corp.; and Catherine A. McNamara, Rates Analyst II, Liberty Utilities Services Corp., as well as proposed revised tariffs and schedules.

This is the second winter period in which Liberty Keene will be using compressed natural gas (CNG) to meet some Keene customer supply requirements. *See* Order No. 26,305 at 4, 9 (October 31, 2019). The Company's proposed rates are based on forecasted propane and natural gas supply costs, CNG supply contract demand charges for a period of 26 months prior to the Company commencing natural gas service , an under-recovery of 2019-2020 winter supply costs, and a 2020-2021 winter sales forecast. The under-recovery includes incremental costs of CNG (as compared to propane air) for the 2019-2020 winter period.

The Commission issued an Order of Notice on September 25, 2020. On September 28, the Office of the Consumer Advocate (OCA) notified the Commission of its participation on behalf of residential ratepayers pursuant to RSA 363:28. There were no intervenors.

Commission Staff (Staff) conducted discovery and held a technical session on October 6, 2020. The parties agreed to a procedural schedule, which was filed on October 7. On October 15, Staff filed the testimony of Stephen P. Frink, Director of the Gas and Water Division, and Randall S. Knepper, Safety and Security Director of the Safety Division.

On October 16, 2020, Liberty Keene filed revised pages updating the tariff, testimony, and bill impact schedules to incorporate a revision to the revenue decoupling adjustment factor (RDAF) in the Company's local distribution adjustment clause (LDAC), and to revise Schedule B to specify the separate costs of propane and CNG as required by Order No. 26,241. On October 19, at the request of Staff, Liberty Keene filed redlined revised testimony, tariffs, and schedules. On October 20, the Company filed Rebuttal Testimony of Steven M. Mullen, Director, Rates and Regulatory Affairs for Liberty Utilities (EnergyNorth Natural Gas) Corporation. The Commission held a hearing on this matter on October 23, 2020. An updated red-lined version of the RDAF corrections was filed immediately before the hearing.

On October 30, the Commission issued Order No. 26,421, setting an interim COG rate and FPO rate for the 2020-2021 winter period, effective November 1, 2020, and scheduling the continued hearing for November 2, 2020. The interim COG rate for the winter period 2020-2021 was set at $1.0253 per therm. The interim FPO rate for the winter period 2020-2021 was set at $1.2300 per therm. These rates represent Staff's proposed COG rate and Liberty Keene's proposed, advertised FPO rate, respectively. Normally the FPO rate is two cents greater than the proposed COG rate. The COG and FPO interim rates are approximately twenty cents apart.

On November 5, 2020, the Commission scheduled a continuation of the November 2 hearing on November 18, 2020. During the November 18 hearing, the Commission made two record requests. *See* Clerk's Report (11/18/20); N.H. Admin. R., Puc 203.09(j). The first request directed the Company to provide any information or analysis prepared by any employee or consultant from May 2016 through May 2017that supports CNG as an appropriate and cost-effective fuel for the Keene distribution system (in whole or in part) related to the October 2016 contract, the November 2016 contract, and/or the May 2017 Amendment. Hearing Transcript of

November 18, 2020 (Tr. Nov. 18A[1]) at 95-103, 108-09, 116. The second record request asked the Company to provide any written communications between Liberty and Monadnock customers related to the conversion, including but not limited to letters, notices, or anything else written from 2016 to the present. Tr. Nov. 18B at 30-32. The Company's response to the Commissioners' record requests was timely filed on November 26, 2020. *See* Puc 203.30(a); Exhibits (Exhs.) 23, 24.

Liberty Keene's filing and all parties' and Staff's subsequent docket entries, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at: https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-152.html.

II. COST OF GAS ADJUSTMENT MECHANISM

The Cost of Gas adjustment mechanism was implemented in 1974 during a time of rapidly changing prices as a way to reflect increases and decreases in energy supply costs in customer rates without having to go through extended proceedings to change fuel delivery rates. Supply costs are expected to comprise approximately half of a residential heating customer's annual bill.

Liberty Keene has limited control over the market price of propane and CNG, which are unregulated commodities. Similarly, the Company has limited control over items such as fuel transportation. The COG adjustment mechanism allows the Company to pass those costs on to its customers directly and efficiently without mark-up or profit. COG rates are initially set using projected costs and sales for the upcoming winter period, which runs from November 1 through April 30. Through the COG adjustment mechanism, the Company may adjust COG rates monthly to take into account changes in the propane and natural gas markets based on actual

[1] The November 18, 2020, hearing was recorded by two different stenographers. The transcript for the first session is referenced as "Tr. Nov 18A" and the transcript of the second session is referenced as "Tr. Nov 18B."

costs to date and projected costs for the remainder of the period. While there is no limitation on reductions to COG rates, rates may be adjusted upward without Commission action up to a cumulative maximum of 25 percent above the approved rate. To the extent that adjustments are based on projected costs, they are subject to periodic reconciliation, after all actual costs are known and reported.

As in prior years, Liberty Keene offers customers the opportunity to lock in a specific price per therm for gas supply through its FPO program. Under the program, a customer agrees to pay one price per therm, as stated by the Company, in advance, and subject to Commission approval, regardless of market-price fluctuations. In contrast, the non-FPO rate fluctuates with market prices and is subject to monthly increases or decreases, depending on the actual market prices paid for the gas supply required to serve customers.

III. POSITIONS OF THE PARTIES AND STAFF

A. Liberty Keene

Liberty Keene proposed an initial non-fixed-price 2020-2021 winter COG rate of $1.2100 per therm comprised of the expected costs for propane blended with the expected costs for CNG, including a portion of historic CNG supply contract demand charges Liberty paid during the period August 2017 through September 2019 (when no CNG was served) and actual incremental costs for CNG service during the 2019-2020 winter period. *See* Exhibit (Exh.) 2, at BP 7-8, 18. The Company also proposed an FPO rate of $1.2300 per therm. The proposed FPO rate includes a $0.02 premium over the Company’s proposed COG rate for the customer benefit of price certainty. The FPO rate has already been advertised and accepted by a percentage of customers roughly equivalent to last year’s FPO customers.

A typical residential heating customer winter gas cost would be approximately $914 at the Company's proposed 2020-2021 winter COG rate, compared to a 2019-2020 actual winter cost of $722, a total bill increase of $192 or 27 percent *See* Exh. 5, Bates 33R; Tr. Oct. 23 at 20-21.

Liberty's proposed rates are based on a reconciliation of actual 2019-2020 gas costs and revenue, and projected 2020-2021 gas costs and revenues, and inclusion of a portion of the CNG historic demand charges for the period August 2017 through September 2019. Liberty was required to track 2019-2020 winter incremental CNG costs or savings (the difference between actual CNG supply cost and what the supply cost would have been if propane had been used). It was also required to report the incremental cost or savings in its 2019-2020 winter reconciliation, with incremental CNG costs subject to refund if found imprudent.

In addition to the historical CNG demand charges, the proposed rates include CNG incremental costs for the winter 2019-2020 period based on the Company's position that, rates, charges, and underlying CNG contracts are prudent under the circumstances, and second, the Company's position that prior Commission orders have already found the rates, charges, and/or contract "prudent." *See* Exhs. 2, 6. The Company further argues that because Monadnock customers can only be served with CNG at this time, incremental costs for the 2019-2020 period should be allowed. *See* Exhs 2, 6, Tr. Oct. 23 at 32-33.

B. OCA

The OCA recommended approval of Staff's alternate COG in the amount of $1.0253 per therm and alternate FPO in the amount of $1.0453 per therm, adjusted to $1.0277. The OCA recommended that any determination on the prudence of historic demand charges be deferred and resolved in a rate case. In the alternative, the OCA agreed with Staff that recovery of CNG demand costs incurred prior to the Company commencing CNG service be disallowed, and that recovery of incremental CNG costs from the 2019-2020 winter period should not be allowed at this time. The OCA supported Staff's recommendation that the Company be allowed to include projected 2020-2021 winter CNG costs in the 2020-2021 Winter COG, and recommended Liberty Keene be required to continue to calculate and report the incremental supply savings or costs resulting from the use of CNG. The OCA agreed with Staff's position that incremental costs subsequently determined to be imprudent should continue to be subject to refund.

C. Staff

Staff stated that that the Company failed to show that the historic CNG contract demand costs were, or had already been found, prudent. *See* Puc 203.25. Accordingly, Staff recommended that the Commission reject the Company's proposed COG and FPO rates. Staff recommended that the Commission disallow recovery of CNG demand costs incurred prior to the Company commencing CNG service, and not allow recovery of incremental CNG costs from last winter (Winter 2019-2020) at this time. Staff recommended that the Commission provisionally allow use of projected 2020-2021 winter CNG costs provided that actual incremental CNG costs or savings continue to be tracked and reported in the Liberty Keene 2020-2021 winter reconciliation so that incremental costs determined to be imprudent in the future, if any, would be subject to refund. *See* Exh. 9 (November 18, 2020) at Bates 004, 014-16, 020-23; Tr. Oct. 23 at 114-18.

At the October 23 hearing, Staff recommended that the Commission adopt Staff's proposed rates, namely that the Commission set a COG rate of $1.0253 and an FPO rate of $1.0453. Exh. 9 at Bates 023. Following the interim order, which adopted Staff's proposed COG initial rate, *see* Order No. 26,421 (October 30, 2020), Staff recommended the Commission approve the COG rate of $1.0253 per therm rate and set the FPO rate at $1.0277 per therm for the remainder of the winter period (December 1 through April 30), to off-set the higher interim FPO rate applicable during November 2020. *See* Exh. 22; Tr. Nov. 2 at 20-23; Tr. Nov. 18A at 6-8. Staff further recommended that the Commission require Liberty to notify FPO customers of the difference between the FPO rate offered and the approved final rate of $1.0453.

The following table includes Staff's expected total bill impact based on the prior winter's average use for a residential heating customer. *See* Exh. 22.

Winter 2020/2021 Projected Bill Impacts

Customer Class	2019-2020 (Actual)	2020-2021 (Projected)	Percent Change
Non-FPO	$ 722	$831	15.2%
FPO	$ 787	$840	6.8%

Staff explained that in other dockets related to the Liberty Keene conversion, the Company claimed that the conversion from propane to natural gas would result in lower rates for customers in the long term. *See* Order No. 26,305 at 6 (citation omitted); *see also* Exh. 9 at 4-6, 22; Tr. Nov. 2 at 19-20. Staff asserted that Liberty has not yet demonstrated that conversion was prudent, and therefore 2019-2020 incremental costs should not be allowed in the reconciliation at this time. Exh. 9; Tr. Nov. 2 at 19-20.

IV. COMMISSION ANALYSIS

The Commission has broad statutory authority to set rates. *See Appeal of Verizon New England, Inc.*, 153 N.H. 50, 64-66 (2005) (citations omitted). The Commission applies the "just and reasonable" ratemaking standard of RSA 374:2 and RSA 378:7 when setting COG rates.

In general, COG dockets address relatively narrow issues regarding market rates, projected rates, and required quantities. However, unlike standard expedited COG dockets, this expedited COG docket includes complex factual and legal issues spanning a period of approximately six years. It includes excerpts from multiple other Commission orders, transcripts and data responses, three days of hearing testimony, pre-filed rebuttal testimony, and 24 exhibits.

Most of the extensive record is focused on determining the appropriate treatment of historic CNG demand charges from August 2017 to September 2019, costs the Company included in proposed rates for the first time in this docket. *See* Tr. Oct 23 at 61-62. In addition, lengthy responses to related record requests made by the Commission during the hearing were received just three business days prior to the date this order must issue. As a result, more time is necessary to complete the review of that portion of the record given the time constraints of a cost of gas proceeding. At the same time, the interim order currently in place does not allow for the adjustment of rates, relative to market-rates. Were the interim order to remain in place, adjustments customers have relied on in electing non-FPO or FPO rates would be thwarted. The disparity between the non-FPO and FPO rate is also of concern.

Accordingly, we approve Staff's proposed COG and FPO rates on a provisional basis. These rates exclude recovery of historical CNG demand charges and 2019-2020 winter incremental CNG costs, pending further review. We approve the per therm COG and FPO rates as recommended by Staff, ($1.0253 and $1.0453) and the FPO rate as adjusted ($1.0277) to account for the higher interim FPO rate charged in November. Depending on the outcome of our eventual prudence review, Liberty Keene may be required to refund all or a portion of CNG costs, through an adjustment to COG rates. *See* Order No. 26,305.

Because a sufficient record has been developed in this proceeding to rule on Liberty's request to recover historical demand charges, we will be issuing a subsequent order in this docket regarding that issue. In contrast, whether incremental CNG costs should be recovered requires a consideration of delivery and supply factors, as well as a prudence review of the Keene conversion itself, matters that are to be addressed in Liberty's pending rate case, in Docket No. DG 20-105. Accordingly, we will consider incremental CNG costs and savings as part of that docket.

Finally, we note that the local distribution adjustment clause (LDAC) applicable to Liberty Keene customers is determined in Liberty EnergyNorth's annual COG proceeding. *See* Order No. 26,419 (October, 30, 2020) (Liberty EnergyNorth Winter 2020-2021 COG, Docket No. DG 20-141). As stated in that order, Liberty's proposed LDAC rates for November 1, 2020, through October 31, 2021, are \$0.0603 per therm for residential customers and \$0.0549 per therm for commercial customers, compared to last year's \$ 0.0635 per therm and \$0.0494 per therm respectively.

Based upon the foregoing, it is hereby

ORDERED, that Liberty-Keene's Winter 2020-2021 period per therm rates effective for service rendered on or after December 1, 2020, are provisionally approved as set forth in this order, as follows:

Customer Class	2020-2021 Winter COG	2020-2021 Winter Maximum COG
Non-FPO	\$1.0253	\$1.2816
FPO	\$1.0277[2]	N/A

and it is

FURTHER ORDERED that Liberty-Keene may, without further Commission action, adjust its approved COG rates based on the projected over- or under collection for the period, the adjusted rate to be effective the first day of the month and not to exceed, cumulatively, a

4 The \$1.0277 per therm rate, effective December 1, is a modification of Staff's initial proposed FPO rate of \$1.0453 to account for the higher interim rate in effect in November (\$1.2300). The modification brings the average overall FPO rate for the Winter 2020-2021 period down to the normal two-cent risk premium. *See* Exh. 22.

maximum rate of 25 percent above the approved rate (said maximum rates identified in the table above) with no limitation on reductions to the COG rates; and it is

FURTHER ORDERED, that Liberty Keene track and report incremental natural gas savings and costs in COG reconciliations to be determined by comparing the individual CNG and LNG supply cost at the time of delivery with spot propane prices at that time; and it is

FURTHER ORDERED, that Liberty Keene shall ensure that, in all future initial filings, for all fuel types planned for use in supplying customers (including CNG, LNG, propane) the fuel types and costs for fuels shall be specified in summaries as well as in discrete schedules, and Summary Schedule A, as currently configured, shall remain a component of future filings unless otherwise ordered; and it is

FURTHER ORDERED that if the Commission ultimately finds that conversion of the Liberty Keene system from propane-air to CNG, or any other natural gas, was imprudent, then all incremental costs related to the conversion and recovered through the COG may be subject to refund through a future Liberty Keene COG; and it is

FURTHER ORDERED, that Liberty Keene shall provide the Commission with its monthly calculation of the projected over- or under-collection, 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; and it is

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

FURTHER ORDERED, that Liberty Keene shall promptly file properly annotated tariff pages for rates in compliance with this order no later than 15 days from the issuance date of this order, as required by N.H. Admin. R., Part Puc 1603; and it is

FURTHER ORDERED, that Liberty Keene shall file its customer notice of proposed rate change for the 2021 summer, 2021-2022 winter, and 2022 summer periods with the Director of the Consumer Services and External Affairs Division, prior to delivery to its customers.

By order of the Public Utilities Commission of New Hampshire this second day of December, 2020.

Dianne Martin
Chairwoman

Kathryn M. Bailey
Commissioner

Attested by:

Debra A. Howland
Executive Director

Service List - Docket Related

Docket# : 20-152

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