

**STATE OF NEW HAMPSHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION**

**Re: EnergyNorth Natural Gas, Inc. d/b/a  
KeySpan Energy Delivery New England**

**2006 Integrated Resource Plan**

**Docket No. DG 06-105**

**Motion For Leave To File Rebuttal Brief Or  
To Accept This Motion In Lieu Thereof**

NOW COMES the Staff of the New Hampshire Public Utilities Commission (Staff) and says:

1. Pursuant to the Commission's ruling at hearing, Staff is permitted to file a rebuttal brief provided the Commission grants permission. Hearing Transcript (Tr.) at 160.
2. Several important issues in this docket, including the question of compliance by EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (the Company) with the 2004 settlement agreement approved by Order No. 24,531 and the relevance of the history of integrated resource planning policies in New Hampshire, have already been adequately briefed by each side in the first two rounds of briefing.
3. However, in its initial post-hearing brief filed on April 18, 2008, the Company argued for the first time that there was a limited opportunity at hearing, and the record is inadequate, to address the appropriate standards for gas integrated resource planning filings. Company Brief at 2, 15. The Company further argued that it should have been given an opportunity to conduct discovery on "Staff's new position" that the Company's compliance with the 2004 settlement agreement was insufficient and it should have been given an opportunity to prepare a response. Company Brief at 14. Based largely on these arguments, the Company recommended for the first time that the Commission order the Staff and parties to participate in a mediated "collaborative process" to establish comprehensive integrated resource planning filing standards. Company Brief at 16.
4. Staff has not yet had an opportunity to comment on these arguments and recommendation and they require a response from Staff.

5. If permitted to file a rebuttal brief, Staff would demonstrate the following:
- a) The fundamental issue in this docket is, what are the appropriate standards for the Company's gas integrated resource plans? Much of the pre-filed testimony by Staff and the Company, the hearing testimony and Staff's initial post-hearing brief were devoted to this issue. The Company has had every opportunity to present its position on the standards and cannot complain about limited opportunities or inadequacies in the record.
  - b) At hearing, the Company complained about what it called "Staff's new position." It then requested a recess to consider its response to how that could be dealt with procedurally. Tr. at 158. When the hearing reconvened, the Company announced it would waive its right to cross examine Staff's witness provided that several exhibits not yet introduced were included in the record and provided that post-hearing briefs be filed, with Staff's brief to be filed first. Tr. at 160. The Company could have, but did not, ask for a continuation of the recess in order to conduct further discovery. Under these circumstances, the Company cannot complain about the fairness of the proceeding or denial of due process.
  - c) The Company's recommendation ignores the fact that Staff, OCA and the Company already engaged in extensive settlement negotiations before the hearing without success. There are major differences of opinion between the Company and Staff as to what constitutes sound integrated resource planning which are unlikely to be bridged by further negotiations or a mediated collaborative process. The time is right for the Commission itself to provide clarity on the integrated resource planning policies it wishes the Company to pursue, based on the record in this docket.

WHEREFORE, Staff requests that the Commission:

- A. Grant leave to the Staff to file a rebuttal brief; or in the alternative,
- B. Accept this Motion as Staff's response to the Company's post-hearing brief in lieu of a rebuttal brief; and
- C. Grant such other relief as may be just.

Respectfully Submitted,



Edward N. Damon

Staff Attorney

New Hampshire Public Utilities Commission

21 South Fruit Street, Suite 10

Concord, New Hampshire 03301-2429

603-271-2431

Dated this 28 day of April, 2008.

### CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document upon each party on the official service list in this proceeding.

Dated at Concord this 28 day of April, 2008.



Edward N. Damon

REBECCA BACHELDER  
BLUEFLAME CONSULTING  
80 WARWICK RD  
MELROSE MA 02176

KEN E TRAUM  
OFFICE OF CONSUMER ADVOCATE  
21 SOUTH FRUIT ST STE 18  
CONCORD NH 03301-2429

STEVEN V CAMERINO  
MCLANE GRAF RAULERSON & MIDD  
11 SOUTH MAIN ST STE 500  
CONCORD NH 03301

KATIE GUERRY  
HESS CORPORATION  
ONE HESS PLAZA  
WOODBIDGE NJ 07095

MEREDITH A HATFIELD  
OFFICE OF CONSUMER ADVOCATE  
21 SOUTH FRUIT ST STE 18  
CONCORD NH 03301

SARAH KNOWLTON  
MCLANE GRAF RAULERSON & MIDD  
100 MARKET ST STE 301  
PORTSMOUTH NH 03801

ANN LEARY  
KEYSPAN ENERGY DELIVERY NEW E  
52 2ND AVE  
WALTHAM MA 02451-1127

THOMAS O'NEILL  
KEYSPAN ENERGY DELIVERY NEW E  
52 2ND AVE  
WALTHAM MA 02451-1127

LEO SILVESTRINI  
KEYSPAN ENERGY DELIVERY NE  
52 SECOND AVE 4TH FLR  
WALTHAM MA 02451

Docket #: 06-105      Printed: April 28, 2008

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EDWARD DAMON  
NHPUC  
21 SOUTH FRUIT ST, SUITE 10  
CONCORD NH 03301-2429

STEPHEN FRINK  
NHPUC  
21 SOUTH FRUIT ST, SUITE 10  
CONCORD NH 03301-2429

GEORGE MCCLUSKEY  
NHPUC  
21 SOUTH FRUIT ST, SUITE 10  
CONCORD NH 03301-2429

ROBERT WYATT  
NHPUC  
21 SOUTH FRUIT ST, SUITE 10  
CONCORD NH 03301-2429

AMANDA NOONAN  
CONSUMER AFFAIRS DIRECTOR  
NHPUC  
21 SOUTH FRUIT ST, SUITE 10  
CONCORD NH 03301-2429