



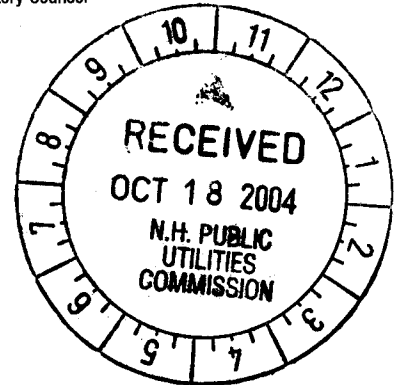
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*Via Federal Express*

**Patricia Crowe**  
Regulatory Counsel

October 15, 2004

Debra A. Howland  
Executive Director and Secretary  
NH Public Utilities Commission  
21 S. Fruit St., Suite 10  
Concord, NH 03301-2429



Re: KeySpan's Comments on the Commission's Initial Proposal of August 19, 2004  
on the PUC 500 Rules for Gas Service  
DRM 04-149

Dear Ms. Howland:

Enclosed are an original and eight copies of KeySpan's Comments on the Commission's Initial Proposal dated August 19, 2004 on the Adoption, Repeal and Readoption of the Rules for Gas Service, N.H. Code of Administrative Rules PUC Chapter 500.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Patricia Crowe

PC:ca

Enclosures

CC: Suzanne Amidon, Staff Attorney/Hearings Examiner  
Ann Ross, Office of the Consumer Advocate

STATE OF NEW HAMPSHIRE  
Before the  
PUBLIC UTILITIES COMMISSION

Docket No. DRM 04-149

Readoption and Amendment of NH Administrative Rules Puc 500

COMMENTS OF ENERGYNORTH NATURAL GAS, INC.  
d/b/a  
KEYSPAN ENERGY DELIVERY NEW ENGLAND

**I. Introduction**

EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (“KeySpan” or “the Company”) submits these comments on the Commission’s Initial Proposal dated August 19, 2004 in this readoption and amendment of the Rules for Gas Service, the Puc 500 rules (“the proposed rules”). KeySpan presented oral comments on certain sections of the proposed rules at the public hearing on October 6, 2004. The Company also participated in the technical session following the public hearing. These comments take into account the progress made during the public hearing and technical conference as well as numerous informal meetings conducted prior to issuance of the proposed rules. KeySpan thanks the Commission and Staff for their efforts to address the concerns raised during the course of formulating these rules.

KeySpan understands that there will be a revision to the proposed rules based on agreed-upon revisions at the technical session, and that other revisions may be made based on oral and written comments. The Company intends to review and evaluate the

revised document and to determine whether additional comment may be appropriate.

Below, the Company's comments are organized by Puc Rule number.

## II. Comments

### **Puc 504.03 (a) Pressure Requirements**

#### PUC Initial Proposal

Puc 504.03(a) The pressure at the outlet of any customer's service meter shall never be:

- (1) Less than 4 inches of water column; or
- (2) Greater than 13.8 inches of water column, except by written agreement with the customer.

#### KeySpan Comments

Subsection (a) sets the minimum and maximum pressures at the outlet of any customer's meter and uses the words "shall never be" as to the two pressure limits. The language of this section does not take into account incidents that are beyond the control of the utility that result in an inability to maintain the stated pressures. These incidents would include a contractor damaging a main or service line that causes a drop in pressure that is lower than required by this section as well as other circumstances beyond the utility's control. If left unchanged, the language in this section might cause a utility to be in violation of this rule for actions beyond its control. Therefore, KeySpan recommends including a proviso that would require the maintenance of the stated pressures consistent with system design.

#### KeySpan Proposal

Puc 504.03(a) *Consistent with system design*, the pressure at the outlet of any customer's service meter shall never be:

- (1) Less than 4 inches of water column; or

- (2) Greater than 13.8 inches of water column, except by written agreement with the customer.

**Puc 504.04 (b) Interruptions of Service**

**PUC Initial Proposal**

Puc 504.04 (b) Should interruptions occur, a utility shall reestablish service within the shortest time practicable.

**KeySpan Comments**

With respect to subsection (b), the rule now in effect reads “Should interruptions occur, a utility shall reestablish service within the shortest time practicable, *consistent with safety.*” KeySpan recommends that the phrase “consistent with safety” remain in the rule because reestablishing service within the shortest time practicable must be counterbalanced by action that is consistent with safely restoring service.

**KeySpan Proposal**

Puc 504.05 (b) Should interruptions occur, a utility shall reestablish service within the shortest time practicable, *consistent with safety.*

**Puc 506.01 Pipeline Safety Standards**

**PUC Initial Proposal**

**Puc 506.01 Pipeline Safety Standards**

- (a) All utilities shall comply with those pipeline safety regulations established by the United States Department of Transportation which are set forth in 49 C.F.R. Parts 191, 192, 193, 198 and 199, including future amendments thereto.
- (b) Where Puc 500 or Puc 800 establishes more stringent requirements than those pipeline safety regulations adopted pursuant to (a) above, the more stringent requirement set forth in Puc 500 or Puc 800 shall apply.
- (c) Only an individual who meets operator qualifications in accordance with 49 CFR Part 192, Subpart N shall perform an activity which:

- (1) Is performed on a pipeline facility, whether new or existing;

- (2) Is an activity involving operations, maintenance or new construction;
- (3) Is performed as a requirement of this part; and
- (4) Affects the operation or integrity of the pipeline.

#### KeySpan Comments

KeySpan is a participant in the formulating the Northeast Gas Association's (the "NGA") "Operator Qualifications ("OQ") Compliance Program Written Plan." The NGA presently is developing an OQ training program for new construction, as noted by Northern Utilities. KeySpan supports the recommendation by Northern Utilities to delay the effective date as it pertains to new construction because of the ongoing NGA activity on OQ training.

#### **Puc 506.02 (l) and (s) Construction and Maintenance**

##### PUC Initial Proposal

##### Puc 506.02

- (l) Each utility shall notify an excavator of the presence of abandoned facilities identified pursuant to Puc 506.02 (j) and (k), when the excavator proposes to excavate in that area pursuant to RSA 374.51 II.
- (s) Each utility should develop and maintain a written security plan outlining actions necessary to protect the utility's facilities from breaches of security or sabotage, and outlining actions to be taken in response to changes in the federal Department of Homeland Security's Homeland Security Advisory System Threat Conditions. Such plans shall be disclosed only to:
  - (1) Individuals having a need to know their content; or
  - (2) The commission's safety division, upon reasonable request, on utility premises.

##### KeySpan's Comments

With respect to subsection (l), this section relates to issues that are within the scope of the Underground Utility Damage Prevention Program (the Puc 800 Rules) and

should be addressed in that section of the rules. It is KeySpan's understanding that this particular issue is one that is scheduled for discussion by the legislative subcommittee of the New Hampshire Dig Safe Advisory Committee on October 19<sup>th</sup>.

To the best of KeySpan's knowledge, the issue of notifying excavators of abandoned facilities appears only in the proposed 500 rules and, therefore, would only be applicable to gas utilities rather than all utilities as covered by the 800 rules. Moreover, information on abandoned facilities is not required to be mapped or maintained until after February 1, 2005, as proposed in subsections (i) and (j). Thus, to require, at this point in time, that a gas utility notify an excavator of abandoned facilities is not workable without a meaningful database that will take time to build. Subsection (l) and any details to be considered for implementation should be taken up by the legislative subcommittee that has the responsibility and expertise on matters on underground utility damage prevention.

With respect to subsection (s), KeySpan recommends that 506.02 (s)(1) be deleted. The language that would allow security plans to be disclosed to "individuals having a need to know their content" is fraught with risk and could create the opportunity for individuals to request this highly sensitive security information through a public record request. The unintended result may be to place a utility's security in jeopardy. Therefore, the Company recommends removing the section from the proposed rule. This change would not impede a review by the Commission's Safety Division to review a gas utility's security plan.

**Puc 509.16 (b) Annual Peak Shaving Fuel Storage Capability Report**

**PUC Initial Proposal**

Puc 504.03(b) This report shall be submitted by September 1<sup>st</sup> of each year and shall include projected design-week sendout, production capabilities and storage requirements of utility gas operations, including the following: ....

**KeySpan Comments**

KeySpan recommends using the date of October 1<sup>st</sup> now required in the currently effective rules for submission of the annual peak shaving fuel storage capability report because it allows for more comprehensive information to be collected and filed. As of September 1st, the Company is likely to be in the process of finalizing its peak shaving fuel storage arrangements for the upcoming winter season that begins on November 1. A September 1<sup>st</sup> filing date for this report would not encompass all transactions, and these later transactions would routinely have to be refiled at a later time. Therefore, keeping October 1<sup>st</sup> as the filing date for this report would result in a more comprehensive filing.

**KeySpan Proposal**

Puc 509.16 (b) This report shall be submitted by *October 1<sup>st</sup>* of each year and shall include projected design-week sendout, production capabilities and storage requirements of utility gas operations, including the following: ....

**511.10 (d) Commission Action**

**PUC Proposal**

Puc 511.10 (d) At the hearing, the respondent shall show by a preponderance of the evidence why the commission staff determination should be changed.

### KeySpan Comments

With respect to subsection (d), it should be made clear that the respondent does not bear the burden of proof. As presently drafted, the respondent is placed in the position of having to prove a negative. Therefore, the Company recommends that this section be amended.

### KeySpan Proposal

(m) At the hearing, *the commission staff shall have the burden of proof to show by a preponderance of the evidence that the respondent committed the alleged violation.*

### **513.10 (a) Commission Action**

#### PUC Proposal

Puc 513.10 (a) The commission shall act upon staff's recommendation unless the respondent requests a hearing pursuant to Puc 513.09. Hearing requests pursuant to Puc 513.09 shall be treated as a request for an adjudicatory proceeding. Upon such hearing request, the commission shall provide the respondent with notice and an opportunity for a hearing, held pursuant to Puc 200. At the hearing, the respondent may show by a preponderance of the evidence why the commission staff determination should be changed.

#### KeySpan Comments

With respect to this section as with 511.10(d), it should be made clear that the burden of proof is not upon the respondent. As presently drafted, the respondent is placed in the position of having to prove a negative. Therefore, the Company recommends that this section be amended.



KeySpan Proposal

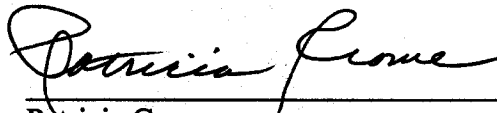
(d) At the hearing, *the commission staff shall have the burden of proof to show by a preponderance of the evidence that the respondent committed the alleged violation.*

**III. Conclusion**

KeySpan appreciates the work and cooperation of the Commission Staff and other parties in developing the Initial Proposal. The Company looks forward to a final review of the proposed rules that will incorporated agreed-upon changes resulting from the technical session.

KEYSPAN ENERGY DELIVERY  
NEW ENGLAND

By Its Attorney,



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October 15, 2004