

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 07-034

**ENERGYNORTH NATURAL GAS, INC. D/B/A
KEYSPAN ENERGY DELIVERY NEW ENGLAND**

2007 Summer Season Cost of Gas

Order Regarding Motion for Rehearing and/or Reconsideration

ORDER NO. 24,756

May 31, 2007

APPEARANCES: Steven V. Camerino, Esq., of McLane, Graf, Raulerson, and Middleton, P.A. for EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England; Meredith A. Hatfield, Esq., of the Office of the Consumer Advocate, on behalf of residential ratepayers; and Edward N. Damon, Esq. for the Staff of the New Hampshire Public Utilities Commission.

On May 15, 2007, EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan) filed a motion for rehearing and/or reconsideration of our order approving the Company's cost of gas (COG) rates for the 2007 Summer Season, Order No. 24,744 (April 27, 2007). The Company alleged that the summary of Staff's position in the order is legally and factually incorrect and contended that the order appeared to adopt the Staff summary of four issues related to COG rates as the Commission's ruling. The Company maintained that, as a result, it would be substantially prejudiced in Docket No. DG 07-050 if it does not seek reconsideration of Order No. 24,744 before it becomes final and non-appealable. In Docket No. DG 07-050, the Commission is conducting a formal investigation into KeySpan's method for reconciling gas costs for ratesetting purposes and the appropriate levels for certain indirect gas costs that are included in rates.

The Company described the first alleged error in Order No. 24,744 as follows:

The [Order] stated that Staff contends that “two of those issues affect the 2006 and 2007 summer gas costs included in this filing: (1) whether the carrying charges calculated in the monthly COG reconciliation and the carrying charges recovered through the COG working capital allowance constitute a double recovery of carrying costs, and (2) whether it is appropriate for KeySpan to use the Company's overall cost of capital as a proxy of the working capital, carrying charge rate.” Contrary to the description set forth in the Staff Summary, . . . the issue regarding KeySpan's overall cost of capital does not and cannot properly affect the 2006 and 2007 summer gas costs, even if the Commission were to reexamine KeySpan's cost of capital in isolation as the Commission staff has suggested it should do. (The issue of whether the Commission can or should properly adjust KeySpan's cost of capital will be addressed separately by KeySpan in DG 07-050.)

The Company asserted that the Commission cannot adjust its cost of capital for purposes of gas costs booked prior to May 1, 2007 because this would constitute impermissible retroactive ratemaking which would be confiscatory and inconsistent with long established Commission policy and procedures.

The Company described the second alleged error as follows:

[Order No. 24,744] also stated that Staff contends that “the other two issues affect projected costs in the current and future proceedings because they relate to changes in indirect gas costs proposed and implemented by KeySpan on November 1, 2006. Those issues are (1) the appropriate bad debt percentage to be applied to gas costs and recovered through the COG, and (2) the reasonableness of the revised lead/lag study.” The first part of this statement appears to contain an internal inconsistency because it indicates that the two identified issues “affect projected costs in the current and future proceedings,” but then says that that is because “they relate to changes in indirect gas costs proposed and implemented by KeySpan on November 1, 2006.” If, by indicating that it was adopting the Staff's recommendation, the Commission intended to rule that it can adjust rates for a finding regarding the Company's lead/lag study that may come out of Docket DG 07-050 and apply such an adjustment to any period prior to May 1, 2007, KeySpan believes the Commission is in error If on the other hand, the Commission intended to say that any adjustment resulting from Docket DG 07-050 relating to this issue would be applied only to costs booked beginning May 1, 2007 (i.e., for “current and future proceedings,” as the first part of the sentence indicates), KeySpan will address the issue in DG 07-050 because it believes its concerns can be adequately addressed in that proceeding.

The Company asserted that any adjustment of rates for any period prior to May 1, 2007 based on any ruling it issues regarding KeySpan's lead/lag study in DG 07-050 would constitute impermissible retroactive ratemaking.

The Company stated that its concern about prejudice was the same one it expressed during the April 10, 2007 hearing, to the effect that statements from the Commission in DG 07-034 could affect the outcome in DG 07-050 prior to the development of a full record in that case. The Company again requests that the Commission defer the issues in their entirety to DG 07-050.

The rehearing motion was timely pursuant to RSA 541:3, which provides that

[w]ithin 30 days after any order or decision has been made by the commission, any party to the action or proceeding before the commission, or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion all grounds for rehearing, and the commission may grant such rehearing if in its opinion good reason for the rehearing is stated in the motion.

In Order No. 24,744 at pages 6-7, we stated:

KeySpan generally objected to Staff's testimony regarding the issues to be addressed in DG 07-050. However, in our view, admission of Staff's testimony on these issues has no adverse impact on the Company's right to due process. Staff simply explained what those issues are and the time periods to which they relate. *Staff's testimony did not extend to the merits of those issues or the question of whether they are properly before the Commission in DG 07-050. KeySpan urged that those issues be left to another docket. We also note that KeySpan acknowledged that the Commission would not be foreclosed from addressing these issues in DG 07-050 by virtue of Staff not pursuing them further here. Staff recommended that the Commission avoid for the present ruling on those issues, the time periods to which they relate, and the effect, if any, of a decision in DG 07-050 upon gas costs to be recovered through the COG Clause. We find Staff's recommendation to be reasonable and, accordingly, we will defer ruling on the 2006 summer season reconciliation and how any such gas costs should be recovered, pending the decision in DG 07-050.* This action renders moot the Company's due process arguments.

(Emphasis added.)

In the portion of our analysis quoted above, we expressly recognized that Staff's testimony did not extend to the merits of the issues listed by Staff. We also recognized that the Company itself urged that those issues be left to another docket. In addition, we stated that Staff's recommendation, about which the Company now complains, was that the Commission avoid for the present a ruling on those issues. The Staff recommendation we were referring to in the order was *not* about Staff's recommendations regarding the merits of these issues.

In other words, our order did what the Company now asks us to do, *i.e.*, defer the four issues to DG 07-050. The Company may make all its arguments regarding the four issues in DG 07-050, including those raised in the rehearing motion, and Staff may do likewise. The motion does not allege that the Staff submission inaccurately summarizes Staff's hearing testimony or that the four issues are not within the scope of the docket in DG 07-050. Accordingly, the Motion is denied because no good reason for rehearing is stated therein.

Based upon the foregoing, it is hereby

ORDERED, that the motion for rehearing and/or reconsideration of EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England is denied.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of May, 2007.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary