

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DG 22-015

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

Summer 2022 Cost of Gas

Interim Order Extending Winter Cost of Gas Rates through May 31, 2022

ORDER NO. 26,618

April 28, 2022

On April 22, 2022, the Commission issued Order No. 26,615, suspending the Summer 2022 Cost of Gas (COG) rates proposed by Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities - Keene Division (Liberty-Keene, or the Company) in this instant proceeding. The Liberty-Keene petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission's website at <https://www.puc.nh.gov/Regulatory/Docketbk/2022/22-015.html>.

The Commission suspended the Liberty-Keene proposed COG tariff pages for the Summer 2022 period of May 1, 2022-October 31, 2022, for up to three months pursuant to RSA 378:6, I(b), to allow for further review of Liberty-Keene's COG accounting schedules. This term of Order No. 26,615 was necessitated by the Company's lateness in providing necessary information requested by the Commission as part of its review of the Liberty-Keene Summer 2022 COG filing. See DG 22-015 Transcript of hearing held 4/4/2022 at 28, 33-34 and Order No. 26,615 at 2-3. Order No. 26,615 also rescheduled the Summer 2022 COG petition final hearing in this docket to May 17, 2022, at 1:30 p.m.

Subsequently, on April 25, 2022, the Company filed a "Motion for Clarification of Order No. 26,615," (Company Motion), seeking the Commission's guidance on how to implement COG rates for the month of May, considering the Commission's stated intent to defer an order regarding the proposed Summer 2022 COG rates to no later than the end of May. Also, at the close of business on April 25, 2022, Liberty-Keene filed a newly revised version of its Summer 2022 COG filing. On April 26, 2022, the Department of Energy (DOE) filed an "Emergency Motion for Hearing Before May 1, 2022 To Set Rates Effective May 1, and Response to Liberty-Keene's Expedited Motion for Clarification," (DOE Motion), requesting that the Commission imminently schedule a public hearing to resolve the question of what COG rate would apply to Liberty-Keene customers for the month of May 2022. Both the Company Motion and the DOE Motion contemplated the potential of the Commission extending the existing April 2022 COG rates from the approved Winter 2021-2022 COG period for Liberty-Keene through May 31, 2022, during the ongoing pendency of this proceeding. For the purposes of administrative efficiency and certainty, the Commission orders and clarifies as follows.

As an initial matter, the Commission notes the unfortunate nature of the circumstances at hand. COG proceedings provide a means to periodically update the commodity costs associated with utilities' procurement of gas for customers. We remain quite mindful of the pendency of the May 1, 2022, Summer COG period for which we typically would have approved an applicable rate.

In order for the Commission to determine whether rates are just and reasonable under RSA 378, we require an opportunity to adequately review and investigate rates and charges as proposed. The adjudicative process, particularly with respect to rapid proceedings such as COG, which typically span 45 days or less from initial filing to an

order approving rates by the Commission, requires the timely and accurate provision of record evidence from all parties. The discussion at the April 4, 2022, Prehearing Conference amongst the Commission, Company, and DOE echoed this need for timeliness throughout the instant proceeding. We were clear during the Prehearing Conference that the DOE audit report and live Excel files of the proposed Summer 2022 COG schedules were essential for our review. *See* DG 22-015 Transcript of hearing held 4/4/2022. Our impression, based on testimony by the Company and DOE, was that our requests were not unreasonable, and the information was already available. The Company stated that the requested live Excel files should have been in the initial filing and would be provided as soon as possible and that the DOE's audit report had already been produced by DOE Audit Staff. *See Id.* at 28 and 33.

On April 6, 2022, two days after the Prehearing Conference, we issued a Procedural Order regarding these specific filing deadlines, specifying a filing date of April 15, 2022, for the DOE's audit report and Company COG live Excel models, along with a supplemental filing date of April 19, 2022, for any other information from the parties, as necessary. No party filed a timely objection to these deadlines. The information was eventually filed at close of business on April 21, 2022, and subsequently revised again on April 25, 2022, by the Company. Given the circumstances, the Commission was unable to adequately prepare for the previously scheduled April 26, 2022, hearing, leading to Order No. 26,615 suspending the proposed tariffs and rescheduling the hearing.

With respect to the May 2022 COG rates, we clarify as follows. It is common practice for the Commission to suspend tariffs as filed with the currently effective rates to remain in place until new rates are approved. The current Winter 2021-2022 COG rate of \$2.4835 per therm for the month of April 2022 shall apply for all Liberty-

Keene customers through May 31, 2022. As noted in Order No. 26,615, we expect Summer 2022 COG rates to be approved subject to reconciliation before the end of May 2022 and encourage all parties to remain mindful of subsequent filing deadlines in order to ensure timely approval. We further note that this is not an extension of the Winter 2021-2022 COG period, but simply a continuation of the April 2022 COG rate for the first month of the Summer 2022 period beginning on May 1, 2022, to be applied to all Liberty-Keene customers, subject to future reconciliation.

It is clear that the Company and DOE support keeping the Company's Winter 2021-2022 COG rate for April 2022 currently in effect under the circumstances. See DOE Motion at 1 and the Company's Expedited Motion for Clarification of Order No. 26,615 at 2-3. This option is what was intended to be implemented by the Company for all Liberty-Keene customers pursuant to Order No. 26,615. For May 1, 2022 through May 31, 2022, the previously-approved Winter 2021-2022 COG rate for April 2022 currently in effect (and approved in Order No. 26,542, (October 29, 2021)) for Liberty-Keene shall continue to apply, subject to future reconciliation through the COG mechanism. The Company shall file tariff pages incorporating this extension by the close of business on May 2, 2022.

With respect to the DOE Motion requesting a hearing prior to May 1, 2022, we find the arguments put forth unpersuasive. The Commission is mindful of and appreciates the DOE's effort to ensure statutory compliance and that the public has an opportunity to be heard prior to rates being set. Our sincere preference would have been to have held a hearing prior to May 1, 2022, but the untimely filing of essential information necessitated extending the schedule for the instant proceeding. We have determined that the currently scheduled May 17, 2022, hearing in this matter will provide an adequate opportunity for public participation, comment, and due process

with respect this matter. We do not find that the DOE has met its burden of proof to demonstrate that the public and customers will be harmed by extending the Winter 2021-2022 COG rate beyond April 30, 2022, without a hearing prior to May 1, 2022. Any future reconciliation will hold customers harmless.¹ Furthermore, extending the currently approved Winter 2021-2022 COG rate for the month of April 2022 into the first month of the Summer 2022 period does not conflict with RSA 378:3 and :7, as no change is taking place and we have not determined that these rates are unjust or unreasonable. Finally, no comments or interventions by parties other than the Company and DOE have been filed. The Prehearing Conference held on April 4, 2022, was duly noticed, held in public and no other parties were present.

We further reiterate that the final hearing in this COG proceeding is to take place on May 17, 2022. We also require the Company to provide an updated Summer 2022 COG rate calculation and proposed tariff pages to incorporate the Summer 2022 COG season of May 1, 2022-October 31, 2022, no later than the close of business on May 10, 2022. We encourage parties to coordinate in the future to ensure the timely filing of evidence to the Commission, or at the very least to keep the Commission apprised of unforeseen circumstances that may require extension of filing deadlines.

Based upon the foregoing, it is hereby

ORDERED, that the Winter 2021-2022 COG rate for the month of April 2022, as approved in Order No. 26,542 in Docket No. DG 21-132, namely, \$2.4835 per therm for Liberty-Keene is to remain in effect and be used for all Liberty-Keene customers for the period May 1, 2022-May 31, 2022, subject to reconciliation; and it is

¹ The Commission furthermore possesses statutory authority to set rates as required pursuant to RSA 378:9.

FURTHER ORDERED, that Liberty-Keene shall file tariffs conforming to this order pertaining to the provision of service for May 1, 2022 through May 31, 2022 by the close of business on May 2, 2022; and it is

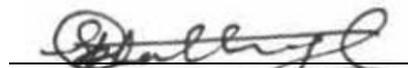
FURTHER ORDERED, that Liberty-Keene shall file an updated Summer 2022 COG rate calculation and proposed tariff pages to incorporate the continuation of the Winter 2021-2022 COG rate for the month of April 2022 into the first month of the Summer 2022 COG season of May 1, 2022, to October 31, 2022, for all Liberty-Keene customers, by the close of business on May 10, 2022; and it is

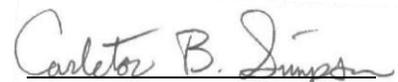
FURTHER ORDERED, that the DOE's Motion for the Commission to issue an immediate notice of hearing, for hearing on Thursday April 28, 2022, after 2 p.m. or Friday, April 29, 2022, is DENIED; and it is

FURTHER ORDERED, that the public hearing scheduled for May 17, 2022, at 1:30 p.m. will proceed as scheduled in Order No. 26,615.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of April, 2022.


Daniel C. Goldner
Chairman


Pradip K. Chattopadhyay
Commissioner


Carleton B. Simpson
Commissioner

Service List - Docket Related

Docket#: 22-015

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