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

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**EnergyNorth Natural Gas, Inc.
d/b/a National Grid NH**

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Winter 2008-09 Cost of Gas

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**DG 08-106
Prefiled Testimony of Ann E. Leary**

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October 17, 2008

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1 **Q. Ms. Leary, please state your full name and business address.**

2 A. My name is Ann E. Leary. My business address is 201 Jones Road, Waltham,
3 Massachusetts 02451.

4

5 **Q. Please state your position with National Grid.**

6 A. I am the Manager of Pricing-New England for the regulated gas companies including
7 EnergyNorth Natural Gas, Inc. d/b/a National Grid NH.

8

9 **Q. How long have you been employed by National Grid or its affiliates and in what**
10 **capacities?**

11 A. In 1985, I joined the Essex County Gas Company as Staff Engineer. In 1987, I became a
12 planning analyst and later became the Manager of Rates. Following the acquisition of
13 Essex by Eastern Enterprises in 1998, I became Manager of Rates for Boston Gas. After
14 Eastern was acquired by KeySpan Corporation in November 2000, I continued on as
15 Manager of Rates for the four KeySpan Energy Delivery New England regulated gas
16 companies, Boston Gas Company, Essex Gas Company, Colonial Gas Company, and
17 EnergyNorth Natural Gas Company. My responsibilities remained the same following
18 the acquisition of KeySpan by National Grid.

19

20 **Q. What do your responsibilities as Manager of Pricing include?**

21 A. As the Manager of Pricing, I am responsible for preparing and submitting various
22 regulatory filings with both the New Hampshire Public Utilities Commission (the

1 “Commission”) and the Massachusetts Department of Public Utilities on behalf of
2 National Grid local gas distribution companies. This includes Cost of Gas (“COG”)
3 filings, Local Distribution Adjustment Charge (“LDAC”) filings and reconciliations,
4 energy conservation, performance-based revenue calculations, lost-base revenues, and
5 exogenous cost filings.
6

7 **Q. Please summarize your educational background.**

8 A. I received a Bachelor of Science in Mechanical Engineering from Cornell University in
9 1983.
10

11 **Q. Have you previously testified in regulatory proceedings?**

12 A. I have testified in a number of regulatory proceedings before Commission and the
13 Massachusetts Public Utilities on a variety of rate matters that include: cost allocation
14 studies, rate design, cost of gas adjustment clause proposals, and exogenous cost filings.
15

16 **Q. What is the purpose of your testimony?**

17 A. The purpose of my testimony is to explain the Company’s proposed firm sales cost of gas
18 rates for the 2008/09 Winter (Peak) Period to be effective beginning November 1, 2008.
19
20
21

1 **COST OF GAS FACTOR**

2 **Q. What are the proposed firm sales and firm transportation cost of gas rates?**

3 A. The Company proposes a firm sales cost of gas rate of \$1.1837 per therm for residential
4 customers, \$1.1839 per therm for commercial/industrial high winter use customers, and
5 \$1.1826 per therm for commercial/industrial low winter use customers as shown on
6 Proposed Seventy-Third Revised Page 84. The Company proposes a firm transportation
7 cost of gas rate of \$(0.0001) per therm as shown on Proposed Eighth Revised Page 86.

8
9 **Q. Would you please explain tariff page Proposed Fifteenth Revised Page 83 and**
10 **Proposed Seventy-Third Revised Page 84?**

11 A. Proposed Fifteenth Revised Page 83 and Proposed Seventy-Third Revised Page 84
12 contain the calculation of the 2008/09 Winter Period Cost of Gas Rate and summarize the
13 Company's forecast of firm gas costs and firm gas sales. As shown on Page 84, the
14 proposed 2008/2009 Average Cost of Gas of \$1.1837 per therm is derived by adding the
15 Direct Cost of Gas Rate of \$1.1507 per therm to the Indirect Cost of Gas Rate of \$0.0330
16 per therm. The estimated total Anticipated Direct Cost of gas, derived on Page 83 and
17 repeated on Page 84, is \$105,829,840. The estimated Indirect Cost of Gas, also derived
18 on Page 83 and repeated on Page 84, is \$3,038,592. The Direct Cost of Gas Rate of
19 \$1.1507 and the Indirect Cost of Gas Rate of \$0.0330 are determined by dividing each of
20 these total cost figures by the projected winter period firm sales volumes of 91,973,236
21 therms.

22

To calculate the total Anticipated Direct Cost of Gas, the Company adds a list of allowable adjustments from deferred gas cost accounts to the projected demand and commodity costs for the winter period supply portfolio. These allowable adjustments shown on Page 83, total \$2,101,582. These adjustments are added to the Unadjusted Anticipated Cost of Gas of \$103,728,258 to determine the Total Anticipated Direct Cost of Gas of \$105,829,840.

Q. What are the components of the Unadjusted Anticipated Cost of Gas?

A. The Unadjusted Anticipated Cost of Gas shown on Proposed Fifteenth Revised Page 83 consists of the following components:

1. Purchased Gas Demand Costs	\$6,587,275
2. Purchased Gas Commodity Costs	\$66,928,128
3. Storage Demand and Capacity Costs	\$1,171,446
4. Storage Commodity Costs	\$16,204,967
5. Produced Gas Cost	\$2,448,331
6. Hedge Contract Loss/(Savings)	<u>\$10,388,110</u>
Total	\$103,728,258

Q. What are the components of the allowable adjustments to the Cost of Gas?

A. The allowable adjustments to gas costs, listed on Proposed Fifteenth Revised Page 83 are as follows:

1. Prior Period Under Collection	\$2,883,321
2. Interest	318,647
3. Broker Revenues	(1,249,699)
4. Fuel Financing	523,506

1	5.	Transportation CGA Revenue	2,546
2	6.	Interruptible Sales Margin	(2,245)
3	7.	Capacity Release Margin	(410,806)
4	8.	Fixed Price Administrative Cost	<u>36,312</u>
5		Total Adjustments	\$2,101,582
6			

7 These allowable adjustments are standard accounting adjustments that are made to the
8 deferred gas cost balance through the operation of the Company's cost of gas adjustment
9 clause. Later in this testimony I will discuss the factors contributing to the prior period
10 under collection.

11

12 **Q. How does the proposed average cost of gas rate in this filing compare to the average**
13 **cost of gas rate approved by the Commission in DG 07-093 for the 2007/2008 Winter**
14 **Period?**

15 The average cost of gas rate proposed in this filing is \$0.0006 per therm lower than the
16 initial rate of \$1.1843 approved by the Commission in Order No. 24,797 dated October
17 31, 2007 in DG 07-093. This decrease in the rate reflects a decrease in the total cost of
18 gas of approximately \$4.2 million, or -3.76% (a \$1.2 million decrease in total direct gas
19 costs plus a \$3.0 million decrease in indirect gas costs). The \$1.2 million decrease in the
20 total direct cost of gas is a result of a \$.7 million decrease in commodity costs, plus a \$1.7
21 million decrease in demand costs offset by a \$1.2 million increase in gas costs
22 adjustments.

23

1 The \$.7 million decrease in commodity costs is due \$.7 million decrease in
2 supplemental costs (underground storage, LNG, and propane). Total commodity gas
3 costs (including hedges) are approximately \$0.05/therm higher than last year.
4

5 The \$1.2 million increase in adjustments to the cost of gas primarily reflects an increase
6 in Prior Period Under Collection of \$2.0 million offset by an increase in Broker revenue
7 credits of \$0.65 million. Small changes to interest, fuel financing, and interruptible
8 margins comprise the remaining \$150,000 variance.
9

10 **Q. How does the proposed firm transportation winter cost of gas rate compare to the**
11 **rate approved by the Commission for the 2007/2008 winter period?**

12 A. The proposed firm transportation winter cost of gas rate is (\$0.0001) per therm. The rate
13 approved in DG 07-093 was \$0.0042. This decrease is largely due to the overcollection
14 in the 2007/08 period resulting from increased transportation throughput during this
15 period.
16

17 **Q. What was the actual weighted average firm sales cost of gas rate for the 2007/2008**
18 **winter period?**

19 A. The weighted average cost of gas rate was approximately \$1.1746 per therm. This was
20 calculated by applying the actual monthly cost of gas rates for November 2007 through
21 April 2008 to the monthly therm usage of a typical residential heating customer using 1,250

1 therms per year, or 932 therms for the six winter period months, for heat, hot water and
2 cooking.

3
4 **PRIOR PERIOD UNDER COLLECTION**

5 **Q. Please explain the prior period under collection of \$1,167,763.**

6 The prior period under collection is detailed in the 2007/2008 Winter Period
7 Reconciliation Analysis included in Tab 18 of this filing. The \$1,167,763 under
8 collection is the sum of the deferred gas cost, bad debt, and working capital balance as of
9 April 30, 2008 including Peak cost collections recovered in May 2008. The \$1,167,763
10 under collection is reflected in Schedule 3, Tab 3 as the beginning balance for May 2008
11 before the addition of May direct gas costs (i.e., costs incurred in May that are related to
12 the peak period) and adjustments. The under collection, which represents approximately
13 one percent of the total gas revenue billed, is the result of lower gas revenue billings than
14 forecasted. This undercollection includes the adjustments resulting from the revisions to
15 bad debt and working capital percentages approved in Order No. 24,858 issued on May
16 23, 2008 in Docket DG 07-050.

17
18 **FIXED PRICE OPTION**

19
20 **Q. Has the Company established a winter period fixed price pursuant to its Fixed Price**
21 **Option Program ("FPO")?**

22 **A. Yes, in Order No. 24,515 in docket DG 05-127, dated September 16, 2005, the**
23 Commission approved an amendment to the Fixed Price Option Program. In accordance

1 with the approved changes to the FPO program, the FPO rates are calculated at \$0.02 per
2 therm higher than the proposed COG filed on September 1 of each year. Proposed
3 Seventh Revised Page 85 contains the FPO rates for the 2008/09 Winter period, which
4 are \$1.2835 per therm for residential customers, \$1.2830 per therm for
5 commercial/industrial low winter use customers, and \$1.2836 per therm for
6 commercial/industrial high winter use customers. These compare to FPO rates approved
7 for the 2007/2008 winter period of \$1.2043 per therm for residential customers, \$1.2038
8 per therm for commercial/industrial low winter use customers, and \$1.2044 per therm for
9 commercial/industrial high winter use customers. This represents a \$0.0792 per therm,
10 or 6.6%, increase in the residential FPO rate. The impact on the winter period bill of a
11 typical heating customer is a increase of approximately \$123 or 8.6% compared to last
12 winter (please note - this total bill increase includes the increase in base distribution rates
13 approved for temporary rate purposes in Order No.24,888 in DG 08-009). The estimated
14 winter period bill for a typical residential heating customer opting for the FPO program
15 would be approximately \$19 or 1.2% higher than the bill under the proposed cost of rates
16 assuming that the COG is not revised prior to final approval by the Commission and also
17 assuming no monthly adjustments to the COG rate during the course of the winter. Tab
18 23 contains the historical results of the FPO program as required by Order No. 24,515
19 issued on September 16, 2005 in DG05-127.

20

1 **HEDGED SUPPLIES**

2 **Q. Has the Company hedged any of its winter period supplies pursuant to its proposed**
3 **Natural Gas Price Risk Management Plan?**

4 A. Yes, it has. As shown in Tab 7, Schedule 7, Page 2, the Company thus far has hedged
5 4,780,000 Dekatherms (47.8 million therms) at a weighted average fixed price of \$9.5946
6 per Dekatherms. The hedged price reflects the high cost of gas during the period that the
7 hedged volumes were locked in.

8
9 **Q. On what dates, and at what prices did the Company contract for these supplies?**

10 A. The Company has fifty-nine contracts that hedge the price of gas supplies for the
11 2008/2009 Winter Period with prices ranging from \$7.74 to \$14.09 per Dekatherms. The
12 contracts date as far back as May 4, 2007 and as recently as August 25, 2008. The
13 contract dates, volumes and prices are listed in Exhibit 7 pages 2 through 4.

14 Under its Natural Gas Price Risk Management Plan, the Company expects to hedge
15 approximately 67.5% of its flowing winter supplies that are priced against NYMEX price
16 indexes (i.e. Dawn Supply, Niagara Supply, Tennessee Gas Pipeline direct purchases and
17 Zone 4, and city gate deliveries). The projected flowing gas (i.e., pipeline) supplies
18 amount to 7,503,371 Dekatherms. Currently, 67.6% of this total is projected to be
19 hedged. The Company shows in Tab 7, Schedule 7, Page 3, that the remaining 290,000
20 Dekatherms will be hedged at an estimated price of \$7.5690 per Dekatherms based on
21 recent NYMEX futures strip prices. The result is a total estimated hedged volume for the

1 winter period of 5,070,000 Dekatherms at a cost of \$48,644,537 or approximately
2 \$9.5946 per Dth.

3
4 **LOCAL DISTRIBUTION ADJUSTMENT CHARGE**

5 **Q. What are the surcharges that will be billed under the LDAC?**

6 A. The Company is submitting for approval a Local Distribution Adjustment Charge of
7 \$0.0254 for the residential non heating class, \$0.0260 for the residential heating class and
8 \$0.0278 for the commercial/industrial classes that will be billed from November 1, 2008
9 through October 31, 2009. Under the LDAC approved in (1) the Commission's Order in
10 Docket DG 00-063, the Company's Revenue Neutral Rate Redesign Case, (2) Order No.
11 24,109 in DG 02-106, Energy Efficiency for Gas Utilities, (3) Order No. 24,636 in DG
12 06-032, Energy Efficiency for Gas Utilities, and (4) Order No. 24,508 in DG 05-076,
13 Investigation of Low Income Assistance Program for Natural Gas, the surcharges that are
14 billed under the LDAC are the Conservation Charge, the Energy Efficiency Charge, the
15 Environmental Surcharge for Manufactured Gas Plant remediation and the Residential
16 Low Income Assistance Program charge.

17
18 **Q. What is the Conservation Charge?**

19 A. The Conservation Charge is designed to recover the expenses and lost margins from the
20 Company's demand side management ("DSM") programs that terminated in 1999, which
21 are \$0.0006 per therm for residential heating customers and \$0.0000 per therm for
22 commercial/industrial customers (the calculation for the commercial/industrial class

1 rounds to zero at the fourth decimal). The residential Conservation Charge is designed to
2 recover \$33,374, of which \$29,112 is Lost Margins and \$4,262 is for the prior period
3 under collection, on projected sales of 59,758,721 therms. Because the programs were
4 terminated in 1999, there are no additional DSM expenses to be recovered. The
5 commercial/industrial program incurred \$777 in Lost Margins and (\$3,128) in prior
6 period under collections resulting in the total of (\$2,351) to be recovered on 93,813,738
7 therms of forecasted commercial/industrial throughput. The back-up work papers that
8 derive these figures are provided in Tab 19 of this filing. Also included in the LDAC is
9 the Energy Efficiency Program Charge of \$0.0181 per therm for residential customers
10 and \$0.0205 per therm for commercial/industrial customers.

11
12 **Q. Please explain the Energy Efficiency Charge.**

13 A. The Energy Efficiency Charge is designed to recover expenses associated with the
14 Company's energy efficiency programs that were approved by the Commission in Order
15 No. 24,636 dated June 8, 2006, in DG 06-032. On March 31, 2008, the Company
16 submitted to the Commission its proposed energy efficiency budget for May 2008
17 through April 2009 (the third year of the three year approved program). The Energy
18 Efficiency Charge is also designed to recover performance based incentives associated
19 with the Company's energy efficiency programs that were approved by the Commission
20 in Order 24,109 dated December 31, 2002 in DG 02-106 and Order 24,636 dated June 8,
21 2006 in DG 06-032. The incentive calculations that are included in this LDAC filing are

1 based on Exhibit C filed with the Commission on August 27, 2008. Exhibit C, the
2 incentive calculation, is provided in Tab 19, Energy Efficiency, page 5.

3

4 **Q. In Order No. 24,752 in docket DG 06-154 relating to therm billing issues, the**
5 **Company agreed to exclude \$200,000 in cost recovery associated with energy**
6 **efficiency expenditures in Program Years 2 and 3. Did the Company reflect these**
7 **adjustments in its Energy Efficiency Charge?**

8 A. Yes, in March and April 2008, the Company included a credit of \$122,165 in DSM
9 measures. The Company plans of spending the remaining \$77,835 during the 2008-09
10 program year and will apply the balance of the credit at that time.

11

12 **Q. What is the proposed Residential Low Income Assistance Program, RLIAP, charge?**

13 A. The proposed Residential Low Income Assistance Program charge is \$0.0073. It is
14 designed to recover administrative costs, revenue shortfall and the prior period
15 reconciliation adjustment relating to this charge. For the 2008/09 Winter Period the
16 Company is providing a 60% base rate discount, consistent with the Settlement
17 agreement approved by the Commission in Order No. 24,669 issued on September 22,
18 2006 in DG 06-120. The current RLIAP factor is designed to recover \$1,134,644 of
19 which \$8,650 is for administrative costs, \$1,345,568 is for the revenue shortfall resulting
20 from 5,353 customers receiving a 60% discount off their base rates, and (\$219,574) is for
21 the prior year reconciling adjustment.

1 **Q. In Order No. 24,824 in docket DG 06-122 relating to short term debt issues, the**
2 **Company agreed to exclude \$250,000 in cost recovery associated with Low Income**
3 **discount rate. Did the Company reflect these adjustments in its RLIAP charge?**

4 **A. Yes, the \$250,000 credit is included in the prior year's reconciliation balance as shown in**
5 **Tab 19 page 2 line 9.**

6

7 **Q. In Order No. 24,824 in docket DG 06-122 relating to short term debt issues, the**
8 **Company agreed to adjust its short term debt limits each year as part of the**
9 **Company's Winter Period cost of gas filing. Did the Company calculate the short**
10 **term debt limit for fuel and non-fuel purposes in accordance with this settlement?**

11 **A. Yes, the Company included in Tab 24 the short term debt limit for fuel and non fuel**
12 **purposes for the 2008-09 period.**

13

14 **Q. Has the Company updated the Manufactured Gas Plant Remediation surcharge**
15 **(Tariff Page 88)?**

16 **A. Yes, it has. As a result, of the Company's success in its third party cost recovery efforts,**
17 **which included receiving a significant insurance recovery last year, the total recoveries**
18 **from insurance carriers and other responsible parties continue to exceed the total**
19 **remediation costs expensed to date. As a result, the Manufactured Gas Plant (MGP)**
20 **Remediation surcharge is proposed to remain at zero for the period beginning November**
21 **1, 2008 and ending October 31, 2009. The surcharge for the 2007/2008 Winter Period**
22 **was also \$0.0000 per therm. The costs submitted for recovery through the MGP**

1 Remediation surcharge as well as the third party recoveries are presented in the
2 Environmental Cost Summary included in Tab 20 of this filing. The environmental
3 investigation and remediation costs that underlie these expenses are the result of efforts
4 by the Company to respond to its legal obligations with regard to these sites, as described
5 by Ms. Leone in her prefiled testimony in this proceeding and as set forth in the MGP site
6 summaries included in this filing under Tab 20. The Summary included in Tab 20, pages
7 1 – 7, show the remediation cost pools for the Concord, Manchester, Nashua, Dover,
8 Laconia and Keene sites and a General Pool for costs that cannot be directly assigned to a
9 specific site. The filing also includes amounts recovered from insurance companies
10 shown in the section labeled “Cash Recoveries” on the Environmental Cost Summary,
11 pages 8 - 10. These cash recoveries from insurance companies are listed under the
12 headings for the Concord, Laconia, Manchester, Nashua, Dover, and Keene sites. While
13 the recoveries are displayed on the summary by site, they are not exclusive to a particular
14 site. Because the recoveries are often the result of a general settlement agreement
15 between National Grid, NH and an insurance company covering more than one site, there
16 is usually no distinction made as to how much of the settlement amount is associated with
17 a particular site. The reason the recoveries are presented on the summary in this way is to
18 reflect how the Company is recording them in its accounting records. In compliance with
19 Commission Order No. 23,303, dated September 20, 1999 in docket DG 99-060, the
20 Company is crediting the third-party recoveries, net of expenses associated with those
21 recoveries, to the end of the recovery period with the exception of those recoveries from
22 prior plant operators that are contributions to the on-going expense of site investigation

1 and remediation. Those amounts are netted out against the Company's expenses before
2 any remaining balance is included for recovery through the MGP Remediation surcharge.
3 Page 11 provides the total remediation and recovery costs and collections by year and in
4 total.

5 As I have noted, due to the significant third party cash recovery received last year the
6 Company is not proposing an Environmental surcharge for the 2008-09 period. The
7 Company's filing, however, does summarize its total remediation, recoveries and
8 surcharge collections incurred to date so that the Commission is aware of the current
9 ending balance. In total, the Company has incurred environmental remediation costs of
10 \$28,429,511 litigation costs of \$11,559,183, obtained third party cash recoveries of
11 \$27,333,183, and transfer credit of \$3,331 for a net expense of \$12,652,180. To date, the
12 Company has collected \$13,028,973 from its Environmental Surcharge factor. As a
13 result, of the third party cash recoveries received last year, the total recoveries from
14 insurance carriers and other responsible parties currently exceed the total remediation
15 costs by \$376,794. The Company proposes to apply this credit of \$376,794 to future
16 remediation and recovery costs. This \$376,794 over recovery includes an interest credit
17 of \$215,756, which represents 80% of interest associated with the environmental over
18 recoveries, as approved in Order No. 24,881 in docket DG 07-129. This interest has been
19 included as a credit to the General Expense account.

20

21 The 2007-2008 remediation costs that the Company is including in this filing are as
22 follows:

1		
2	Concord (Pool #9)	\$95,374
3	Concord (Pool #5)	(\$3,163)
4	Laconia (Pool #7)	\$456,179
5	Manchester (Pool #8)	\$3,207,639
6	Nashua (Pool #8)	\$97,191
7	Keene (Pool #5)	\$32
8	General (Pool #6)	<u>(\$164,988)</u>
9	Total Remediation	\$3,688,264
10	Litigation Recovery	(\$1,033,751)
11	Litigation Costs	<u>\$639,811</u>
12	Total 2007-08	<u>\$3,294,324</u>
13		

A summary sheet and detailed backup spreadsheets are provided in Tab 20 of this filing that support the 2007-08 costs that the Company is submitting for recovery. (Copies of the relevant invoices are being provided under a separate cover to the Commission auditing staff concurrently with this filing.) Consistent with past practice, the Company met with the staff and Consumer Advocate's office earlier this year to update them on the status of environmental matters. While the Company has provided in Tab 20 of this filing written summaries of the status of each MGP site, it is prepared to provide additional testimony and exhibits, as necessary, to support recovery of these amounts if the Commission staff believes that it is necessary after it has completed its review of

1 these costs. In addition, the Company is providing more detailed testimony from Ms.
2 Leone to discuss the Company's efforts to seek recovery of its environmental costs from
3 relevant third parties.

4
5 **Q. In Order No. 24,849 in docket DG 07-129, the Commission ordered the Company to**
6 **apply 80 percent of the interest earned from the over recovery of environmental**
7 **response costs to future remediation costs. Has the Company reflected these**
8 **interest credits in this filing?**

9 A. Yes, as I noted above, the Company has calculated the customers' portion of the interest
10 credit associated with the over recovery of environmental costs and has included these
11 credits in the "General Expense" category. The Company has included \$215,756 credits
12 in this account.

13
14 **Q. Does the LDAC include a surcharge for Interruptible Transportation Margins?**

15 A. The Company is proposing no surcharge for Interruptible Transportation Margins because it
16 has not provided any service under the classification over the past year and therefore has not
17 earned any margins for this surcharge.

18
19 **CUSTOMER BILL IMPACTS**

20 **Q. What is the estimated impact of the proposed firm sales cost of gas rate and revised**
21 **LDAC surcharges on an average heating customer's seasonal bill as compared to**
22 **the rates in effect last year?**

1 A. The bill impact analysis is presented in Tab 8, Schedule 8 of this filing. Please note that
2 these bill impacts include the increase resulting from the implementation of the
3 temporary base distribution rates approved in Order No. 24,888 in docket DG 08-009.
4 The total bill impact for a typical residential heating customer is an increase of
5 approximately \$57, or 4.05% of which \$15 or 1.06% is from the increase in the COG
6 and LDAC as compared to the average COG and LDAC for 2007/2008 winter season,
7 and \$42 or 3.0% is from the increase resulting from the implementation of temporary
8 base rates. The total bill impact for a typical commercial/industrial G-41 customer is an
9 increase of approximately \$117, or 5.30% of which \$41 or 1.9% is from the increase in
10 the COG and LDAC as compared to the average COG and LDAC for 2007/2008 winter
11 season, and \$75 or 3.4% is from the increase resulting from the implementation of
12 temporary base rates. Schedule 8 of this filing provides more detail of the impact of the
13 proposed rate adjustments on heating customers.

14

15 **OTHER TARIFF CHANGES**

16 **Q. Is the Company updating its Delivery Terms and Conditions in the filing?**

17 A. Yes. The Company is submitting Proposed Eighth Revised Page 153 relating to Supplier
18 Balancing Charges and Proposed Eighth Revised Page 155 relating to Capacity
19 Allocation.

20

1 **Q. Please describe the changes to Page 153.**

2 A. In Proposed Eighth Revised Page 153, the Company is updating the Supplier Balancing
3 charges from \$0.10 per MMBtu to \$0.12 per MMBtu, a \$0.02 per MMBtu increase; and
4 the Peaking Demand Charge from \$14.41 per MMBtu of Peak MDQ to \$10.02 per
5 MMBtu of Peak MDQ, a \$ 4.39 decrease. The increase in the Supplier Balancing Charge
6 is based on the calculation that updates the volumes and costs supporting the charge. The
7 calculation is presented in Tab 21 of this filing. It includes the eight-page Back Up
8 Calculations to III Delivery Terms and Conditions, Eighth Revised Page 153 Attachment
9 D – Supplier Balancing Charge.

10 The decrease in the Peaking Demand Charge is also the result of an update of the
11 volumes and costs that support the calculation of the charge. This calculation is also
12 presented Tab 21. It includes the four-page Back Up Calculations to III Delivery Terms
13 and Conditions Eighth Revised Page 153, Attachment D – Peaking Demand Charge.

14
15 **Q. Please describe the changes to Page 155.**

16 A. Proposed Eighth Revised Page 155 updates the Capacity Allocator percentages used to
17 allocate pipeline, storage and local peaking capacity to high and low load factor
18 customers under the mandatory capacity assignment requirement for firm transportation
19 service. Tab 22 contains the six-page worksheet that backs up the calculations for the
20 updated allocators.

21

22

1 **Q.** **Does this conclude your testimony?**

2 **A.** Yes, it does.

3

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

EnergyNorth Natural Gas, Inc.
d/b/a National Grid NH

Winter 2008/2009 Cost of Gas
DG 08-_____

Prefiled Testimony of Theodore Poe, Jr.

August 29, 2008

1 **Q. Mr. Poe, please state your name, address and position with National Grid New**
2 **Hampshire.**

3 A. My name is Theodore Poe, Jr. My business address is 201 Jones Road, Waltham,
4 Massachusetts 02451. My title is Lead Analyst.

5
6 **Q. Mr. Poe, please summarize your educational background, and your business and**
7 **professional experience.**

8 A. I graduated from the Massachusetts Institute of Technology in 1978 with a Bachelor of
9 Science Degree in Geology. From 1981 to 1989, I worked as a Research Associate with
10 Jensen Associates, Inc. of Boston where I was responsible for the development of a variety
11 of computer forecasting models of natural gas supply and demand for interstate pipeline and
12 local distribution companies. In 1989, when I joined Boston Gas Company, I was
13 responsible for modeling and forecasting the natural gas resource requirements of its
14 customers. Since 1998, I have assumed the added responsibilities of forecasting the natural
15 gas requirements of various service territories that are now part of National Grid, including
16 EnergyNorth Natural Gas, Inc., which does business under the name National Grid NH.

17
18 **Q. Mr. Poe, are you a member of any professional organizations?**

19 A. I am a member of the Northeast Gas Association, the New England-Canada Business
20 Council and the American Meteorological Society.

1 **Q. Mr. Poe, have you previously testified in regulatory proceedings?**

2 A. Yes, I have testified in a number of proceedings before the Commonwealth of
3 Massachusetts Department of Public Utilities and the State of New Hampshire Public
4 Utilities Commission.

6 **Q. Mr. Poe, what is the purpose of your testimony in this proceeding?**

7 A. The purpose of this testimony is to summarize the gas supply and transportation portfolio
8 and the forecasted sendout requirements for National Grid NH (the "Company") for the
9 2008/09 peak season. This information is provided in significantly more detail in the
10 schedules that the Company is filing.

12 **Q. Mr. Poe, would you describe the transportation contract portfolio that the Company
13 now holds?**

14 A. The Company currently holds contracts on Tennessee Gas Pipeline (76,833 MMBtu/day)
15 and Portland Natural Gas Transmission (1,000 MMBtu/day) to provide a daily
16 deliverability of 77,833 MMBtu/day to its city gate stations. Schedule 12, page 1 in the
17 Company's filing is a schematic diagram of these contracts, and Schedule 12, page 2 is a
18 table listing these contracts. These contracts provide delivery of natural gas from three
19 sources.

1 First, the Company holds contracts to allow for delivery of up to 8,122 MMBtu/day of
2 Canadian supply. These consist of the following:

- 3
- 4 • The Company can receive up to 4,000 MMBtu/day of firm Canadian supply from
5 Dawn, Ontario. This supply is delivered to the Company on Company-held
6 transportation contracts on Union Gas, TransCanada, Iroquois Gas Transmission
7 System, and Tennessee Gas Pipeline.
 - 8 • The Company can receive up to 3,122 MMBtu/day of firm Canadian supply from the
9 Canadian/New York border at Niagara Falls, NY. This supply is transported on
10 Company-held transportation contracts on Tennessee Gas Pipeline for delivery.
 - 11 • The Company can receive up to 1,000 MMBtu/day of firm Canadian supply from a
12 Company-held transportation contract on Portland Natural Gas Transmission for
13 delivery to its Berlin division.
- 14

15 Second, the Company holds the following contracts to allow for delivery of up to 41,596
16 MMBtu/day of domestic supply from the producing and market areas within the United
17 States.

- 18
- 19 • The Company can receive up to 21,596 MMBtu/day of firm domestic supplies from
20 Texas and Louisiana production areas. These supplies are delivered to the Company on
21 transportation contracts on Tennessee Gas Pipeline.

- 1 • The Company can receive up to 20,000 MMBtu/day of firm supply from Tennessee's
2 Dracut delivery point located in Dracut, Massachusetts. This supply is delivered to the
3 Company on a transportation contract on Tennessee Gas Pipeline.

4
5 Third, the Company holds the following contracts to allow for delivery of up to 28,115
6 MMBtu/day of domestic supply from underground storage fields in the New
7 York/Pennsylvania area or the purchase of flowing supply in or downstream of Tennessee
8 Zones 4 and 5.

- 9
10 • The Company can receive up to 19,076 MMBtu/day of firm domestic supplies from its
11 Tennessee Gas Pipeline FS-MA storage contract. This contract allows for a storage
12 capacity of 1,560,391 MMBtu. These supplies are delivered to the Company on a
13 transportation contract on Tennessee Gas Pipeline.

- 14 • The Company can receive up to 9,039 MMBtu/day of firm domestic supplies from its
15 storage contracts with National Fuel Gas, Honeoye and Dominion. In aggregate, these
16 contracts allow for a storage capacity of 1,019,740 MMBtu. These supplies are
17 delivered to the Company on a transportation contract on Tennessee Gas Pipeline.

18
19 **Q. Have there been any changes in the portfolio of transportation contracts that the**
20 **Company now holds since the Company submitted its 2007/08 Peak Period Cost Of**
21 **Gas Filing?**

1 A. No, there have been none.

2

3 **Q. Would you describe the source of gas supplies used with these transportation**
4 **contracts?**

5 A. The transportation contracts associated with the Canadian supplies receive firm supplies
6 from both Eastern and Western Canada. The supplies associated with the Company's
7 domestic transportation contracts are firm supplies that the Company purchases primarily in
8 the U.S. Gulf Coast.

9

10 **Q. Have there been any changes in the portfolio of supply contracts that the Company**
11 **now holds since the Company submitted its 2007/08 Peak Period Cost Of Gas Filing?**

12 A. Yes. Typically, the Company negotiates a number of different supply contracts for delivery
13 during the peak period. Since its 2007/08 Peak Period filing, the Company has issued or
14 participated in Requests For Proposals ("RFP") for the upcoming winter for the following
15 supply resources:

- 16 1. Supply for its Tennessee long-haul transportation capacity;
- 17 2. Supply for its Tennessee transportation capacity from Dracut;
- 18 3. Supply provided as a citygate service, and
- 19 4. Supply for its transportation capacity from Dawn, Ontario

20

21

1 On 4 August 2008, the Company issued an RFP for the first three supply packages listed
2 above. Bid responses were received by the Company on 14 August 2008.

- 3
- 4 • The Company awarded the bid to fill its Tennessee long-haul transportation
5 capacity to Chevron Natural Gas ("Chevron"). Chevron submitted the best
6 overall bid, based on both price and non-price factors. The contract provides
7 for a sixmonth supply with both baseload and swing nomination provisions.
8 The price for this supply is index based. The indices correlate to the
9 respective receipt points on the Company's long-haul transportation contract.
- 10 • The Company awarded the bid to fill its Tennessee transportation capacity
11 from Dracut to FPL Energy ("FPL"). FPL submitted the best overall bid,
12 based on both price and non-price factors. The contract provides for a five-
13 month supply with both baseload and swing nomination provisions. The
14 supply will be baseloaded during the months of December, January and
15 February. In the months of November and March, the Company has the
16 right to nominate between zero and the maximum daily quantity on any day.
17 The price for this supply is index based with a discount.
- 18 • The Company awarded the bid for a firm citygate supply service to Virginia
19 Power Energy Marketing ("VPEM"). VPEM submitted the best overall bid,
20 based on both price and non-price factors. The contract provides for up to
21 8,000 MMBtus/day and 1,208,000 MMBtus/year during the November 2008

1 through October 2009 period. The contract provides both baseload and
2 swing nomination provisions, with index-based pricing.
3

4 As a member of the Northeast Gas Markets consortium of LDCs, the Company participated
5 in several rounds of RFPs for winter supply for its capacity from Dawn, Ontario. As a
6 result of these RFPs, the Company will purchase these volumes from Sempra Energy
7 Trading, LLC, who submitted the best overall bid based on both price and non-price factors.
8 These are baseload volumes with NYMEX-based pricing.
9

10 On 1 April 2007, the Company began receiving gas supplies from BP Canada Energy
11 Marketing Corp. for its Tennessee Niagara capacity. I had previously described this
12 contract in my 2007 Off-Peak Period Cost of Gas Testimony. The contract allows for
13 monthly nominating flexibility, with an index-based price.
14

15 For its Portland Natural Gas Transmission capacity, the Company continues to contract on a
16 month-to-month basis for supplies, purchased at the Company's primary receipt point
17 designated as Pittsburg, NH, and delivered to its citygate station in Berlin, NH.
18

19 For its underground storage supplies, the Company began storage refill in April 2008. The
20 objective of the summer refill program is to purchase supply as ratably as possible
21 throughout the seven-month April through October off-peak period. The Company plans to

1 have all storage fields, with the exception of its Tennessee FS-MA storage, 100 percent full
2 by 1 November 2008; the Tennessee FS-MA field is targeted to be 95 percent full by 1
3 November 2008. The 5 percent unfilled portion of FS-MA storage provides a buffer which
4 allows the Company operational flexibility to inject some of its Tennessee long-haul supply
5 into storage if needed due to weather fluctuations during the month of November. By 1
6 December 2008, it is the Company's plan to have all of its storage fields 100 percent full.

7
8
9 **Q. Would you describe the additional sources of gas supply available to the Company**
10 **that do not require pipeline transportation capacity?**

11 **A.** The Company has four additional sources of gas supply available to it.

12
13 First, the Company has a contract with Distrigas of Massachusetts ("Distrigas") to provide
14 firm supply of up to 8,000 MMBtu/day and 1,208,000 MMBtu/year. This supply is
15 delivered to the Company's city gate stations as a firm delivered service. This contract is
16 set to expire on October 31, 2008 and will be replaced with the VPEM supply discussed
17 above.

18
19 Second, the Company holds a contract with Distrigas to provide liquid-only supply of
20 50,000 MMBtu/year that the Company can use to refill its own LNG storage tanks. This
21 contract will expire on October 31, 2009. Also, the Company, along with its

1 Massachusetts affiliates Boston Gas Company, Colonial Gas Company and Essex Gas
2 Company each d/b/a National Grid, is a party to a contract with Distrigas for up to 1 Bcf of
3 liquid-only supply that can be used to refill any of the National Grid LNG storage tanks in
4 New England, including those serving New Hampshire.

5
6 Third, the Company holds a supply-sharing agreement with AES Londonderry, LLC
7 (presently known as Granite Ridge Energy, LLC) to provide up to 15,000 MMBtu/day and
8 450,000 MMBtu per contract year. The pricing terms of this contract have been previously
9 disclosed to the Commission, and they will not be discussed here because of their
10 confidential nature. This contract is only available to the Company during the December
11 through February period of each contract year. The initial term of this contract expired in
12 2007. On October 23, 2007, the Company executed an amendment to the original contract
13 to account for a number of changes, including an additional five year term, starting with the
14 2007/08 peak period. In addition, the amended agreement requires the parties to negotiate
15 the pricing formula prior to the start of each contract year. The Company is currently in
16 negotiations regarding the price to be paid for this supply for this upcoming winter season.

17
18 Finally, when supplies are available and when it is cost-effective, the Company can obtain
19 supplies from other supply vendors. The natural gas market within the Northeast United
20 States has evolved to the point that firm supplies, deliverable to the Company's city gate
21 stations, are available on most days throughout the year.

1

2 **Q. Please describe the supplemental gas supply facilities available to the Company?**

3 A. The Company owns three LNG vaporization facilities in Concord, Manchester and Tilton
4 that have a combined operational vaporization rate of 23,712 MMBtu/day and a combined
5 workable storage capacity of 13,057 MMBtu. Additionally, the Company owns four
6 propane facilities in Amherst, Manchester, Nashua and Tilton that have a combined
7 operational vaporization rate of 35,000 MMBtu/day and a combined workable storage
8 capacity of 100,993 MMBtu.

9

10 The Company's LNG facilities are refilled with liquid from Distrigas using either or both
11 of: 1) the ENGI liquid-only contract and 2) the 1 Bcf Firm Liquid Contract to which all of
12 the National Grid New England companies are a party. During the 2008 off-peak period,
13 the Company offset boiloff losses by periodically trucking LNG liquid to its facilities. The
14 Company is currently in the process of issuing an RFP for its dedicated LNG trucking
15 requirements for the peak period.

16

17 Following the 2007/08 peak period, the Company's propane facilities were full and they
18 remain ready for the 2008/09 peak period. Additionally, the Company currently has
19 approximately 622,000 gallons of propane stored at the National Grid propane facilities in
20 Massachusetts on behalf of National Grid NH. . The Company is currently in the process of

1 issuing an RFP for its winter propane supply and transportation needs for the upcoming
2 peak period.

3
4
5 **Q. Mr. Poe, what was the source of the projected sendout requirements and costs used in**
6 **this filing?**

7 A. As in prior cost of gas filings, the Company used projected sendout requirements and costs
8 from its internal budgets and forecasts.

9
10 **Q. Would you please describe the forecasted sendout requirements for the peak period of**
11 **2008/09?**

12 A. Schedule 11A of the Company's filing shows the Company's forecasted sendout
13 requirements for sales customers of 95,368,818 therms over the period November 1, 2008
14 through April 30, 2009 under normal weather conditions, down 5.4% from last year's value
15 of 100,833,527 therms. Schedule 11B shows the Company's forecasted sendout
16 requirements for sales customers of 103,985,815 therms over the period November 1, 2008
17 through April 30, 2009 under design weather conditions, down 6.3% from last year's value
18 of 111,010,897 therms. This shows that design weather requirements are 9.0 percent
19 greater than normal sendout requirements for weather that is 8.5 percent colder than normal.
20 In Schedule 11C, the Company summarizes the normal and design year sendout
21 requirements, the seasonally-available contract quantities, and the utilization rates of its

1 pipeline transportation and storage contracts. Schedule 11D shows the Company's
2 forecasted design day sendout for sales customers for the upcoming 2008/09 winter of
3 1,306,916 therms, down 1.4 percent from last year's figure of 1,325,706 therms. The
4 principal factor driving the year-to-year decreases is the increased shift from sales service to
5 the Company's Customer Choice transportation program.

6
7 **Q. Does this conclude your direct prefiled testimony in this proceeding?**

8 **A.** Yes, it does.
9

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

**Re: EnergyNorth Natural Gas, Inc.
d/b/a National Grid NH**

Winter 2008-09 Cost of Gas

Docket No. DG 08-_____

**Pre-filed Direct Testimony of
Michele V. Leone
on behalf of
EnergyNorth Natural Gas, Inc.
d/b/a National Grid NH**

August 29, 2008

1 **I. BACKGROUND**

2 **Q.** Please provide your name, job title and job description.

3 **A.** My name is Michele Leone. I am the Manager of the New England Site
4 Investigation and Remediation Program for National Grid, through which I
5 provide services to EnergyNorth Natural Gas, Inc. d/b/a National Grid NH
6 ("National Grid NH" or the "Company".) I am responsible for overseeing the
7 management of the investigation and remediation of MGP sites for National Grid
8 NH as well as for the Company's Massachusetts and Rhode Island affiliates.

9 **Q.** Please describe your educational and professional background.

10 **A.** I hold a Bachelor of Science in Environmental Engineering from Syracuse
11 University, and a Master of Science in Engineering in Environmental Engineering
12 from the University of Michigan at Ann Arbor. I have been employed by
13 National Grid since December 2000 in the Site Investigation and Remediation
14 Group, managing the investigation and remediation of MGP sites. Prior to my
15 employment by National Grid, I held the position of Project Manager for an
16 environmental consulting firm, with responsibility for the investigation and
17 remediation of numerous hazardous waste sites and for providing technical
18 support to expert witnesses in litigation cases.

19 **Q.** What is the purpose of your testimony?

20 **A.** The purpose of my testimony is to discuss the status of site investigation and
21 remediation efforts at various MGP sites in New Hampshire, to briefly describe
22 the MGP-related activities performed by the various contractors and consultants

23 the costs for which National Grid NH is seeking rate recovery, and to describe
24 the efforts that National Grid NH has made to seek reimbursement for MGP
25 related liabilities from third parties in order to diminish the costs submitted for
26 recovery from the Company's customers. My testimony is intended to update the
27 information provided by the Company in prior cost of gas proceedings. The costs
28 associated with these investigations and remediation efforts and certain of the
29 amounts recovered from third parties are included in the schedules and other data
30 prepared by Ms. Leary as part of the Company's cost of gas filing.

31 **STATUS OF INVESTIGATION AND REMEDIATION ACTIVITIES**

32 **Q.** Will you please briefly describe the status of each of the Company's MGP sites?

33 **A.** Rather than reviewing each of these sites in a question and answer format,
34 consistent with past practice, the description of the status of investigation and
35 remediation efforts at each site as well as the various efforts to recover the site
36 investigation and remediation costs from third parties are summarized in materials
37 included with Tab 20 of the Company's filing. These summaries follow the
38 format that has previously been agreed upon in discussions between the Company
39 and Commission staff. In addition, as previously ordered by the Commission, in
40 July the Company held what has become an annual technical session with the
41 Commission staff (as well as the Consumer Advocate) to keep the Commission
42 apprised of the status of site investigation and remediation efforts, as well as cost
43 recovery efforts against third parties.

44 **Q.** In 2004, the Company began an investigation of a disposal area associated with
45 the Laconia MGP. Please briefly describe the current status of the Company's
46 investigation and any significant events over the course of the past year.

47 **A.** The disposal area, known as Lower Liberty Hill, is located in what is now a
48 residential neighborhood in Gilford. The Company completed investigation
49 activities at Lower Liberty Hill in 2007 and the results indicate that soil and
50 groundwater contamination from MGP waste products have impacted locations
51 formerly occupied by four residential properties and a portion of an abutting
52 stream. These impacts are primarily located in sub-surface soils, and in deep
53 groundwater. No drinking water impacts have been found. A Remedial Action
54 Plan was submitted to NHDES in February 2007, which recommended a remedial
55 alternative consisting of a subsurface containment wall, limited soil removal and
56 an impermeable cap. In September 2007, NHDES, responded to the February
57 2007 Remedial Action Plan and required the Company to evaluate additional
58 remedial alternatives that included further soil removal. In November 2007, the
59 Company submitted a revised Remedial Action Plan to NHDES. The revised
60 plan recommended a remedial alternative that included construction of a
61 subsurface containment wall, removal of tar-saturated soils to a depth of
62 approximately 45 feet, and installation of an impermeable cap on the four
63 residential properties owned by the Company. On February 29, 2008, NHDES
64 issued a letter to the Company indicating that it had reached a preliminary
65 determination that the remedy recommended in the November 2007 RAP met the

66 NHDES requirements and that a final decision would be reached following a
67 public meeting and comment period. Following a public meeting in March and a
68 six week public comment period, NHDES issued a letter on June 26, 2008,
69 deferring its final decision on the recommended remedial alternative for the
70 Lower Liberty Hill site pending further data analysis following the development
71 of a scope of work prepared after consultations between NHDES, the Town of
72 Gilford and National Grid NH . In July and August 2008, technical
73 representatives from National Grid NH , the Town of Gilford, the Liberty Hill
74 neighborhood and NHDES met to discuss the comments provided to NHDES
75 during the public comment period and discuss the scope for additional
76 groundwater modeling activities and limited additional site data collection. The
77 Company will submit a Scope of Work for groundwater modeling and additional
78 data collection to NHDES in September 2008 and expects to complete the
79 modeling and data collection activities in the first quarter of 2009, assuming that
80 NHDES approves of the scope in September 2008.

81 **Q.** Please briefly describe the current status of the Company's remediation work at
82 the Manchester MGP.

83 **A.** In June 2008, the Company began remedial activities in the Merrimack River near
84 the former MGP in Manchester. As part of these activities, National Grid NH
85 dredged approximately 9,000 cubic yards of coal tar impacted sediments from the
86 river. Because of the limited space available to handle the sediments once they
87 were dredged from the river, National Grid NH I has had to lease space from the

88 City of Manchester to dewater, stabilize and prepare the impacted sediment for
89 transport to the disposal facility. National Grid NH negotiated with the City to
90 close the River Walk adjacent to the construction site to eliminate unsafe
91 pedestrian traffic through the area. The river dredging activities were
92 substantially complete in late 2007 and final restoration activities were completed
93 in May 2008. Draft and final Remedial Action Implementation Reports
94 documenting the sediment remediation activities were submitted to NHDES in
95 May and August 2008, respectively. Pre-design investigations and preparation of
96 a Remedial Action Plan are ongoing on the upland portion of the former MGP site
97 in 2007/2008. In addition, National Grid NH has begun interim remediation
98 activities at the site. Following a review of the data to be collected during some
99 of the pilot interim activities, the upland Remedial Action Plan is expected to be
100 completed and submitted to NHDES in fall 2009.

101 **Q.** Please briefly describe the current status of the Company's remediation work at
102 the Nashua MGP.

103 **A.** In November 2007, the Company submitted and NHDES approved a workplan for
104 a coal tar recovery pilot test at the Nashua MGP site. Permitting activities for the
105 pilot test activities began in late 2007, with the Company applying for two local
106 and one state permit. The Company attended numerous hearings related to
107 obtaining the permits and obtained the three permits in April and late May 2008.
108 In June 2008, we installed six extraction wells for pilot testing at the site. The
109 Company is currently completing the construction of the coal tar recovery system

110 (i.e., the equipment that will be use to pump, collect and temporarily store the coal
111 tar on-site) and anticipates starting coal tar recovery in late 2008.

112 Q. What other MGP investigation and remediation activity has the Company
113 undertaken in the last year?

114 A. Lower Liberty Hill, Manchester and Nashua are the three sites where there is
115 significant activity involving the Company. However, smaller investigation and
116 monitoring efforts are ongoing at Concord Pond. In addition, the Company
117 recently bid the NHDES-approved scope of work for additional investigation
118 activities at the Concord MGP and awarded the contract in late July 2008. The
119 Company met with NHDES at the site in August and expects the investigation to
120 commence in fall 2008, pending access being provided by several property
121 owners. As I mentioned previously, the summaries included in the Company's
122 cost of gas filing provide additional detail regarding all of the Company's former
123 MGP sites.

124
125 **III STATUS OF INSURANCE COVERAGE LITIGATION**

126 Q. Have there been any recent significant developments in the Company's efforts to
127 seek contribution from its insurance carriers that you wish to discuss?

128 A. There have been several significant developments during the past year in the
129 Company's third party cost recovery efforts. As of early 2007, all of ENGI's
130 insurance coverage claims for the Concord, Nashua, Laconia and Dover MGP
131 sites had been resolved by way of settlement or verdict in favor of the Company.

132 As a result, significant recoveries, both for indemnity and reimbursement of
133 attorneys fees, had been obtained.

134 By the middle of 2007, all but one of the insurance companies subject to the
135 Company's federal court claim for coverage on the Manchester MGP liability
136 had settled, resulting again in significant recoveries. In the Manchester coverage
137 action, the Company had settled with five of the six insurance company
138 defendants named in the suit. The sole remaining defendant was American
139 Reinsurance (AmRe), an excess carrier which had provided one year of coverage
140 for calendar year 1972.

141 Prior to the start of trial in April 2006, Am Re stipulated to all factual issues that
142 would have been at issue in the declaratory judgment action, but took the position
143 that its defense rested solely on a question of law – whether a proper allocation of
144 liability to all available insurers would insulate it from any duty to indemnify. the
145 Company argued that upon the triggering of coverage, each insurer becomes
146 jointly and severally liable to indemnify the Company , up to its policy limits.

147 AmRe argued that liability should be prorated, by some formula, to all insurers
148 and that under any pro-ration formula, the Company would not reach AmRe's
149 policy limits. A second issue arose over whether the Company was entitled,
150 under New Hampshire's Declaratory Judgment Act, RSA 491:22-b, to recover its
151 attorneys' fees and costs from AmRe, even if AmRe was successful in its
152 coverage argument. Essentially, AmRe argued that it was responsible for the
153 Company's litigation costs only if AmRe ended up actually having to indemnify

154 the Company for environmental costs after payments by all other available
155 insurers. The Company, on the other hand, argued that because it had previously
156 established that its claim against AmRe would be covered by the policy if the
157 Company's expenses at the Manchester MGP site were great enough to reach the
158 level at which the AmRe policy attached, it was irrelevant whether AmRe actually
159 ended up having to pay any of the Company's environmental expenses.
160 Because these remaining issues were unsettled under New Hampshire law, the
161 federal court certified questions to the New Hampshire Supreme Court to obtain
162 definitive statements of New Hampshire Law. In an opinion dated October 18,
163 2007, the Supreme Court of New Hampshire answered the questions of law that
164 had been directed to it by Judge Barbadoro of the United States District Court for
165 the District of New Hampshire. To the allocation question, the Supreme Court
166 ruled that pro-rata is a superior allocation methodology to that of joint and
167 several liability and therefore found in favor of AmRe. As a result, the Company
168 could not recover any MGP remediation expenses from AmRe. As to the
169 question of attorneys' fees and costs, the Court ruled that if the insured has
170 obtained rulings against an excess insurer that will require the insurer to
171 indemnify it, the insured has prevailed within the meaning of RSA 491:22-b, and
172 is entitled to recover its reasonable attorneys' fees and costs regardless of whether
173 because of coverage from other insurers the excess insurer is ever required to
174 actually make payment to the insured. The matter was then remanded back to
175 Judge Barbadoro at the United States District Court for final adjudication. Judge

176 Barbadoro directed the parties to mediate any remaining disputes with respect to
177 the amount of attorneys fees owed, and a confidential final settlement was
178 reached and the case dismissed in July, 2008.

179 At this point all of the insurance coverage cases, except the case related to the
180 Keene MGP, are completed. It is anticipated the allocation decision from the
181 Supreme Court, discussed above, will facilitate settlement discussions with the
182 one insurance company that has not yet settled in that case, making trial of the
183 Keene coverage case unlikely in the next year; although it is still a possibility.

184 **Q.** Does this conclude your direct testimony?

185 **A.** Yes, it does.
186