STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 21-132

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

2021/2022 Winter Cost of Gas

Order Approving Cost of Gas Rates

O R D E R N O. 26,542

October 29, 2021

In this order the Commission approves, on a provisional and interim basis, cost of gas (COG) rates for all customers for the 2021-2022 winter period of $1.9868 per therm for the non-fixed price (Non-FPO) option and a fixed price option (FPO) rate of two cents above the Non-FPO rate or $2.0068 per therm. The Non-FPO COG rate of $1.9868 per therm is an increase of $0.9615 or 93.8 percent from the winter 2020/2021 approved rate of $1.0253 per therm. The FPO rate is $2.0068 per therm, representing an increase of $0.7768 per therm or 63 percent from last winter's interim fixed rate of $1.2300. The increased costs for the winter and summer periods are reflective of the commodity market and the company's management related thereto.

I. PROCEDURAL HISTORY

On September 15, 2021, Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty-Keene Division (Liberty-Keene or the Company) submitted a winter 2021/2022 COG filing outlining its proposed COG and fixed price option (FPO) rates for the winter period (November 1, 2021 through April 30, 2022). On September 23, 2021, the Office of Consumer Advocate (OCA) filed a letter indicating that it would be participating in the docket on behalf of residential ratepayers. Liberty-Keene filed an updated request for FPO COG and non-FPO COG rates on October 18, 2021. A hearing was held on October 25, 2021. The parties filed briefs on October 27, 2021. The COG submission 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/2021/21-132.html.

II. BACKGROUND

The COG adjustment mechanism was implemented in 1974 during a time of rapidly changing prices to reflect increases and decreases in energy supply costs in customer rates without having to go through extended proceedings to change fuel delivery rates. Liberty-Keene has limited control over the market price of propane and CNG, which are unregulated commodities. Similarly, it has limited control over items such as fuel transportation. The COG adjustment mechanism allows the Company to pass those costs on to its customers directly and efficiently without mark-up or profit.

COG rates are initially set using projected costs and sales for the upcoming winter period, which runs from November 1 through April 30. Through the COG adjustment mechanism, the Company may adjust COG rates monthly to take into account changes in the propane and natural gas markets based on actual costs to date and projected costs for the remainder of the period. While there is no limitation on reductions to COG rates, rates may be adjusted upward without Commission action up to a cumulative maximum of 25 percent above the approved rate. To the extent that adjustments are based on projected costs, they are subject to periodic reconciliation, after all actual costs are known and reported.

As in prior years, Liberty-Keene offers customers the opportunity to lock in a specific price per therm for gas supply through its FPO program. Under the program, a customer pays one price per therm for the gas supply portion of the monthly bill from

November 1 through April 30, regardless of market-price fluctuations. In contrast, the Non-FPO rate fluctuates with market prices and is subject to monthly increases or decreases, depending on the actual cost paid for the gas supply required to serve customers.

The Commission has also historically set the local distribution adjustment clause (LDAC) within the context of COG proceedings. The LDAC allows for recovery of expenses the Commission has approved in prior dockets through a per therm charge to be implemented through annual COG proceedings. LDAC expenses have included, among others which may be approved by the Commission, costs associated with energy efficiency, the revenue decoupling adjustment factor, winter period surcharges, environmental surcharges, rate case expenses, and residential low-income assistance program costs. Liberty-Keene and Liberty EnergyNorth customers pay the same LDAC, which is reviewed and established by the Commission in the Liberty EnergyNorth COG docket, Docket No. DG 21-130.

III. POSITIONS OF THE PARTIES

A. Liberty-Keene

The Company's proposed rates are based on forecasted propane and natural gas supply costs, CNG supply contract demand, an under-recovery of 2020-2021 winter supply costs, and a 2021-2022 winter sales forecast. The under-recovery includes the incremental cost of CNG (as compared to propane air) for the 2020-2021 winter period. Liberty-Keene's September 15, 2021 filing included proposed tariff pages, schedules, and the joint testimony of Deborah M. Gilbertson, Catherine A. McNamara, and David B. Simek. According to the filing, the initial proposed winter 2021/2022 COG rate was $1.8741 per therm for residential and commercial customers, a $0.5925 per therm increase compared to last winter's weighted average residential COG rate of $1.2816 per therm. The proposed FPO rate was $1.8941 per therm compared to last winter's FPO rate of $1.2300 per therm. The Company based this rate on the projected usage of both propane air and compressed natural gas (CNG) in Keene.

On October 18, 2021, Liberty-Keene filed updated Cost of Gas rates with supporting testimonies and attachments. According to the updated filing, the proposed Non-FPO COG rate is $1.9868 per therm which represents an increase of $0.9615 or 93.8 percent from the winter 2020/2021 approved rate $1.0253 per therm. The proposed FPO COG rate did not change in the updated filing and remains $1.8941 per therm, which represents an increase of $0.6641 per therm or 54.0 percent from last winter's interim fixed rate of $1.2300. The LDAC rate proposed as applicable to Liberty-Keene is determined and implemented in a different Liberty COG proceeding: Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, Docket No. DG 21-130. Liberty-Keene's proposed LDAC rates for November 1, 2021 through April 30, 2022 in Docket No. DG 21-130, as updated in that docket, are $0.1444 for residential customers and $0.0878 commercial customers.

In its brief, Liberty argued that the Commission should approve the FPO, even though it is lower than the updated COG rate, because customers have signed up for the rate based on the Liberty letter issued earlier. Liberty also maintained that earlier LDAC rates incorporating claimed mistakes in calculations are not final rates and can be adjusted later. Liberty also claimed that it was proper to apply the tariff effective August 1, 2021, to the entire COG period, from November 1, 2020, to October 31, 2021. Finally, Liberty did not object to moving the dispute over the approximate $4 million retroactive adjustment to a separate docket. Liberty maintained that it was not necessary for the Commission to clarify that COG rates approved effective November 1, 2021, are provisional and subject to further adjustment because, Liberty represented, that is true of all COG rates.

B. OCA

At hearing, the OCA incorporated its closing arguments from the companion Liberty Docket, DG 21-130, requested that it be allowed to file the same brief in both dockets, and requested that the Commission take administrative notice of Docket No. DG 21-130 in this docket.

In its brief, the OCA argued that the Commission should either raise the FPO rate, eliminate the FPO offering, or have Liberty shareholders pay any costs above the FPO incurred by Liberty in serving the customers for the winter period. OCA argued that it was not fair to burden all non-FPO customers with the costs of offering FPO customers below market rates. Further the OCA argued that the Commission had suspended the proposed FPO in the past, and that Liberty's letter to customers advised them that the rate had to be approved by the Commission and was thus subject to a condition precedent.

OCA also argued that a number of issues surrounding the revenue decoupling adjustment factor (RDAF) remained in dispute at the conclusion of the hearing, including the requested $4 million recovery, the effective date of the new RDAF, and the operation of the new RDAF tariff.

C. Energy

At hearing Energy recommended reforming the COG and LDAC process to allow more time to consider rate changes and to require earlier filings of updated rates. In its brief, Energy moved to have the Commission suspend any automatic prudence or finality regarding Liberty's proposed under or over recoveries for the period November 1, 2020 through October 31, 2021, in both the Liberty EnergyNorth docket, DG 21-130, and the Liberty-Keene docket, DG 21-132. This request was based upon disputes over the operation of the revenue decoupling adjustment factor, the timing of the implementation of the new tariff, the lack of a conforming accepted tariff to date for the RDAF, and the lack of a completed audit of the reconciliation,

Energy also pointed out that Liberty's recent updates contain extensive revisions and have not been thoroughly reviewed or audited. As a result, Energy represented it is not able to determine whether Liberty has actually removed all of the $4 million adjustment from the prior period reconciliations, or from the current LDAC rates. Citing a prior Commission order, *Liberty Utilities (Energynorth Natural Gas) Corp. D/B/A/ Liberty Utilities—Keene Division Winter 2020-2021 Cost of Gas Order,* 26,480 (May 14, 2021) at 18-19, Energy argued that it is necessary to suspend the otherwise assumed finality associated with approving COG rates based upon prior period reconciliations.

IV. COMMISSION ANALYSIS

A. Cost of Gas Rates

The Commission has broad statutory authority to set rates in addition to "powers inherent within its broad grant" of express authority. *See Appeal of Verizon New England, Inc.*, 153 N.H. 50, 64-66 (2005) (citations omitted). The Commission applies the "just and reasonable" ratemaking standard of RSA 374:2 and RSA 378:7 when setting COG rates. *See Northern Utilities, Inc.*, Order No. 25,891 (April 29, 2016).

We are disappointed that Liberty's current compressed natural gas and propane procurement strategy was not more effective at reducing the market volatility reflected in the large rate increase in COG rates. In the future we will consider reviewing Liberty's gas and propane procurement strategy and decisions to minimize the impact on ratepayers' cost.

Based on our review of the record in this docket, we find the proposed 2021-2022 winter COG rates, as adjusted related to the FPO below, just and reasonable. We approve on a provisional and interim basis the COG rates contained in updated Exhibit 1, subject to the adjustment to the FPO rate below.

Regarding the proposed FPO rate, we find, given the significant increase in natural gas supply and propane costs that have occurred between Liberty's filing on September 15 and its updated COG filing on October 18, and the likelihood of resulting incremental costs being shouldered by non-FPO customers if the FPO program were to be implemented, that the proposed FPO rates are not just and reasonable under RSA 374:2 and RSA 378:7. As a result, we reject those rates and direct Liberty to offer those customers that elected to enroll in the FPO the following two options: (1) Participate in the FPO for the 2021-2022 winter heating season at a recalculated FPO rate two cents higher than the COG rate approved herein, or (2) De-enroll from the FPO and take service under the COG rate.

Regarding the LDAC rate which is set in Docket No. DG 21-130, several issues remain unresolved. In DG 21-130 we have ordered Liberty to make adjustments to its proposed LDAC rate. As a result, we approve the inclusion of the LDAC rate established in DG 21-130, as adjusted by our order in that docket, in the Liberty-Keene COG rates, pending the development of a more complete record and further hearings in the new docket.

Once a final COG and LDAC rate is approved, Liberty shall adjust its COG and LDAC rates on the first day of the following month for the duration of the winter period, or if delayed beyond the winter period, then during the following 2022 summer period.

Pursuant to *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, Order No. 24,963 (April 30, 2009), Liberty-Keene may, without further Commission action, adjust its approved COG rates based on the projected over- or under-collection for the period, the adjusted rate to be effective the first day of the month and not to exceed, cumulatively, a maximum rate of 25 percent above the approved rate. Going forward, Liberty-Keene is required to advise the Commission immediately when it appears that rates are projected to increase above the 25 percent cap so that the Commission may consider adjusting the rate above the cap.

Pursuant to the Settlement Agreement approved in Docket No. DG 20-105 (Liberty Rate Case) Liberty-Keene is required to refund a portion of CNG incremental costs through an adjustment to COG rates. *See* Order No. 26,505 (July 30, 2021). Liberty-Keene has included the CNG incremental cost adjustment in this COG filing as required.

B. Administrative Notice

In its closing at hearing, Energy requested the Commission take administrative notice of Docket No. DG 21-130, which is the Liberty EnergyNorth COG docket. No party objected. Pursuant to N.H. Code of Admin. R. Puc 203.27(a) "The commission shall take administrative notice when a party presents one or more of the following: …(2) The relevant portion of the record of other proceedings before the commission…." Because the LDAC rate is determined in Docket No. DG 21-130 and then applied to rates for Liberty-Keene in this docket, and because the parties referenced evidence and arguments presented during the hearing in Docket DG 21-130, we will take administrative notice of the record in DG 21-130 in this docket.

Based upon the foregoing, it is hereby

ORDERED, that Northern Utilities, Inc.'s 2021-2022 winter period COG per therm rates effective for service rendered on or after November 1, 2021, are approved on a provisional and interim basis as follows:

Customer Class	2021-22 Winter COG	2021-22 Winter Maximum COG
Non-FPO COG	$1.9868	$2.4835
FPO COG	$2.0068	

; and it is

FURTHER ORDERED, that that Liberty-Keene may, without further Commission action, adjust its approved COG rates based on the projected over- or under-collection for the period, the adjusted rate to be effective the first day of the month and not to exceed, cumulatively, a maximum rate of 25 percent above the approved rate (said maximum rates identified in the table above) with no limitation on reductions to the COG rates; and it is

FURTHER ORDERED, that that Liberty-Keene shall provide the Commission with its monthly calculation of the projected over- or under-collection, along with the resulting revised COG rates for the subsequent month, not less than five business days prior to the first day of the subsequent month. Liberty-Keene shall also include revised Calculation of the Firm Sales COG Rate annotated tariff pages, and revised rate schedules under separate cover letter if Liberty-Keene elects to adjust COG rates, with revised annotated tariff pages to be filed; and it is

FURTHER ORDERED, that the over- or under-collection shall accrue interest at the prime rate as reported by the Federal Reserve Statistical Release of Selected Interest Rates, the rate to be adjusted monthly; and it is

FURTHER ORDERED, that Liberty-Keene's proposed LDAC per therm rates effective for service rendered on or after November 1, 2021, through October 31, 2022, are approved on a provisional and interim basis at $0.1444 for residential customers and $0.0878 commercial customer, as adjusted for rate case expenses and RDAF by our order today in Docket No. DG 21-130, and subject to further interim adjustments following Commission decisions on various rate elements contained in the LDAC; and it is

FURTHER ORDERED, Liberty shall explore with the parties to this docket a separate filing schedule and process for review and approval of LDAC charges, as well as a modified schedule for filing updates to the COG rates prior to hearing. The parties are to report their recommendations to the Commission within 60 days of this order; and it is

FURTHER ORDERED, that none of the COG and LDAC rates provisionally approved as interim rates today comprise final Commission decisions on those rates or on the various inputs to those rates; and it is

FURTHER ORDERED, that Liberty-Keene shall promptly file properly annotated tariff pages in compliance with this order no later than 15 days from the issuance date of this order; and it is

FURTHER ORDERED, that Liberty-Keene track and report incremental natural gas savings and costs in COG reconciliations to be determined by comparing the individual CNG and LNG supply costs at the time of delivery with spot propane prices at that time; and it is

FURTHER ORDERED, that Liberty-Keene shall ensure that, in all future initial filings, for all fuel types planned for use in supplying customers (including CNG, LNG, propane) the fuel types and costs for fuels shall be specified in summaries as well as in discrete schedules, and Summary Schedule A, as currently configured, shall remain a component of future filings unless otherwise ordered.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of October, 2021.

Dianne Martin Chairwoman	Daniel C. Goldner Commissioner

Service List - Docket Related

Docket# : 21-132

Printed: 10/29/2021

Email Addresses

ClerksOffice@puc.nh.gov
Energy-Litigation@energy.nh.gov
paul.b.dexter@energy.nh.gov
thomas.c.frantz@energy.nh.gov
deborah.gilbertson@libertyutilities.com
maureen.karpf@libertyutilities.com
donald.kreis@oca.nh.gov
catherine.mcnamara@libertyutilities.com
steven.mullen@libertyutilities.com
amanda.o.noonan@energy.nh.gov
ocalitigation@oca.nh.gov
Maureen.l.reno@oca.nh.gov
mary.e.schwarzer@energy.nh.gov
michael.sheehan@libertyutilities.com
david.simek@libertyutilities.com
karen.sinville@libertyutilities.com