STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DG 21-050

LIBERTY UTILITIES (ENERGYNORTH NATURAL GAS) CORP.
D/B/A LIBERTY KEENE DIVISION

Summer 2021 Cost of Gas

Order Approving Cost of Gas Rate

O R D E R N O. 26,475

April 30, 2021

APPEARANCES: Michael J. Sheehan, Esq., on behalf of Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty [Keene Division]; Office of the Consumer Advocate by Christa Shute, Esq., on behalf of residential ratepayers; and Mary E. Schwarzer, Esq., on behalf of Commission Staff.

In this order, the Commission approves a Summer 2021 cost of gas rate as proposed by Liberty Utilities for its Keene Division and modified by Commission Staff's recommendations at hearing. The initial cost of gas rate for the period shall be $1.1821 per therm. The impact of the cost of gas rate change is an overall increase of approximately $42 or 20 percent in the typical residential customer's summer costs compared to last year's summer cost.

I. PROCEDURAL HISTORY

Liberty Utilities (EnergyNorth Natural Gas) Corp., d/b/a Liberty, Keene Division (Liberty Keene, Liberty, or the Company) is a public utility distributing propane-air and compressed natural gas (CNG) in Keene, New Hampshire.[1] Liberty-Keene serves approximately 1,250 customers.

[1] Liberty Utilities is comprised of multiple divisions, with a single COG for all divisions, other than the Keene Division. (Note, the "Keene Division" is not a separate legal entity; it is a separate franchise or region with a separate COG). The cost of gas for all other divisions is referred to as the EnergyNorth COG. The local distribution adjustment charge (LDAC) rates and distribution rates are applicable to all Liberty customers. LDAC rates effective

On March 15 2021, Liberty Keene filed its proposed cost of gas (COG) rate of $1.2165 for the 2021 summer period. The summer period runs May 1 through October 31, 2021, (Summer 2021). Liberty Keene's filing consisted of the pre-filed testimony and supporting tariff pages and schedules of Deborah Gilbertson, Senior Manager, Energy Procurement, and Catherine McNamara, Rates Analyst II of Liberty Utilities Service Corp. (LUSC). LUSC provides services to Liberty Utilities (EnergyNorth Natural Gas) Corp, including the Keene Division. On March 18, 2021, the Office of the Consumer Advocate (OCA) notified the Commission of its participation on behalf of residential ratepayers pursuant to RSA 363:28. The Commission issued an order of notice on March 23 scheduling a technical session for April 1 and a hearing for April 19.

Staff and the OCA each issued data requests and technical session data requests. A technical session and hearing were held as scheduled. At hearing, the Commission bifurcated rate and non-rate matters raised. The hearing focused on rates. The Commission directed Liberty, Staff, and OCA to work together to address the concerns raised by Staff with regard to non-rate issues raised by Liberty's CNG contract, signed in January 2021 and effective July 1, 2021. Liberty pre-marked for identification an unexecuted amendment to its contract. Tr. at 13. Due to bifurcation of the issues, the exhibit was not admitted as a full exhibit during the hearing. The Commission directed Liberty to file an executed amended contract on or before June 1, 2021, that is consistent with applicable laws and administrative rules. Tr. at 35.

Liberty witness Debra Gilbertson and Staff witness Stephen Frink adopted their pre-filed testimony as filed. Liberty witness Catherine McNamara revised her pre-filed testimony to

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November 1 are determined in EnergyNorth's annual COG proceeding. Most recently, the LDAC was determined in Order No. 26,419 (October 30, 2020).

correct the Gas Assistance Program R-4 rates on Hearing Exhibit (Exh.) 2 at 16, Tariff page 85.[2] She otherwise adopted her testimony as filed. At the conclusion of the hearing, the Commission made a record request to Liberty and designated the Company's response as "Exhibit 19." *See* N.H. Admin. R., Puc 203.30(a). Liberty timely filed its response on April 22, 2021.

Liberty Keene's COG filing and subsequent docket entries, other than any information for which confidential treatment is requested of or granted by the Commission, are posted at: https://www.puc.nh.gov/Regulatory/Docketbk/2021/21-050.html.

II. COST OF GAS ADJUSTMENT MECHANISM

The COG adjustment mechanism was implemented in the 1970s during a time of rapidly changing prices as a way to reflect increases and decreases in energy supply costs in customer rates without having to go through extended proceedings to change fuel delivery rates. *Claremont Gas Light Company*, Order No. 17,949, 70 NH PUC 937, 942 (November 15, 1985). Supply costs are expected to comprise approximately half of a residential customer's annual bill. Liberty Keene has limited control over the market price of unregulated commodities, including propane and CNG. Similarly, it has limited control over items such as transportation costs. The COG mechanism allows the Company to pass those costs on to its customers directly and efficiently, without mark-up or profit, and to minimize the reconciliation adjustments for the following season, to the extent possible.

COG rates are initially set by the Commission using reconciled actual costs from the prior season and projected commodity costs and sales for the upcoming summer or winter period. Through the adjustment mechanism, Liberty Keene may adjust the COG rates monthly, to take into account changes in the propane and natural gas markets based on actual costs to date

[2] All page references for exhibits are to Bates-numbered pages.

and costs projected for the remainder of the period. While there is no limit on reductions to COG rates, rates may be adjusted upward without Commission action only up to a cumulative maximum of 25 percent above the initial approved rate. COG calculations and monthly adjustments, if any, ("trigger filings") are filed with the Commission no fewer than five business days before the first of the month until the next COG proceeding establishes new rates.

Supply costs and revenues are reconciled semi-annually. During each summer COG rate proceeding, the Commission reconciles the actual costs and revenues from the prior summer period. Likewise, during each winter COG proceeding, the Commission reconciles the actual costs and revenues of the prior winter. The results of the reconciliations are reflected in the COG rate going forward.[3]

Recently, beginning with the Summer of 2019 COG period, the Company changed its method of calculating the proposed Liberty Keene COG rate by removing production costs. By agreement of the parties, the appropriate manner in which to account for, and recover, production costs related to the Keene distribution system will be determined in a future Liberty Utilities' distribution rate case. *See Liberty Utilities (EnergyNorth Natural Gas) Corp, d/b/a Liberty Utilities Keene Division, Summer 2020 COG*, Order No. 26,351 at 3-4 (April 30, 2020). In addition, due to the COVID-19 State of Emergency, some of the 2019 summer cost reconciliation was deferred to the summer 2020 reconciliation in this (summer 2021) docket. *See* Order No. 26,351 at 3, 5.

[3] A description of supply costs and how rates are set is available on the Commission's website at http://www.puc.nh.gov/Gas-Steam/howgasratesareset.htm.

III. POSITIONS

a. Liberty Keene

The Company proposed an initial 2021 Summer COG rate of $1.2165 per therm. This rate included the reconciled incremental cost of CNG from the prior period, and allocation of CNG 2021 demand charges between the summer and winter periods at 20 percent and 80 percent respectively, based on volume usage for propane and CNG in combination. The Company did not include past CNG demand charges incurred from August 2017 through 2019 in its calculations, although the Company did provide information to permit the Commission to include those past charges if it wished to do so.

Liberty's proposed Summer 2021 per therm rate of $1.2165 is $.5116 higher than the average weighted rate of $0.7049 per therm for a typical residential heating customer during the 2020 Summer Period *See* Exh. 2 at 7, 27. Liberty's proposed rate and calculations project that the average per therm cost of CNG will be lower than the average per therm cost of propane. Exh. 2 at 31.

The following table displays the Company's expected bill impacts relative to the average summer seasonal volume of use for a residential customer based on its proposed initial per therm rate:

Liberty Keene's Proposed Typical Residential Bill Impacts in Dollars over 6 month Summer Period

Charge	2020	2021	Change	% Change
COG	$61	$106	$45	73%
Delivery	$141	$142	$1	0%
LDAC	$6	$5	-$1	0%
Total	$208	$253	$45	22%

See Exh. 2 at 27.

According to the Company, the number of Liberty Keene customers with CNG service has remained constant from the 2019 period, when the Company began operating its CNG facilities, having converted approximately twenty Liberty Keene customers from propane-air to CNG service in October 2019. *Compare Exh. 2 at 12-13 with Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, Keene Division Winter 2019-2020 Cost of Gas,* Order No. 26,305 at 4 (October 31, 2019).

According to the Company, the factors resulting in an overall increase in the proposed COG rates for the upcoming summer period as compared to the prior summer period are higher propane prices and, unlike last summer, there is not a significant over-collection of prior period gas costs offsetting the projected summer 2021 costs. Exh. 2 at 6; Hearing Transcript of April 14, 2021 (Tr.) at 51-3. For administrative ease, and to avoid a revised Company filing in this expedited docket, Liberty proposed adjusting the rate to account for a mid-April drop in propane costs in the monthly ("trigger") end-of-May cost of gas filing. Tr. at 42.

Liberty Keene's proposed rate calculation included a change in customer usage due to the recent and on-going COVID-19 State of Emergency based on actual usage during the Summer 2020 period, the first summer wherein COVID-19 was an issue.

Liberty Keene's filing also referenced a new CNG contract, signed January 6, 2021, to be effective July 1, 2021. *See* Exh. 2 at 11-13; Exh. 5 at 4-12, 14.

b. OCA

The OCA stated its support for the Company's proposed COG rate as modified by Staff's recommendations. The OCA preferred a 30 percent / 70 percent apportionment of CNG annual demand charges, consistent with the new CNG contract's estimates of prospective annual volume purchases, but supported Staff's recommendation of a 25 percent / 70 percent apportionment as a compromise. Tr. at 103-05. The OCA recommended that demand charges be calculated on a rolling basis moving forward. *Id.* The OCA also suggested that the Liberty Keene COG docket be consolidated into an annual matter, such that Liberty Keene COG rates for the winter and summer periods would be established in the October COG order, as is the case with Liberty EnergyNorth rates.

c. Staff

Staff recommended that the Company's proposed Summer 2021 COG rate be adjusted to \$1.1821 per therm. *See* Exh. 15 at 1, 2. Staff's proposed Summer 2021 per therm rate of \$1.1821 is \$0.4772 higher than the average weighted rate of \$0.7049 per therm for a typical residential heating customer during the 2020 Summer Period. *See* Exh. 2 at 7, 17; Exh. 15 at 1, 5. Using Staff's recommended per therm rate, the Summer 2021 maximum rate, i.e. a 25 percent increase above the initial rate, would be \$1.4776 per therm. *See* Exh. 15 at 1-2. The bill impact for the average residential customer would be a \$42 increase for the summer season or a 20 percent increase for Summer 2021 as compared to Summer 2020. *See* Exh. 15 at 1, 5.

Staff's proposed rate was calculated based on two modifications to Liberty's initial filing. First, Staff recommended reconciliation for the actual incremental CNG supply costs from the Summer 2020 period be removed. *See* Exh. 15 at 1, 4. Staff stated that is consistent with the Commission's treatment of incremental CNG supply costs in the Liberty Winter 2020-2021 COG Order, Order No. 26,428, at 9-10 (December 2, 2020) (deferring review of incremental costs to Liberty rate case). *See* Tr. at 66. Staff also stated that including reconciled incremental CNG costs in an approved prospective rate could incorrectly signal that the Commission had concluded that incremental costs were prudently incurred. Tr. at 96-7.

Staff also recommended apportioning the CNG demand charges with a 25 percent / 75 percent split between the summer and winter periods, to more accurately reflect the past average annual CNG usage by season. *See* Tr. at 68; Exh. 15 at 1, 3. Staff explained that when costs can be specifically allocated to a specific fuel type it is preferable to do so because that calculation provides a better representation of actual costs per therm of CNG. Rather than allocating CNG demand charges based on the percentage of total send-out (combined propane and CNG) used during the summer and winter periods as proposed by the Company, Staff recommended allocating CNG demand charges more aligned with the percentage of CNG used during the summer and winter periods. *See* Exh.15 at 1, 3; Tr. at 90-3. Staff also stated that the 25 percent / 75 percent split was a mid-point between Liberty and OCA's preferences. Tr. at 93. Staff's proposed modifications result in the projected average per therm cost of CNG being more expensive than the projected average per therm cost of propane. *See* Tr. at 17; Exh. 15 at 1, 6.

To avoid requiring Liberty to file an updated COG filing, and Staff and OCA's pre-hearing expedited review of the same, Staff recommended the Commission adopt the Company's proposal that the Company may consider the recent drop in the Mount Belvieu pricing for propane in its next COG Monthly Adjustment (trigger) filing in late May 2021. *See* Tr. at 72-3.

As stated above, Liberty has a new CNG contract, dated January 6, 2021, with an effective date of July 1, 2021. Staff reviewed Liberty's request for proposals (RFP) and response to the RFP (bids). Staff noted that Liberty decided not to purchase a CNG skid. Accordingly, Liberty selected the least expensive bid that did not also include a skid purchase. Tr. at 77-8. The selected bid belonged to the current provider, XNG. Staff testified that the bid selection process was reasonable and that based on information provided by Liberty and market conditions, the prospective rates are reasonable when modified as recommended by Staff. *Id.* at 76-78.

In the Liberty-Keene Winter 2020-2021 docket, the Company argued that the Commission's implementation of COG rates for the Summer 2018 period implied that the entire current CNG supply contract is reasonable, and perhaps also prudent. Staff noted its disagreement with that analysis. Staff also disagreed with the Company's argument (framed in response to discovery requests) that because the new CNG supply contract has terms that are similar to current contract terms, the new contract is reasonable. *See* Tr. at 14, 20-7, 96-7 and 107-8.

Staff asked that Liberty file COG adjustments and tariff pages (trigger filings) into the docket as well as into the Commission's electronic report filing (ERF) system. Finally, Staff asked that if an annual Liberty Keene COG process were adopted, that Liberty Keene COG hearings be held in the Summer to avoid the press of both COG expedited proceedings in the September-October time frame.

IV. COMMISSION ANALYSIS

The Commission has broad statutory authority to set rates in addition to "powers inherent within its broad grant" of express statutory authority. *Appeal of Verizon New England Inc.*, 153 N.H. 50, 64-65 (2005) (citations omitted). The Commission applies the "just and reasonable ratemaking standard of RSA 374:2 and RSA 378:7 when setting COG rates. Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities, Order No. 26,188 at 7 (November 1, 2018).

The calculation of CNG costs per therm should reflect the actual and expected cost of the CNG. Allocating the CNG demand costs over the total send-out dilutes the CNG costs by attributing them, in part, to propane customers. If the Company anticipates that actual CNG used will be 30 percent in the summer period and 70 percent in the winter period, as identified in the Company's new XNG contract, then the proposed prospective CNG rates should allocate 30 percent of CNG demand costs to the summer period. S*ee* Exh. 5 at 4-12. After the CNG and propane costs are projected as accurately as possible, those per therm costs are appropriately blended into an overall COG. Nevertheless, consistent with Staff and the OCA's positions at hearing regarding a 25 percent / 75 percent split, we approve that apportionment for this proceeding and direct the Company to split those charges based on actual seasonal CNG usage going forward.

Based on our review of the record, we approve Liberty's proposed, prospective COG rate, as modified by Staff's recommendations for the 2021 summer period as just and reasonable under RSA 374:2 and RSA 378:7. The rate has been calculated in a manner consistent with past practice excluding historic CNG demand charges, and reconciliation of incremental costs for the Summer 2020 period; and allocating demand charges by a 25 percent / 75 percent split for the summer / winter periods. We direct that the Company shall also track the incremental costs or savings of CNG and that those incremental costs shall be subject to refund if the Company's conversion to CNG, including its CNG supply contract, is deemed to be imprudent, consistent with past practice in Liberty Keene COG dockets since CNG has been served. *See, e.g.*, Exh.17 (pre-filed testimony of Stephen P. Frink filed in DG 20-152).

The Commission notes that by approving prospective COG rates for the Summer 2021 period, we make no finding on whether the CNG contract, or the proposed new CNG contract, are reasonable overall; or prudent. At hearing, Liberty agreed that "approval of rates is a finding that those rates are reasonable, and is not finding that the balance of the contract is reasonable." Tr. at 18.

We direct Liberty to make trigger filings into the docket, distributing the same to the service list. The Company need not make identical filings into the ERF system. We also find it unnecessary for Liberty to recalculate and resubmit its entire filing with reference to the Mount Belvieu change that occurred immediately before the scheduled hearing. Consistent with standard practice and this order, Liberty shall make any related adjustments in the next COG Monthly Adjustment (trigger) filing due in late May 2021.

We direct Staff, OCA, and Liberty to consider appropriate timing for a single annual COG filing for Liberty Keene COG rates. Given that the bulk of fuel usage is in the winter period, an annual COG filing in the March/April period may result in less accurate projections of winter rates. We direct Liberty, Staff, and the OCA to propose a solution to accommodate an annual filing and in so doing, to consider the timing implications to the extent practical to avoid over-burdening all parties.

The Commission has bifurcated the review of non-rate issues. Therefore, we need not address here the concerns Staff raised with regard to the non-rate contract terms. As indicated during the hearing, we direct Liberty to work with Staff and the OCA to resolve Staff concerns about non-rate contract terms on an expedited basis. We further direct Liberty to file a fully executed amended contract, consistent with applicable rules and laws, into the docket on or before June 1, 2021. Thereafter, the Commission may hold an additional hearing, if necessary.

Based upon the foregoing, it is hereby

ORDERED, that a Summer 2021 COG rate of $1.1821 per therm for the period of May 1, 2021, through October 31, 2021, is APPROVED for Liberty Keene, effective for service rendered on or after May 1, 2021, for residential and commercial and industrial customer classes; and it is

FURTHER ORDERED, that a maximum Summer 2021 COG rate of $1.4776 per therm for the period of May 1, 2021, through October 31, 2021, is APPROVED; and it is

FURTHER ORDERED, that Liberty Keene may, without further Commission action, adjust the COG rate based upon the projected over- or under-collection for the period, the adjusted rate to be effective as of the first of the month and not to exceed the maximum rate specified, $1.4776 per therm, with no limitation on reductions to the COG rate; 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 supply cost 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 filings, for all fuel types planned for use in supplying customers (including CNG, LNG, and propane) the fuel types and costs for fuels shall be specified in summaries as well as in discrete schedules, and the Summary Schedule A, as currently configured, shall remain a component of future filings unless otherwise ordered; and it is

FURTHER ORDERED, that if the Commission ultimately finds that the conversion of the Liberty Keene system from propane-air to CNG, or any other natural gas was imprudent, then all incremental costs related to the conversion and recovered through the COG will be subject to refund through a future Liberty Keene COG; and it is

FURTHER ORDERED that review of the non-rate aspects of Liberty's new CNG contract dated January 6, 2021, with an effective date of July 1, 2021, is bifurcated. Liberty, Staff, and the OCA shall work together to resolve non-rate concerns by June 1, 2021; and it is

FURTHER ORDERED that Liberty shall file a fully executed amended contract, consistent with applicable rules and laws into the docket on or before June 1, 2021; and it is

FURTHER ORDERED, that Liberty-Keene shall provide the Commission with its monthly calculation of the projected over- or under- collection, along with any resulting revised COG rate for the subsequent month, not less than five business days prior to the first day of the subsequent month, and it shall include revised tariff pages including page 90 Calculation of the Summer Cost of Gas Rate—Keene Customers, if the Company elects to adjust the COG rate; and it is

FURTHER ORDERED, that Liberty Keene shall provide its monthly COG calculation, and any resulting revised COG rate, and revised tariff page(s) (a/k/a trigger filing) by filing those documents into the docket and is no longer required to file them into the electronic report filing (ERF) system; 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 each month; and it is

FURTHER ORDERED, that Liberty Keene shall file properly annotated tariff pages in compliance with this order, as required by New Hampshire Administrative Rule, Part Puc 1603, no later than 15 days from the issuance of this order; and it is

FURTHER ORDERED, that Order No. 26,428 (December 2, 2020) is hereby modified to strike the ninth (last) ordering clause; and it is

FURTHER ORDERED, that Liberty Keene shall file its future Company COG filings no fewer than 45 days before the effective date of the proposed rate change, or 47 days before the effective date if the effective date is a weekend or holiday; applying those deadlines, the

2021-2022 winter COG shall be filed no later than September 16, 2021, and the 2022 summer COG shall be filed no later than March 17, 2022, unless otherwise ordered.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 2021.

Dianne Martin	Kathryn M. Bailey
Dianne Martin Chairwoman	Kathryn M. Bailey Commissioner

Attested by:

Debra A. Howland

Debra A. Howland
Executive Director

Service List - Docket Related

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