

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on January 21, 2004

COMMISSIONERS PRESENT:

William M. Flynn, Chairman  
Thomas J. Dunleavy  
James D. Bennett  
Leonard A. Weiss  
Neal N. Galvin

CASE 00-G-0996 – In the Matter of Establishment of Criteria for Interruptible Gas  
Service.

ORDER RELATING TO PETITIONS FOR  
REHEARING, RECONSIDERATION AND CLARIFICATION

(Issued and Effective January 28, 2004)

BY THE COMMISSION:

On November 4, 2003, we issued an order setting forth additional requirements in this case for local distribution companies (LDCs) that serve interruptible gas sales and transportation service customers.<sup>1</sup> A Petition for Rehearing, Reconsideration and Clarification of said order was filed on December 4, 2003, by KeySpan.<sup>2</sup> Also on that date, a Petition for Clarification was filed by Multiple Intervenors.

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<sup>1</sup> Case 00-G-0996, In the Matter of Criteria for Interruptible Gas Service, Order Concerning Interruptible Gas Sales and Transportation Service (issued November 4, 2003).

<sup>2</sup> The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island ("KeySpan").

## BACKGROUND

In our November 4, 2003 order, we required certain LDCs to fund a limited study of the domestic heating oil industry's infrastructure, including distillate and residual fuels, with particular emphasis on those facilities used to serve interruptible gas customers in the New York City Metropolitan area and the Hudson River corridor. Because of its oil industry expertise, we invited the New York State Energy Research and Development Authority (NYSERDA) to manage the study, in cooperation with Department of Public Service staff, subject to our review. We also invited the Department of Environmental Conservation (DEC), LDCs, and the oil associations to participate in the study. We stated that the awarding of a contract to an outside consultant shall not proceed until we approve both the final Scope of Study and the level of expenditures. We further ordered that the cost of the study be apportioned among the affected utility sectors based upon a representative year of interruptible gas sales and interruptible transportation volumes.

Our order also required that LDCs provide prior notice to oil associations, NYSERDA and us of the occurrence and expected duration of an interruption of gas service and operational flow orders (OFOs) and system alerts (SAs),<sup>3</sup> both upstream and downstream of the citygate. Lastly, we required the LDCs to alert their interruptible customers of the potential need to replenish oil storage inventories whenever accumulated gas service interruptions during the winter exceed a total of 5 days prior to February 15<sup>th</sup>.

## DISCUSSION

KeySpan's petition contains three parts. First, it recommends that we clarify our directive requiring that OFO and SA notices be provided to oil associations, NYSERDA and us. KeySpan states that it receives an average of four to six OFOs or SAs every day, and that determining which of these notices have a bearing on

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<sup>3</sup> OFOs are issued by a pipeline or LDC in difficult operational circumstances to protect the integrity of its gas system. SAs are announcements of actual or pending events that, if unchecked, may result in an OFO.

interruptible customers requires knowledge that is held uniquely by the LDC. Rather than burdening the parties with notices having little bearing on the interruptible market, KeySpan recommends that we afford LDCs the discretion to provide only meaningful notices. KeySpan's request is reasonable and we adopt it.

Second, KeySpan believes that it would be appropriate for us to encourage oil industry participants to improve communication with the gas industry with respect to the interruptible market. KeySpan elaborates by suggesting:

For example, if oil dealers provided gas utilities with periodic updates and/or forecasts as to the availability of oil supplies for interruptible customers in specific locations, the gas industry might be better able to determine which and when notices of potential interruptions would be most helpful. In addition, the Commission should encourage oil dealers (or an industry association or NYSERDA) to provide the gas utilities with contact information for local oil dealers who have available supplies in periods of extreme cold weather. Gas companies could then post this information on their web sites, making this critical information available to the customers that need it. On rehearing, the Commission should encourage improved mutual communications between the oil industry and the gas industry.

As KeySpan acknowledges elsewhere in its petition, we do not have jurisdiction over the oil industry to require it to provide such information. However, we understand that informal discussions have occurred recently between the two industries. We encourage our Staff, the Northeast Gas Association, and the Empire State Petroleum Association, Inc., to work together to set up a meaningful process to discuss pertinent issues within the framework of existing antitrust rules.

Lastly, KeySpan observes that the order is silent on what mechanism(s) should be used by LDCs to recover the cost of the oil infrastructure study. It recommends that:

...each utility's share of the cost of the study be netted against the interruptible margin flow-back going to firm customers. For utilities that have no flow-back mechanism (because sales are imputed), such as KeySpan Energy Delivery New York, the Companies propose that the cost of that utility's share of the study cost be netted against firm customers' share of margins from off-system sales. This mechanism would apply to

the same customers to whom interruptible flow-back revenue would apply. On rehearing, the Commission should clarify that gas utilities should use these rate mechanisms to recover the cost of the study required by the Order.

As we stated in our November 4, 2003 order, the cost of the study is a legitimate cost of utility business and a regulatory mandate. KeySpan's proposal is an acceptable way to recover this cost from firm customers and we adopt it; we will also allow the use of the customers' share of revenues derived from capacity releases if needed.

In a related matter, our order stated that each LDC's share of the cost of the study was to be based on a representative year of interruptible gas sales and transportation volumes. Clarification is required regarding how much weight is to be given to interruptible sales volumes versus interruptible transportation volumes. If one were to use a total throughput (sales and transportation) cost sharing methodology, we believe that the customers of Consolidated Edison Company of New York, Inc., would be required to pay a disproportionately larger share of the cost than would other LDC customers, since that utility transports a large quantity of gas to interruptible electric generation customers. Thus, we believe that an equivalent weighting should be applied to both the interruptible sales and transportation volumes. Specifically, we will require that each LDC's percentage share of total interruptible sales volumes in calendar year 2002 be given a 50% weighting, and each LDC's percentage share of interruptible transportation volumes in the same year will receive the remaining 50% weighting. Under this methodology, the LDC cost responsibility for the oil infrastructure study will be as follows:

Central Hudson Gas & Electric	1.4%
Niagara Mohawk Power Corporation (East Gate)	4.7%
Orange & Rockland Utilities, Inc.	6.0%
KeySpan Long Island	9.0%

Consolidated Edison	38.9%
KeySpan New York	<u>40.0%</u>
	100.0%

Multiple Intervenors (MI) filed a petition for clarification of one issue. Our order required the LDCs to alert their interruptible customers of the potential need to replenish oil storage inventories whenever accumulated gas service interruption during the winter exceeds a total of 5 days prior to February 15<sup>th</sup>. MI requests that we clarify that customers are not obligated to replenish their fuel supplies on an on-going basis during the winter to comply with the alternative fuel supply arrangements, particularly those that shut down operations during critical periods.

MI's interpretation is correct. We are not requiring customers to replenish fuel supplies on an ongoing basis. As we noted in a prior order,<sup>4</sup> customers are on notice that the required amount of alternate fuel storage is a minimum to achieve compliance. Customers remain at risk to have adequate inventories to meet greater periods of interruption.

The Commission orders:

1. The petitions for rehearing, reconsideration and/or clarification are granted to the extent discussed above.
2. The LDC cost responsibility for the oil infrastructure study, and methodology for recovering such cost from customers, is set forth above.
3. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING  
Secretary

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<sup>4</sup> Case 00-G-0996, In the Matter of Criteria for Interruptible Gas Service, Order Directing Utilities to File Revised Interruptible Gas Service Tariffs (issued August 24, 2000).