STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on March 19, 2020

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Diane X. Burman, concurring
James S. Alesi
Tracey A. Edwards
John B. Howard

CASE 20-G-0131 - Proceeding on Motion of the Commission in Regard to Gas Planning Procedures.

ORDER INSTITUTING PROCEEDING

(Issued and Effective March 19, 2020)

BY THE COMMISSION:

INTRODUCTION

By this Order the Commission institutes a new proceeding to consider issues related to gas utilities' (also known as local distribution companies, or LDCs) planning procedures.

BACKGROUND

Gas utilities in several regions of New York State have recently claimed supply constraints that may prevent them from accepting applications for new firm service. LDCs have invoked moratoria on new service connections in some locations, leading in some cases to customer hardships.[1] In resolving the moratorium invoked by KEDNY and KEDLI, the Commission-adopted settlement requires those LDCs to develop a “Long-Term Capacity Report” to address the long-term capacity constraints affecting their operations.[2]

These circumstances demonstrate that conventional gas planning and operational practices adopted by natural gas utilities have not kept pace with recent developments and demands on energy systems. Gas utilities need to learn from recent experience and adopt improved planning and operational practices that enable them to meet current customer needs and expectations in a transparent and equitable way while minimizing infrastructure investments and maintaining safe and reliable

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1 On January 17, 2019, Consolidated Edison Company of New York, Inc. (Con Edison) notified the Commission of a moratorium on new firm gas service in most of Westchester county, commencing March 15, 2019. Beginning November 2018, The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY), serving Brooklyn and parts of Queens, and KeySpan Gas East Corporation d/b/a National Grid (KEDLI) (collectively, National Grid) began informing large applicants for new service that National Grid would be unable to provide firm service unless a pending supply project was approved. As of May 15, 2019, National Grid stated that it would not fulfill applications for new firm service connections, or requests for additional firm load from existing customers on Long Island, including Queens and Brooklyn. Based on a settlement adopted and approved by the Commission, National Grid ended its moratorium as of November 26, 2019. Case 19-G-0678, Proceeding on Motion of the Commission to investigate Denials of Service by National Grid, Order Adopting and Approving Settlement (issued November 26, 2019); Case 19-G-0678, supra, Confirming Order (issued December 12, 2019). Additionally, New York State Electric and Gas Corporation (NYSEG) has declared a moratorium on new gas customer attachments in the Town of Lansing, in Tompkins County in February 2015.

2 Case 19-G-0678, supra, Order Adopting and Approving Settlement (issued November 26, 2019), exhibit A, p. 5; Case 19-G-0678, supra, Confirming Order (issued December 12, 2019).

service. Additionally, planning must be conducted in a manner consistent with the recently enacted Climate Leadership and Community Protection Act (CLCPA).[3]

Moratoria can create adverse customer impacts, as they prevent at least some applicants from receiving firm gas service. Some types of development projects can utilize viable alternatives to firm gas service, if they are practically available. Others, however, may have more difficulty without firm gas service. Additionally, reliance on alternatives can have emission impacts. Reduced emissions impacts may result where the alternative to gas is efficient use of clean electricity, while increased emission impacts may result where the alternative to gas is oil or propane.

Given these potential impacts, the public interest demands that gas utilities provide information to and communicate with customers in a way that promotes effective customer planning, reduces confusion, and avoids inequities or the appearance of inequities. Similarly, the public interest demands that gas utilities provides information to and communicate with the Department, with other government entities and agencies, and with stakeholders, so as to promote effective planning and best consideration of alternatives, thus benefiting costs, emissions, and economic development.

More broadly, incomplete or insufficiently transparent planning can lead to adverse consequences beyond moratoria. They can lead to infrastructure expenditures that are costly to customers, and to fuel choices at odds with State energy policies and which increase emissions.

The Public Service Law (PSL) contains several provisions related to the Commission’s authority with regard to

[3] Chapter 106 of the Laws of 2019.

supply constraint issues. PSL §65(1) requires that gas service to customers must be safe and adequate at rates that are just and reasonable. PSL §66-a specifies that, if a shortage of gas causes an LDC to be unable to meet the reasonable needs of its consumers and of applicants for new or additional gas service, the Commission can authorize the utility to cease providing new or incremental gas service to applicants. Further, PSL §66-a provides that this should be done in a manner that avoids undue hardship.

Assuming the existence of adequate supply, PSL §31(1) requires that utilities provide residential customers with service upon a proper application.[4] This requirement is also found in PSL §31(4), which requires utilities to provide the first 100 feet of line extension without charge to the individual residential customer. The requirements for serving new customers are further detailed in the rules and regulations adopted by the Commission in Title 16 of the New York Code of Rules and Regulations (NYCRR). Part 230 of 16 NYCRR governs extension of mains and service lines and addresses requests for service from commercial and industrial customers as well as residential customers.

ELEMENTS OF THIS PROCEEDING

The Commission seeks to establish planning and operational practices that best support customer needs and emissions objectives while minimizing infrastructure investments and ensuring the continuation of reliable, safe, and adequate service to existing customers. The manner in which gas utilities conduct planning and manage supply constraints will

[4] Transportation Corporations Law §12 also addresses the obligation to provide new service connections.

have implications for economic development, emissions, consumer prices, and customer choice.

The transparency of planning practices also merits reexamination. The LDCs have generally provided supply planning materials with requests for confidential and trade secret protections. As parties have generally not sought access to these documents, the necessity and breadth of the requested protections have not been closely scrutinized. The reexamination contemplated here would explicitly consider how best to jointly achieve both the benefits of appropriately enhancing availability to stakeholders of pertinent and useful information and plans, as well as the benefits of appropriate confidential and trade secret protections.

Issues to be addressed in this proceeding include, but are not limited to, the following:

1. Locational constraint analysis: Constraints may be caused by a shortage of pipeline supply capacity, by inadequacy of distribution infrastructure to deliver available pipeline supply, or a combination of these and other factors, and may vary dramatically among neighboring localities based on existing pipeline configurations. Each utility must report its analysis of supply and demand balance, current and projected, for each municipality or borough within its territory, including any projects to address imbalance that are planned or underway. In order to focus efforts on areas of need as quickly as possible, these analyses should prioritize locations known to be vulnerable, and this vulnerability should be demonstrated by data such as actual system pressures during periods of high load or demand from customers to whom commitments have already been made. This information will be a starting point in analyzing potential alternatives.
2. Transparent and comprehensive utility planning information: There is great value to forward planning by gas utilities with comprehensive consideration of supply alternatives and demand side options. Such planning should specifically incorporate a full range of practical alternatives so that it can serve to minimize total lifetime costs, while ensuring reliable solutions for customers, and also while advancing State policies. Greater transparency about these

alternatives and options can facilitate productive engagement by customers, local officials, policy advocates, and stakeholders generally.

- Transparent Gas Planning: As supply planning becomes more immediately relevant to these stakeholders, many have expressed an increased interest in engaging in consideration of related issues. Generally, stakeholders have expressed interest in avoiding supply constraint surprises and in ensuring that forward planning actively considers the best possible alternatives, and thus appropriately manages reliability, costs, and emissions impacts. At the same time, utilities have a stated interest in the confidentiality of planning information on trade secret and security grounds. Obtaining the least-costly supply portfolio on behalf of customers may require withholding certain types of information from public review, and some types of infrastructure planning information may invoke security concerns. However, in the absence of new long-term pipeline capacity assets for which contracts have to be negotiated, it is less clear that certain information needs to be protected from disclosure, although understanding the process of negotiating contracts for delivered services will aid this discussion. This information is of high importance to the public and relevant to the Commission’s work and integral to the Commission’s decision-making. Accordingly, it is expected that Staff will consider these competing interests and provide its position on confidentiality of information relevant to supply planning, as appropriate. This will encourage making relevant information publicly available through the process and procedures set forth in the Commission’s regulations.

- Policy-Aligned Gas Planning: Recent developments have challenged conventional approaches to gas system planning. These developments include, but are not limited to, recent and current instances of supply/demand imbalance, the emergence of viable, less-traditional and increasingly cleaner alternative solutions for demand and supply, the controversy and uncertainty associated with major gas infrastructure decisions, and the CLCPA’s establishment of state policy directions. All the while, continued investment in gas infrastructure has significant long-term financial implications for customers. The current approach to gas system planning poses risks of incomplete alignment with CLCPA, sub-optimal consideration of alternatives and timeframe, increased risk and cost to consumers, and unsatisfactory provision of service and solutions for those same consumers. To align with these policies and to recognize the emergence of potentially viable alternatives to gas infrastructure, gas planning must explicitly take account of the likely useful life of all alternatives, and of the resulting cost and risk implications.

- Transparency regarding Affiliate Relationships: The practice of procuring pipeline supply from affiliated companies should also be examined for incentives that are not aligned with state policies.

- Staff Proposal: Accordingly, it is expected that Staff will issue a proposal for a modernized gas planning process that is comprehensive, suited to forward-looking system and policy needs, designed to minimize total lifetime costs, and inclusive of stakeholders.

3. Non-pipe solutions: Non-pipe solutions, which include temporary supply, energy efficiency, electrification, and clean demand response, can reduce or eliminate the need for gas infrastructure and investments. Non-pipe solutions have been considered on an as-needed basis in previous cases; these solutions should be integrated into gas utilities’ planning processes, both in the context of specific avoidable projects in a particular area of the distribution system, and system-wide to reduce overall demand and the need for infrastructure investment.[5] Non-pipe solutions should be built into the gas utility planning process, using criteria including reliability, practicality, environmental impact, avoided need for infrastructure investments, cost allocations over the appropriate time frame, emissions, and local community impacts.

4. Criteria for reliance on peaking services: Gas utilities are increasingly reliant on peaking services in the form of compressed natural gas (CNG) and delivered services. Delivered services, as opposed to firm capacity procured

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[5] See, for example: Case 17-G-0432, NYSEG – Petition Regarding Natural Gas Compressor Project; Case 17-G-0606, Con Edison - Petition for Smart Solutions Program. Non-pipes solutions are also being considered in rate cases before the Commission such as Cases 19-G-0309 and 19-G-0310, KEDNY and KEDLI – Gas Rates.

directly by utilities, are provided by third parties and combine pipeline capacity held by those parties with the commodity they have purchased. These contracts typically: include a term of not more than one year; cannot be relied on for year-over-year renewal; and are priced at market prices, which can be very expensive. Reliance on delivered services for a high percentage of a utility's peak load presents significant risks. Gas utilities currently rely on peaking services to varying degrees, and would need to increase that reliance to serve new load in the near term in the absence of other solutions. Gas utilities have asserted that their moratoria decisions have been based, in part, on the need to avoid over-reliance on delivered services, and Con Edison's and National Grid's near-term winter supply plans rely on increased usage of CNG. At present, though, there are no clear or commonly accepted standards for acceptable levels of reliance on these peaking services. Given the pivotal role of peaking services in moratorium decisions, clear criteria must be developed.

5. Standards governing moratoria: Recent experience has shown that the specific manner in which moratoria are declared and managed can itself create or mitigate hardship and inequity. Topics arising from this recent experience include:

- Declarations of moratoria: Existing gas utility tariffs have differing provisions regarding how a gas utility declares a moratorium on new customer additions.[6] Furthermore, internal utility processes regarding identifying the potential need for declaring a moratorium, and the steps to take upon identifying such a need vary from utility to utility. This proceeding will explore best practices and opportunities for enhancements to these processes, propose standards and practices for identification of potential gas supply constraints and the data necessary to justify a moratorium, and set forth clear steps that must be taken thereafter, including notification to the Commission and stakeholders.

- Treatment of applicants and customers: Moratoria may impact applicants and customers. Applicants and customers who undertook projects expecting that they could receive firm gas service may not be able to

[6] See, NYSEG, PSC No. 90 Gas, Leaf 86; and Con Edison, PSC No. 9 Gas, Leaf 85.

modify plans, resulting in confusion, disruption, loss of business, and the appearance of inequity. Standards and practices for treatment of applicants and customers need to be established, to align gas utility supply planning with the reasonable expectations and needs of existing and prospective customers. This includes, but is not limited to, consideration of: (a) how to address applicants and customers with projects that are "in flight" when a gas utility declares a moratorium; and (b) how to define a material increase in load for existing customers.

- Communications standards and practices: There is a need to establish standards and practices for communications with applicants, customers and the general public – to address entities who might be planning to apply for gas service in the near future, to ensure that applicants and customers are informed and updated about moratoria in a timely and appropriate manner.

- Prioritization: Moratoria may not need to be imposed on an all-or-nothing basis; the extent of the need for a moratorium will depend on the severity of the forecast imbalance and the availability of alternatives, such as demand reduction and delivered services. Where a partial moratorium is warranted, prioritization of new or expanded service applications may be implemented using clear and equitable standards. Criteria may include: the extent of energy efficiency and demand response built into a development plan; the extent to which practical alternatives to gas service are available for the applicant; conditions under which adding load to an existing customer account constitutes new service; effects on low-and-moderate income residential customers; effects on emissions; effects on economic development and employment; timeliness of application; and other factors.

- Lifting of moratoria: Gas utility plans to relieve supply constraints will typically include a target date for elimination of the supply/demand imbalance. In the near term, lifting moratoria will present a practical issue of timing, and clarity on whether commitments for new service should be made in advance of the date when the gas utility forecasts that the imbalance will resolve, so that development and construction can commence, or whether commitments should be made only upon the completion of relief projects and adequate supply is actually available.

6. Demand response and rate design: Interruptible rates have been gas utilities' principal method of reducing peak demand. This method will continue to be effective in places, although it requires that customers have alternative fuels to rely on during peak conditions, typically oil. Other methods of demand response and peak reduction must be developed, to respond to the increasing need, to transition away from methods that rely on oil combustion, and to enhance solutions that may be used to avoid infrastructure investment.
7. Criteria pollutant reduction: Where alternatives to firm gas include oil or propane combustion during peak times (as in the case of many interruptible customers) local impacts of criteria pollutants must be avoided or mitigated to the extent possible. This could potentially be done through conditions in the interruptible rate tariffs, through incentive programs, or through other methods.
8. Tariff and rule revision: Resolution of some issues in this proceeding may require revision of gas utility tariffs, the adoption of new tariffs, or revision of the Commission's rules found at 16 NYCRR Part 230.

The Commission notes that demand side resources, such as energy efficiency and electrification, are currently authorized or under consideration in separate Commission proceedings.[7] However, findings in this proceeding could aid in optimizing the deployment of the resources authorized by the Commission to meet planning needs and minimize infrastructure investment.

The schedule for this proceeding is as follows:

- Within 90 days of the issuance of this Order, each gas utility shall file a supply and demand analysis as described in (1) above with regard to the locations in their respective service territories known to be vulnerable to supply constraints.
- Within 120 days of the issuance of this Order, each gas utility shall file a supply and demand analysis as described in (1) above with regard to that utility’s entire service territory.
- Within 120 days, each LDC, either individually or in concert with the other LDCs, shall file a proposal for criteria for reliance on peaking services and moratorium management issues as described in issues (4) and (5) above. The Secretary will issue a notice seeking public comment regarding the LDC filings.
- Within 150 days of the issuance of this Order, Staff will issue a proposal to modernize the gas system planning process as described in (2) above. The Secretary will

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[7] Case 15-M-0252, In the Matter of Utility Energy Efficiency Programs; Case 18-M-0084, supra; Case 17-G-0606, Petition of Con Edison for Approval of the Smart Solutions for Natural Gas Customers Program; Cases 17-E-0238 and 17-G-0239, Niagara Mohawk Power Corporation d/b/a National Grid – Electric and Gas Service, Order Adopting Terms of Joint proposal and Establishing Electric and Gas Rate Plans (issued March 15, 2018); Cases 17-E-0459 and 17-G-0460, Central Hudson Gas & Electric Corporation – Electric and Gas Service, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans (issued June 14, 2018); Cases 18-E-0067 and 18-G-0068, Orange and Rockland Utilities, Inc. – Electric and Gas Service, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans (issued March 14, 2019); Cases 19-E-0065 and 19-G-0066, supra, Order Adopting Terms of Joint Proposal and Establishing Electric and Gas Rate Plans (issued January 16, 2020); Cases 19-G-0309 and 19-G-0310, supra.

issue a notice seeking public comment regarding the Staff proposal.

- Within 150 days of the issuance of this Order, each gas utility shall file a status report and proposals regarding the extent to which the gas utility currently uses or anticipates using demand reducing measures including energy efficiency, electrification, demand response, non-pipe solutions, and other measures to address identified areas of supply/demand imbalance or to aid in the management of moratoria. These filings shall report on the potential to target existing and new energy efficiency and electrification programs and budgets so as to reduce near term and future infrastructure investments and emissions. The Secretary will issue a notice seeking public comment regarding the reports.

The Commission orders:

1. A proceeding is instituted to examine issues related to the operation of gas utilities in a supply-constrained environment.

2. The Secretary is directed to issue notices seeking public comments on the planning and moratorium management proposals filed pursuant to this Order.

3. Consolidated Edison Company of New York, Inc.; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc.; Central Hudson Gas & Electric Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; National Fuel Gas Distribution Corporation; St. Lawrence Gas Company, Inc.; and Corning Natural Gas Corporation shall, within 90 days of the issuance of this Order, file a supply and demand analysis with regard to the locations in their respective service territories known to be vulnerable to supply constraints, as described in the body of this Order.

4. Consolidated Edison Company of New York, Inc.; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas

East Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc.; Central Hudson Gas & Electric Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; National Fuel Gas Distribution Corporation; St. Lawrence Gas Company, Inc.; and Corning Natural Gas Corporation shall, within 120 days of the issuance of this Order, file a supply and demand analysis with regard to that utility's entire service territory, as described in the body of this Order.

5. Consolidated Edison Company of New York, Inc.; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc.; Central Hudson Gas & Electric Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; National Fuel Gas Distribution Corporation; St. Lawrence Gas Company, Inc.; and Corning Natural Gas Corporation shall, within 120 days of the issuance of this Order, file a proposal for the peaking services and moratorium management issues as described in the body of this Order.

6. Consolidated Edison Company of New York, Inc.; The Brooklyn Union Gas Company d/b/a National Grid NY; KeySpan Gas East Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc.; Central Hudson Gas & Electric Corporation; Niagara Mohawk Power Corporation d/b/a National Grid; New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; National Fuel Gas Distribution Corporation; St. Lawrence Gas Company, Inc.; and Corning Natural Gas Corporation shall, within 150 days of the issuance of this Order, file a status report and proposals regarding the extent to which the utility currently uses or anticipates using demand reducing measures including energy efficiency, demand response, non-pipe

alternative procurements, and other measures to address identified areas of supply/demand imbalance or to aid in the management of moratoria, including targeting of existing and new energy efficiency and electrification programs and targets.

7. Within 150 days of the issuance of this Order, Staff is directed to file a proposal to modernize the gas system planning process, as described in the body of this Order.

8. In the Secretary’s sole discretion, the deadlines set forth in this Order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

9. This proceeding is continued.

By the Commission,

(SIGNED)

MICHELLE L. PHILLIPS
Secretary