

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on September 4, 2014

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

CASE 14-G-0058 - Proceeding on Motion of the Commission to Investigate Whether a Penalty Should be Imposed on KeySpan Gas East Corporation, d/b/a National Grid for Violations of Certain Pipeline Safety Requirements Related to a Natural Gas Incident at 43 Fourth Street, Brentwood on April 24, 2011.

CASE 14-G-0060 - Proceeding on Motion of the Commission to Investigate Whether a Penalty Should be Imposed on KeySpan Gas East Corporation, d/b/a National Grid for Violations of Certain Pipeline Safety Requirements Related to a Natural Gas Incident at 65 Feller Dr., Central Islip on July 10, 2012.

ORDER APPROVING SETTLEMENT AGREEMENT

(Issued and Effective September 5, 2014)

BY THE COMMISSION:

BACKGROUND

On February 20, 2014, the Commission instituted a proceeding against KeySpan Gas East Corporation, d/b/a National Grid ("KEDLI") and ordered the company to show cause why the Commission should not commence a penalty action against it for failure to comply with §§25(1), 25(2) and 65 (1) of the Public Service Law and its associated gas safety regulations found at

16 NYCRR §§255.727(d) (1), 255.744 (a) and (d), 255.603 (d), 255.105 (b) and 255.225 (1).

On July 14, 2014, as authorized by the Chair of the Commission, KEDLI and Commission counsel entered into a settlement agreement (Settlement Agreement) to resolve the issues in the pending proceedings. A copy of the Agreement is attached hereto as Attachment A.¹

DISCUSSION AND CONCLUSION

As a condition of this settlement, KEDLI agrees to pay a \$1,000,000 contribution from shareholder funds, of which \$850,000 will fund a residential methane detector pilot program on Long Island.² KEDLI will partner with the research and development organization NYSEARCH³ and the Northeast Gas Association to help fund a pilot program which will conduct a technical assessment of current commercially available technology to determine if this technology can be used by residential customers to detect the presence of methane in their homes.⁴ KEDLI's contribution to the NYSEARCH program will accelerate this work and enable quicker market entry of these methane detectors which should provide a substantial benefit to ratepayers of KEDLI and all local gas distribution companies

¹ This Settlement Agreement is not final and cannot be implemented or enforced until it is approved by us in this order.

² See Sections 2 (b) (ii) and 4 of the Settlement Agreement.

³ NYSEARCH is a research, development, and demonstration organization serving its member gas utilities. See www.nysearch.org for further information on NYSEARCH projects and initiatives.

⁴ See Sections 2(b) (i) and (ii) of the Settlement Agreement.

(LDCs) in the State, and possibly the country. KEDLI is further required by the Settlement Agreement to notify Staff of this project's status at 6 month, 12 month, and 24 month intervals.⁵ The goal of the pilot program is for members of the public to benefit from the sum of methane detector technology to raise awareness of natural gas leaks. While we find it reasonable to have KEDLI pair up with NYSEARCH for this pilot program for the reasons already stated, given the importance of this pilot program, we are amending the Settlement Agreement to ensure that Staff is more involved in the development of the program and monitoring its progress. Staff and the company will continue to work collaboratively in the development of the residential methane detector pilot program. Within thirty (30) days of the issuance of this Order, Staff and the company will meet to discuss roles and responsibilities within the context of the pilot program.

The Settlement Agreement also requires KEDLI to spend \$150,000 to procure a supply of valve locks.⁶ By establishing this inventory stockpile, the company can better prepare for and respond to severe weather events and other operating conditions. We find this component of the Settlement Agreement to be representative of the nexus between the alleged 16 NYCRR 255.727(d) (1) violation and the disposition requiring an inventory stockpile of lock valves. The Settlement Agreement also provides that KEDLI amend its company Valve Locking Procedure to require that a locking device be installed at the meter shut-off valve whenever KEDLI turns off gas service at a premise at the meter or service valve for any reasons and leaves

⁵ See Section 2 (b) (iv) of the Settlement Agreement.

⁶ See Section 2 (c) of the Settlement Agreement.

without restoring service.⁷ We want to emphasize the importance for all LDCs to focus on company procedures for addressing discontinued gas service when there is no customer of record. Because we are particularly concerned with this same issue, especially given the recent prevalence of gas safety incidents, coupled with these Brentwood and Central Islip incidents, we further modify the Settlement Agreement to require Staff involvement in the review and acceptance of this amended company procedure to address issues of discontinued service pursuant to 16 NYCRR §255.727.

While not a component of this settlement, we note that all LDCs should be mindful of the importance of education and outreach to their employees and contractors. Because the public welfare is paramount, LDCs must fulfill their legal obligations to ensure that all employees and contractors are properly trained, not only to install valve locking devices and to discontinue service to vacant buildings, but in general matters of gas safety.

Based on the foregoing reasons, we determine that this Settlement Agreement, as modified, is in the public interest and represents a reasonable resolution of the issues raised in the context of the PSL §25 proceeding.⁸ We, therefore, exercise our discretion to accept and approve the Settlement Agreement in lieu of bringing a penalty action after considering the benefits of the Settlement Agreement relative to litigation.

⁷ See Section 2 (a) of the Settlement Agreement.

⁸ See Case 11-G-0077, Proceeding on Motion of the Commission to Investigate Whether a Penalty Should be Imposed on Consolidated Edison Company of New York, Inc. Concerning the Natural Gas Explosion on July 25, 2008, at 147-25 Sanford Avenue, Queens, Order Approving Settlement, (issued June 17, 2011) p.1.

Furthermore, through this Order we direct KEDLI to implement the provisions of the modified Settlement Agreement as approved.

The Commission orders:

1. The attached Settlement Agreement, as modified consistent with the body of this Order, is accepted and approved by the Commission.
2. Department of Public Service Staff and Keyspan Gas East Corporation d/b/a National Grid will meet within 30 days of the issuance of this Order to coordinate roles and responsibilities within the context of NYSEARCH's methane detector pilot program.
3. These proceedings are closed.

By the Commission,

KATHLEEN H. BURGESS
Secretary

SETTLEMENT AGREEMENT

This Settlement Agreement ("the Agreement"), dated as of the 14 day of July, 2014, is by and between the Public Service Commission of the State of the New York ("PSC" or "the Commission") and KeySpan East Gas Corporation d/b/a National Grid ("KEDLI" or "the Company") as each is further defined herein, collectively the "Parties."

WITNESSETH

WHEREAS, the Commission initiated a proceeding on February 20, 2014 as Cases 14-G-0058 and 14-G-0060 (collectively, "Proceeding"), requiring KEDLI to show cause as to why a penalty action should not be commenced pursuant to Public Service Law ("PSL") §25 for alleged violations of the PSL and its associated gas safety regulations stemming from two natural gas incidents occurring in April 2011 and July 2012 in Brentwood and Central Islip, New York, respectively.

WHEREAS, KEDLI contends that a penalty action pursuant to PSL §25 is not warranted.

WHEREAS, the Parties agree to resolve the Proceeding by this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, the Parties, intending to be legally bound hereby, agree as follows:

1. Definitions

The Commission and KEDLI are defined as follows:

- a. The Commission, as used in this Agreement, shall include the Commission and its Chair, as defined in PSL §§4(1) and 12, and the individual Commissioners thereof. The Commission is within the Department of Public Service ("the

Department”), PSL §§4(1), and the Department may be assigned by the Chair to take an advocacy role before the Commission.

- b. KEDLI, as used in this Agreement, shall include its predecessors, successors and/or assigns.

2. Settlement Consideration

a. Valve Locking Procedure

i. Within 5 days of the Effective Date (as defined below), KEDLI will submit an amendment, pursuant to 16 NYCRR §255.603(b), to its Gas Operating Procedure - Turn On and Turn Off Gas Meters (06007-TI) to require that a locking device be installed at the meter shut-off valve whenever KEDLI (i) turns off gas service at a premise at the meter or service valve for any reason and (ii) leaves without restoring service.

ii. KEDLI agrees that within a reasonable time following submission of its amended Gas Operating Procedure (06007-TI) it will begin training all employees and contractors who turn off gas service directly or supervise such employees or contractors on the revised procedure. Within 60 days of the Effective Date, only employees who have been trained in the new procedures will either perform or supervise such work.

b. Methane Detector Assessment & Pilot Program

i. KEDLI, in partnership with other utilities through NYSEARCH and the Northeast Gas Association, will fund a technical assessment of commercially available methane detectors to determine if current sensor technology is appropriate for widespread use by residential gas customers. This program will include (i) an independent, third-party assessment of sensor technology by the Gas Technology Institute (GTI), (ii) industry standard certification

requirements (measuring detector accuracy and reliability) and, if the assessment demonstrates that it is warranted, (iii) the design of a comprehensive field trial program (hereinafter "Assessment and Pilot Program").

ii. KEDLI will fund the Assessment and Pilot Program in an amount not to exceed \$850,000. To the extent that the Assessment and Pilot Program is terminated before KEDLI's share of the funding reaches \$850,000, the unspent portion of that funding level will be applied to the Locking Valve Inventory Stockpile described below.

iii. KEDLI will notify Department Staff in writing when its expenditure for the Assessment and Pilot Program has reached \$850,000.

iv. KEDLI will notify Department Staff of the status of the Assessment and Pilot Program after 6 months, 12 months and at 24 months of the Effective Date.

c. Locking Valve Inventory Stockpile

i. Subject to Section 2b(ii) above, KEDLI will spend \$150,000 to procure a reserve of valve locks -- the Locking Valve Inventory Stockpile -- for use in the event severe weather or other operating conditions warrant their deployment at KEDLI's discretion.

ii. KEDLI will notify Department Staff in writing when such purchases are complete.

d. Leak Prone Pipe Replacement Cost Analysis

Within 30 days of the Effective Date of this Agreement, KEDLI will collaborate with Department Staff to design a framework for a KEDLI analysis of the rate impacts associated with the replacement of all leak prone pipe on KEDLI's system, including cast and wrought iron,

unprotected steel and certain plastic pipe, within (i) ten years and (ii) fifteen years. KEDLI's analysis will also consider the resource requirements, ramp-up costs, external costs and potential leak reductions associated with expedited leak prone pipe replacement. KEDLI will file such analysis with Department Staff at least 30 days prior to filing its next rate case.

3. Effectiveness and Enforcement of this Agreement

Approval by the Commission is a condition precedent to the effectiveness of this Agreement. The Effective Date of this Agreement will be the effective date of a Commission order approving this Agreement without modification. In the event that KEDLI fails to complete the requirements set forth in this Agreement, the Commission reserves the right to seek enforcement of this Agreement. Nothing herein shall prevent the Commission from seeking legal or equitable relief to enforce the terms of this Agreement once it becomes effective.

4. Contribution

KEDLI will provide, at shareholders' expense, \$1,000,000 to fund the Assessment and Pilot Program and the Locking Valve Inventory Stockpile, as described above. This contribution does not resolve or address any future violations of the PSL or its associated regulations, nor does this contribution resolve or address any potential violation that is not within the subject matter of this Agreement. This contribution does not constitute a penalty of any kind.

5. Release and Waiver

The Commission agrees that it shall fully and finally waive any right to seek penalties or to seek any other remedy at law or equity from KEDLI, its affiliates, employees, officers, directors, agents and/or shareholders for any alleged penalty or liability arising out of or related

to the Proceeding and/or the two natural gas incidents occurring in April 2011 and July 2012 in Brentwood and Central Islip, respectively.

6. Counsel Fees

Each Party will bear its own counsel fees incurred in connection with the Proceeding and the subject matter underlying same, including the costs associated with the preparation of this Agreement.

7. Other Proceedings

The Parties represent and warrant that, other than the Proceeding, they have filed no claims against each other and know of no claims filed by them, and, as applicable, their affiliates, subsidiaries, shareholders, employees, officers, contractors, subcontractors, on their behalf against another Party hereto in any court, arbitration, or in any other forum relating to the two gas safety incidents occurring in April 2011 and July 2012 at Brentwood and Central Islip, New York, respectively.

8. Authority

The execution, delivery and performance of this Agreement by each Party hereto are within its corporate or statutory powers, as appropriate, have been duly authorized by all necessary corporate or statutory action, and do not and will not (a) require any governing or governmental consent or approval, which has not been obtained, except for Commission approval of this settlement, (b) contravene its organizational documents or enabling legislation, or (c) violate applicable law.

9. Further Assurances

The Parties hereto agree to cooperate in executing such other documents and to take such other action as may be reasonably necessary to further the purposes of this Agreement.

10. No Admission of Liability

The Parties agree that the consideration and other terms of this Agreement do not constitute an admission of liability by KEDLI, that any violation of law is expressly denied and that any liability is expressly denied, and that this Agreement is a full and final settlement of all disputed claims.

11. Governing Law and Jurisdiction

This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New York without giving effect to doctrines relating to conflicts of laws. Any action seeking enforcement of this Agreement and any claims alleging the breach of any terms and/or conditions of this Agreement or arising out of or relating to this Agreement shall be commenced in the Supreme Court of the State of New York, Albany County.

12. Amendments; Waivers

This Agreement may not be modified, amended, or terminated except by an instrument in writing signed by both Parties. No failure to exercise, and no delay in exercising, any right, remedy, or power under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, or power under this Agreement preclude any other or further exercise thereof, or the exercise of any other right, remedy, or power provided herein or by law or in equity.

13. Document Headings

The titles of paragraphs in this Agreement are for convenience only, are not definitive, and shall not be considered or referred to in resolving questions of interpretation or construction.

14. Remedies

The Parties acknowledge and agree that nothing in this Agreement shall be construed to prevent either Party from commencing an action to enforce the terms of this Agreement including Commission commencement of an enforcement proceeding to enforce this Agreement.

15. Construction

This Agreement will be binding upon and inure to the benefit of the Parties and their respective partners, successors (whether by consolidation, merger or otherwise) and assigns. This Agreement shall be construed without regard to any presumption or other rule requiring construction against the Party causing this Agreement to be drafted. All terms and words used in this Agreement, regardless of the number or gender in which they are used, shall be deemed to include any other number and any other gender as the context may require.

16. Counterparts

If this Agreement is executed in counterparts, each counterpart shall be deemed an original and all counterparts so executed shall constitute one Agreement binding on both Parties, notwithstanding that both of the Parties are not signatories to the same counterpart. This Agreement may be executed by original, facsimile or electronic signature, each of which shall be equally binding.

17. Public Statements/Press Releases

Both Parties will agree upon the content and message of a press release, if one is to be issued, prior to its release.

18. Entire Agreement

All agreements, covenants, representations and warranties, express or implied, oral or written, of the Parties hereto concerning the subject matter hereof are contained herein. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by either of the Parties to the other concerning the subject matter hereof. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties concerning the subject matter hereof are merged herein. This is an integrated Agreement.

IN WITNESS WHEREOF, each of the Parties hereto has executed this Agreement as of the day and year first written above.

PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK

By: Kimberly Harriman 7/14/14

Name: Kimberly Harriman

Title: General Counsel

KEYSPAN EAST GAS CORPORATION D/B/A NATIONAL GRID

By: Catherine L. Nesser

Name: Catherine L. Nesser

Title: Vice President and Deputy General Counsel