



PROCEEDING ON MOTION OF THE  
COMMISSION AS TO THE RATES,  
CHARGES, RULES AND  
REGULATIONS OF THE BROOKLYN  
UNION GAS COMPANY FOR GAS  
SERVICE

PROCEEDING ON MOTION OF THE  
COMMISSION AS TO THE RATES,  
CHARGES, RULES AND  
REGULATIONS OF KEYSpan GAS  
EAST CORPORATION FOR GAS  
SERVICE

**Testimony of Orlando (Randy) Magnani**

May 19, 2016

Submitted to:  
New York State Public Service Commission  
Case 16-G-0058  
Case 16-G-0059

Submitted by:  
**DIRECT ENERGY SERVICES, LLC.**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Orlando (Randy) Magnani. My business address is 19561 Caladesi Drive, Estero, FL, 33967.

**Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.**

A. I am President of Rand Energy Consultants. As such, I provide consulting services to natural gas marketers primarily related to operational and technical issues. In this proceeding, I am representing Direct Energy Services, LLC and its affiliates doing business in New York as energy service companies (“ESCOs”)<sup>1</sup>. Prior to my current position, I was Director of Natural Gas Operations for the Energy Marketing Division of Hess Corporation from 2001 to 2013. As Director of Natural Gas Operations at Hess, I oversaw all of Hess’ natural gas marketing operations (including forecasting, scheduling and pricing) of the local distribution companies (“LDCs”) located in the Hess energy marketing footprint. I was responsible for overseeing Hess’ six regional operations offices, which had the local day-to-day duties for natural gas operations within their specific geographic regions. Hess operated behind over seventy LDCs.

Prior to that, from 1998-2001, I was a Principal with Navigant Consulting performing various consulting services primarily related to LDC issues. From 1996 to 1998, I was President and Chief Operating Officer for KeySpan Energy Services, Inc. (“KeySpan”). At KeySpan, I had general supervisory responsibility for its gas marketing business. From 1971 through 1996, I held several titles at The Brooklyn Union Gas Company (“Brooklyn Union”), the LDC based in

---

<sup>1</sup> Direct Energy’s affiliates doing business in New York State include Bounce Energy NY, LLC; Energetix DE, LLC; Gateway Energy Services Corporation; NYSEG Solutions, LLC; Direct Energy Business, LLC; and Direct Energy Business Marketing, LLC.

Brooklyn, New York. I served as Manager of Gas Operations where I was responsible for the operation and maintenance of the company's LNG plant and high-pressure transmission system, as well as all scheduling activities on interstate gas pipelines. Additionally, I served as Brooklyn Union's Manager of Rates and Gas Supply where I was responsible for cost allocation and rate design of utility rates, state and federal regulatory affairs, and gas supply planning and contract negotiation and administration. I also served as Manager Project Development where I set up and managed a wholesale marketing business designed to generate margin from under-utilized supply, capacity and storage assets. Prior to that, I was a Junior Engineer with the New York Public Service Commission. I earned a Bachelor's Degree in Chemical Engineering from Manhattan College in 1970.

I have previously testified before this Commission. I testified in a number of Brooklyn Union Rate Cases as well as the Iroquois Case. In addition to testifying in New York, I have testified before PUCs in eight states: Pennsylvania, Massachusetts, Maryland, Ohio, Missouri, Virginia, Connecticut and Rhode Island. I have also testified before the District of Columbia PUC and the Federal Energy Regulatory Commission. I have over 45 years of professional experience working for competitive natural gas suppliers, natural gas consultants, and a gas LDC encompassing a comprehensive array of natural gas related matters.

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

A. I will discuss several issues that present problems for ESCOs operating in the service territories of the Brooklyn Union Gas Company ("KEDNY") and KeySpan Gas East Corporation ("KEDLI"), combined ("KED"). First, I will discuss the substantial increase in the charge for consolidated bills. That charge in KEDNY is proposed to increase from \$.0.76 to \$1.42 per bill,

an increase of 87%. In KEDLI the proposed fee will increase from \$0.65 to \$1.76, an increase of 171%. These increases are exorbitant and even if the cost is justified, these increases should be phased in, not implemented in one large amount. Second, I will discuss the substantial number of KED billing errors that continue to plague Direct Energy and other ESCOs. These billing errors along with inconsistent protocols for delivery or receipt of data cause dissatisfaction among our customers. They are not of our doing but reflect badly on us as our customers are unaware of their cause. Third, I will discuss the allocation of capacity between KEDNY and KEDLI. Currently there is a 60/40 split of assets. Yet when we utilize our allotted capacity, it doesn't seem to be an appropriate split as the supply allocation causes problems in meeting customer load. For example, last January (which was a relatively mild January) Direct Energy was forced to utilize peaking capacity in KEDLI on 6 days, while utilizing no peaking capacity in KEDNY. This issue is further complicated by the fact that KED is proposing to include all demand charges in the GAC for all customers in both KEDNY and KEDLI. This would seem to indicate that the supplies should be spread evenly among both LDCs. I will also discuss the unfair allocation of Tennessee Gas Pipeline Capacity to ESCOs. KeySpan retains all gas delivered by Tennessee and does not allocate any Tennessee supply to ESCOs. Finally, I will discuss the design of KEDNY's high load factor rate SC 4-A and 4-B.

**Q. PLEASE EXPLAIN YOUR PROPOSAL TO PHASE IN THE INCREASE IN THE CONSOLIDATED BILLING FEE**

A. The increases of 87% and 171% are simply too great to implement in one step. In his pre-filed testimony on pages 21 and 22, company witness Kenneth Daly discusses the

magnitude of the overall rate increase. He states “It is our preference, as well as the preference of our customers, that these increases be phased in over the course of a multi-year rate plan. “ This is a sound principal and should be applied to the increase in the consolidated billing fee as well. The Rate Design Panel also discusses the concept of “gradualism” on page 26 of its pre-filed testimony. Again, this is a sound rate making concept and needs to be applied to the increase in the consolidated billing fee as well. Direct Energy therefore suggests phasing these increases in over a three-year period. This phase in will allow Direct Energy to incorporate this increase into customers’ rates going forward without having to make a change to any existing customers’ rates or billing mechanism.

**Q. DO YOU AGREE WITH THE OVERALL MAGNITUDE OF THE PROPOSED CONSOLIDATED BILLING FEE?**

A. I haven’t performed an analysis of the Embedded Cost of Service Study to determine if the overall increase is correct. I assume that the Commission Staff or other parties will do so but whatever the result, if the percentage increase is significantly larger than the 10 to 14% overall increase requested by the Company, then the principle of gradualism should be applied and the increase should be phased in over a three-year period. Marketers have locked in to contracts with their customers based on the existing tariff and can’t go back and change them. Phasing in the increase would give marketers and customers a better opportunity to prepare for the increase in costs.

**Q. PLEASE DISCUSS KED’S BILLING ERRORS AND ANY THOUGHTS YOU HAVE ON WHAT SHOULD BE DONE TO IMPROVE THAT SITUATION.**

A. There are far too many mistakes made. Recently, Direct Energy was notified that KED's billings for 2,093 of our customers were incorrect and we were asked to pay an additional \$2,790,424. KED provided backup and after reviewing the backup, Direct Energy found a number of inconsistencies in this material. Several different spreadsheet versions were provided by KED – each containing different information. As yet, we haven't been able to reconcile KED's information to the information we have in our system. We are at the point of conducting daily conference calls with KED's staff to attempt to rectify the situation. This is not the first time a billing error has occurred and each time it occurs it costs us countless hours to manually update our systems and correct the issues.

There is also the situation of mixed messages on how data should be transferred as well as delays in receiving required data. Sometimes Direct Energy is asked to submit information by fax only to find that it should have been transmitted electronically. Additionally, all of our questions are supposed to be submitted via the supplier portal. When we submit questions we often get responses that don't answer the question or that don't provide any updates as to when information will be corrected. Using the portal delays the communications as each time a question is asked it could take 24 hours to get a response. If the response is not adequate, another 24 hours could go by before another response is received.

Lastly, there are inconsistencies in the way in which customer credits are processed. Recently, we were told by KED staff that there is no standard way for an ESCO to transmit a credit back to a customer. Direct Energy was instructed that this process would need to be reviewed on a one-off basis for each particular customer's account. Clearly this is time consuming and lacks

consistency. In the Commission's Order Resetting Retail Energy Markets and Establishing Further Process issued on February 23, 2016, credits might have to be provided to customers who are on the guaranteed savings product at the end of a 12-month period. It is important that KED recognize that providing customers with credits are a necessary part of doing business and therefore a standardized process should be developed.

I recommend that performance metrics be established to improve KED's performance with respect to their billing and communication with ESCOs. Having metrics in place will incent LDC employees to be more accurate and timely in their dealings with ESCOs. The utilization of performance metrics is a sound management principle and should be applied here. It is long overdue.

**Q. PLEASE EXPLAIN THE ISSUE OF ALLOCATION OF SUPPLIES BETWEEN KEDNY AND KEDLI.**

A. Currently, ESCOs are allocated capacity between KEDNY and KEDLI in a ratio of 60% KEDNY and 40% KEDLI. These are the percentages that KED has determined will allow ESCOs to meet the needs of their customers. The percentages change slightly month over month. What this allocation percentage results in is that on colder days we don't receive enough capacity and storage for KEDLI. This requires us to take peaking for KEDLI more often than for KEDNY. If we had an equal split of the assets, then the temperature at which we would have to take peaking would be the same for both KEDLI and KEDNY. Currently, the temp at which Direct Energy needs to take peaking for KEDNY is at 15 degrees and the temp for KEDLI is at 21 degrees. As I stated earlier, last January Direct Energy had to take peaking 6 days for KEDLI and did not take any peaking for KEDNY.

**Q. WHAT IS THE ISSUE OF ALLOCATION OF GAS DELIVERED BY TENNESSEE GAS PIPELINE?**

A. KED receives gas on Tennessee Gas Pipeline at White Plains in Con Ed's service territory. Con Ed allocates the capacity at that point. KED retains all of the capacity at that point and doesn't release any to ESCOs serving customers behind KEDNY and KEDLI. This is unfair to ESCOs. ESCOs are entitled to access to this lower cost supply. In response to an Interrogatory, KED indicated that they do not release capacity at the Tennessee receipt point because Con Ed notifies them on a daily basis as to how much capacity is available and there are too many ESCOs for them to effectively allocate capacity. I don't think that's a valid reason to not release capacity that ESCOs are entitled to. KED could release a minimum quantity every month and take the swing in their own supply. They would get more or less supply on some days but on balance, they would be whole and ESCOs could get access to an important supply source, which would put us on a more equal basis with system supply.

**Q. PLEASE COMMENT ON KEDNY'S HIGH LOAD FACTOR RATES SC 4-A AND 4-B.**

A. Direct Energy is very concerned with those rates as we believe they are too low and that costs are inadequately or inappropriately assigned to those classes. However, I am aware that there is an existing Case 13-G-0439 that focuses on those rates. We believe that is the appropriate forum to explore SC 4-A and 4-B. That case should remain open and issues with those rates should be resolved there.

**Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

A. Yes.