

06-G-1185

# STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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May 31, 2007

Hon. Jaclyn A. Brillling  
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Public Service Commission  
3 Empire State Plaza  
Albany, New York 12223-1350

Re: Case 06-G-1185 - The Brooklyn Union Gas Company d/b/a KEDLI  
Case 06-G-1186 - KeySpan Gas East Corp. d/b/a KEDLI

2008 MAY 31 PM 3:43  
REC VED  
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Dear Secretary Brillling:

Enclosed for filing are an original and five copies of *Staff's Statement in Support of the Joint Proposal for Interim Energy Efficiency Programs* in these proceedings. Copies have been served on the presiding administrative law judges and on all active parties listed on the attached service list.

Very truly yours,

*Paul Agresta*  
PAUL AGRESTA  
Assistant Counsel

Encl

cc.: Administrative Law Judge Lynch  
Administrative Law Judge Phillips  
All Active Parties

**Case 06-M-0878  
National Grid and KeySpan - Merger Petition  
Cases 06-G-1185 and 06-G-1186  
KeySpan Energy Delivery New York and Long Island - Gas Rates  
Active Parties List As Of:**

**April 27, 2007**

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STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION



CASE 06-G-1185 - Proceeding On Motion Of The Commission As To The Rates, Charges, Rules And Regulations Of The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York For Gas Service

CASE 06-G-1186 - Proceeding On Motion Of The Commission As To The Rates, Charges, Rules And Regulations Of KeySpan Gas East Corp. d/b/a KeySpan Energy Delivery Long Island For Gas Service

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STATEMENT IN SUPPORT***

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May 31, 2007

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

CASE 06-G-1185 - Proceeding On Motion Of The Commission As To The Rates, Charges, Rules And Regulations Of The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York For Gas Service

CASE 06-G-1186 - Proceeding On Motion Of The Commission As To The Rates, Charges, Rules And Regulations Of KeySpan Gas East Corp. d/b/a KeySpan Energy Delivery Long Island For Gas Service

STAFF'S STATEMENT IN SUPPORT

INTRODUCTION

This statement is submitted by the Staff of the Department of Public Service (Staff) in support of the Joint Proposal for Interim Energy Efficiency Programs in these proceedings dated May 31, 2007 (Joint Proposal). The Joint Proposal was filed with the Secretary to the Public Service Commission (Commission) on May 31, 2007. The administrative record consists of the Joint Proposal, the pre-filed testimony, exhibits and appendices in the combined record for Cases 06-M-0878, 06-G-1185 and 06-G-1186. The signatories to the Joint Proposal include Staff, The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York (KEDNY) and KeySpan Gas East Corporation d/b/a KeySpan Energy Delivery Long Island (KEDLI), National Grid plc, the New York State Consumer Protection Board, the City of New York, the County of Nassau, the County of Suffolk, the Natural Resources Defense Council, Pace Energy Project, the Public Utility Law Project, the Association for Energy Affordability and the International

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Brotherhood of Electrical Workers, Locals 1049 & 1381  
(collectively referred to herein as the "Signatory Parties").

COMMISSION ACTION

Staff respectfully requests that the Commission take immediate action to review and approve the terms of the Joint Proposal, ideally at the upcoming June Session. It is important to the Signatory Parties and to the purposes of the Joint Proposal that KEDNY and KEDLI commence their interim energy efficiency programs in advance of the next heating season. Rapid Commission approval would facilitate quick commencement and would demonstrate the Commission's support for these important efforts.

SUMMARY

The Joint Proposal arises within the rate proceedings of KEDNY and KEDLI in Cases 06-G-1185 and 06-G-1186. The Joint Proposal provides the framework under which KEDNY and KEDLI will implement gas energy efficiency programs in their service territories on an interim basis commencing as soon as the Commission adopts the terms of the Joint Proposal.

KEDNY will undertake in its service territory Interim Energy Efficiency Programs budgeted at \$10 million, with the expectation that the programs so undertaken would be under way in advance of the 2007-08 winter season and would ramp up to the \$10 million budget amount as soon as administratively possible. KEDLI will undertake in its service territory Interim Energy Efficiency Programs budgeted at \$5 million, with the expectation that the programs so undertaken would be under

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way in advance of the 2007-08 winter season and would ramp up to the \$5 million budget amount as soon as administratively possible.

To ensure efficient implementation on an interim basis, the program design of the Interim Energy Efficiency Programs will be based on cost-effective energy efficiency programs that satisfy the Total Resource Cost Test and that have been implemented in KeySpan Corporation's New England service territories. As Cases 06-G-1185 and 06-G-1186 continue, the Signatory Parties intend to further refine the program design in a collaborative manner. For the purposes of the Interim Energy Efficiency Programs, customers (or potential customers) converting or replacing equipment using oil as fuel to that using gas as a fuel will not be eligible for incentives or other benefits under the interim programs. This exclusion shall apply regardless of whether the customer (or potential customer) has already decided to convert or replace equipment using oil as fuel to that using gas as a fuel and is merely seeking an incentive to obtain more efficient gas equipment than the customer (or potential customer) would otherwise choose. This exclusion will apply only to the Interim Energy Efficiency Programs and will not bind the design of future programs.

KEDNY would be allowed to defer up to a maximum of \$10 million in actual operating costs to implement its Interim Energy Efficiency Program. Similarly, KEDLI would be allowed to defer up to a maximum of \$5 million in actual operating costs to

implement its Interim Energy Efficiency Program. KEDNY and KEDLI would also be allowed to defer their Interim Lost Revenue associated with actual implementation of the Interim Energy Efficiency Programs, calculated based on stipulated tables of energy savings for each installed measure and rates. Interim Lost Revenue would be calculated monthly for all energy efficiency measures installed under the Interim Energy Efficiency Programs.

The Joint Proposal contains a number of safeguards to ensure efficient operation of the programs. KEDNY and KEDLI will maintain books and records sufficient to document every calculation necessary to determine actual operating costs to implement the Interim Energy Efficiency Programs, to document each installed measure and to audit every calculation necessary to determine Interim Lost Revenues. Such books and records shall be made available to the Signatory Parties whenever requested. Also, KEDNY and KEDLI will provide bimonthly reports including monthly and program-to-date figures for each of the fifteen programs showing customer/project/installation numbers, amounts expended, projected gas savings, projected lost revenue, and any other energy efficiency implementation and/or operating costs for which they intend to seek recovery. KEDNY and KEDLI will coordinate with the other providers of energy efficiency programs in their service territories, to wit: New York State Energy Research Development Authority, Consolidated Edison Company of New York, Inc., the Long Island Power Authority,

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the New York State Department of Housing and Community Renewal (Weatherization Program), and local weatherization subgrantee agencies to avoid duplication, to enhance efficiency in the provision of programs, to take advantage of existing opportunities which could be implemented by or through such other programs, and to customize program design and implementation to their service territories to the extent practicable. In addition, KEDNY and KEDLI will coordinate with the City of New York and Counties of Nassau and Suffolk, which entities possess unique information regarding customer planning and economic development, to customize program design and implementation to their service territories to the maximum extent practicable. Finally, the Joint Proposal provides a dispute resolution mechanism to ensure that any disagreements are addressed promptly and brought to the Commission for resolution if they cannot be resolved informally among the parties.

#### SETTLEMENT PROCEDURES

A Notice of Impending Negotiations was sent to all persons reasonably known to have an interest in the outcome of negotiations and was duly filed with the Secretary by letter dated November 28, 2006. After notice to the parties, settlement conferences were held among the parties that desired to participate. Compliance with the Commission's settlement rules and processes was maintained at all times.

ARGUMENT

The Joint Proposal is in the Public Interest

A. General Considerations

The Joint Proposal was arrived at fairly in full compliance with all Commission rules and all parties had an opportunity to participate. After thorough investigation and discussion, Staff was able to fully understand the respective positions of the parties and believes that the Joint Proposal is a reasonable compromise of those diverse positions. Settlements by their very nature involve compromise to satisfy diverse interests. As in most settlements, the individual components are a series of inter-related compromises that do not stand alone. Therefore, the individual components of a settlement must be judged as a package. If the overall package is in the public interest, that is all that is required.

The Commission's Procedural Guidelines for Settlement (1992) (at p. 8) sets forth the following criteria for deciding whether a settlement is in the public interest:

- a. A desirable settlement should strive for a balance among (1) protection of the ratepayers, (2) fairness to investors, and (3) the long term viability of the utility; should be consistent with sound environmental, social and economic policies of the Agency and the State; and should produce results that were within the range of reasonable results that would likely have arisen from a Commission decision in a litigated proceeding.
- b. In judging a settlement, the Commission shall give weight to the fact that a settlement reflects the agreement by normally adversarial parties.

Our recommendation to the Commission is that the overall package of the Joint Proposal that provides the framework under which KEDNY and KEDLI will implement gas energy efficiency programs in their service territories on an interim basis subject to specified safeguards to ensure efficient operation of the programs, should be approved as it is in the public interest. The key factors that justify our recommendation that the Joint Proposal is in the public interest are as follows:

- 1) the Interim Energy Efficiency Programs will improve system reliability by reducing demand on the transmission and distribution systems;
- 2) the Interim Energy Efficiency Programs will improve air quality due to reduced emissions from the consumption (burning) of natural gas;
- 3) the Joint Proposal is consistent with Commission efforts<sup>1</sup> to promote natural gas related energy efficiency programs including utility programs and other programs to ensure that energy efficiency programs are available in the coming heating season;
- 4) the cost of the Interim Energy Efficiency Programs to be implemented, \$10 million for KEDNY and \$5 million for KEDLI, would produce a minimal negative rate impact

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<sup>1</sup> Case 07-M-0548, Proceeding on Motion of the Commission Regarding An Energy Efficiency Portfolio Standard, Order Instituting Proceeding (issued May 16, 2007).

on ratepayers, and, for those customers availing themselves of such program measures, the benefits would far outweigh costs. Based on KEDNY's and KEDLI's overall revenues for 2005, such programs represent approximately 0.45 % and 0.35 % of those revenues, respectively;

- 5) the reduced demand for gas as a result of these energy efficiency programs should help to reduce overall spot gas prices at the New York City Citygate, especially during cold winter peak periods;
- 6) due to the abundance of gas-fired generation in New York City and Long Island, reduced gas costs as a result of lower customer demand could help to put pressure to lower electricity prices to customers in New York City and Long Island; and
- 7) the Joint Proposal embodies the agreement of normally adversarial parties to a reasonable result.

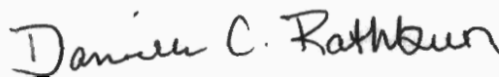
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CONCLUSION

For the foregoing reasons, the Staff of the Department of Public Service requests approval and adoption of the terms of the Joint Proposal.

Respectfully submitted,

  
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Dated: Albany, New York  
May 31, 2007