

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeen G. Kelly.

EnergyNorth Natural Gas, Inc.

Docket No. CP03-331-000

ORDER DETERMINING SERVICE AREA AND GRANTING WAIVER

(Issued March 30, 2004)

1. On July 3, 2003, EnergyNorth Natural Gas, Inc. (EnergyNorth) filed an application requesting that the Commission designate, pursuant to Section 7(f) of the Natural Gas Act (NGA),¹ a service area within which EnergyNorth may, without further Commission authorization, enlarge, extend or interconnect its distribution facilities with those of Colonial Gas Company (Colonial)² in order to periodically access a new supply source from Colonial that would otherwise be unavailable. EnergyNorth also requests a waiver of all reporting and accounting requirements and other regulatory requirements ordinarily applicable to natural gas companies under the NGA and the Natural Gas Policy Act of 1978 (NGPA).³ Further, EnergyNorth requests a determination that it is a local distribution company (LDC) for purposes of section 311 of the NGPA.

2. The Commission will grant EnergyNorth's requests since the requested service area determination is consistent with Section 7(f)'s purpose of permitting an LDC to enlarge or expand its facilities to supply market requirements without further Commission approval. The service area determination would allow for more efficient operation and more reliable service to EnergyNorth's customers.

I. Background and Proposal

3. Both EnergyNorth and Colonial are LDC's engaged in sales and transportation of natural gas in their respective service areas. EnergyNorth provides gas distribution service in south central New Hampshire, subject to regulation of its services and rates by

¹15 USC § 717, et seq.

²Both Colonial and EnergyNorth are subsidiaries of Keyspan Corporation.

³15 USC § 3301, et seq.

the New Hampshire Public Utilities Commission (NHPUC). Colonial provides gas distribution service in northeastern Massachusetts, subject to regulation of its services and rates by the Massachusetts Department of Telecommunications and Energy (MDTE). Currently, the facilities of both LDCs terminate at the Massachusetts-New Hampshire border (near the town of Tyngboro, Massachusetts), with a distance of approximately 1,035 feet between the two pipelines.

4. EnergyNorth occasionally experiences decreases in pressure which could compromise EnergyNorth's ability to provide gas distribution service to end-use customers. In order to enhance the reliability of its system and eliminate the pressure decreases, EnergyNorth wishes to interconnect its facilities with Colonial's facilities. This interconnection will enable EnergyNorth to obtain gas from Colonial when the pressure decreases occur by transporting it through the proposed interconnection. Any gas transported through the interconnection will be purchased by EnergyNorth from Colonial under the blanket certificate authority afforded under Section 284.402 of the Commission's regulations.⁴ EnergyNorth does not propose to provide service in the requested service area in Massachusetts, or provide service to any customer in New Hampshire outside of its current service territory.

5. EnergyNorth requests a determination that its service area includes its territory in New Hampshire as well as the facilities in Massachusetts necessary to connect EnergyNorth's facilities to Colonial's facilities. This proposed service area constitutes a single geographic area. Provided the service area determination is granted, EnergyNorth proposes to extend its distribution facilities into Massachusetts in order to connect its distribution system with Colonial's distribution system.⁵

6. Specifically, EnergyNorth seeks to install approximately 1,285 feet of 4-inch diameter, 60 psig plastic main segment (main) at and across the New Hampshire-Massachusetts border which will permit it to distribute gas to customers in New Hampshire and interconnect its facilities with Colonial's facilities.

7. EnergyNorth will own 250 feet of the main from its existing facilities up to the New Hampshire-Massachusetts border. EnergyNorth will also own 50 feet of main extending from the border into Massachusetts and the appurtenant metering facilities to be located at the interconnection of the facilities of EnergyNorth and Colonial. Colonial

⁴18 CFR § 284.402 (2003).

⁵EnergyNorth clarified the ownership of various portions of the new construction by letters filed September 22, 2003 and February 25, 2004.

will own the remaining 985 feet of the proposed connection from the metering facilities to its existing distribution main in Massachusetts. Thus, EnergyNorth will own facilities in both New Hampshire and Massachusetts while Colonial will only own facilities in Massachusetts.

8. The facilities constructed and owned by EnergyNorth will be subject to comprehensive rate and service regulation by the NHPUC. The facilities constructed and owned by Colonial will be subject to comprehensive rate and service regulation by the MDTE. In constructing the proposed facilities both Colonial and EnergyNorth will comply with all applicable State and local laws and regulations. Colonial and EnergyNorth are subject to applicable Federal, State and local environmental and safety laws.

Public Notice and Interventions:

9. Public notice of EnergyNorth's application was published in the Federal Register on July 18, 2003 (68 Fed. Reg. 42693) with comments, protests, and interventions due on or before August 4, 2003. No interventions or protests were received.

II. Discussion

10. Section 7(f) (1) of the NGA provides:

The Commission, after a hearing upon its own motion or upon application, may determine the service area to which each authorization under this section is to be limited. Within such service areas determined by the Commission, a natural gas company may enlarge or extend its facilities without further authorization.

In previous cases, the Commission has recognized that a Section 7(f) service area determination is appropriate for a company that is primarily engaged in local distribution for the purpose of constructing a new supply pipeline into a neighboring State where it will not provide service.⁶ Among the factors considered in determining whether a company qualifies for a service area determination are whether:

- (1) State or local agencies regulate the company's rates;
- (2) the company has an extensive transmission system;

⁶ See, *New England Gas Company*, 106 FERC ¶ 62,045 (2004) and *Indiana Gas Company*, 95 FERC ¶ 61,075 (2001)

- (3) authorizing the service area will have a significant effect on neighboring distribution companies; and
- (4) the company makes sales of gas for resale.

11. With respect to the first factor, EnergyNorth's retail rates and services are regulated by the NHPUC.

12. EnergyNorth neither owns nor operates an interstate natural gas transmission system, nor does it have an extensive transmission system. EnergyNorth's system consists of only 2.86 miles of transmission lines, and 1,776 miles of distribution line. The proposed interconnection will allow EnergyNorth to obtain additional supplies, reduce the potential for customer outages, and improve distribution system pressures.

13. Colonial and EnergyNorth are the only companies that provide natural gas distribution services in the proposed service area. As the proposed facility will only provide a short interconnection across the State line and not enable either Colonial or EnergyNorth to provide distribution service in the other's service area, a grant of the service area determination will not have a significant effect on any other natural gas distribution company.

14. EnergyNorth is primarily engaged in the direct sale and distribution of natural gas to end-users at retail. While EnergyNorth holds a blanket certificate to make sales for resale, such sales are incidental to its core business of distribution for residential, commercial, industrial, and/or agricultural end-users of natural gas.

15. Accordingly, for the reasons stated above, we will grant EnergyNorth's Section 7(f) service area determination, as requested. The service area determination will relieve EnergyNorth of Commission regulations otherwise applicable to the enlargement or extension of its facilities within the service area and the transportation of gas in interstate commerce within the service area.

16. As to the request that EnergyNorth be treated as an LDC for purposes of Section 311 of the NGPA, we have previously held that Section 7(f) companies should be treated as such. Although EnergyNorth will own pipeline facilities that cross the Massachusetts-New Hampshire border, it will operate as an LDC within its service area. With respect to the request for waiver of regulatory requirements, we note that, notwithstanding a Section 7(f) service area determination, a company remains a natural gas company under the NGA. In granting Section 7(f) service area determinations, however we have included appropriate regulatory waivers. No regulatory gap will exist because EnergyNorth will remain subject to the accounting, reporting and other rules and regulations of the

NHPUC. There is no need to duplicate on the Federal level requirements already imposed on EnergyNorth by the State regulatory agencies. Review of EnergyNorth's proposal indicates that there are no accounting, environmental, gas supply or rate issues involved.

17. An environmental assessment (EA) was prepared for EnergyNorth's proposal. The EA discussed the construction of the proposed facilities and the impact on soils, erosion control and restoration of disturbed areas, water resources, wetlands, vegetation, wildlife, federally listed threatened or endangered species, land use, air and noise quality, cultural resources, and alternatives. The EA determined that approval of EnergyNorth's application would not constitute a major Federal action significantly affecting the quality of the human environment.

18. At a hearing held on March 24, 2004, the Commission on its own motion received and made a part of the record in these proceedings all evidence, including the application and exhibits thereto, submitted in support of the authorizations sought herein, and in consideration thereof,

The Commission orders:

(A) EnergyNorth is granted a service area determination under Section 7(f) of the NGA, as described herein and more fully in the application.

(B) EnergyNorth is determined to be an LDC for purposes of Section 311 of the NGPA.

(C) EnergyNorth is granted a waiver of reporting and accounting requirements, as well as all other rules and regulations under the NGA and NGPA, that are ordinarily applicable to natural gas companies.

By the Commission.

(S E A L)

Linda Mitry,
Acting Secretary.