COMMISSIONER PRESENT:

John B. Rhodes, Chair

CASE 19-G-0678 - Proceeding on Motion of the Commission to Investigate Denials of Service Requests by National Grid USA, The Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid.

ORDER INSTITUTING PROCEEDING AND TO SHOW CAUSE

(Issued and Effective October 11, 2019)

INTRODUCTION

As of May 15, 2019, National Grid USA and its affiliates, KeySpan Gas East Corporation d/b/a National Grid (KEDLI) and The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) (collectively and individually, National Grid or Companies), have not been fulfilling applications for new or increased firm service because the Companies projected that available natural gas supply would be insufficient to meet load growth.1 Since May, National Grid USA, KEDLI, and KEDNY have denied firm gas service to more than 3,700 existing and new customers. This includes existing customers who had temporarily suspended gas service to facilitate renovations to their homes or businesses. In many cases, the service denials occurred after the applicant had already commenced construction or

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1 The Companies have not been fulfilling firm gas service requests in the Brooklyn, Queens, Nassau County, and Suffolk County portions of their service territories.
renovation work. The failure to provide service coupled with the lack of appropriate notice of a moratorium created an undue hardship for these customers.

Accordingly, the Companies are directed to connect certain residential customers immediately or show cause why they cannot do so within seven days of this Order. Second, the Companies are directed to provide an Implementation Plan for additional energy efficiency and demand response measures within ten days, or show cause why they cannot do so. Third, the Companies are directed to provide a Contingency Plan as described in this Order within ten days, or show cause why they cannot do so. Fourth, the Companies are directed to show cause why they should not incur financial penalties subject to Public Service Law §§25 and 25-a within 30 days of this Order.

LEGAL AUTHORITY

The Public Service Law (PSL) requires the provision of gas service without unreasonable qualifications or lengthy delay – when sufficient gas supply exists. PSL § 30 declares “that the continued provision of all or any part of [] gas . . . service to all residential customers without reasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest.” PSL §§31(3) and (4) require National Grid to provide gas both to any residential customer whenever he/she “moves to a new residence of the service territory of the same utility corporation,” and “for service to a new building which is not [currently] supplied with . . . gas.” Section 65(1) of the PSL also requires that every gas corporation “furnish and provide such service” in such manner “as shall be safe and adequate and in all respects just and reasonable.” Moreover, even in the context of a supply constraint, PSL §66-a(1)
requires gas utilities to allocate “the available supply of gas . . . in such manner as may be necessary to protect public health and safety and to avoid undue hardship.”

**DISCUSSION AND CONCLUSION**

Based upon its investigation to date, the Department has determined that National Grid has denied gas service to more than 3,700 new and existing customers in its Brooklyn, Queens, and Long Island service areas. This action began in or about November 2018, expanded in May 2019, and continues to date. The Department’s investigation into specific customer complaints and into National Grid’s general approach to process requests for gas service indicates that during this timeframe National Grid has declined to provide gas service to certain existing customers that, if served, would not have materially increased gas demand. Of the group of customers denied service, the Department focused in particular on residential customers because of the immediate need for gas service prior to the fast approaching winter months. The Department has determined that the 1,157 residential and small commercial customers denied service represent less than 0.05 percent of the 2.8 million Dth/day peak demand forecast associated with National Grid’s gas delivery systems at issue.

The Department’s investigation also shows that National Grid failed to undertake a case-by-case determination prior to denying service to these customers. For example, National Grid denied service to existing customers that renovated their residential properties without having sufficiently demonstrated that these requests for service would increase peak day demand. National Grid also denied service to existing customers wishing to restart service at different, pre-existing premises.
National Grid has asserted that some of the premises in question were inactive for more than 24 months and thus National Grid’s decision to deny service was justified because the recommencement of service would constitute an increase in demand that the company lacked supply to meet. As noted, many of the customers denied service are existing customers. The Department’s investigation showed that 218 customers denied service did not fall outside of this 24-month window, with many of the customers inactive for a short duration. Given that National Grid has 1.8 million customers, it is inevitable that during any 24-month period, a relatively constant number of customer accounts would be inactive because of a lengthy renovation. The Companies’ load forecast(s) should have presumed the presence of this customer group. In any event, with respect to the residential customers at issue, the 0.05 percent of load attributable to the 1,157 customers denied service does not constitute a material increase in gas usage.

National Grid’s failure to provide these customers with adequate notice regarding the decision to deny service before May 2019 placed many of these customers in the untenable position of having invested in an ongoing renovation without knowing that the renovated residence or business would not be provided with basic gas service. Other customers were placed in the position of having rented or purchased homes without knowing that their gas service applications would be denied. National Grid did not provide advance notice to these customers that it would not provide service after a future date.

Accordingly, in the Department’s view, the failure to provide service to the 1,157 residential and small business customers denied service since May 2019, coupled with the lack of adequate notice, constitutes an “undue hardship” within the meaning of PSL §66-a(1).
Given the onset of winter heating season, this Order directs National Grid to provide gas service to these customers immediately, or show cause within seven days why the Companies cannot do so.

In addition, the Department’s investigation has also shown that there were and are numerous options available to National Grid, including the implementation of aggressive demand response and energy efficiency programs, and alternative supply options, that could, at a minimum, accommodate the limited load associated with these 1,157 customers. Implementation of these demand and supply options may also allow the Companies to provide service to the numerous other customers denied service from November 2018 to date.

The Department is also concerned that National Grid did not pursue a portfolio of alternative supply and demand reduction measures before determining that a moratorium on new or expanded service connections was warranted for large customers in November 2018 and all customers in May 2019. For more than two years, National Grid has known that, if permitted, the proposal for new pipeline capacity into the downstate region would not be in-service until the winter of 2020-2021. Yet, National Grid faces the real possibility of supply constraints in the winter of 2019-2020 due to recent operational changes on the Enbridge interstate pipeline system. National Grid and all gas utilities should consider single points of failure on the interstate gas system and have contingency plans in place to ensure such changes do not negatively impact the reliability of its system. Given the current situation, it is clear that relying solely on peaking services for contingencies is a questionable approach to ensuring reliability. The Department’s investigation indicates that, had National Grid invested more heavily over the past two or more years in demand response,
energy efficiency, and local compressed natural gas and renewable natural gas solutions, then there would be a greater cushion to absorb unanticipated operational changes on the interstate pipeline system.

Given the onset of the winter heating season, this Order directs National Grid to provide an Implementation Plan to the Commission within ten days, or show cause within ten days of this Order why the Companies cannot do so. The Implementation Plan shall identify a portfolio of demand and supply solutions that would allow the company to initially connect the 1,157 customers identified above, and, as supply and demand solutions materialize in excess of the load associated with the initial 1,157 customers to also connect additional customers denied service to date as the Companies are safely able to do so.

The Department is reviewing National Grid’s reliability planning strategies as part of its ongoing investigation. In the meantime, National Grid’s chosen solution to meet the needs of its customers – a new interstate pipeline – continues to experience permitting challenges in New York and New Jersey. Given that the Department cannot know the outcome of the proposed solution, there is a concern that the remaining customers that were denied service by National Grid since November 2018 that will not be reached by the Implemental Plan above, will continue to face hardship, unless alternative solutions are identified. Thus, this Order also directs National Grid to develop and file a Contingency Plan that identifies alternative supply and demand solutions that could be implemented to safely accommodate all customers that have been denied service to date — or show cause why the Companies cannot do so within ten days of this Order. This Contingency Plan shall include a proposed sequencing of the connection of accounts as demand is reduced from the Implementation Plan.
and/or supply and demand measures are implemented pursuant to the Contingency Plan thus creating supply to serve these customers. The Contingency Plan shall also include a proposed prioritization of those customers most in need of gas service.

Finally, National Grid’s actions to date may constitute a violation of PSL §§ 31 and 66-a. Accordingly, this Order also directs National Grid to show cause why it is not subject to the imposition of financial penalties pursuant to PSL §§ 25 and 25-a.

It is ordered:

1. A proceeding is commenced to investigate denials of service requests by National Grid USA, The Brooklyn Union Gas Company d/b/a National Grid NY, and KeySpan Gas East Corporation d/b/a National Grid.

2. National Grid USA, The Brooklyn Union Gas Company d/b/a National Grid NY, and KeySpan Gas East Corporation d/b/a National Grid shall connect the 1,157 residential and small business customers identified in the body of this order or show cause, within seven days, why the Companies cannot do so.

3. National Grid USA, The Brooklyn Union Gas Company d/b/a National Grid NY, and KeySpan Gas East Corporation d/b/a National Grid shall file with the Secretary, within ten days of this Order the Implementation Plan and Contingency Plan each identified in the body of this Order or show cause why the Companies cannot do so.

4. National Grid USA, The Brooklyn Union Gas Company d/b/a National Grid NY, and KeySpan Gas East Corporation d/b/a National Grid are directed to show cause, within 30 days of this Order why the Companies are not subject to the imposition of financial penalties pursuant to PSL §§ 25 and/or 25-a for violations of the Public Service Law.
5. 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.

6. This proceeding is continued.

(SIGNED) Commissioner