

**THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

**Unitil Energy Systems, Inc.
DE 18-038**

**Motion for Rehearing and for
Implementation of Adjudicatory Procedures**

Pursuant to RSA 541:3,¹ Unitil Energy Systems, Inc. (“UES” or the “Company”) respectfully requests rehearing on the March 7, 2019 Secretarial Letter (the “Secretarial Letter”) issued by the New Hampshire Public Utilities Commission (the “Commission”) in the above-captioned proceeding. As discussed in greater detail below, the Secretarial Letter is based on a process that did not conform to the Commission’s Chapter 200 Procedural Rules. More specifically, the Secretarial Letter decided issues in dispute between the Commission’s Audit Staff and the Company concerning the propriety of including certain communications-related storm costs in UES’s Major Storm Cost Reserve Fund (“MSCRF”). Given the dispute between the Audit Staff and the Company and the decision to exclude certain costs from the MSCRF, the Commission should have implemented an adjudicatory process, including a duly noticed hearing, consistent with Part Puc 203 of its Chapter Puc 200 Rules. Moreover, the Secretarial Letter appears to double-count invoices and thereby overstates the amount of the communications costs at issue. Accordingly, UES respectfully requests that the Commission grant rehearing on the Secretarial Letter and schedule a pre-hearing conference for the purpose of implementing appropriate adjudicatory procedures for this proceeding consistent with Chapter Puc 200 of the Commission’s Rules.

¹ As discussed in n.4, *supra*, UES’ Motion is also based in the alternative on RSA 365:28 in the event the Commission determines that rehearing is not the appropriate procedure in these circumstances.

BACKGROUND

A. The Company's Annual Major Storm Cost Reserve Fund Report for 2017.

On March 16, 2018, UES filed in the above-captioned proceeding its Annual Major Storm Cost Reserve Fund Report for calendar year 2017 (the "2017 MSCRF Report" or the "Report"). The Report was filed in compliance with the Commission's requirements set forth in UES' Rate Plan Settlement in Docket No. DE 10-055, and as ordered in Docket No. DE 11-277, Order No. 25,351, Order Granting Increase to Storm Recovery Adjustment Factor ("SRAF"), issued April 24, 2012 (requiring UES "to file annual reports on the Storm Reserve Fund and storm recovery updates for those storms where costs are recovered through the SRAF").

The Company's 2017 MSCRF Report states that as of December 31, 2017 the MSCRF balance was at a \$4.5 million deficit. As stated in the cover letter accompanying the Report, through a separate filing being made with the Commission, UES was seeking recovery of costs related to the October 30, 2017 wind storm through its SRAF and was proposing to recover a portion of the remaining MSCR balance through the combination of a scheduled step adjustment and a temporary increase in the level of the MSCR amortization.

B. Audit Staff's Internal Memoranda on the 2017 MSCRF Report and UES' Response.

On March 19, 2018, the Commission's Executive Director issued a letter acknowledging receipt of UES' 2017 MSCRF Report. An Order of Notice was never issued.

After the Commission acknowledged receipt of the Report, its Audit Staff performed an on-site audit of the Report. On or about July 10, 2018, UES received an audit report from Audit Staff (the "Initial Audit Report").² The Initial Audit Report was generally supportive of the

² The Initial Audit Report was not filed in the public record for this proceeding.

Company's 2017 MSCRF Report, but nevertheless identified two issues.³ Audit Issue #1 related to communication services. Specifically, Audit Staff concluded that two invoices from Calypso Communications related to the October 30, 2017 wind storm totaling \$14,625 "are not eligible for storm cost recovery as they are not necessary for preparing or restoring power." (Initial Audit Report at 13.) The Initial Audit Report states in the "Company Comment" section that:

The Company maintains that storm monitoring , communications , and documentation (including photos and video) are all integral parts of the storm restoration process, and that the cost of these activities are includable in the MSCR and/or the SRAF.

The Company enlists many outside contractors to assist during storm events, including Calypso Communications. Calypso's direct support activities include (but are not limited to) preparing Public Service Announcement, serving as the Company's media liaison with various news organizations at our different operating centers and staging sites, and updating the Company's web site and social media sites. They are a key part of the Company's communications team during storm events. These activities are included in invoice #7013.

It is imperative that the Company fully document storm events, both as evidence for cost recovery purposes, and to share with city and town governments , other first responders , and customers. This documentation includes photographs and videos, and Calypso performs this role for the Company during storm events. These documentation activities are included in invoice # 7014.

(*Id.* at 13.)

Audit Staff rejected the Company's comments and provided the following explanation in the Initial Audit Report:

Audit appreciates the response by the Company. Audit understands that Unitil believes that capturing photos, videos, social media use, email , communication services, and acting as a media liaison for other entities is an essential part of documenting storm restoration efforts. This was also an audit issue in the 2015 Storm Cost Report issued on 4/19/2016. The Company did not submit supplemental documentation that is required by the Commission, to justify the Calypso Communications costs. The costs were considered to be imprudent. If Unitil believes it cannot issue complete storm restoration effort reports to the Commission without the use of photos, videos, email, social media, Public

³ This motion only discusses the first issue identified by the Audit Staff. UES accepted the second issue (Audit Issue #2), which related to the timely filing of an updated tariff page specifying the carrying charge interest rate.

Service Announcements, and media liaison activities then a formal plan should be submitted to the Commission Staff for approval in the Fund. The plan should detail the uniform application of the policy and methods to keep costs of the efforts to a minimum.

(*Id.* at 14.)

On October 25, 2018, UES filed with the Commission a comprehensive response to the Initial Audit Report (the “UES Response to Initial Audit Report”). In particular, the Company’s response explained: (a) the Company’s need for the specific communications functions provided by Calypso Communication during major storms and related recovery efforts; (b) the prudence of UES relying on Calypso Communications to provide those services; (c) the Electric Division Staff had previously determined that the Company’s inclusion of these costs in the MSCRF was in full compliance with applicable Commission orders; and (d) that a “formal plan” was not required to be submitted to Staff for inclusion of those costs in the MSCRF. At the end of its response, the Company summarized its position as follows:

- There is no “requirement” that the Company submit a formal plan to Staff concerning its use of media and its media liaison activities during a storm event prior to seeking recovery of those costs through the MSCR.
- The Staff Review by the Electric Division of the Company’s 2015 MSCR report that was filed in DE 16-274 found that the Company's MSCR report was in full compliance with the applicable Commission orders.
- No order was issued by the Commission in DE 16-274 and no action was taken on the audit issue.
- The April 2016 Audit Report did not address charges for the function of direct assistance by Calypso employees, and as a result, there cannot be any Commission requirement for a formal plan with respect to these costs, as this is a different and distinct type of service addressed by the Audit Staff in the Audit Report for the first time.
- The charges from Calypso Communications represent activities which are part of a formal plan which has been submitted to the Commission on an annual basis in accordance with Rule Puc 306.09.
- The costs at issue are prudent expenditures: They have been incurred in order to help the Company communicate timely and accurate information about restoration efforts regularly, consistently, and as widely as possible, and the product they produce provides evidence for cost recovery purposes.

- The Calypso staff members are specifically trained for the functions they fulfill during a storm event, and take part of the Company's annual storm preparedness drills and exercises.
- It would be impossible for the internal Unifil Communications team to cover all roles and shifts during an emergency event without the additional support provided by trained Calypso staff.

(UES' Response to Initial Audit Report at 6-7.)

C. Audit Staff's Addendum to its Initial Audit Report.

On February 4, 2019, the Commission's Staff filed in this proceeding an Addendum (dated February 1, 2019) to the Initial Audit Report (the "Revised Audit Report"). The Revised Audit Report stated that the Audit Staff had re-opened the audit after reviewing UES' Response to Initial Audit Report. The Revised Audit Report explained the process conducted by Audit Staff after re-opening the audit, and agreed with UES that the two invoices totaling \$14,625 related to the October 30, 2017 wind storm were not imprudent and that a formal plan was not necessary. (Revised Audit Report at 12-14.). Audit Staff, however, concluded that the two invoices at issue should be recovered through the Company's media and communications general expense accounts and not through the MSCRF. (*Id.* at 13.). In addition, the Audit Staff identified Calypso Communication invoices related to other 2017 major storms that, together with the previously identified invoices, totaled \$32,506. (*Id.*) Again, Audit Staff concluded that all of the invoices should be charged to the Company's general media expense accounts and not the MSCRF. (*Id.*) The complete rationale for excluding these prudently incurred storm-related expenses is as follows:

Audit appreciates the Company response. Audit reiterates the Calypso Communication storm response costs are best reflected as general media and communication expenses for the Company as a whole rather than be booked to the storm fund. Going forward, none of the Calypso Communications costs should be booked to the storm reserve fund.

(Revised Audit Report at 16.)

D. Commission Action on Audit Staff's Reports.

On March 7, 2019, the Commission's Executive Director filed a Secretarial Letter advising UES that it had reached a decision:

The Commission has reviewed Audit Staffs report and addendum, and Unitil's responses. The Commission agreed with the Audit Staffs conclusion that the charges for work performed by Calypso should be booked to appropriate media services accounts because the work related to communications to the public and to media services. Therefore, the Commission decided to direct Unitil to restore the sum of \$47,131 to the MSCR and to book the expenses in Unitil's media or communications accounts as Unitil deems appropriate.

(Secretarial Letter at 1.)

ARGUMENT

A. The Standard of Review Applicable to a Motion for Rehearing.

UES seeks rehearing pursuant to RSA 541:3:

541:3 Motion for Rehearing. – Within 30 days after any order or decision has been made by the commission, any party to the action or proceeding before the commission, or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order, specifying in the motion all grounds for rehearing, and the commission may grant such rehearing if in its opinion good reason for the rehearing is stated in the motion.^[4]

In Order No. 26,227, issued on March 20, 2019 in DE 16-576, at page 3, the Commission stated the following, in ruling on the OCA's motion for clarification:

⁴ If the Commission were to conclude that rehearing is not appropriate in the circumstances, UES requests in the alternative that the Commission implement adjudicatory procedures after setting aside the March 7 Secretarial Letter pursuant to RSA 365:28:

365:28. Altering Orders. – At any time after the making and entry thereof, the commission may, after notice and hearing, alter, amend, suspend, annul, set aside, or otherwise modify any order made by it. This hearing shall not be required when any prior order made by the commission was made under a provision of law that did not require a hearing and a hearing was, in fact, not held.

The Commission's "RSA 365:28 authority 'is limited only in that the modification must satisfy the requirements of due process and be legally correct.'" *Pub. Serv. Co. of N.H.*, Docket No. DE 03-166, Order No. 24,327 at 12 (applying RSA 365:28 to motion for reconsideration and quoting *Appeal of Office of Consumer Advocate*, 134 N.H. 631, 657 (1991)). The Company's Motion satisfies the standards of both RSA 541:3 and RSA 365:28.

Under RSA 541:3, the Commission may grant rehearing or reconsideration when a party states good reason for such relief. Good reason may be shown by identifying new evidence that could not have been presented in the underlying proceeding, *see O’Loughlin v. N.H. Personnel Comm’n*, 117 N.H. 999, 1004 (1977), or by identifying specific matters that were “overlooked or mistakenly conceived” by the Commission, *Dumais v. State*, 118 N.H. 309, 311 (1978). A successful motion for rehearing does not merely reassert prior arguments and request a different outcome. *Public Service Company of New Hampshire*, Order No. 25,239 at 8 (June 23, 2011).

Here, there is more than good reason for the Commission to grant rehearing. As discussed below, the dispute between Audit Staff and UES regarding the propriety of including the Calypso invoices in the MSCRF should have been resolved by the Commission through an adjudicatory process, including a duly noticed hearing. An Order of Notice was not issued, and there was neither a hearing scheduled on the disputed issue nor an opportunity for UES to request a hearing. Accordingly, the Commission should grant rehearing so adjudicatory procedures can be properly implemented to resolve an issue that is not only important to this proceeding, but also to future MSCRF proceedings for which this determination will likely be used as precedent.

B. Whether the Calypso Invoices are Properly Included in the MRCS Fund is an Issue that Should Have Been Decided Through an Adjudicatory Process, as Required by the Commission’s Rules.

As the New Hampshire Supreme Court has observed, “[t]he law of this State is settled that an administrative agency must follow its own rules and regulations.” *Town of Nottingham*, 153 N.H. 539, 554-55, 904 A.2d 582 600 (2006) (citation omitted). Thus, all matters before the Commission must conform to the Procedural Rules in Chapter Puc 200. Puc 201.01 (“This chapter shall apply to all matters that come before the commission.” (emphasis added)). The Commission’s procedural rules provide for only two types of proceedings: adjudicative

proceedings (Part Puc 203) and rulemaking proceedings (Part Puc 205).⁵ The New Hampshire Supreme Court has emphasized that the Commission’s unique quasi-judicial role in public utility regulation requires that the mandates of due process be complied with “meticulously”:

Due process is a flexible standard in the administrative law context. We expect and will require meticulous compliance with its mandates, however, in the case of the PUC because as long ago as 1929 this court recognized that the PUC was created by the legislature as a “state tribunal, imposing upon it important judicial duties.” *Parker-Young Co. v. State*, 83 N.H. 551, 556, 145 A. 786, 789 (1929). When it is not acting in a rule-making capacity but in an adjudicative one, see 3 K. Davis, *supra* § 14:5, at 24-28, the procedural posture of the PUC is different. “If private rights are affected by the board’s decision the decision is a judicial one.” *Petition of Boston & Maine Corp.*, 109 N.H. 324, 327, 251 A.2d 332, 336 (1969) (decision of PUC, closing railroad grade crossing, was judicial).

Appeal of Pub. Serv. Co. of N.H., 122 N.H. 1062, 1073-74, 454 A.2d 435, 442 (1982).

In the instant proceeding, UES filed its annual report with the Commission on the Company’s MSCR fund balance. The Report, which was supported by the Affidavit of Unitil Service Corporation’s Director of Business Continuity and Compliance, concluded that the MSCR fund balance as of December 31, 2017 was in a deficit of \$4.5 million. Among other things, the Report provided a detailed reconciliation of the MSCRF, a reconciliation of the SRAF and detailed information related to the each of the major storms during calendar year 2017.

The Commission’s Audit Staff performed an audit of the Company’s statements of account to review including, among other things, the costs UES included in its reconciliation of the MSCRF. The Audit Staff’s Initial Audit Report concluded that the two invoices totaling \$14,625 should not be included in the MSCR fund because they were imprudently incurred and are

⁵ The Commission’s Chapter Puc 200 Rules also allow for complaints against public utilities (Part Puc 204), alternative forms of regulation (Part Puc 206) and declaratory rulings (Part Puc 207), but the Commission’s rules contemplate that adjudicatory procedures will be implemented in those proceedings. *See* Puc 204.05 (adjudicative proceedings to resolve complaints against public utilities); Puc 206.04(a) (proceedings considering alternative forms of regulation “shall be considered adjudicatory”); Puc 207.01(d) (for petitions seeking a declaratory ruling not otherwise dismissed by the Commission, “the commission shall conduct an adjudicative proceeding”).

required to be approved as part of a formal plan prior to inclusion in the MSCRF. (Initial Audit Report at 13-14.)

In UES' Response to Initial Audit Report, the Company explained the important role played by Calypso in the Company's communications with the Commission, municipalities and customers related to storm events and related restoration efforts. Calypso's work also includes updating UES' social media platforms to keep the general public informed of the state of the restoration effort and documenting storm damage in real time. The Company's response to the Initial Audit Report also rebutted the Audit Staff's legal conclusion that the Calypso invoices were imprudent costs and that Calypso's services were required to be included in a formal plan.

After considering UES' response, the Audit Staff re-opened the audit and performed further inquiry. Audit Staff agreed with UES that the Calypso invoices were not imprudent and that a formal plan was not necessary. Audit Staff concluded, however, that the two invoices at issue, as well as other invoices for other 2017 storm events (all of which total \$32,506), should be charged to UES' general media expense accounts, not the MSCRF. The Audit Staff's Memorandum report was addressed to Tom Frantz, Director Electric Division, Lester Stachow, Assistant Director, and Richard Chagnon, Utility Analyst. It was neither addressed nor stylized as a recommendation from the Staff to the Commission.

As with typical and past practice at the Commission, UES expected that the Electric Division Staff would provide a recommendation to the Commission based on its review of the Audit Staff's and the Company's positions. *See, e.g.*, DE 16-274. Further, if the Electric Division Staff disagreed with the Company's position (in contradiction of the Electric Division Staff's prior position on communication costs related to storm events and restoration⁶), then it

⁶ In DE 16-274, the proceeding in which UES filed a prior MSCRF report, the Audit Staff issued a report on April 19, 2016 recommending that certain invoices of Calypso Communications be excluded from the MSCRF. On July

would be necessary to have a hearing on the issue before the Commission for resolution. If the Electric Division Staff agreed with the Company's position, as it had previously, then a hearing would not be necessary because there would be no disagreement between Division Staff and the Company.

Rather than a recommendation to the Commission from the Electric Division Staff, the next activity in this proceeding was the Secretarial Letter issued on March 7, 2019.

Had UES been on notice that the Commission would rule on the Calypso invoices based on the Revised Audit Report and the Company's Response to Initial Audit Report, it would have requested a hearing before the Commission on the issue. UES was never given an opportunity for a hearing (or an opportunity to request a hearing) prior to a Commission decision. Given the dispute between Audit Staff and the Company as to whether the Calypso invoices were properly included in the MSCRF, under the Commission's Puc 200 Rules an adjudicatory process should have been used to resolve the issue by the Commission.⁷ The Commission's ruling affected a private right of UES (*i.e.*, recovery of prudently incurred costs through a MSRC fund) and the Commission's decision weighing the merits of positions put forth by its own Staff and a public utility is without question judicial in nature. As such, adjudicatory procedures, including a properly noticed hearing, were necessary. *Petition of Boston & Maine Corp.*, 109 N.H. at 327, 251 A.2d at 336 ("If private rights are affected by the board's decision the decision is a judicial one.").

1, 2016, the Electric Division Staff issued a report finding that the Company's report complied with prior Commission orders applicable to the MSCRF.

⁷ New Hampshire's Administrative Procedures Act contemplates that a proceeding may start out as non-adjudicative, but may nevertheless require an adjudicatory process if the proceeding reaches a stage where it is contested:

I. An agency shall commence an adjudicative proceeding if a matter has reached a stage at which it is considered a contested case or, if the matter is one for which a provision of law requires a hearing only upon the request of a party, upon the request of a party.

RSA 541-A:31 (I):

1. Rehearing is Not Requested to Merely Restate Arguments and Seek a Different Outcome.

The Commission has previously stated that “[a] successful motion for rehearing does not merely reassert prior arguments and request a different outcome.” *Public Service Company of New Hampshire*, Order No. 25,239 at 8 (June 23, 2011). Here, UES does not seek rehearing merely to reassert prior arguments. Rather, UES believes that granting rehearing for the purpose of conducting an evidentiary hearing will provide an opportunity for the Company to better understand the Audit Staff’s rationale and will provide an opportunity to expose deficiencies in that rationale through cross examination.⁸ Importantly, after the Company responded to Initial Audit Report’s conclusions that the Calypso invoices were imprudently incurred costs and that Calypso’s services required a formal plan, the Audit Staff retracted those positions in the Revised Audit Report. Instead, the stated rationale underlying the Revised Audit Report is:

Audit appreciates the Company response. Audit reiterates the Calypso Communication storm response costs are best reflected as general media and communication expenses for the Company as a whole rather than be booked to the storm fund. Going forward, none of the Calypso Communications costs should be booked to the storm reserve fund.

(Revised Audit Report at 16.)

The Audit Staff has provided no meaningful explanation of why the Calypso storm-related are more appropriately booked to general media expense accounts and not the MSCRF. Audit Staff merely states a conclusion, not the underlying rationale for the conclusion. The Revised Audit Report provides no discussion of whether Audit Staff believes the services performed by Calypso were critical (or even helpful) to the success of the Company’s storm

⁸ The Commission’s procedural rule concerning cross examination states, in pertinent part:

Puc 203.24 Cross Examination.

(a) Consistent with any conditions imposed pursuant to RSA 541-A:32, III the petitioner, the staff of the commission, the office of consumer advocate and any persons granted intervenor status may conduct cross-examination of a witness in order to develop a full and true disclosure of the facts.

recovery efforts, whether Audit Staff believes that those services are more appropriately provided by UES personnel, and whether costs related to such services would be includable in the MSCR fund if they had been provided by UES personnel. There is also no explanation provided as to why these costs, which are directly variable depending upon the frequency and severity of storm activity, and therefore well-suited to recovery through the MSCR, should be expensed in a media account, where the level of recovery would be set through a base rate proceeding. Nor is there any evidence in the record as to whether the Electric Division Staff agrees with the Audit Staff's recommendation that the Calypso invoices be excluded from the MSCR fund. If Division Staff agrees with Audit Staff, there is nothing in the record explaining why the Electric Division Staff is now taking a position that contradicts that which it took in DE 16-274 when it declined to follow Audit Staff's recommended exclusion of Calypso's storm-related invoices and instead confirmed that the Company's MSCRF report was in compliance with applicable Commission orders. If Electric Division Staff has changed its position, then the Company would likely want to test basis for the Electric Division Staff's change in position during cross-examination.

Until the Company has a better understanding of the basis for Audit Staff's rationale regarding their recommended treatment of these expenses and the Electric Division Staff's current position on these expenses, it is impossible to provide an exhaustive list of all of the issues that might be subject to the adjudicatory process. These few examples are sufficient, however, to demonstrate that the Company's request for rehearing is not simply to regurgitate prior arguments and ask the Commission for more favorable decision. Rather, it is based on a need to cure insufficient procedure that UES should have been afforded under these circumstances. *See Liberty Utilities (EnergyNorth Natural Gas) Corp. d/b/a Liberty Utilities –*

Keene Division, Docket No. DG 17-068, Order No. 26,087 at 4-6 (granting rehearing, in part, of declaratory ruling to address procedural concerns).

2. The Commission Should Conduct an Evidentiary Hearing to Resolve the Dispute Because it Will Likely Serve as Precedent for Future MSCRF Proceedings.

It is important for the Commission to recognize that its decision in this proceeding will likely be viewed as precedent in future MSCRF proceedings. Although the Secretarial Letter provides a ruling on the 2017 SMCRF Report, it sets a precedent for the Company's treatment of communication-related expenses for future proceedings related to the MSCRF. UES believes that the best quality decision on this important issue will result from the proper application of adjudicatory procedures as contemplated by the Commission's Chapter Puc 200 Rules.

3. The Secretarial Letter Appears to Double-Count Two Calypso Invoices.

The Secretarial Letter states as follows:

In response to Unitil's letter, Staff informed the Commission that it would reopen the audit of Unitil's 2017 MSCR Report. On February 4, 2019, Audit Staff filed an addendum to its original report. In the addendum, Audit Staff identified additional invoices in the amount of \$32,506 from Calypso that were paid from the MSCR. Staff concluded that the sums of \$14,625 and \$32,506 were inappropriately paid from the MSCR, and should instead be booked to the Company's media and communications accounts.

The Commission agreed with the Audit Staff's conclusion that the charges for work performed by Calypso should be booked to appropriate media services accounts because the work related to communications to the public and to media services. Therefore, the Commission decided to direct Unitil to restore the sum of \$47,131 to the MSCR and to book the expenses in Unitil's media or communications accounts as Unitil deems appropriate.

(Secretarial Letter at 1 (emphasis added).)

UES believes that the \$47,131 that the Commission directed the Company to restore to the MSCR fund includes double-counted invoices totaling \$14,625.

The Revised Audit Report provides the following discussion at page 13:

Audit agrees with UES that the two Calypso invoices totaling \$14,625 were a prudent use of funds. However, Audit restates the original audit issue and believes the invoices should not be included in the Major Storm Fund. These costs should be moved to UES media services accounts. Audit reviewed Calypso invoices from the March 14, 2017 and April 1, 2017 storms that were similar to the Wind Storm. The invoices were booked to the storm reserve account as payroll. Contractors should not be booked to payroll as they are not direct employees. In addition to the \$14,625, the following invoices Audit sampled should be moved from the Major Storm Reserve Account 10-20-00-00-182-10-00 to media and communications general expense accounts:

<u>Account</u>	<u>Storm Date</u>	<u>Amount</u>
10-20-00-00-182-10-00 Reg Asset: MSR	3/14/17	\$9,620.00
10-20-00-00-182-10-00 Reg Asset: MSR	3/14/17	\$2,694.00
10-20-00-00-182-10-00 Reg Asset: MSR	4/1/17	\$5,567.00
10-20-00-00-182-10-00 Reg Asset : MSR	10/30/17	\$8,400.00
10-20-00-00-182-10-00 Reg Asset : MSR	10/30/17	<u>\$6,225.00</u>
Total		\$32,506.00

The last two items in the list of invoices relate to the October 30, 2017 wind storm and total \$14,625. Thus, although the Audit Staff stated that the tabulated invoices were “[i]n addition to the \$14,625” attributable to the October 30, 2017 wind storm, in fact the list of invoices already includes the two invoices totaling \$14,625 for that storm. Accordingly, rehearing should be granted on the additional basis that the Secretarial Letter appears to reproduce Audit Staff’s error double-counting these two invoices.

CONCLUSION

The Commission’s Secretarial Letter resolves a disputed issue between UES and the Commission’s Audit Staff that should have been determined through adjudicatory procedures, including a hearing. Moreover, the Secretarial Letter is contrary to the Electric Division Staff’s position in DT 16-274 where it affirmed the Company’s MSCRF treatment of storm-related

costs, even where audit Staff raised similar objections to those raised in this proceeding. In addition, the Secretarial Letter appears to reproduce a double-counting error contained in the Revised Audit Report. Finally, given the precedential nature of the Secretarial Letter for future MSCRF filings, a hearing to address the proper treatment of these storm-related communication invoices should be conducted to ensure that the Commission's decision is based on a well-developed record, including a hearing and cross-examination of witnesses. For these reasons, and others discussed herein, UES respectfully requests that the Commission grant rehearing, order that a pre-hearing conference be scheduled to establish adjudicatory procedures and a schedule for this proceeding, and grant such other and further relief that is just and appropriate in the circumstances.

Respectfully submitted,

UNITIL ENERGY SYSTEMS, INC.

By its Attorney:

A handwritten signature in black ink, appearing to read "Gary Epler". The signature is fluid and cursive, with the first name "Gary" and the last name "Epler" clearly distinguishable.

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