

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 22-073**

**UNITIL ENERGY SYSTEMS, INC.**

**Petition for Approval of Investment in and Rate Recovery of  
A Distributed Energy Resource Pursuant to RSA 374-G**

**COMMENCEMENT OF ADJUDICATIVE PROCEEDING  
AND NOTICE OF PREHEARING CONFERENCE**

On October 31, 2022, Unitil Energy Systems, Inc. (UES) filed a petition for approval of a solar energy generating facility to be located in Kingston, New Hampshire (Kingston Project). In support of its petition, UES filed the following: the direct testimony and related attachments of Kevin E. Sprague, Jacob S. Dusling, Andre J. Francoeur, Todd R. Diggins, Christopher J. Goulding, and Jeffrey M. Pentz, employees of Unitil Service Corp., which provides managerial, engineering, and other services to UES; and the direct testimony and related attachment of Carrie Gilbert and Kevin Pierce of Daymark Energy Advisors, as technical consultants to UES. UES also filed a motion for confidential treatment. The initial filing and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission's website at [www.puc.nh.gov/regulatory/Docketbk/2022/22-073.html](http://www.puc.nh.gov/regulatory/Docketbk/2022/22-073.html).

**I. BACKGROUND AND PROCEDURAL HISTORY**

RSA 374-G:5 authorizes New Hampshire electric public utilities to seek recovery, through base distribution rates, of a portion of their investments in "distributed energy resources" (DERs), as defined in RSA 374-G:2, I(b), and as delineated further by RSA 374-G:2, II(a). To do so, the utility is required to submit an appropriate filing that complies with RSA 374-G:5, I. The Commission must then

determine whether the utility's proposed investment and recovery in rates are in the public interest pursuant to RSA 374-G:5, II. Authorized and prudently incurred investments made under these provisions are recoverable in a utility's base distribution rates as a component of the utility's rate base, and cost recovery for such investments would include the recovery of depreciation, a return on investment, taxes, and other operating and maintenance expenses directly associated with the investments, net of any offsetting revenues received by the utility directly attributable to the investment. RSA 374-G:5, III.

The first New Hampshire public utility DER investment pursuant to RSA 374-G:5, made by UES, was the subject of Docket No. DE 09-137. *Unitil Energy Sys., Inc.*, Order No. 25,201 at 4 (March 4, 2011), issued in Docket No. DE 10-292 (approving, as modified, UES's request for step adjustment to recover costs of DER investment approved in Docket No. DE 09-137). In Order No. 25,111 (June 11, 2010), the Commission approved UES's proposal for a two-stage regulatory review process for DER investments. *Id.* at 32. In the first stage, the Commission would determine whether to approve the proposed DER project(s). In the second stage, the Commission would determine whether to approve the cost recovery for the authorized project(s). *Id.* The Commission found that RSA chapter 374-G did not preclude this two-stage review process, and that it was in the public interest to approve such a process, "subject to Staff's recommendation that UES seek re-approval of any project not in service one year after the date of the order finding the project to be in the public interest." *Id.*

RSA 374-G:5, V, also contemplates an extension of up to 6 months, at the Commission's discretion, of the 90-day statutory deadline for approval for any filing involving an investment in excess of \$1 million. *Id.* For this petition, UES specifically requests approval of the Kingston Project within the longer 6-month time frame, as the

Kingston Project would involve an investment in excess of \$1 million (the estimated total construction costs for the Kingston Project would be \$13.23 million). *See* Testimony of Jacob S. Dusling at Bates Page 54; Testimony of Kevin E. Sprague at Bates Pages 35-36.

In the above-captioned docket, UES seeks approval of a 4.99-megawatt photovoltaic generating facility that it would construct in Kingston, New Hampshire and then own and operate. Petition (Pet.), ¶ 9. According to UES, this facility would qualify as a DER and is expected to produce 8,904 megawatt hours annually over its 30-year life span. *Id.* ¶¶ 9-10. UES stated that the Kingston Project would be operated as a “load reducer,” in that the energy it produced would be delivered directly into the UES electric distribution system, reducing the energy that UES receives from the transmission system. *Id.* ¶ 13. UES maintained that the Kingston Project will provide a number of benefits to all UES customers. *Id.* ¶ 12.

UES asked that the Commission approve the same two-stage review process used in Docket No. DE 09-137 to review the Kingston Project within the 6-month timeframe provided in RSA 374-G:5, V. *Id.* ¶¶ 17-18, 27-28. Under this process, UES requested that the Commission find its filing complies with RSA 374-G:5, I, and that the Commission find that the Kingston Project is in the public interest pursuant to RSA 374-G:5, II. Further, UES requested authorization to recover its reasonable costs associated with this filing through its Schedule EDC.

The New Hampshire Department of Energy filed its appearance on November 3, 2022. On December 2, 2022, the Office of the Consumer Advocate filed a letter of participation in this matter.

## **II. ISSUES PRESENTED**

The filing presents, *inter alia*, the following issues: whether the Kingston Project constitutes a DER, as defined in RSA 374-G:2; whether UES's initial filing complies with RSA 374-G:5, I; whether UES's proposed investment in the Kingston Project and the recovery of a portion of this investment in rates are in the public interest pursuant to RSA 374-G:5, II; whether the Commission should employ the same two-stage regulatory review process used in Docket No. DE 09-137 to review the Kingston Project; and whether UES is entitled recover its reasonable costs associated with this filing through its Schedule EDC. Accordingly, an adjudicative proceeding will be convened to address these issues. We have determined that an extension of the review period for the Kingston Project to 6 months, or to May 1, 2023, is appropriate, pursuant to the terms of RSA 374-G:5, V, and will thus extend this deadline to that date.

The Commission will be conducting the prehearing conference and any hearings scheduled in this matter in person. The Commission will consider requests to conduct hearings using a hybrid format to permit remote participation by a specific individual only if the Commission has determined that a sufficient reason has been provided for why that individual would be unable to attend in person. Any party requesting that a specific individual be permitted to participate remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the prehearing conference or hearing date. If the Commission determines that one or more individuals will be permitted to appear remotely, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform.

**Based upon the foregoing, it is hereby**

**ORDERED**, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A, RSA 374-G:2, RSA 374-G:5, I, RSA 374-G:5, II, and the Commission's procedural rules; and it is

**FURTHER ORDERED**, that the review period for the first phase of this matter be extended to six (6) months after the Company's filing, or May 1, 2023, pursuant to RSA 374-G:5, V, and UES's petition; and it is

**FURTHER ORDERED**, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on January 18, 2023 at 1:30 p.m., at which each party should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

**FURTHER ORDERED**, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

**FURTHER ORDERED**, that, immediately following the prehearing conference, UES shall make appropriate personnel available for the parties to hold a technical session to review the filing; and it is

**FURTHER ORDERED**, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is

**FURTHER ORDERED**, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to UES and any other parties on the service list, on or before January 3, 2023. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

**FURTHER ORDERED**, that any party objecting to a petition to intervene make said objection on or before January 13, 2023; and it is

**FURTHER ORDERED**, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

**FURTHER ORDERED**, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or [ClerksOffice@puc.nh.gov](mailto:ClerksOffice@puc.nh.gov). All requests to the Commission should be made in a written

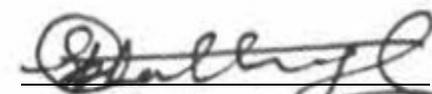
pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

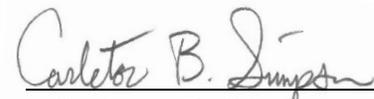
**FURTHER ORDERED**, that pursuant to N.H. Admin. R., Puc 203.12, UES shall notify all entities and individuals desiring to be heard at this hearing by publishing a copy of this order of notice on its website no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before December 29, 2022. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

**FURTHER ORDERED**, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this twenty-first day of December, 2022.

  
Daniel C. Goldner  
Chairman

  
Pradip K. Chattopadhyay  
Commissioner

  
Carleton B. Simpson  
Commissioner

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

# Service List - Docket Related

Docket#: 22-073

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