

**DE 05-050**

**UNITIL ENERGY SYSTEMS, INC.**

**Annual Reconciliation and Rate Filing**

**Order Approving Rate Changes Regarding Adjustable Rate Mechanisms**

**ORDER NO. 24,463**

**April 29, 2005**

**APPEARANCES:** LeBoeuf, Lamb, Greene and MacRae by Scott Mueller, Esq. for Unitil Energy Systems, Inc.; F. Anne Ross, Esq. for the Office of Consumer Advocate on behalf of residential ratepayers; and Edward N. Damon, Esq. for the Staff of the New Hampshire Public Utilities Commission

#### **I. PROCEDURAL HISTORY**

On March 17, 2005, Unitil Energy Systems, Inc. (UES) filed a petition with the New Hampshire Public Utilities Commission (Commission) to implement several adjustable rate mechanisms consistent with its tariffs approved in DE 01-247, Proposal to Restructure the Unitil Companies. *See Concord Electric Company*, Order No. 24,072, 87 NH PUC 694 (2002). UES submitted the prefiled testimony of Karen M. Asbury and Francis X. Wells in support of its filing. Also on March 17, 2005, UES filed with the Commission a Motion for Protective Order requesting that certain information contained in an attachment to Mr. Wells' testimony be treated as confidential and given protective treatment.

The rates which UES proposed to adjust include the Transition Service Charge (TSC), Default Service Charge (DSC), Stranded Cost Charge (SCC), and External Delivery Charge (EDC). UES requested Commission approval to implement the proposed rate changes

effective May 1, 2005 on a service rendered basis. In its filing, UES reviewed whether the proposed rate changes would affect the discount levels available under the Low Income Electric Assistance Program (EAP). Finally, as previously directed by the Commission, *see Concord Electric Company*, Order No. 23,707, Docket No. DE 01-087, 86 NH PUC 335 (2001), UES also included the results of its Load Response Program.

On March 31, 2005, the Commission issued an Order of Notice summarizing the terms of UES' filing, suspending relevant tariff pages, and scheduling a technical session to be held on April 8, 2005 and a hearing on the merits for April 19, 2005. On April 5, 2005, the Office of Consumer Advocate (OCA) notified the Commission by letter that it would be participating in this docket on behalf of residential ratepayers consistent with RSA 363:28. A hearing on the merits was held on April 19, 2005.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. Unitil Energy Systems, Inc.**

The TSC and DSC to be considered in the instant proceeding will apply to UES' residential, regular general service and outdoor lighting customer classes (non-G1 classes) only. UES made a separate filing on March 17, 2005, in Docket DE 04-197 for consideration of the TSC and DSC applicable to its large general service customer class (G1 class). The G1 TSC and DSC have already been considered and determined in that docket, *see* Order No. 24,445 (March 24, 2005), and UES has included the approved rates in its tariff page summary of rates and the rate and typical bill comparisons in the instant proceeding in order to fully reflect all proposed rate changes for effect on May 1, 2005.

According to UES, the overall effect of the changes reflected in UES' filing,

including the revenue increase associated with the approved increase to the G1 class TSC and DSC, would be to increase UES' net revenue by 6.92 percent.

The TSC is the mechanism through which UES recovers its costs for providing transition service. For its non-G1 customers, UES purchases power to supply both transition service and default service through an agreement by and among itself, Unitil Power Corp. (UPC), and Mirant Americas Energy Marketing, LP. TSC costs include supplier charges and a provision for uncollected accounts.

UES proposed a TSC of \$0.05531 per kilowatt-hour for its non-G1 classes, representing a rate decrease of \$0.00022 per kilowatt-hour. This rate change reflects the net effect of an increase in the underlying wholesale contract price and a reconciliation of TSC costs and revenues from the prior period.

The DSC is the mechanism through which UES recovers its costs of providing default service, including supplier charges and a provision for uncollected accounts. UES proposed a DSC of \$0.05531 per kilowatt-hour for non-G1 classes. UES has no default service customers and does not expect to have any default service customers during the forecast period through April 2006. Consequently, UES expects this change will not impact UES ratepayers.

The SCC is the mechanism through which UES recovers UPC's stranded costs from retail customers. UPC's stranded costs are billed to UES in the form of contract release payments through the Amended System Agreement.

To determine the SCC rates applicable to the various rate classes, UES first calculated a uniform charge per kilowatt-hour necessary to recover the expected stranded costs given its estimated deliveries through April 2006. UES proposed a uniform rate of \$0.01434 per

kilowatt-hour. For its residential, regular general service kWh meter, general service quick recovery water heating and/or space heating, controlled off peak water heating, and outdoor lighting classes, UES proposed a total energy based SCC rate of \$0.01434 per kilowatt-hour. For the regular general service G2 class and the large general service G1 class, both of which pay a demand-based SCC in addition to an energy based SCC, UES employed a different rate design methodology. As approved in *Concord Electric Company*, Order No. 24,072, 87 NH PUC 694 (2002), for these classes, UES determined the energy-based SCC by subtracting the demand-based revenue from the total SCC revenue calculated on a uniform per kilowatt-hour charge and dividing by the estimated deliveries. Following this methodology, for the G2 class, UES calculated a demand-based SCC component of \$2.37 per kilowatt and a total energy-based SCC of \$0.00526 per kilowatt-hour. For its large general service G1 class, UES proposed an SCC consisting of a \$3.49 per kilovolt-ampere plus a total energy based SCC of \$0.00464 per kilowatt-hour.

The proposed SCC charges represent a decrease of \$0.00169 per kilowatt-hour for the residential, regular general service kWh meter, general service quick recovery water heating and/or space heating, controlled off peak water heating, and outdoor lighting classes, a decrease of \$0.00162 per kilowatt-hour for the G2 class, and a decrease of \$0.00163 per kilowatt-hour for the G1 class. According to UES, the decreases are primarily due to the elimination of the Fuel and Purchased Power Under-collection rate which expires on May 1, 2005. *See Unitil Energy Systems, Inc.*, Order No. 24,188, 88 NH PUC 342 (2003).

The EDC is the mechanism through which UES recovers its costs associated with providing transmission services outside UES' system and other costs for energy and transmission

related services. UES proposed an EDC of \$0.00843 per kilowatt-hour for all classes. This represents an increase of \$0.00429 per kilowatt-hour. According to UES, this increase is due primarily to an under-recovery of \$1.3 million which resulted, in large part, from a dramatic increase in voltage support charges over the period and a higher than anticipated increase in rates for Regional Network Service. In addition, UES' proposed EDC includes estimates of payments to cover wheeling service over PSNH facilities that are expected to occur upon the implementation of a Distribution Service Agreement (DSA) with Northeast Utilities (NU), which is currently before the Federal Energy Regulatory Commission (FERC).

The proposed rate changes are expected to impact revenues by class, as follows: the residential class will increase about 2.19%, general service will increase about 2.24%, large general service will increase about 19.07% (including the previously approved changes to the TSC and DSC referred to above), and outdoor lighting will increase about 1.19%.

UES is required, by the Utility Procedures Manual, dated January 14, 2003, adopted in connection with Docket No. DE 02-034, to review the impacts of the proposed May 1, 2005 rates on the EAP discounts. If the change in rates does not impact discount levels by five percent or more, no change to the discount tiers is necessary. According to UES, its proposed rate changes do not meet this threshold and thus no change to the discount tiers is necessary.

In *Concord Electric Company*, Order No. 23,707, 86 NH PUC 335 (2001), the Commission directed UES to include in its FAC/PPAC filings the results of the Load Response Program as well as expense information and verification that only costs attributable to Unitil's regulated companies are included. No customers of UES are participating in the program and

therefore no initial program setup fees or ongoing monthly administrative costs are being incurred.

UES' Motion for Protective Order requests the Commission to protect certain information on Schedule FXW-4, Page 2 of 2, pertaining to on-going settlement negotiations with NU regarding transmission charges which it expects to be filed for effect on June 1, 2005. Pending settlement and a final order by FERC, UES seeks to protect from public disclosure its cost estimates of these transmission charges on grounds that public disclosure could adversely affect UES' bargaining position in the negotiations and result in harm to its customers who ultimately bear the cost of the transmission charges.

#### **B. Office of Consumer Advocate**

The OCA did not oppose the filing. The OCA did, however, question UES' witnesses with respect to UES' G1 and Non-G1 sales forecasts and some of the details about the DSA. Regarding the DSA, UES explained that, although the rate charged to UES is a fixed rate, NU did not waive its Federal Power Act (FPA) Section 205 rights. Consequently, although the DSA sets a fixed rate, at a later point NU could petition the FERC to change the rate. Similarly, UES retains its FPA Section 206 rights which, if necessary, it would exercise to protect its interests.

#### **C. Commission Staff**

Commission Staff inquired primarily as to the causes underlying the significant increase in the EDC rate component. UES testified that the causes were fivefold: an under-recovery from the prior period; forecasts of higher transmission costs going forward; increased

expenses related to Regional Network Service; increased costs due to voltage support; and expenses associated with UES' DSA with NU, the single largest driver of the proposed rate increase. When cross-examined by Staff, Mr. Wells testified that the facilities covered by the DSA are necessary to serve UES' customers and that, currently, the associated costs are not covered under any other rate. Mr. Wells explained further that the costs associated with UES' use of these facilities are not covered under any existing approved rate because the facilities, which previously were classified as transmission, and therefore subject to recovery through FERC rates, were reclassified in June 2004 as distribution assets. He clarified that the DSA did not provide NU with the recovery of any amounts prior to the June 1, 2005 proposed effective date of the DSA. According to UES, implementation of the DSA should not shift any risks to UES' customers.

### **III. COMMISSION ANALYSIS**

The reconciliations and the proposed rate changes were reviewed by both the OCA and Commission Staff. No substantive disagreements were identified and OCA and Commission Staff did not oppose the Company's petition. In light of this and based upon our review of UES' filing and the witnesses' testimony, we find the proposed rate changes to be just and reasonable and in the public interest, and we will therefore approve them.

Regarding UES' Motion for Protective Order, the New Hampshire Right-to-Know Law provides each citizen with the right to inspect all public records in the possession of the Commission. *See* RSA 91-A:4, I. The statute contains an exception for "confidential, commercial or financial information . . . and other files whose disclosure would constitute invasion of privacy." RSA 91-A:5, IV. Our applicable rule, N.H. Code Admin. Rules Puc

204.06, is designed to facilitate the implementation of RSA 91-A as it has been interpreted by the courts. In most cases, a balancing test is used to determine whether confidential treatment should be granted. *See e.g., Union Leader Corporation v. New Hampshire Housing Finance Authority*, 142 N.H. 540 (1997).

We are persuaded that UES has advanced sufficient grounds for requesting confidentiality of the specified transmission cost information. In balancing the interests for and against public disclosure of the information for which confidential treatment is sought, we find that the interest of UES and ultimately its ratepayers in non-disclosure outweighs the public's interest in obtaining access to such information at this time. We further note that no parties objected to the Motion for Protective Order and that UES has requested that protection be granted for a limited period of time only. We will therefore grant the Motion for Protective Order. Consistent with our practice, the protective treatment provisions of this Order are subject to the on-going rights of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider in light of RSA 91-A, should circumstances so warrant.

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

**ORDERED**, that effective May 1, 2005 on a service rendered basis, the Transition Service Charge be \$0.05531 per kWh for non-G1 customers; the Default Service Charge be \$0.05531 per kWh for non-G1 customers; the Stranded Cost Charge be \$0.01434 per kWh for residential, regular general service kWh meter, general service quick recovery water heat and/or space heat, controlled off peak water heating, and outdoor lighting classes, and

\$0.00526 per kWh and \$2.37 per kW for the regular general service G2 class, and \$0.00464 per kWh and \$3.49 per kVa for the large general service G1 class; and the External Delivery Charge be \$0.00843 per kWh for all classes; and it is

**FURTHER ORDERED**, that UES' proposed NHPUC No. 1 Electricity Delivery: Fifth Revised Page 7; Fifth Revised Page 8; Fifth Revised Page 9; Fourth Revised Page 71; Third Revised Page 73; Third Revised Page 79; and Third Revised Page 83 are hereby approved; and it is

**FURTHER ORDERED**, that UES shall file a compliance tariff with the Commission on or before May 16, 2005, in accordance with N.H. Admin. Rules Puc 1603.02(b); and it is

**FURTHER ORDERED**, that UES' Motion for Protective Order is granted subject to the on-going rights of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider in light of RSA 91-A, should circumstances so warrant.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of April, 2005.

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Thomas B. Getz  
Chairman

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Michael D. Harrington  
Commissioner

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Graham J. Morrison  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director & Secretary