

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 09-155**

**UNITIL ENERGY SYSTEMS, INC.**

**Petition Requesting an Accounting Order**

**Order Approving Petition**

**ORDER NO. 25,042**

**November 9, 2009**

On August 26, 2009, Unitil Energy Systems, Inc. (UES) filed a petition requesting an accounting order authorizing UES to record as a regulatory asset approximately \$2 million in expenses associated with network damage from the December 2008 ice storm until such time as the Commission issues a final order in UES' next base rate case. UES made the request on the grounds that the costs are utility emergency storm restoration expenses that are extraordinary and non-recurring. UES is not requesting cost recovery or a finding that the costs are recoverable in the future, as these issues will be addressed by the Commission in separate proceedings.

On September 24, 2009, UES filed a revised petition to clarify that the accounting treatment was being sought pursuant to Statement of Financial Accounting Standards No. 71, *Accounting for the Effects of Certain Types of Regulation* (FAS 71) and that it was requesting permission to record its expenses in Federal Energy Regulatory Commission (FERC) Account 182.3 "Other Regulatory Assets." Staff filed a recommendation on September 30, 2009.

**I. UNITIL'S PETITION**

UES said that following the December 2008 ice storm approximately 40,000 of its 70,000 retail electric customers lost power. According to UES, in the initial phases of the storm restoration effort it deployed more than 80 crews to restore power to its New Hampshire

customers, almost three times the workforce required for any previous storm restoration. UES said that during the two week period from December 11 through December 23, 2008 it replaced approximately the same amount of primary and secondary wire in the Seacoast region as it normally replaces in four months.

UES stated that its current estimates indicate that, from December 11, 2008 to the date of its filing, it incurred almost \$2.0 million of incremental emergency storm restoration repair expenses, and spent an additional \$1.2 million in construction related expenses associated with its efforts to restore electricity service to its customers. UES said the total amount of costs spent in the restoration effort is equal to approximately 23 percent of UES' annual operations and maintenance budget, and approximately 18 times the three-year average costs incurred by UES as a result of previous storms or severe weather events. In contrast to the expense incurred in connection with the December 2008 storm, the Company explained that as result of UES' last rate case, which involved a 2005 test year during which no major storms occurred, UES recovers approximately \$170,000 annually from its customers for storm repair expenses.

UES averred that the 2008 ice storm expenses are extraordinary and non-recurring expenditures unusual to UES' history of providing electric service. UES said that the extraordinary nature of the expenses justify its request for an accounting order pursuant to FAS 71. The Company explained that this accounting treatment will allow it to avoid charging the \$2.0 million to current expense; a result that would otherwise be required without the recognition of cost deferral under the accounting rules FAS 71. UES further stated that the requested accounting treatment will allow it to seek appropriate ratemaking treatment for these types of unusual and infrequent major storm costs in a future rate proceeding. UES said that its request is consistent with the provisions of FAS 71 and regulatory ratemaking principles, which often

allow a regulated enterprise to recognize costs for accounting and ratemaking purposes in periods other than the periods in which the costs would have otherwise been charged to expense.

UES said it is not seeking rate recovery of the costs from customers in this petition, but only regulatory accounting treatment for the extraordinary expenses associated with the December 2008 ice storm. UES indicated that it is probable that it will propose recovery of the deferred costs through a storm reserve fund or other recovery mechanism in accordance with Commission precedent in its next rate proceeding.

## **II. STAFF'S RECOMMENDATION**

Staff filed a recommendation on September 30, 2009. In its analysis, Staff cited paragraph 9 as the relevant portion of FAS 71 which prescribes that a utility:

... shall capitalize all or part of an incurred cost that would otherwise be charged to expense if both of the following criteria are met:

- a. It is probable that future revenue in an amount at least equal to the capitalized cost will result from inclusion of that cost in allowable costs for ratemaking purposes.
- b. Based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs. If the revenue will be provided through an automatic rate adjustment clause, this criterion requires that the regulator's intent clearly be to permit recovery of the previously incurred cost.

If at any time the incurred cost no longer meets the above criteria, that cost shall be charged to earnings. Staff Recommendation at 2 (footnote omitted).

Staff observed that the language above could cause hesitation in considering the petition because the ice storm costs at issue in this proceeding have not been audited or otherwise reviewed by the Commission. Accordingly, Staff said that should the Commission grant the requested deferral, it might appear to some to be a form of "guarantee" to UES that it would eventually be able to recover all of the costs included in the regulatory asset despite the fact that

the costs had not yet been reviewed. However, Staff noted that, in its view, paragraph 10 of FAS 71 puts regulated utilities on notice that the costs in a regulatory asset are not guaranteed recovery. Paragraph 10 states as follows:

10. Rate actions of a regulator can reduce or eliminate the value of an asset. If a regulator excludes all or part of a cost from allowable costs, the carrying amount of any asset recognized pursuant to paragraph 9 of this Statement shall be reduced to the extent of the excluded cost. Whether other assets have been impaired shall be judged the same as for enterprises in generation and FASB Statement No. 144, Accounting for the Impairment or Disposal of Long-Lived Assets, shall apply. *Id* (footnotes omitted).

Staff pointed out that when paragraph 10 is applied to UES' request, it allows the Commission to approve the requested regulatory accounting treatment and still allow the amount of the asset to be subject to whatever findings the Commission makes once the ice storm costs have been reviewed. Staff also observed that granting the requested relief would allow UES to avoid having to charge the entire amount to expense in the current period. Staff's view is that UES would be permitted to recover its prudently incurred costs over whatever period and in whatever manner the Commission decides in UES' next distribution rate case.

To put the \$2 million of ice storm expense in perspective, Staff pointed to UES' most recent Form F-1, filed pursuant to New Hampshire Code Admin. Rule Puc 308.11, which shows that UES' distribution-related operation and maintenance expenses (excluding depreciation, amortization, taxes and the ice storm expenses) for the twelve months ending June 30, 2009 were approximately \$14.3 million and its net operating income was approximately \$8.4 million. Staff observed that UES' last allowed return on equity is 9.67%, but its earned return on equity for that twelve-month period was 6.41 percent. Staff opined that, if UES' request for an accounting order is denied, the ice storm expenses would increase UES' current operation and maintenance expenses and further reduce UES' earnings. Staff also said it considered the \$2 million expense

extraordinary in nature given that UES' current distribution rates recover approximately \$170,000 for storm recovery expenses.

In conclusion, Staff recommended that the Commission grant UES' request to defer and record in a regulatory asset \$1,941,947 of expenses related to the December 2008 ice storm. Staff said that the Commission, consistent with paragraph 10 of FAS 71, will still be able to make a determination including, but not limited to, the appropriate amount to be recovered, the manner and timing of recovery, and what, if any, return should be applied to the unrecovered balance.

### **III. COMMISSION ANALYSIS**

UES' petition requests that the Commission authorize it to defer, and record as a regulatory asset, \$1,941,947 in expenses associated with the December 2008 ice storm. If approved, this accounting treatment would remain in place until the Commission issues a final order on UES' next distribution rate case, which is not scheduled at this time.

The Commission has applied a public interest standard in reviewing petitions for accounting orders in the past. See, e.g., *Unitil Energy Systems, Inc*, Docket No. DE 02-221, Order No. 24,107 (December 31 2002) 87 NH PUC 873. We will use the public interest standard in reviewing the instant petition.

UES has stated, and Staff agrees, that UES' expenditure of \$2 million in ice storm recovery costs is extraordinary both in relation to UES' annual recovery of approximately \$170,000 for storm recovery expenses, and in relation to its net operating income and its total annual operation and maintenance expenses. Not only are the expenses extraordinary in magnitude, the severity of the December 2008 ice storm, and the expenses incurred by utilities generally in response to the storm, are outside the norm.

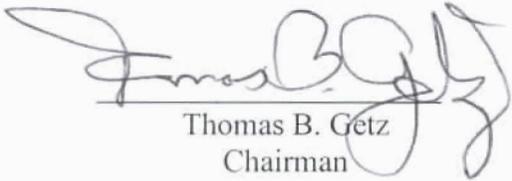
We have reviewed both UES' petition for an accounting order and Staff's recommendation. Based on this review, we find that the requested accounting order, subject to the clarification and reservation described below, will avoid UES having to charge the \$1,941,947 of storm restoration costs to expense in the current period, and will allow UES to defer those December 2008 ice storm expenses for future recovery in a manner to be determined in its next distribution rate case. If we deny this request, UES' earnings will be reduced and the Company may decide to file a petition for a distribution rate increase earlier than it would otherwise.

We find that it is in the public interest of UES' customers to defer a rate case when appropriate accounting relief is available to the Company by deferring the storm restoration costs. We make this finding understanding that UES is not seeking any change to its rates as a result of the requested accounting order and without approving any specific recovery amount for future rates. Only after we review the costs incurred by UES in restoring power following the December 2008 ice storm will we make decisions regarding such issues as the appropriate amount to be recovered, the timing and manner of recovery, and what, if any, return should be applied to the unrecovered balance. We emphasize that our authorization is restricted to the December 2008 storm costs and does not provide UES with authority to claim such deferrals in the future.

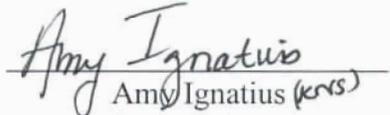
**Based upon the foregoing, it is hereby**

**ORDERED**, the petition of Unitil Energy Systems, Inc. for an accounting order to record \$1,941,947 as a regulatory asset pursuant to FAS No. 71 is approved.

By order of the Public Utilities Commission of New Hampshire this ninth day of  
November, 2009.

  
Thomas B. Getz  
Chairman

  
Clifton C. Below  
Commissioner

  
Amy Ignatius (Mrs.)  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director

