STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

IR 20-089

NEW HAMPSHIRE PUBLIC UTILITIES

Investigation into the Effects of the COVID-19 Emergency on Utilities and Utility Customers

Order Declining to Authorize Creation of a Regulatory Asset for Incremental Bad Debt

O R D E R N O. 26,495

July 7, 2021

In this order, the Commission declines to authorize New Hampshire's rate-regulated utilities' establishment of a regulatory asset for incremental bad debt or waived late payment fees related to the COVID-19 pandemic. To the extent necessary, these costs will be addressed in each utility's next rate case. In the interim, the Commission will require rate-regulated utilities to maintain and provide certain related records. With the end of the COVID-19 related State of Emergency, the Commission no longer requires rate-regulated utilities and the New Hampshire Electric Cooperative to make COVID-19 monthly reports.

I. PROCEDURAL HISTORY

On March 17, 2020, Governor Christopher T. Sununu issued Emergency Order #3, pursuant to Executive Order 2020-04 (March 13, 2020) ("Emergency Order #3"), which temporarily prohibited "[a]ll providers of electric, gas, water, telephone, cable, VOIP, internet, and deliverable fuels service in the State of New Hampshire" from disconnecting or discontinuing service for non-payment. Emergency Order #3 also prohibited the charging of late payment fees for arrearages accrued during the state of emergency, and required that customers be given the opportunity to make reasonable payment arrangements.

On March 31, 2020, the Commission issued Order No. 26,343, which provided New Hampshire utilities with rates regulated by the Commission and the New Hampshire Electric Cooperative (together, "Utilities") guidance in implementing Emergency Order #3.

On June 4, 2020, the Commission issued an Order of Notice opening this investigation on the impacts of the COVID-19 pandemic on the Utilities and their customers. The proceeding's scope included consideration of necessary and appropriate changes to existing policies and practices regarding utility operations, collections, revenues, finances, accounting, customer assistance measures, and ratemaking impacts, in light of the pandemic. In the Order of Notice, the Commission required the Utilities to submit pandemic related information on a monthly basis, including specific data relating to changes in payment patterns, such as the number and percentage of customers making partial or no payments on bills for service.

On June 17, 2020, the Commission held a status conference to hear preliminary statements addressing the issues under investigation, and to hear presentations from the Utilities on a number of topics, including sales forecasts and billing challenges.

On June 30, 2020, the Governor issued Emergency Order #58 pursuant to Executive Order 2020-04 ("Emergency Order #58"), terminating Emergency Order #3 as of July 15. Emergency Order #58 directed that customers having arrearages accrued between March 17 and July 15 be provided the opportunity to make reasonable payment arrangements over no less than six months and that customers not be charged late payment fees. Emergency Order #58 further directed the Utilities to offer payment arrangements, refrain from charging late payment fees, and begin collections and disconnections pursuant to an agreement with the Commission's Consumer Services and External Affairs Division, a Commission order, and/or a Commission rule. Emergency Order #58 also directed the Commission to provide assistance and guidance to the Utilities in implementing the provisions of that Order. On June 11, 2021, the State of Emergency related to COVID-19 was not extended.

On August 18, 2020, Commission Staff, now Department of Energy personnel ("Staff"), filed a memorandum recommending the Commission issue an order authorizing the Utilities to create regulatory assets for waived late payment fees and incremental bad debts due to COVID-19. On September 10, 2020, Staff, the Office of the Consumer Advocate (OCA), New Hampshire Legal Assistance, LISTEN Community Services (a non-profit social services agency based in Lebanon) and the Utilities (except for one small water company), submitted an agreement (COVID-19 Protection Agreement) which provided additional protections to customers regarding disconnections of service for non-payment and late payment fees, and for longer payment plans for arrearages incurred during the pandemic, which agreement was extended by amendment in April, 2021. On October 13, Staff submitted an analysis of the Utilities' recent actual bad debt expense and late payment fees and how those amounts compared to levels reflected in current rates and to total utility revenue. On November 13, 2020, based on that analysis, Staff recommended that the Commission authorize regulatory asset treatment for incremental bad debt, but not for waived late payment fees, because those fees were not material in amount. On December 4, 2020, OCA, the New Hampshire Electric Cooperative, Inc. (NHEC), Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource), Liberty Utilities (EnergyNorth Natural Gas) Corp. and Liberty Utilities (Granite State Electric) Corp. both d/b/a Liberty Utilities (Liberty), Unitil Energy Systems, Inc. (UES), and Northern Utilities, Inc. (Northern) filed responses to Staff's revised recommendation of November 13, 2020. On December 16, 2020, Staff filed a Memorandum in Response to Utility and OCA Comments on Staff's November 13 Recommendation, in which Staff reaffirmed its recommendation of November 13. The Order of Notice, hearing transcripts, Staff recommendations, Utilities and

OCA responses, and other docket filings, other than any information for which confidential treatment has been requested of or granted by the Commission, are posted at https://www.puc.nh.gov/Regulatory/Docketbk/2020/20-089.html.

II. STAFF'S RECOMMENDATIONS

Staff Recommendation of August 18, 2020

Staff stated that it reviewed utility accounting practices related to COVID-19, proposals for regulatory treatment and rate recovery submitted by the Utilities during the June 17, 2020 status conference, and the Utilities' responses to the information requests provided in June and July. According to Staff, the Utilities reported reduced revenue from late payment and disconnection fees and increases in customer accounts receivables and operations and maintenance (O&M) expense.

Staff stated that the Utilities' proposed regulatory accounting and rate treatment of those revenue reductions and cost increases. Those regulatory accounting proposals included establishing a regulatory asset for the reduced fees, increases to bad-debt reserves, and incremental O&M expenses. According to Staff, the Utilities also stated that the Commission should consider proposals for the timely recovery of growing cash working capital costs, due to the increased lag in customers paying bills.

Staff posited that as a result of the pandemic, the Utilities might experience direct savings associated with decreased healthcare costs, lower interest rates, lower O&M expenses, and savings associated with lower customer demand for electricity, gas and water. Staff also noted that there may be external loans and grants that provide reimbursement for certain COVID-19 related expenses.

Staff stated that, in light of the Governor's and Commission orders, there would be impacts on bad debt expenses. Staff suggested that waived late payment fees and incremental bad debt in excess of the amounts used to set base rates should be afforded regulatory accounting treatment as of March 31, 2020. Staff cautioned that any results should be analyzed when the Commission makes a final determination on the prudency and reasonableness of the amounts to be recovered from ratepayers.

Staff stated that there was insufficient evidence to determine what, if any, extraordinary relief was warranted beyond that related to utility bad debt and waived late payment fees. Staff stated that there was insufficient evidence that the pandemic resulted in significant incremental O&M expenses that would warrant extraordinary treatment. Staff further stated that it was impossible to determine the pandemic's impact on utility financing costs, but noted that the Utilities had reported adequate access to capital and that there had been no downgrade by credit rating services of credit worthiness.

Staff concluded by recommending the Commission issue an order addressing regulatory asset accounting for COVID-19 impacts on the Utilities with four components: 1) authorization for each utility to create a regulatory asset for waived late payment fees and incremental bad debt related to the pandemic; 2) a requirement for each utility to maintain detailed accounting records of waived late payment fees and incremental bad debt for Commission audit and review in a future proceeding when the utility requests recovery; 3) a requirement for each utility to identify cost savings associated with the impacts of COVID-19, and to track and report COVID-19 cost savings since March 31, 2020, in its monthly COVID-19 reporting; and 4) a requirement that each utility identify and track any loans, grants, assistance, or benefits received in connection with COVID-19, regardless of form or source, that would offset any COVID-19 related expenses in its monthly COVID-19 reporting.

Staff Revised Recommendation of November 13, 2020

Staff revised its August 18, 2020 recommendation, based in part on its analysis of the Utilities' actual bad debt expense and waived late fees.[1] Under Staff's revised recommendation, the Commission would authorize the Utilities to create a regulatory asset for incremental bad debt due to COVID-19 (but not for waived late payments fees, as was recommended on August 18). The regulatory asset amount would be calculated as the actual charge-offs since March 31, 2020, (net of recoveries) above the three year average of such net charges-offs for 2017, 2018, and 2019. Recovery of an amortization of the regulatory asset would be subject to a prudence review wherein the Utilities would be required to provide sufficient detail for review. Also, the unamortized balance of the asset would not be included in rate base, and no interest would accrue on the incremental bad debt. In all other respects, Staff's August 18 Recommendation remained unchanged.

III. PARTIES' RESPONSES TO STAFF RECOMMENDATIONS

NHEC responded that Staff's recommendations concerning regulatory accounting and ratemaking are inapplicable to NHEC, because the Commission does not have authority to regulate NHEC's rates.

OCA responded that no regulatory assets should be authorized in this investigation, including for waived late payment fees or incremental bad debt.[2] OCA contended that creating a regulatory asset falls outside of the scope of this investigation and that matters of cost recovery are best left to each utility's next rate case, where cost recovery can be reviewed in the context of each utility's full revenue requirement and overall rate of return.

[1] Staff submitted this analysis to the Commission on October 13, 2020.
[2] OCA noted that Staff's own memorandum does not support such treatment for bad debt because it states that the Utilities have not experienced incremental bad debt due to the pandemic.

UES and Northern responded that regulatory accounting treatment should be afforded to waived late payment fees, as was recommended for incremental bad debt. UES and Northern said that these waived fees are material when compared to test year revenues in each company's last rate case. UES projects that it will forgo $659,000 of waived late payment fees for the year ending March 31, 2021, which represents 1.24 percent of test year (2015) revenues. Similarly, Northern will forgo $175,000 or .53 percent of it test year (2016) revenues. UES and Northern stated that these amounts are material.

Liberty responded that the question of special accounting treatment should depend on whether an event is extraordinary, not whether the cost impacts are material. Liberty stated that the pandemic affected many items, including sales load, working capital, and net operating costs, and that all these items should be evaluated for special accounting treatment, without regard to materiality.

Eversource responded that the late payment fees waived since March 2020 are material. Eversource stated it has forgone $2.6 million in fees as of October 31, 2020, due to the pandemic and that amount grows by hundreds of thousands of dollars each month. Eversource projected this shortfall will continue until at least March 31, 2021, due to the provisions of the COVID-19 Protection Agreement. Eversource asserted that regulatory treatment of waived late fees is warranted.

Staff Response of December 16, 2020

In its December 16, 2020 response, Staff agreed with NHEC that any rate or accounting order issued by the Commission in this docket should not be applied to NHEC, given its largely de-regulated status. In response to the OCA's comments, Staff referred to its August 18, 2020 Recommendation regarding regulatory accounting treatment being afforded to incremental bad debts.

Staff disagreed with Liberty’s position that materiality is not relevant to the question of special accounting treatment. Staff cited the Federal Regulatory Energy Commission Uniform System of Accounts, which all New Hampshire electric and gas utilities must follow per New Hampshire Administrative Rules, Puc 307.04 and 507.08. Under that system, for an item to be considered extraordinary it should be more than approximately five percent of income.

Staff reviewed the recent levels of late payment fees for UES, Northern, and Eversource and concluded they were not material when compared to recent revenue levels. Staff re-affirmed its prior recommendation that the Commission not authorize regulatory accounting for waived late payment fees.

Staff noted that any request for recovery of any pandemic related impacts should be determined based on the facts as presented at the time recovery was requested.

IV. COMMISSION ANALYSIS

The Commission has applied a public interest standard in reviewing petitions for accounting orders in the past. *See, e.g., Unitil Energy Systems, Inc.*, Order No. 24,107 (December 31 2002); *Unitil Energy Systems, Inc.*, Order No. 25,042 (November 9, 2009). We similarly use the public interest standard here.

We have reviewed Staff’s recommendations and the Utilities’ and OCA’s responses to those recommendations, as well as the information the Utilities filed each month in this docket at the Commission’s direction. Based on the above, we find that it is not in the public interest to allow deferral accounting for COVID-19 related incremental bad debts and waived late fees. Thus, we decline to authorize deferral accounting for these items. Deferral accounting would preserve these cost for recovery outside our traditional test year based rate case methodology, which we do not believe serves the public interest in this instance. We agree with Staff that there may be offsetting expenses from COVID-19. We agree with the OCA that the question of recovery of these expenses is best addressed in the context of each utility's next rate case when such costs (to the extent they remain relevant under test year based rate-setting) can be appropriately considered in the context of each company's full revenue requirement and overall rate of return.[3]

Staff also recommends additional record keeping and reporting requirements regarding potential offsets to COVID-19 related expenses in preparation for the next rate case, which we adopt. Given the end of the COVID-19 related State of Emergency, the monthly reporting currently required of the rate-regulated public utilities shall cease immediately. Instead, the Utilities are required to do the following:

1) Identify and report any cost savings associated with the impacts of COVID-19 since March 31, 2020.

2) Identify and describe any loans, grants, assistance, or benefits received in connection with COVID-19, regardless of form or source, which would offset any COVID-19 related expenses taking care to include PPP loans and all other government benefits.

3) Provide a summary of incremental bad debt and waived late payment fees due to COVID-19, calculated as the actual charge-offs from April 1, 2020 to June 30, 2021 above the three year average of such net charges-offs for 2017, 2018, and 2019.

Based upon the foregoing, it is hereby

ORDERED, that rate-regulated electric, natural gas, water, and wastewater utilities are not authorized to create a regulatory asset for incremental bad debt or waived late fees related to the pandemic as described in this order; and it is

FURTHER ORDERED, that by August 30th, all rate-regulated electric, natural gas, water, and wastewater utilities and the New Hampshire Electric Cooperative shall file with the Commission the information set forth herein above.

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[3] NHEC is not a public utility, and the Commission does not regulate its accounting or rate recovery. *See* RSA 362:2, II. Consequently, this decision does not apply to NHEC.

By order of the Public Utilities Commission of New Hampshire this seventh day of July, 2021.

Dianne Martin Chairwoman	Daniel C. Goldner Commissioner

Attested by:

Lori A. Davis
Administrative Assistant

Service List - Docket Related

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Email Addresses

ExecutiveDirector@puc.nh.gov
aaugeri@lewisbuilders.com
sbrown3302@gmail.com
rburke@nhla.org
richard.t.chagnon@energy.nh.gov
pradip.chattopadhyay@oca.nh.gov
jared.chicoine@osi.nh.gov
gary.m.cronin@energy.nh.gov
kristi.davie@eversource.com
mdean@mdeanlaw.net
allen.desbiens@eversource.com
robyn.j.descoteau@energy.nh.gov
paul.b.dexter@energy.nh.gov
epler@unitil.com
sfairchild@newenglandservicecompany.com
matthew.fossum@eversource.com
thomas.c.frantz@energy.nh.gov
larry.goodhue@pennichuck.com
marc.hanks@directenergy.com
Rhonda.D.Hensley@goferr.nh.gov
carolann.howe@pennichuck.com
jim.r.ingram@gmail.com
maureen.karpf@libertyutilities.com
paul..g.kasper@energy.nh.gov
jay.kerrigan@pennichuck.com
randall.s.knepper@energy.nh.gov
donald.kreis@oca.nh.gov
NLaChance@NewEnglandServiceCompany.com
jayson.p.laflamme@energy.nh.gov
Corrine.Lemay@puc.nh.gov
cmcmorran@aquarionwater.com
erica.menard@eversource.com
steven.mullen@libertyutilities.com
amanda.o.noonan@energy.nh.gov
ocalitigation@oca.nh.gov
rorie.e.patterson@energy.nh.gov
pphillips@primmer.com

michael.sheehan@libertyutilities.com
Christa.Shute@oca.nh.gov
stephenpstcyr@yahoo.com
nathaniel1970@gmail.com
john@lewisbuilders.com
dszabo@aquarionwater.com
taylorp@unitil.com
George.Torres@Pennichuck.com
stower@nhla.org
christopher.r.tuomala@energy.nh.gov
leah@Lakesregionwater.com
dvaughan@newenglandservicecompany.com
donald.ware@pennichuck.com
Angela@listencs.org