

BEFORE THE
STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DOCKET NO. DE 21-030

IN THE MATTER OF: UNITIL ENERGY SYSTEMS, INC.

REQUEST FOR CHANGE IN RATES

DIRECT TESTIMONY

OF

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New Hampshire Department of Energy

November 23, 2021

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I. INTRODUCTION AND QUALIFICATIONS

Q. Mr. Dudley, please state your full name and business address.

A. My name is Jay E. Dudley. My business address is 21 South Fruit Street, Suite 10, Concord, NH 03301.

Q. Please state your employer and your position.

A. I am employed by the New Hampshire Department of Energy (“DOE”) as a Utility Analyst for the Regulatory Support Division.

Q. Please describe your professional background.

A. I started at the New Hampshire Public Utilities Commission (“Commission” or “PUC”) in June of 2015 as a Utility Analyst in the Electric Division. Effective July 1, 2021, the Electric Division was transferred to, and became part of, the newly created New Hampshire Department of Energy and I am presently employed by that agency. Before joining the Commission, I was employed at the Vermont Public Service Board (now known as the Vermont Public Utilities Commission, “VT-PUC”) for seven years as a Utility Analyst and Hearing Officer. In that position I was primarily responsible for the analysis of financing and accounting order requests filed by all Vermont utilities, including review of auditor’s reports, financial projections, and securities analysis. As Hearing Officer, I managed and adjudicated cases involving a broad range of utility-related issues including rate investigations, construction projects, energy efficiency, consumer complaints, utility finance, condemnations, and telecommunications. Prior to working for the VT-PUC, I worked in the commercial banking sector in Vermont for twenty years where I held various management and administrative positions. My most recent role was as Vice President and Chief Credit Officer for Lyndon Bank in

1 Lyndonville, Vermont. In that position I was responsible for directing and administering
2 the analysis and credit risk management of the bank's loan portfolio, including internal
3 loan review, regulatory compliance, audit, and coordinating periodic bank examinations
4 by state and federal regulators. In performing those responsibilities, I also provided
5 oversight for the commercial and retail lending functions with detailed financial analysis
6 of large corporate relationships, critique of loan proposals and loan structuring,
7 consultation on business development efforts, and advised the Board of Directors on loan
8 approvals and loan portfolio quality. Prior to my role as Chief Credit Officer, I held the
9 position of Vice President of Loan Administration. In this position, I was responsible for
10 directing and administering the underwriting, processing, and funding of all commercial,
11 consumer, and residential mortgage loans. My responsibilities also included the
12 management of loan processing and loan origination staff and partnering with the
13 Compliance Officer to monitor and ensure compliance with all banking laws, regulations,
14 and the bank's lending policy.

15 **Q. Please describe your educational background?**

16 A. I received my Bachelor of Arts degree in Political Science from St. Michael's College.
17 Throughout my career in banking, I took advantage of numerous Continuing Professional
18 Education (CPE) opportunities involving college level coursework in the areas of
19 accounting, financial analysis, real estate and banking law, economics, and regulatory
20 compliance. Also, during my tenure with the VT-PUC I took advantage of various CPE
21 opportunities including the Regulatory Studies Program at Michigan State University
22 (sponsored by the National Association of Regulatory Utility Commissioners "NARUC"),
23 Utility Finance & Accounting for Financial Professionals at the Financial Accounting

1 Institute, Standard & Poors seminars on credit ratings for public utilities, and Scott
2 Hempling seminars on Electric Utility Law and Public Utility Regulation.

3
4 **Q. Have you previously testified before the Commission?**

5 A. Yes. I previously submitted Staff testimony to the Commission in Docket No. DE 14-
6 238, Public Service Company of New Hampshire Generation Assets; Docket No. DE 15-
7 137, Energy Efficiency Resource Standard; Docket No. DE 16-383, Liberty Utilities
8 Request for Change in Rates; Docket No. DE 17-136, 2018-2020 NH Energy Efficiency
9 Plan; Docket No. DE 19-064, Liberty Utilities Request for Change in Rates; Docket No.
10 DE 19-057 Public Service Company of New Hampshire for Change in Rates; and Docket
11 No. DE 20-092, 2021-2023 Triennial Energy Efficiency Plan.

12
13 **II. SUMMARY OF TESTIMONY**

14 **Q. Please describe the purpose of your testimony today.**

15 A. The purpose of my testimony is to provide DOE's recommendation involving Until
16 Energy Systems, Inc. ("Unitil" or the "Company") request filed on April 2, 2021, to
17 implement a permanent distribution rate increase to be effective on and after May 2,
18 2021, as it relates to capital investments and additions to Unitil's rate base from 2017 to
19 2020. Based on the reports of the Company filed with the Commission, and DOE's
20 extensive review of the Company's capital expenditures, DOE believes that a number of
21 adjustments are warranted, as described in detail herein. The impact of these adjustments
22 on Unitil's proposed revenue requirement has been quantified in the testimony of Donna
23 Mullinax.

1 In addition, DOE recommends denial of Unitil's multi-year rate plan as proposed
2 involving annual step increases planned for 2021, 2022, and 2023. DOE proposes one
3 step adjustment for 2021, but under a different and more formalized review process than
4 had been previously approved in prior rate cases, involving a prudence review of
5 individual capital projects that comprise Unitil's 2021 step increase request.

6 **Q. Is DOE convinced that its recommendations for disallowances in this case will provide**
7 **just and reasonable results?**

8 **A.** Yes. A key element of the just and reasonable standard, coupled with the Commission's
9 requirement that a utility's capital investments must be found to have been prudently made, is
10 that the Commission must weigh the interests of both the utility and the ratepayer in
11 reviewing the propriety of expenditures constituting the utility's cost of service, rate base,
12 and rate of return before finding the proposed rate is just and reasonable. In the present
13 docket, DOE's analysis indicates that Unitil overstated its revenue requirement by \$10.9
14 million, and to allow such a requirement into rates would be unjust for Unitil's ratepayers. In
15 addition, the Commission's expectation that a utility's investments are prudent, also rests on
16 the just and reasonable standard such that imprudent expenditures are inconsistent with the
17 standard and should be disallowed. As a result, DOE has found that approximately \$12.8
18 million in capital investments between 2017 and 2020 were not adequately explained or
19 justified by the Company and that ratepayers should not be required to pay those costs.

20
21 **III. REVIEW OF CAPITAL ADDITIONS FOR 2017 THROUGH 2020**

22 **Q. Please summarize your conclusions regarding Unitil's capital additions from 2017**
23 **through 2020.**

1 A. DOE maintains that certain of Unitil's plant investments are not prudent, used and useful.
2 Specifically, DOE concludes that approximately \$12.8 million in capital investments
3 between 2017 and 2020 were not adequately explained and justified by the Company and
4 that ratepayers should not be required to pay for these plant investments.

5 **Q. Why are Unitil's capital investments under review in this rate case?**

6 A. Unitil testifies that one of the primary drivers behind the need for an increase in rates is
7 the unrecovered costs associated with the amount of capital investments made by the
8 Company since its last rate case in 2016.¹ During that period, Unitil invested
9 approximately \$124.79 million in capital additions and improvements.²

10 First, regulated electric utilities are some of the most capital-intensive businesses that
11 exist given the substantial amount of investment that is required to build and maintain
12 reliable electric infrastructure. As a result, the significant and ongoing nature of those
13 investments are frequently the primary causes for utilities to request periodic increases in
14 rates. However, unlike unregulated competitive firms, regulated utilities cannot just
15 pursue any investment strategies available that maximize shareholder value. Regulators
16 must find that such expenditures are prudent, just and reasonable, and used and useful.
17 As cited above, one of Unitil's primary justifications for the current rate increase request
18 is the downward pressure that additional capital expenditures have placed on the
19 Company's revenues and rates of return.

20 Further, during the course of DOE's review of capital additions in this rate case, DOE
21 found some disparities between budgeted amounts and actual expenditures reported by
22 the Company. DOE also discovered some instances of excessive spending for some

¹ Hevert Testimony at 17 (Bates 19).

² *Id.*

1 projects beyond what would be considered appropriate and necessary if least cost
2 principles had been observed. In those cases, the Company's project documentation
3 reviewed by DOE provided little in the way of specific information as to root causes or
4 how the Company decided that those expenditures were prudent and economic, thus DOE
5 was unable to conclude that Unitil took appropriate measures to control costs or that
6 Unitil's decision-making and due diligence process was reasonable or in the best interest
7 of ratepayers. As a result, DOE recommends disallowance of \$12.8 million for some of
8 the plant investments reviewed. Those disallowances are discussed and outlined below.

9 **Q. As part of this rate case, did DOE's Audit Division complete a financial audit of**
10 **Unitil's books and records?**

11 **A.** Yes. DOE's Audit Division completed its final audit report on November 12, 2021. The
12 audit report was filed in this docket by Energy on November 16, 2021.

13 **Q. Did Audit encounter any issues similar to those DOE encountered in its review of**
14 **Unitil's capital investments?**

15 **A.** Yes. Audit staff reviewed only one large capital project which was the construction of
16 Unitil's new Distribution Operations Center ("DOC") in Exeter. Audit found that
17 \$577,144 in additional construction costs for the DOC were unitized by the Company in
18 2021 but also included in the 2020 test year rate base for recovery in this rate case. Audit
19 has recommended, and DOE agrees, that those costs should be excluded from the 2020
20 test year rate base.³ In addition, Audit found that Unitil had included in the 2020 test
21 year rate base an investment of \$38,082 for artwork within the new DOC. Audit
22 concluded that artwork is not necessary for the delivery of electric service to ratepayers

³ See Final Audit Report DE 21-030 dated November 12, 2021, Audit Issue #3 at 15 and 124.

1 and recommended that the expenditure be excluded from the test year rate base.⁴ DOE
2 agrees with Audit's recommendation. Also, in relation to contracts for the construction
3 of the new DOC, Audit found that Unitil chose ProCon, Inc. as its sole source provider
4 for project management and construction and did not put the project out to bid by issuing
5 a request for proposal ("RFP"). The Company does not have a formal process for
6 procurement involving capital projects by issuing RFP's and Audit recommends that
7 Unitil formulate and adopt such a policy going forward.⁵ DOE agrees with this
8 recommendation and discusses it further, along with Audit's exclusions, in DOE's
9 analysis provided below.

10 **Q. Please briefly summarize the capital budgeting process at Unitil.**

11 **A.** As described in Mr. Sprague's direct testimony, Unitil's annual planning process begins
12 with engineering studies performed by the engineering group that includes circuit studies,
13 reliability studies, load analysis, and, in some cases, joint system planning with
14 Eversource, with a focus on system improvement and reliability projects. The
15 engineering group also reviews potential capital spending over the upcoming five-year
16 period. Operations personnel then identify the need for replacements and maintenance
17 based on the information contained in the studies and from inspections and ongoing
18 maintenance programs. Budgets are then assembled using a bottom up approach
19 involving input from engineering, operations, information technology, and facilities.
20 Projects are also divided between the company's two service areas, Unitil's capital
21 location and Unitil's seacoast location, and then prioritized according to Priority 1,
22 Priority 2, or Priority 3. Priority 1 projects involve projects that are non-discretionary

⁴ *Id.* Audit Issue #5 at 26 and 128-129.

⁵ *Id.* Audit Issue #4 at 18 and 126.

1 and essential for maintaining safe and reliable service. Priority 2 projects involve
2 essential projects associated with regulatory or legal requirements and support
3 intercompany needs and maintenance. Priority 3 projects are projects that improve or
4 enhance existing systems and are considered to be largely discretionary. Project budgets
5 are then reviewed and approved by all applicable budget managers based on appropriate
6 categorization, priority, and completeness of documentation. The budget process then
7 concludes with review and approval by senior management and then by the Board of
8 Directors. Once approved, a construction authorization form (“CA”) must be prepared,
9 submitted, and approved for each project prior to commencement of work and funding,
10 and for any subsequent revisions to the project scope and budget amounts.⁶

11 As of 2014, Unitil performs its capital planning and budgeting under the Capital Budget
12 Input and Review Operating Procedure which details the budget process summarized
13 above. In terms of requirements for CA’s and project documentation, those guidelines
14 are contained in the System Policy – Preparation and Approval of
15 Authorizations/Supplemental Authorizations/Non-budget Authorizations effective 2020.
16 Both policies are attached to my testimony as Attachment JED-1.

17 **Q. What internal documentation from Unitil did DOE examine as part of its review?**

18 **A.** As part of Staff data requests DOE 3-47 and DOE 5-19 (Attachments JED-2 and JED-3
19 to my testimony), DOE sought to obtain and review the following documents involving a
20 specific sampling of projects from 2017 through 2020:

- 21 • Capital/Construction Authorizations
- 22 • Revised Budget Authorizations

⁶ Sprague Testimony at 8-13 (Bates 358-363).

- Written Reviews by Management and Engineering
- Supplemental Requests or Change Orders
- Engineering Work Requests
- Capital Work Orders

Q. Did Unitil provide all of the internal documentation requested?

A. No not entirely. The Company represented at the Technical Session held on July 27, 2021, that capital work orders consist of hundreds of pages for each project and that it would be overly burdensome to produce that amount of documentation for the number of projects contained in DOE's sample group. Also, the Company explained that most of the information requested by DOE involving revised budgets and additional spending, along with any management and engineering reviews were largely contained within the CA formats that were submitted. In addition, specific engineering work requests are typically not related to capital budget projects and are limited to the distribution system and not substation or transmission projects. Although change orders were provided to Audit, that same documentation was not submitted to DOE when requested in discovery in this docket.

Q. What issues did DOE discover in its review of Unitil's capital budgeting and planning?

A. DOE found that the cost estimates contained in the capital budgets were mostly accurate, with the exception of certain large projects that are described below. For those projects, additional project enhancements and cost increases appeared to pass through the process with little scrutiny or critical review by management. In addition, most of the CA's reviewed provided only brief and basic project analysis and lacked sufficient detail in

1 terms of decision-making, due diligence, consideration of least cost planning, risk
2 identification, and reasonable financial justifications for a project. It also appears that
3 there is no clear or consistent system in place for the thorough review and tracking of
4 over-budget items by management resulting in a lack of regular oversight in terms of
5 imposing restrictions or cost controls if needed. Moreover, the Company's Board of
6 Directors appear to have little or no involvement in, or knowledge of, major capital
7 projects undertaken by Unitil.

8
9 **IV. FINDINGS: REVIEW OF CAPITAL PROJECTS SAMPLE FOR 2017 TO 2020**

10 **Q. What specific projects did DOE include in its examination?**

11 **A.** DOE compiled a sample list of 40 projects specified in data requests DOE 3-47 and DOE
12 5-19 (Attachments JED-2 and JED-3) based on a master list of approximately 671 capital
13 projects provided by the Company for project years 2017 through 2020, totaling \$147
14 million. Out of the master list, DOE developed its sample based on the size and
15 complexity of the projects, as well as any significant cost over runs. This involved ten
16 projects for 2017, nine projects for 2018, thirteen projects for 2019, and eight projects for
17 2020. The sampling was later refined based on Unitil's responses to follow-up data
18 requests from the September 27, 2020, technical session. DOE reviewed all of the
19 projects in the sample, with a total of ten projects highlighted by DOE as being
20 representative of the Company's deficiencies in the areas of capital budgeting, planning,
21 documentation, and management. These ten projects are represented in the tables below:

Table 1: 2017 Select Projects

<u>Project No.</u>	<u>Description</u>	<u>Budget</u>	<u>Revised</u>	<u>Actual</u>
DPBC02	Subtrans. Broken Ground/Hollis	\$897,000	\$2,750,000	\$1,871,204

Table 2: 2019 Select Projects

<u>Project No.</u>	<u>Description</u>	<u>Budget</u>	<u>Revised</u>	<u>Actual</u>
GPBE03	Acquisition of New DOC (Land)	\$1,200,000	\$1,322,000	\$1,405,413
GPBE02	Construction Exeter DOC	\$15,931,474	\$ 0	\$16,251,588
SPBC02	Gulf St. 13kV Additions (Concord)	\$ 2,925,000	\$ 0	\$ 3,164,045 ⁷
DPBC04	Conversion Concord Part 1	\$ 250,000	\$ 0	\$ 194,714
DPNC05	Reconductor 1H6 Pleasant(Concord)	\$ 197,798	\$ 0	\$ 161,963
DPNC07	Reconductor 1H6 Thomp. (Concord)	\$ 128,720	\$ 0	\$ 137,385
DPNC12	Reconductor 1H6 S.Spring(Concord)	\$ 138,870	\$ 0	\$ 371,975
DPNC13	374 Line Rebuild (Concord)	\$ 1,066,000	\$ 0	\$ 787,358

Table 3: 2020 Select Projects

<u>Project No.</u>	<u>Description</u>	<u>Budget</u>	<u>Revised</u>	<u>Actual</u>
DPBC07	Conversion Concord Part 2	\$721,847	\$ 0	\$447,840

All of the internal documentation obtained from Unitil was reviewed by DOE in connection with each of these projects, as well as the projects included in the larger sample.

Q. Please provide the results of DOE's review of those projects.

A. Below are the findings for the sample projects reviewed based on the Company's responses to Staff Data Request DOE 3-47 and DOE 5-19, and various follow-up data requests referenced below. All of the related project documentation has been included as attachments to my testimony.

2017 Capital Projects

1. Project #DPBC02 Subtransmission Broken Ground/Hollis

Attachment JED-4

Budget: \$897,000 Revised: \$2,750,000 Actual: \$1,871,204

Budget v. Actual: -\$974,204

Construction Authorization Form (“CAF”):

- This project involved the construction of three new subtransmission lines from Broken Ground Substation to Hollis Substation to address loading concerns related to the Garvins and Oak Hill Substations, PSNH system supply transformers, and supply lines into Penacook and the 38 line in Hollis. Unitil states that this issue was identified in conjunction with PSNH as part of the Joint Planning Process.
- The CAF was dated September 15, 2016, and the project was designated as a two-year project with completion expected in 2017. The CAF was signed by all authorized signers.
- Revision 2 of the CAF dated January 13, 2017, states that the project was updated to account for cost increases resulting from the relocation of the 393 crossing required by the New Hampshire Department of Transportation and the raising of transmission lines by Eversource to accommodate Unitil’s crossing of their right-of-way. The amount of the increase was \$1,388,000. The description of the cost increases was very general and an itemization or analysis of those cost increases was not provided this version of the CAF.
- Revision 3 of the CAF dated March 23, 2017, was issued to report higher than anticipated costs billed to Unitil by Eversource involving

⁷ *Id.* at 21-22 (Bates 371-372) for all expenditures related to projects as part of the Concord Downtown Conversion.

1 Eversource's raising of its transmission lines to accommodate Until's
2 crossing of the right-of-way. The amount of the additional increase was
3 \$465,000. Again, the additional cost increases were not described,
4 analyzed, or and itemized in this CAF revision.

5 Work Orders:

- 6 • No work orders were provided by Unitil as requested in DOE 3-47.

7 Engineering Work Requests:

- 8 • Engineering Work Requests were not required for the project.

9 Change Orders

- 10 • No change orders were submitted for this project.

11 **DOE's Review:**

12 In response to discovery request Energy TS 1-25 (attached to my testimony as part of
13 Attachment JED-4), Unitil states that several design iterations were considered prior to
14 finalizing the 2016 CAF. The Company's survey data provided elevations of the existing
15 115 kV line conductors and Unitil's final design called for a clearance of twelve feet
16 between the Company's lines and Eversource's P148 and M108 transmission lines.
17 Unitil stated that this clearance met NESC guidelines. As a result, Unitil opted to install
18 35 ft. poles instead of 45 ft. to avoid PSNH having to raise its transmission lines. Unitil's
19 engineers assumed that this would be sufficient and budgeted only \$50,000 for minor
20 modifications to Eversource's 318 line, and, no costs were budgeted for the raising of the
21 318, P148, or M108 lines. Upon submission of Until's design to Eversource, Eversource
22 decided, based on its line-sag criteria, that it would be necessary to raise the P148 and
23 M108 lines in addition to the 318 line. The permitting and make-ready work was

1 performed jointly between the two companies at project initiation, but all additional work
2 was managed as two separate projects with Eversource managing the transmission side
3 and Unitil managing the under-build aspects of the project. Eversource's estimate for the
4 line raising came in at \$475,970, but once work was completed the final cost was
5 \$526,488, a difference of \$50,518. Unitil estimated total costs for their portion of the
6 work to be \$897,000 with the final cost coming in at \$1,871,204 (including Eversource's
7 cost), a variance of \$974,204. At the Technical Session held on September 27, 2021,
8 Until represented that Eversource's design changes and related costs to Unitil came as a
9 surprise but apparently the Company never questioned or challenged Eversource
10 involving those cost increases. In addition, Unitil was not fully responsive to Energy TS
11 1-25 in that the requested detailed cost breakouts for Unitil's portion of the project and
12 Eversource's portion were not provided. As a result, DOE was unable to examine all of
13 the essential cost components in terms of the economy or extent of Eversource's cost
14 increases or those related to Unitil.

15 **DOE's Conclusions & Recommendations:**

16 DOE found the initial justification for the project reasonable and supportable in terms of
17 the loading concerns associated with the Garvins and Oak Hill transformers and the need
18 to construct the Broken Ground substation. However, Unitil failed to provide an
19 adequate explanation of, and support for, the significant cost escalations that took place
20 over the course of this project. DOE understands that much of the additional costs
21 experienced in 2017 were the result of Eversource's design changes related to its
22 imposition of more stringent clearance requirements, despite the fact that Unitil stated
23 that its original design was in compliance with accepted NESC guidelines. DOE

presumes that a utility like Unitil utilizes a rigorous project monitoring process that would question and reasonably mitigate these types of cost increases. However, as the evidence shows, the Company's project managers apparently failed to provide Eversource with any challenges or push back involving the increased costs or insist on implementing any type of cost control. In addition, DOE was unable to find any reasonable economic justification for either Unitil's own cost increases or those of Eversource, such as root cause analysis, in any of the documents or responses provided by the Company. As noted above, Unitil did not provide a detailed cost breakout of the work performed by either the Company or Eversource as requested by DOE. As a result, DOE was unable to examine the nature of the modifications required by Eversource or to confirm whether or not those changes were actually necessary for the project and its completion. Also unknown is the extent to which Eversource's requirements actually impacted the design and costs for Unitil's portion of the project. Consequently, DOE finds that management's review and oversight of the project was flawed, and that the Company has failed to meet its burden of demonstrating that its decision making, and resultant cost increases, were prudent. Therefore, DOE recommends that the Commission disallow all of the costs over and above the Company's original estimate in the amount of \$974,204.

2019 Capital Projects

1. Project #GPBE03 Acquisition of New DOC (Land Purchase)

Attachment JED-5

Budget: \$1,200,000 Revised: \$1,322,000 Actual: \$1,405,413

Budget v. Actual: -\$205,413

1 Construction Authorization Form:

- 2 • This project involved the purchase of land for the construction of a new Seacoast
3 Distribution Operations Center (“Seacoast DOC”) to replace the existing DOC
4 located at Drinkwater Road in Kensington, NH (“Kensington DOC”). The
5 Kensington facility was built in 1954 and it was determined by Unitil that the
6 facility could no longer support the Company’s operational needs due to the age
7 of the existing structure and the obsolescence of the layout.
- 8 • Revision 1 of the CAF dated February 8, 2019, sets the budget amount for a
9 potential purchase at \$1.2 million (includes \$200,000 for legal and transaction
10 fees) and discusses the need to conduct a property search of nearby markets to
11 find a desirable location for the new DOC and to prep the Kensington DOC for
12 future sale. However, the document also discloses that a purchase and sale
13 agreement was entered into by the Company the year before in June of 2018 for
14 the purchase of a new parcel located at 20 Continental Drive, Exeter, NH for \$1.0
15 million.⁸ **Note:** The street address for the Exeter DOC was changed to 30
16 Energy Way at or about the time of construction of the new facility.
- 17 • Revision 2 of the CAF dated April 22, 2021, requests increasing the budget
18 amount by \$122,000 to cover the cost of a Phase II environmental site assessment
19 of the Kensington DOC and legal fees associated with selling the property. Both
20 CAF revisions appeared to have the necessary approvals.

21 Work Orders:

- 22 • No work orders were provided by Unitil as requested in DOE 3-47.

⁸ See Testimony of John F. Closson, Exhibit JFC-2 at Bates 310-327.

1 Engineering Work Requests:

- 2 • Engineering Work Requests were not required for the project.

3 Change Orders

- 4 • No change orders were submitted for this project.

5 **DOE's Review & Analysis:**

6 As a part of discovery sets 4, 5, and 6, and at the Technical Sessions held on September
7 27, 2021, October 1 and October 27, 2021, and November 1, 2021, DOE made a number
8 of inquiries related to the Exeter land purchase. Unitil's responses to the written data
9 requests and from the technical session follow-up requests are attached to my testimony
10 as part of Attachment JED-6. From the Company's responses, and direct testimony,
11 DOE notes the following facts:

- 12 1) Unitil did not request a professional appraisal, nor an opinion of value from its
13 realtor, to support the purchase price of \$1.2 million for the Exeter parcel.
14 Instead, the Company relied on market data provided by the realtor and historical
15 property transactions in the region and the immediate vicinity. According to
16 Exhibit JFC-3 of Mr. Closson's testimony at Bates 343-344, a matrix comprising
17 a total of fifteen potential properties was provided to the Company by its realtor in
18 April of 2017. Unitil claims that most of the properties were not suitable because
19 they did not provide a "central" location within the Company's service territory;
20 however, it is important to note that Kensington is considered by the Company to
21 be a central location. Unitil also represents that purchase price was a factor,
22 however, many of the properties listed, in particular site #'s 10, 14, 15, and 17,
23 ranged in price from \$450,000 to \$995,000, significantly less than what was

1 ultimately paid for the Exeter location. Also, out of all of the properties listed,
2 Company representatives visited only two of the sites including the Exeter parcel
3 that was eventually purchased in 2018.

4 2) Although the decision to move ahead with the land purchase, and the eventual
5 construction of the new Seacoast DOC was made in 2017, the only documentation
6 informing those decisions were dated well after the fact in 2019, as represented in
7 Mr. Closson's testimony Exhibits JFC-2 through JFC-6 and the CAF's dated 2019
8 and 2021.⁹ Indeed, the purchase of the Exeter property and planning for
9 construction on the new DOC had already started by the time the first CAF was
10 issued on February 9, 2019 or the production of the ProCon Study on March 26,
11 2019. In addition, Unitil was unable to provide DOE with any documentation
12 evidencing the genesis of the Company's decision making process prior to that
13 time, including any economic analysis, alternatives analysis, initial plans,
14 proposals, presentations, or internal correspondence between decision makers. As
15 noted below for Project No. GPBE02 New DOC, the Decision Document and the
16 ProCon feasibility study were not produced or available to management until
17 2019. In addition, when asked to provide relevant records of the minutes from the
18 Board of Directors meetings, Unitil provided only an excerpt from a single
19 meeting held on July 25, 2018, at which the Board authorized certain corporate
20 officers to purchase land for the new Seacoast DOC. Surprisingly, what the
21 minutes indicate is that this was apparently the first and only time the Board was
22 officially made aware of management's plans for the new DOC and the purchase

⁹ *Id.* Exhibit JFC-2 at page 1 (Bates 287).

1 of property. According to the minutes,¹⁰ Unitil President Thomas Meissner made
2 a brief presentation to the Board outlining the need for a replacement of the
3 Kensington DOC and that a property search had been completed and that the
4 Exeter property had been selected as the new location. What remains unclear is
5 whether or not Mr. Meissner informed the Board that he had already signed a
6 purchase and sale agreement for the property on June 15, 2018, a month before
7 having the requisite authority to do so. Also of interest was the Company's
8 representations at the Technical Session held on October 27, 2021, that there are
9 typically no discussions or communications between corporate officers and Board
10 members involving major capital investment decisions and that the Board only
11 reviews and approves the annual capital budgets at a very high level.

12 **DOE's Conclusions & Recommendations:**

13 DOE does not support recovery by the Company of the costs associated with the purchase
14 of the Exeter location or the inclusion of the property in rate base. As discussed in detail
15 below for Project No. GPBE02, DOE concludes that the initial justification for a new
16 DOC was reasonable and supportable in terms of known obsolescence involving the
17 existing condition of the Kensington DOC. However, after reviewing all of the
18 documentation and materials submitted by the Company for both projects, it became
19 clear that Unitil did not exercise reasonable due diligence in weighing all possible options
20 until after the key decisions to move ahead with the projects had been made. DOE
21 maintains that the purchase of Exeter could have been avoided given that renovations and
22 additions to the Kensington location constituted the least cost option for Unitil (see
23 DOE's Analysis of Option 2 below). In terms of initiating the land purchase, DOE is

¹⁰ See Attachment JED-5, Request No. Energy 6-29, Attachment 1.

1 concerned by the fact that the decision to acquire a new site was made well in advance of
2 the Company performing any analysis of all possible options for re-using the Kensington
3 location. In response to discovery, Unitil states that it was important to acquire the land
4 in advance given market conditions and the availability of suitable locations at that
5 time.¹¹ This leads DOE to conclude that the decision to construct a new DOC was a
6 forgone conclusion made well before all the essential facts were known to management.
7 In addition, it appears that the property search in 2017 was only cursory in nature instead
8 of in earnest given that only two sites were actually visited by representatives from the
9 Company and that the Company ultimately chose one of the more expensive properties
10 without verifying the reasonableness of the purchase through a commercial appraisal.

11 DOE's conclusion is based in part on the fact that Unitil's Board of Directors apparently
12 had little or no advance knowledge of the land transaction or the need for the new DOC
13 at that time. The fact that Board permission was required to make a land purchase priced
14 at \$1.0 million, but not for the construction of a new DOC for \$15 million, is very
15 perplexing to DOE because we are of the belief that the Board of any public utility has a
16 responsibility to oversee management's actions, and to assure that corporate actions will
17 be guided by the public interest, as reviewed by the Commission.

18 DOE believes that all of these factors, taken together, demonstrates a lack of sound
19 business judgement on the part of Unitil since no reasonable effort was made to weigh all
20 of the factors involved with the purchase and construction of the new DOC until after the
21 land purchase was initiated. DOE presumes that Unitil's management possesses a high
22 level of expertise and experience in the scoping and planning of substantial capital
23 investments and believes that an efficient project management process would have been

¹¹ See Attachment JED-5, Request No. Energy TS 2-9.

1 more diligent and forward-looking in considering all viable options and possible
2 alternatives before such a large investment was authorized. Because the Company has
3 failed to meet its burden of demonstrating that its decision making was prudent, DOE
4 recommends that the Commission disallow the total costs associated with the land
5 purchase in Exeter in the total amount of \$1,405,013.

6 **2. Project #GPBE02 Construction – New DOC facility**

7 **Attachment JED-7**

8 **2019 Budget: \$15,931,474 Revised: \$0 Actual: \$16,251,588**

9 **Budget v. Actual: -\$320,114**

10 Construction Authorization Form:

- 11 • This project involved the construction of the new Seacoast DOC in Exeter. The
12 scope of work included preconstruction site work and utilities, engineering and
13 design, environmental survey, permitting and legal work, construction phase
14 administration, and furniture and equipment fit-up. The new facility provides
15 space for the following business functions: Seacoast Electric Distribution
16 Operations, Business Continuity for Gas Control and Field Services, System
17 Emergency Operations, Central Electric Dispatch, Testing and Training, and the
18 Electric Engineering Department including lab facilities. The CAF was dated
19 August 22, 2019.
- 20 • The proposed construction schedule was: i) finalize the land purchase by fourth
21 quarter 2018 or first quarter 2019, ii) break ground and start construction first
22 quarter 2019, and complete construction and commissioning first quarter 2020.
23 The construction start date was later moved to third quarter 2019.

- 1 • Justifications for the new DOC were primarily related to the age and functionality
2 of the existing Kensington DOC. The Kensington facility is approximately sixty
3 years old and no longer supports the modern operations of Unitil's seacoast
4 region. Unitil's need to stock more materials such as poles and transformers has
5 grown in recent years in conjunction with growth in its customer base. Modern-
6 day line trucks are larger than previous models and barely fit in the existing
7 garage. In addition, Unitil has experienced space constraints at other seacoast
8 offices and wishes to add efficiency by consolidating the Company's central
9 dispatch, gas control, field service, and electric engineering functions at one
10 location.

11 Work Orders:

- 12 • No work orders were provided by Unitil as requested in DOE 3-47.

13 Engineering Work Requests:

- 14 • Engineering Work Requests were not required for the project.

15 Change Orders: No change orders were submitted for this project.

16 **DOE's Review:**

17 Unitil's project documentation provided only basic details about this project and the
18 decision making process that lead up to the construction of the new DOC in Exeter. Mr.
19 Closson's testimony provided an overview of the construction project itself and
20 additional details on the Company's decision making in terms of the options that were
21 considered and weighed, but DOE believes the analysis to be perfunctory leaving many
22 important factors and questions unexplored and unaddressed by Unitil. Therefore, as a
23 part of discovery sets 4, 5, and 6, and at the Technical Sessions held on September 27,

2021, October 1 and October 27, 2021, and November 3, 2021, DOE made a number of inquiries related to the Exeter Construction project and the status of the Kensington DOC. Until's responses to the written data requests and technical session follow-up requests are attached to my testimony as a part of Attachment JED-7. From the Company's responses, and direct testimony, DOE notes the following facts:

1) Mr. Closson's testimony outlines the existing conditions at the Kensington DOC and the different options considered by the Company.¹² A more detailed review is provided in Exhibit JFC-2 which includes the Company's "Decision Document" and a study performed by Until's engineering consultant ProCon, Inc. The Decision Document is dated June 17, 2019, and largely relies on the analysis contained in the ProCon report which is dated March 26, 2019.¹³

2) As noted above for the Exeter land purchase, Until made the decision to build a new DOC and decommission the Kensington facility in 2017, approximately two years prior to officially vetting cost estimates and all possible options for the continued use of Kensington. In 2018, the Company's Board of Directors officially committed to the construction of the new DOC in Exeter with the approval of execution of a purchase and sale agreement for the new location.

3) According to the Decision Document, Until considered four options to address its needs for additional space, consolidation of functions, and more efficient and modern accommodations. The four options were:

Option 1: Renovate the existing Kensington DOC and construct a 10,500 square foot addition to the Hampton office building. ProCon estimated a cost

¹² Testimony of John Closson at 5-12 (Bates 273-280).

¹³ *Id.* Exhibit JFC-2 at Bates 285-301.

1 range of between \$5.6 and 6.0 million for this option. Until's revised cost
2 estimate was \$12.4 million.

3 Option 2: Renovate the existing Kensington DOC and construct a 10,500
4 square foot addition to the existing Kensington building. ProCon's estimated
5 cost range for this option was between \$8.5 and \$9.0 million. Until's revised
6 cost estimate was 11.9 million.

7 Option 3: Demolish and remove the existing Kensington building and reuse
8 the existing location to construct the new Seacoast facility. ProCon's
9 estimated cost range for this option was between \$12.8 and \$13.8 million.
10 Until's revised cost estimate was \$17.2 million.

11 Option 4: Purchase land and construct the new Seacoast facility. Although
12 ProCon generally recommended this option in its report, ProCon did not
13 analyze it or provide a cost range estimate. Until's initial cost estimate was
14 \$15.4 million, however, the Company provided no basis for how that amount
15 was calculated in either in the Decision Document or the CAF.

- 16 4) The Decision Document outlines several key risk areas for each of the four options
17 based in part on the results of the ProCon study. Although some of the risks listed
18 were unique to individual options, DOE focused on eight of those risk areas as they
19 related to Option 2 and Until's decision to dismiss that option since DOE's
20 conclusion discussed below is that only Option 2 constituted a viable least cost
21 option. As a result, DOE assessed each risk factor based on the discovery responses
22 provided by the Company and in terms of relevance and credibility to support the
23 Company's actions. Those risk factors and DOE's analysis are provided below:

1 i. Zoning: Unitil asserts that the Town of Kensington's zoning regulations
2 would not support any additions to or expansions of the existing building.
3 ProCon reported that the existing use of the facility is prohibited under
4 Kensington's current zoning ordinance but is allowed to continue unchanged
5 as a pre-existing, non-conforming use. As a result, any changes or expansion
6 of the Kensington DOC would require a zoning variance from the Town and
7 Unitil presumed that the approval process would be both lengthy and costly
8 with little assurance that approvals could be obtained.

9 DOE Analysis: In discovery, Unitil stated that it never contacted nor met
10 with Town officials to explore and weigh the Company's chances of
11 obtaining a special zoning exemption for Option 2 (or Options 1 and 3).
12 Also, Unitil never investigated potential design options or sizing to determine
13 how any additions or expansions of the Kensington facility could be
14 configured to best fit with any zoning requirements.¹⁴ As a result, the
15 Company never knew with any degree of certainty whether or not Option 2,
16 or any other option, would have passed muster with Kensington's zoning
17 process. Also, it is interesting to note that in relation to the Exeter
18 construction project, Unitil requested and received several waivers from the
19 Exeter Planning Board involving Exeter's Site Plan Review and Subdivision
20 Regulations and reported little or no difficulty in obtaining those waivers.¹⁵

21 ii. Building Footprint: Unitil asserts that the existing building footprint at
22 Kensington would not change and therefore could not accommodate the need

¹⁴ See Attachment JED-6, data response Energy TS 2-10.

¹⁵ *Id.* data response Energy 6-30 Attachment 2.

1 for additional space for current-day operations at the DOC. The Company
2 also claims that the amount of available space in the rear yard storage area is
3 also limited and not conducive to expansion.

4 DOE Analysis: The basis for this risk factor is that the building footprint
5 could not expand and that the size of the proposed addition was fixed at
6 10,500 square feet presumably due to zoning requirements and the proximity
7 to wetlands. However, as noted above, the Company made no attempt to
8 contact local zoning officials about the possibility for zoning approval and
9 made no effort to examine and evaluate potential design configurations for
10 the facility and the proposed expansion. The same is true for the Company's
11 failure to research the viability of wetland permitting with the New
12 Hampshire Department of Environmental Services ("NH DES") and the U.S.
13 Army Corps of Engineers ("Army Corps"). Interestingly, Unitil also
14 encountered similar wetlands limitations at the new Exeter site and received
15 permitting to fill-in approximately 1/3 of an acre of forested wetlands for the
16 new DOC. Unitil reported no significant delays in receiving those approvals.
17 Also, as can be seen from the wetlands map of the Exeter site, the
18 encroachment of wetlands appears to be as acute as what was experienced by
19 Unitil in Kensington.¹⁶

20 In addition, at a site visit attended by DOE on October 21, 2021, DOE
21 noticed what appeared to be additional available land area in a field located
22 on the northerly side of the Kensington facility. This space can also be seen
23 on the site map provided in data response DOE 4-68, Attachment 2, attached

1 to my testimony as JED-7. DOE learned from Company representatives at
2 the site visit that this field was made available for use from time to time as a
3 staging area for additional line crews and trucks during major storm events.
4 During the tour of the facility itself, DOE confirmed the size limitations of
5 the garage bays to accommodate the larger line trucks, however, DOE also
6 observed on the rear half of the building used for warehousing a much larger
7 space that appeared to have the capacity to house the line trucks if the two
8 layouts were to be reversed and re-purposed by Unitil. In addition, the rear
9 storage yard appeared to be expandable to the north to provide additional
10 space for poles and transformers.

11 iii. Abatement of Asbestos: Unitil states that asbestos is present in the
12 Kensington facility and that the extent of the contamination is unknown and
13 that any attempts at abatement and remediation would add materially to the
14 construction costs.

15 DOE Analysis: According to the Company's response to data request DOE
16 6-31, attached to my testimony as part of Attachment JED-7, "extensive"
17 asbestos abatement was performed and completed at the site during an office
18 renovation project in 1998. The report by Unitil's contractor at the time,
19 Hygienetics Environmental Services, states that most but not all of the
20 asbestos was removed except for some panels, tiles, and pipe insulation that
21 remained. This indicates that the reduced presence of asbestos, although still
22 potentially hazardous, should not constitute as big of an impediment to
23 renovation as originally represented by the Company. Moreover, despite the

¹⁶ *Id.* Data response DOE 4-68, Attachments 2 and 3.

1 presence of remnant materials, the Company represents that it will market the
2 property by disclosing the existence of asbestos to potential buyers, leaving it
3 to the buyers to perform any additional remediation. Unitil also represents
4 that to date potential buyers have shown a willingness to purchase the
5 property despite the existence of some asbestos still remaining at the facility.

6 iv. Availability of Municipal Water & Sewer: Unitil states that municipal water
7 and sewer services are not available at the Kensington location. Kensington
8 is currently served by an existing onsite water well and septic system. The
9 Company argues that the existing system is inadequate to handle the
10 increased needs posed by additional personnel and to support a new fire
11 suppression sprinkler system which will be required under the building code.
12 The ProCon study recommended installation of a new leach field, an
13 additional water well, and storm water retention to comply with current
14 regulations. ProCon also highlighted the need for either a pond or an
15 underground storage tank to ensure an adequate water supply for the new fire
16 suppression system that would be required as part of any renovation. The
17 presence of wetlands at the site, and the need for additional permitting, was
18 also mentioned as a limiting factor that could impact the scope of the
19 improvements. Taken together, Unitil asserts that these factors would
20 substantially increase the costs of any type of expansion at Kensington.

21 DOE Analysis: DOE agrees that the lack of available municipal services
22 would complicate any expansion to the existing Kensington facility.
23 However, ProCon never stated that the recommended improvements could

1 not be accomplished, only that the existence of the water and sewer issues
2 could complicate the project and would likely involve additional costs.
3 Although ProCon points out what these additional costs may entail, e.g. legal
4 costs, wetlands mitigation, engineering costs, they did not provide a cost
5 range or cost analysis for Company management to determine the extent of
6 those expenditures. As a result, whether or not those costs would have made
7 renovating the Kensington facility uneconomic is not known.

8 As mentioned above, DOE employees attended site visits of both the
9 Kensington and Exeter facilities on October 21, 2021. As part of the viewing
10 of the Kensington property, DOE observed a large pond on the very north end
11 of property which is apparently jointly owned by Unitil and an abutting
12 landowner. This body of water is also depicted on the wetlands site map at
13 JED-6, data response DOE 4-68, Attachments 2 and 3. In discovery, DOE
14 inquired as to the possibility of the Company utilizing the pond as a water
15 source for its fire suppression system or for potentially other water needs as
16 an alternative to installing an underground storage tank or constructing a new
17 pond as recommended by ProCon.¹⁷ In response, Unitil stated that the pond
18 is currently used to supply a local onsite community water system (supervised
19 by NH DES) and also as a dry hydrant site for the Town of Kensington
20 Volunteer Fire Department. The Company asserts that permitting from NH
21 DES, along with permission from the abutting property owner and
22 coordination with the fire department and the Town would be needed, all
23 creating additional costs for the project. However, similar to the zoning and

1 wetlands issues discussed above, the Company never explored the potential
2 for using the existing pond as a viable water source. Also, the costs and the
3 cost differentials between building an onsite water source or working with
4 other parties to establish extraction rights and piping from the existing pond
5 were never considered by Unitil. In terms of the actual additional amounts of
6 water that a newly expanded Kensington facility would need for both office
7 use and fire suppression, that need was never studied or quantified by either
8 ProCon or Unitil.

9 v. Relocation of Operations During Construction: The Company states that any
10 construction at the Kensington site would require the relocation of existing
11 personnel, crews, and equipment until renovations were completed. Unitil
12 also claims that the availability of leasing commercial space as a temporary
13 location for those operations was extremely limited in the seacoast region.
14 This was based on the market research provided by the Company's realtor in
15 March of 2019.

16 DOE Analysis: DOE agrees that dislocation and relocation of operations and
17 personnel would have been problematic for the Company but not impossible.
18 Unitil's realtor provided leasing information for only a period of time up to
19 March of 2019. It is not known whether the realtor provided any subsequent
20 research to report on changing market conditions and new prospects. DOE
21 assumes that the real estate market is not a static environment and that it is
22 subject to constant change especially when the market is robust. Moreover,
23 Unitil has not asserted that time was of the essence in beginning construction

¹⁷ See Attachment JED-6, data response Energy 6-30.

1 of the new DOC. In fact construction was delayed in 2019 due to issues
2 involving COVID-19. In addition, DOE believes that this risk factor actually
3 constitutes a known and expected project expense rather than a unique risk
4 since the potential for relocation would be present regardless of whether or
5 not Options 1, 2, or 3 were chosen.

6 vi. Costs of a Temporary Triple Net Lease: Related to relocation of operations
7 discussed above, Unutil states that an additional risk factor involves the costs
8 of a triple net lease that includes monthly rent, property taxes, and utilities.
9 Again, DOE's view is that this is more of a known project expense rather
10 than an actual risk and would also be applicable to all Options 1-3.

11 vii. Costs of Fit-up, Furniture and Furnishings: The Company provided no
12 details for this risk factor. DOE's assumption is that much of Unutil's
13 existing furniture and equipment at the Kensington facility could have been
14 moved to and re-used at the new temporary location. Thus this seems to be
15 more of an inconvenience than a major risk factor.

16 viii. Costs of Business Disruption: Unutil states that disruptions of operations will
17 occur in the form of time commitment on the part of DOC staff, IT staff, and
18 facilities staff to move to the new space and complete fit-up. Again, DOE
19 views this as an expected project expense and not a risk. Any time
20 commitment required from Unutil staff would likely be of short duration and
21 thus temporary.

22 5) Unutil did not engage in a formal bidding process for the management of the Exeter
23 construction project. Instead of issuing a request for proposal to obtain a variety of

1 cost estimates, the Company chose ProCon as its sole provider of those services.
2 Therefore, the Company has no way of knowing whether those services could have
3 been provided more efficiently and at a lower cost. The ProCon contract constituted
4 the single largest budget item for the Exeter construction project at \$13.2 million.¹⁸

5 6) Unitil claims that Drinkwater Road itself is an impediment to operations since the
6 road is prone to flooding during large storm events and that personnel and line crews
7 have had to use an alternate route to leave the Kensington facility as a result.
8 However, in response to discovery, the Company stated that it does not track or know
9 the exact number of times Drinkwater Road has been impassable due to flooding on
10 an annual basis. In addition, at the technical session held on September 27, 2021,
11 Unitil stated that although line crews and personnel at the Kensington facility have at
12 times had to use an alternate route, this diversion only adds approximately five
13 minutes in additional travel time to the main highway. DOE understands that the
14 Company has conducted operations from Kensington and has had to deal with the
15 inconvenience of flooding for a number of years, but has never explored flood
16 mitigation measures with the Town to determine if the problem can be alleviated
17 through improved drainage or elevation of the road.¹⁹

18 7) As part of the investments to be included the 2020 test year rate base, Unitil has
19 added investments in artwork for the new DOC totaling \$34,082.²⁰ These costs
20 involved the design, production, and installation of photographs obtained from the
21 Company's archives plus other artistic elements. Audit Staff found that these costs

¹⁸ See Final Audit Report DE 21-030 dated November 12, 2021 at 18-19.

¹⁹ See Attachment JED-6, data response DOE 4-68.

1 are not necessary capital expenditures and that they should be recorded below the line
2 and paid for by Unitil shareholders.²¹ DOE agrees with and adopts Audit's
3 conclusion.

4 8) The Company included in its proposed test year rate base additional expenditures for
5 the Exeter DOC in the amount of \$577,144 which were occurred in 2021. Since these
6 additions were placed in service in 2021 (after the 2020 test year), Audit Staff
7 recommends that those expenditures not be included for recovery in Unitil's proposed
8 rate base.²² DOE agrees with and adopts Audit's recommendation.

9 9) At the site visit attended by DOE on October 21, 2021, Unitil represented that there
10 are several areas within the Company's operations that gained significant
11 improvements in efficiency because of the new Exeter DOC as compared with
12 continuing operations at Kensington. Those areas included Electrical Engineering,
13 Central Electric Dispatch, and consolidation of staff among other functions.
14 However, when asked in discovery to quantify those efficiencies in terms of dollars
15 saved the Company was unable to do so.²³ DOE believes that any gains in efficiency
16 currently experienced by Unitil in Exeter could have also been replicated with the
17 renovation of Kensington under Option 2.

18 **DOE's Conclusions & Recommendations:**

19 As noted above for the Exeter land purchase, DOE believes that the initial justification
20 for the new DOC to be reasonable and supportable in terms of known obsolescence, asset

²⁰ See Attachment JED-6, data response Energy TS 1-24. Unitil made a correction to this expense in the amount of \$3,110 due to a misallocation of AFUDC reducing the amount previously reported to Audit from \$38,082 to \$34,973.

²¹ *Id.* Audit Issue No. 5 at 128.

²² *Id.* Audit Issue No. 3 at 15 and 124.

²³ See Attachment JED-6, data response Energy TS 2-12.

1 conditions, and layout associated with the Kensington facility. However, after reviewing
2 all of the essential cost components and risk assessments contained in the Decision
3 Document and the ProCon Study, and the extensive discovery, DOE has concerns about
4 the timing of the Company's decision making and its failure to perform adequate due
5 diligence for this project. Although the Decision Document and the ProCon report give
6 the appearance that Unitil performed all of the necessary steps for prudent decision
7 making, that process fails the test of credibility in that the analysis was performed
8 approximately two years after the final decisions to move forward with the both the land
9 purchase and the construction project were made. Part of a prudence review is whether
10 the process leading to a utility's decision was a logical one based on all conditions and
11 circumstances which were known or which reasonably should have been known at the
12 time the decision was made. As the evidence shows, not only did Unitil not perform the
13 requisite research at the time the decisions were made, but even if the analysis had been
14 performed at project inception, it was not sufficiently in-depth or extensive to provide
15 Unitil's management with all of the necessary details to make an informed economic
16 decision. In short, the Company's analysis was not only late, it was woefully incomplete
17 and inadequate.

18 DOE agrees that there was the potential for additional costs associated with the
19 Kensington renovation, i.e. fire suppression, storm water, septic, and sufficient water
20 capacity. However, those improvements and the extent of the related costs were never
21 explored or estimated by Unitil or by its consultants as part of the Company's due
22 diligence, thus the Company has not shown that such costs would have precluded the
23 potential renovation and expansion of the Kensington facility. Likewise, the zoning and

1 wetland permitting issues were equally significant in that no inquiries or engagement
2 with the regulatory authorities were attempted by Unitil. Thus Unitil was unable show
3 whether matters concerning zoning and wetlands would have posed definite impediments
4 to, or even prevented construction. Additionally, the Company failed to put the
5 management of the construction project out for competitive bid potentially adding to
6 project costs since the ProCon contract as sole provider was the largest cost center for the
7 project.

8 In its totality, DOE can only conclude that the Company's decision making process was a
9 top down instead of a bottom up approach. That is, it appears that the Company's
10 decisions to purchase land in Exeter and to build the new Seacoast DOC at that location
11 were predetermined as early as 2017, and that Unitil's due diligence, which occurred very
12 late in the process, was framed in such a way as to support the Company's predetermined
13 outcome by attempting to show that any option to renovate and re-use the Kensington
14 location was the least viable option.

15 Based on its review, DOE concludes that Option 2 out of the four options provided by
16 Unitil constituted the least cost option available to the Company and its ratepayers. The
17 ProCon estimate for Option 2 came in at \$9 million (on the high side) and Unitil
18 estimated \$11.9 million but provided no basis for that estimate. Depending on which
19 estimate is used as a basis for comparison, the cost savings compared with the final cost
20 of the Exeter DOC (\$17.7 million including property acquisition costs), ranges from
21 \$5.75 million to \$8.65 million. DOE did not consider Option 1 as a viable or least cost
22 alternative because we agree with the Company that it did not fulfill the desired goals for
23 business continuity and efficiency. DOE also did not consider Option 3 as a least cost

1 alternative due primarily to the added costs involved with the total demolition of the
2 Kensington facility. As a result, DOE recommends that the Commission disallow all of
3 the costs over and above the average of the Company's estimate and the ProCon
4 estimates for Option 2, calculated in the amount of \$9.8 million, and the total amount
5 spent on the Exeter project of \$17.6 million (including costs of land acquisition),
6 resulting in a total disallowance of \$7.8 million. DOE chose the average of \$9.8 million
7 because Unitil did not quantify or provide a basis for its gross-up of the ProCon estimate
8 to \$11.9 million.

9 DOE understands that the average of \$9.8 million would impact the property tax amount
10 for Kensington. Currently as of 2020, the annual property tax for the Kensington DOC is
11 \$184,090 and the 2020 property tax for the Exeter DOC is \$531,439 for a difference of
12 \$347,349. Given that the Town of Kensington values the Kensington DOC at
13 \$9,891,984, a rough estimate of the tax impact for a 9.8 million renovation, under the
14 current tax rates, would essentially double the amount of the property tax to
15 approximately \$368,180.²⁴ Because Unitil never inquired with the Town of Kensington
16 about the viability of any renovations to the Kensington facility, the true impact of any
17 property tax increase is currently unknown.

18 In addition, in relation to property taxes, DOE also recommends disallowance from
19 Unitil's cost of service of all property taxes paid to the Town of Exeter in 2019 and 2020
20 for the new DOC location in the amount of \$540,438. An itemization of all of the
21 proposed disallowances is provided below:

Exeter DOC

Delta between Option 4 and Option 2:	\$5,839,471 ²⁵
Cost of Exeter Land Purchase	1,405,413
Additional Fit-up Costs 2021	577,144
Artwork – Exeter	<u>34,973</u>
Total Disallowance	\$7,857,001

Property Taxes for 30 Energy Way, Exeter, NH ²⁶

Total 2020 Property Tax	\$531,439
Total 2019 Property Tax	<u>8,999</u>
Total Disallowance (COS)	\$540,438

3. Concord Downtown Conversion Projects:

<u>Project #</u>	<u>Description</u>	<u>Budget</u>	<u>Actual</u>
SPBC02	Gulf St. 13kV Additions	\$ 2,925,000	\$ 3,164,045
DPBC04	Conversion Concord Part 1	\$ 250,000	\$ 194,714
DPNC05	Reconductor 1H6 Pleasant	\$ 197,798	\$ 161,963
DPNC07	Reconductor 1H6 Thomp.	\$ 128,720	\$ 137,385
DPNC12	Reconductor 1H6 S.Spring	\$ 138,870	\$ 371,975
DPNC13	374 Line Rebuild	\$ 1,066,000	\$ 787,358
DPBC07	Conversion Concord Part 2	<u>\$ 721,847</u>	<u>\$ 447,840</u>
	Total	\$ 5,428,235	\$ 5,265,280

Overall Budget v. Actual: \$162,955

Attachment JED-7

Construction Authorization Form:

- The Concord Downtown Conversion project is characterized as a significant project by Unitil at \$5.2 million and involved seven individual projects listed above. DOE reviewed of the related and CAF's and they are attached to my testimony as part of Attachment JED-7.

²⁴ See Attachment JED-6, data response Energy TS 2-4, Attachment 2.

²⁵ Final 2020 cost for Exeter (not including land purchase, artwork, 2021 expenditures) of \$15,639,471 less \$9,800,000 equals \$5,839,471.

- 1 • The project as a whole was intended to accommodate actual and projected load
2 growth in the Concord Downtown area over the next five to eight years. The
3 additional growth is projected by Unitil to be up to 10 MVA.
- 4 • Development in the Concord Downtown area has included or will include a mix
5 of apartments, retail stores, offices, restaurants, and a bank.
- 6 • In order to meet the new load growth, the Company considered five options to
7 connect with the new load and initiate the conversion:
 - 8 1) Upgrade Gulf Street Substation to 13kV.
 - 9 2) Create a 13.8 kV transformer grid.
 - 10 3) Upgrade and replace Bridge Street Substation.
 - 11 4) Install second transformer at Iron Works Substation.
- 12 Unitil ultimately chose Option 1, upgrade and expand the Gulf Street Substation,
13 since the other options were not considered viable due to space limitations at
14 existing substations or were not within the Company's design guidelines.²⁷
- 15 • Aside from the Gulf Street Substation project, the other conversion projects
16 involved reconductoring and undergrounding of existing lines, padmount
17 transformer replacements and new switch installations.
- 18 • The Company based its buildout for the various construction projects on the five-
19 year load forecast and conditions assessment contained in the Concord Downtown
20 Area Study 2018.²⁸
- 21 • The project was completed in 2020.

²⁶ See Attachment JED-6, data response Energy TS 2-4, Attachment 3 at 1-3.

1 Work Orders:

- 2 • No work orders were provided by Unitil as requested in DOE 3-47.

3 Engineering Work Requests:

- 4 • Engineering Work Requests were not required for the project.

5 Change Orders: No change orders were submitted for this project.

6 **DOE's Review:**

7 In discovery, Unitil represents that the projected load growth for the Concord Downtown
8 area has not materialized and that many projects have been either delayed, put on hold, or
9 cancelled.²⁹ As justification for this project, the Company relied exclusively on its own
10 internal study, the Concord Downtown Area Study 2018. The only other studies
11 considered by Unitil were system impact studies performed for specific interconnection
12 requests. The focus of the study was limited to projected loads and needed systems
13 improvements to meet those loads. The study does not specifically mention or review
14 known and verified load increases nor does it address the potential of some new loads not
15 materializing. Unitil's most recent load projection reports a total projected load of 5380
16 kVA and a current realized load of 1310 kVA, leaving 4070 kVA or 75% of projected
17 load unrealized.³⁰

18 **DOE's Conclusions & Recommendations:**

19 Like many of the projects reviewed in the sample, DOE found the initial justification for
20 the project reasonable in terms of the upgrades and additions that were driven by
21 increasing development in the Concord Downtown area and the insufficient capacity of

²⁷ Testimony of Kevin E. Sprague at 21-24 (Bates 371-374).

²⁸ See Attachment JED-7.

²⁹ See Attachment JED-7, Staff Data Request 1-2 (Docket DE 20-002), and DOE Request 4-71.

³⁰ *Id.* DOE Request 4-71.

1 existing substations and conductors. However, DOE is becoming increasingly concerned
2 with projects built to serve highly speculative loads without the necessary background
3 research to critically examine whether those load projections are reasonable and credible,
4 and without considering different scenarios under which those loads may or may not
5 occur. In this instance, the Company's Concord Downtown Area Study 2018 does not
6 address those critical issues but relies exclusively on its own load projections. Given that
7 only 25% of the predicted load increase has materialized service, DOE concludes that
8 only 25% of the installed capacity is used and useful at this time. In addition, there is no
9 certainty as to when the entire load, or a portion thereof, will come online in the near
10 term given the number development projects that are currently on hold, and Unitil has
11 provided no such assurances in its filings. Despite the fact that 100% of the new capacity
12 for the Concord Downtown project has been constructed and is now in place, it has long
13 been held that utilities are entitled to a return only upon that portion of an investment that
14 is used and useful during the test year. Accordingly, in applying a needs based test, DOE
15 finds that only 25% of the installed plant is used and useful as of the 2020 test year and
16 that the remaining 75% constitutes excess capacity at this time. As a result, DOE
17 recommends disallowance of the excess capacity portion which is equivalent to
18 \$3,948,960 (75% x \$5,265,280) for purposes of this case. The DOE proposes to review
19 the plant additions in Unitil's next rate case to see if the load has materialized and the
20 remaining plant has become used and useful.

21
22 **V. STEP ADJUSTMENTS AND PROPOSED RATE PLAN**

23 **Q. Did Unitil propose any step adjustment increases as part of its overall rate request?**

1 **A.** Yes. Similar to Unitil's previous request in Docket DE 16-384, the Company proposed
2 an initial step adjustment increase for 2021 in the amount of \$4.6 million.³¹ This increase
3 incorporates costs associated with Unitil's capital spending for 2021 totaling
4 approximately \$31 million and is proposed to take effect concurrently with the
5 Commission's approval of the permanent rate increase.³²

6 **Q.** **In Docket DE 16-384 the parties agreed through Settlement that the first step**
7 **increase, along with subsequent step increases, should be approved by the**
8 **Commission. Does DOE support approval of Unitil's step increases proposed in the**
9 **present docket?**

10 **A.** No. As the question indicates, in Unitil's last rate case the first step adjustment (in 2017),
11 along with additional annual step increases in 2018 and 2019, were ultimately
12 incorporated, along with other negotiated issues, into a broad-based Settlement
13 Agreement resolving the multiple issues between the parties. Unfortunately, due to the
14 schedule in that case, and the timing of the Settlement discussions, there was not an
15 adequate opportunity for Staff (at that time Commission Staff) to conduct a thorough
16 review of Unitil's 2017 capital budget, nor did the Audit Division have time to perform
17 an audit. Moreover, by the time the final capital spending numbers for 2017 (i.e. actual
18 expenditures as compared with the budgeted amounts) were available from Unitil (after
19 the year-end closure of Unitil's books), the time for discovery and testimony involving
20 individual projects had passed in that case.

21 In the present rate case, a similar situation is proposed by the Company whereby Unitil's
22 capital spending for 2021, and subsequent capital budgets for 2022 through 2024,

³¹ Testimony of Christopher J. Goulding and Daniel T. Nawazelski, Schedule CGDN-2 at Bates 204.

³² *Id.* at 37 (Bates 107).

1 comprise the proposed step increases. In terms of the first step increase, like the prior
2 rate case, the final expenditure amounts for the 2021 plant additions are not available for
3 DOE or Audit to review at this time (not to mention projects that may have been
4 postponed or cancelled in the interim). Unitil has represented that those figures will be
5 made available in January of 2022, however, settlement negotiations and hearings in this
6 docket are scheduled to begin at about that time according to the current procedural
7 schedule. As a result, the time for serving discovery and submitting testimony related to
8 the 2021 capital projects will have passed before the actual plant investment amounts and
9 supporting documentation are available for review. Consequently, DOE is
10 recommending that the Commission not approve the 2021 step increase concurrently with
11 the permanent rates as requested by Unitil. Instead, DOE recommends that the
12 Commission deny Unitil's request for a step increase coincident with the permanent rates
13 and order a separate schedule for review of these 2021 plant investments in 2022. This
14 would allow sufficient time for a complete review of the 2021 capital expenditures by
15 both DOE and Audit. The DOE requests that the Commission require Unitil to provide
16 all relevant project documents (Construction Authorization Forms, Work Orders, Change
17 Orders, etc.) for these 2021 investments with its initial filing for the step adjustment.
18 This approach is consistent with what Commission Staff (now DOE) proposed, and the
19 Commission approved, as part of the settlements in both of the most recent rate cases for
20 Liberty Utilities (Granite State Electric) and Eversource in Dockets DE 19-064 and DE
21 19-057. Further, the examples of deficiencies in Unitil's capital planning, analysis, and
22 approvals discussed above justify the need for a comprehensive review of any future step
23 increases.

1 **Q. Does DOE have any concerns involving the future step increases requested by**
2 **Unitil?**

3 **A.** Yes. The Company forecasts total changes to gross plant of \$31 million in 2021, \$37.5
4 million in 2022, and \$36.9 million in 2023.³³ Unitil proposes to make annual compliance
5 filings with the Commission on or before the last of January of each year to document the
6 prior year's expenses and to confirm that all plant additions are in service.³⁴ Unitil did not
7 provide specifics on the type of projects that would be undertaken except that those
8 project would be "non-growth" related projects. Thus far, DOE has only been provided
9 with the spreadsheets of future investments attached to Mr. Sprague's testimony as
10 Exhibit KES-2, but the information contained therein is mostly based on broad project
11 categories. Unitil provides only budget estimates for numerous future investments but
12 provides no known or knowable benefits to ratepayers, and these budget estimates are
13 subject to modification in future years.

14 **Q. What is DOE's recommendation for the step increases as proposed by Unitil that**
15 **are beyond the 2021 plant investments as discussed earlier?**

16 **A.** DOE does not support the Company's proposal and instead recommends that the
17 Commission retain its traditional rate-making role whereby plant additions, along with
18 other expenses, are reviewed comprehensively in periodic rate cases, in order to ensure
19 prudent investment and just and reasonable rates. DOE in particular recommends base
20 rate case review of the Company's plant investments, based on the fact that those
21 investments are numerous, significant in size and complexity, and potentially
22 unnecessary given the Company's relatively flat load growth and satisfactory reliability.

³³ *Id.* at Schedule CGDN-2 at Bates 204.

³⁴ *Id.* at 97 (Bates 158).

1 For those reasons, DOE recommends that the Commission deny the Company's proposal
2 involving future step increases and consider only the first step adjustment under the
3 review process proposed by DOE, which will allow for review of actual investment
4 amounts in 2022, after the Company's books are closed and the project documents are
5 provided for review.

6
7 **VI. CONCLUSIONS AND RECOMMENDATIONS**

8 **Q. Please summarize DOE's findings.**

9 **A.** In summary, based on the extensive review outlined above, DOE is unable to find that
10 Until provided sufficient economic justification and analysis to support some of the
11 major capital projects reviewed, for the following reasons:

- 12 • DOE found little evidence that Until is consistently observed of least cost
13 planning, performed sufficient financial analysis, due diligence, or management
14 oversight for the projects reviewed.
- 15 • DOE found little evidence that Until's project planning and management is
16 consistent in terms of an efficient or organized process or that proper processes
17 and controls are in place for reasonable and prudent decision making.
- 18 • Until provided little evidence that its project management employed appropriate
19 cost control methodologies or techniques, or that it reasonably responded to
20 changing circumstances or new challenges as some projects progressed.
- 21 • Until's approach to capital budgeting and planning directly impacts rates given
22 that this rate case was filed primarily because of \$125 million in capital

1 expenditures invested by the Company in its distribution system since the last rate
2 case.

3 **Q. What recommendations does DOE propose as a result of its analysis of Unitil's**
4 **capital investments and proposed step adjustments?**

5 A. Based on our review of capital projects for 2017 through 2020 outlined above, DOE
6 recommends a total plant investment disallowance of \$12,780,165. DOE also
7 recommends that the Commission reject the proposed step increase for 2021 and all
8 future step increases, given DOE's overall determination that a comprehensive review
9 needs to be performed and Unitil has exhibited substandard capital planning,
10 management, diligence, and oversight based on the evidence provided above.

11 **Q. Does that conclude your testimony?**

12 A. Yes, it does.
13
14