

DE 01-247

CONCORD ELECTRIC COMPANY and
EXETER & HAMPTON ELECTRIC COMPANY

Notice of Intent to File Rate Schedules and
Proposal to Restructure

Order Approving Implementation of Residential Late Payment Fee
Pursuant to Phase II Settlement Agreement

O R D E R N O. 24,088

November 22, 2002

I. PROCEDURAL HISTORY

In this Order, the New Hampshire Public Utilities Commission (Commission) rules on a matter involving the implementation of a 1 percent residential late payment fee effective December 1, 2002 by Unitil Energy Systems, Inc. (UES), the successor by merger to Concord Electric Company (CEC) and Exeter & Hampton Electric Company (E&H).

On January 25, 2002, CEC, E&H, and Unitil Power Corp. (collectively referred to as the Unitil Companies) filed with the Commission a petition for approval of an offer of settlement for restructuring the Unitil Companies. The proceedings were divided into three phases. The Phase I proceedings focused on how the Unitil Companies will implement electric industry restructuring pursuant to RSA 374-F; Phase I culminated in Order No. 24,046 (August 28, 2002), which conditionally approved the Phase I Settlement Agreement executed by the parties. Phase II

deals with all the other issues in the docket except those reserved for decision in Phase III; Phase II resulted in Order No. 24,072 (October 25, 2002) (Phase II Order), which approved the Phase II Settlement Agreement and an amendment to the Phase I Settlement Agreement, and denied a motion for rehearing of Order No. 24,046. The Phase II Order specifically reserved for a future decision the matter of the residential late payment fee.

The Phase II Order approved new distribution rates for UES reflecting a total revenue increase of \$1,985,324, of which \$114,000 is attributable to residential late payment fees. As provided in section 3.3.4 of the Phase II Settlement Agreement, UES is allowed to bill a residential late payment fee of 1 percent per month effective December 1, 2002, subject to the Commission's approval of a filing by Unitil demonstrating that "the rate charged is not in excess of the costs incurred by the Company." UES will, however, waive the late payment fee if the customer can provide evidence of eligibility in any one of a number of low income assistance programs.

Testimony was presented during the hearing on the Phase II Settlement Agreement that the 1 percent fee is not intended to be a permanent fixed charge; thus, the fee is subject to increase or decrease in the future pursuant to action

of the Commission. See Hearing Transcript of September 12, 2002 at 12-15. There was further testimony that the parties presume that the costs associated with late payments would equal at least 1 percent of a customer's bill; even so, Unitil must make a filing to demonstrate that the rate is appropriate. *Id.*

On October 17, 2002, CEC and E&H filed with the Commission a Late Payment Fee Cost Analysis (Analysis). The filing stated that UES' tariff included a 1 percent per month late payment fee for all customer classes, effective December 1, 2002 concurrent with the new base rates for UES, and that this represented a new fee for the residential and outdoor lighting classes and a reduction in the existing fee for the general service customer classes from 1.5 percent per month to 1 percent per month. The filing noted that the Analysis is subject to Commission approval.

On October 30, 2002, CEC and E&H filed a letter with the Commission seeking to amend their late payment fee filing. CEC and E&H stated they were withdrawing their request for changes to the late payment fee for the general service classes and outdoor lighting class in order to conform to the intent of the Phase II Settlement Agreement. Accordingly, CEC and E&H announced they would modify the UES tariff to (i) implement a late payment fee of 1 percent per month for the residential

class conditioned upon approval of this filing, (ii) retain the existing 1.5 percent per month late payment fee for the general service classes and (iii) delete a late payment fee for the outdoor lighting class. CEC and E&H noted that the New Hampshire Business and Industry Association did not object to revising the tariff in the manner described. Finally, CEC and E&H stated that the Analysis provided the cost justification for initiating the late payment fee for the residential class and did not need to be changed.

No party objected to Unitil's late payment fee filing as amended.

II. LATE PAYMENT FEE COST ANALYSIS

According to Unitil, the Analysis¹ shows that the revenues from late fees of \$198,619 collect only 36% of the expenses related to past due accounts of \$547,523, or, in other words, the average monthly cost of servicing past due accounts amounts to 3.3% of the average monthly past due balances of \$1,384,824, while the tariff provides for a late payment fee of only 1 percent of the past due balances. Unitil asserts that its Analysis demonstrates compliance with Puc 1203.08(a), which

¹ For consistency with the other information presented in DE 01-247, the Analysis is based on test year 2001 "per books" data, excluding pro forma adjustments, and reflecting the merger of CEC and E&H into UES.

requires that "the proposed [late payment] charge...not exceed the actual costs incurred by the utility due to lateness."

In arriving at these figures, Unitil calculated the annual expense related to past due accounts by adding together certain labor costs,² collections costs, forms and postage expense for shut-off notices and carrying costs related to past due accounts. Total revenues from late payment fees were determined by adding the pro forma residential late payment fees of \$114,000 to the 2001 actual late payment charges imposed on the general service classes.

III. COMMISSION ANALYSIS

We recently approved a stipulation entered into by Public Service Company of New Hampshire (PSNH), Save Our Homes Organization and the New Hampshire Office of Consumer Advocate which set forth a menu of allowable late payment charges for PSNH, including a charge of 1 percent per month for residential customers subject to certain exemptions. *Public Service Company of New Hampshire*, Order No. 24,083 (DE 02-054, November 1, 2002). The residential late payment fee agreed to in the present docket is the same as that allowed for PSNH in DE 02-054 and we understand that the late payment fee waiver provision

² Labor costs for servicing past due accounts were determined by taking into account a share of the labor expense and overheads for CEC, E&H, and UPC.

will operate in effect to confer a broad exemption for low income customers which is substantially consistent with the exemptions agreed to in DE 02-054. As we found in DE 02-054, Unitil's filing demonstrates that some level of late payment fee is warranted, although it is equally true that the record in this docket so far does not establish to a certainty the particular level of fees that are cost-justified.

Under these circumstances, we will grant approval for UES to impose a 1 percent late payment fee applicable to residential customers effective December 1, 2002 in accordance with the Phase II Settlement Agreement, subject to the other terms of this Order.

We reiterate our commitment to the policy articulated in Puc 1203.08(a) that late payment fees should be fundamentally cost-based. We note that the Analysis appears to be based primarily on fully embedded cost analysis principles. To supplement the record, we will direct UES to file a decremental cost analysis focusing on the net cost reduction that could be expected from imposition of a residential late payment fee for evaluation by Commission Staff together with the information presented in the Analysis. We will further direct Staff to advise us as to whether our approval of the 1 percent late

payment fee should be reconsidered based on Staff's evaluation of the new information.

Based upon the foregoing, it is hereby

ORDERED, that the request of the Unitil Companies to revise the tariff of Unitil Energy Systems, Inc. to authorize Unitil Energy Systems, Inc. to impose a 1 percent late payment fee on residential customers effective December 1, 2002 as provided in the Phase II Settlement Agreement is APPROVED; and it is

FURTHER ORDERED, that Unitil Energy Systems, Inc. file a decremental cost analysis with the Commission no later than thirty days after the date of this Order for evaluation and action by Commission Staff as set forth in this Order.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of November, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary

CONCURRING OPINION OF COMMISSIONER BROCKWAY

The back-up material submitted by Unitil in support of its proposed 1% per month late fee for residential customers was unpersuasive to me as to the cost justification for the fee. It would appear that some costs were attributed to late payment that are more properly attributed to other customer service functions, such as disconnection, thus elevating the percent of labor costs to be attributed to late payment. No adjustment was made for the reduction in late payment, and the related savings in costs, associated with a fee of this kind. The revenues and costs related to Unitil Power Company were included, whereas in light of the unbundling of rates and the introduction of power competition, it could be argued that these should not be included. Having said all this, I will concur in the imposition of this fee.

My own re-calculation of the costs associated with the late payment of bills, based on my experience and information from related cases, produces justification for a fee in the area of the 1% chosen here. I did not attempt a decremental cost analysis, and am gratified that the Commission will insist on such an analysis and that we reserve the option of adjusting or eliminating the fee if it proves unwarranted under such an

analysis.

I concur in the outcome here in part because the imposition of such a fee was evidently part and parcel of a broader settlement of the entire Unitil restructuring, and in any event was supported by all the parties. Further, and importantly, a broadly-defined subset of those customers with respect to whom no late payment fee can be expected to encourage timely payment (those without the funds to pay the bill on time in full in the first place) is excused from imposition of such a fee. I remain concerned in the Unitil case, as well as in the PSNH case, about those New Hampshire citizens who have fallen behind because of factors beyond their control, but whose income or assets place them just above the necessarily arbitrary cut-off for formal assistance. I understand the Commission will continue to review the practical effect of late payment fees over time with this group of consumers, among others, in mind.

Nancy Brockway
Commissioner
November 25, 2002

Attested by:

Debra A. Howland
Executive Director & Secretary