

DE 05-178

Unitil Energy Systems, Inc.

Petition for Base Rate Increase

Supplemental Order on First Step Adjustment and Temporary Surcharge

ORDER NO. 24,702

November 22, 2006

On October 6, 2006, by Order No. 24,667, the New Hampshire Public Utilities Commission (Commission) approved a settlement agreement proposing a base rate increase for Unitil Energy Systems, Inc. (UES). The settlement agreement required UES to file, by October 2, 2006, a final calculation of the step adjustment revenue amount based on actual costs for the Penacook substation, line reconductoring and Hampton relocation projects, along with supporting information, for review by Commission Staff and the Office of Consumer Advocate (OCA), followed by review and approval by the Commission for effect November 1, 2006. The settlement agreement also provided for the filing by February 1, 2007, of a final calculation of a second step adjustment related to the Broken Ground land acquisition. That second filing will be the subject of a future review.

In addition, the settlement agreement required UES to file, by September 15, 2006, a calculation for a temporary, 12-month surcharge, commencing on November 1, 2006, which would allow UES to recover the difference between temporary rates and permanent rates as well as prudently incurred rate case expenses.¹ Both filings were timely made. UES proposed a temporary surcharge of \$0.00226 per kWh which would recover an estimated \$2,918,567,

¹ In its filings, UES refers to the temporary surcharge as the “rate case surcharge.”

consisting of an estimated \$2,115,400 attributable to the difference between temporary rates and permanent rates, and \$803,167² in rate case expenses.

On October 27, 2006, UES filed revised schedules correcting for the discovery of duplicate overhead charges of \$77,222.90 in connection with the Penacook substation project included in the first step adjustment. The correction reduced the revenue requirement to \$388,853, which is \$13,094 less than the \$401,947 figure that was originally filed. On the same date, Staff filed recommendations regarding the step adjustment and temporary surcharge. Staff supported UES' step adjustment filing as revised and its calculation of the temporary rate reconciliation included in the temporary surcharge. However, Staff stated that, absent additional information, it could not recommend Commission approval of UES' legal and temporary support staff expenses amounting to \$520,425. Staff recommended that the Commission approve, for effect November 1, 2006, a temporary surcharge that excludes those expenses with the surcharge rate to be revised later, pending completion of the investigation into the legal and temporary support staff expenses. Excluding the \$520,425 of legal and temporary expenses leaves \$288,592 of rate case expenses which, together with the \$2,115,400 of incremental revenue associated with the temporary rate reconciliation, produces a temporary surcharge rate of \$0.00186 per kWh.

On October 31, 2006, UES filed its responses to Staff's audit report and Staff's October 27, 2006, recommendations. UES noted that because there was not sufficient time to respond to Staff's concerns prior to November 1, 2006, the effective date of the temporary surcharge, UES

² During the review by the Audit Staff, and subsequently confirmed via correspondence from UES dated October 31, 2006, UES revised its total rate case expenses to \$809,017.

requested that the Commission authorize implementation of the first step adjustment and temporary surcharge subject to reconciliation based on final review and determination by the Commission. Later on the same date, the Commission orally deliberated the matter of the first step adjustment and temporary surcharge and adopted Staff's recommendations.

We find that UES' revised request to implement the first step adjustment and its request for approval to include the estimated \$2,115,400 temporary reconciliation amount in the temporary surcharge to be reasonable and we approve them. According to Staff's October 27, 2006 letter, the \$388,853 of incremental revenue requirements to be recovered via the step adjustment represents an increase of 1.16 percent to distribution revenue, resulting in an increase of \$0.20 per month, or 0.3 percent, to the overall bill to a residential customer using 500 kWh per month.

We defer ruling on the rate case expense component of the temporary surcharge. As the Commission recently stated,

[p]ursuant to RSA 365:38-a, the Commission may allow recovery of costs associated with utility proceedings before the Commission, provided that recovery of costs for utilities and other parties shall be just and reasonable and in the public interest. The Commission has long considered that prudently incurred rate case expenses and other legal and regulatory expenses are legitimate costs of service of a utility that should be included in rates. Additionally, the Commission's review of a utility's request to recover the expenses of litigating a rate case requires the balancing of the utility's right to and opportunity to collect its legitimate costs with the Commission's responsibility to ensure the reasonableness of the expenses and that the utility is sufficiently motivated to control such expenses. "If unreasonably incurred, if undue in amount, if chargeable to other accounts, they may to that extent be reduced."

Hampstead Area Water Co., Order No. 24,581 (January 20, 2006) (quoting *State v. Hampton Water Works*, 91 NH 278, 296 (1941)).

Staff's letter filed with the Commission on October 27 lists several concerns regarding legal expenses, including: (1) legal costs associated with the simultaneous use of both in-house and outside legal personnel; (2) apparent billing for travel time from Boston at full hourly rates; (3) use of a non-attorney employed by the utility's outside legal counsel to review and comment on discovery, review and comment on testimony, assist the attrition consultant, and review other rate case related financial matters; and (4) the extent to which outside legal counsel may have charged time related to the audit.

In addition, Staff noted that UES spent a total of \$222,580 on temporary support staff expenses. According to Staff, the Audit Staff raised a number of issues regarding these expenses, including: (1) the \$11,501 for lodging expenses of one of the temporary employees, (2) failure to maintain separate time records of the amount of time spent by any of these temporary employees related to the audit, (3) inclusion of charges for holidays and vacations for the temporary employees, and (4) the lack of allocation of costs to other Unitil companies for "back-up" accounting services provided by two of the temporary employees. Those costs were charged entirely to the UES rate case.

Staff also pointed out that one of the temporary employees was hired as a senior regulatory consultant at \$90 per hour for "his expertise in the areas of rate case preparation and revenue requirements" even though UES' service company, Unitil Service Corporation, has "several employees with the requisite knowledge of rate case preparation and revenue requirements, so it is questionable as to why the additional costs of a consultant were reasonable and necessary."

Staff's letter raises legitimate concerns with the prudence and reasonableness of the rate case expenses which UES is seeking to recover from ratepayers. Accordingly, we direct Staff to continue its review of the rate case expenses and report back no later than January 15, 2007. In the meantime, we authorize UES to implement a temporary surcharge of \$0.00186 per kWh, commencing November 1, 2006, on a service-rendered basis.

Based upon the foregoing, it is hereby

ORDERED, that implementation of the first step adjustment as revised by UES is approved; and it is

FURTHER ORDERED, that UES is authorized to implement a temporary, 12 month reconcilable surcharge of \$0.00186 per kWh commencing November 1, 2006 on a service rendered basis, the rate being subject to modification based on final review and determination by the Commission of the prudence and reasonableness of UES' rate case expenses; and it is

FURTHER ORDERED, that UES shall file a compliance tariff with the Commission on or before November 30, 2006, in accordance with N.H. Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this twenty-second day of November, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary