

DE 05-178

Unitil Energy Systems, Inc.

Petition for Base Rate Increase

Order Regarding Rate Case Expenses

ORDER NO. 24,726

January 26, 2007

In *Unitil Energy Systems, Inc.*, Order No. 24,677 (October 6, 2006), the New Hampshire Public Utilities Commission (Commission) approved a settlement agreement proposing a base rate increase for Unitil Energy Systems, Inc. (UES). One of the provisions in the settlement agreement required UES to file a calculation for a temporary, 12-month surcharge, commencing on November 1, 2006, which would allow UES to recover, among other things, prudently incurred rate case expenses. UES proposed a temporary surcharge of \$0.00226 per kilowatt-hour, which would have recovered \$803,167¹ in rate case expenses.

On October 27, 2006, Commission Staff filed its recommendations regarding the temporary surcharge. Regarding the question of rate case expenses, 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 excluded those expenses with the surcharge rate to be revised later, pending completion of the investigation into the legal and temporary support staff expenses. In response, UES stated that since there was not sufficient time to respond to Staff's concerns before the effective date of the temporary surcharge, the Commission should authorize implementation of the temporary surcharge subject to reconciliation based on its final review and determination.

The Commission adopted Staff's recommendations and explained its decision in *Unitil Energy Systems, Inc.*, Order No. 24,702 (November 22, 2006). That Order contains the details of the procedural history of the temporary surcharge issue and the Commission's analysis. On November 29, 2006, UES filed certain compliance tariff pages in compliance with Order No. 24,702.

On January 16, 2007, Staff filed a stipulation signed by UES, Staff and the Office of Consumer Advocate (OCA) (collectively, Parties and Staff) and in addition a report of its review of rate case expenses required to be filed pursuant to Order No. 24,702. The stipulation stated that Staff had submitted data requests to UES on December 12, 2006, to which UES responded on December 28, 2006. In addition, the stipulation noted that the Parties and Staff met on January 4, 2007, to discuss the data responses and related matters, including the potential for settlement of the rate case expense issue.

Under the stipulation, the Parties and Staff agreed to recommend that the Commission approve UES' recovery of \$646,839 of rate case expenses as being just, reasonable, and in the public interest. It was also agreed that collection of this amount should be achieved by means of an adjustment to the currently effective temporary surcharge of \$0.00186 per kilowatt-hour. As adjusted, the temporary surcharge would be \$0.00223 per kilowatt-hour, effective February 1, 2007 during the remainder of the 12-month temporary surcharge period on a service rendered basis.

Staff's report noted that while it was apparent that "there were obvious differences of opinion regarding the necessity, amount and/or reasonableness of certain expenses, the Parties and Staff agreed that UES should be allowed to recover, as just, reasonable and in the public

¹ UES subsequently revised its total rate case expenses to \$809,017.

interest, \$646,839 in total rate case expenses.” The report further noted that Staff’s December 12, 2006 discovery requests took account of the results of the Staff audit along with issues raised in its October 27 letter and Order No. 24,702. Staff concluded its report with certain observations:

“Staff believes this examination was both useful and instructive for everyone involved. Rate cases are significant undertakings for all parties and many times require the use of outside expertise and the incurrence of significant costs. That being said, utilities must be aware that management will be held accountable for its decisions. As the costs incurred will ultimately be paid by customers, close scrutiny of those costs and the utility’s practices in controlling those rate case costs is both normal and necessary. The review conducted in this proceeding is useful not only in connection with this docket, but also provides helpful observations for utilities in general.

Having carefully reviewed UES’s request for recovery of rate case expenses, Staff’s October 27 letter raising concerns in the areas of outside legal expenses and temporary support staff expenses, the stipulation and Staff’s report, we conclude that the stipulation resolves the rate case expense issue in an appropriate manner and we will therefore approve it. We recognized in Order No. 24,677 that:

“N.H. Code Admin. Rules Puc 203.22 (b) provides that the Commission shall approve disposition of any contested case by settlement ‘if it determines that the result is just and reasonable and serves the public interest.’ *See also* RSA 541-A:31, V(a). In general, the Commission encourages parties to attempt to reach a settlement of issues through negotiation and compromise ‘as it is an opportunity for creative problem-solving, allows the parties to reach a result more in line with their expectations, and is often a more expedient alternative to litigation.’ *Concord Electric Company*, 87 NH PUC 694, 708, Order No. 24,072 (2002), quoting from *Concord Electric Company*, 87 NH PUC 595, 605, Order No. 24,046 (2002), and orders cited therein.”

As described in its report, the scope of Staff’s review of the rate case expenses appears to be consistent with its October 27 recommendations and Order No. 24,702. In addition, we note that the Parties and Staff represent a diversity of interests, giving us assurance that the result of the stipulation is just and reasonable and serves the public interest.

We are not called on here to make any findings beyond the scope of the stipulation (see section 3.2) and we do not. Staff's report makes a number of general observations regarding the review of rate case expenses. We express no opinion regarding such observations here other than to note that they appear to be compatible with *Hampstead Area Water Co.*, Order No. 24,581 (2006) as cited in Order No. 24,702.

Based upon the foregoing, it is hereby

ORDERED, that the stipulation is hereby approved; and it is

FURTHER ORDERED, that UES shall file a compliance tariff with the Commission on or before February 1, 2007, in accordance with N.H. Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this twenty-sixth day of January, 2007.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary