

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

UNITIL ENERGY SYSTEMS, INC.

DE 24-077

**Petition for Approval of Revenue Decoupling Adjustment Factor and Proposed
Tariff Changes**

DE 24-080

**Petition for Approval of Annual Stranded Cost Recovery and External Delivery
Charge Reconciliation and Proposed Tariff Changes**

Order Setting SCC, EDC, and RDAF Rates

O R D E R N O. 27,042

July 31, 2024

In these consolidated dockets, Unitil Energy Systems, Inc. (UES) seeks adjustments to its stranded cost charge (SCC), its external delivery charge (EDC), and its revenue decoupling adjustment factor (RDAF), all for effect August 1, 2024. In order to implement its proposed RDAF rates, which exceed a cap approved by the Commission in Docket No. DE 21-030, UES also filed a motion to waive the cap. In addition to UES, the New Hampshire Department of Energy (DOE) and the Office of the Consumer Advocate (OCA) filed appearances. Both the DOE and the OCA supported in part and objected in part to UES's proposed rates. Both parties objected to UES's motion to waive the cap on RDAF rates. The Commission held a hearing on these matters on July 30, 2024, at which it admitted Exhibits 1 through 7 into evidence.

For the following reasons, the Commission **GRANTS** in part and **DENIES** in part UES's petitions to adjust the SCC, the EDC, and the RDAF rates. In addition, the

Commission **DENIES** the motion to waive the cap on RDAF rates. The Commission **APPROVES** rates for each recovery mechanism as set forth in this order. The Commission will address each proposed rate adjustment in turn below, but will start by laying out the standard of review for rate adjustments.

I. STANDARD OF REVIEW

The Commission is authorized to fix rates after a hearing, upon determining that rates, fares, and charges are just and reasonable. RSA 378:7. In circumstances where a utility seeks to increase rates, the utility bears the burden of proving the necessity of the increase pursuant to RSA 378:8. In determining whether rates are just and reasonable, the Commission must balance the customers' interest in paying no higher rates than are required against the investors' interest in obtaining a reasonable return on their investment. *Eastman Sewer Company, Inc.*, 138 N.H. 221, 225 (1994). In this way, the Commission serves as arbiter between the interests of customers and those of regulated utilities. *See* RSA 363:17-a; *see also* *EnergyNorth Natural Gas, Inc. d/b/a National Grid NH*, Order No. 25,202 at 17 (March 10, 2011).

Significantly, the recovery mechanisms at issue in these dockets, the SCC, the EDC, and the RDAF, were established and approved in prior proceedings. *See* Order No. 26, 865, at 6–7. (July 31, 2023). We do not find any reason to revisit those rate mechanisms at this time. *Id.* Therefore, in our review, we will consider whether the rates were correctly calculated pursuant to the approved methods and whether the proposed rates are just and reasonable under RSA 378:7.

II. STRANDED COST CHARGE

A. UES's Proposal

The SCC is the mechanism through which UES recovers its affiliate Unitil Power Corp.'s stranded costs—i.e., ongoing financial obligations—from ratepayers. *Id.*

at 2; *see also* Testimony of Jeff M. Pentz at Bates Page 58–62 (laying out what the expenses included in stranded costs); Testimony of Linda S. McNamara at Bates Page 6–8 (explaining how the SCC charge is calculated). In this filing, UES proposes an SCC of \$0.00013 per kWh applicable to all rate classes effective August 1, 2024. This is a \$0.00023 per kWh increase from the existing rate credit of (\$0.00010).

B. DOE's and OCA's Positions

The DOE reviewed UES's filings and did not identify any issues with the company's calculations of the recoverable stranded costs or proposed SCC rate. The DOE recommended that the Commission find that the rate is just and reasonable and allow it to go into effect. At hearing and in its filings, the OCA joined the DOE's recommendation and supported UES's proposed SCC rate.

C. Commission Analysis

Having reviewed UES's filings and the evidence in the record, and in reliance on DOE's independent assessment, the Commission finds that the proposed SCC rate of \$0.00013 per kWh applicable to all rate classes was accurately calculated and is just and reasonable. *See* RSA 378:7. We therefore approve the rate for effect August 1, 2024.

III. EXTERNAL DELIVERY CHARGE

A. UES's Proposal

The EDC is a rate mechanism designed to recover the costs associated with providing transmission services outside of UES's system. *See* Order No. 26,865, at 2–3. In addition, the Commission has previously approved the recovery of numerous non-transmission related expenses through the EDC, including, as is relevant to the DOE and OCA's partial opposition, reconciliation of UES's property tax expenses. *Id.*; *see also* Testimony of Linda S. McNamara at Bates Page 7–9 (detailing all costs

recovered through the EDC); Testimony of Jeff M. Pentz at Bates Page 63–66 (same). In this filing, UES proposes an EDC rate of \$0.02539 per kWh applicable to all rates classes effective August 1, 2024. This would be a decrease of \$0.01947 per kWh from the existing rate of \$0.04486.

B. DOE's and OCA's Positions

With one exception related to property taxes to be addressed below, the DOE supports UES's calculations of its EDC expenses and resulting EDC rate and recommends that the Commission find that the rate is just and reasonable and allow it to go into effect.¹ Notably, the DOE's recommended treatment of the property tax dispute will not affect the proposed EDC rate and therefore does not alter its recommendation that the Commission find the rate just and reasonable. At both the hearing and in its filings, the OCA joined the DOE's recommendation on the proposed EDC rate and property tax dispute. For its part, UES objects to the DOE's recommended treatment of the property tax issue. Because that is the sole dispute with respect to the EDC filing, the Commission will address the parties' arguments on the issue separately below.

With respect to UES property taxes, the DOE avers that the Commission should reduce the amount the company is able to recover by \$11,704.70.² This is the amount that UES paid the Town of Exeter (Exeter) in state education property taxes on a facility located in that municipality. The DOE maintains that all utilities, including

¹ The DOE also noted that that it has not finalized an audit of UES's vegetation management expenses and requests that any approval of the expenses be subject to future audit and adjustment. UES did not object to this request. The Commission agrees that if any future audit identifies errors in UES's vegetation management expenses, future adjustment to rates may be appropriate.

² In its technical statement submitted on July 23, 2024, the DOE also argued that the Commission should exclude \$146.97 that UES paid to the City of Concord in property taxes. On July 25, UES filed revised schedules that removed this expense from its recoverable EDC expenses. UES represents that this reduction did not affect its proposed EDC rate.

UES, are exempt from state education property taxes on utility buildings and structures pursuant to RSA 83-F:9. Accordingly, the DOE argues that UES should not have paid this tax and that the cost should not be borne by ratepayers. Specifically, the DOE maintains that the Commission should exclude this expense from the amount of property taxes UES can recover through the EDC.

Based on representations from UES's witnesses at hearing, the DOE acknowledged that if UES were to recalculate the EDC rate using the lower recovery amount, there would be a minor reduction of the EDC rate.³ However, given the tight turnaround between the hearing and proposed effective date, as well as the small impact on ratepayers, the DOE recommended that the Commission allow the proposed EDC rate to go into effect unchanged on August 1, but use the reduced property tax total as the reconcilable amount in the next EDC proceeding.

In response, UES agrees that its property within Exeter should have been exempt from the relevant property tax under RSA 83-F:9. The company further represents that it is contesting the assessment with Exeter. In fact, one of UES's witnesses testified that the company has previously paid this tax on its Exeter property and raised the issue with the town in the past without arriving at a resolution. However, UES disagrees with the DOE that the taxes should be excluded from recovery in this filing. Specifically, UES notes that Exeter assessed the tax and that nonpayment would have possibly resulted in fines for the company. Accordingly, UES maintains that it was appropriate to pay the tax in the first instance and pass the cost onto ratepayers. UES represents that it will continue to challenge the tax and if it

³ Understandably, given that they were not asked to do so prior to the hearing, UES's witnesses did not prepare revised rate calculations of the EDC rate if the Commission were to accept the DOE's recommendation to exclude the contested property taxes. However, the witnesses provided a rough estimate that excluding the \$11,704.70 would reduce the EDC rate by about \$0.00001 per kWh. Because the total proposed EDC rate is \$0.02539 per kWh, this decrease would be minor and unlikely to have a large impact on ratepayers' bills.

is successful, it will refund the difference in next year's EDC filing. For this reason, UES argues that the Commission should not exclude the \$11,704.70 from the recovery amount at this time.

C. Commission Analysis

In light of the parties' arguments and the circumstances of this dispute, the Commission does not find it appropriate to allow the \$11,704.70 at issue to be included in the amount to be recovered through the EDC at this time. In reaching this conclusion, the Commission finds it particularly relevant that all parties agree that UES should not have been required to pay this tax, that UES has represented that it is actively contesting it, and that UES represented that this is not the first time it has paid this tax to Exeter despite questions about its applicability. The Commission finds that, under these circumstances, it is inappropriate to pass this cost onto ratepayers at this time. Accordingly, the Commission does not approve the inclusion of the contested \$11,704.70 from the amount to be recovered through the EDC in this order. In addition, because this could be a recurring problem, the Commission directs UES to file an update on the status of the tax issue with Exeter in its next reconciliation of its EDC expenses.

With respect to the EDC rate, the Commission, having reviewed all relevant filings and exhibits, and informed by the DOE's independent assessment, finds that the proposed rate of \$0.02539 per kWh applicable to all rate classes was correctly calculated and is just and reasonable. *See* RSA 378:7. The Commission therefore authorizes these rates to go into effect August 1, 2024. In reaching this finding, the Commission acknowledges that the reduced property tax recovery amount approved in this order would likely result in a slightly lower EDC rate if UES were to recalculate the rate. However, the Commission accepts the DOE's recommendation that, given the

tight turnaround between the hearing and effective date and the minimal impact of the reduction, it is appropriate to allow the proposed rate to take effect on August 1. Consistent with the DOE's recommendation, UES shall use the reduced amount as the reconcilable figure in any future reconciliation of its EDC expenses.

IV. REVENUE DECOUPLING ADJUSTMENT FACTOR

A. UES's Proposed Rates and Motion for Waiver of RDAF Cap

Revenue decoupling is a ratemaking mechanism that removes the link between customer usage and a utility's revenues, so that a utility is able to recover its most recently approved base revenue requirement despite changes in sales that may be caused by several factors, including energy efficiency programs. See Testimony of Linda S. McNamara at Bates Page 2–3. The Commission approved a settlement agreement proposing UES's use of a revenue decoupling mechanism in Order No. 26,623, issued in the Company's last base rate case in Docket No. DE 21-030 (Settlement Agreement). *Unitil Energy Sys., Inc.*, Order No. 26,623, at 32 (May 3, 2022).

The Settlement Agreement established the methodology for calculating the RDAF. See Settlement Agreement, Section 4. It required UES to calculate an RDAF for the following three customer groups: (1) domestic (Schedule D, and domestic time-of-use, Schedule D-TOU); (2) regular general service (Schedule G, Regular General Service G2, G2 kWh (kilowatt-hour) Meter, Uncontrolled Quick Recovery Water Heating, and Space Heating); and (3) large general service (Schedule G1). See *id.*, Section 4.2.2; McNamara Testimony at 4. Under the Settlement Agreement, the revenue decoupling adjustment for each of these groups may not exceed a cap of three percent of distribution revenue for that group. Settlement Agreement, Section 4.3. Any amounts over the three-percent cap are deferred into the next recovery period. *Id.*

On May 24, 2024, UES filed its petition to adjust the RDAF for effect August 1, 2024, and proposed the following rates for the three customer categories:

Table 1: UES's Initial Proposed RDAF Rates (May 24, 2024)			
* (positive figures represent a charge to customers; negative figures represent a credit to customers)			
Category	Domestic - D - TOU-D	General Service - Regular General - G2 - G2 kwh Meter - Quick Recover Water Heating and Space Heating	Large General Service - G1
Proposed rate	\$0.00212	(\$0.00137)	\$0.00005
Change from existing rates	\$0.00026	\$0.00135	\$0.00009

Notably, all three of the proposed rates were consistent with the cap on RDAF rates in the Settlement Agreement. However, the recovery amount for the domestic category was limited by the cap, and the proposed rate of \$0.00212 resulted in a deferral balance of \$1,144,178 to be carried over into the next period. Neither of the other two categories were affected by the cap.

On June 20, 2024, UES filed a supplemental petition that included a revised RDAF rate for the domestic category of \$0.00429 per kWh. This is more than double the rate proposed on May 24. UES did not propose any revisions to the proposed rates for the General Service and Large General Service categories. Significantly, the revised domestic rate exceeds the three percent rate cap. For that reason, UES proposed to waive the cap in a separate motion.

In support of this new rate, and the associated motion, UES argues that the revised rate is appropriate because it will eliminate the deferral balance for domestic customers. UES maintains that unless this deferral balance is reduced through a

higher rate, customers will ultimately be forced to pay the interest on the deferral balance. UES represents that it did not originally propose the higher rate in May because it was waiting until it filed its SCC and EDC rates in June to determine what the cumulative impact of all changes effective August 1 would be. UES further represents that it decided to file the revised domestic RDAF rate because, taken together, the proposed SCC and EDC would result in a rate reduction, which would lessen the impact of a higher domestic RDAF rate.

While UES requests that the Commission grant the motion to waive the RDAF cap and approve the revised domestic RDAF rate, the company alternatively requests that the Commission approve the rates proposed on May 24 if it denies the motion for waiver.

B. DOE's and OCA's Positions

The DOE supports the RDAF rates for all three categories filed on May 24 and objects to the June 20 revision to the domestic RDAF rate, as well as the associated motion to waive the cap on RDAF rates. In both its filings and at hearing, the OCA supported the DOE's position.

With respect to the May 24 proposed rates, the DOE reviewed the filings associated with those rates and represents that that UES correctly calculated both the amounts to be recovered through the RDAF and the resulting rates. The DOE maintains that the proposed rates are therefore just and reasonable. Accordingly, the DOE recommends that the Commission approve the May 24 rates for effect August 1.

Consistent with this recommendation, the DOE objects to the revised domestic RDAF rate filed on June 20, as well as the motion for waiver, on the ground that waiver of the three percent RDA cap is inappropriate for several reasons. First, the DOE notes that the Settlement Agreement includes language allowing the parties to

propose “specific treatment” of any remaining revenue decoupling deferral balance at the time of the next rate case. See Docket No. DE 21-030, Tab 86, Settlement Agreement at 6. The DOE maintains that allowing UES to recover the deferral balance now would defeat the purpose of the “specific treatment” provision. For this reason, the DOE avers that the reduction of the carrying costs is not itself a sufficient basis to waive the cap. Second, the DOE notes that many parties signed the Settlement Agreement that are not participating in this docket and that it would be unfair to waive a provision they negotiated in their absence.

For these reasons, the DOE recommends that the Commission: (1) find the RDAF rates proposed on May 24 to be just and reasonable allow them to go into effect; and (2) deny the motion to waive the cap and reject the revised domestic RDAF rate filed on June 20.

C. Commission Analysis

For the reasons that follow, the Commission: (1) denies the motion to waive the RDAF cap and the revised RDAF rate filed on June 20, 2024; and (2) approves the initial proposed RDAF rates filed on May 24, 2024.

With respect to the cap, we find that waiving it would be inappropriate under the circumstances. The three-percent cap was agreed to by the parties to Docket No. DE 21-030 and approved by the Commission. Particularly where there is an objection from the other signatory parties, the Commission does not believe it can lightly alter an approved settlement absent some showing that there are current circumstances justifying an alteration that were unforeseeable to the parties reaching the agreement such that enforcing the provision would go against the expectations of the parties. Otherwise, there would be little value to a settlement agreement. Here, UES has not pointed to any special circumstances that were unforeseeable to the parties to the

Settlement Agreement that would justify a waiver of the cap. Specifically, the parties clearly understood that there would be a deferral balance that would accrue interest when they agreed to this provision, and presumably believed that was an appropriate tradeoff to limiting RDAF rate adjustments. The Commission, therefore, does not find that present circumstances justify waiver of the cap.

In light of the foregoing, the Commission **DENIES** the motion to waive the cap on RDAF rates. Because the revised domestic RDAF rate filed on June 20 was reliant on the Commission granting the waiver, the Commission denies that request as well.

On the other hand, after reviewing all of the relevant filings and evidence, and in reliance on DOE's independent assessment, the Commission finds that UES correctly calculated the RDAF rates filed on May 24 and that they are just and reasonable. The Commission therefore approves the RDAF rates filed on May 24.

In sum, the Commission approves the following SCC, EDC, and RDAF rates for effect August 1, 2024:

Table 2: Approved SCC, EDC, and RDAF Rates effective August 1, 2024			
*(positive figures represent a charge to customers; negative figures represent a credit to customers)			
Rate Class	SCC	EDC	RDAF
D	\$0.00013	\$0.02539	\$0.00212
G2 (all)	\$0.00013	\$0.02539	(\$0.00137)
G1	\$0.00013	\$0.02539	\$0.00005

Based upon the foregoing, it is hereby

ORDERED, UES's proposed rates for its EDC and SCC are **APPROVED** as described in this order; and it is

FURTHER ORDERED, that UES shall provide an update on its dispute with Exeter over the applicability of local property taxes to the UES-owned facility in that town as soon as an update is available and no later than UES's next reconciliation of the EDC; and it is

FURTHER ORDERED, that the UES's proposed RDAF rates are **APPROVED** in part and **DENIED** in part, and that UES shall implement the RDAF rates laid out in this order; and it is

FURTHER ORDERED, that UES's motion to waive the cap on RDAF rates is **DENIED**; and it is

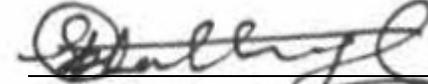
FURTHER ORDERED, that UES shall file conforming tariffs within 15 days of the date of this order; and it is

FURTHER ORDERED, that UES shall file all future petitions to adjust its RDAF, SCC, and EDC rates for effect August 1 in the same docket and no later than June 15 of the same year.

By order of the Public Utilities Commission of New Hampshire this thirty-first day of July, 2024.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner

Service List - Docket Related

Docket#: 24-077

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Service List - Docket Related

Docket#: 24-080

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