



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 17-GSEP-01

April 30, 2018

Petition of Fitchburg Gas and Electric Light Company d/b/a Unitil for approval of its 2018 Gas System Enhancement Plan, pursuant to G.L. c. 164, § 145, for rates effective May 1, 2018.

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I. INTRODUCTION

On October 31, 2017, Fitchburg Gas and Electric Light Company d/b/a Unitil (“Unitil” or “Company”), pursuant to G.L. c. 164, § 145 (“Section 145”), submitted its 2018 gas system enhancement plan (“GSEP”) to replace aging natural gas pipeline infrastructure to the Department of Public Utilities (“Department”). In its initial filing, the Company calculated a 2018 revenue requirement of \$2,824,676 to recover the estimated cost to replace eligible leak-prone infrastructure in calendar year 2018, for effect on May 1, 2018 (Exh. Unitil-DLC-1, at 3, 7, 9). The Company stated that its revenue requirement exceeded the 1.5 percent revenue cap of \$435,806 by \$1,058,943, or 3.6 percent of the Company’s total firm revenues (Exhs. Unitil-DLC-1, at 9; Unitil-DLC-2, at 2, 159). The Company asked that the Department increase Unitil’s GSEP cap from 1.5 percent to 3.0 percent, which would permit recovery of \$2,201,639 (Exhs. Unitil-DLC-1, at 3, 9; Unitil-DLC-2, at 2, line 56).

During the proceeding, Unitil recalculated its revenue requirement based on the Tax Cuts and Jobs Act of 2017 (“Tax Act”)¹ and arrived at a revenue requirement of \$2,673,952 (Exh. AG 2-1, Att., Sch. 1, at 2). The Company states that this recalculated revenue requirement exceeds Unitil’s revenue cap by \$908,219 and, therefore, the Company requests that the Department increase Unitil’s GSEP cap from 1.5 percent to 3.0 percent and allow it to collect the originally requested amount of \$2,201,639 (Exh. AG 2-1, Att., Sch. 1; see also

¹ On December 22, 2017, the Tax Act was signed into law. Pub. L. No. 115-97, 131 Stat. 2054: An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.

Exh. Unitil-DLC-1, at 9). Based on the Company's proposed revenue requirement of \$2,201,639, Unitil proposes to implement gas system enhancement adjustment factor ("GSEAF") rates of \$0.1204 per therm, \$0.1119 per therm, \$0.0541 per therm, and \$0.0458 per therm for residential customers, small commercial and industrial ("C&I") customers, medium C&I customers, and large C&I customers, respectively (Exh. Unitil-DLC-3).

The general terms of the Company's GSEP and the formula for the calculation of its GSEAF are set forth in its GSEAF tariff, M.D.P.U. No. 201 (Exh. Unitil-DLC-5). As discussed in Sections III.C. and III.E., below, Unitil proposes certain modifications to its GSEAF tariff (Exhs. Unitil-DLC-1, at 13-15; Unitil-DLC-6). The Department has docketed this matter as D.P.U. 17-GSEP-01.

On December 1, 2017, the Attorney General of the Commonwealth of Massachusetts ("Attorney General") filed a notice of intervention pursuant to G.L. c. 12, § 11E(a).

Pursuant to notice duly issued, the Department held a public hearing on December 6, 2017.

In support of its filing, the Company sponsored the testimony of three witnesses:

- (1) David L. Chong, director of finance and treasurer for Unitil Service Corp.;²
- (2) Timothy A. Bickford, manager of gas engineering for Unitil Service Corp.; and
- (3) Christopher J. LeBlanc, director of gas operations for Unitil Service Corp. The

Department held an evidentiary hearing on March 7, 2018. On March 23, 2018, the

² Unitil Service Corp. is a subsidiary of Unitil Corporation that provides managerial, financial, regulatory, and engineering services to Unitil Corporation's principal subsidiaries, including Unitil (Exh. Unitil-TBCL-1, at 1).

Attorney General and the Company submitted initial briefs. On March 30, 2018, the Company submitted a reply brief.³ The record consists of 60 exhibits and two responses to record requests.

II. STATUTORY REQUIREMENTS

Section 145 permits gas distribution companies, in the interest of public safety and to reduce lost and unaccounted for natural gas, to submit to the Department an annual plan to repair or replace aging or leaking natural gas infrastructure.⁴ Any plan filed with the Department shall include, but not be limited to: (i) eligible infrastructure replacement of mains, services, meter sets, and other ancillary facilities composed of non-cathodically protected steel,⁵ cast iron,⁶ and wrought iron,⁷ prioritized to implement the federal gas

³ The Attorney General did not submit a reply brief.

⁴ Section 145(a) defines eligible infrastructure replacement as: “a replacement or an improvement of existing infrastructure of a gas company that: (i) is made on or after January 1, 2015; (ii) is designed to improve public safety or infrastructure reliability; (iii) does not increase the revenue of a gas company by connecting an improvement for a principal purpose of serving new customers; (iv) reduces, or has the potential to reduce, lost and unaccounted for natural gas through a reduction in natural gas system leaks; and (v) is not included in the current rate base of the gas company as determined in the gas company’s most recent rate proceeding.”

⁵ Cathodic protection is a technique to control the corrosion of a metal surface by making the structure work as a cathode of an electrochemical cell. NACE International Standard Practice, SP0169-2007.

⁶ This category applies to gray cast iron that is a cast ferrous material in which a major part of the carbon content occurs as free carbon in the form of flakes interspersed through the metal. Because the carbon flakes do not bond with the ferrous material on the molecular level, the metal is brittle and susceptible to stress cracking under pressure situations. American Gas Association, Gas Piping Technology Committee.

distribution pipeline integrity management plan annually submitted to the Department, and consistent with 49 C.F.R. §§ 192.1001 through 192.1015; (ii) an anticipated timeline for the completion of each project; (iii) the estimated cost of each project; (iv) rate change requests; (v) a description of customer costs and benefits under the plan; and (vi) any other information the Department considers necessary to evaluate the plan. Section 145(c).

Annual changes in the revenue requirement eligible for recovery pursuant to the plan shall not exceed (i) 1.5 percent of the gas company's most recent calendar year total firm revenues, including gas revenues attributable to sales and transportation customers, or (ii) an amount determined by the Department that is greater than 1.5 percent of the gas company's most recent calendar year total firm revenues, including gas revenues attributable to sales and transportation customers. Section 145(f).⁸

The Department may modify a plan prior to approval at the request of a gas company, or make other modifications to a plan as a condition of approval. Section 145(d).⁹ The Department is required to consider the costs and benefits of the plan including, but not

⁷ Together with cast iron, wrought iron pipelines are among the oldest energy pipeline constructed in the United States. The degrading nature of iron alloys, the age of the pipeline, and pipe joints design have greatly increased the risk involved with continued use of such pipelines. https://opsweb.phmsa.dot.gov/pipeline_replacement/

⁸ The GSEP revenue requirement includes depreciation expense, property taxes, and a return on investments associated with the plan. Section 145(e). Any revenue requirement approved by the Department in excess of such cap may be deferred for recovery in the following year. Section 145(f).

⁹ If a gas company files a plan on or before October 31 for the subsequent construction year, the Department must review the plan within six months. Section 145(d). The plan is effective as of the date of filing, pending Department review. Section 145(d).

limited to, impacts on ratepayers, reductions of lost and unaccounted for natural gas through a reduction in natural gas system leaks, and improvements to public safety. Section 145(d). The Department also is required to give priority to plans narrowly tailored to addressing leak-prone infrastructure most immediately in need of replacement. Section 145(d).

If a plan complies with Section 145, and the Department determines that it reasonably accelerates eligible infrastructure replacement and provides benefits to customers, the Department must preliminarily accept the plan either in whole or in part. Section 145(e). The gas distribution company may begin recovering the estimated GSEP revenue requirement beginning on May 1 of the year following submission of the plan. Section 145(e). Subsequently, on or before May 1 of each year, the gas distribution company must file final project documentation for construction completed the previous calendar year to demonstrate substantial compliance with the plan and to demonstrate that the costs were reasonably and prudently incurred. Section 145(f).

III. GAS SYSTEM ENHANCEMENT PLAN

A. Introduction

Unitil distributes natural gas to approximately 16,064 customers in six communities in Massachusetts (Exh. Unitil-TBCL-1, at 7). The Company owns and operates approximately 275 miles of distribution mains and 10,953 services (Exh. Unitil-TBCL-1, at 7). Unitil states that approximately 2.10 percent (5.78 miles) of the Company's distribution system mains are composed of unprotected bare or coated steel, and approximately 19.55 percent (53.75 miles) of its distribution system is composed of cast iron or wrought iron, which means that

approximately 21.65 percent of the distribution system mains (59.53 miles) are composed of leak-prone materials (Exh. Unitil-TBCL-1, at 9). Unitil states that these facilities account for approximately 63 percent of the hazardous, or grade 1, leaks occurring on the Company's mains in a year (Exh. Unitil-TBCL-1, at 17).¹⁰

Beginning in 2000, Unitil replaced a minimum of two miles of leak-prone pipe per year (Exh. Unitil-TBCL-1, at 8). Unitil's GSEP establishes a program to replace eligible leak-prone infrastructure over a 20-year period, with an anticipated replacement rate of 3.5 miles per year (Exh. Unitil-TBCL-1, at 11-12). Unitil proposed to retire 4.92 miles of leak-prone mains and 379 associated services in 2017, and the Company states that it retired 6.04 miles of leak-prone mains and 467 associated services (Exh. Unitil-TBCL-3, at 4). In 2018, Unitil estimates retiring 3.55 miles of leak-prone mains and 271 associated services (Exh. Unitil-TBCL-3, at 4). The Attorney General raises issues regarding flow back of excess deferred income taxes, the Company's request for a waiver of the statutory 1.5 percent cap, and one of the Company's proposed tariff revisions.

B. Revenue Requirement Calculation

1. Introduction

In its initial filing, Unitil presented its 2018 estimated GSEP revenue requirement and its proposed GSEAFs. The Company proposed a 2018 estimated GSEP revenue requirement of \$2,824,676 (Exh. Unitil-DLC-1). During the proceeding, Unitil reduced its proposal

¹⁰ Unitil states that hazardous, or grade 1, leaks are defined as those leaks that pose an existing or probable hazard to persons or property, and therefore represent a risk to public safety (Exh. Unitil-TBCL-1, at 15). G.L. c. 164, § 144(b)(2).

based on the reduction in the federal corporate income tax rate relating to the Tax Act.

Under its revised proposal, the Company proposes a 2018 estimated GSEP revenue requirement of \$2,673,952 (Exh. AG 2-1).

2. Positions of the Parties

a. Attorney General

The Attorney General maintains that Unitil's revised estimated GSEP revenue requirement fails to consider all of the reductions associated with the Tax Act (Attorney General Brief at 2). The Attorney General recognizes that the Company proposes to decrease its revenue requirement to reflect the effects of the lower federal corporate income tax rate on the level of current normalized income taxes (Attorney General Brief at 2, citing Exhs. AG 2-1; AG 2-4; Tr. at 10-11). Nonetheless, the Attorney General asserts that the Company's proposal fails to reflect the required flow back of the balances of excess deferred federal income taxes that were created by the Tax Act (Attorney General Brief at 2, citing Exhs. AG 2-1; AG 2-4). The Attorney General calculates that the Company's revenue requirement should be reduced by \$232,624 (Attorney General Brief at 2-3, citing Exhs. AG 2-1; AG 2-4). The Attorney General maintains that there is no harm in requiring the Company to reduce its revenue requirement based on the estimated amount because the GSEP revenue requirement and its various components are themselves estimates (Attorney General Brief at 3).

b. Company

The Company states that it has incorporated the lower federal income tax rate into its revenue requirement and, therefore, its ratepayers will recognize the immediate benefits of the Tax Act (Company Reply Brief at 4). Unitil maintains that the Department should not require any further adjustment to the Company's proposed revenue requirement based on the Tax Act (Company Reply Brief at 4). The Company contends that the Attorney General does not provide any state or federal authority to support its argument that the flow back of the balance of excess deferred federal income taxes is required in this docket (Company Reply Brief at 2). In addition, Unitil maintains that the Company provided an estimated amount of \$73,279 as an "illustrative example" and use of this estimate would ultimately lead to an inaccurate result (Company Reply Brief at 3, citing Exh. AG 2-4; Tr. at 25). Finally, Unitil maintains that a determination regarding the appropriate flow back of excess deferred federal income taxes is more appropriately reserved for the Company's next base distribution rate case or the ongoing investigation opened by the Department into the impact of the Tax Act, i.e., Investigation into Effect of Reduction in Federal Income Tax Rates, D.P.U. 18-15 (Company Reply Brief at 3).

3. Analysis and Findings

Effective January 1, 2018, the Tax Act reduced the federal corporate income tax rate from 35 percent to 21 percent. D.P.U. 18-15, at 1. Because the federal corporate income tax rate is implicated in numerous factors that comprise regulated companies' costs of service and revenues, the Department determined that the reduction in the federal corporate income

tax rate has implications for the investor-owned electric distribution, natural gas distribution, and water companies under the Department's jurisdiction. D.P.U. 18-15, at 1, 4-6. To ensure that ratepayers receive the benefits from the decrease in the federal corporate income tax rate, the Department opened an investigation into the effect of the decrease in the federal corporate income tax rate on the rates charged by the Department's regulated utilities. D.P.U. 18-15, Order Opening Investigation (February 2, 2018).

In this proceeding, Unitil has proposed to reduce its revenue requirement based on a straight calculation of the change to the corporate income tax rate from 35 percent to 21 percent (Exh. AG 2-1). The Department has reviewed the Company's calculations and supporting documentation with respect to the revised normalized level of federal corporate income taxes and we find that Unitil's proposed adjustment is appropriate (Exh. AG 2-1, Att.). With respect to the Attorney General's request to require the Company to implement further adjustments related to excess deferred income tax, we find that it is premature for Unitil to make such changes in the GSEP at this time. To the extent feasible, the Department intends to resolve all remaining issues related to the Tax Act in D.P.U. 18-15. See D.P.U. 18-15, at 4-7. While the reduction of the federal corporate income tax from 35 percent to 21 percent is a straightforward calculation, the excess deferred income tax requires more complex calculations. Additionally, the Tax Act itself is lengthy and complex.¹¹ The Department must strike an appropriate balance between allowing a

¹¹ The Tax Act makes significant revisions to the Internal Revenue Code affecting individual, estate, and corporate taxes. Together with the Joint Explanatory Statement of the Committee of Conference, the Tax Act is 1,097 pages.

reasonable amount of time to review the Tax Act and implementing any changes imposed by the Tax Act. Thus, for any remaining issues relating to the Tax Act, we will rely on the ongoing proceeding in D.P.U. 18-15 where the Department will determine the impact of the Tax Act on various aspects of a company's revenue requirement. On conclusion of D.P.U. 18-15, the Department will reconcile any impact of the Tax Act in the following GSEP or GSEP reconciliation ("GREC") proceeding. To ensure that there is no harm to ratepayers, the Department expects that any impact of the Tax Act will be retroactive to January 1, 2018, i.e., the effective date of the Tax Act.

C. GSEP Revenue Cap

1. Introduction

Section 145(f) provides, in part, that "[a]nnual changes in the revenue requirement eligible for recovery shall not exceed (i) 1.5 percent of the gas company's most recent calendar year total firm revenues, including gas revenues attributable to sales and transportation customers."¹² Unitil's total firm revenues for calendar year 2016 were \$29,060,383, yielding a cap of \$435,906 on the incremental GSEP revenue requirement eligible for recovery (Exh. Unitil-DLC-2, at 2, 159). The Company's revised 2018 estimated GSEP revenue requirement is \$2,673,952, less the allowed 2017 GSEP revenue requirement of \$1,329,827, represents an incremental revenue requirement increase of \$1,344,125 (Exhs. Unitil-DLC-1, at 9; AG 2-1, Att.). Consequently, the Company's proposed

¹² Sales customers receive gas supply and delivery services from a local distribution company. Transportation customers receive only delivery services from a local distribution company.

2018 GSEP revenue requirement exceeds its calculated revenue cap by \$908,219

(Exh. AG 2-1, Att.).¹³ The Company requests that the Department grant a permanent increase of the revenue cap from 1.5 percent to 3.0 percent to allow Unitil to include a proposed 2018 estimated GSEP revenue requirement of \$2,201,639 in its GSEAFs effective May 1, 2018 (Exhs. Unitil-DLC-1, at 12; AG 2-1).¹⁴

2. Positions of the Parties

a. Attorney General

The Attorney General maintains that the Department should reject Unitil's request for a permanent increase of the statutory cap from 1.5 percent to 3.0 percent (Attorney General Brief at 4, 6-7). The Attorney General asserts that the Department should consider the expressed intent of the Legislature in setting the cap at 1.5 percent (Attorney General Brief at 4-5, citing Boston Gas Company/Colonial Gas Company, D.P.U. 14-134, at 102-104 (2015)). The Attorney General also states that she strongly supports the removal and replacement of leak-prone pipe as doing so will result in significant public safety and environmental benefits (Attorney General Brief at 5). Nonetheless, the Attorney General contends that the public safety and environmental benefits must be balanced with protecting consumers from high rates and ensuring rate stability (Attorney General Brief at 5). The Attorney General maintains that in enacting Section 145, the Legislature properly balanced these two competing concerns and determined a 1.5 percent cap was appropriate (Attorney

¹³ \$1,344,125 - \$435,906 = \$908,219.

¹⁴ The Company has proposed a change to its GSEAF tariff to implement this change.

General Brief at 5). In addition, the Attorney General contends that the Legislature authorized the Department to defer any revenue requirement above the cap, as well as to extend the 20-year GSEP timeline, should the Company exceed the cap (Attorney General Brief at 5).

b. Company

The Company argues that the Department should reject the Attorney General's recommendations and allow Unitil's request for an increase of the cap to 3.0 percent (Company Reply Brief at 7, 9, 11). Unitil asserts that permitting the Company a permanent increase of the cap to 3.0 percent will enable the Company to recover GSEP-related costs on a gradual basis, rather than in a high accumulated amount at a later time, and appropriately balances the interests of the Company and its ratepayers (Company Reply Brief at 7). The Company maintains that the Legislature included language in Section 145 permitting the Department to waive the cap, thus recognizing that it was appropriate to grant the Department that discretion as needed (Company Reply Brief at 8). Unitil also asserts that increasing the cap to 3.0 percent appropriately balances the competing interests of safety and protecting consumers because any deferral of costs over the cap will result in a significant and sudden increase in rates when ultimately recovered (Company Reply Brief at 8-9).

Unitil also claims that there are multiple flaws in the Attorney General's assertion that the Company should manage its rate of replacement to avoid going over the cap (Company Reply Brief at 4-7). For example, Unitil contends that, as a general matter, it is not practical or cost effective for the Department to mandate that the Company be held to a specific rate of

main and service replacements each year (Company Reply Brief at 6). The Company asserts that it needs flexibility to work on municipal projects that may necessitate main replacement or present cost-saving opportunities that ultimately benefit ratepayers (Company Reply Brief at 6, citing Exh. Unitil-TBCL-1, at 26). The Company also asserts that there is nothing in the record evidence to indicate that Unitil is systematically departing from its long-term average rate of replacement (Company Reply Brief at 7).

3. Analysis and Findings

Section 145(f) sets a 1.5 percent cap on the annual change in the revenue requirement eligible for recovery. Section 145(f) also provides that the Department may determine an annual change in the revenue requirement eligible for recovery greater than the 1.5 percent cap. Unitil requested that the Department permanently increase its 1.5 percent cap to 3.0 percent and approve recovery of \$2,201,639, which is \$871,812 above the Company's allowed 2017 revenue requirement increase (see Exh. Unitil-DLC-1, at 9).

Although the purpose of Section 145 is to accelerate the replacement of leak-prone infrastructure as well as accelerate the recovery of associated costs for gas distribution companies, the 1.5 percent cap acts as a balance on potential bill impacts on ratepayers. Therefore, to the extent exogenous constraints allow, the Department expects the Company to manage its accelerated replacement in a manner that results in a revenue requirement under the 1.5 percent cap and completes replacement within established timelines. The Department acknowledges that Unitil has now submitted four years of GSEP cost estimates and, in this proceeding, has refined its GSEP cost estimations by changing its calculation method from a

half-year convention to a monthly average rate base and depreciation method (Exh. Unitil-DLC-1, at 13-14). See Section III.E., below. The Department notes, however, that the GSEP process is still relatively new and revenue requirement estimates have not fully established a reliable history. The Department has previously determined that a company's GSEP revenue requirements represent estimated costs that are not finalized as actual costs until the company's GREC proceeding. Fitchburg Gas and Electric Light Company, D.P.U. 16-GSEP-01, at 19-20 (2017). Accordingly, the Department remains concerned about the limited data available to support the correlation between a particular year's estimated GSEP revenue requirement and the corresponding actual GSEP revenue requirement. The Department will continue to monitor this relationship as more data continues to accumulate, and may revisit this issue in future filings if facts and circumstances so warrant.

Further, the Department has opened a general proceeding into the potential effect of the Tax Act on the Company's rates. D.P.U. 18-15. As determined in Section III.B.3., above, the Department allows the Company's proposed adjustment based on certain changes in the Tax Act. Nonetheless, the Tax Act could have an additional impact on Unitil's CY 2018 revenue requirement. The Department concludes that additional Tax Act adjustments, such as those related to excess deferred income taxes, may bring the Company below its estimates by the time of reconciliation. Therefore, the Department is not convinced that current projections accurately represent a need for a cap waiver.

Further, the Department notes that next year marks the first five-year review of Unitil's GSEP program, at which time the Company will file a summary of its completed work and an updated summary of work to be completed in the next five years. At the time of that filing, the Company will have had four years of experience in refining estimated costs. Additionally, we anticipate that any adjustments that stem from the Tax Act will likely be resolved in D.P.U. 18-15. The Department recognizes that this juncture may be an appropriate time to evaluate the performance of the GSEP so far, identify any persistent exogenous constraints Unitil expects to face going forward, and address how best to manage issues regarding the revenue requirement cap and overall replacement timeline.

Finally, the Department is not convinced of the appropriateness of revising the Company's GSEAF tariff to increase the cap on a permanent basis. Section 145 allows for a 1.5 percent cap that can be waived by the Department as appropriate. We consider this to mean that the Department, on an annual basis, may review a company's filing and determine the appropriateness of waiving the cap at that time, rather than granting a permanent increase.

For the reasons stated above, the Department denies Unitil's request for a waiver from the 1.5 percent revenue cap and to increase the cap on a permanent basis from 1.5 percent to 3.0 percent. Therefore, the Department directs the Company to limit incremental GSEP revenue requirement increases to 1.5 percent of its most recent calendar year total firm revenues, including gas revenues attributable to sales and transportation customers.

D. Conclusion on 2018 GSEP

Based on the Department's review of the record in this proceeding, and to the extent not otherwise addressed above, we find that the Company's 2018 GSEP complies with the requirements set forth in Section 145. Accordingly, the Department approves, except as noted above, Unitil's 2018 GSEP, for effect May 1, 2018. Based on the foregoing, the Department allows Unitil a revenue requirement of \$1,765,733.¹⁵ Based on the allowed revenue requirement of \$1,765,733, the allowed GSEAFs are \$0.0966 per therm, \$0.0897 per therm, \$0.0434 per therm, and \$0.0367 per therm for residential customers, small C&I customers, medium C&I customers, and large C&I customers, respectively (Exh. DPU 1-4 & Att.).

E. Proposed Tariff Changes

1. Introduction

The Company proposes several edits to its GSEAF tariff (Exhs. Unitil-DLC-1, at 13-15; Unitil-DLC-6). First, Unitil proposes to revise the definition of GSEP-eligible existing infrastructure to include the replacement of sections of plastic and cathodically protected steel main, known as incidental pipe (Exhs. Unitil-DLC-1, at 14; Unitil-TBCL-1, at 30; Unitil-DLC-6, at § 2.6). Second, the Company proposes alterations to its calculations of the GSEP revenue requirement, rate base, depreciation, gross plant, and accumulated deferred income taxes so that these amounts are estimated by month rather than by year

¹⁵ The \$1,765,733 is derived from taking the proposed revised revenue requirement of \$2,673,952 minus \$908,219, which is the amount over the 1.5 percent cap (Exh. AG 2-1, Att., Sch. 1).

(Exhs. Unitil-DLC-1, at 13-14; Unitil-DLC-6, at § 2.15). Third, Unitil proposes edits to separate the GREC filing from the Company's local distribution adjustment factor ("LDAF") filing to recognize that the GREC filing is due annually on or before May 1st, while the LDAF filing is due annually 90 days prior to November 1st (Exh. Unitil-DLC-6, at §§ 2.10, 7.3). Fourth, the Company proposes a revision to the overhead and burden adjustment (Exh. Unitil-DLC-6, at § 5.1). Finally, Unitil proposes a revision to clarify how the GSEP cap is calculated and to modify the cap from 1.5 percent to 3.0 percent (Exhs. Unitil-DLC-1, at 14; Unitil-DLC-6, at §§ 3.1, 4.1).

2. Positions of the Parties

a. Attorney General

The Attorney General argues that this proceeding is not the appropriate forum for considering the Company's proposed change to the definition of existing infrastructure to specifically include various types of incidental pipe (Attorney General Brief at 8). Rather, the Attorney General asks that the Department stay the approval of the proposed revision because the Department directed local distribution companies to propose a strategy related to incidental pipe in their May 1, 2018 GREC filings (Attorney General Brief at 8, citing NSTAR Gas Company, D.P.U. 17-GREC-06, at 15 (2017)). The Attorney General asserts that although the Department has recognized that the replacement of incidental pipe may be necessary for cost-effectiveness reasons, the Department found that incidental pipe is not GSEP-eligible infrastructure (Attorney General Brief at 8-9, citing, e.g., The Berkshire Gas Company, D.P.U. 17-GREC-02, at 12-15 (2017); D.P.U. 17-GREC-06, at 13-15).

Additionally, if the Department considers the proposed change to the definition of existing infrastructure in the instant proceeding, the Attorney General contends that the Department should reject it because it is contrary to Section 145 (Attorney General Brief at 9). The Attorney General argues that the Company's proposed definition of existing infrastructure is incorrect and that including the proposed change to the definition of existing infrastructure in the Company's tariff would constitute an improper expansion of Section 145 (Attorney General Brief at 9). The Attorney General did not address Unitil's other proposed tariff revisions on brief.

b. Company

The Company maintains that the proposed changes to its GSEAF tariff are appropriate and the Department should approve them (Company Reply Brief at 2). With respect to the Attorney General's arguments regarding replacement or retirement of discrete segments of incidental pipe, the Company asserts that its proposal is consistent with Section 145's objective to accelerate replacement of leak-prone pipe (Company Reply Brief at 14). Unitil claims that the Department has repeatedly determined that incidental pipe replacement is GSEP-eligible replacement when part of a least-cost strategy for street excavation (Company Reply Brief at 14, citing Liberty Utilities (New England Natural Gas Company) Corp., D.P.U. 17-GREC-04, at 10-11 (2017)).

3. Analysis and Findings

In Fitchburg Gas and Electric Light Company, D.P.U. 17-GREC-01, at 7 (2017), the Department directed Unitil to propose a strategy for the treatment of incidental pipe in its

May 1, 2018 GREC filing. Rather than proposing a specific procedure for including and, where applicable, excluding costs associated with incidental pipe in its May 1, 2018 GREC filing, the Company has proposed in this proceeding to simply change the definition of existing infrastructure in order to allow recovery of costs associated with the replacement of incidental pipe (Exhs. Unitil-DLC-1, at 14; Unitil-DLC-6, at § 2.6). In the absence of a specific proposal for the treatment of incidental pipe, the Department finds that approval of the Company's proposed tariff change is premature. Therefore, the Department denies the Company's proposed revision to the definition of existing infrastructure in its GSEAF tariff. Moreover, where the Company's proposed definition would depart from the statutory definition of eligible infrastructure contained in Section 145, the Department would not be inclined to accept the proposed definition change. Rather, following consideration of a specific procedure for the treatment of incidental pipe, the Department would expect a more targeted proposal to incorporate approved procedures and cost recovery associated with incidental pipe in the Company's GSEAF tariff.

As previously indicated, the Department expects the Company to propose a specific procedure for including and, when applicable, excluding costs associated with retiring and replacing existing infrastructure in the GSEP mechanism, including policies established to ensure that substantial plastic and cathodically protected steel main replacements are not included for recovery in the GSEP mechanism. D.P.U. 17-GREC-01, at 7. In addition, the Department has previously stated that any tariff change is best handled in the GSEP proceedings. D.P.U. 17-GREC-06, at 38 n.20; NSTAR Gas Company,

D.P.U. 16-GREC-06, at 28 n.16 (2016). Therefore, only after the Company proposes the specific procedures previously directed by the Department as part of its May 1, 2018 GREC filing, should Unitil include proposed tariff changes related to the inclusion and, where applicable, exclusion of incidental pipe in its GSEAF tariff.

Regarding the changes to its revenue requirement calculation, the Department had previously accepted the Company's proposal to work with other GSEP-eligible local distribution companies to propose amended tariffs to estimate the GSEP revenue requirement using monthly averages, rather than using beginning and end-of-year plant balances.

D.P.U. 16-GSEP-01, at 15. Accordingly, the Department finds that proposed revisions to the Company's GSEAF tariff regarding the calculation method of the GSEP revenue requirement are reasonable.

The Company also proposed tariff changes to recognize that the difference in timing of the GREC filing and the LDAF filing does not allow both filings to be submitted simultaneously (Exh. Unitil-DLC-6, at § 2.10). After the Department's review, we find this revision to the GSEAF tariff to be reasonable.

The Company also proposes changes relating to the overhead and burdens test (Exh. Unitil-DLC-1, at § 5.1). The Company's proposed tariff language is consistent with the manner in which Unitil has previously used the two-part test. D.P.U. 17-GREC-01, at 25. Based on our review, we find that the revisions to the overhead and burdens test are appropriate for the efficient operation of the GSEP.

Finally, the Company proposes revisions to the calculation of the GSEP revenue cap and to change the cap from 1.5 percent to 3.0 percent (Exh. Unitil-DLC-6, at § 3.1). The Department previously determined it may be appropriate to revise the Company's tariff language to clarify that the recovery of the annual gas system enhancement reconciliation adjustment factor ("GSERAF") that may be billed in any year beginning in November 1 will be limited by the difference between the GSEP cap and the annual change in the GSEP recovery. D.P.U. 17-GREC-01, at 25 n.21. We find that, here, Unitil has appropriately revised its tariff language to be consistent with Department precedent regarding the annual change in recovery. Nonetheless, as determined in Section III.C.3., above, the Department is disallowing the Company's request to permanently modify its cap from 1.5 percent to 3.0 percent.

Based on the foregoing, the Department rejects the Company's proposal to revise its tariff relating to incidental pipe and revise the cap from 1.5 percent to 3.0 percent and allows Unitil's proposed tariff revisions relating to the calculation of its revenue requirement using monthly averages for plant balances, the timing and treatment of the GREC filing in coordination with the LDAF filing, the overhead and burdens test, and the calculation of the GSEP revenue cap. The Department directs the Company to submit a compliance tariff that incorporates the approved revisions to its GSEAF tariff within five business days of the issuance of this Order.

IV. ORDER

Accordingly, after notice, hearing, and due consideration, it is

ORDERED: That the petition of Fitchburg Gas and Electric Light Company for approval of its 2018 gas system enhancement plan, as modified, is APPROVED; and it is

FURTHER ORDERED: That the gas system enhancement adjustment factors of Fitchburg Gas and Electric Light Company in the amounts of \$0.1204 per therm, \$0.1119 per therm, \$0.0541 per therm, and \$0.0458 for the residential, small commercial and industrial, medium commercial and industrial, and large commercial and industrial customers, respectively, to take effect May 1, 2018, are DENIED; and it is

FURTHER ORDERED: That the gas system enhancement adjustment factors of Fitchburg Gas and Electric Light Company in the amounts of \$0.0966 per therm, \$0.0897 per therm, \$0.0434 per therm, and \$0.0367 per therm for the residential, small commercial and industrial, medium commercial and industrial, and large commercial and industrial customers, respectively, to take effect May 1, 2018, are APPROVED subject to further review and investigation; and it is

FURTHER ORDERED: That Fitchburg Gas and Electric Light Company shall
comply with all directives in this Order.

By Order of the Department,

/s/
Angela M. O'Connor, Chairman

/s/
Robert E. Hayden, Commissioner

/s/
Cecile M. Fraser, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.