STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 22-0175-TF

Tariff filing of Green Mountain Power requesting a 2.34% increase in base rates effective on bills rendered on or after October 1, 2022	Hearings at Montpelier, Vermont June 23, 2022

And

Case No. 21-3707-PET

Petition of Green Mountain Power Corporation for approval of a new Multi-Year Regulation Plan pursuant to 30 V.S.A. Sections 209, 218, and 218d	Hearings at Montpelier, Vermont June 23, 2022

Order entered: 08/31/2022

PRESENT: Anthony Z. Roisman, Chair
Margaret Cheney, Commissioner
J. Riley Allen, Commissioner

APPEARANCES: Erin C. Brennan, Esq.
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For Green Mountain Power Corporation

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I. INTRODUCTION

In this Order, the Vermont Public Utility Commission ("Commission") approves a 2.18% increase in Green Mountain Power Corporation's ("GMP") base rates effective October 1, 2022, and a new Multi-Year Regulation Plan ("MYRP" or "New Plan") that will govern GMP's rates for a term of four years beginning October 1, 2022. The increase in base rates for Fiscal Year 2023 ("FY23") was approved using traditional cost-of-service rate regulatory review. Base rates for the remaining three years of the MYRP will be calculated using methods specified in the New Plan pursuant to 30 V.S.A. § 218d. Expenses under the New Plan are either fixed over the term of the MYRP, adjusted annually based on a specified inflation index, or adjusted annually based on a reforecast. The MYRP also outlines a process for the annual review of rates and for periodic adjustments to rates to account for changes in power-supply costs, to account for major storm events, and to ensure that GMP does not earn substantially more or less than has been approved by the Commission. This reduces GMP's risk and creates rate stability for ratepayers. Finally, the MYRP contains performance metrics for GMP related to service quality and innovation.

In summary, the Commission finds in this Order that the 2.18% rate increase will result in rates that are just and reasonable, and the Commission further finds that the methods and process proposed for ratemaking under the MYRP meet the statutory goals outlined in 30 V.S.A. § 218d, including promoting innovation, safe and reliable service, and just and reasonable rates.

II. PUBLIC HEARING AND COMMENTS

The Commission held a remote public hearing via videoconference on October 18, 2021, in the MYRP case. Seven members of the public attended the public hearing, and one person provided public comment. In addition, the Commission received three written public comments about the MYRP in this case. Two of the written public commenters stated that they received a GMP customer notice of the October 2021 public hearing after the public hearing occurred. The third comment expressed discontent with the energy efficiency charge.

The Commission held a remote public hearing via videoconference on March 10, 2022, in the rate case. Two people attended the public hearing, and both people provided public comment. In addition, the Commission received thirteen written public comments in the rate case. One of the comments stated that the customer did not receive notice of the March 2022 hearing until three days before the hearing. Several written comments were critical of the proposed rate increase due to the rising costs of inflation and the COVID-19 pandemic. Several written comments were critical of the emerald ash borer charge on their bills. One commenter questioned the ability of State government to adequately regulate utilities.

III. THE MULTI-YEAR REGULATION PLAN

Legal Standard

The Commission is authorized by 30 V.S.A. § 218d to approve alternative regulation plans for electric and natural gas companies. Further, the Commission, on its own motion or on the motion of the Department or a company operating under an alternative regulation plan, may investigate any alternative regulation plan that is in effect and, following notice and an opportunity for hearing, may terminate or modify the alternative regulation plan upon a finding of good cause.[1]

In order to rule favorably on requests to establish or amend an alternative regulation plan, we must find that the proposed form of alternative regulation will:

> (1) establish a system of regulation in which . . . companies have clear incentives to provide least-cost energy service to their customers;
> (2) provide just and reasonable rates for service to all classes of customers;
> (3) deliver safe and reliable service;
> (4) offer incentives for innovations and improved performance that advance state energy policy such as increasing reliance on Vermont-based renewable energy and decreasing the extent to which the financial success of distribution utilities between rate cases is linked to increased sales to end use customers and may be threatened by decreases in those sales;
> (5) promote improved quality of service, reliability, and service choices;
> (6) encourage innovation in the provision of service;
> (7) establish a reasonably balanced system of risks and rewards that encourages the company to operate as efficiently as possible using sound management practices; and
> (8) provide a reasonable opportunity, under sound and economical management, to earn a fair rate of return, provided such opportunity must be consistent with flexible design of alternative regulation and with the inclusion of effective financial incentives in such alternatives.[2]

In the case of an investor-owned company, such as GMP, the Commission will approve an alternative regulation plan only if we find that the plan "will not have an adverse impact on the electric company's eligibility for rate-regulated accounting in accordance with generally accepted accounting standards if applicable; and reasonably preserve the availability of equity and debt capital resources to the company on favorable terms and conditions."[3]

Finally, alternative regulation may include changes or alternatives to traditional ratemaking procedures, standards, and mechanisms, as long as the Commission finds that alternative regulation will promote the public good and will support the required findings in 30 V.S.A. § 218d(a).[4]

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[1] 30 V.S.A. § 218d(i).
[2] 30 V.S.A. § 218d(a)(1-8).
[3] 30 V.S.A. § 218d(m).
[4] 30 V.S.A. § 218d(d).

Positions of the Parties

All parties to this proceeding agree that the Commission should approve a multi-year regulation plan for GMP. The parties also agree on the content and four-year length of that plan. No contested issues remain.

Findings

Based upon the Petition and the accompanying record in this proceeding, the Commission makes the following findings of fact regarding the MYRP.

A. Summary of the New Plan

1. The New Plan would take effect on October 1, 2022.[5] The New Plan sets a method for calculating rates for a four-year period beginning October 1, 2022, and terminating on September 30, 2026, without provision for extension. Exh. GMP-Redirect-3 (Rev. New Plan) at 3.

2. The New Plan would continue the general framework of GMP's current multi-year regulation plan (the "Current Plan") previously approved by the Commission,[6] subject to improvements agreed upon by GMP and the Department.[7] Edmund Ryan and Robert Bingel, Green Mountain Power ("Ryan & Bingel") pf. at 9-11; exh. GMP-ER-RB-2.

3. The term of the New Plan consists of four rate periods aligned with GMP's fiscal year calendar: FY23 (October 1, 2022–September 30, 2023), FY24 (October 1, 2023–September 30, 2024), FY25 (October 1, 2024–September 30, 2025), and FY26 (October 1, 2025–September 30, 2026). Ryan & Bingel pf. at 8; tr. 6/23/22 at 44 (Bingel).

4. The Department agrees that a four-year term is appropriate. Base rates for the first year of the New Plan are set by traditional rate-making methods; thus, only three of the years

[5] 30 V.S.A. § 218d(g) states that "An alternative regulation plan shall take effect not sooner than 30 days following its approval by the Commission." The Current Plan expires on September 30, 2022. GMP has requested that the New Plan take effect on October 1, 2022.

[6] *Petition of Green Mountain Power Corporation for approval of a multi-year regulation plan pursuant to 30 V.S.A § 209, 218, and 218d*, Case No. 18-1633-PET, Order of May 24, 2019; and as modified in *Petition of Green Mountain Power Corp. for approval of a modification or waiver of certain provisions of its multi-year regulation plan, pursuant to 30 V.S.A. §§ 209, 218, and 218d, Case No. 20-1401-PET*, Order of Aug. 27, 2020; and in *Petition of Green Mountain Power Corp. for modification of GMP's Multi-Year Regulation Plan under 30 V.S.A. § 218d and for approval of FY22 New Initiative Investments*, Case No. 21-1965-PET, Order of Aug. 27, 2021.

[7] GMP's proposed New Plan document, filed as Exh. GMP-Redirect-3, reflects revisions made and testified to as of the June 23, 2022, evidentiary hearing.

would be set under the New Plan's base rate mechanisms. This is similar to the Current Plan. Ryan & Bingel pf. reb. at 12-13; tr. 6/23/22 at 49 (Ryan), 189-190 (Wheeler).

5. Under the New Plan, GMP would file Annual Base Rate filings on June 1 of each year (starting June 1, 2023) with the proposed base rate adjustments using the methods approved in the New Plan, which would be subject to Department review and comment and Commission approval. The Department would file comments within 60 days of each Annual Base Rate filing. Exh. GMP-Redirect-3 at 5-6.

6. Beginning on January 30, 2024, GMP would file an annual report with the Commission and Department for each year of the New Plan, evaluating the effectiveness of the New Plan's performance with respect to the goals in 30 V.S.A. § 218d and the innovation and performance metrics set out in the New Plan. GMP would also annually file an Earnings Sharing Mechanism, starting November 30, 2023, which reports on financial performance under the New Plan along with any collection or return required under the Earnings Sharing Mechanism. The Earnings Sharing Mechanism serves as an incentive for GMP to pursue appropriate operational efficiencies and drive down costs where feasible and appropriate. A schedule of all other required filings under the New Plan is set forth in Attachment 8 to the New Plan. Exh. GMP-Redirect-3 at 3, 25, Attachment 8.

7. All elements of costs and expenses included in rates would be treated in one of three ways: (1) fixed over the term of the New Plan based on figures in the forecasts reviewed in the FY23 Rate Case; (2) indexed annually based on a specified inflation index; or (3) adjusted annually based on a reforecast of GMP-specific information (such as the power-supply forecast, independent-source forecasts, or bid amounts), with these adjustments being evaluated in each Annual Base Rate filing. The treatment for each expense category is detailed in New Plan Attachments 1a, 1b, and 1c. Ryan & Bingel pf. at 10-11.

8. Treatment of depreciation costs, property taxes, debt and equity costs (including the methodology for adjusting Return on Equity during the term of the New Plan), and Federal, State, and other non-property taxes would remain the same as in the Current Plan with minor adjustments to depreciation and debt. Ryan & Bingel pf. at 9.

9. Key rate adjustors would also be continued from the Current Plan, including the Power Supply, Retail Revenue, and Major Storm Adjustors previously approved by the Commission. Ryan & Bingel pf. at 9.[8]

10. The New Plan would continue GMP's existing innovative pilot program to encourage further transformative energy efforts that reduce carbon and reduce costs for customers. The New Plan would refine and differentiate between broader, generally available, tariffed New Initiatives programs and Innovative Pilots. Josh Castonguay, GMP ("Castonguay") pf. at 4; exh. GMP-Redirect-3 at 8–9, 25, Attachment 2.[9]

11. The New Plan would also continue GMP's existing service quality and reliability performance monitoring and reporting ("SQRP") requirements and GMP's least-cost integrated planning ("IRP") obligations. The SQRP is in the process of being reviewed and updated by GMP and the Department, and it will be subject to Commission approval. Carol Flint, Department ("Flint") pf. at 5; Castonguay pf. reb. at 11.

B. Return on Equity

12. GMP's return on equity ("ROE") is currently set at 8.57%. Ryan & Bingel pf. at 20.

13. GMP proposes that after FY23 the ROE would be updated annually based on the formula established in the New Plan. In each ensuing year, the annual update would be from the ROE in effect for the current year. Exh. GMP-Redirect-3 at 13.

14. The current adjustment methodology, which GMP proposes to continue in the New Plan, applies an indexing formula to track 50% of the change in the 10-year Treasury bond yield over the three calendar months ending on May 15 using public data reported by the U.S. Department of the Treasury at the Daily Treasury Yield Curve Rates. Exh. GMP-Redirect-3 at 13, Attachment 3.

Discussion

GMP and the Department agree that a baseline ROE of 8.57% for FY23 is appropriate. The parties also agree that continuing the practice of formulaically adjusting the ROE each year by indexing to a change in daily Treasury yield rates is appropriate. This method of adjusting

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[8] These adjusters are described in more detail in Section III(D), below.
[9] This is described in more detail in Section III(E).

GMP's ROE has functioned well in previous regulation plans and is simple and transparent. We approve its continued use in the New Plan.

C. Adjustment Mechanisms

15. The New Plan would continue the three primary adjustors used in the Current Plan: (1) a Power Supply and Retail Revenue Adjustor ("PSRRA"); (2) an Exogenous Change Adjustment; and (3) an Earnings Sharing Mechanism. Each of these adjustors is described below. Exh. GMP-Redirect-3 at 14-22.

Power Supply and Retail Revenue Adjustor

16. The New Plan would continue the existing PSRRA as modified in Case No. 20-1401-PET. Doug Smith, GMP ("Smith") pf. at 26.

17. The purpose of the PSRRA is to decouple GMP's revenue from the volume of retail electricity sales, while sharing short-term fluctuations in actual net power costs with customers. GMP would not realize any marginal revenue from increased power sales or more expensive power supply during a New Plan year because these variances would be passed through to customers. Smith pf. at 11-12.

18. All power costs collected through the PSRRA would be separated into Components A and B. Component A is made up of costs that are largely outside GMP's control in the short-term. Examples include Forward Capacity Market costs, which tend to be subject to large, discrete changes based on factors like actual (weather-driven) peaks in Vermont and New England. These costs are fully reconciled. Component B is made up of costs over which GMP does have some degree of control. These costs are primarily those associated with the purchase, generation, and sale of energy (including interchange with the ISO-New England spot market), along with renewable energy certificate revenues and Vermont Renewable Energy Standard compliance expenses. Based on the nature of these costs and revenues, it is appropriate for GMP to have some financial exposure to outcomes for Component B costs, to ensure effective management of those costs. Smith pf. at 18-19.

19. Under the New Plan, Component A variances would be directly passed through to customers. The Component B variance would be calculated by summing the dollar variance between actual and forecasted Component B costs with the result of an additional Component B

cost variance calculation. That variance calculation compares actual per-kWh costs to a benchmark derived from the forecasted retail sales volume and Component B costs, subject to an efficiency band. This Component B efficiency band is asymmetric in a way that favors customers—that is, GMP would retain the first $150,000 of quarterly favorable variances (when actual cost/kWh turns out lower than the benchmark) and would have to absorb the first $307,000 of quarterly unfavorable variances. A further 10% of the variance outside the efficiency band would also be retained or absorbed by GMP; the remainder would be passed through to customers. Smith pf. at 19-20.

20. Variances measured under the PSRRA would be collected through a "Quarterly Net Adjustment" methodology approved in Case No. 20-1401-PET. The Quarterly Net Adjustment is a rate-smoothing mechanism that nets the quarterly retail revenue and power-supply variance amount against any quarterly qualified major storm amounts. The total netted amount—the Quarterly Net Adjustment—is recorded as a regulatory asset or liability and is only reflected on customers' energy statements if the amount for two consecutive quarters moves in the same direction (i.e., towards a return or collection). Collections or returns under the Quarterly Net Adjustment would be amortized over 12 months. Smith pf. at 20; exh. GMP-Redirect-3 at 22-23.

21. The New Plan makes provision for the petition of GlobalFoundries 2 US LLC ("GF") to become a self-managed utility[10] by handling any power-purchase agreement or transition fee revenue in the event GF is no longer a retail customer in the same way that retail revenue would be handled under the PSRRA. This treatment ensures that the impact of serving GF would be essentially neutral for customers, regardless of whether GF's petition is granted or denied. Ryan & Bingel pf. supp. at 45-46; exh. GMP-Redirect-3 at 17 & Attachment 4.

Discussion

The purpose of the PSRRA is to decouple GMP's revenue from the volume of retail electricity sales, while sharing short-term fluctuations in actual net power costs with customers. GMP's power supply costs are divided into two categories: Component A and Component B.

[10] *Petition of GlobalFoundries U.S. 2 LLC requesting a certificate of public good, pursuant to 30 V.S.A. § 231, to operate a Self-Managed Utility*, Case No. 21-1107-PET.

Any differences in Component A costs, which are costs that GMP does not have any meaningful control over, are fully reconciled. Any excess revenue is returned to customers and any revenue deficiency is collected from customers. In contrast, for Component B Power Supply Costs, GMP must absorb a portion of any cost overruns and share a portion of any savings. This creates an incentive for GMP to reduce its costs and ensures that customers are protected from significant cost increases. Finally, the PSRRA also accounts for fluctuations in GMP's sales by tracking variances in GMP's actual retail revenue compared to forecasted retail revenue and by returning or collecting the difference to or from customers.

Exogenous Change Adjustor

22. The Exogenous Change Adjustor has two components, a Non-Storm Change Adjustor to account for unexpected events outside GMP's control, and a Major Storm Adjustor. Ryan & Bingel pf. at 25-26.

23. No changes are proposed to the existing Non-Storm Change Adjustor, outside of clarifying what types of events qualify for treatment under the provision. Ryan & Bingel pf. at 25-26.

24. The New Plan would continue the Major Storm Adjustor, which retains the $1.2 million annual deductible that GMP may not collect from customers. Ryan & Bingel pf. at 26.

25. In addition to the Major Storm Adjustor, the New Plan would also include a new Major Storm Restoration Fund to offset Major Storm costs or other adjustors and costs as approved by the Commission. Ryan & Bingel pf. at 28-29.

26. The Major Storm Adjustor would collect money from customers after a major storm occurs to cover the costs of restoration. In contrast, the Major Storm Restoration Fund is collected before a major storm occurs and would be used, with Commission review and approval, to offset any future collections for major storm recovery. Ryan & Bingel pf. at 29-30.

27. GMP would collect the Major Storm Restoration Fund through a separate line item on the bill on a surcharge percentage basis, in a total amount of $6 million annually from customers in all customer classes. Ryan & Bingel pf. at 29-30.

28. The Department requested, and GMP agreed, to cap the Major Storm Restoration Fund at $12 million by adjusting the bill surcharge percentage accordingly. Scott Wheeler, Department ("Wheeler") pf. at 24; Ryan & Bingel pf. reb. at 14-15; exh. GMP-Redirect-3 at 20.

Discussion

GMP may experience unexpected events that affect its revenue needs. These events include Major Storms and other limited circumstances that could not be anticipated by the Company, such as changes in tax laws or other regulations. Therefore, the New Plan includes the Exogenous Change Adjustor, which provides a mechanism for GMP to collect additional revenue or return revenue to customers to respond to Major Storms or other non-storm changes, (e.g., changes in the federal tax code). The New Plan includes guardrails to ensure that only certain significant, unanticipated events qualify for recovery or return under this mechanism.

Earnings Sharing Mechanism

29. The New Plan would retain the current Earnings Sharing Mechanism feature to reduce the risk that GMP's actual earned utility ROE varies significantly from the Commission-approved ROE during the term of its regulation plan. The Earnings Sharing Mechanism accomplishes this by sharing some over- or under-recoveries, outside of a defined efficiency band, between GMP and its customers. Ryan & Bingel pf. at 22.

30. The Earnings Sharing Mechanism's asymmetrical efficiency bands would encourage GMP to control costs and would also protect ratepayers against unanticipated cost increases. Wheeler pf. at 17 and 19.

31. The Earnings Sharing Mechanism serves as a backstop to ensure that rates will remain just and reasonable by flowing any potential significant overearnings back to customers. Ryan & Bingel pf. at 22.

32. Under the New Plan, on or before November 29 each year, GMP would file with the Commission and the Department its complete financial results for the preceding fiscal year, with calculations and documentation supporting the Earnings Sharing Mechanism. Actual earnings would be calculated on a regulatory basis (e.g., excluding disallowed costs and the results of unregulated operations). Actual earnings would include the earnings impact of the Power Supply

Adjustor, Revenue Adjustor, and Exogenous Change Adjustor. Any resulting Earnings Sharing Mechanism adjustment would be a separate line item on customer bills. Ryan & Bingel pf. at 24.

Discussion

One of the primary purposes of the New Plan is to ensure that GMP's rates are just and reasonable. The Earnings Sharing Mechanism acts as a backstop to ensure that GMP does not earn significantly more or less than has been approved by the Commission. Each year, GMP will file its complete financial results for the preceding fiscal year. Any adjustments to rates made as a result of the Earnings Sharing Mechanism will appear as a separate line item on customer bills.

D. Capital Spending

33. Under the New Plan, GMP would operate under an overall cap on capital spending averaging $119 million per year over the four-year term of the plan. The level of capital spending would vary year-to-year. Michael Burke, GMP ("Burke") pf. supp. at 42; exh. GMP Redirect-3 at 7.

34. GMP plans to spend an average of $119 million per year, representing $131 million during FY23 and approximately $115 million per year for the remaining plan period. Tr. 6/23/22 at 214–221 (Ryan & Bingel, Burke); Ryan & Bingel pf. at 9; Exh. GMP Redirect-3 at 7; Burke pf. supp. at 42; exh. GMP-MB-10.

35. Spending may vary year-to-year as project timelines can be unpredictable and new priorities may arise. Burke pf. supp. at 15-16.

36. Unless otherwise ordered by the Commission, GMP would file a cost-of-service rate case before the termination of the New Plan to cover rates for the fiscal year following the termination of the New Plan. Exh. GMP-Redirect-3 at 3.

37. GMP would document each project in a capital folder following the documentation standard established in Exhibit 2 to the Memorandum of Understanding ("MOU") between GMP and the Department in Case No. 17-3112-INV. Burke pf. at 15-17; exh. GMP-MB-2.

Discussion

GMP's proposed capital spending cap is higher than the cap established in the Current Plan.[11] Under the Current Plan, there were two categories of spending—home storage tariffs and

[11] Burke pf. at 15.

climate resilience—that fell outside the cap and were reviewed and approved by the Commission after the cap was established.[12] The cap proposed by GMP here includes similar spending levels as the Current Plan together with spending related to climate resilience and home storage tariffs.[13] When these categories are added, capital spending is roughly equal under the Current Plan and the New Plan.

Setting an appropriate level of capital spending requires the Commission to balance competing concerns. Underspending can potentially impact safe and reliable service or impede the utility's ability to provide services that the public values. However, capital spending in excess of capital depreciation can create upward pressure on rates. The capital spending cap proposed by GMP and supported by the Department here strikes a reasonable balance and will allow GMP to maintain its system while moderating overall upward rate pressures. The Commission looks forward to reviewing the level of actual spending that occurs and contextualizing the level of capital spending within measurable performance outcomes such as storm resilience, service quality, and customer satisfaction.

E. Operations and Maintenance (O&M)

38. Under the Current Plan, Operations and Maintenance (O&M) costs were handled under the Merger Savings Platform established in Docket 7770. The Platform was in effect for ten years following GMP's acquisition of Central Vermont Public Service Corporation (CVPS) and included O&M costs in rates following a predetermined formula tied to an inflationary index. Ryan & Bingel pf. at 10; Wheeler pf. at 12.

39. Under the New Plan, some O&M expenses would be fixed over the term of the New Plan based on the figures in the forecasts reviewed in the FY23 Rate Case, some indexed annually based on a specified inflation index, and some adjusted annually based on a reforecast of GMP-specific information, such as the power-supply forecast, independent-source forecasts, or bid amounts, and evaluated in each Annual Base Rate filing. Each category represents roughly one-third of the total O&M expenses. Ryan & Bingel pf. at 10; exh. GMP-Redirect-3 at 9-10, Attachment 1(c).

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[12] Ryan & Bingle pf. at 9; Burke pf. at 17.

[13] Burket pf. at 17, 20

40. Costs more directly under GMP's control would be locked over the term of the New Plan based on the FY23 known and measurable costs and the figures in the accompanying three-year forecasts for FY24–FY26 provided during this proceeding. Fixing these expenses requires GMP to control costs and perform well for customers throughout the New Plan period. Ryan & Bingel pf. at 14–15; exh. GMP-Redirect-3 at 9-10, Attachment 1(c).

41. A second category of costs would be updated annually only for changes in the CPI-U, Northeast index. This is the same index used for the previous Merger Savings Platform. Ryan & Bingel pf. at 15; exh. GMP-Redirect-3 at 9-10, Attachment 1(c); Jacob Thomas, Department ("Thomas") pf. at 12; exh. PSD-JMT-4.

42. The final category of costs is those that would be adjusted annually based on a reforecast of updated actuarial reports, consultant reports, or known and measurable bid or other cost information. These include many areas that are either highly variable or otherwise outside GMP's control. Ryan & Bingel pf. at 15; exh. GMP-Redirect-3 at 9-10.

43. Under the New Plan, GMP would also prepare a yearly benchmarking report, submitted with its Annual Base Rate filing, comparing its performance managing O&M expense categories with peer utilities, as recommended by the Department and in the form submitted in this proceeding. Ryan & Bingel pf. reb. at 14; Wheeler pf. at 17; exh. GMP-Redirect-3 at 26, Attachment 9.

44. Annual benchmarking would provide greater transparency into O&M cost management during the term of the New Plan. Wheeler pf. at 17.

F. <u>New Initiatives and Innovative Pilots</u>

45. The New Plan is designed to support GMP's continued efforts toward Vermont's energy goals by advancing technologies (such as electric vehicles, heat pumps, energy storage, and renewable power) and by exploring new services to facilitate efficient, low-carbon energy choices for GMP's customers. Exh. GMP-ER-RB-10.

46. GMP would continue to work with the Department to explore and implement additional innovative service choices and offerings, such as on-bill payments to support decarbonization, load-control programs and support, and smart home energy devices. Exh. GMP-ER-RB-10.

Non-Tariffed Innovative Pilot Programs[14]

47. Under the New Plan, Innovative Pilots and non-tariffed New Initiatives would proceed in largely the same manner as under the Current Plan. Josh Castonguay, GMP ("Castonguay") pf. at 22.

48. The Non-Tariffed Innovative Pilot Program involves products or services, beyond the sale of basic electric service, that provide shared access to GMP, advance the goals of Vermont's energy policies, are designed to enable such programs in the future, or provide improved equity of access to renewable and clean-energy programs for low- and moderate-income communities. Exh. GMP-ER-RB-10.

49. Under the terms of the New Plan, GMP would provide advance notice to the Department and Commission, with a copy to Efficiency Vermont, before beginning any pilot programs. GMP would describe the pilot, how it meets the eligibility criteria, how many customers are expected to participate, how those customers were selected, and expected costs and revenues. All pilots would be limited to a term of 18 months. Exh. GMP-ER-RB-10.

50. GMP would track all pilot costs and revenues and would collect other relevant data and provide periodic status reports pursuant to a Data Collection and Reporting Plan. Exh. GMP-ER-RB-10.

51. All Innovative Pilot programs and non-tariffed New Initiatives would be handled under an established, fixed capital amount, subject to the same general exception for strategic opportunities and unexpected circumstances that applies overall to GMP's fixed capital expenditures. Castonguay pf. at 18; exh. GMP-Redirect-3 at 7-8.

52. GMP forecasts New Initiatives capital investments of approximately $10 million per year for each year of the New Plan. Exh. GMP-MB-10.

Tariffed New Initiatives Offerings

53. The New Plan differentiates tariffed offerings from innovative pilots and other, smaller innovative services and programs. Castonguay pf. at 18.

[14] Tariffed utility services are available to customers generally under Commission-approved rates and specified terms and conditions. Non-tariffed pilots are not subject to formal Commission approval and are innovative utility services that are limited in scale and duration.

54. Under the Current Plan, capital investments were fixed for all “New Initiative” capital projects, which include Innovative Pilot programs, traditional tariffed offerings, and other qualifying capital projects, with specific exemptions to the investment limits. Castonguay pf. at 15.

55. Tariffed offerings may function differently than pilots and other New Initiative programs, as they are generally mature offerings whose implementation is often driven by customer interest and the rate of customer adoption. Castonguay pf. at 19.

56. Tariffs are subject to Department review and Commission investigation under 30 V.S.A. § 225 and do not require additional review under the New Plan. Castonguay pf. at 21.

57. Tariffed offerings introduced during the term of the New Plan and approved by the Commission would be treated separately from the capped capital budget. Any capital plant additions would be added to base rates after a project is completed, as part of the next Annual Base Rate filing. Castonguay pf. at 18.

58. Because tariffed offerings would be treated separately from the capped capital budget, there is no longer a need for specific New Initiatives capital exemptions, and this provision of the Current Plan has been omitted from the New Plan. Castonguay pf. at 20.

FY22 Energy Storage System Tariff Investments

59. In Case No. 21-1965-PET, the Commission authorized an additional $7.5 million in investments in order to meet enrollment in the Energy Storage System battery tariff and required that: “In its next rate proceeding, GMP shall notify the Commission if investment in New Initiative programs and Innovative Pilots is less than the projected total of $22.5 million and shall adjust its cost of service accordingly.” Castonguay pf. reb. at 12.

60. The Energy Storage System program has been fully subscribed every year that it has been active and has a waiting list. Supply-chain and logistical delivery issues continuing from the pandemic have impacted the availability of residential battery systems. Castonguay pf. reb. at 12-13.

61. GMP projects that it will not spend the entire additional authorized amount due to shortages in batteries. As a result, GMP is seeking authority to complete in FY23 the installation of residential batteries that have been signed up for during FY22, but not yet installed, and report

on the final total investment during the FY24 Annual Base Rate filing so that the cost of service in FY24 would reflect total actual investment in residential battery storage under the tariff through FY23. A new provision has been added to the New Plan to authorize this treatment. Castonguay pf. reb. at 13; exh. GMP-Redirect-3 at 26.

Discussion

The Commission has previously approved the Energy Storage System tariff and associated investments. Because of supply-chain constraints, GMP expects that it will not spend the entire amount that the Commission authorized for FY22. We conclude that it is reasonable to authorize GMP to complete in FY23 the residential battery installations under contract in FY22. Therefore, we authorize this treatment as described in the New Plan. GMP shall report on the final total investment in its FY24 Annual Base Rate filing.

G. Innovation and Performance Metrics

62. Under the Current Plan, GMP has been tracking two sets of performance metrics. The first set tracks compliance with traditional utility reliability standards under GMP's Commission-approved SQRP. The second set includes innovation and performance metrics that measure GMP's performance relative to innovation and proactive transformation of utility operations and services to customers. These metrics were designed to establish a performance baseline. Castonguay pf. at 31.

63. The New Plan would continue the Current Plan's performance metrics, with several minor additions. Exh. GMP-ER-RB-10.

64. Under the New Plan, four metrics have been added to the Current Plan's list of performance metrics. These are: (1) a Fleet Electrification metric; (2) a distributed energy resource metric capturing combined hours of battery back-up during outages; and (3) a pair of performance metrics that track access to renewable or innovative energy services in low-income communities. Castonguay pf. at 31.

65. For purposes of the low-income customer metrics, the New Plan defines "low income" as at or below 185% of the federal poverty level. Tr. 6/25/22 at 133-135 (Castonguay).

66. All performance metrics will be measured on a fiscal-year basis unless otherwise indicated in the New Plan. GMP will file an annual report by January 30 for the preceding fiscal

year, including a narrative evaluation of the effectiveness of the New Plan's performance in achieving the goals of 30 V.S.A. § 218d. Exh. GMP-Redirect-3.

67. As with the Current Plan, the innovation and performance metrics are informational only and are not tied to any incentive or penalty because GMP has completed only two years of performance regulation and is still generating a baseline. More work is required to design and implement effective performance-based incentives. Castonguay pf. at 31-32; tr. 6/23/22 at 106–07, 109–11 (McDonnell & Nelson).

68. Multi-year, performance-based regulatory frameworks should be approached comprehensively. Regulatory frameworks, such as the New Plan, should ensure that the multi-year rate plan component is harmonized with the performance metrics. Tr. 6/23/22 at 109-110 (McDonnell & Nelson).

69. Where a jurisdiction has legacy metrics in place, there are opportunities to holistically assess the legacy metrics and opportunities for future metrics. When considering adding a target to a particular performance metric, baseline historical data should be used to evaluate the target level. Tr. 6/23/22 at 110-111 (McDonnell & Nelson).

70. A hierarchical approach to performance-based regulation establishes overarching policy goals, identifies regulatory outcomes that achieve those policy goals, and identifies metrics to measure achievement of those outcomes. The goals and outcomes provide the utility with direction, and the multi-year rate plan and budget provide the utility the opportunity to maximize those outcomes. Tr. 6/23/22 at 111-112 (McDonnell & Nelson).

71. It is helpful for regulatory commissions to convene a generic investigation docket to evaluate performance metrics comprehensively. This provides an opportunity to harmonize metrics with policy goals and regulatory outcomes. Tr. 6/23/22 at 113-114 (McDonnell & Nelson).

<u>Discussion</u>

It is appropriate to continue the existing performance and innovation metrics at this time, with the addition of the four proposed new metrics. GMP has reported two years of metrics under the Current Plan. Additional reporting and tracking of the performance metrics under the New Plan will help establish an appropriate baseline.

We agree with GMP's witnesses Mr. McDonnell and Mr. Nelson that multi-year regulation plans and performance metrics should work in concert to achieve policy, regulatory, and ratepayer outcomes. We also agree that, over time and with enough historical data, performance metrics can and should be optimized to provide policy and regulatory direction to the utility. In turn, the performance metrics should be used to measure the effectiveness and implementation of a regulatory framework.

Consistent with the witnesses' recommendations, we intend to convene a generic investigation regarding performance metrics for potential future multi-year regulation plans after GMP files its first annual report on performance metrics under this second-generation MYRP in 2024. That investigation will provide an opportunity to review the current list of performance metrics and consider whether those specific metrics best reflect public policy goals and regulatory outcomes, how frequently the list of performance metrics should be reviewed, whether the performance metrics compare favorably relative to those adopted in other jurisdictions, whether the performance metrics should have minimum thresholds or targets, and the appropriate frequency and timing of performance metric reporting. It may be appropriate in future plans to create a more direct connection between GMP's performance as measured through metrics and its financial performance.

H. <u>Cybersecurity Plan</u>

72. The New Plan allows GMP to file a Cybersecurity Plan during the term of the New Plan proposing additional capital investments and O&M expenses for cybersecurity investments. Mark Dincecco, GMP ("Dincecco") pf. at 9; exh. GMP-Redirect-3 at 12.

73. Any Cybersecurity Plan must explain why it is in customers' best interest, will result in just and reasonable rates, and will request specific regulatory and accounting treatment for such projects. Dincecco pf. at 9; exh. GMP-Redirect-3 at 12.

74. Any Cybersecurity Plan must also set forth the proposed capital costs and expenses associated with the Cybersecurity Plan and the amount of any proposed rate base adjustments. GMP-Redirect-3 at 12.

75. Any Cybersecurity Plan would be subject to review and approval by the Commission. Exh. GMP-Redirect-3 at 12.

Discussion

GMP maintains that the option for a Cybersecurity Plan would provide GMP with needed flexibility to fulfill increasing regulatory cybersecurity requirements and protect GMP's system from evolving cybersecurity threats. The Department did not object to this provision in the New Plan.

We conclude it is reasonable for the New Plan to include a provision allowing GMP the opportunity to propose a Cybersecurity Plan. Any such plan would be subject to Commission review and approval and must demonstrate why investments made under the plan would be in customers' interest and would result in just and reasonable rates. While GMP's capital spending path under the New Plan includes proposed levels of spending on information technology and cybersecurity, we conclude that, due to the evolving nature of cybersecurity, a Cybersecurity Plan would address additional, not-yet-identified cybersecurity needs to protect utility customer data and utility systems.

I. Fixed Price O&M Contracts

76. The cost of service for rate years FY24-FY26 includes proposed adjustments to certain categories of O&M costs by a specific inflation measure on an annual basis; however, some contracts contain a fixed price for the duration of the contract. The fixed-price expenses should not be adjusted annually for inflation. The Department sought to clarify whether to adjust the cost of service for those years to account for contracts where GMP used inflation adjustments but had multi-year fixed-price contracts. Hunt pf. at 11-13.

77. The Department sought additional information to quantify the scale of GMP's multi-year fixed-price O&M contracts to ensure that the treatment of these costs within the overall New Plan period was appropriate. Hunt pf. at 13, 27.

78. Because the Department's recommendation with respect to fixed-price O&M contracts does not impact the FY23 cost of service, the Department and GMP agree that this topic can be resolved with continued discussions before GMP's FY24 Annual Base Rate filing. Hunt pf. sur. at 14-15.

79. The parties agree that the Commission should condition approval of the New Plan on further consultation between the Department and GMP before GMP's FY24 Annual Base Rate filing, which is due June 1, 2023. The parties agree that GMP should report on this item and propose an appropriate solution on how to treat fixed-price multi-year O&M contracts in rates in its FY24 Annual Base Rate filing. Ryan & Bingel pf. reb. at 9; tr. 6/23/22 at 178 (Hunt).

Discussion

Because the issue regarding multi-year fixed-price contracts identified by the Department does not impact FY23 rates, we conclude that it is reasonable to adopt the parties' recommendation and allow the parties more time to discuss this matter before GMP's FY24 Annual Base Rate filing. We condition approval of the New Plan on further consultation between the parties on this issue, and on GMP reporting and proposing an appropriate solution on how to treat fixed-price multi-year O&M contracts in rates in its FY24 Annual Base Rate filing.

J. Analysis of Statutory Criteria

Incentives to Provide Least-Cost Service
[30 V.S.A. § 218d(a)(1)]

The New Plan creates clear incentives for GMP to provide least-cost energy service to its customers. A portion of GMP's costs would be fixed for the term of the New Plan. Any requests for the Company to exceed those fixed costs would require Commission approval. The Power Supply and Retail Revenue Adjustor efficiency band and Earnings Sharing Adjustor provide incentives for GMP to control its costs.

Just and Reasonable Rates
[30 V.S.A. § 218d(a)(2)]

The New Plan has sufficient procedural protection, opportunity for review by the Department, and requirements for approval by the Commission that the setting and adjustment of rates under the New Plan will result in just and reasonable rates. The New Plan features capped capital spending with limited exceptions, revenue decoupling, and adjustors with dead bands that align GMP's and its customers' interests. The adjustment mechanisms in the New Plan will ensure that GMP does not significantly over- or under-collect on its actual cost of service. We therefore find that the New Plan meets the statutory requirement of Section 218d(a)(2).

Safe and Reliable Service
[30 V.S.A. § 218d(a)(3)]

The New Plan would allow GMP to provide safe and reliable service. The New Plan would provide GMP with flexibility to adjust spending within the cap as needed to ensure safe and reliable service and includes the opportunity to petition the Commission for approval of additional investments if unforeseen significant costs arise, which would also support safe and reliable service. The Major Storm cost provisions of the Exogeneous Change Adjustor enable GMP to address major storm events through expenditures that contribute to safe and reliable service while reducing GMP's risk associated with expenditures by the adjustor. The New Plan would incorporate GMP's service quality and reliability performance monitoring and reporting requirements, and GMP remains obligated to meet and report on these safety and reliability standards.

State Energy Policy
[30 V.S.A. § 218d(a)(4)]

The New Plan offers incentives for innovations and improved performance that advance the State's energy policies. For example, the New Plan would provide a simplified, non-tariff alternative under which GMP can offer Innovative Pilots; these pilots must, among other requirements, advance the achievement of the renewable energy and greenhouse-gas-emission reduction goals included in Vermont's Comprehensive Energy Plan. In addition, the Power Supply and Retail Revenue Adjustor would completely decouple GMP's net income from its sales, thereby decreasing the extent to which GMP's financial success between rate cases may be threatened by decreases in sales to end-use customers. Finally, the New Plan includes "innovation and performance metrics" that will measure GMP's performance in areas related to State energy goals. Tracking and reporting on GMP's performance in these areas during the New Plan's term would provide data that can be used in the future to help design further performance monitoring, including possibly linking GMP's performance in these areas to the establishment of financial incentives or penalties to achieve desired outcomes for customers consistent with State energy policy.

Service Quality, Reliability, and Service Choices
[30 V.S.A. § 218d(a)(5)]

The New Plan would promote improved quality of service, reliability, and service choices because the New Plan incorporates and continues GMP's obligations under its current service quality and reliability performance monitoring and reporting requirements. The New Plan's Innovative Pilot provision would expand service choices and promote technologies that would lead to improved reliability. In addition, the New Plan would explicitly expand opportunities for consumer product offerings by third parties, which would further increase choices for consumers.

Innovation
[30 V.S.A. § 218d(a)(6)

The New Plan would encourage innovation in GMP's provision of service. The Non-Tariffed Innovative Pilot Program is designed to encourage and promote the use of innovative technologies that advance the goals of Vermont's state energy policy, enable such programs in the future, or improve equity of access to renewable and clean-energy programs for low- and moderate-income communities. In addition, the four new performance metrics measuring GMP's innovation performance would focus GMP's innovation on resilience, reliability, equity, and electrification.

Balanced Risks and Rewards
[30 V.S.A. § 218d(a)(7)]

The New Plan would establish a reasonably balanced system of risks and rewards that encourages GMP to operate as efficiently as possible using sound management practices. The New Plan's Power Supply and Retail Revenue Adjustor would reduce GMP's risk related to decreasing sales. The New Plan's Exogenous Change Adjustor would mitigate GMP's risks related to material unforeseen costs that are beyond GMP's control. The New Plan's Power Supply and Retail Revenue Adjustor and the Earnings Sharing Adjustor would provide incentives for GMP to control its costs and share savings with customers. All of the adjustors, with their dead bands, deductibles, or thresholds, create a system of shared risk between GMP and its customers and encourage efficient management and cost control.

Rate of Return
[30 V.S.A. § 218d(a)(8)]

The New Plan would provide GMP, under sound and economical management, a reasonable opportunity to earn a fair rate of return. The adjustment mechanisms, in particular the Earnings Sharing Adjustor, would provide GMP with clear incentives to operate efficiently and ensure that the Company will not significantly under- or over-earn its approved rate of return.

Reasonable Sharing of Savings with Customers
[30 V.S.A § 218d(b)]

Under the New Plan, ratepayers would share in the savings resulting from the New Plan. The Earnings Sharing Adjustor would share savings between GMP and customers in a fair manner. The other adjustors in the New Plan would true up actual costs and share savings with customers as well.

Rate-regulated Accounting
[30 V.S.A. § 218d(m)]

The New Plan would not have an adverse impact on GMP's eligibility for rate-regulated accounting in accordance with generally accepted accounting standards and reasonably preserves the availability of equity and debt capital resources to the company on favorable terms and conditions.

IV. THE RATE CASE

A. Introduction

The second matter addressed in this Order is GMP's request for a 2.34% increase in base rates effective on bills rendered on or after October 1, 2022. The Commission's obligation under Vermont law is to establish just and reasonable rates necessary for Vermont utilities to provide adequate and efficient service to their customers.[15] Such rates are usually established through a case such as this, where the justness and reasonableness of a utility's rate request are tested by the parties and the Commission through discovery, testimony, and cross-examination. Often the parties' positions will evolve as additional information and new perspectives are introduced in

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[15] 30 V.S.A. §§ 225 and 226.

the proceeding, and the rates that the Commission approves will differ from those initially requested by the utility.

After investigating GMP's initial request and considering the parties' positions and the comments of the public, we conclude that, with revisions to GMP's cost of service, a 2.18% increase will result in just and reasonable rates. Therefore, we approve an increase of 2.18% in GMP's existing rates, to take effect with bills rendered on or after October 1, 2022.

Positions of the Parties

After the conclusion of the evidentiary hearing, GMP and the Department requested that the Commission approve a rate increase that is slightly less than GMP's initial request. The decrease is the result of corrections identified by GMP in response to the Department's discovery, recommendations made by the Department and its outside experts, and the resolution of items discussed during the evidentiary hearing. The specific agreed-upon adjustments to GMP's cost of service are further discussed below.

Findings

Based upon the record in this proceeding, the Commission makes the following findings of fact regarding the rate case.

B. Cost of Service and Rate Base

80. GMP's initial case as filed on January 18, 2022, requested a 2.34% increase in base rates effective on bills rendered on or after October 1, 2022. Ryan & Bingel pf. supp. at 17-18.

81. The cost of service for a utility is the amount needed to provide safe and reliable service to its customers with an opportunity to earn a reasonable return for capital investments. Ryan & Bingel pf. supp. at 7.

82. GMP's filing is based on a 12-month Test Year, which is FY21 (October 1, 2020, through September 30, 2021), an Interim Year of FY22 (October 1, 2021, through September 30, 2022), and the Rate Year of FY23 (October 1, 2022, through September 30, 2023). Ryan & Bingel pf. supp. at 6.

83. The FY23 base rate review will set base rates in the first year of the New Plan. Ryan & Bingel pf. supp. at 5.

84. In developing its cost of service, GMP used forecasts developed by ITRON for load and revenue for the FY23 period, consistent with the approach approved in the 2019 rate case. The forecast methodology for these items was used in the Current Plan and is proposed to be continued in the New Plan. Ryan & Bingel pf. supp. at 6, 13-14; exh. GMP-ER-RB-5.

85. GMP developed the Rate Year cost of service based on actual costs incurred in the Test Year. GMP adjusted Test Year costs based on known and measurable changes so that the net costs reflect, as closely as possible, the projected level of costs that will occur in the Rate Year. Ryan & Bingel pf. supp. at 7-8.

86. More than half of the initial rate change request is driven by power-supply market increases and net-metering costs, plus inflation-tied and market-tied price changes in long-term contracts. Burke pf. supp. at 5-6; Ryan & Bingel pf. supp. at 12.

87. GMP's filing followed traditional ratemaking principles and the methodologies approved in the 2019 rate case, with limited changes. The areas of material difference between this case and the 2019 case include:

a. Rate period – The FY23 Case uses a 12-month rate year, instead of the nine-month rate period that was used in 2019 to move the rate period back onto a fiscal-year cycle and align with the proposed rate periods under the Current Plan. Ryan & Bingel pf. supp. at 9.
b. Operations and Maintenance ("O&M") – In the 2019 case and through the Current Plan, O&M was handled under the Merger Savings Platform established in Docket 7770. With the completion of the Merger Savings Platform specified in the Commission's Order in Docket 7770, O&M costs for the FY23 case were developed using standard ratemaking methods. Depending on the O&M category, expenditures are based either on known and measurable adjustments between the Test Year and Rate Year or on a multi-year average, as most appropriate to accurately reflect expected FY23 costs. Ryan & Bingel pf. supp. at 9.
c. Climate Plan Investments – Consistent with GMP's Climate Plan, approved in Case No. 20-0276-PET, the FY23 cost of service incorporates Climate Plan projects completed and placed in service between April 1, 2021, and September 30, 2021. Consistent with GMP's Broadband Tariff Rider, approved in Case No. 21-0546-PET,

the filing also includes projects implemented under this tariff that were completed by September 30, 2021. Ryan & Bingel pf. supp. at 10.

d. GlobalFoundries – In this case GMP modeled power-supply costs and revenues received from GlobalFoundries U.S. 2 LLC ("GF") consistent with GF's proposal to become its own utility starting in FY23, which is presently before the Commission in Case No. 21-1107-PET and related Case No. 21-1109-PET (together, the "GF Proceedings"). Given the ongoing GF Proceedings, the Commission recently approved an up-to-one-year extension of GF's current term contract through the end of FY23, to provide greater certainty for all GMP customers in the Rate Year in the event GF's request is not approved or not resolved in time to implement before FY23. GMP has modified its proposed New Plan to ensure that power-supply costs and associated revenue from GF, whether under the term contract or through a new power-purchase agreement with transition payments as proposed by GF, will be incorporated into and handled through GMP's existing Power Supply and Retail Revenue Adjustor. This ensures that, regardless of the status of GF's request, the financial outcome for GMP customers would remain essentially the same in the Rate Year. Ryan & Bingel pf. supp. at 10-11.

e. Construction Work in Progress ("CWIP") – In the 2019 filing, CWIP rate base was calculated based on a test period CWIP. CWIP rate base included only capital projects that were not accruing allowance for funds used during construction and were expected to be completed and added to rate base before the end of the rate period.[16] In the 2023 filing, CWIP rate base is calculated similarly except that it includes projects that are expected to be completed during the rate year. Ryan & Bingel pf. supp. at 11, 36.

f. Information Technology ("IT") Capital Investments – GMP has proposed a new rate treatment for a portion of IT capital investments. The new rate treatment would allow an overall IT budget for anticipated spending needs, including identified projects and

[16] The accounting term of art generally used to describe projects that are completed and added to rate base is "closed to plant in service." CWIP projects that are expected to close to plant in service during the rate year may be included in rate base.

> the IT blanket, up to a historical baseline. This request is driven by the accelerated planning cycle for IT projects, which requires a shorter project planning process to account for technological and security developments occurring within the planning horizon and happening at a rapid pace. Ryan & Bingel pf. supp. at 11.

88. Following a detailed review of all documents, testimonies, and schedules in GMP's rate filing and regarding the New Plan, and multiple rounds of formal and informal discovery, GMP and the Department both support an adjusted rate increase for FY23 of 2.18%, or $14.223 million. This takes into account changes to the cost of service proposed in this proceeding, including GMP's overall capital investments, cost of capital, and power-supply costs in FY23. Exh. GMP-Redirect-4 (revised Exh. GMP-ER-RB-8); tr. 6/23/22 at 179 (Hunt).

C. <u>Capital Projects</u>

89. GMP's FY23 cost of service includes $131 million in capital investments. Burke pf. supp. at 12, 15.

90. These investments would occur across six functional areas, including Generation, Transmission and Distribution ("T&D"), Facilities, Fleet, Information Technology, and New Initiatives. Burke pf. supp. at 12.

91. Consistent with Exhibit 2 to the Memorandum of Understanding ("MOU") between GMP and the Department in Case No. 17-3112-INV, GMP developed capital folders for each budgeted project. This MOU established the documentation necessary to meet the known-and-measurable requirements for capital projects in a traditional cost-of-service rate case. Burke pf. supp. at 18.

92. GMP made its capital folders available to the Department for review, and the Department's consultants reviewed each capital project, including the financial analysis and other documentation on each project. Kevin Mara, Department ("Mara") pf. at 4; tr. 6/23/22 at 187 (Mara).

93. The only projects for which capital folders have not yet been prepared is a subset of anticipated Information Technology spending in FY23. For this subset of spending, GMP requested approval based on historical five-year IT spending. This approach allows for flexible spending because the landscape for IT and cybersecurity is rapidly evolving and the planning

timeline for these projects is shorter than traditional utility capital investments. Dincecco pf. at 11-16.

94. Based on this review, the Department's consultants provided several recommendations related to the evaluation of certain types of T&D projects, as well as a recommendation to disallow a capital project to install flashboards at the Gage hydroelectric facility. Mara pf. at 5-12.

95. GMP provided analysis that showed how it evaluates T&D projects to determine appropriate pole strength, whether to underground a line, and whether to upgrade single-phase lines to multi-phase. Burke reb. pf. at 3–7.

96. The Department and GMP agreed that the capital project at Gage hydro, which GMP proposed to address worker safety, should proceed and that they will work together to monitor ongoing costs at the facility. GMP agreed to add the topic of the Gage hydroelectric facility to the quarterly operational planning meetings between GMP and the Department, and GMP will continue to report on costs associated with the Gage project as part of that process. 6/23/22 Tr. at 126-27 (Castonguay); 6/23/22 Tr. at 182-183 (Mara).

97. The Department and GMP have resolved the Department's recommendations and agreed that GMP's proposed capital investments in FY23 are appropriate. 6/23/22 Tr. at 182-183 (Mara) and 179 (Hunt).

D. <u>Capital Structure and Return on Equity</u>

98. GMP and the Department agree to an annualized return on equity of 8.57% for FY23. Julie Lieberman, GMP ("Lieberman") pf. reb. at 1.

99. A reasonable return on equity in this case would be in the range of 8.36% to 9.01%. GMP's proposed capital structure of roughly 50/50 debt/equity ratio is acceptable. Zhen Zhu, Department ("Zhu") pf. at 5-7.

100. The 8.57% return on equity for FY23 agreed to by GMP and the Department falls within the range of reasonable returns on equity. Zhu pf. at 5.

101. GMP and the Department agree that GMP's weighted average cost of long-term debt is 4.52% and short-term debt carries a cost of 0.85%. The weighted average cost of debt of 4.02% is reasonable. Zhu pf. at 5.

Discussion

There are three essential steps in setting the weighted-average cost of capital in a utility rate case. First, we determine an appropriate capital structure. Second, we determine the cost of each capital component – debt and equity. Third, we determine the cost of each component according to its proportion of the total capital structure. The sum of these weighted capital components is the weighted-average cost of capital.

The Department and GMP witnesses agree on the appropriate capital structure for this rate filing. We also agree and find that GMP's final proposed debt-to-equity ratio of 50% is appropriate and approve this capital structure.

With respect to the cost of both short-term and long-term debt, witnesses from both parties have testified that the rates proposed in GMP's cost of service are both reasonable and appropriate.

With respect to the rate of return on equity, it is well established that "[n]either the law nor regulatory precepts prescribe a specific methodology for setting the appropriate return on equity."[17] The Commission therefore has substantial discretion in determining an appropriate rate level.[18] The Commission has repeatedly emphasized that the critical element is the "reasonableness of the result" and not the methodology employed to reach it.[19] The basic standard for an appropriate rate of ROE is as follows:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.[20]

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[17] *In re Green Mountain Power Corporation*, Case No. 7175, Final Order at 7 (Dec. 22, 2006).

[18] *Investigation into Green Mountain Power Corporation's Tariff Filing*, Case No. 8190, Final Order at 21-22 (Aug. 8, 2014)
25, 2014).

[19] *Id.; FPC v. Hope Natural Case Co.*, 320 U.S. 591, 602 (1944).

[20] *Bluefield Water Works & Improvement Co. v. Public Serv. Comm'n*, 262 U.S. 679, 692-93 (1923).

These principles have been incorporated into Vermont statute and have been endorsed repeatedly by the Vermont Supreme Court.[21]

GMP proposes to maintain the previously approved ROE of 8.57%, even though GMP contends that significant economic changes may otherwise require a higher figure.[22] GMP's witness, Ms. Lieberman, provided analysis supporting a return on equity in the range of 10.25–10.76%, with an equity ratio of 50% in the rate period.[23]

The Department agrees with GMP's proposal of a ROE of 8.57%.[24]

GMP and the Department provided testimony regarding a specific recommended rate of return in this proceeding. Although the range and reasons for the appropriate ROE provided by the parties' experts differ, both parties agree that an annualized ROE of 8.57% is appropriate for GMP in the 2023 rate year and recommend that it be adopted by the Commission. Given these facts, our substantial discretion in setting ROE rates, and the testimony submitted by parties on this issue, we find that an annualized ROE rate of 8.57% for FY23 is reasonable and should be adopted.

E. <u>Other Item: Tier III Regulatory Asset</u>

102. The Renewable Energy Standard ("RES") went into effect in 2017. This is the first traditional rate proceeding to occur since GMP developed a Tier III bank and is the first in which GMP has included Tier III regulatory assets in its filing. Maria Fischer, GMP ("Fischer") pf. reb. at 2-3.

103. GMP's FY23 cost of service includes a new regulatory asset related to GMP's compliance costs for its obligations under Tier III of the RES. Ryan & Bingel pf. reb. at 7-8; Fischer pf. reb. 2-10.

104. The future Tier III annual regulatory requirement is set by statute and increases annually. GMP asserts that its balance sheet approach allows it to help customers reduce fossil-fuel usage in a cost-effective manner as opportunities arise, without slowing down the efforts to meet Vermont's climate goals. GMP maintains that this approach also allows the banking of

[21] *Investigation into Green Mountain Power Corporation's Tariff Filing*, Case No. 8190, Final Order at 21 (Aug. 25, 2014).

[22] GMP Proposed Findings of Fact at 33.

[23] Lieberman pf. at 5; 67.

[24] Zhu pf. at 6.

Tier III credits at a cost well below the alternative compliance payment that would otherwise be required if GMP could not obtain adequate credits in any given future year, which benefits all customers. Ryan & Bingel pf. reb. at 7-8.

105. The proposed accounting methodology for the Tier III regulatory asset is consistent with other similar items in GMP's cost of service. Tier III costs will be initially recorded to the balance sheet and then recognized as an expense in the year in which the costs are used to meet GMP's annual Tier III obligation. Ryan & Bingel pf. reb. at 7.

106. The Tier III regulatory asset balance should reflect the most recent calendar year-end balance. This balance should be updated annually as part of the annual base rate filing. Hunt pf. sur. at 8-9.

107. The regulatory accounting approach will include a simple true-up of the 13-month average balance after the fiscal year is over. Tr. 6/23/22 at 62-64 (Ryan and Bingel) & 175-176 (Hunt).

108. GMP's general ledger balance of $10,241,289 as of December 31, 2021, will be used as the starting FY23 Tier III regulatory asset balance, subject to the proposed true-up. Tr. 6/23/22 at 63-64 (Ryan and Bingel) & 175-176 (Hunt).

109. At the end of FY23 and each subsequent year end during the New Plan, GMP proposes to calculate the difference between the Tier III return collected through base rates and the amount that would have been collected if the actual fiscal year Tier III 13-month regulatory asset were reflected in base rates. GMP would include this information in its annual Earnings Sharing Mechanism filing and would propose as needed any collection from or return to customers in a future base rate filing. Tr. 6/23/22 at 63-64, 84 (Ryan & Bingel).

<u>Discussion</u>

GMP maintains that its proposed Tier III regulatory asset and associated ratemaking approach is appropriate because it ensures that rates reflect the actual costs incurred by GMP to meet its statutory Tier III obligation, while providing the company with flexibility to satisfy the obligation in a proactive manner while managing and smoothing year-to-year costs. GMP contends that meeting its Tier III obligations requires customers to make choices to reduce fossil fuel use or switch to an alternative fuel source, and that the pace of these customer choices creates uncertainty and risk regarding the company's ability to meet its requirements through programs, rather than through the alternative compliance payment or Tier II credits. GMP argues that its proposal also enables it to secure and bank lower-cost credits during periods of high customer interest and thereby mitigate the potential for higher future compliance costs when economic conditions or customer interests change.

We conclude that creation of the regulatory asset is appropriate. GMP's RES Tier III obligations will increase each year, and GMP's ability to meet its Tier III obligations through energy transformation projects relies, to a certain extent, on its customers' willingness to participate. As such, it is reasonable for GMP to create and maintain a bank of Tier III credits to provide a degree of flexibility in meeting its statutory obligations. In the context of the agreement among the parties in this case on this topic, we also conclude it is reasonable for the Tier III regulatory asset to earn a return at GMP's weighted average cost of capital, similar to other fuel inventory and prepayment items that are initially recorded to the balance sheet and then recognized as an expense in the year they are used.

In Case No. 19-3272-PET, the Commission approved a proposal made by Vermont Gas Systems, Inc. ("VGS") to create a regulatory asset to finance its energy efficiency programs. VGS would use its capital to fund efficiency investments, which would be amortized over 15 years and recovered through the energy efficiency charge ("EEC"). The regulatory asset approved in that case reflects the difference between the amount spent on VGS's efficiency programs and the amount collected through the EEC. The balance carried for the regulatory asset earns VGS's weighted average cost of capital, with a 100-basis-point reduction for the return-on-equity component. This reduction reflects the relatively lower risk of the efficiency investment to VGS's capital providers compared to other types of utility investments.

Although GMP's Tier III regulatory asset is not identical to the VGS efficiency program regulatory asset approved in Case No. 19-3272-PET, both have core structural and financial principles in common.[25] In addition, both were developed in response to statutory obligations and in service of State energy and climate goals. Given these similarities, it may be appropriate in the future to examine whether GMP's Tier III regulatory asset also has a relatively lower risk

[25] Department Brief at 18.

to GMP's capital providers than other types of utility investments, and whether a commensurate reduction in the return-on-equity component of the investment is appropriate.

According to GMP, the current balance of approximately $10.2 million represents approximately 1.5 years of anticipated Tier III obligations. In the context of the specific circumstances of this case where the parties agree on the balance, we conclude that the amount is reasonable. As GMP and its regulators gain additional experience with the Tier III regulatory asset, it may be appropriate to consider whether a Tier III bank of this relative magnitude reasonably balances the flexibility that GMP seeks to fulfill its RES Tier III obligations with its overall obligation to provide service at least cost.

V. CONCLUSION

For the reasons set forth above, the Commission approves the new Multi-Year Regulation Plan for GMP, beginning on October 1, 2022, and lasting for a period of four years. The Commission further approves a 2.18% increase in GMP's base rates, effective for service rendered on or after October 1, 2022.

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Utility Commission ("Commission") of the State of Vermont that:

1. Green Mountain Power Corporation ("GMP") may implement an increase in current rates of 2.18% for service rendered on or after October 1, 2022.

2. GMP's successor revised Multi-Year Regulation Plan ("MYRP") as filed as Exhibit GMP-Redirect-3 meets the criteria of 30 V.S.A. § 218d and is in the public good. The MYRP is approved to take effect on October 1, 2022.

3. Within 14 days of the issuance of this Order, GMP shall file in the compliance section of Case No. 21-3707-PET a clean copy of the final MYRP that includes all of the attachments referenced in the MYRP.

4. GMP shall file the FY –2023-2026 Annual Plan Evaluation and Performance Metrics reports in the compliance section of Case No. 21-3707-PET.

5. Within 10 days of the issuance of this Order, GMP shall file tariffs consistent with this Order in the compliance section of Case No. 22-0175-TF.

6. GMP shall file the Annual Base Rate filings; the quarterly FY –2023-2026 Power Supply and Retail Revenue and Major Storm Adjustors; the FY –2023-2026 Annual Exogenous Non-Storm Change Adjustors.

7. If there is no adjustment to rates needed because of the Annual Earnings Sharing Mechanism, GMP shall file the Annual Earning Sharing Mechanism report in the compliance section of Case No. 21-3707-PET. If an adjustment to rates is required, GMP shall file the Annual Earnings Sharing Mechanism Adjustor as a report in the compliance section of Case No. 21-3707-PET and as a new tariff case in ePUC.

8. GMP shall continue to consult with the Department regarding the treatment of costs of multi-year fixed-price Operations and Maintenance contracts under the MYRP. GMP shall report on this topic and propose an appropriate solution as to the treatment of fixed-price multi-year O&M contracts in rates in its FY24 Annual Base Rate filing.

Dated at Montpelier, Vermont, this 31st day of August, 2022.

Anthony Z. Roisman	)	PUBLIC UTILITY
Margaret Cheney	)	COMMISSION
J. Riley Allen	)	OF VERMONT

OFFICE OF THE CLERK

Filed: August 31, 2022

Attest: Holly R Anderson

Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

VII. Appendix: Procedural History

The Commission first approved GMP's current regulation plan in 2018 in Case No. 18-1633-PET, which expires on September 30, 2022, or upon the implementation of a successor regulation plan, whichever occurs first.

On September 1, 2021, GMP filed its Petition in Case No. 21-3707-PET with the Commission requesting approval of a Multi-Year Regulation Plan pursuant to 30 V.S.A. §§ 209, 218, and 218d.

On September 9, 2021, the Department of Public Service ("the Department") filed a Notice of Appearance.

On September 15, 2021, the Commission issued a memorandum regarding the potential participation of Commissioner Riley Allen and Hearing Officer Joan White.

On September 16, 2021, GMP filed a proposed schedule for the proceeding, which was adopted by the Commission by procedural order dated October 22, 2021.

On September 20, 2021, GMP filed its final approved on-bill customer notice language.

On September 28, 2021, the Commission issued a Notice of Scheduling Conference, which was held on October 4, 2021.

On October 7, 2021, the Commission issued a Notice of Public Hearing, which was held on October 18, 2021.

On October 27, 2021, the Commission issued a Prehearing Workshop Notice and a request for information in preparation for the workshop.

On November 4, 2021, the Commission held a workshop.

On November 19, 2021, GMP filed responses to the Commission's information requests during the workshop.

On January 7, 2022, the Department filed direct prefiled testimony.

On January 18, 2022, GMP filed a petition with supporting testimony and exhibits in Case No. 22-0175-TF for a 2.34% increase in base rates effective on bills rendered on or after October 1, 2022. GMP's testimony and exhibits included initial forecasts for all years of the New Plan, and GMP filed this material concurrently as supplemental direct testimony in the MYRP proceeding. Consistent with the Commission's previous order in Case No. 21-3707-PET, review of GMP's FY23 Rate Case and its MYRP proceeding were consolidated for scheduling purposes, and subsequent filings were filed jointly in both proceedings.

On January 28, 2022, GMP filed a motion to amend the schedule for the joint proceedings.

On February 2, 2022, the Department responded in support of this amended schedule.

On February 7, 2022, the Department served its first round of discovery on GMP.

On February 11, 2022, the Department recommended that the Commission investigate GMP's rate request.

On February 17, 2022, the Commission issued a notice of a public hearing.

On February 28, 2022, the Commission ordered an investigation into GMP's rate request, and issued a Notice of Scheduling Conference to be held on March 3, 2022.

Also on February 28, 2022, GMP responded to the Department's first round of discovery requests.

On March 3, 2022, the Commission held a scheduling conference.

On March 10, 2022, the Commission held a public hearing and issued an amended scheduling order that same day adopting the parties' proposed revisions to the schedule.

On March 18, 2022, the Department served its second set of discovery requests on GMP.

On April 4, 2022, the Department moved to modify the joint schedule, which GMP supported and which was approved by the Commission on April 11, 2022.

On April 6, 2022, GMP responded to the Department's second round of discovery requests.

On April 20, 2022, the Department filed direct prefiled testimony and exhibits.

On April 29, 2022, GMP served its first round of discovery requests on the Department.

On May 13, 2022, the Department responded to GMP's first round of discovery requests.

On May 27, 2022, GMP filed rebuttal testimony and exhibits.

On June 3, 2022, the Department served its third set of discovery requests on GMP.

On June 10, 2022, GMP responded to the Department's third set of discovery requests.

Also on June 10, 2022, the Commission issued a notice of a joint evidentiary hearing to be held June 23 and June 24, 2022.

On June 17, 2022, the Department filed surrebuttal testimony and exhibits.

On June 20, 2022, GMP filed its second set of discovery requests on the Department.

On June 21, 2022, the parties filed a joint proposed witness schedule and cross-examination estimates.

On June 22, 2022, the Department responded to GMP's second set of discovery requests.

On June 22, 2022, the Commission issued a memorandum regarding the witness schedule for evidentiary hearings.

On June 23, 2022, GMP filed a revised stipulated joint list of testimony and exhibits.

Also on June 23, 2022, the Commission held a joint evidentiary hearing via videoconference.

On July 1, 2022, GMP filed a motion to modify the briefing schedule, and the Department filed comments supporting the modification on July 5, 2022.

On July 7, 2022, the Commission issued an order adopting the revised briefing schedule and issued a Request for Information related to the FY23 Rate Filing for the parties to address in briefing.

On July 19, 2022, the Department filed a post-hearing brief.

On July 22, 2022, GMP filed a post-hearing brief and proposed findings of fact.

PUC Case No. 22-0175-TF & 21-3707-PET- JOINT SERVICE LIST

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