STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 09-009

UNITIL ENERGY SYSTEMS, INC.

Petition for Approval of Default Service Solicitation
And Proposed Default Service Tariffs For Large Commercial and Industrial Customers

Order Approving Petition

O R D E R N O. 24,980

June 19, 2009

Appearances: Gary M. Epler, Esq. on behalf of Unitil Energy Systems, Inc.; and Suzanne G. Amidon, Esq. on behalf of the Staff of the Public Utilities Commission.

I. BACKGROUND

On June 11, 2009, Unitil Energy Systems, Inc. (UES or Company) filed a petition requesting approval of its solicitation and procurement of default service for its large commercial and industrial (G1) customers for the three-month period August 1, 2009 through October 31, 2009, and of the resulting default service rates. In support of its petition, UES filed the testimony of Robert S. Furino and Linda S. McNamara, a redacted bid evaluation report (Schedule RSF-1), a copy of the request for proposals (RFP) for default service (Schedule RSF-2) and proposed tariffs. With its petition, UES also included its quarterly customer migration report and a motion for confidential treatment of certain information in the filing.

UES filed the petition pursuant to the terms of the settlement agreement approved by the Commission in *Unitil Energy Systems, Inc.,* Order No. 24,511, 90 NH PUC 378 (2005). Pursuant to the terms of that agreement, UES solicits default service supply for its G1 customers on a quarterly basis in three-month blocks, and establishes fixed monthly prices that vary from month to month.

UES issued the RFP on May 6, 2009. A red-lined version of the RFP and the proposed power supply agreement (PSA) were filed with the Commission on May 7, 2009. Suppliers submitted indicative bids to UES on June 2, 2009. On June 9, 2009, UES selected Dominion Energy Marketing, Inc. (DEMI) as supplier for G1 default service power supply for the three-month period from August 1 through October 31, 2009. UES states that it followed the solicitation and bid evaluation process set forth in the settlement agreement and that its analysis of the bids and choice of suppliers is reasonable.

On June 15, 2009, the Commission issued a secretarial letter scheduling a hearing for June 17, 2009, which was held as scheduled. At hearing, the Company agreed to file a revised calculation of the unbundled power supply and RPS charges for G1 customers. That filing was received June 18, 2009 together with revised power supply and RPS charges.

II. POSITIONS OF THE PARTIES

A. Unitil Energy Systems, Inc.

UES stated that, consistent with the 2005 settlement agreement, it conducted an open solicitation process, actively sought interest among potential suppliers and provided access to sufficient information to enable them to assess the risks and obligations associated with providing the services sought. UES reported that it achieved market notification of the RFP by electronically announcing its availability to all participants in the New England Power Pool (NEPOOL) and to the members of the NEPOOL Markets Committee. UES affirmed that it also announced the issuance of the RFP to a list of contacts from energy companies that had previously expressed interest in receiving notices of solicitations. In addition, UES issued a media advisory to the power markets trade press announcing the RFP.

UES stated that it provided potential bidders with appropriate and accessible information in order to gain the greatest level of market interest. According to its filing, UES provided bidders with historic hourly load, historic monthly retail sales and customer counts, large customer concentration data and the evaluation loads, which are the estimated monthly volumes that UES would use to weight bids in terms of price. UES testified that it used its web site to make this information available to potential suppliers.

According to UES, it did not discriminate in favor of or against any individual potential supplier that expressed interest in the solicitation. UES said that it negotiated with all potential suppliers that submitted proposals in order to obtain the most favorable terms each potential supplier was willing to offer.

UES affirmed that it evaluated the indicative bids using both quantitative and qualitative criteria, including price, creditworthiness, willingness to extend adequate credit to UES, ability to meet the terms of the RFP in a reliable manner, and willingness to enter into contractual terms acceptable to UES. To evaluate the costs in the bids, UES said it compared the pricing strips proposed by each of the bidders by calculating weighted average prices for each supply requirement using evaluation loads that were issued along with the RFP.

Consistent with Order No. 24,921 (December 12, 2008) in Docket No. DE 08-015, UES' 2008 Default Service Procurement docket, UES solicited only all-inclusive energy and capacity bids. Consequently, the winning bid includes both energy and capacity supply costs.

The Company testified that it believes DEMI offers the best overall value in terms of both price and non-price considerations for the supply requirement. Once DEMI was chosen, it was promptly notified and all other bidders were notified that they were not selected. The final

PSA, which had been negotiated prior to the final bidding, was verified and signed shortly thereafter.

UES testified that the Company plans to comply with the electric Renewable Portfolio Standard (RPS) requirements of RSA 362-F outside the default service procurement process by separately purchasing qualifying renewable energy certificates (RECs) as available or by making alternative compliance payments as required. UES stated that it expects to comply with its 2008 RPS requirements based on the RECs it has purchased during the past year. Beginning with compliance for 2009, UES said it expects to procure the bulk of its REC requirements by means of two RFPs which will be conducted separately from its procurement of default service supply. According to UES, the Company is working with Staff and anticipates input from the OCA to establish a settlement agreement for the REC procurement process. For purposes of this filing, UES calculated a uniform RPS charge of $0.00198 per kilowatt hour (kWh) for recovering its RPS compliance costs; the Company revised this charge to $0.00193 per kWh on June 18, 2009.

UES testified that the revised G1 retail rates, adjusted for reconciliation, working capital requirements, provision for uncollected accounts and internal company administrative costs, and the RPS adder, for each month in the period will be as follows:

Month	August 2009	September 2009	October 2009
$ per kWh	$0.06987	$0.06821	$0.07227
RPS adder $ per kWh	$0.00193	$0.00193	$0.00193
Total default service $ per kWh	$0.07180	$0.07014	$0.07420

The proposed rates produce a simple three-month average rate of $0.07205 per kWh. The

proposed rates represent a decrease of $0.00189 per kWh from the current average rate of $0.07394 per kWh for the G1 customers that remain on default service. The Company said that, on an overall bill basis, a typical G1 customer who does not choose a competitive supplier will experience a rate decrease of approximately 1.6 percent.

In order to separately track RPS costs and revenues, as required by Order No. 24,949 (March 20, 2009), UES proposed to unbundle the G1 default service charges into separate power supply and RPS charges. In addition, in order to begin the RPS charge reconciliation at the same time for both the G1 and Non-G1 classes, UES proposed to unbundle the currently approved Non-G1 default service charge into separate power supply and RPS charges. UES proposed to begin separately tracking the unbundled rate components of default service on August 1, the date the unbundled charges become effective.

In its petition, UES stated that it received Staff's testimony on June 3, 2009 that addressed the Company's previously filed 2008 lead/lag study. UES requested that the Commission postpone its review of that testimony and the associated lead/lag study to allow UES, Staff and the OCA an opportunity to attempt to resolve through settlement any differences on this issue. Accordingly, UES requested approval of the proposed tariffs as filed, subject to further investigation and review of the lead/lag study and subject to reconciliation, if necessary.

In summary, UES requested the Commission to find that the utility: (1) has followed the solicitation process approved in Order No. 24,511, (2) conducted a reasonable analysis of the bids submitted, and (3) supplied a reasonable rationale for its choice of supplier. UES also asked the Commission to determine that, based on these findings, the power supply costs resulting from the solicitation are reasonable, subject to the ongoing obligation of UES to act prudently,

according to law and in conformity with Commission orders. Finally, UES requested the Commission grant its motion for confidential treatment.

B. Commission Staff

Staff filed testimony on the results of its investigation of the 2008 lead/lag study filed by UES in Docket DE 09-009. That study, which was based on 2008 default service costs and revenues, was included in the Company's March 2009 default service filing and served to provide support for the proposed supply-related cash working capital allowance. In Order No. 24,949, the Commission approved the allowance on an interim basis pending the outcome of Staff's investigation.

As a result of its investigation, Staff recommended four changes that would affect future lead/lag studies. The first relates to the inclusion in UES' billing lag of the time to print and mail bills. Since this time is already captured in the Company's collections lag, Staff contended that this practice results in overstating the revenue lag. Staff recommended that UES remove printing and mailing from its billing lag calculation in future lead/lag studies.

The second change relates to the exclusion of the payment due date in UES' calculation of expense leads for default service and RECs. Staff asserted that UES incorrectly assumed that REC payments associated with its 2008 RPS obligations are due June 30, 2009 instead of July 1, 2009.

The third change relates to UES' use of bi-monthly billing arrangements with some of its default service suppliers. Because such provisions increase costs to customers, Staff recommended that UES offer only monthly billing to future default service suppliers.

The fourth change relates to the terms in the power supply agreement between the Company and the default service supplier that control when power supply bills are paid. Beginning with the next default service RFP, Staff recommended that the payment terms be standardized based on the following language[1]:

> The buyer shall pay seller the amount of the invoice, less any amounts in dispute, on or before the later of the last business day of each month, or the tenth day after receipt of the invoice, or, if such day is not a business day, then on the next following business day.

During the hearing, Staff questioned the Company's calculation of unbundled RPS costs for both G1 and Non-G1 customers. Specifically, Staff stated that the working capital component of the RPS charge should be calculated using a net lag that relates to RPS costs only rather than a net lag that relates to both power supply and RPS costs. Following discussions among the parties, the Company agreed to file a revised calculation of the unbundled power supply and RPS charges for G1 customers. The parties also agreed that the calculation of the Non-G1 RPS charge would be similarly revised in UES' next default service filing.

Apart from the issues related to the 2008 lead/lag study, Staff stated that, based on its review of the petition, the Company had complied with the terms of the 2005 settlement agreement in its solicitation and bid evaluation process and Staff recommended that the Commission approve the petition subject to the above described revisions to the unbundled G1 power supply and RPS charges.

III. COMMISSION ANALYSIS

A. Confidentiality

First, we address UES' motion for confidential treatment. UES requests confidential

[1] Staff made a similar recommendation with respect to Granite State Electric Company d/b/a National Grid in Docket No. DE 09-010.

treatment of most of the information contained in Tab A to Schedule RSF-1, attached to Exhibit RSF-1 of the petition. Included in Tab A is a brief narrative discussion of the bids received; a list of the suppliers who responded to the RFP; a pricing summary consisting of a comparison of all price bids, which is followed by each bidder's final pricing; a summary of each bidder's financial security requirements of UES; a description of the financial security offered by each bidder; UES' ranking of each bidder's financial security; the contact list used by UES during the RFP process; and the final PSA with DEMI redlined for purposes of comparison to the original PSA as issued. UES states that the bidders provided information to UES with the express understanding that the information would be maintained as confidential. In addition to requesting confidential treatment for the material contained in Tab A, UES also requests confidential treatment of the "Total G1 Class DS Supplier Charges," "Working Capital Requirements," "Supply Related Working Capital" and "Provision for Uncollected Accounts" found in columns (a), (d), (f) and (g) of Page 2 of Schedule LSM-2.

UES proposes to redact this information from the publicly available material for a limited period because revealing it would allow a person to compute information – the wholesale rate – which is properly treated as confidential. UES asserts that the information for which it seeks protective treatment is "confidential, commercial, or financial information" which is exempt from public disclosure under the Right-to-Know Law, RSA 91-A:5, IV, and that disclosure of this information would impair the bargaining positions of both UES and the responding bidders with respect to future participation in the energy market.

We note that UES has filed similar motions with its default service filings in the past and that we have granted motions for confidential treatment in such cases. *See e.g.*, Order No.

24,716, 91 NH PUC 617 (December 15, 2006), and Order No. 24,766, 92 NH PUC 227 (June 22, 2007). We have conducted an *in camera* review of Tab A and the other materials for which UES seeks confidential treatment. We agree that the information concerning the "Total G1 Class DS Supplier Charges," "Working Capital Requirements," "Supply Related Working Capital" and "Provision for Uncollected Accounts" found in columns (a), (d), (f) and (g) of Page 2 of Schedule LSM-2, taken in combination, would reveal the wholesale cost of power from the winning bidders and, therefore, constitute confidential, commercial, or financial information contemplated by RSA 91-A:5, IV.

We find that the interest in public disclosure of such financial, commercially sensitive information is outweighed by the benefit derived from maintaining the confidentiality of such information, given that confidentiality helps produce lower rates. *See Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540 (1997) (requiring application of balancing test to RSA 91-A:5, IV determinations, weighing the public interest in disclosure against privacy interest). We therefore grant the motion for confidential treatment.

Pursuant to requirements of the Federal Energy Regulatory Commission (FERC), each wholesale supplier is obligated to report to FERC the price and volume of its wholesale contractual sales during each quarter and to identify the party to whom the sale has been made, within 30 days of the end of that quarter. *See Revised Public Utility Filing Requirements*, 99 FERC ¶ 61,107 (April 25, 2002) and 18 CFR Parts 2, 35. FERC makes this information available to the public through electronic quarterly reports. Therefore, insofar as protection is requested for wholesale contractual sales, we grant such information protective treatment until such time as the information is published by the FERC.

Consistent with N.H. Code Admin. Rules Puc 203.08(k), the confidential treatment provisions of this Order are subject to the on-going authority of the Commission, on its own motion or on the motion of Staff, any party or other member of the public, to reconsider this protective order.

B. Default Service

Regarding UES' analysis of the bids and its selection of the winning bidder, we find that UES substantially complied with the procedures approved in Order No. 24,511 for the G1 default service solicitation. We are satisfied that UES met the procedural requirements set forth in prior orders and the result of the bidding process is consistent with the requirement of RSA 374-F:3, V(c) that default service "be procured through the competitive market." We also find that UES' evaluation of the bids and selection of DEMI were reasonable. The testimony of UES, together with its bid evaluation report, indicates that the bid prices reflect current market conditions driven primarily by natural gas prices.

Because UES has unbundled the G1default service charges into separate power supply costs and RPS costs, we approve the revisions to the filing where the working capital component of the RPS charge was calculated using the net lag that relates to RPS costs only, rather than a net lag that relates to both power supply and RPS costs.

Finally, we will grant UES' request to defer consideration of Staff's testimony regarding the 2008 lead/lag study until UES has had an opportunity to discuss settlement with Staff and the OCA. We will expect UES to report a resolution of this issue by July 17, 2009.

Based upon the foregoing, it is hereby

ORDERED, that the power supply agreement entered into by Unitil Energy Systems,

Inc. with Dominion Energy Marketing, Inc., and the resulting proposed rates, are APPROVED; and it is

FURTHER ORDERED, that the power supply costs resulting from the solicitation are reasonable and, subject to the ongoing obligation of UES to act prudently, according to law and in conformity with Commission orders, the amounts payable to the sellers for power supply costs under the three-month purchase and sale agreement referenced herein for inclusion in retail rates beginning August 1, 2009 are APPROVED; and it is

FURTHER ORDERED, that the pending motion for confidential treatment of documents is GRANTED; and it is

FURTHER ORDERED, that the petitioner shall file conforming tariffs within 30 days of the date of this Order, consistent with N.H. Admin. Rule Puc 1603.02.

By order of the Public Utilities Commission of New Hampshire this nineteenth day of June, 2009.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
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Attested by:

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