

From: Pak, Jinjue [<mailto:Jinjue.Pak@MCLANE.com>]
Sent: Monday, October 03, 2011 2:16 PM
To: Howland, Debra; Executive Director,
Cc: Speidel, Alexander; 'OBrien, Celia'; Camerino, Steven; Amidon, Suzanne
Subject: DRM 11-023: Rulemaking - National Grid Comments to Puc 201.06

Dear Ms. Howland:

On behalf of Granite State Electric Company d/b/a National Grid, please find included in this e-mail the Company's comments and proposed changes to Puc 201.06(a)(29).

Puc 201.06(a)(29) provides that "Default service solicitations; bidder information, bid evaluations, and purchase power supply agreement materials" are routine filings to which the procedure established by Puc 201.06 and Puc 201.07 applies -- namely, that such routine filings will be treated confidentially by the Commission until a request for release of those documents to the public is made and a Commission determination rendered.

Puc 201.06(a)(29) lists specific categories of materials that are afforded confidential treatment. It is not clear, however, whether Puc 201.06(a)(29) covers other confidential materials that the Company routinely submits with its default service filings that are not specifically identified in the rule but that have in the past routinely been granted confidential treatment by the Commission (upon the Company filing a motion for protective order). In particular, it appears that Puc 201.06(a)(29) may not cover renewable energy certificate solicitations, renewable portfolio standard compliance adder information, and commodity cost/default service rate calculations, all of which are confidential materials that are routinely submitted with the Company's default service filings and granted confidential treatment by the Commission upon request. For your reference, attached is the most recent Commission order issued regarding National Grid's default service filing, granting its request for confidential treatment on all of its confidential materials. To cover these types of and other routine confidential materials and to clarify that such materials fall under Puc 201.06 (and Puc 201.07), the Company proposes that Puc 201.06(a)(29) be structured so that it is consistent with Puc 201.06(a)(25) (governing cost of gas filings) and be amended to read as follows (changes noted in bold):

Default service solicitations, bidder information, bid evaluations, purchase power supply agreement materials, **and other non-public financial or confidential information and statements submitted in connection with Default Service proceedings.**

If you have any questions, please do not hesitate to contact me.

Thank you,

Jinjue Pak



900 Elm Street
P.O. Box 326
Manchester, NH 03105-0326
(603) 628-1250 Direct Dial
(603) 625-5650 Fax

jinjue.pak@mclane.com

www.mclane.com

With offices in Concord, Manchester and Portsmouth, New Hampshire and Woburn, Massachusetts

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 11-016

GRANITE STATE ELECTRIC COMPANY d/b/a NATIONAL GRID

**Petition for Approval of Proposed Default Service Rates for the Large and Small Customer
Groups for the Period Beginning November 1, 2011**

Order Approving Petition

ORDER NO. 25,270

September 23, 2011

APPEARANCES: McLane, Graf, Raulerson and Middleton, P.A. by Jinjue Pak, Esq., on behalf of Granite State Electric Company d/b/a National Grid; the Office of Consumer Advocate by Meredith A. Hatfield, Esq., on behalf of residential ratepayers; and Suzanne G. Amidon, Esq., on behalf of Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

On September 19, 2011, Granite State Electric Company d/b/a National Grid (National Grid or Company) filed a petition requesting approval of its solicitation and procurement of default service for 100% of its supply requirements for its medium and large commercial and industrial customers (Large Customer Group) for the period November 1, 2011 through January 31, 2012, and for 100% of its supply requirements for its residential and small commercial customers (Small Customer Group) for the period November 1, 2011 through April 30, 2012.

The filing was made pursuant to a Settlement Agreement approved by the Commission in Docket No. DE 05-126, *Granite State Electric Company, Petition for Approval of Post-Transition Default Service Proposal*, Order No. 24,577 (January 13, 2006) 91 NH PUC 6, as modified by Order No. 24,922 (December 19, 2008) 93 NH PUC 600.

In support of its petition, National Grid filed the testimony and related schedules of Margaret M. Janzen, Director of Wholesale Electric Supply for National Grid USA Service

Company (National Grid USA), with related exhibits and schedules. National Grid USA is the National Grid affiliate with responsibility for procurement of default service power for National Grid. National Grid also filed its quarterly customer migration report with its petition.

The Company selected Hess Corporation (Hess) to provide default service for the Large Customer Group for the period November 1, 2011 through January 31, 2012 and Dominion Energy Marketing, Inc. (Dominion) to provide default service for the Small Customer Group for the period November 1, 2011 through April 30, 2012. According to National Grid, the overall bill impact for residential customers taking 500 kilowatt hours (kWh) per month under rate D-10 will be an increase of 8.5%. Other customers in the Small Customer Group will experience bill increases ranging from 8.0% to 11.5%. Large customers taking service under Rate G-1 will experience bill increases for the three-month period ending January 2012 ranging from 11.7% to 14.3% as compared to the three-month period ending October 2011.

National Grid also filed a Motion for Confidential Treatment with its filing. In the Motion, National Grid requested that the Commission grant confidential treatment to the RFP bid evaluation, a comparison of changes in electric and gas futures costs to changes in power procurement costs, and the calculation of commodity costs at retail. Consistent with N. H. Code Admin. Rules Puc 201.06 (a) (29), (b) and (c) (Interim Rule), National Grid did not request confidential treatment for the amendments to the purchase power agreements (PPA) that the Company had previously entered into with Hess and Dominion. According to National Grid, such rule provides confidential and protective treatment for such information without further action by the Commission.

In support of its Motion for Confidential Treatment, National Grid stated that the information it seeks to protect is confidential, commercial or financial information that is exempt

from public disclosure pursuant to RSA 91-A:5, IV. National Grid also asserted that disclosure of such information could adversely affect the business position of the parties in the future. The Company said that the Commission had previously recognized the confidentiality of such information in past orders related to default service procurement.

On September 19, 2011, the Commission issued a secretarial letter scheduling a hearing on National Grid's default service filing for September 21, 2011. The Office of Consumer Advocate (OCA) previously filed a notice with the Commission on February 1, 2011 stating that it would participate in Docket No. DE 11-016 on behalf of residential ratepayers consistent with RSA 363:28. The hearing was held as scheduled.

II. POSITIONS OF THE PARTIES

A. National Grid

National Grid testified that it had conducted the default service solicitation process in accordance with applicable New Hampshire rules and regulations and the terms of a Settlement Agreement approved by the Commission in Order No. 24,577 (January 13, 2006) as modified by Order No. 24,922 (December 19, 2008). The Company stated that, on August 12, 2011, it issued a request for proposals (RFP) to approximately twenty-five potential suppliers soliciting power for the period November 1, 2011 through January 31, 2012 for the Large Customer Group and for the period November 1, 2011 through April 30, 2012 for the Small Customer Group. National Grid said that it also distributed the RFP to all members of the New England Power Pool Markets Committee and posted the RFP on its energy supply website so that the RFP had wide distribution throughout the New England energy supply marketplace. The RFP requested fixed pricing for each month of service on an as-delivered energy basis and allowed prices to

vary monthly across the service period. Consistent with Order No. 24,922, National Grid solicited only for all-inclusive energy and capacity supply.

National Grid testified that it received indicative bids on September 7, 2011 and final bids on September 14, 2011. According to the Company, there was one bid restriction that impacted block awards. National Grid explained that one bidder submitted the lowest bid for both the Large (Block P) and Small (Block Q) Customer Group or New Hampshire, but would only accept the obligation for either the Large or Small Customer Group but not both. This restriction required the Company to choose whether to accept the lowest bidder for the Block P or Block Q. National Grid decided to award the bids based on its estimate of the overall costs of both options and selected a combination of suppliers that is expected to produce the lowest overall costs for customers. National Grid stated that the selected suppliers (i) provided a bid that conformed to the RFP; (ii) had the lowest price; (iii) met the credit requirements described in the RFP; and (iv) passed National Grid's qualitative criteria.

Pursuant to a settlement agreement approved by the Commission in Order No. 24,953 (March 23, 2009), National Grid requested bidders to provide a separate adder for purposes of complying with RSA 362-F, New Hampshire's Renewable Portfolio Standard law. For the Large Customer Group, the Company entered into an agreement with Hess to purchase both energy and New Hampshire's RPS compliance because the RPS compliance adder offered by Hess was less than National Grid's estimated RPS compliance cost.

On September 15, 2011, National Grid entered into a wholesale Transaction Confirmation with Hess, the winning bidder for the Large Customer Group, and Dominion, the

winning bidder for the Small Customer Group.¹ According to the Company, although the Transaction Confirmations have differences from the sample power supply agreement in the Settlement Agreement approved by the Commission in Order No. 24,577, the executed documents do not shift any risks or obligations described in the sample power supply agreement.

For both the Small Customer and Large Customer Groups, National Grid said it calculated the base default service rate by multiplying the commodity cost at the wholesale level (\$ per megawatt-hour) by the applicable loss factor and then dividing the results by ten. National Grid said that the load-weighted average of the commodity cost at retail for the Small Customer Group for the period November 2011 through April 2012 is \$0.07379 per kWh compared to the load-weighted average of \$0.06374 for the period May through October 2011. After adjustments for reconciliation and reclassification and the addition of an adder for compliance with the Company's RPS obligations, the proposed default service rate for the Small Customer Group is \$0.07746 per kWh for the period November 2011 through April 2012. For residential customers using 500 kWh per month, total monthly bills will increase by 8.5% from \$62.79 per month to \$68.12 per month. For residential customers using 672 kWh per month, which National Grid said is the average monthly kWh usage for the twelve months ending August 2011, the total bill would increase by 8.4% from \$85.16 per month to \$92.32 per month. Average monthly bills for other customers in the Small Customer Group would increase by 8.0% to 11.5%.

For the Large Customer Group, the Company develops rates that vary month by month.

According to National Grid, the monthly base default service rates at retail are as follows:

	<u>November 2011</u>	<u>December 2011</u>	<u>January 2012</u>
\$ per kWh	\$0.06428	\$0.07760	\$0.08772

¹ National Grid filed a copy of the Hess PPA on March 19, 2007 in its 2007 default service proceeding (Docket No. DE 07-012); the PPA with Dominion was filed with the Commission on March 16, 2009 in the Company's 2009 default service proceeding (Docket No. DE 09-010).

National Grid said it adjusts the base rate to derive a total default service rate for the three month period as follows:

	Nov. 2011	Dec. 2011	Jan. 2012
Base Retail Rate	\$0.06428	\$0.07760	\$0.08772
2011 Default Service Adjustment Factor	\$0.00035	\$0.00035	\$0.00035
Cost Reclassification Factor	\$0.00101	\$0.00101	\$0.00101
<u>RPS Adder</u>	<u>\$0.00235</u>	<u>\$0.00235</u>	<u>\$0.00262</u>
Total Default Service Rate	\$0.06799	\$0.08131	\$0.09170

National Grid stated that the November default service rates produce total bill increases for customers in the Large Customer Group from 11.7% to 14.3% as compared to bills for October 2011. According to the Company, the load-weighted average of the power supply component of the rates proposed for the Large Customer Group is \$0.07644 per kWh compared to the load-weighted average of \$0.06820 per kWh for the period August through October 2011.

In its filing, National Grid recalculated the retail cost of RPS compliance for 2011 to reflect the changes in estimated market costs to meet RPS obligations for 2011 and 2012. The Company is proposing a new RPS adder for both the Small and Large Customer Groups. Effective November 1, 2011, National Grid is proposing to increase the RPS adder for the Small Customer Group from \$0.00193 per kWh to \$0.00235 per kWh. For the Large Customer Group, National Grid is proposing to increase the RPS adder from \$0.00205 per kWh to \$0.00235 per kWh based on the purchase of RPS compliance from Hess. Effective January 1, 2012, the Company proposes to increase the adder for both the Small and Large Customer Groups to \$0.00262 per kWh. According to National Grid, the increases proposed for the RPS adder for the remaining months in 2011 is based on recent purchases of 2011 renewable energy certificates² (RECs) for all classes. The proposed adder for 2012 is based on market prices for

² A REC represents one megawatt of the environmental attributes produced by eligible generation sources as defined in RSA 362-F.

all 2012 REC classes. The Company said that it had purchased RECs to meet some of its 2011 RPS obligation and will issue a REC RFP within the next six months to satisfy the 2011 and 2012 RPS obligations.

In a report filed in Docket No. DE 10-020, National Grid's 2010 default service docket, the Company had indicated that it would be replacing the meter at the New Hampshire zonal tie point at Tewksbury after observing that the meter was unpredictable and incorrectly showing loss levels that were lower than expected. At hearing, Staff inquired on the status of replacement of the Tewksbury meter. National Grid said that the meter at Tewksbury was scheduled for replacement by the end of 2011 and that it would be filing a report on the status of the replacement by the end of September.

B. Office of Consumer Advocate

The Office of Consumer Advocate stated that it had no objection to National Grid's petition.

C. Commission Staff

Staff stated that it had reviewed the filing and determined that National Grid followed the solicitation, and bid evaluation process approved by the Commission in Order No. 24,577 for default service supply for its large and small customer group, and that the resulting rates are market based. Staff recommended that the Commission approve the petition. Staff also said that it had no objections to the motion for confidential treatment because the motion is consistent with the prior requests for confidential treatment that the Commission has granted in the Company's default service proceedings.

III. COMMISSION ANALYSIS

A. Confidentiality

National Grid requests confidential treatment of information redacted from the public copy of the filing including the RFP bid evaluation; a comparison of the procurement costs with forecasted changes in electric and gas futures costs; a summary of recent REC purchases, including price and vendor; and a calculation of commodity costs at retail. According to National Grid, this information is exempt from public disclosure pursuant to RSA 91-A:5, IV because the information is “confidential, commercial, or financial information” not otherwise subject to public disclosure. We note that the Company did not request confidential treatment of the amendments to existing PPAs with Hess and Dominion because those documents are presumed confidential pursuant to Puc 201.06 (a) (29), which was effective as an Interim Rule at the time of the filing of the Company’s petition.

According to National Grid, the information provided by bidders was offered with the understanding that such information would be maintained as confidential and that suppliers would be reluctant to participate in future solicitations by National Grid if their confidential bid information is disclosed. The Company asserted that allowing disclosure of such confidential information would diminish the Company’s negotiating position and consequently harm National Grid’s customers.

RSA 91-A:5,IV states, in relevant part, that records of “confidential, commercial or financial information” are exempt from public disclosure. In determining whether commercial or financial information should be deemed confidential, we consider whether there is a privacy interest at stake that would be invaded by disclosure. *See Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (Sept.22, 2009) 94 NH PUC 484, 486 (citations omitted). Second, when

a privacy interest is at stake, the public's interest in disclosure is assessed. In making this assessment, we determine whether disclosure informs the public on the operation of government. Finally, when there is a public interest in disclosure, we must balance that interest with any privacy interests in nondisclosure. *Id.* This test is similar to that required by the Commission's rule on requests for confidential treatment, N.H. Code Admin Rules Puc 203.08.

The information National Grid seeks to protect is financial information related to it as well as to its suppliers, and much of the information was provided pursuant to the understanding that it would be kept confidential. We find that there is a privacy interest at stake that would be invaded by disclosure of this information. We also find that the public interest in disclosure of the information is minimal as it is not likely to shed meaningful light on the operation of government. Weighing these interests, we conclude that the Company's interest in confidentiality outweighs that of disclosure. As noted by National Grid, disclosing the information would likely impede its ability to engage suppliers in competitive bidding in the future, which would, in turn, make it more difficult to obtain its supply needs at competitive prices and might thereby increase rates to customers. Thus, there is a very strong privacy interest in avoiding disclosure, which we find is not outweighed by the public's interest in disclosure. In doing so, we are mindful that the wholesale pricing information will become publicly available through the Federal Regulatory Energy Commission (FERC) within the next six to twelve months, and we grant confidential treatment to wholesale pricing information only until such time as FERC would require the information to be made available from wholesale suppliers in mandated quarterly reports.

B. Default Service

We have reviewed National Grid's analysis of the bids and its selection of winning bidders and find that the Company substantially complied with the procedures approved in Order No. 24,577 in selecting default service suppliers for its Large and Small Customer Groups. We are satisfied that National Grid met the procedural requirements set forth in prior orders and that 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 National Grid's evaluation of the bids and selection of the winning bidders for both the Large and Small Customer Groups was reasonable. The testimony and related schedules offered by National Grid indicates that the bid prices reflect current market conditions. We find as well that, because National Grid procures both RECs and default service through competitive bidding processes pursuant to settlement agreements approved by the Commission, the procurements are just and reasonable and in the public interest.

Based upon the foregoing, it is hereby

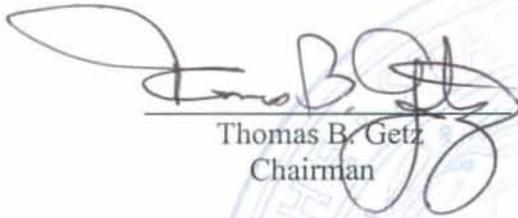
ORDERED, that the Power Supply Agreement entered into between Hess Corporation and Granite State Electric Company d/b/a National Grid for the three-month default service power supply beginning November 1, 2011 for the Large Customer Group and the resulting rates are hereby APPROVED; and it is

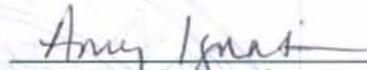
FURTHER ORDERED, that the Power Supply Agreement between Dominion Energy Marketing, Inc. and Granite State Electric Company d/b/a National Grid for the six-month default service power supply beginning November 1, 2011 for the Small Customer Group and the resulting rates are hereby APPROVED; and it is

FURTHER ORDERED, that National Grid's Motion for Confidential Treatment is hereby GRANTED as conditioned herein; and it is

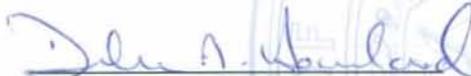
FURTHER ORDERED, that the petitioner shall file conforming tariffs within 30 days of the date of this Order, consistent with N.H. Code Admin. Rules Puc 1603.02.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of September, 2011.


Thomas B. Getz
Chairman


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director

