

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 07-012**

**GRANITE STATE ELECTRIC COMPANY**

**Petition for Approval of Proposed Default Service Rates for the Period August 1, 2007  
through October 31, 2007 for Large Commercial and Industrial Customers**

**Order Approving Petition**

**ORDER NO. 24,764**

**June 22, 2007**

**APPEARANCES:** Alexandra E. Blackmore, Esq., on behalf of Granite State Electric Company d/b/a National Grid; and Suzanne G. Amidon, Esq. on behalf of the Staff of the New Hampshire Public Utilities Commission.

**I. BACKGROUND**

On June 15, 2007, Granite State Electric Company d/b/a National Grid filed a petition requesting approval of default service rates in connection with the company's recent procurement of default service power supply for its large and medium commercial and industrial customers (Large Customers) for the period from August 1, 2007 to October 31, 2007. In support of its petition, National Grid filed the testimony of William S. Hass, and related exhibits. Mr. Hass is the Manager of Energy Arrangements for National Grid USA Service Company, the National Grid affiliate with responsibility for procurement of default service power for National Grid.

National Grid made this filing pursuant to the terms of a settlement agreement approved by the Commission in Order No. 24,577 (January 13, 2006). In Order No. 24,577, the Commission approved the process for solicitation, bid evaluation and procurement of default service supply by National Grid for its medium and large commercial and industrial customers

(Large Customer Group). According to the terms of the settlement agreement, National Grid procures default service for its Large Customer Group under three-month contracts with fixed prices that vary month-to-month. National Grid charges the Large Customer Group retail rates consisting of monthly fixed energy charges, administrative costs and a reconciliation charge.

According to the petition, National Grid issued a request for proposals (RFP) on May 11, 2007, and received indicative bids on June 6, 2007. Consistent with prior practice and Order No. 24,577, the RFP sought a power supply to meet National Grid's Large Customer Group default service load and a portion of the basic service (analogous to default service) offered by National Grid affiliate Massachusetts Electric. National Grid shared a confidential summary of the indicative bids with Commission Staff on June 7, 2007. Final bids were received on June 13, 2007, and from those bids National Grid selected Consolidated Edison Energy, Inc. (Con Ed) to supply the Large Customer Group. National Grid attested that it complied with the solicitation and bid evaluation process approved by the Commission and that its choice of supplier is reasonable.

With its petition, National Grid filed a motion for confidential treatment of certain information pursuant to N.H. Code Admin. Rules Puc 203.08. The information for which National Grid seeks confidential treatment is redacted from its public filing and was submitted separately with the motion. Covered by the motion are (1) a summary of the RFP bid evaluation, a calculation of the proposed loss factors, and a schedule showing the development of final retail rates starting with the wholesale contract prices (Schedule WSH-2), (2) an analysis comparing changes in electric and gas futures costs to changes in power procurement costs (Schedule WSH-3), and (3) portions of the transaction confirmation to National Grid's existing power supply agreement with Con Ed (Schedule WSH-4).

In support of its motion, the Company states that its agreement with Con Ed, the RFP bid evaluation, the analysis comparing futures costs and power costs, and the calculation of loss factors contain commercially sensitive information, the disclosure of which could be harmful to the competitive positions of Con Ed and the participants in the RFP and could stifle the willingness of those suppliers to participate in future energy service solicitations in New Hampshire. In addition, National Grid represents that competitive suppliers protect information they deem confidential or commercially sensitive. Furthermore, according to National Grid, the parties have taken steps to avoid disclosure of this information and believe that disclosure of such information could adversely affect the business position of the parties in the future.

The company notes that Puc 203.08 provides in pertinent part that “the Commission shall upon motion issue a protective order providing for the confidential treatment of one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5 or other applicable law based upon the information submitted pursuant to Puc 203.08(b).” Documents exempt from public disclosure under RSA 91-A:5, IV include records relating to...confidential, commercial or financial information...” and other documents whose disclosure would constitute an invasion of privacy. National Grid attests that the information for which it seeks protective order is confidential, commercial or financial information within the meaning of RSA 91-A:5, IV and should be exempt from disclosure. National Grid also filed a similar motion for confidential treatment for the information shared with Staff on June 7, 2007 regarding the indicative bids.

On June 15, 2007, the Commission scheduled a hearing for June 20, 2007. The hearing took place as scheduled.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. National Grid**

National Grid testified that it conducted its solicitation process consistent with the terms of the settlement agreement approved by the Commission in Order No. 24,577 (January 13, 2006). National Grid and its retail distribution affiliates in Massachusetts prepared a joint RFP for certain power supplies, including a default service supply for National Grid's Large Customer Group for the period August, 2007 through October, 2007. The RFP requested fixed pricing for each month of service on an as-delivered energy basis and allowed prices to vary by month so that prices did not have to be uniform across the entire service period.

According to National Grid, the RFP was issued on May 11, 2007 to more than 25 potential suppliers. The RFP was also distributed to all members of the New England Power Pool (NEPOOL) Markets Committee and was posted on National Grid's energy supply website. According to National Grid, the RFP had wide distribution through the New England energy supply marketplace.

The company testified that suppliers filed indicative bids on June 6, 2007 and final proposals on June 13, 2007. National Grid stated that none of the bidders made their provision of National Grid's Large Customer Group default service contingent upon the provision of any other service. Following the terms of the settlement agreement, the company testified that it evaluated the received bids and selected a supplier that provided a bid that was conforming to the RFP, had the lowest price, met the credit requirements described in the RFP, and passed National Grid's qualitative evaluation.

On June 14, 2007, National Grid entered into a transaction confirmation with Con Ed to provide default service to the Large Customer Group for the three-month period August 1, 2007 through October 31, 2007. National Grid explained that a copy of the master power agreement between National Grid and Con Ed was filed with the Commission on January 27, 2006 as part of a prior proceeding. The transaction confirmation, together with the master power agreement, provides the terms of National Grid's purchase of default service for its Large Customer Group from Con Ed. National Grid attests that the executed documents do not shift any of the risk obligations described in the sample power supply agreement provided in the settlement agreement.

According to National Grid, the rates for the period August 2007 through October 2007 would be 9 percent higher than the rates currently in place, not including the reconciliation adjustment. National Grid stated that this increase is due to increased commodity costs and is consistent with the increase in natural gas and electricity futures traded on the NYMEX exchange. The proposed monthly default service retail rates for the Large Customer Group, including the reconciliation adjustment, are as follows:

Month	August, 2007	September, 2007	October, 2007
Price \$ per kWh	\$0.09995	\$0.09118	\$0.09403

National Grid testified that, in choosing Con Ed, it selected an all-inclusive energy-and-capacity product. National Grid stated that it had calculated an estimated capacity cost to compare with the implied capacity costs offered by bidders. National Grid testified that its estimated capacity cost was higher than the implied capacity costs in the winning bid and,

therefore, it determined that an all-inclusive supply would be least costly to its customers for the months August 2007 through October 2007.

At hearing, National Grid acknowledged that the New Hampshire Legislature had enacted legislation creating a renewable portfolio standard and that the requirements for those standards take effect January 1, 2008. *See* 2007 N.H. Laws Ch. 26, codified as RSA Ch. 362-F). National Grid stated that its Massachusetts affiliate had complied with the renewable portfolio standard of Massachusetts by soliciting a separate bid for renewable energy credits (RECs) coincident with its power supply solicitations. While National Grid stated that it had not determined how to comply with RSA 362-F, it planned to work with Staff to develop a compliance plan mechanism in time for its next default service filing to be made in September.

#### **B. Staff**

Staff reviewed the petition and determined that National Grid had complied with the solicitation bid evaluation process as set forth in the settlement agreement and that the resulting retail rates are market based. Staff noted that it had no objections to the Company's motions for confidential treatment and recommended that the Commission approve the petition.

### **III. COMMISSION ANALYSIS**

#### **A. Confidentiality**

First, we address National Grid's motion for confidential treatment. The materials which National Grid seeks to protect contain a brief discussion of the selection of the winning bidder, a bidder key that identifies the suppliers who participated in the RFP, the comparative energy and capacity prices received from the bidders (including the estimated total cost according to the evaluation loads provided with the RFP), a ranking of the transactions offered by each bidder in

terms of financial security (including consideration of reasonable extension of credit to National Grid and the creditworthiness of the supplier and the credit assurance offered), the information provided by each bidder in the proposal submission forms, and, a redlined version of the negotiated purchase and sale agreement. Finally, in a subsequent motion, National Grid requests confidential treatment of the indicative bids.

National Grid asserts that this information should be protected from public disclosure because it is confidential, commercial, or financial information. National Grid contends that the information provided by bidders was offered under the express understanding that such information would be maintained as confidential, and attested that suppliers would be reluctant to participate in future solicitations by National Grid if their confidential bid information is disclosed. National Grid contends that the disclosure of the fully negotiated transaction confirmation agreement with Con Ed would reveal National Grid's negotiating posture to other potential power suppliers and, thus, National Grid asserts that its customers would be harmed by National Grid's diminished negotiating position resulting from public disclosure. National Grid also asserted that the indicative bids shared with Staff by email on or about June 7, 2007 should be confidential for the same reasons.

The Right-to-Know law provides each citizen the right to inspect public records in the possession of the Commission. RSA 91-A:4, I. Section IV, however, exempts from disclosure certain "confidential, commercial, or financial information." In order to rule on the motions, we have made an *in camera* review of the material which National Grid asserts is confidential.

Inasmuch as disclosure in this instance could negatively affect customers, we do not find the public's interest in review of the financial, commercially sensitive information sufficient to outweigh the interest that National Grid and its bidders have in maintaining confidentiality of

such information. *See Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540 (1997) (requiring the balancing of such interests in RSA 91-A:5, IV determinations). We therefore grant protective treatment to the information redacted from National Grid's public filing.

Pursuant to requirements of the Federal Energy Regulatory Commission (FERC), each wholesale supplier is obligated to report to the 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 past practice, the protective 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 in light of RSA 91-A, should circumstances so warrant. In granting the motion, we note that the settlement agreement approved in Order No. 24,577 contemplated that any discussion of the indicative bid evaluation would be confidential,<sup>1</sup> and we therefore accord confidential treatment of the information exchanged with Staff and the OCA which occurred on or about June 7, 2006.

## **B. Default Service**

Regarding National Grid's analysis of the bids and its selection of the winning bidder for default service supply for its Large Customer Group for the three-month period from August, 2007 through October, 2007, we find that National Grid complied with the procedures approved

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<sup>1</sup> *See* Order No. 24,577 (January 13, 2006) slip op. at 9.

by Order No. 24,577. We are likewise satisfied that the participation of multiple bidders in the process is indicative of a competitive bid and, consequently, that the result 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 its selection of Con Ed as its default service supplier for the Large Customer Group for the period August, 2007 through October, 2007 is reasonable. The testimony of National Grid, together with its bid evaluation report, indicates that the bid prices reflect current market conditions and therefore are reasonable. In light of the circumstances, we grant the Petition.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the transaction confirmation agreement between Granite State Electric Company d/b/a National Grid and Consolidated Edison Energy, Inc. and 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 Granite State Electric Company d/b/a National Grid to act prudently, according to law and in conformity with Commission orders, the amounts payable to the seller for power supply costs under the three-month transaction confirmation beginning August 1, 2007 are APPROVED; and it is

**FURTHER ORDERED**, that National Grid's motions for confidential treatment are GRANTED; and it is

**FURTHER ORDERED**, that Granite State 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-second day  
of June, 2007.

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

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Clifton C. Below  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director & Secretary