

**THE STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 14-031**

**LIBERTY UTILITIES (GRANITE STATE ELECTRIC) CORP.  
D/B/A LIBERTY UTILITIES**

**Default Service Request for Proposals**

**Order Approving Solicitation and Selection of  
Default Service Supply and Resulting Rates**

**ORDER NO. 25,642**

**March 27, 2014**

**APPEARANCES:** Sarah Knowlton, Esq. for Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities; the Office of Consumer Advocate by Susan W. Chamberlin, Esq. on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. and David K. Wiesner, Esq., on behalf of Staff of the Public Utilities Commission.

**I. PROCEDURAL HISTORY**

On March 21, 2014, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities (Liberty) filed a petition requesting approval of its solicitation and procurement of default service for 100% of its supply requirements for the period from May 1, 2014 until October 31, 2014 for both medium and large commercial and industrial customers (Large Customer Group)<sup>1</sup> and residential and small commercial customers (Small Customer Group).<sup>2</sup> The filing was made pursuant to a Settlement Agreement approved by the Commission in, *Granite State Electric Company, Petition for Approval of Post-Transition Default Service Proposal*, Order No. 24,577, 91 NH PUC 6 (January 13, 2006), as modified by Order No. 24,922, 93 NH PUC 600 (December

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<sup>1</sup> The Large Customer Group is comprised of customers taking service under General Long-Hour Service Rate G-2 or General Service Time-Of-Use Rate G-1 of the Company's Retail Delivery Tariff.

<sup>2</sup> The Small Customer Group is comprised of customers taking service under Domestic Service Rate D, Domestic Service-Optional Peak Load Pricing Rate D-10, Outdoor Lighting Service Rate M, Limited Total Electrical Living Rate T, General Service Rate G-3, or Limited Commercial Space Heating Rate V of the Company's Retail Delivery Tariff.

19, 2008) and further modified by Order No. 25,601 (November 27, 2013) (Settlement Agreement).

Pursuant to the Settlement Agreement, beginning in February 2014, Liberty solicits default service supply for 100% of its Large Customer Group requirements in two separate three-month blocks of power supply. Liberty then develops rates for the Large Customer Group based on the winning bid contract prices, with fixed monthly prices that vary from month to month. For its Small Customer Group, Liberty Utilities continues to solicit prices for 100 percent of a six-month block of power supply and sets a fixed rate for the six-month period using a six-month weighted average.

In support of its petition, Liberty filed the testimony of John D. Warshaw and David B. Simek, with related exhibits. Mr. Warshaw is employed as Manager, Electric Supply, by Liberty Energy Utilities (New Hampshire) Corp. (Liberty Energy NH), which provides services to Liberty. Mr. Simek is employed as a Utility Analyst by Liberty Energy NH. With its filing, Liberty proposed an adjustment to the Renewable Portfolio Standard (RPS) adder used to procure compliance with New Hampshire's RPS law and submitted its quarterly migration report. In addition, Liberty provided an update of its settlement negotiations with National Grid regarding payment to Liberty for borderline sales by Liberty to Massachusetts Electric Company (MECO) customers for the period from June 2006 through September 2012. On March 20, 2014, Liberty filed a Default Service Loss Factor Investigation Update consistent with Order No. 25,416 (September 21, 2012).

Liberty selected Dominion Energy Marketing, Inc. (Dominion) to provide default service for the Large Customer Group for the period May 1, 2014 through October 31, 2014, in two separate three-month blocks of power supply, and TransCanada Power Marketing, Ltd (TCPM)

to provide default service for the Small Customer Group for the period May 1, 2014 through October 31, 2014. According to Liberty, the overall bill impact for residential default service customers with an average monthly usage of 679 kWh (the average monthly usage over the twelve-month period ending February 2014), is a decrease of \$7.92, or 6.9%, from \$114.89 to \$106.97, as compared to current rates. Average monthly bills for other customers in the Small Customer Group would decrease between 6.3% and 9.3%, depending on usage, as compared to current rates. Large customers taking service under either Rate G-1 or Rate G-2 will also experience bill decreases, and Liberty provided typical bill impacts for illustrative load-weighted rates. The bill impacts for customers in the Large Customer Group for the six-month period ending October 2014 show decreases ranging from 12.9% to 15.6%, as compared to the six-month period ending April 2014.

With its petition, Liberty submitted separately filed confidential information including the Company's transaction confirmations with the winning suppliers, bid evaluation and summary information, RPS compliance pricing, and retail meter commodity cost calculations. Liberty requested confidential treatment of these materials pursuant to N.H. Code Admin. Rules Puc 201.04(a)(5), Puc 201.06(a) and Puc 201.07. With respect to the wholesale power purchase prices included in the filing, the Company requested confidential treatment only until such time as the Federal Energy Regulatory Commission (FERC) requires those prices to be made public.

The Commission issued an Order of Notice on February 12, 2014 scheduling a hearing on March 25, 2014. On February 19, 2014, the Office of Consumer Advocate (OCA) filed a letter of participation in the docket pursuant to RSA 363:28. A public hearing was held on March 25, 2014, at which both Mr. Warshaw and Mr. Simek testified. The Commission granted the Company's request for confidential treatment at the hearing.

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

### **A. Liberty**

Liberty testified that it conducted its solicitation process consistent with the terms of the Settlement Agreement. The request for proposals (RFP) which was issued on February 10, 2014 solicited fixed pricing for each month of service on an as-delivered energy basis and allowed prices to vary by month. According to Liberty, the RFP was issued to approximately 25 potential suppliers. The RFP was also distributed to all members of the New England Power Pool Markets Committee and posted on Liberty's energy supply website. According to Liberty, the RFP was widely distributed throughout the New England energy supply marketplace.

Liberty testified that suppliers submitted indicative bids on March 11, 2014 and final bids on March 18, 2014. Liberty testified that it evaluated the bids and selected Dominion and TCPM because their bids conformed to the RFP, had the lowest prices, met the credit requirements described in the RFP, and passed Liberty's qualitative evaluation. Liberty attested that it complied with the solicitation and bid evaluation process approved by the Commission and asserted that its choice of suppliers was reasonable.

On March 19, 2014, Liberty entered into a wholesale transaction confirmation with Dominion to provide default service to the Large Customer Group for the period May through October 2014. According to Liberty, the Dominion Master Power Agreement was filed with the Commission on March 16, 2009 and a First Amendment to Master Power Agreement was filed with the Commission on September 20, 2010. The Commission approved the Dominion Master Power Agreement in Order No. 24,953 (March 23, 2009) and the First Amendment in Order No. 25,150 (September 27, 2010).

On March 19, 2014, Liberty entered into a wholesale transaction confirmation with TCPM to provide default service to the Small Customer Group for the period May through October 2014. According to Liberty, the TCPM Master Power Agreement was filed with the Commission in an earlier docket. The TCPM Master Power Agreement was filed with the Commission on September 25, 2006 and was approved by the Commission in Order No. 24,675 (September 29, 2006).

Liberty also testified that its RPS obligations for 2014 require it to purchase 5.0% of its power from new renewable (Class I) sources, 0.4% from new useful thermal (Class I Thermal) sources, 0.3% from solar (Class II) sources, 3.0% from existing biomass (Class III) sources, and 1.4% from existing small hydroelectric (Class IV) sources. In accordance with Order No. 24,922 (December 19, 2008), Liberty requested bidders for default service supply to also provide a separate RPS compliance adder with their bids. Liberty explained that the RPS compliance adder is the incremental charge to be paid to the bidder for the bidder's agreement to take on the RPS obligation associated with the default service obligation.

According to Liberty, only one bidder elected to supply an RPS compliance adder with its bid response. Liberty's explained that its criteria to accept an adder is to compare the adder to the current market price for renewable energy certificates (RECs) (one REC representing one megawatt-hour of delivered power), that are eligible to meet its New Hampshire RPS obligations. To develop a REC market price, Liberty issued a request for proposals on February 10, 2014 for the acquisition of New Hampshire RPS compliant RECs to meet its RPS obligations for 2013 and a portion of 2014. Liberty testified it received bids to supply RECs on March 17, 2014, and used these bids to calculate a market price for the adder. Based on this calculation of

the REC market price, Liberty determined that the submitted RPS compliance adder was greater than market and therefore did not accept the proposed adder.

Liberty testified that it would meet its RPS compliance requirements using RECs to be purchased at the prices offered in its recent solicitation and that, if it does not obtain a sufficient number of RECs through market purchases, it would make alternative compliance payments (ACP) into the Renewable Energy Fund. Based on anticipated REC prices and ACP payments, and taking into account prior expenditures and recoveries, Liberty requested authorization to adjust the RPS compliance adders used in developing its default service rates from the current \$0.00553 per kWh to \$0.00434 per kWh for the Large Customer Group customers and from the current \$0.00525 per kWh to \$0.00434 per kWh for the Small Customer Group customers, in each case effective on May 1, 2014.

Liberty also proposed a new RGGI Auction Excess Revenue Adjustment Factor credit of \$0.00176 per kWh for the period May 1, 2014 through October 31, 2014. This proposed credit adjustment is based on RGGI rebates received in May and August 2013, also taking into account a projected \$5,522 over-collection covering the period November 2013 through April 2014 and projected accrued interest on the balance during the refund period, assuming monthly refund amounts, then dividing the balance including interest by an estimate of the kWh deliveries attributable to default service customers for the six-month period beginning May 2014.

For both the Small Customer Group and the Large Customer Group, Liberty testified 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. Liberty's filing demonstrates that the load-weighted average of the commodity cost at retail for the Small Customer Group is 7.553¢ per kWh compared to the load-weighted average of 8.379¢

per kWh for the period November 1, 2013 through April 30, 2014. After adjustments for reconciliation and reclassification<sup>3</sup> and the adder for compliance with Liberty's RPS obligations and the credit based on the RGGI Auction Excess Revenue Adjustment Factor, the proposed default service rate for the Small Customer Group is 7.732¢ per kWh.<sup>4</sup> Liberty calculated that, for a residential default service customer with an average usage of 679 kWh, which is the average monthly usage over the twelve-month period ending February 2014, the monthly bill would decrease by \$7.92, or 6.9%, from \$114.89 to \$106.97, as compared to current rates. Average monthly bills for other customers in the Small Customer Group would decrease between 6.3% and 9.3%, depending on rate class and usage.

For the Large Customer Group, Liberty develops rates that vary by month. The load-weighted average of the power supply costs for the Large Customer Group for the three-month period from May 1, 2014 through July 31, 2014 is 8.105¢ per kWh and for the three-month period August 1, 2014 through October 31, 2014 is 7.006¢ per kWh, as compared to the load-weighted average of 9.986¢ per kWh for the period February 1, 2014 through April 30, 2014. According to Liberty, the monthly base default service rates at retail for the six-month period from May through October 2014 are as follows:

	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>Sept.</u>	<u>October</u>
¢ per kWh	6.559	8.805	8.718	7.874	6.532	6.473

Liberty stated that it adjusts these base rates per month to account for its 2014 reconciliation and reclassification factors and the RPS compliance adder and the RGGI Auction Excess Revenue Adjustment Factor credit to derive a total default service rate for the full six-

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<sup>3</sup> Commission Order No. 24,577 (Jan. 13, 2006) approved the Settlement Agreement which authorized Liberty to use these factors in adjusting rates to reflect actual costs of providing default service.

<sup>4</sup> The calculation of Liberty's proposed default service retail rates is shown in more detail in Table 1 below.

month period. This calculation and the resulting default service retail rates are shown in more detail in the following table:

Table 1

	Residential and Small C&I	Medium & Large C&I					
	May – October 2014	May	June	July	Aug	Sep	Oct
Base Default (Energy) Service Rate	7.553¢	6.559¢	8.805¢	8.718¢	7.874¢	6.532¢	6.473¢
2014 Default (Energy) Service Adjustment Factor	(0.123)¢	(0.123)¢	(0.123)¢	(0.123)¢	(0.123)¢	(0.123)¢	(0.123)¢
Default (Energy) Service Cost Reclassification Adjustment Factor	0.044¢	0.022¢	0.022¢	0.022¢	0.022¢	0.022¢	0.022¢
Renewable Portfolio Standard (“RPS”) Adder	0.434¢	0.434¢	0.434¢	0.434¢	0.434¢	0.434¢	0.434¢
RGGI Auction Excess Revenue Adjustment Factor	(0.176)¢	(0.176)¢	(0.176)¢	(0.176)¢	(0.176)¢	(0.176)¢	(0.176)¢
Total Default (Energy) Service Rate	7.732¢	6.716¢	8.962¢	8.875¢	8.031¢	6.689¢	6.630¢

The monthly bill impacts prepared by Liberty for customers in the Large Customer Group show decreases in the range of 12.9% to 15.6%, depending on the month and the customer’s usage, as compared to the rates currently in effect through April 2014.

Liberty testified that the number of bidders providing final prices in response to its default service RFP was less than that seen in previous solicitations for corresponding periods of time. According to Liberty, the reason for the lower than normal bidder turnout was, among other things, the extreme volatility in New England electric and gas market prices seen this past

winter. Suppliers who did not bid in response to the RFP cited this price volatility and other market conditions as the reasons they did not submit proposals, according to Liberty. Liberty testified that no supplier cited the change from a single three-month block to two consecutive three-month blocks as a reason it chose not to submit a bid.

Liberty testified that market prices for electricity in 2014 are significantly higher than the prices seen in the market one year ago. According to Liberty, the prices are higher because the New England generation mix has become dominated by natural gas generation and the combination of gas supply shortages and cold winter weather have driven wholesale power prices higher. In addition, Liberty stated that, as a result of the colder than normal winter just experienced, there was a significant increase in the usage of natural gas in storage facilities to meet winter natural gas demand; thus, one of the reasons for the currently high prices for natural gas futures reflects the industry's need to restock natural gas storage facilities which are currently at historic lows,. Based upon these factors, commodity costs for the six-month period from May through October 2014 are much higher than commodity costs for the corresponding period during 2013.

Liberty provided an update regarding the current status of settlement negotiations with MECO regarding payment for cross-border sales between Liberty and MECO during the period from June 2006 through September 2012. Liberty described its prior understanding that it had reached agreement with MECO regarding payment for these borderline sales and that this payment would be made by the end of January 2014; however, final agreement on the payment terms has not occurred, and the parties continue to attempt to finalize settlement on this issue. Liberty indicated that it continues to work diligently to reach a final resolution of this payment dispute.

Liberty concluded by requesting that the Commission find that Liberty conducted its default service power supply solicitation and selection of suppliers according to the process set forth in the Settlement Agreement approved by the Commission, and requesting that the Commission approve the resulting rates effective with service rendered on and after May 1, 2014.

**B. Office of Consumer Advocate**

The OCA did not state any objection to Liberty's petition or to the new default service rates proposed in its filing. The OCA did, however, express concern regarding the failure of Liberty to achieve a final settlement of the MECO borderline sales payment dispute, asking that the Commission take action to expedite resolution of this dispute by means potentially including the withholding of escrowed funds in Docket No. DG 11-040 regarding the sale by National Grid of Granite State Electric Company and affiliates, intervening in the relevant FERC docket, and requiring a complete accounting by Liberty of the relevant borderline sales to MECO. The OCA also asked the Commission to consider modifying the Liberty default service rate filing process to afford the OCA and other parties more time to review and investigate Liberty's proposed default service reconciliations, reclassifications and adjustments.

**C. Commission Staff**

Staff stated that it had reviewed the petition and determined that Liberty had complied with the Settlement Agreement as approved by the Commission in conducting the bid solicitation and bid evaluation process, and in its selection of the winning bidders. Staff said that, based upon its review, the resulting rates are market-based. Staff stated that the filing schedule revisions proposed by the OCA would represent a departure from years of past practice and

would require an amendment to the Settlement Agreement that would have to be negotiated with Liberty and other parties.

### **III. COMMISSION ANALYSIS**

Based on the record in this proceeding, we find that Liberty complied with the procedures approved in Order No. 24,577 regarding its analysis of the bids and its selection of the winning bidders for default service supply for its Small and Large Customer Groups for the periods beginning May 1, 2014. We are also satisfied that Liberty took appropriate steps to solicit multiple potential suppliers in order to receive competitive bid responses and, consequently, that the results are consistent with the requirement of RSA 374-F:3, V(c) that default service be procured through the competitive market. Pursuant to RSA 378:40 and 41, we find that Liberty's filing is in conformance with the least cost integrated resource plan filed and reviewed in Docket No. DE 07-052 and accepted in Order No. 24,826 (February 29, 2008).

We also find that Liberty's evaluation of the bids and its selection of Dominion to provide default service for the Large Customer Group for the two three-month periods beginning on May 1, 2014 and on August 1, 2014, and its selection of TCPM to provide default service for the Small Customer Group for the six-month period beginning on May 1, 2014, were reasonable and appropriate. Liberty's testimony, together with its bid evaluation report, indicate that the bid prices reflect expected market conditions for the time periods in question. We also find it is appropriate for Liberty to adjust the RPS adder and to implement a new RGGI Auction Excess Revenue Adjustment Factor credit for the six-month period beginning on May 1, 2014, and that the proposed adder adjustment and credit are just and reasonable. In view of the competitive procurement and the analysis that the proposed default service rates reflect current market conditions, we will grant the proposed default service retail rates.

Liberty submitted certain confidential information pursuant to N.H. Code Admin. Rules Puc 201.04, 201.06 and 201.07. The information for which Liberty seeks confidential treatment includes the Company's transaction confirmations with the winning suppliers, bid evaluations and summaries, RPS compliance pricing, and retail meter commodity cost calculations. After reviewing the material redacted from the instant filing, we found that the category of information for which Liberty seeks confidential treatment is information routinely submitted and granted confidential treatment in connection with default service proceedings, as defined in Puc 201.06(a)(30). Therefore, at the public hearing we granted confidential treatment as requested, and the redacted information shall be accorded confidential treatment subject to the provisions of Puc 201.07, provided that the wholesale power costs contained in Liberty's filing shall be accorded confidential treatment only until such time as the costs are made public through the operation of FERC rules.

With respect to the payment dispute regarding borderline sales between Liberty and MECO, we are deeply concerned that these issues have not yet been resolved after what seems an inordinate amount of time. We strongly believe these issues should be finally resolved prior to the expiration of the transition period provided for in the Transition Service Agreement between Liberty and National Grid USA approved by the Commission in Docket No. DG 11-040.<sup>5</sup> We share the frustration of the OCA in this regard, although we do not necessarily endorse the proposed actions suggested by the OCA at the public hearing. We will direct Liberty to convey to MECO our dissatisfaction with the lack of progress on these issues. We also direct Liberty to file monthly reports regarding the status of resolution of the MECO borderline sales payment dispute, including any involvement of the Massachusetts Department of Public Utilities, and the status of metering installations and upgrades and reporting protocols intended to address

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<sup>5</sup> See *National Grid USA, et al.*, Order No. 25,370 (May 30, 2012).

Liberty's cross-border sales to MECO, until a final resolution of the payment dispute has occurred.

We note that the OCA also raised an issue at hearing regarding the Liberty default service rate filing timeline and requested that the Commission consider modifying this process to afford the OCA and other parties more time to review and investigate Liberty's proposed default service reconciliations, reclassifications and adjustments. We agree with Staff that the OCA's proposed filing schedule revisions would represent a departure from years of past practice and would require an amendment to the Settlement Agreement that would have to be negotiated with Liberty and other parties. We are also concerned that any change to Liberty's default service solicitation process could create confusion in the competitive market. While we cannot alter the schedule regarding final bid proposals without a modification of the order, after notice and opportunity for hearing, it may be possible for Liberty to file its proposed reconciliation of rates, and other non-market based changes to rates that are routinely submitted with the default service solicitation results in a separate earlier filing. We encourage Liberty, OCA and Staff to explore if there is an opportunity to provide some data on an informational basis earlier than now filed, to allow more time to review the information prior to the hearing on the solicitation results.

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

**ORDERED**, that the Master Power Agreement Transaction Confirmation entered into between Dominion Energy Marketing, Inc. and Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities for default service power supply for the Large Customer Group for the period beginning May 1, 2014 through October 31, 2014, and the resulting default service retail rates, are hereby APPROVED; and it is

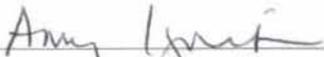
**FURTHER ORDERED**, that the Master Power Agreement Transaction Confirmation entered into between TransCanada Power Marketing, Ltd. and Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities for default service power supply for the Small Customer Group for the period beginning May 1, 2014 through October 31, 2014, and the resulting default service retail rates, are hereby APPROVED; and it is

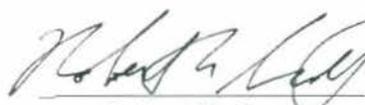
**FURTHER ORDERED**, that Liberty shall file conforming tariffs within 30 days of the date of this Order, consistent with N.H. Code Admin. Rules Puc 1603.02; and it is

**FURTHER ORDERED**, that the redacted materials filed by Liberty in this proceeding shall be accorded confidential treatment pursuant to N.H. Code Admin. Rules Puc 201, provided that the wholesale power purchase prices included in the filing shall be confidential only until such time as the Federal Energy Regulatory Commission requires such prices to be made public; and it is

**FURTHER ORDERED**, that Liberty shall file monthly reports regarding the status of resolution of the borderline sales payment dispute with Massachusetts Electric Company, including any involvement of the Massachusetts Department of Public Utilities, and the status of metering installations and upgrades and reporting protocols intended to address Liberty's cross-border sales to MECO, until a final resolution of the payment dispute has occurred, on or before the last day of each month.

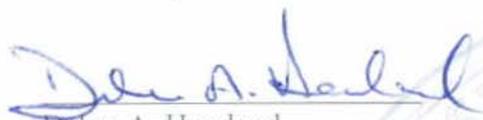
By order of the Public Utilities Commission of New Hampshire this twenty-seventh day of March, 2014.

  
Amy L. Ognatius  
Chairman

  
Robert R. Scott  
Commissioner

  
Martin P. Honigberg  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director

