

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 09-186

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Proposed Renewable Default Service Energy Rate

Order Approving Partial Settlement Agreement

ORDER NO. 25,080

March 5, 2010

Appearances: Gerald M. Eaton, Esq. on behalf of Public Service Company of New Hampshire; Orr & Reno PA by Susan S. Geiger, Esq. on behalf of Unitil Energy Systems, Inc.; the Office of Consumer Advocate by Meredith A. Hatfield, Esq. on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. on behalf of Commission Staff.

I. PROCEDURAL BACKGROUND

On September 30, 2009, Public Service Company of New Hampshire (PSNH or Company) filed a proposed renewable default energy service rate pursuant to RSA 374-F:3, V(f). With its proposal, PSNH filed a draft tariff and the supporting testimony of Rhonda J. Bisson, Senior Analyst in the Rate and Regulatory Services Department for PSNH and Richard C. Labrecque, Supplemental Energy Sources Manager for PSNH.

The Commission issued an Order of Notice on October 9, 2009, scheduling a prehearing conference for October 26, 2009. On October 15, 2009, the Office of Consumer Advocate (OCA) filed a letter with the Commission indicating that it would participate in the proceeding on behalf of residential customers pursuant to RSA 383:28. On October 22, 2009, Granite State Electric Company d/b/a National Grid (National Grid) filed a petition to intervene.

On October 26, 2009, Staff filed a report on the technical session that followed the prehearing conference and a proposed procedural schedule. Staff stated that, at the technical

session, it became apparent that the parties and Staff could resolve differences in the docket through settlement. The hearings examiner for the prehearing conference filed a report on October 30, 2009.

On January 5, 2010, Staff filed a letter notifying the Commission that the parties had reached a settlement and requesting a waiver of N.H. Code of Admin. Rules Puc 203.20, which requires a settlement agreement to be filed 5 days prior to a scheduled hearing. On January 7, 2010, the Commission issued a secretarial letter granting the waiver, and Staff filed a partial settlement agreement on January 8, 2010.

On January 13, 2010, Unitil Energy Systems, Inc. (UES) filed a motion for limited intervention for the purpose of addressing its position on one issue unresolved by the settlement agreement. The hearing was held as scheduled on January 13, 2010. On January 29, 2010, PSNH filed an illustrative tariff with a proposed final calculation of its renewable energy service rate options with a supporting technical statement as called for in the settlement agreement.

II. PSNH FILING

In its filing, PSNH proposed a renewable default energy service rate to its customers who receive energy service under PSNH's default energy service rate (DE), who are not enrolled in PSNH's residential electric assistance program rate (EAP), and who have not been approved to receive electric service payment assistance through the fuel assistance program administered by the Community Action Agencies. PSNH said it would not offer the renewable DE service option to customers who receive energy from a competitive supplier because such customers have already demonstrated their ability to access third party suppliers and could choose to contract for a renewable energy supply from the competitive market. PSNH also said that it would be confusing to customers to receive one bill for energy from energy suppliers and one from PSNH

for the renewable DE option. In addition, the Company pointed out that it would not be able to recover under-collections from customers taking competitive supply because the program would seek recovery of such under collections through the energy service rate. Hearing Transcript of January 13, 2010 (January 13, 2010 Tr.) at 59-61.

With respect to the exclusion of individuals receiving service under rate EAP and those who have been approved to receive fuel assistance, PSNH stated that both the electric and fuel assistance programs have a limited amount of money to aid customers with their basic energy needs and that such limited funds should not be used to support the renewable DE service option. The Company explained that any customer enrolled in the renewable DE service program who begins to take energy from a competitive service supplier or the Independent System Operator-New England (ISO-NE), or is approved to receive electric service payment assistance through the EAP or Fuel Assistance Program, will be removed from the renewable DE service option.

Under PSNH's proposal, customers would be able to enroll in and drop from the renewable DE option on a billing cycle basis. For example, if a customer contacted PSNH on July 1 to enroll in the renewable DE program, and the customer's next meter read date was July 15, the customer's next bill for services would include a charge for the renewable DE service option. Similarly, if the same customer contacted PSNH on July 31 to drop from the program, the customer's next bill would not include the renewable DE service charge. PSNH said it planned to provide customers with the ability to enroll in and drop from the program electronically through PSNH's website. According to PSNH, a customer using the website would be informed that it would take at least two business days to complete the transaction.

PSNH's proposal would offer customers three renewable rate options: 1) a 25 percent option, 2) a 50 percent option, and 3) a 100 percent option. Under each option, PSNH would

purchase and retire renewable energy certificates (RECs) to match the selected percentage of the customer's actual energy use. PSNH explained that RECs represent the separately marketed environmental commodity with specific environmental attributes that represent one megawatt-hour of electricity generated from a specific renewable resource. In New Hampshire, the electric distribution utilities must procure RECs that have certain environmental characteristics to comply with the state's electric renewable portfolio standard requirements contained in RSA 362-F. For its customers choosing the renewable DE service option, PSNH said it plans to purchase RECs that represent Class I (new renewable) or Class II (solar) energy. If Class I or Class II RECs are not available, PSNH said it would make a payment to the renewable energy fund established by RSA 362-F:10 consistent with RSA 374-F:3, V(f)(8). PSNH said that, as of the time of the filing, it did not intend to use any of its own generation eligible to produce Class I or Class II RECs for the renewable DE service program.

Once the renewable DE service option is approved, PSNH stated that it intends to use a regulatory process similar to what it uses for rate setting and reconciliation of revenues and expenses associated with its default energy service. Under this approach, PSNH would forecast the expected customer participation and related costs for meeting the renewable DE service option on an annual basis for the next calendar year. The Company stated that the estimated renewable DE service rate developed in this manner would not exceed the alternative compliance payment (ACP), the payments that utilities must make to the renewable energy fund in the event that they are unable to purchase an adequate amount of RECs to meet the portfolio standard, pursuant to RSA 362-F.

According to PSNH's proposal, the renewable DE service rate will be set somewhere between the market price for Class I and Class II RECs and the ACP value to add some

conservatism for purposes of limiting over- and under-recoveries in the renewable DE service rate. Similar to the adjustment of its default energy service rate, the PSNH proposal would allow the Company to make a mid-year adjustment if the renewable energy market indicates a market price that is considerably higher or lower than the effective renewable DE service rate. In its filing, PSNH estimated that the renewable DE rate would be between 3.8 cents and 6.2 cents per kilowatt-hour (kWh) for the 100% option. The renewable DE rate would be added to the default service rate for customers taking the renewable DE service option.

The Company said that for a residential customer taking 500 kWh per month, the lower range of impact would be \$4.75 per month for customers taking the 25% renewable DE option and the upper range would be \$31.00 per month for residential customers taking the 100% renewable DE option. For small business customers taking 10,000 kWh per month, the lower bound would be \$95.00 per month for customers taking the 25% renewable DE option and the upper bound would be \$620 per month for customers taking the 100% renewable DE option. PSNH testified that, although there was a significant decline in the prices for RECs in the past one to two years, the prices for RECs have been relatively stable in the past six to nine months. January 13, 2010 Tr. at 54. According to the Company, the uneven prices over the past two years could be attributed to new projects coming on line and to changes in the various RPS laws regarding the eligibility or exclusion of various renewable energy sources for REC production.

Id.

PSNH conceded that the rate for the proposed 100 percent option may result in an over-collection if the market price of RECs remained stable. If that were the case, PSNH said it would move the over-collection to the default energy service docket, or make a contribution to

the renewable energy fund with the surplus. The Company said it would not use the surplus to set an artificially low renewable DE service rate for the next rate period. *Id.* at 55.

The Company agreed that it could structure the pricing for the renewable DE service option to either track the market price of RECs or set it at a current market price and then adjust if there were significant changes in the REC markets. PSNH said that the tracking approach would obviate some conservatism in rate setting and protect against over-collections. It said the same goal could also be accomplished with the Company's mid-year energy service rate adjustment. *Id.* at 58-59.

To reconcile the revenues and expenses associated with the renewable DE service option, PSNH said it would calculate any over- or under-collections in the renewable DE service option at mid-year, the same time it conducts an annual reconciliation of the DE service rate. PSNH proposed that any over- or under-collection would be applied to the estimated renewable DE rate for the next rate period. PSNH proposed to file a report on the quantity and type of RECs purchased to meet the requirements of the renewable DE service program on July 1 of every year.

PSNH estimated the incremental costs necessary to administer the renewable DE service rate to be about \$114,000. PSNH proposed to recover these incremental costs from all customers through PSNH's distribution rates pursuant to RSA 374-F:3, V(f)(2). The Company identified the incremental costs as billing system upgrades, customer service training, PSNH website changes, marketing, promotion and customer communications. PSNH stated that the Commission would have the option of reviewing the costs associated with the renewable DE service rate during a permanent rate proceeding. In addition, PSNH said that it may also seek a grant from the renewable energy fund to offset specific marketing or promotion costs if presented with the opportunity to do so.

PSNH said it plans to market the renewable DE service option through a variety of means including: (1) press releases; (2) messages on the interactive voice response system at PSNH's customer call center; (3) a dedicated page on its website, (4) including information on the renewable DE service option in PSNH's *EarthSmart* branding program; (5) articles in PSNH's Living with Energy bill insert; (6) specific bill messages; (7) promotion via PSNH's media web sites such as its blog and Twitter; and (8) promotions at home shows, trade shows and chamber of commerce events. The Company stated that it may also partner with environmental or other interested organizations by providing the partner with communication brochures. PSNH will also provide each customer enrolling in the renewable energy service program with a welcome letter, a program brochure and other promotional items.

PSNH testified that the Company decided to directly offer the renewable DE service option to its customers rather than providing retail access to competitive suppliers for a number of reasons. PSNH said it would be much simpler for PSNH to develop and implement the program itself within PSNH's internal infrastructure in place for the acquisition of RECs to comply with the electric renewable portfolio statute. *Id.* at 14. According to PSNH, purchasing incremental RECs as required for the renewable DE service option will not require a great deal of additional time or resources on the part of the Company. In addition, because the proposed cost recovery and rate setting for the renewable DE service option is similar to the process PSNH currently uses for DE service, the existing resources and infrastructure can be used for rate setting and reconciliation. *Id.*

PSNH said that, when the Company began looking at providing retail access to competitive suppliers, it found that additional tasks would be required such as issuing an RFP, selecting a vendor, developing vendor contracts, monitoring those contracts, tracking revenues

by vendor and administering vendor payments. *Id.* at 15. The Company concluded that it would be much simpler for it to implement the renewable DE service rate itself and then allow 100 percent of the collected revenue to support the purchase of RECs.

To address the uncertainty regarding the rate for the renewable DE service option, PSNH suggested that the Commission consider first deciding whether PSNH's program design is reasonable. *Id.* at 66. PSNH said that it would be updating the rate with its tariff filing to be filed on or about February 1, 2010, and that a separate hearing could be held on the reasonableness of the rate. *Id.*

III. PARTIAL SETTLEMENT AGREEMENT

PSNH and Staff entered into a partial settlement agreement that modified the Company's filing. The partial settlement agreement left unresolved the issue of whether the statute requires each utility to offer its renewable DE service program to all customers, and not just those customers taking DE service from PSNH.

In the partial settlement agreement, PSNH and Staff agreed to seek Commission approval to recover the incremental marketing and promotion costs through PSNH's distribution rates. At the hearing, PSNH and Staff testified that those incremental costs would not exceed \$125,000 annually. *Id.* at 16, 26 and 49. In addition, PSNH and Staff stipulated that, once the program is in place for 12 months, PSNH will report to the Staff regarding program participation in each of the three rate options and all incremental marketing and promotion costs associated with the program. Following the report, the Settling Parties agreed that they would meet with the OCA and other interested parties to review the results and consider potential changes to the program.

The partial settlement agreement also provided that the initiation of service under a renewable DE service option will occur upon a regularly scheduled meter reading date. The

settling parties also stipulated that PSNH would file tariff pages on February 1, 2010, for effect on May 1, 2010, and that subsequent changes to tariff rates will be made on January 1 or July 1 beginning in 2011, or on such dates that PSNH's default energy service rates change.

The OCA took no position on the partial settlement agreement. It said that it was interested in exploring other options, such as offerings from competitive REC suppliers, that might be available in New Hampshire. The OCA also expressed support for PSNH's recommendation that the Commission first consider the design of the program and then review the reasonableness of the rates. *Id.* at 70-71.

Staff supported the partial settlement agreement. Staff stated that, as a first compliance filing, the PSNH filing showed that the Company appropriately evaluated and designed its renewable DE service option and requested that the Commission approve the partial settlement. *Id.* at 72. Staff said that the partial settlement agreement includes reporting requirements that will permit a review of program participation and other costs, and that such reporting and review is in the public interest. Staff recommended approval of the partial settlement agreement. *Id.* at 72-73.

IV. POSITIONS OF THE PARTIES REGARDING THE EXCLUSION OF CUSTOMERS TAKING COMPETITIVE SUPPLY FROM THE RENEWABLE DEFAULT SERVICE ENERGY PROGRAM OPTION

A. Public Service Company of New Hampshire

PSNH pointed out that RSA 374-F:3, V(f) is part of the "Universal Service" subsection of the restructuring statute, and that the sections preceding subsection (f) relate to transition service and default service. *Id.* at 73-74. Given the context of the statute, PSNH said that where the statute required a utility to "provide to its customers" a default energy service product, the

reference to “customers” meant, formerly, transition service customers, and now, default service customers.

More specifically, PSNH said that section 3 of subsection (f) says that “RES default service should have either all or a portion of its service attributable to a renewable energy source procured by the utility, with any remainder filled by standard default service.” *Id.* at 74. PSNH said it designed its program in accordance with the statute with the renewable portion of the service being supplied through the purchase and retirement of RECs and the remainder, i.e., the energy portion, being supplied by standard default service. PSNH stated that this language is a clear indication that the Legislature did not intend utilities to offer the renewable energy option to customers on competitive supply. *Id.* at 74-75. Following this reasoning, PSNH said a customer would not be able to take 25% of its default service requirements from PSNH, choose a renewable DE energy option for that 25%, and take the remainder of its energy requirements from a competitive energy supplier because the statute clearly says that customers taking the renewable DE service option would be required to take the remaining portion of power from standard default service. *Id.* at 75.

PSNH concluded by stating that the Legislature clearly intended that the renewable DE service option would be offered only to DS energy customers, and that the Commission could approve PSNH’s exclusion of customers taking energy supply from competitive suppliers from the renewable DE service option. *Id.*

B. Unitil Energy Systems, Inc.

UES noted that the partial settlement agreement raises the question of whether RSA 374-F:3, V(f)(2) may be read to allow a utility to limit its renewable energy service option to its default service customers because it refers to one of the options as “renewable default energy

service provided by the utility.” *Id.* at 67. UES stated that the statute does not provide specific details regarding the utility-provided renewable energy service option or that offered by competitive sellers of RECs. *Id.* at 68.

UES pointed out that UES’ filing for a renewable energy service option (Docket No. DE 09-224) also limits the renewable energy service option to customers, other than those customers receiving energy assistance, who receive energy service from UES. *Id.* UES said that, from a practical perspective and from a competitive market perspective, it would be difficult for a utility to market an option to all customers, and to do so would be to undermine the competitive supply market. *Id.* at 69. UES opined that the statute requiring utilities to offer a renewable energy service option should not be interpreted to require utilities to offer the renewable energy service option to customers taking energy supply from the competitive market. *Id.* at 68.

Neither the OCA nor Staff stated a position on this issue.

V. COMMISSION ANALYSIS

Pursuant to the New Hampshire Code of Admin Rules Puc 203 .20, the Commission shall approve a settlement agreement provided that it finds the agreement is just and reasonable and in the public interest. In this instance, we are presented with a partial settlement agreement that modifies PSNH’s initial filing to comply with the RSA 374-F:3, V(f) requirement to offer a renewable default service option to its customers. For the reasons stated below, we approve the partial settlement agreement.

In this case, the partial settlement agreement modifies the initial filing in several respects. The settlement agreement clearly states that PSNH will obtain Commission approval before it seeks to recover the incremental marketing and promotion costs through distribution rates. The partial settlement agreement also provides that the initiation of service under a renewable DE

service option will occur upon a regularly scheduled meter reading date. The settling parties also stipulated that PSNH would file tariff pages on February 1, 2010, for effect on May 1, 2010, and that subsequent changes to tariff rates will be made on January 1 or July 1 beginning in 2011, or on such dates that PSNH's default energy service rates change. These are all reasonable modifications to the initial filing and provide clarity as well as appropriate regulatory oversight.

The partial settlement agreement also requires PSNH to make certain reports to the Staff and the OCA 12 months after the introduction of the renewable default energy service. The reporting provision will allow Staff and the OCA to evaluate the program both in terms of participation and cost, and to make appropriate recommendations regarding the future operation of the program. We find the reporting requirement to be reasonable and to serve the public interest by allowing evaluation of the program and recommendations for its improvement, if warranted.

The one issue that was not resolved by the settlement agreement is whether PSNH, or any electric utility, is allowed to limit its renewable DE offering to its default service customers and not to its customers that take energy supply from a competitive supplier. We find that the position of PSNH and UES is consistent with the plain reading of the statute and the overall statutory scheme. The section of the law that requires electric utilities to offer a renewable energy service option replaced a previous provision which set guidelines for utilities that elected to offer an optional renewable energy service program to their transition service customers. Transition service was the term applied to electric service offered by utilities to their customers as the market transitioned to competition. Beginning on competition day (May 1, 2001), the statute refers to those who take electric service from their local electric utility company as "default service" customers inasmuch as they have not procured service from a competitive

supplier but have defaulted to service from the local electric utility company. The relevant statute at RSA 374-F:3, V(f) (3) and (8) refers to the product as “RES default service,” thus indicating that the product is intended for those customers taking default service. Further, the statute requires that the balance of energy not attributed to a renewable resource be “filled by standard default service.” RSA 374-F:3, V (3). We conclude that the law does not require any utility to offer the renewable DE service option to customers taking competitive supply and find that PSNH’s program is reasonable in limiting the program to its default service customers.

During the hearing the Company presented initial draft rates for its renewable DE service option based on an incremental price of 4.66¢ per kWh at the 100% option. (Exhibit 3). At the hearing some concern was expressed that the Company’s conservative approach to setting the rate may make the rate too high to attract sufficient participation to support the continuation of the renewable DE service option. We observe that PSNH plans to file an estimated renewable DE service rate twice a year, for effect on January 1 and July 1 of each year. Because the Company will estimate a rate every six months, and annually reconcile the amounts of revenues and expenses associated with the renewable DE service rate, we determine that it is appropriate for PSNH to more closely track the market price for RECs in establishing its rate for the renewable DE service option. According to the Company, REC costs have been stable for the last two years, which indicates that if the renewable DE service rate were more closely aligned with the market price, PSNH would not incur a great risk of over- and under-collections. In its January 29, 2010 filing of proposed rate options the Company requested approval of renewable energy service rates options starting May 1, 2010 of 3.532¢ per kWh for the 100% option, 1.766¢ per kWh for the 50% option, and 0.883¢ per kWh for the 25% renewable option. As the technical statement of Richard C. Labrecque explains, the proposed rates are based on the mid-

point of actual market bid and offer prices for New Hampshire 2010 vintage Class I and II RECs as of January 22, 2010, which in turn were consistent with market prices in December 2009 and earlier months. Therefore, we will approve the proposed rates as they closely align with actual market rates for New Hampshire RECs.

Based upon the foregoing, it is hereby

ORDERED, that the filing of Public Service Company of New Hampshire to implement a proposed renewable default energy service rate pursuant to RSA 374-F:3, V(f) as modified by the partial settlement agreement is hereby APPROVED; and it is

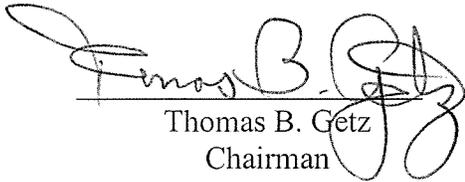
FURTHER ORDERED, that no utility offering a renewable default energy service option pursuant to RSA 374-F:3, V(f) shall be required to offer the option to those customers who take their power supply from competitive energy suppliers; and it is

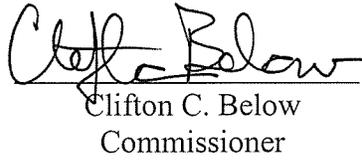
FURTHER ORDERED, that PSNH's proposed renewable energy service rates as filed on January 29, 2010 are hereby approved; and it is

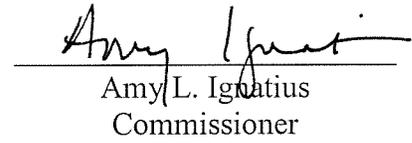
FURTHER ORDERED, that PSNH shall file a compliance tariff on or before April 1, 2010 in accordance with N.H. Admin. Rules Puc 1603.02(b).

By order of the Public Utilities Commission of New Hampshire this fifth day of March,

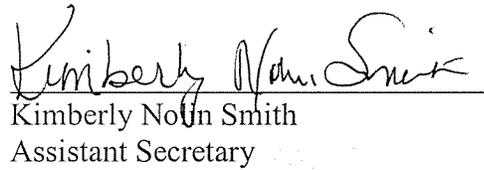
2010.


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03/05/10 Order No. 25,080 issued and forwarded to all parties. Copies given to PUC Staff.

GARY EPLER
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Docket #: 09-186 Printed: March 05, 2010

**FILING INSTRUCTIONS: PURSUANT TO N.H. ADMIN RULE PUC 203.02(a),
WITH THE EXCEPTION OF DISCOVERY, FILE 7 COPIES (INCLUDING COVER LETTER) TO:**
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