

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: September 4, 2018
AT (OFFICE): NHPUC

FROM: Rich Chagnon
Utility Analyst – Electric Division



SUBJECT: Staff's Responsive Filing to Order No. 26,104 in
Docket No. DE 18-002
Evaluation of Energy Service Procurement Process

TO: Commissioners
Debra Howland, Executive Director

CC: Tom Frantz, Director, Electric Division
Les Stachow, Assistant Director, Electric Division
Suzanne Amidon, Staff Attorney

INTRODUCTION

In Order No. 26,104 (Feb. 22, 2018), the Commission approved the energy power procurement of power supply for default energy service by Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource) for the four-month period beginning April, 2018. That order contained the following language in the Commission analysis.

“Now that all of the state’s electric utilities are poised to be divested of their generation units and will issue competitive solicitations for energy supply, we believe it is time for the Commission to revisit its procedures for approving solicitations and fixing resulting energy service rates. We therefore direct Staff to draw on its substantial experience in reviewing these types of solicitations, as well as on the experience of other state commissions, and file a proposal for improving our procedures no later than September 1, 2018. In preparing its proposal, Staff’s primary considerations should be decreasing retail rates by mitigating potential supplier risk premiums associated with the solicitation process and timelines, and increasing administrative efficiency. Staff should identify

any statutory and rule changes that may be necessary to implement its recommendations.”

The purpose of this memorandum is to convey Staff’s position about the current status of the energy procurement process and whether any changes to the process should be made. In summary, Staff believes that the current process is working well, and recommends that the Commission wait until Eversource had conducted at least two more cycles of energy procurement through the request for proposal (RFP) process before considering any changes to the process. While Staff continues to research the processes in other states, Staff recommends that any further study of the procurement process for default energy service involve the input of the three electric distribution utilities that are subject to the Commission’s jurisdiction.

BACKGROUND

In Docket No. DE 17-113, the Commission approved a settlement agreement among most parties in the docket that set up the default energy service procurement process for Eversource to use following after the divestiture of its generation assets. Default energy service (for customers who have not elected to receive power supply from a competitive electricity supplier) is intended to be a safety net to “assure universal access and system integrity.” RSA 374-F:3,V(c). Pursuant to the approved process, Eversource issues RFPs for a six-month power supply twice a year, with separate bids for the small customer group and the large customer group. The intended result of the competitive bid process is the procurement of market-priced power for ratepayers who continue to take energy service from Eversource. The Commission approved the process as being consistent with the principles of the electric industry restructuring act, RSA 374-F:3 which states as follows: “Default service should be procured through the competitive market and may be administered by independent third parties.” The use of a competitively bid RFP process satisfies this principle.

Eversource is the last utility of the three electric distribution utilities in New Hampshire to divest its generation resources and long-term power purchase agreements. Both Unitil Energy Systems, Inc. (Unitil) and Liberty Electric (now Liberty Utilities or “Liberty”) have had competitive RFP processes in place for the purchase of default energy service power supply since “competition day” defined by both the Unitil and Liberty restructuring agreements as May 1, 2006. For Eversource, competition day was also defined in the 1999 PSNH Restructuring Settlement Agreement as May 1, 2006. The legislature subsequently modified the conditions under which Eversource could divest its generation resources (RSA 369-B:3-a) and further modified the legislation in support of the 2015 PSNH Restructuring Settlement Agreement approved in Docket No. DE 14-238. *See* Order No. 25,920 (July 1, 2016). According to the 2015 Settlement Agreement, following divestiture, Eversource would adopt a default service procurement process as approved by the Commission in Docket No. DE 14-338 (See page 5, *infra*).

Eversource's RFP process for the procurement of default energy service is similar to the process currently approved by the Commission for Unitil and Liberty. These processes have changed over time as described below.

UNITIL

In Docket No. DE 05-064, the Commission approved a settlement agreement that established Unitil's for procuring default service supply. *See* Order No. 24,511 (September 9, 2005).

The settlement agreement incorporated several principles that are also reflected in the Liberty and Eversource's approved default service procurement process. These principles include (1) all costs associated with the administration and implementation of default service procurement, and all related working capital and bad debt expense, should be recovered through default service rates; (2) any variation to the form power purchase agreement (PPA) or the RFP form is subject to Commission review; (3) until the establishment of the forward capacity market, bidders shall submit bids with and without capacity costs; and (4) rates for the small customer group (including residential customers) shall be fixed for a six-month term of the service.

Unitil initially used a laddered portfolio of power supply for its small customer group that included contracts for a one, two and three year period, and that approach was part of the settlement agreement approving its default service procurement process. Based on the pricing of the winning bids, Unitil would set fixed rates for residential customers for a six-month period.

For its large customer group (commercial and industrial customers), Unitil solicited a three-month block of power supply on a quarterly basis, and rates that varied from month to month.

The settlement agreement provided that Unitil make a filing for approval of each solicitation and the resulting rates. The agreement provided that the Commission would hold a hearing and issue an order within 5 business days of the filing.

In 2012, Unitil proposed a change to its default service procurement process to the schedule and process it uses today.

- Unitil moved its RFP issuance date to align it with the RFP issuance of its Massachusetts's affiliate, Fitchburg Gas and Electric Light Company. By doing so, Unitil attracts more interest from potential bidders because the issuance does not compete with the RFP of National Grid.
- Because supplier's view long-term contracts as risky, and therefore add a premium to such supply, Unitil proposed changing the process from a laddered-portfolio to a six month supply for Non-G1 customers.

- In recognition of the difference in peak use and load factors between residential and small commercial energy service customers, Unitil proposed to issue separate RFPs for these two groups.
- To eliminate the work required in issuing quarterly RFPs for the large customer group, and reduce hedging by suppliers to account for customer migration in this group, Unitil proposed to change the RFP from a request for fixed monthly prices to a request for fixed monthly adders to be added to the LMP, with prices continuing to vary from month to month.

The Commission approved these changes in Order No. 25,397 (July 31, 2012).

LIBERTY

The Commission approved a settlement agreement approving Liberty's process for procuring default energy service supply in Docket No. DE 05-126. See Order No. 24,577 (January 13, 2006).

Liberty's proposal included the principles of cost recovery, Commission review of changes to PPAs and RFPs, RFPs for both energy and capacity and energy only until the forward capacity market is settled, and a six-month fixed rate for residential customers. Liberty also proposed to issue separate RFPs for its large customer group, and its small customer group.

Like Unitil, Liberty proposed to solicit power for its large customer group in three-month blocks, with RFPs issued on a quarterly basis, with rates that vary from month to month.

Liberty adopted a different approach for the small customer group which it uses to this day. Liberty proposed to solicit bids for a six-month block of power supply for its small customer group every six months. Like Unitil, Liberty calculates a fixed rate for small customers for each six-month period.

As with Unitil, the Commission approved a process whereby Liberty files for approval of the solicitation results and the resulting rates, and the Commission holds a hearing and issues an order within 5 business days of the filing.

This process was approved in Order No. 24,577.

Over time, Liberty has modified its solicitation process as follows:

Order No. 24,922 (Dec. 19, 2008) eliminated the requirement that Liberty solicit bids for both energy and capacity and energy only bids. Because the forward capacity market had settled, the Commission agreed that Liberty should solicit energy and capacity supply.

Order No. 25,602, (Nov. 27, 2013) authorized Liberty to solicit power for its large customer groups every six months, in two consecutive three-month blocks of power, with prices continuing to vary from month to month.

Order No. 25,806 (Sept. 2, 2015) authorized Liberty to phase in the implementation of a schedule for default service that included a winter month in each of the two six-month blocks of power supply.

DEFAULT SERVICE PROCUREMENT OUTCOMES AND SUBSEQUENT REVIEW

As is apparent from the description of Liberty's and Unitil's default service power procurement process, these processes have been in place since 2006. Both Unitil and Liberty have experienced successful power solicitations since that time with a number of bidders that Staff has determined to be competitive. This changed somewhat for the bids for power that included the winter periods in 2013 and 2014. The ISO-NE developed "winter reliability standards" for these winters and these standards created some uncertainty in the supplier market regarding the price of power. Consequently, both Unitil and Liberty experienced fewer bidders than in prior years. As a result of the uncertainty, the costs of wholesale power offered by winning bidders for these two periods reflected the higher costs associated with the fluctuation of market costs for energy. *See*, Dockets No. DE 14-061 and DE 14-031 (Liberty and Unitil, respectively). As a result, the Commission opened Docket No. DE 14-211, to review Liberty's and Unitil's respective contingency plan in the event of a failed auction. Ultimately, the Commission closed this docket and opened Docket No. IR 14-338, to review the default energy service process used by Liberty and Unitil to assess whether the process needed to be modified for the benefit of customers. *See* Order No. 25,806 (September 2, 2015).

At the hearing in IR 14-338 on May 27, 2015, Unitil explained that it did not recommend any changes to its RFP process, and said that suppliers have no objection to the timing of the final orders (5 business days after filing). May 27, 2015 Hearing Transcript at 9 and 10.

Liberty said the time between the filing and order was not a problem unless a selected bid was rejected. Liberty noted that such an event had never occurred. *Id.* at 12.

Constellation said that the timing is only an issue if the proposed bid selection was rejected, but said that there was some merit to shortening the time between bid acceptance and Commission of bid selection. Constellation further said that Commission could approve the rates at a later point. *Id.* at 13-14. In response, Liberty said it would be worrisome if rates were not approved when the power supply contract was approved, because it meant that the distribution utility may not receive cost recovery for the power. *Id.* at 16-17.

Unitil suggested that the change to timing of approval could be done by agreement, for example, the settlement agreement that set up the RFP process. *Id.* at 18

Both Unitil and Liberty expressed concern about changing the timing of bids by splitting the winter months could create competition with RFPs for larger blocks of power. *Id.* at

32. Constellation agreed, but suggested that rates for the winter period represent a rate-design issues. *Id.* at 35. Commenting on proposal to extend the RFP to solicit power for a 12-month period, Constellation said that that would create a disconnect between the underlying wholesale cost and the retail prices to be paid by customers. *Id.* Further, Constellation argued that while such an approach may reduce price volatility, it could discourage weatherization and other measure to promote energy efficiency or demand response measures because a 12-month period mutes the price signal. Further, Constellation suggested that such a rate may encourage competitive suppliers to game the system to put customers on utility supply during the winter months and take them back during the shoulder months. *Id.* at 35-36.

The OCA originally suggested that the Commission consider adopting a laddered portfolio for power procurement, but Staff opined that that had been tried by Unitil and ultimately worked at a disadvantage to customers because some longer-term contracts were at high prices, resulting in higher-than market rates for residential customers until those contracts expired. *Id.* at 49-50.

The hearing was closed. The Commission took no further action in DE 14-338. As a result of this proceeding, Liberty voluntarily decided to shift the two, six-month default energy service periods from January to June and July through December by one month. By shifting the periods to February through July, and August through January, Liberty included one of the two high-price winter months (January and February) to different default service period.

EVERSOURCE

The process proposed by Eversource was modified in the Settlement Agreement to reflect some aspects of the solicitation process employed by Unitil and Liberty. For example, Eversource recovers all energy service administrative costs in energy service rates, Eversource solicits power for its small customer group in six month block with a fixed rate for the six-month period, although unlike Unitil and Liberty, Eversource solicits bids for the small customer group in approximately 100 megawatt tranches.

For the large customer group, Eversource solicits power in semi-annual procurements, selecting one supplier for 100 percent of the large customer group power requirement, similar to the manner adopted by other New Hampshire electric distribution utilities. For large customers, Eversource calculates rates that vary from month to month to reflect differences in the monthly cost of power.

The one element of Eversource's proposal that was included in the settlement agreement that differed from Unitil and Liberty affects the timing of the Commission order approving the solicitation. Eversource requested that the Commission order be issued 10 business days after the filing for approval of any solicitation, whereas Unitil and Liberty requested the order within 5 business days. Eversource requested the 10 business days in its original filing in Docket No. DE 17-113, and affirmed at the December 4, 2017 hearing in that matter that 10 business days was what Eversource deemed an appropriate

length of time for the Commission to review any filing resulting from an energy service solicitation. Transcript of Hearing in DE 17-113, Page 37, lines 14-16.

At the February 14, 2018 hearing on the first default service solicitation, Eversource expressed a preference to reduce the time from bid selection to Commission order by conforming to the five-business-day paradigm used by Unitil and Liberty, instead of the 10-business-day time period contained in the settlement agreement. Beginning with the first solicitation of Eversource for energy service, the Commission approved the petition for rates within 5 business days of the filing. Eversource has not asked for any additional changes to its solicitation process.

STAFF ANALYSIS

Staff believes that it is premature to make any further changes to the processes used by the electric distribution utilities to solicit default energy service from the competitive market. At this point, Eversource has issued two solicitations. Staff proposes that the Commission wait for at least a year before making any additional changes to the default service procurement process for the electric distribution utilities. This way, Eversource could conduct two additional RFPs, and as a result, Staff and the Commission will have better information to consider in contemplating any further changes. Staff recommends that such future Commission investigation be a generic investigation including Unitil, Liberty and Eversource, as well as the wholesale power managers for those utilities, to assess the viability of other approaches to procuring default energy service in New Hampshire.

During the interim, Staff will continue its research into the methods for procuring energy service that have been approved in other New England states. In addition, Staff is aware that Liberty Consulting will, in the near future, publish the outcome of a survey it conducted on energy service procurement methodologies among New England public utility regulatory agencies and the various electric utilities providing default energy service. Staff will share the results of the survey with the Commission and will include an analysis with the results.

Finally, Staff will review and monitor other procurement processes from additional electric utilities outside of New England, to evaluate the merits of approaches that are different than those approved for operation in the State of New Hampshire. While Staff is aware that other State Commissions do not hold a hearing on power procurement contracts, and that those Commissions are authorized to approve the petition, in some cases, on the day of the filing without an investigation and hearing. Because the Commission is required to determine that all charges approved for use by a utility must be just and reasonable, the Commission adopted a process whereby it holds a hearing on each energy service solicitation, and issues orders within the agreed-upon time frame. *See* RSA 378:3, 378:5 and 374:2. By approving the solicitations within 5 business days of the filing, the Commission allows time for an investigation of the RFP results and the approval of the rates to recover the costs associated RFP results. The

Commission also provides customers with 30-days' notice of any change in rates. RSA 378:3. If the Commission approves Staff's recommendation of waiting for at least a year before making any additional changes to the default service procurement process for the electric distribution utilities, when directed to do so, Staff will work with the utilities to recommend any further changes to the RFP process for power supply procurement. If those recommendations include the elimination the requirement for a hearing, Staff will identify for the Commission any statutory changes which would be required to implement such changes.

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**
- DEBRA A HOWLAND
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- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**
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