

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 07-012

GRANITE STATE ELECTRIC COMPANY

Petition for Approval of Proposed Default Service Rates

Order Approving Petition

O R D E R N O. 24,787

September 21, 2007

APPEARANCES: Alexandra E. Blackmore, Esq. on behalf of Granite State Electric Company d/b/a National Grid; Meredith A. Hatfield, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. on behalf of Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On September 17, 2007, Granite State Electric Company d/b/a National Grid (National Grid) filed a petition requesting Commission approval of its solicitation and bid evaluation process and proposed default service rates for the period November 1, 2007 through January 31, 2008 for medium and large commercial customers (Large Customer Group), and November 1, 2007 through April 30 2008 for its residential and small commercial customers (Small Customer Group). The filing was made pursuant to a Settlement Agreement approved by the Commission by Order No. 24,577 (January 13, 2006) in Docket No. DE 05-126. In support of its filing, National Grid filed the testimony and related exhibits of John D. Warshaw. On September 19, 2007, National Grid filed corrected exhibits. With its petition, National Grid also filed an updated quarterly report regarding customer migration to competitive supply. On February 7, 2007, the Office of Consumer Advocate (OCA) entered an appearance on behalf of residential ratepayers consistent with RSA 363:28.

The settlement agreement approved in Docket No. DE 05-126 provides that National Grid shall solicit power supplies on a quarterly basis for 100 percent of the default service requirements for its Large Customer Group at fixed prices that vary from month to month. The settlement further provides that National Grid solicit 100 percent of a six-month block of default service requirements for its Small Customer Group at a fixed average price of the six-month block.

As a result of its solicitation process, National Grid selected Hess Corporation (Hess) to supply 100 percent of the three-month block of default service energy requirements for its Large Customer Group, and FPL Energy Marketing (FPL) as the supplier for 100 percent of the six-month block of the Small Customer Group's energy requirements beginning November 1, 2007.

National Grid is proposing to include a Renewable Portfolio Standard (RPS) adder to its default service rates beginning on January 1, 2008, the effective date of the New Hampshire RPS law, RSA 362-F. Pursuant to the RPS law, National Grid must obtain 3.5 percent of its energy supply mix from qualified biomass generators (Class III) and 0.5 percent from existing small hydroelectric generators with certain fish passages (Class IV). National Grid proposes to purchase the attributes associated with eligible renewable generation via Renewable Energy Certificates (RECs) in the wholesale market as its affiliates have done in Massachusetts and Rhode Island. Until such time as New Hampshire develops regulations to implement the RPS law, National Grid proposes to establish the RPS adder assuming that Class III RECs will trade at their alternative compliance price (which, under the statute, effectively functions as a REC price cap), and that Class IV RECs will trade at a price of \$2.00. Using these assumptions, National Grid has proposed to set the RPS adder at \$0.00108 per kWh for both customer groups.

With its petition, National Grid filed a motion for confidential treatment of the power supply agreements (PSAs) between National Grid and the winning suppliers. In addition, the company also requests confidential treatment of its summary of the RFP bid evaluation including its analysis comparing changes in the electric and gas futures costs to changes in procurement costs.

In support of its motion, National Grid states that the contracts, the bid evaluation and the analysis comparing futures costs contain competitive energy pricing and contract terms which are commercially sensitive, the disclosure of which could be harmful to the competitive positions of Hess, FPL and other participants in the RFP process. According to the company, disclosure of this information could chill the willingness of these suppliers to participate in providing energy services in New Hampshire in the future. National Grid states that the parties have taken steps to avoid disclosure of the confidential commercial information contained in the contracts, and the disclosure of such information could adversely affect the business position of the parties in the future.

National Grid notes that N.H. Code Admin. Rules Puc 203.08 provides that the Commission shall, upon motion, issue an order granting confidential treatment of one or more documents upon a finding that the document or documents are excluded from the disclosure requirements of RSA 91-A:5 of the Right-to-Know Law. National Grid contends that the contracts, the bid evaluation, and the analysis of the futures costs are exempt from public disclosure under RSA 91-A:5,IV as confidential, commercial or financial information.

On September 12, 2007, National Grid filed a separate motion for confidential treatment, this one concerning indicative bid summaries that were provided to Staff on September 7, 2007. National Grid asserted that the indicative bids constituted confidential commercial and financial

information protected from disclosure pursuant to RSA 91-A;5, IV and that National Grid was provided with the understanding that the information would remain confidential. National Grid stated that disclosure of the information would undermine the ability of the bidders to compete in the electric service market and would discourage bidders from participating in future solicitations.

II. POSITIONS OF THE PARTIES AND STAFF

A. National Grid

National Grid testified that it conducted the default service solicitation process in accordance with applicable rules and the terms of a settlement agreement approved by the Commission in Order No. 24,577 (January 13, 2006). According to the company, it issued an RFP to more than 25 potential suppliers, soliciting default service power supplies for both the Large Customer Group for the period November 1, 2007 through January 31, 2008 and for the Small Customer Group for the period November 1, 2007 through April 30, 2008. National Grid also distributed the RFP to all members of the New England Power Pool (NEPOOL) Markets Committee and posted the RFP on its energy supply website. As a result, National Grid asserts that the RFP had wide distribution throughout the New England energy supply marketplace. The RFP requested fixed pricing for each month of service on an as-delivered energy basis, and allowed prices to vary from month to month across the entire service period for both customer groups.

National Grid stated that it received indicative bids on September 6, 2007, and provided Staff and the OCA with a confidential summary on the next day. National Grid testified that it evaluated the implied costs of capacity by comparing the indicative energy only and energy-and-capacity bids with its own internal evaluation of the costs of capacity and, after reviewing the

indicative bids with Staff, selected bids which provided all inclusive fixed energy-and-capacity prices.

National Grid received final bids on September 12, 2007. According to testimony, none of the bidders made their provision of National Grid's default service contingent upon the provision of any other service. National Grid then evaluated the bids received and selected the two suppliers that: (a) provided a bid that was conforming to the RFP, (b) had the lowest price, (c) met the credit requirements described in the RFP, and (d) passed National Grid's qualitative criteria. National Grid testified that, on September 13, 2007, it entered into transaction confirmations with Hess, to provide default service to the Large Customer Group for the three-month period from November 1, 2007 through January 31, 2008, and with FPL, to provide default service to the Small Customer Group for the six-month period from November 1, 2007 through April 30, 2008.

Based on this selection, the monthly base retail rate for National Grid's Large Customer Group for the months of November and December 2007 and January 2008 follows:

Month	November 2007	December 2007	January 2008
Price per kWh	\$0.08204	\$0.08736	\$0.10466

National Grid states that the simple average of the commodity costs for the Large Customer Group is \$0.09313 per kilowatt hour (kWh) compared to the simple average of \$0.09719 per kWh for the period August 2007 through October 2007. National Grid notes that its proposed rate for the Large Customer Group includes the default service cost reclassification adjustment factor, the 2007 default service adjustment factor and a proposed Renewable Portfolio Standard adder. Customers in the Large Customer Group who are billed monthly

default service rates will experience rate decreases ranging from 8.6 percent to 10.2 percent from the October rates.

According to the company, the base retail rate and other adjustments for the Small Customer Group are as follows:

Month	Nov. 07	Dec. 07	Jan. 08	Feb. 08	March 08	April 08
Base Rate kWh	\$0.08073	\$0.08557	\$0.10116	\$0.10377	\$0.09284	\$0.08799
DS cost reclassification	\$0.00020	\$0.00020	\$0.00020	\$0.00020	\$0.00020	\$0.00020
DS adjustment Factor	(\$0.00217)	(\$0.00217)	(\$0.00217)	(\$0.00217)	(\$0.00217)	(\$0.00217)
RPS adder	\$0.00000	\$0.00000	\$0.00108	\$0.00108	\$0.00108	\$0.00108
Total retail rate	\$0.07876	\$0.08360	\$0.10027	\$0.10288	\$0.09195	\$0.08710

Based on the above table, the weighted average default service rate \$0.09161 per kWh.

National Grid states the effect of the company's proposal on the monthly bill of a 500 kWh per month residential default service customer is an increase of \$1.92, or 2.7 percent, from \$71.35 to \$73.27.

National Grid explained its decision to use an RPS adder to comply with RSA 362-F as follows. Although the new law is not effective until January 1, 2008, National Grid is proposing an RPS adder at this time because the settlement agreement in Docket No. DE 05-126 requires the company to provide fixed default service prices for both customer groups. National Grid explained that the period for the RFP in this proceeding includes the first month of the new RPS obligation. Therefore, National Grid must include an RPS adder in its calculation of the default service rates in order to ensure that the customers for whom the company is incurring the RPS obligations will be assessed the cost of the obligation. The company noted that no regulations have been promulgated to implement the new requirements (although interim rules are pending

before the Joint Legislative Committee on Administrative Rules). National Grid testified that it plans to meet the requirements of regulations once such regulations are effective, but until that time National Grid proposes to acquire the attributes of RPS generation, by purchasing RECs in the wholesale marketplace. The company noted that it also had the option, pursuant to RSA 362-F, to satisfy its obligations by making alternative compliance payments to the renewable energy fund created by the law.

National Grid explained that it is using the alternative compliance payment for Class III obligations because the addition of specific emission and size requirements for the biomass resources eligible for certification as Class III facilities may limit the actual number of resources in that classification. National Grid stated that discussions with renewable suppliers confirm that Class III resources may trade closer to the alternative compliance payment rate than existing renewable resources. Therefore, National Grid opted to assume for ratemaking purposes that it would comply with Class III requirements by making alternative compliance payments.

With respect to Class IV resources, National Grid stated that the market prices for Class IV resources may be significantly lower than the price for Class III resources in other jurisdictions. According to information it received from a number of brokers in the REC market, and based on National Grid's past purchases in other jurisdictions, the current value of similar RECs is between \$0.50 and \$2.00 per REC. National Grid selected the higher value in calculating its RPS adder, which results in a charge to customers of \$0.00108 per kWh. National Grid will apply this adder to the Large Customer Group default service rate for the month of January 2008. For the Small Customer Group, National Grid will apply the adder beginning January 1, 2008 through April 30, 2008. National Grid testified that the RPS would be subject to reconciliation to actual RPS compliance costs.

Finally, National Grid noted that the company had discussed with Staff whether National Grid had included in default service rates all internal administrative costs associated with the procurement of default service supply for its New Hampshire customers. The company agreed with Staff's proposal that the company and Staff jointly review internal administrative costs to assure that the amount of such costs associated with default service supply in New Hampshire was reasonable.

B. Office of Consumer Advocate

The OCA asked Mr. Warshaw about the current average usage of a residential customer and whether 500 kWh was an appropriate measure. Mr. Warshaw replied that the standard measure of 500 kWh per month as a representative sample of residential electricity consumption was used industry-wide, but he agreed that the actual average is higher. The OCA concluded by indicating that it had no objection to the petition.

C. Staff

Staff reiterated National Grid's comments regarding the agreement between Staff and the company to review internal administrative costs related to default service to assure that default service rates included an appropriate allocation of such costs. Staff also expressed agreement with National Grid's proposal to use an RPS adder as a proxy for RPS compliance costs provided that such costs are subject to reconciliation. Staff concluded by stating its opinion that National Grid had complied with the solicitation and bid evaluation process approved by the Commission in Docket No. 05-126, and opined that the resulting rates are market based. Finally, Staff recommended that the Commission approve the petition.

II. COMMISSION ANALYSIS

A. Confidentiality

First, we address National Grid's motions 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 PSA. Finally, by a separate 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 with the understanding that such information would be maintained as confidential, contending that suppliers would be reluctant to participate in future solicitations by National Grid if their confidential bid information is disclosed. National Grid asserts that the disclosure of the fully negotiated PSAs will reveal its negotiating posture to other potential power suppliers and claims that its customers would be harmed by National Grid's diminished negotiating position.

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. RSA 91-A:5, 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 need for National Grid and its bidders to maintain confidentiality of such information. *See Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540 (1997) (describing applicable balancing test). We therefore grant confidential status to the information redacted from National Grid's public filing. Consistent with past practice, this determination is 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 in light of RSA 91-A, should circumstances warrant. In granting the Motion, we note that the settlement approved by Commission Order No. 24,577 contemplated that any discussion of the indicative bid evaluation would be confidential.¹

B. Default Service

Regarding National Grid's analysis of the bids and its selection of the winning bidders for default service supply for its Large Customer and Small Customer Groups beginning November 1, 2007, we find that National Grid complied with the procedures approved by Order No. 24,577. We are satisfied that National Grid met all procedural requirements consistent with prior orders of this Commission. 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.

¹ See Order No. 24,577 (January 13, 2006), slip op. at 9.

We approve National Grid's proposal to use an RPS adder to its rates as a proxy for the costs of compliance. We do so reserving our right to revisit the issue of compliance with the RPS requirements in a later docket, and with the understanding that the estimated costs of RPS compliance will be reconciled with the actual costs, with any over-recovery being credited back to the customers paying those costs.

Finally, we find that National Grid's evaluation of the bids and its selection of Hess as its default service supplier for the Large Customer Group and FPL as its default service supplier for the Small Customer Group is reasonable. We approve this Petition and we will allow the power supply and capacity costs to be included in the company's rates beginning November 1, 2007.

Based upon the foregoing, it is hereby

ORDERED, that the Power Supply Agreement between Hess Corporation and Granite State Electric Company d/b/a National Grid for three months default service power supply for National Grid's Large Customer Group for the period from November 1, 2007 through January 31, 2008 is hereby APPROVED; and it is

FURTHER ORDERED, that the Power Supply Agreement between FPL Energy Marketing and Granite State Electric Company d/b/a National Grid for six months default service supply for National Grid's Small Customer Group for the period November 1, 2007 through April 30, 2008 is hereby APPROVED; and it is

FURTHER ORDERED, that the rates proposed by National Grid for its Large Customer Group for the period November 1, 2007 through January 31, 2008, and its Small Customer Group for the period beginning November 1, 2007 through April 30, 2008, are hereby APPROVED; and it is

FURTHER ORDERED, that National Grid shall file conforming tariffs within 30 days of the date of this Order pursuant to N.H. Code Admin. Rules Puc 1606.02.

By order of the Public Utilities Commission of New Hampshire this twenty-first day of September, 2007.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary