

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 07-012

GRANITE STATE ELECTRIC COMPANY

**Petition for Approval of Proposed Default Service Rates for February 1, 2008 through
April 30, 2008 for Large Commercial and Industrial Customers**

Order Approving Petition

ORDER NO. 24,810

December 17, 2007

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

I. BACKGROUND

On December 10, 2007, Granite State Electric Company d/b/a National Grid filed a petition requesting approval of default service rates in connection with the company's recent procurement of default service power supply for its large and medium commercial and industrial customers (Large Customer Group) for the period from February 1, 2008 to April 30, 2008. In support of its petition, National Grid filed the testimony of John D. Warshaw and related exhibits. Mr. Warshaw is the principal New England energy supply analyst for National Grid USA Service Company, the National Grid affiliate with responsibility for procurement of default service power for National Grid. The company named Constellation Energy Commodities Group (Constellation) as the winning supplier.

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

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

With its petition, National Grid filed a motion for confidential treatment of certain information pursuant to N.H. Code Admin. Rules Puc 203.08. The information for which National Grid seeks confidential treatment is redacted from its public filing and was submitted separately with the motion. In the motion, National Grid requests confidential treatment of: the transaction confirmation and contract with Constellation (JDW-4), the summary of the RFP bid evaluation (JDW-2), and an analysis comparing changes in electric and gas futures costs to changes in power procurement costs (JDW-3).

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

The company notes that Puc 203.08 provides in pertinent part that “the Commission shall upon motion issue a protective order providing for the confidential treatment of one or more

documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5 or other applicable law based upon the information submitted pursuant to Puc 203.08(b).” Documents exempt from public disclosure under RSA 91-A:5, IV include records relating to...confidential, commercial or financial information...” and other documents whose disclosure would constitute an invasion of privacy. National Grid attests that the information for which it seeks protective order is confidential, commercial or financial information within the meaning of RSA 91-A:5, IV and should be exempt from disclosure. National Grid also filed a similar motion for confidential treatment for the information shared with Staff on November 29, 2007 regarding the indicative bids.

On December 10, 2007, the Commission scheduled a hearing for December 12, 2007.

The hearing took place as scheduled.

II. POSITIONS OF THE PARTIES AND STAFF

A. National Grid

National Grid testified that it conducted its solicitation process consistent with the terms of the settlement agreement approved by the Commission in Order No. 24,577 (January 13, 2006). As with prior solicitations, National Grid and its retail distribution affiliates in Massachusetts prepared a joint RFP for certain power supplies, including a default service supply for National Grid’s Large Customer Group for the period February 1, 2008 through April 30, 2008. The RFP requested fixed pricing for each month of service on an as-delivered energy basis and allowed prices to vary by month so that prices did not have to be uniform across the entire service period.

According to National Grid, the RFP was issued on October 26, 2007 to more than 25 potential suppliers. The RFP was also distributed to all members of the New England Power

Pool (NEPOOL) Markets Committee and was posted on National Grid's energy supply website. According to National Grid, the RFP had wide distribution through the New England energy supply marketplace.

The company testified that suppliers filed indicative bids on November 28, 2007 and final proposals on December 5, 2007. National Grid also shared a confidential summary of the indicative bids with Commission Staff on November 29, 2007. According to the company, none of the bidders made their provision of National Grid's Large Customer Group default service contingent upon the provision of any other service. Pursuant to the settlement agreement, the company testified that it evaluated the received bids and selected Constellation because its bid conformed to the RFP, had the lowest price, met the credit requirements described in the RFP, and passed National Grid's qualitative evaluation. National Grid attested that it complied with the solicitation and bid evaluation process approved by the Commission and that its choice of supplier is reasonable.

On December 5, 2007, National Grid entered into a transaction confirmation with Constellation to provide default service to the Large Customer Group for the three-month period February 1, 2008 through April 30, 2008. National Grid explained that a copy of the master power agreement between National Grid and Constellation was filed with the Commission on March 20, 2006 in Docket No. DE 06-115, a prior default service proceeding. The transaction confirmation, together with the master power agreement, provides the terms of National Grid's purchase of default service for its Large Customer Group from Constellation.

National Grid explained that, consistent with Order No. 24,787 (September 21, 2007) in a proceeding related to prior default service solicitation in this docket, the Commission allowed the company to use a Renewable Portfolio Standard (RPS) adder of \$0.00108 per kWh to comply

with RSA 362-F, the New Hampshire RPS statute. The RPS statute requires each provider of electric service to purchase 4 percent of its load from qualified renewable energy generation or the attributes of such generation in the form of renewable energy certificates (RECs), and, if neither energy nor RECs are available, to make alternative compliance payments (ACPs) into the renewable energy fund established by the RPS statute. The company testified that it had not yet determined how to satisfy the requirements of the RPS law, but, at a minimum, it proposes to purchase the attributes of RPS generation. According to National Grid, these attributes are RECs in the wholesale marketplace. The company explained that its affiliates in Massachusetts and Rhode Island have satisfied similar RPS requirements by purchasing RECs. Accordingly, to assure that costs are recovered for RPS compliance in this docket, National Grid will use the adder \$0.00108 previously approved by the Commission in the calculation of rates for the Large Customer Group.

National Grid testified that the rates for the Large Customer Group for the period February 1, 2008 through April 30, 2008, including the various components included in the rate, will be as follows:

Month	February 2008	March 2008	April 2008
Base Default Service Rate	\$0.10248	0.09023	\$0.08641
DS Cost Reclassification ¹	\$0.00003	\$0.00003	\$0.00003
DS Adjustment Reconciliation Factor	(\$0.00217)	(\$0.00217)	(\$0.00217)
RPS Adder	\$0.00108	\$0.00108	\$0.00108
Total Default Service Rate	\$0.10142	\$0.08917	\$0.08535

¹ The filing states that the DS Cost Reclassification Factor (for use on an after May 1, 2007) recovers costs associated with the unbundling the DS-related administrative costs.

National Grid said that, consistent with the settlement agreement, it had solicited both energy-only and energy-and-capacity bids in its Request for Proposal (RFP). Because the implied cost of capacity in the indicative bids was lower than the company's internal calculation of capacity cost estimates for the months of February, March and April 2008, National Grid awarded the contract to Constellation for energy-only and will pass through the costs of capacity to customers. National Grid stated that it included its own calculated monthly estimates of capacity costs in the base default service rate.

B. Staff

Staff conducted a line of questioning regarding the method by which National Grid estimated the cost of capacity. Staff noted that National Grid's internal estimate of the cost of capacity is a factor in the company's selection of fixed price energy-only bid in this proceeding with the cost of capacity being passed through to customers at market cost. In response to Staff's questions, National Grid explained that several components to the calculation are based on data provided by the Independent System Operator-New England (ISO-NE).

Staff concluded by stating that, based on its review of the petition, UES had complied with the terms of the 2005 settlement agreement in its solicitation and bid evaluation process and recommended that the Commission approve the petition. Staff also said that it did not oppose the company's motions for confidential treatment. However, Staff noted that the differences between National Grid and Unitil Energy Systems, Inc. (UES) internal calculations of the estimated cost of capacity were sufficiently marked to merit further investigation.

III. COMMISSION ANALYSIS

A. Confidentiality

First, we address National Grid's motion for confidential treatment. The materials which National Grid seeks to protect contain a brief discussion of the selection of the winning bidder, a bidder key that identifies the suppliers who participated in the RFP, the comparative energy and capacity prices received from the bidders (including the estimated total cost according to the evaluation loads provided with the RFP), a ranking of the transactions offered by each bidder in terms of financial security (including consideration of reasonable extension of credit to National Grid and the creditworthiness of the supplier and the credit assurance offered), the information provided by each bidder in the proposal submission forms, and, a redlined version of the negotiated purchase and sale agreement. Finally, in a subsequent motion, National Grid requests confidential treatment of the indicative bids.

National Grid asserts that this information should be protected from public disclosure because it is confidential, commercial, or financial information. National Grid contends that the information provided by bidders was offered under the express understanding that such information would be maintained as confidential, and attested that suppliers would be reluctant to participate in future solicitations by National Grid if their confidential bid information is disclosed. National Grid contends that the disclosure of the fully negotiated transaction confirmation agreement with Constellation would reveal National Grid's negotiating posture to other potential power suppliers and, thus, National Grid asserts that its customers would be harmed by National Grid's diminished negotiating position resulting from public disclosure.

National Grid also asserted that the indicative bids shared with Staff by email on or about June 7, 2007 should be confidential for the same reasons.

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

Inasmuch as disclosure in this instance could negatively affect customers, we do not find the public's interest in review of the financial, commercially sensitive information sufficient to outweigh the interest that National Grid and its bidders have in maintaining confidentiality of such information. *See Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540 (1997) (requiring the balancing of such interests in RSA 91-A:5, IV determinations). We therefore grant protective treatment to the information redacted from National Grid's public filing.

Pursuant to requirements of the Federal Energy Regulatory Commission (FERC), each wholesale supplier is obligated to report to the FERC the price and volume of its wholesale contractual sales during each quarter and to identify the party to whom the sale has been made, within 30 days of the end of that quarter. *See Revised Public Utility Filing Requirements*, 99 FERC ¶ 61,107 (April 25, 2002) and 18 CFR Parts 2, 35. FERC makes this information available to the public through electronic quarterly reports. Therefore, insofar as protection is requested for wholesale contractual sales, we grant such information protective treatment until such time as the information is published by the FERC.

Consistent with past practice, the protective treatment provisions of this order are subject to the on-going authority of the Commission, on its own motion or on the motion of Staff, any

party or other member of the public, to reconsider this protective order in light of RSA 91-A, should circumstances so warrant. In granting the motion, we note that the settlement agreement approved in Order No. 24,577 contemplated that any discussion of the indicative bid evaluation would be confidential,² and we, therefore, accord confidential treatment of the information provided to Staff which occurred on or about November 29, 2007.

B. Default Service

Regarding National Grid's analysis of the bids and its selection of the winning bidder for default service supply for its Large Customer Group for the three-month period from February 1, 2008 through April 30, 2008, we find that National Grid complied with the procedures approved by Order No. 24,577. We are likewise satisfied that the participation of multiple bidders in the process is indicative of a competitive bid and, consequently, that the result is consistent with the requirement of RSA 374-F:3, V(c) that default service be procured through the competitive market.

We also find that National Grid's evaluation of the bids and its selection of Constellation as its default service supplier for the Large Customer Group for the period February 1, 2008 through April 30, 2008 is reasonable. The testimony of National Grid, together with its bid evaluation report, indicates that the bid prices reflect current market conditions and, therefore, are reasonable. In light of the circumstances, we grant the petition. With respect to our approval of the RPS adder in this proceeding, we reserve our right to revisit the issue of the appropriate calculation of the adder and, generally, National Grid's compliance with the RPS statute.

We note that UES' past selection of an energy-only bid in a prior solicitation will result in customers paying a higher default service rate than they would have paid had a fixed energy-and-capacity price been selected. National Grid, in its current filing, proposes to secure energy

² See Order No. 24,577 (January 13, 2006) slip op. at 9.

only and to pass through to customers the actual cost of capacity. Both these decisions were based upon each company's internal estimates of the cost of capacity. We, therefore, concur with Staff that it is appropriate to investigate the estimation methods used by the utilities to determine whether each method produces a reasonable estimate of the future cost of capacity and results in sound power procurement decisions.

Based upon the foregoing, it is hereby

ORDERED, that the transaction confirmation agreement between Granite State Electric Company d/b/a National Grid and Constellation Energy Commodities Group, Inc. and resulting proposed rates are APPROVED; and it is

FURTHER ORDERED, that the power supply costs resulting from the solicitation are reasonable and, subject to the ongoing obligation of Granite State Electric Company d/b/a National Grid to act prudently, according to law and in conformity with Commission orders, the amounts payable to the seller for power supply costs under the three-month transaction confirmation for the period February 1, 2008 through April 20, 2008 are APPROVED; and it is

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

FURTHER ORDERED, that Staff shall investigate the methods by which National Grid and UES calculate the estimated costs of capacity to determine whether the methods produce a reasonable estimate of future capacity cost and results in sound power procurement decisions; and it is

FURTHER ORDERED, that Granite State shall file conforming tariffs within 30 days of the date of this Order, consistent with N.H. Code Admin. Rule Puc 1603.02.

By order of the Public Utilities Commission of New Hampshire this seventeen day of
December, 2007.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary