

DE 09-010

GRANITE STATE ELECTRIC COMPANY D/B/A NATIONAL GRID

Petition for Approval of Proposed Default Service Rates for the Large and Small Customer Groups for the Period beginning May 1, 2009

Order Approving Petition

ORDER NO. 24,953

March 23, 2009

APPEARANCES: Gallagher, Callahan and Gartrell by Marla B. Matthews, Esq. on behalf of Granite State Electric Company d/b/a National Grid; Meredith 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 January 27, 2009, Granite State Electric Company d/b/a National Grid (National Grid or Company) filed a letter notifying the Commission of its intent to issue a Request for Proposals (RFP) to procure default service for the period May 1, 2009 through July 31, 2009 for its medium and large commercial and industrial customers (Large Customer Group) and for the period May 1, 2009 through October 31, 2009 for its residential and small commercial customers (Small Customer Group). National Grid indicated that the filing would be made pursuant to a Settlement Agreement approved by the Commission in Docket No. DE 05-126, *Granite State Electric Company. Petition for Approval of Post-Transition Default Service Proposal*, 91 NH PUC 6, Order No. 24,577 (January 13, 2006), and as modified by Order No. 24,922 (December 19, 2008).

On February 13, 2009, the Commission issued an Order of Notice scheduling a hearing on National Grid's default service filing for March 18, 2009. On the same day, the Office of

Consumer Advocate (OCA) filed notice with the Commission indicating that it would participate in Docket No. DE 09-010 on behalf of residential ratepayers consistent with RSA 363:28.

On March 16, 2009, National Grid filed its petition for the provision of default service for all customers for the period beginning May 1, 2009. In support of its petition, National Grid filed the testimony of John D. Warshaw and Scott M. McCabe with related exhibits and schedules. The Company selected Dominion Energy Marketing, Inc. (Dominion) to provide default service for the Large Customer Group for the period May 1, 2009 through July 31, 2009, and TransCanada Power Marketing Ltd. (TCPM) to provide default service for the Small Customer Group for the period May 1, 2009 through October 31, 2009. At hearing, National Grid revised its petition to correct errors in the initial filing. The filing also included National Grid's 2008 lead/lag study.

With the petition, National Grid filed a Motion for Confidential Treatment. In its Motion, National Grid requested confidential treatment by the Commission with respect to the indicative bid summary provided to Staff on March 5, 2009, the RFP bid evaluation, a comparison of changes in electric and gas futures costs to changes in procurement costs, and the calculation of commodity costs at retail. In addition, National Grid requested confidential treatment for the contracts with TCPM and Dominion.

National Grid states that the information is confidential, commercial, or financial information that is exempt from public disclosure pursuant to RSA 91-A. National Grid also asserts that disclosure of such information could adversely affect the business position of the parties in the future. National Grid asserted that the Commission had previously recognized the confidentiality of such information in past orders related to default service procurement.

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 New Hampshire rules and regulations and the terms of a Settlement Agreement approved by the Commission in Docket No. DE 05-126, *Granite State Electric Company*, 91 NH PUC 6, Order No. 24,577, (January 13, 2006), and as modified by Order No. 24,922 (December 19, 2008). National Grid stated that, on February 13, 2009, it issued an RFP to over 25 potential suppliers soliciting default service power supplies for both the Large Customer Group for the period May 1, 2009 through July 31, 2009 and the Small Customer Group for the period May 1, 2009 through October 31, 2009.

National Grid explained that it distributed the RFP to all members of the New England Power Pool 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 service period. Consistent with Order No. 24,922, National Grid solicited only for all-inclusive energy and capacity supply.

National Grid stated that it received indicative bid proposals on March 4, 2009, provided a confidential summary of the proposals to Commission Staff and the OCA on March 5, 2009 and received final bid proposals on March 11, 2009. National Grid then evaluated the bids received and selected the suppliers that: (i) provided a bid that conformed to the RFP; (ii) had the lowest price; (iii) met the credit requirements described in the RFP; and (iv) passed National Grid's qualitative criteria.

On March 12, 2009, National Grid entered into the wholesale Transaction Confirmations with Dominion, the winning bidder for the Large Customer Group, and TCPM, the winning bidder for the Small Customer Group. National Grid explained that a copy of the TCPM Master Power Agreement was filed with the Commission on September 25, 2006 in Docket No. DE 06-115 in connection with a prior default service procurement filing. National Grid testified that Schedule JDW-5 of its public filing included copies of the Transaction Confirmation between National Grid and TCPM, and the Transaction Confirmation and the Master Power Agreement with Dominion, with confidential sections redacted. The Company pointed out that although the Master Power Agreement and Transaction Confirmations are different in some ways from the sample power supply agreement in the Settlement Agreement approved by the Commission in Order No. 24,577, the executed documents do not shift any of the risks or obligations described in the sample power supply agreement.

For both the Small Customer and Large Customer Groups, National Grid said it calculated the base default service rate by multiplying the commodity cost at the wholesale level (\$ per MWh) by the applicable loss factor and then dividing the results by ten.

In its revised filing, National Grid reported the monthly base default service commodity costs for the Small Customer Group as follows:

Month	May	June	July	August	September	October
\$ per kWh	\$0.06427	\$0.06873	\$0.07159	\$0.07350	\$0.06634	\$0.06857

According to the Company, the resulting weighted average of the base default service rates for the Small Customer Group for the period May through October 2009 is \$0.06900 per kWh. This is 30.2% less than the weighted average base default service rate of \$0.09880 per kWh for the

period November 2008 through April 2009. The following adjustments to the weighted average base default service costs produce a total average default service rate for the Small Customer Group of \$0.06891 per kWh for the period of May 2009 through October 2009 compared with the current rate of \$0.10232.

Base Default Service Rate	\$0.06900 per kWh
Default Service Adjustment Factor ¹	\$(0.00285) per kWh
Cost Reclassification Adjustment Factor ²	\$0.00071 per kWh
<u>Renewable Portfolio Standard Adder</u>	<u>\$0.00205 per kWh</u>
Total Default Service Rate	\$0.06891 per kWh

National Grid testified that for residential customers using 500 kWh per month, total monthly bills will decrease from \$80.58 to \$63.88 or 20.7%. For residential customers using 657 kWh per month, which National Grid stated is the average monthly kWh usage for residential customers for the 2008 calendar year, the total bill would decrease from \$106.54 per month to \$84.59 per month, or 20.6%. For other customers in the Small Customer Group, decreases range from 20.5% to 21%.

For the Large Customer Group, the monthly base default service rates are as follows:

Month	May	June	July
\$ per kWh	\$0.06335	\$0.06753	\$0.07364

¹ The Default Service Adjustment Factor is the adjustment to rates reflecting any over or under recovery of energy costs from the prior period, in this case, calendar year 2008.

² The Cost Reclassification Adjustment Factor is the adjustment to rates reflecting any over or under recovery of administrative costs from the prior period, in this case, calendar year 2008.

The following are adjustments to the base default service charge for the Large Customer Group:

	May	June	July
Base Retail Rate	\$0.06335	\$0.06753	\$0.07364
2009 Default Service Adjustment Factor	\$(0.00285)	\$(0.00285)	\$(0.00285)
Cost Reclassification Factor	\$0.00055	\$0.00055	\$0.00055
Renewable Portfolio Standard Adder	\$0.00000	\$ 0.00000	\$0.00000
Total Default Service Rate	\$0.06105	\$0.06523	\$0.07134

National Grid stated that these default service charges produce total bill reductions for Large Customers ranging from 14.3% to 17.0%. National Grid testified that the Renewable Portfolio Standard (RPS) Adder for the Large Customer Group is zero because the Company secured RPS compliance with its solicitation for energy supply. Consequently, the cost of RPS compliance is included in the base default service retail rates.

National Grid testified that the electric RPS statute, RSA 362-F requires the Company, for the calendar year 2009, to purchase Renewable Energy Certificates (RECs) in an amount equivalent to 6% of its total MWh sales. Specifically, the Company must purchase Class I RECs (new renewable sources) in an amount equal to 0.5% of its total sales, Class III RECs (eligible biomass) in an amount equal to 4.5% of its total sales, and Class IV RECs (small hydro) in an amount equal to 1.0% of its total sales. The Company noted that if it could not purchase the requisite number of RECs in any particular class, National Grid would have to pay the applicable Alternative Compliance Payment (ACP) to the Renewable Energy Fund.

National Grid testified that, because it had attained RPS compliance in its solicitation for energy for the Large Customer Group, it calculated the RPS adder for only the Small Customer Group as follows. For each month for the period beginning May and ending October 2009, National Grid estimated the total MWh it expected to purchase at wholesale for the Small Customer Group. It then multiplied the resulting sum by the relevant percentages for Class I, II

and IV using the 2009 ACPs, which are \$60.92, \$159.98 and \$29.87 respectively, to derive the REC cost at wholesale. National Grid then adjusted that amount by the loss factor and converted the resulting cost at wholesale to a per kWh cost. The result, as explained by National Grid, is a uniform RPS adder of \$0.00205 per kWh for the Small Customer Group.

At hearing, National Grid offered an Amended RPS Settlement Agreement as Exhibit 5. National Grid explained that the Commission, in Order No. 24,922, directed the Company, Staff and the OCA to discuss the possibility of amending a previously-offered RPS Settlement Agreement that was executed on December 9, 2008. The Company stated that the parties had agreed to certain amendments and had signed the Amended RPS Settlement Agreement.

National Grid testified that the Amended RPS Settlement Agreement establishes the process whereby National Grid would acquire RPS compliance. Pursuant to the Agreement, National Grid would first solicit for RPS compliance with its solicitation for default service power supply. If those bids are higher than the Company's estimate of the market price for RECs, the Company will reject the bid for RPS compliance and issue a separate solicitation for RECs. As stated in the Amended RPS Settlement Agreement, National Grid will attempt to acquire all of its REC obligations through the RFP process. The Company explained that the new provision in the agreement would require the Company to review any unsolicited offer to purchase RECs to determine whether the offer is lower than National Grid's estimate of market prices. Finally, the Amended RPS Settlement Agreement states National Grid would satisfy its RPS obligation by paying ACPs if the Company was unable to purchase sufficient RECs through a competitive bid process.

National Grid noted that the Commission had previously ordered the Company to undertake a study regarding the steady decline in its monthly loss factor over since January 2008.

At the hearing, the Company introduced as Exhibit 6 its Loss Factor Report that was filed on March 9, 2009 in Docket No. DE 08-011, *Granite State Electric*. National Grid believes that the cause of the decline in loss factor can be attributed to a change in the meter point for the Tewksbury and North Litchfield zonal tie lines.

The Company explained that, based on ISO-NE defined zone boundaries referred to as Pool Transmission Facility Points (PTF Points), tie line flows for the Tewksbury to North Litchfield zonal ties were to be reported from the Tewksbury PTF Point. Due to concerns over the quality of the data derived from the Tewksbury meter, National Grid began reporting load data from the North Litchfield Substation beginning January 2008. In making this change, National Grid failed to account for the losses on the line connecting the Tewksbury and North Litchfield zonal ties, which can vary significantly. To correct the problem, National Grid reverted to using the Tewksbury meter point beginning February 18, 2009. In response to Staff's question as to why the loss factor would continue to decline after January 2008 when the Company's explanation would suggest a step change, the Company said that it was confident that it had identified the cause of the problem and that its corrective action would be verified by new wholesale settlement data for the NH zone, which would become available within 90 days of the change over.

National Grid concluded by requesting that the Commission approve its petition, the Amended RPS Settlement Agreement and its Motion for Confidential Treatment.

B. The Office of Consumer Advocate

The OCA stated that it had no objections to National Grid's petition and was pleased that the lower market rates would result in lower monthly bills for residential customers.

C. Staff

Staff noted that National Grid had included an updated lead/lag study in its filing but that it had insufficient time to review its details. National Grid responded that while it had used the results of the study to develop the proposed default service rates, it understood that Staff would need more time to complete its review. Accordingly, the Company recognized that the Commission's approval of its default service rates would be subject to a future determination that the results of the study are reasonable.

Staff also inquired why the Company proposed a separate reconciliation mechanism to track RPS costs and revenues. The Company responded that, while no RPS expense had yet been incurred, it had determined that a separate reconciliation mechanism would improve the transparency of the RPS compliance process. In conclusion, Staff recommended that the Commission approve National Grid's petition and the Amended RPS Settlement Agreement.

III. COMMISSION ANALYSIS

A. Confidentiality

First, we address National Grid's motions for confidential treatment. 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 that National Grid asserts is confidential.

The materials that National Grid seeks to protect contain: power supply agreements between National Grid and the winning suppliers, TCPM and Dominion; an indicative bid summary provided to Staff on March 5, 2009; the RFP bid evaluation; a comparison of changes in electric and gas future costs to changes in procurement costs; and a calculation of commodity

costs at retail. 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, and states 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 power supply agreements 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.

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).

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 confidential treatment is requested for wholesale contractual sales, we grant such information confidential treatment until such time as the information is published by the FERC.

Materials for which National Grid is seeking confidential treatment in this docket are similar in nature to the materials previously granted protective treatment in past default service

dockets, *See, e.g.*, Order No. 24,736 (March 26 2007) in Docket No. DE 07-012 and Order No. 24,862 (June 20, 2008) in Docket No. DE 08-011. 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.

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 May 1, 2009, 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."

We find that National Grid's evaluation of the bids and its selection of Dominion as its default service supplier for the Large Customer Group and TCPM for the Small Customer Groups 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 May 1, 2009.

We have also reviewed the Amended RPS Settlement Agreement and believe that it will result in the Company meeting its RPS obligations in an efficient and transparent manner. We find that the Amended RPS Settlement Agreement is reasonable and in the public interest.

We have also reviewed National Grid's report on the decline in its monthly loss factor and look forward to receiving an update after more data has been collected on the loads at the Tewksbury meter point.

Finally, we observe that National Grid used the results of its 2008 lead/lag study to calculate the cash working capital component of its default service rates. Considering there was insufficient time for a thorough review of that study, our approval of those rates is, therefore, conditional on the outcome of Staff's investigation of that study, with any potential adjustments being addressed through the reconciliation process.

Based upon the foregoing, it is hereby

ORDERED, that the Power Supply Agreement between Dominion Energy Marketing, Inc and Granite State Electric Company d/b/a National Grid for the three month default service power supply beginning May 1, 2009 for the Large Customer Group is hereby APPROVED; and it is

FURTHER ORDERED that the Power Supply Agreement between TransCanada Power Marketing, Ltd. and Granite State Electric Company d/b/a National Grid for the six month default service power supply beginning May 1, 2009 for the Small Customer Group is hereby APPROVED; and it is

FURTHER ORDERED, that the Amended RPS Settlement Agreement is hereby APPROVED; and it is

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

By order of the Public Utilities Commission of New Hampshire this twenty-third day of
March, 2009.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director