

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 12-003

UNITIL ENERGY SYSTEMS, INC.

**Petition for Approval of Default Service Solicitation and
Resulting Rates for the Small, Medium and Large Customer Groups for the
Period Beginning November 1, 2012**

Order Approving Solicitation, Bid Evaluations and Resulting Rates

ORDER NO. 25,415

September 21, 2012

APPEARANCES: Gary M. Epler, Esq. on behalf of Unitil Energy Systems, Inc.; the Office of Consumer Advocate by Rorie E.P. Hollenberg, Esq. on behalf of residential customers; and Suzanne G. Amidon on behalf of Commission Staff.

I. PROCEDURAL BACKGROUND

This docket was opened on January 6, 2012 for the consideration of Unitil Energy System, Inc.'s (UES or Company) default service filings for calendar year 2012. On September 14, 2012, UES filed a petition requesting approval of its solicitation and procurement of default service power supply for its residential and small commercial (Non-G1) customer group and its large commercial and industrial (G1) customer group for the default service period beginning November 1, 2012. In support of its petition, UES filed the testimony of Todd M. Bohan, Energy Analyst and Linda S. McNamara, Senior Regulatory Analyst, a redacted bid evaluation report (Schedule TMB-1), a copy of the request for proposals for default service (Schedule TMB-2) and proposed tariffs. Mr. Bohan and Ms. McNamara are employed by Unitil Service Corp., a subsidiary of Unitil Corporation that provides managerial, financial, regulatory and engineering services to Unitil Corporation's subsidiaries, including UES.

UES filed the petition pursuant to the terms of the settlement agreement approved by the Commission in *Unitil Energy Systems, Inc.*, Order No. 24,511 (September 9, 2005) 90 NH PUC 378 as modified by Order No. 25,397 (July 31, 2012). Order No. 25,397 approved revisions to the process whereby UES procures power as follows: (1) moving the effective date for default service supply contracts forward by one month; (2) for Non-G1 customers, changing the duration and percentage of Non-G1 load requirements to be purchased; (3) splitting the Non-G1 load into small and medium customer groups, each of which would be contracted for separately; and (4) changing the pricing structure for G1 customers from fixed pricing to variable pricing and changing the duration of the supply contracts from three months to six months. This filing represents the first solicitation by UES to implement the changes approved in Order No. 25,397.

UES issued a request for proposals (RFP) on August 7, 2012 and received indicative bids on August 28, 2012. Pursuant to the schedule in the RFP, bidders submitted final bids on September 11, 2012. On September 11, 2012, UES selected Constellation Energy Commodities Group, Inc. (Constellation) as the winning bidder of the seven-month large customer supply requirements (a 100% share) and H. Q. Energy Services (U.S.), Inc. (HQUS) as the winning bidder of the seven-month small customer supply requirements (a 25% share for six months and a 75% share for one month). UES requested seven-month blocks of supply to assure that subsequent supply contracts move forward by one month as authorized by Order No. 25,397.

UES stated that, if its filing is approved, the overall monthly impact for a residential customer using 648 kilowatt hours (kWh) of electricity per month, the average usage for residential customers, would be bill increases of 1.9%. Small commercial (G2) customers would experience bill increases of 2.0%, and outdoor lighting (OL) customers would see average bill

increases of 1.0%. Bill impacts for G1 customers were unknown at the time of filing because the power supply charge component of G1 customers' bill will be determined at the end of each month, based upon ISO-NE real time hourly locational marginal price (LMP) for the New Hampshire load zone plus an adder, in the seven-month default service period. With its petition, UES submitted its quarterly customer migration report. In addition, the Company requested approval of revised rates for its Renewable Source Option (RSO) program.

UES also filed certain confidential information in Tab A to Mr. Bohan's testimony. Tab A included a summary of UES's evaluation of the bids and bid prices, a description of the financial security offered by each bidder, an executed purchase power agreement with HQUS, and a transaction confirmation with Constellation, together with other information which the Company claims is confidential and proprietary. UES requested protective treatment of the information contained in Tab A as the information is entitled to confidential treatment pursuant to New Hampshire Code Admin. Rules Puc 201.06 and Puc 201.07.

On September 17, 2012, the Commission issued a secretarial letter scheduling a hearing for September 19, 2012. The hearing was held as scheduled.

II. POSITIONS OF THE PARTIES

A. Unitil Energy Systems, Inc.

UES stated that, consistent with prior solicitations, it conducted an open solicitation process, actively sought interest among potential suppliers and provided access to sufficient information to enable potential suppliers to assess the risks and obligations associated with providing the services sought. UES reported that it achieved market notification of the RFP by announcing its availability to all participants in the New England Power Pool (NEPOOL) and to

the members of the NEPOOL Markets Committee, as well as by announcing the issuance of the RFP to a list of contacts from energy companies that had previously expressed interest in receiving notices of solicitations. In addition, UES issued a media advisory to the power markets trade press.

UES testified that in order to gain the greatest level of market interest, it provided potential bidders with appropriate and accessible information, including historic hourly loads, historic monthly retail sales and customer counts, large customer concentration data and the evaluation loads, which are the estimated monthly volumes that UES would use to weight bids in terms of price. UES said that it used its corporate website to make this information available to potential suppliers.

UES issued the RFP on August 7, 2012. On August 28, 2012, UES received proposals and indicative bids from several respondents that included detailed background information on the bidding entity, proposed changes to the contract terms, and indicative pricing. UES testified that it reviewed the proposals and worked with the bidders to establish and evaluate their creditworthiness, extension of adequate credit to UES to facilitate the transaction, capability of performing the terms of the power purchase agreement in a reliable manner, and willingness to enter into contractual terms acceptable to UES. UES negotiated with potential suppliers who submitted proposals in order to obtain the most favorable contract terms, including costs. All bidders were invited to submit final bids.

On September 11, 2012, UES received the final pricing from bidders and conducted its evaluation, which included both the quantitative and qualitative criteria described above, and selected Constellation as the supplier for the 100% of G1 power requirements for the seven-

month period beginning November 1, 2012, and HQUS as the winning bidder for seven months of Non-G1 requirements (a 25% share for six months and a 75% share for one month). UES executed a power sales agreement with HQUS and executed a transaction confirmation amending the power sales agreement with Constellation.¹

UES said that the default energy service rate consists of the cost of power and the cost of compliance with New Hampshire's renewable portfolio standard (RPS) law. UES explained that it issues two RFPs annually for renewable energy certificates (RECs) to meet its RPS requirements consistent with RSA 362-F:3. For 2012 RPS compliance, UES completed one REC RFP on January 17, 2012. The Company testified that it made some additional purchases outside of the REC RFP issuance. UES said its cost estimates for the calculation of RPS compliance costs are based on current market prices as communicated by brokers of renewable products, recent purchases of RECs, and alternative compliance payment rates for 2012.

UES stated that it took into account the passage of SB 218 by the New Hampshire legislature in its calculation of RPS compliance costs. *See*, 2012 New Hampshire Laws Ch. 272 (SB 218). According to UES, SB 218 creates a Class I sub-class for thermal renewable energy, effective January 1, 2013, that requires 0.20% of Class I renewables to be met with thermal resources. In addition, effective January 1, 2013, RPS requirements change as follows: Class I (new renewable) increases from 3.00% to 4.00%; Class II (solar) increases from 0.15% to 0.20%; and Class IV (small hydro) increases from 1.00% to 1.30%. Class III (biomass) requirements remain at 6.50% for 2013. UES calculated the monthly costs of RPS requirements and developed a fixed RPS adder over the seven month period of \$0.00377 per kWh (up from

¹ The Commission approved the power sales agreement between Constellation and UES in Docket No. DE 11-028, UES 2011 default service proceeding. *See*, Order No. 25,269 (September 16, 2011).

\$0.00316 per kWh) for the Non-G1 customer group. The RPS adder for G1 customers varies from month to month. UES calculated the G1 RPS adder to be \$0.00248 for November and December 2012 and \$0.00306 for January through May 2013.

At hearing, UES said that there was an error in schedule TMB-4 which incorrectly stated that the Class IV REC requirements for 2013 remained at 1.0% when, in fact, Class IV REC requirements for 2013 increased to 1.3% in 2013. UES said that the correction of this error would include a revision to the estimated cost of RPS compliance for 2013. On September 19, 2012, UES filed responses to a record request (Hearing Exhibit 12) which correctly stated the Class IV REC requirements for 2013. According to UES, the revision would increase RPS compliance costs; however, because RPS costs are based on estimates and are subject to reconciliation, UES said that it did not revise any rates presented in its petition.

UES said that, consistent with Order No. 25,397, the Company solicited the variable energy prices to be determined for G1 customers as the weighted Independent System Operator-New England (ISO-NE) real time hourly locational marginal price (LMP) for the New Hampshire load zone. As a result, the wholesale supplier charges cannot be determined using a fixed contract price that is known in advance, but will be based on the sum of fixed monthly power supply adders and variable energy prices determined each month. According to UES, the fixed power supply adder, which includes capacity and ancillary costs billed by the ISO-NE as well as a margin of profit for the supplier, were established through the RFP process. UES said that, at the end of each month, it would calculate the load weighted average LMPs over the month and add the monthly power supply adder to calculate the cost of wholesale power supply for the G1 customers. The results of the calculations would be used to prepare G1 customer

bills. UES agreed that it would be appropriate to provide information to the Commission regarding the monthly rates for default service power charged to G1 customers and further agreed to discuss the issue with Staff to develop the parameters of such reporting.

UES testified that, until the full transition to the default service procurement process authorized by Order No. 25,397, which will occur with the rate period beginning December 1, 2013, the Non-G1 group's rates will be calculated based on all contracts that remain in the portfolio. As a result, although UES solicited bids and received separate pricing for the small (residential) and medium (small commercial and outdoor lighting) segments of the Non-G1 group, the default service base rate for both segments is the same. Based on the prices offered by HQUS, the fixed monthly rate for the energy component of default service for the Non-G1 customer group is \$0.06801 per kWh. UES said that the total rate, including the RPS adder, is \$0.07178 per kWh. For residential customers, monthly bills will increase on average by 1.9%. For all other customers in the Non-G1 group, increases range from 1.2% to 2.2%.

The Company also requested an adjustment to the RSO rate. The RSO program was implemented pursuant to RSA 374-F:3, V(f)(1) and approved by the Commission in Docket No. DE 09-224, *UES Renewable Service Option*. See, Order No. 25,102 (May 7, 2010). UES proposes to increase RSO rates by approximately 11.4% to the following rates: for the 25% option, \$0.01352 per kWh; for the 50% option, \$0.02705 per kWh; and for the 100% option, \$0.05410 per kWh. UES attributed the increase to changes in the market prices for Class I RECs.

In summary, UES asked that the Commission find that; (1) UES followed the solicitation process approved by the Commission, (2) UES's analysis of the bids submitted was reasonable,

(3) that the resulting power supply costs are reasonable, and (4) that the power supply costs be allowed to be included in retail rates beginning November 1, 2012. UES also requested that the Commission grant approval of its request for protective treatment of the designated confidential material pursuant Puc 201.06 and Puc 201.07.

B. Office of Consumer Advocate

The Office of Consumer Advocate (OCA) stated that it had no objection to the proposed rates for the Non-G1 customer class. The OCA expressed concern about the low participation in the RSO rate and said that it would be appropriate for the stakeholders with interest in the RSO program to reconvene and review the program and alternatives to implementing the RSO rate.

C. Commission Staff

Staff stated that it had reviewed the filings and determined that UES had followed the requirements of Order No. 24,511 and Order No. 25,397 in the solicitation, bid evaluation and selection of winning suppliers. Staff said that the selection of HQUS to provide default service for the Non-G1 customers was appropriate and that the resulting rates for Non-G1 customers appeared to be market based. Staff further stated that UES's selection of Constellation to serve G1 customers was reasonable. Staff also agreed with UES's assertion that the information contained in Tab A was entitled to confidential treatment pursuant to Puc 201.06 and 2021.07. Staff recommended that the Commission approve the petition.

III. COMMISSION ANALYSIS

Regarding UES's analysis of the bids and its selection of the winning bidder, we find that UES substantially complied with the procedures approved in Order No. 25,397 for the G1 default service solicitation for power supply priced at the New Hampshire load zone LMP, plus a power

supply adder, and that its selection of Constellation to provide the power is reasonable. Further, based on our review, we find that UES's selection of HQUS to provide default service supply for UES's Non-G1 customer group is consistent with the process established in Order No. 24,511 as modified by Order No. 25,397. We are satisfied that UES met the procedural requirements set forth in prior orders, and that the result of the bidding process is consistent with the requirements of RSA 374-F:3, V(c) that default service "be procured through the competitive market." The testimony of UES together with its bid evaluation report indicates that the bid prices reflect current market conditions.

We understand that UES will prepare bills for its G1 customers at the end of each month in the default service period from November 2012 through May 2013. UES will calculate the default service power supply component of the bill using the load-weighted average LMP prices for the respective month including the fixed power supply adder. We direct UES to meet with Staff to discuss how and with what periodicity UES should report the resulting retail price for default service supply to the Commission.

UES submitted certain information as confidential pursuant to New Hampshire Code Admin. Rules Puc 201.06 and Puc 201.07. The relevant information is contained in Tab A to Schedule TMB-1, attached to Exhibit TMB-1 of the petition and includes a brief narrative discussion of the bids received, a list of the suppliers who responded to the RFP, a pricing summary consisting of a comparison of all price bids, each bidder's final pricing, a summary of each bidder's financial security requirements of UES, a description of the financial security offered by each bidder, UES's ranking of each bidder's financial security, the contact list used by UES during the RFP process, the amendment to the existing power supply agreement with

Constellation and the power supply agreement with HQUS. UES also claimed confidentiality of an electronic copy of Tab A contained in a September 14, 2012 email to Staff and the Office of Consumer Advocate.

Pursuant to Puc 201.06, certain information that is submitted in routine filings by utilities is entitled to confidential treatment, including information submitted in default service proceedings. Puc 201.06 (a)(30) states that the following information will be accorded confidential in default service proceedings:

- a. default service solicitations;
- b. bidder information;
- c. descriptions of the financial security offered by each bidder;
- d. bid evaluations;
- e. rankings of bidders' financial security;
- f. descriptions of financial security required by bidders;
- g. fuel supplier contracts;
- h. commodity and fuel pricing;
- i. planned generation plant maintenance schedules;
- j. contact lists used during the requests for proposals process;
- k. financial security, pricing and quantity terms of master power agreements and amendments;
- l. Renewable Energy Certificate purchase prices, quantities and seller identities under existing contracts;
- m. transaction confirmations;
- n. retail meter commodity cost calculations;
- o. wholesale power purchase prices until made public by other governmental agencies;
- p. and responses to data requests related to a. through o. above.

We find that the category of information for which UES seeks confidential treatment is information routinely submitted in connection with default service proceedings as defined in Puc 201.06 (a)(30). Therefore, the information contained in Tab A shall be accorded confidential treatment subject to the provisions of Puc 201.07. The wholesale power costs contained in UES's filing shall be accorded confidential treatment only until such time as the costs are made public through the operation of the rules of the Federal Energy Regulatory Commission.

Based upon the foregoing, it is hereby

ORDERED, that the power supply agreement entered into by Until Energy Systems, Inc. with Constellation Energy Commodities Group, Inc. for the seven-month supply beginning November 1, 2012 for G1 customers and the resulting rates are hereby APPROVED; and it is

FURTHER ORDERED, that the power supply agreement entered into by Until Energy Systems, Inc. with H. Q. Energy Services (U.S.), Inc. for 25% of Non-G1 power requirements for a six-month period beginning November 1, 2012 and a 75% of Non-G1 power requirements for the month of May 2013 and the resulting rates are hereby APPROVED; and it is

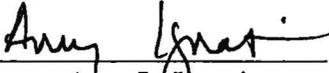
FURTHER ORDERED, that the power supply costs resulting from the solicitation are reasonable, and subject to the ongoing obligation of UES to act prudently, according to law, and in conformity with Commission orders, and the amounts payable to the sellers for power supply costs under the power supply agreements with Constellation and HQUS for inclusion in retail rates to G1 and Non-G1 customers are hereby APPROVED; and it is

FURTHER ORDERED, that the proposed Renewable Service Option charges are APPROVED; and it is

FURTHER ORDERED, that prior to UES's next default service filing, UES shall work with Staff to develop appropriate reporting of G1 retail rates to the Commission; and it is

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

By order of the Public Utilities Commission of New Hampshire this twenty-first day of
September, 2012.



Amy L. Ignatius
Chairman



Michael D. Harrington
Commissioner



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director