DE 01-038

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

Transition and Default Service

Prehearing Conference Order

O R D E R N O. 23,651

March 15, 2001

APPEARANCES: Devine, Millimet & Branch, P.A. by Mark W. Dean, Esq. for New Hampshire Electric Cooperative, Inc.; James Monahan and Jamie Cote for Competitive Energy Services - New Hampshire; James T. Rodier, Esq. for Freedom Energy Buyers Group, LLC, New Hampshire Consumers Utility Cooperative and United Energy Marketing, LLC; Mark Teich for AES NewEnergy, Inc.; Meredith A. Hatfield, Esq. for the Governor's Office of Energy and Community Services; Michael W. Holmes, Esq., Consumer Advocate, on behalf of residential ratepayers; and Donald M. Kreis, Esq. for the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On February 22, 2001, the New Hampshire Electric Cooperative (NHEC) filed a petition with the New Hampshire Public Utilities Commission (Commission) seeking approval of NHEC's proposal to procure and implement retail rates for transition and default service for the period beginning June 1, 2001. Pursuant to the Electric Utility Restructuring Act, transition service is "electricity supply that is available to existing retail customers prior to each customer's first choice of a competitive electricity supplier and to others, as deemed appropriate by the commission." RSA 374-F:2, V. Default service, in turn, is "electricity supply that is available to retail customers who are otherwise without an electricity supplier and are ineligible for transition service." RSA 374-F:2, I-a.

The Commission issued an Order of Notice scheduling a prehearing conference on March 8, 2001 and establishing a deadline for the submission of petitions to intervene. Timely petitions were received from Competitive Energy Services - New Hampshire (CES), AES NewEnergy, Inc. (AES) and the Governor's Office of Energy and Community Services (GOECS). Three entities – Freedom Energy Buyers Group, LLC, New Hampshire Consumers Utility Cooperative and United Energy Marketing, LLC (collectively, Freedom) – submitted a joint intervention petition that was also timely. The Office of Consumer Advocate (OCA) advised the Commission in writing that it would be appearing on behalf of residential ratepayers.

The Prehearing took place as scheduled on March 8, 2001. Following the Prehearing, the petitioner, intervenors and Commission Staff conducted a technical conference and agreed upon a proposed procedural schedule for submission to the Commission for its approval.

II. INTERVENTION PETITIONS

There were no objections to any of the intervention petitions at the Prehearing or filed prior thereto.

Accordingly, the Commission granted all pending intervention requests.

III. PRELIMINARY POSITIONS OF THE PARTIES AND STAFF

A. New Hampshire Electric Cooperative, Inc.

NHEC's petition includes joint prefiled testimony from Stephen E. Kaminski and Mayhew D. Seavey, Jr., as well the as prefiled testimony of Heather K. Saladino. The Kaminski-Seavey testimony notes that NHEC is considering two major options for acquiring transition and default service as of June 1, 2001:

1) so-called load-following service, whereby NHEC would assign its entire transition and default service obligation to a wholesale supplier; or, 2) the purchase of baseload and on-peak "energy strips" plus ICAP. As noted by Messrs. Kaminski and Seavey, energy strips represent a specific quantity of energy to be delivered at specified hours and ICAP stands for Installed Capability and refers to the New England Power Pool (NEPOOL) market product that represents generating capacity. According to Messrs. Kaminski and Seavey, because the combination of energy strips and ICAP does not itself meet all of NHEC's transition and default service obligations, under this option NHEC would meet the remainder of its obligations through short-term bilateral contracts or purchases on the

NEPOOL wholesale spot market at the energy clearing price.

NHEC proposes to seek prices under these two options for what Messrs. Kaminski and Seavey characterize as a series of three periods: June through September, 2001, October 2001 through April 2001 and May 2001 through September 2002. NHEC wishes to evaluate how well the wholesale prices beyond the summer reflect new generation capacity that is under construction in the region. If bids for the periods beginning after September 1 do not reflect lower prices, NHEC would consider not entering into agreements for those periods now and, instead, issue a new RFP in the fall. A second objective is to wean NHEC from procuring Transition and Default Service on June 1, a time of year when prices include what they characterize as "uncertainty premiums" related to the onset of the summer peak.

NHEC is considering the establishment of separate pricing for two groups of customers: large commercial and industrial ratepayers (i.e., those in the PG and G-DEM rate classes) and all other customers. According to NHEC, the former group is more likely to migrate from Transition Service and, therefore, NHEC wishes to see how this would impact underlying wholesale costs.

NHEC seeks authority to discontinue the practice of maintaining uniform rates for Transition and Default Service throughout the year. It proposes to establish separate rates for the May through September period and the remainder of the year. However, NHEC plans to continue pricing Transition Service and Default Service at the same level.

NHEC proposes to offer a "green" Transition Service option to the first 1,000 customers who sign up for it. An attachment to the Kaminski-Seavey testimony clarifies that "green" energy within the meaning of NHEC's proposal means energy of which at least 50 percent is produced via resources that are considered renewable – i.e., power generated from the sun, water, wind, biomass or geothermal. According to Messrs. Kaminski and Seavey, NHEC has been in negotiation with a potential supplier of such wholesale service: the Connecticut Energy Cooperative. NHEC plans to price its "green" Transition Service at one cent per kilowatt-hour above the higher of its residential rate for standard Transition Service or the wholesale price of the "green" energy it purchases.

According to the pre-filed testimony of Heather K. Saladino, NHEC expects to have an unrecovered balance in its Transition Service accounts as of May 31, 2001. At the Prehearing, NHEC noted that this problem is somewhat attenuated by the recent decision of the Federal Energy Regulatory Commission (FERC) to eliminate the retroactive effect of its decision to require ISO New England (which operates the regional electric grid and associated spot market for energy) to impose an ICAP deficiency charge of $8.75 per kilowatt-month (as opposed to the $0.17 charge proposed by the ISO).

At the prehearing conference, NHEC characterized its filing as "a process as much as a specific proposal." According to NHEC, the objective is to keep the Cooperative's options open – with the Commission approving "basic parameters" for negotiating with energy suppliers and NHEC making a compliance filing prior to June 1.

B. <u>Competitive Energy Services – New Hampshire</u>

CES indicated that it has serious reservations about certain elements of NHEC's proposal. Specifically, CES objects to NHEC's purchase of energy strips as opposed to acquiring Transition and Default Service on an all-requirements basis. According to CES, employing the former option creates too much risk for NHEC members and places competitive energy suppliers, who have no recourse to members or ratepayers should their wholesale energy purchases prove improvident, at an unfair disadvantage. CES objects to NHEC acquiring "green" Transition Service outside the normal bidding process. Finally, CES directs the Commission's attention to the letter it filed as to NHEC on February 14, 2001. That letter complains that NHEC has been uncooperative in working with CES in accommodating the number of different price structures CES would like to offer NHEC members. It further complains that NHEC has been sending its members written communications that describe the opening of NHEC's service territory to competitive suppliers "in negative and provocative terms." It was noted that the Commission has directed NHEC to provide a written response by March 14, 2001.

C. **Freedom Energy Buyers Group, LLC, New Hampshire Consumers Utility Cooperative and United Energy Marketing, LLC**

Freedom noted that the Commission took what it characterized as a "dim view" of NHEC serving its Transition and Default load with energy strips last year, suggesting that NHEC has failed here to heed the Commission's warning. Freedom further alleged that NHEC's plans for Transition and Default service are at variance with the Restructuring Act's policy principle of promoting consumer choice in retail energy services. According to Freedom, NHEC is improperly seeking to pass wholesale energy prices directly on to consumers. Freedom criticized NHEC's filing for failing to give any indication of how NHEC plans to promote the development of a competitive energy market in its service territory. Finally, Freedom contended that NHEC should be sanctioned for making the instant filing too late to permit a full review of the relevant issues prior to June 1.

D. <u>AES NewEnergy</u>

AES indicated that it supports NHEC's efforts to pass along market-based rates to its ratepayers. However, echoing the comments of Freedom, AES contends that by exploring the energy strip option, NHEC is improperly seeking to remain a retail energy supplier. According to AES, purchasing energy strips – with their attendant risks – is precisely the sort of business venture that companies like AES take on. AES shares the view of Freedom that NHEC should be required to seek bids if it intends to offer "green" Transition Service. According to AES, NHEC is not doing enough to promote or to support retail competition. However, AES praised the idea of separating out large commercial customers for purposes of establishing Transition Service rates, noting that the risk premium suppliers would need to charge these customers (because of the higher risk that they would leave Transition Service) could have the effect of promoting competition among retail suppliers for these customers.

E. Governor's Office of Energy and Community Services

GOECS indicated that it has intervened in this proceeding solely for the purpose of promoting the "green" Transition Service option.

F. Office of Consumer Advocate

OCA indicated that it was still studying the issues in NHEC's filing. OCA indicated support for pricing Transition and Default Service on a seasonally differentiated basis and also for differentiating among customer classes as NHEC has proposed. According to OCA, the central issue from its standpoint is whether NHEC should be permitted to serve its Transition and Default load with energy strips. OCA indicated that, because NHEC is owned by its member-customers and is not an investor-owned utility, there may be reason for the Commission to give NHEC more latitude in this area than it would other utilities.

G. Staff

Staff indicated that it is generally supportive of NHEC's filing with the exception of its plan for "green" Transition Service. According to Staff, if "green" power is to be available in NHEC's service territory it should come from a competitive supplier. Staff indicated that it shared the concern of Freedom et al. that NHEC's filing has been made too late to allow for a full evaluation of the relevant issues in the docket.

IV. PROCEDURAL SCHEDULE

The procedural schedule agreed upon by the parties and Staff at their technical session is as follows:

March 12, 2001	NHEC issues Requests for Proposals for Transition and Default Service
March 13-23, 2001	Data requests to NHEC, with responses due in seven days
March 22, 2001	Responses to RFP due
March 29, 2001	Supplemental Testimony from NHEC regarding RFP responses
April 2, 2001	Technical session
April 2-11, 2001	Data requests to NHEC regarding Supplemental Testimony, with seven-day responses
April 11, 2001	Testimony from Staff and Intervenors
April 11-17	Data requests to Staff and Intervenors, with seven-day responses
April 20, 2001	File Settlement
April 30 to May 2, 2001	Merits hearing

Staff and parties further agreed to request that the Commission permit the electronic service of documents, including discovery, provided that hard copies be made available upon request. We conclude that the proposed procedural schedule is consistent with the public interest and we therefore approve it to govern the remainder of this proceeding. We will permit the parties and Staff to serve documents on each other electronically, provided that the requisite paper filings continue to be made with the Commission and provided that parties and Staff make hard copies of documents available upon request.

Based upon the foregoing, it is hereby

ORDERED, that the petitions to intervene submitted by Competitive Energy Services – New Hampshire, Freedom Energy Buyers Group, LLC, New Hampshire Consumers Utility Cooperative, United Energy Marketing, LLC, AES NewEnergy, Inc. and the Governor's Office of Energy and Community Services are approved; and it is

FURTHER ORDERED, that the procedural schedule proposed by the parties and delineated above is approved.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of March, 2001.

Douglas L. Patch	Susan S. Geiger	Nancy Brockway
Chairman	Commissioner	Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary