

DE 04-189

GRANITE STATE ELECTRIC COMPANY

Default Service Rates for January 1, 2005 through October 31, 2005

Order Granting Limited Intervention, Granting Motions for Protective Treatment and

Approving Default Service Rates

ORDER NO. 24,412

December 22, 2004

APPEARANCES: Colin Owyang, Esquire, on behalf of Granite State Electric Company; F. Anne Ross, Esquire, on behalf of the Office of Consumer Advocate; James Rodier, Esquire, on behalf of Freedom Partners, LLC; and Suzanne Amidon, Esquire, on behalf of the Staff of the New Hampshire Public Utilities Commission.

I. PROCEDURAL HISTORY

On October 13, 2004, Granite State Electric Company (Granite State) filed a petition with the New Hampshire Public Utilities Commission (Commission) regarding Granite State's default service (Default Service) rates for the period January 1, 2005 through October 31, 2005. Pursuant to RSA 374-F:2, Default Service is electricity supply for retail customers who are otherwise without an electricity supplier and are ineligible for Transition Service. Granite State is an electric retail distribution company operating in the State of New Hampshire. Granite State and its retail distribution affiliates in Massachusetts (Massachusetts Electric Company and Nantucket Electric Company), New York (Niagara Mohawk) and Rhode Island (Narragansett Electric Company) are known collectively as National Grid.

The petition consisted of a cover letter, the testimony and supporting schedules of Mr. John D. Warshaw, Principal Analyst in Energy Supply for National Grid (Testimony). Additionally, under separate cover, Granite State submitted a motion for confidential treatment for the proposed contract with the winning bidder for its power supply (Contract). There were

no objections filed to the motion. The Contract extends from January 1, 2005 through October 31, 2005. The Contract was provided as Schedule JDW-2 of the testimony of Mr. Warshaw.

On October 28, 2004, the Commission issued an Order of Notice scheduling a Prehearing Conference for November 12, 2004, providing for discovery, and scheduling a hearing for December 8, 2004. Staff delivered its first set of data requests to Granite State on November 1, 2004, and received responses on November 5, 2004. On November 8, 2004, Granite State filed with the Commission a second motion for confidential treatment, regarding responses to Staff data requests 1-3, 1-6, 1-7 and 1-10. There were no objections filed. Staff sent a second set of data requests to Granite State on November 12, 2004, and received responses on November 17, 2004.

On November 4, 2004, the Commission received a Petition to Intervene from Freedom Partners, LLC d/b/a Freedom Energy (Freedom Energy). On November 5, 2004, the Office of Consumer Advocate (OCA) notified the Commission that it would participate in the docket on behalf of residential ratepayers. On November 10, 2004, Granite State filed an Objection to Freedom Energy's Petition to Intervene and on November 12, 2004, Freedom Energy filed an Amended Petition to Intervene. At the technical session following the Prehearing Conference on November 12, 2004, the Parties agreed to the intervention of Freedom Energy subject to certain limitations. The agreement was filed with the Commission by letter dated November 17, 2004. A November 29, 2004 secretarial letter rescheduled the hearing from December 8 to December 7, 2004. The hearing took place as scheduled on December 7, 2004.

II. POSITIONS OF THE PARTIES AND STAFF

A. Granite State Electric Company

Granite State's current Default Service supply contract expires on December 31, 2004. In accordance with Order No. 23,393 (January 27, 2000) and RSA 374-F:3, V(c), Granite State issued a Request for Proposal (RFP), on August 16, 2004, to competitive electric power suppliers for Default Service for the period January 1, 2005 through October 31, 2005. Granite State currently has six customers receiving Default Service.

Granite State testified that in the past, National Grid had combined all of its short-term load obligations in New Hampshire, Rhode Island and Massachusetts into one RFP and would select a single supplier to serve the short-term load.¹ Granite State testified that it was National Grid's practice to award the right to supply all of the combined short-term obligations to a single, low-bidder. As an example, Granite State noted that last year National Grid combined its RFP for Default Service with Massachusetts Electric Company's Standard Offer 3 Service. *See* Order No. 24,163 (April 25, 2003), Docket No. DE 03-079.

Granite State testified that a number of factors have caused National Grid to separate the procurement of short-term loads. First, as a result of regulatory changes in Rhode Island, Narragansett Electric Company found it necessary to issue a separate RFP for its Last Resort Service supply. Second, Granite State's Transition Service 2 obligation was incorporated into the contract with Constellation Power Source for the supply of Transition Service beyond July 1, 2002. Third, the Massachusetts Department of Telecommunications and Energy required

¹ These short-term obligations include Massachusetts Electric Company's Default Service and Standard Offer 3 Service, Granite State's Transition Service 2 and Default Service and Narragansett Electric Company's Last Resort Service. Standard Offer 3 Service is electric service to customers who qualify for Standard Offer Service after March 1, 1998 and are located in the Massachusetts Electric Company franchise area prior to the merger with Eastern Edison. Rhode Island's Last Resort Service is the service for customers who do not take power supply from a competitive electric power supplier and who are ineligible for Standard Offer Service. Long-term obligations include Massachusetts Electric Company's Standard Offer Service.

Massachusetts Electric Company to procure Default Service on the basis of customer class. Finally, Massachusetts Electric Company will no longer provide a Standard Offer Service 3 supply after December 31, 2004. Granite State testified that these events caused National Grid to develop an RFP to solicit bids for the combined load of Granite State Default Service and Massachusetts Electric Company Default Service. However, the RFP permitted a supplier to bid on Granite State Default Service separate from any other requirements.

On August 16, 2004, Granite State and its affiliates issued the RFP to approximately 25 potential suppliers. The RFP requested fixed pricing for each month of service on a delivered energy basis, although it allowed those fixed prices to vary by month and by service. Granite State testified that qualifying bids had to include all market costs, including capacity market costs. Final binding proposals were received on September 14, 2004, including bids for Granite State's Default Service.

Granite State evaluated the bids according to the selection criteria in the RFP. *See* Testimony, Schedule JDW-1, "Request for Power Supply Proposals." With respect to credit requirements, the RFP required that each bidder demonstrate it has the financial resources to perform during the term of the agreement. For example, if the bidder had been rated by a major credit rating agency, the bidder had to provide the ratings assigned by such agencies. If a bidder had not been rated by a credit rating agency, the bidder had to provide specific information related to its financial strength including organizational history, certified financial statements filings with the Securities and Exchange Commission, and a financial guarantee from a parent. Under the terms of the Contract proposed with the RFP, the successful bidder had to maintain throughout the term of the Contract an investment grade credit rating and a specified net worth,

or provide security such as a guarantee from a parent. *See* Testimony, Schedule JDW-2, Section 7.3.

Granite State testified that none of the bids received linked service to Granite State's Default Service with any other service. Granite State stated that it selected the proposal that provided the lowest cost to its customers from a supplier that met all RFP requirements, including credit requirements. Using the criteria in the RFP, Granite State chose Select Energy, Inc. to provide service for the January 1, 2005 through October 31, 2005 period.

Granite State indicated that the procurement cost for Default Service at the retail meter for each month is as follows:

Month	Delivered Energy Procurement Costs (cents per kilowatt hour)
January 2005	8.090
February 2005	7.663
March 2005	6.603
April 2005	6.640
May 2005	6.215
June 2005	6.512
July 2005	7.051
August 2005	7.171
September 2005	6.287
October 2005	6.085

Granite State testified that these retail procurement prices average 6.832¢ per kilowatt hour (kWh) compared to the average rate of 6.683¢ per kWh cost for service through December 2004, or an increase of about 2 percent. Granite State testified that, when choosing the winning bidder, it looked at the individual monthly prices, the overall average price and the weighted average price based on individual monthly prices, and the anticipated load for Default Service. Granite State stated that Select Energy's prices were lowest using both the overall price analysis and the Default Service load-weighted average price analysis.

Granite State testified that it will continue to bill customers who take Default Service on a bills-rendered basis. Granite State stated that this billing practice, which combines 15 days under the prior month rate with 15 days under the current month rate, mitigates the price fluctuation that Default Service customers would experience if the bills were based solely on contract price in the month that their bill is rendered. Granite State testified that it had no customer feedback one way or another with respect to pricing using the bills-rendered method.

Granite State testified that Select Energy meets the credit requirements for providing supply under the RFP and under the proposed Contract terms. Granite State pointed out that Section 7.3 of the Contract requires the supplier to maintain a credit rating at least equal to investment grade. As an alternative to a credit rating, the supplier could provide security in the form of a guarantee of bidder's obligations issued by an affiliate that has an investment grade credit rating (i.e., BBB- if Standard & Poor's or Baa3 if Moody's). Select Energy meets the requirement under the alternative to credit rating by providing a guarantee issued by Northeast Utilities, Inc. (NU), its parent company. According to Mr. Warshaw, the credit rating of NU has not changed since Select Energy was chosen as the Default Service provider.

Granite State testified that the next RFP for its Default Service will combine Granite State's load with the Massachusetts Electric Company short-term load. Granite State testified that its next power supply contract will cover the period from November 1, 2005 through April 30, 2006. Granite State said that the termination of the next power supply contract would coincide with the scheduled end of Transition Service in New Hampshire.

B. Office of the Consumer Advocate

OCA did not object to the filing.

C. Freedom Partners, LLC d/b/a Freedom Energy

Freedom Energy was unable to attend the hearing on December 7, 2004. The Commission received a letter from Freedom Energy on December 7, 2004, stating that, after reviewing Granite State's filing at length with one of its largest customers that takes Default Service from Granite State, Freedom Energy did not oppose Granite State's proposed rates.

D. Staff

Although Staff did not file testimony at the December 7, 2004 hearing, Staff asked a series of questions regarding the procurement process. Staff inquired whether Granite State believed the process resulted in the selection of a supplier who provided the service at lowest cost to New Hampshire customers while meeting the credit and other RFP requirements. Granite State testified that Select Energy provided the lowest rates compared to other bidders. In addition, Granite State testified that the financial credit rating of NU, Select Energy's guarantor, had not changed since the Contract was signed.

Staff also inquired as to who would bear the risk in the event that wholesale market prices for electricity increased unexpectedly during the term of the Contract, or if Granite State experienced an influx of Default Service customers or Default Service load during the term of the Contract. Granite State testified that, under the Contract, Select Energy agrees to supply all Default Service customers, not just the six customers currently receiving Default Service. Granite State further testified that any new customers receiving Default Service would pay the same rates as those to be paid by current Default Service customers under the terms of the Contract.

III. COMMISSION ANALYSIS

We first address the Petition for Intervention filed by Freedom Energy. On November 17, 2004, Staff filed with the Commission a letter representing the Parties' agreement to limited intervention for Freedom Energy. According to the letter, the Parties agreed that Freedom Energy's intervention should be limited to preclude it from making any inquiries regarding customer identification, customer relationship information and all other customer information. We hereby grant the limited intervention.

With respect to the motion for confidential treatment of the Contract, we recognize this request is similar to those Granite State has made in previous default service dockets with regard to power supply contracts. In DE 99-205, Order No. 23,476 (May 15, 2000), we determined that wholesale price bids of the type at issue in this case contain "confidential, commercial or financial information" and concluded that under the balancing test we have applied in prior cases, e.g., *Re NET (Auditel)*, 80 NH PUC 437 (1995), *Re Eastern Utilities Associates*, 76 NH PUC 236 (1991), the benefits of non-disclosure outweigh the benefits to the public of disclosure.

In this instance, Granite State contends that the information contained in the Contract includes competitive energy pricing and that the Contract terms are commercially sensitive which, if disclosed, would be harmful to Select Energy's competitive position. Granite State further states public disclosure of commercially sensitive information might deter potential suppliers from bidding to supply energy service in New Hampshire in the future. We agree that the information is within the exemptions permitted by RSA 91-A:5, IV. Accordingly, we will grant the motion and accord the Contract protective treatment.

We turn now to Granite State's second motion for confidentiality regarding responses to Staff data requests 1-3, 1-6, 1-7 and 1-10. The requests call for customer specific information (request 1-3), bid prices (request 1-6) and identification and commercially sensitive background information on those who responded to the RFP (requests 1-7 and 1-10). We routinely protect customer identification. Bid prices and information regarding bidders are clearly commercially sensitive in a competitive environment. We agree that the information supplied falls within the exemptions permitted by RSA 91-A:5,IV and will grant the motion.

As to the substance of the petition, we find that it constitutes an arrangement which is consistent with the description of Default Service in RSA 374-F:3, V(c) and approve the Contract. Under this proposal, Granite State intends to offer Default Service as a "safety net" to those customers who, for whatever reason, do not have competitive supply and are ineligible for Transition Service. Under the Contract, Select Energy, and not Granite State, will be liable for any losses that Select Energy may incur due to price or load changes. These losses include, but are not limited to, "lost revenues, and losses that may result from any change in Requirements, number or location of customers taking service, the location of the Delivery Point(s), the composition or components of market products or Requirements, or the market for electricity, or change in the Distribution Service Terms or the Default Service Tariff or Standard Service Tariff." Testimony, Schedule JDW-2, p. 10. We conclude that it is appropriate and consistent with the public interest that Select Energy bear all such risks.

We are satisfied that the procurement process was reasonable and that National Grid, on behalf of Granite State, undertook to select the supplier who offered the lowest rates to New Hampshire customers while meeting the credit requirements outlined in the RFP. Finally, we recognize that Granite State has instituted rate changes on a bills-rendered basis in the past

and, though it failed to make a formal request to waive N.H. Admin. Rules, Puc 1203.05(b) for rate changes on a service-rendered basis in this case, we will waive the rule and allow the rate change to be made on a bills-rendered basis.

Based upon the foregoing, it is hereby

ORDERED, that Granite State's Default Service rates are APPROVED at the monthly rates set forth in this filing for the period January 1, 2005 through October 31, 2005; and it is

FURTHER ORDERED, that Granite State's motion for confidential treatment with respect to the Contract with Select Energy, Inc. is GRANTED; and it is

FURTHER ORDERED, that Granite State's motion for confidential treatment with respect to responses to Staff Data Requests 1-3, 1-6, 1-7 and 1-10 is GRANTED; and it is

FURTHER ORDERED, that the determination as to protective treatment made herein is subject to the ongoing authority of the Commission, on its own motion or on the motion of Staff, any party or any other member of the public, to reconsider this Order in light of RSA 91-A, should circumstances so warrant; and it is

FURTHER ORDERED, that the Petitioner shall file a revised tariff page reflecting the terms of this Order with the Commission on or before January 1, 2005.

By order of the Public Utilities Commission of New Hampshire this twenty-second day of December, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Michelle A. Caraway
Assistant Executive Director