

DE 05-126

GRANITE STATE ELECTRIC COMPANY d/b/a NATIONAL GRID

Petition for Approval of Proposed Default Service Rates for the Periods May 1, 2006 through July 31, 2006 for Large Commercial and Industrial Customers and May 1, 2006 through October 31, 2006 for Small Commercial and Residential Customers

Order Approving Petition

ORDER NO. 24,609

March 28, 2006

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

I. BACKGROUND

On March 20, 2006, Granite State Electric Company d/b/a National Grid (Granite State) filed with the New Hampshire Public Utilities Commission (Commission) a Petition requesting approval of Default Service (DS) rates resulting from Granite State's recent procurement of DS power supply for its Large and Medium Commercial and Industrial Customers (Large Customer Group) for the period from May 1, 2006 to July 31, 2006, and for its Small Commercial and Residential Customers (Small Customer Group). In support of its Petition, Granite State filed the testimony of John D. Warshaw and Scott M. McCabe, with accompanying schedules.

Granite State filed the Petition pursuant to the terms of a Settlement Agreement approved by the Commission in Order No. 24,577 (January 13, 2006). Order No. 24,577 approved the process Granite State is to use for solicitation and procurement of DS supply for its Large Customer and Small Customer Groups, including the bid evaluation process.

In its Petition, Granite State offered that its current DS supply contracts expire on April 30, 2006. In addition, Granite State indicated that the statutory period for Transition Service is scheduled to end on April 30, 2006, and that all customers receiving Transition Service immediately prior to that date who have not elected to receive service from a competitive energy supplier will be transferred to DS. Therefore, to assure that DS will be available to customers when needed, Granite State requires new DS supply arrangements beginning May 1, 2006.

Granite State stated that in Order No. 24,577 the Commission approved Granite State's proposal to procure DS for its Large Customer Group under three-month contracts with fixed prices that vary monthly, and to procure DS for its Small Customer Group under six-month contracts with fixed prices that vary monthly. The retail rates charged to Large Customers would reflect the monthly prices in the three-month contracts, whereas the retail rates charged to Small Customers would be derived from a weighted average of monthly prices in the six-month contract. Granite State offered that the Request for Proposal (RFP) for Granite State's DS supply was issued on February 10, 2006, and that indicative bids were received on March 8, 2006. Final binding bids were received on March 15, 2006, and from those final bidders Granite State selected a single DS supplier, Constellation Energy Commodities Group, Inc. (Constellation) for both the Large and Small Customer Groups. Granite State avers that it followed the solicitation and bid evaluation process approved by the Commission, and that its analysis of the bids and choice of suppliers is reasonable.

With its Petition, Granite State filed a Motion for Confidential Treatment (Motion) for certain information, consistent with RSA 91-A:5, IV and prior Commission orders.

The information for which Granite State seeks confidential treatment is redacted from its public filing and was submitted separately with the Motion. The information which Granite State asserts is confidential includes certain parts of the RFP, Granite State's summary of the evaluation of indicative and final bids, and the executed Power Supply Agreement (PSA) with Constellation. Granite State attested that the redacted portions of the PSA and the RFP bid evaluation contain competitive energy pricing and contract terms which are commercially sensitive, the disclosure of which could be harmful to the competitive position of Constellation and the other respondents to the RFP. Granite State further argued the disclosure of this information could chill the willingness of the suppliers responding to its RFP to participate in providing energy services in New Hampshire in the future. Granite State also averred that the parties had taken steps to avoid disclosure of this information. Granite State argued that this information qualifies for exemption from public disclosure under the RSA 91-A:5, IV, the New Hampshire Right-to-Know law. Finally, Granite State filed a separate Motion for Confidential Treatment on March 10, 2006, with respect to the information regarding indicative bids that it provided the Commission Staff (Staff) on that day.

On March 21, 2006, the Commission ordered a hearing for March 23, 2006, which was held as scheduled. At the hearing, Granite State introduced amended testimony that corrected a miscalculation of retail rates. On March 24, 2006, Granite State filed an exhibit indicating the load factors for the Large Customer Group for the period from May 1, 2006 through July 31, 2006, and for the Small Customer Group for the period from May 1, 2006 through October 31, 2006.

II. POSITIONS OF THE PARTIES

A. Granite State

Granite State averred that, consistent with Order No. 24,577, it conducted an open solicitation process, actively sought interest among potential suppliers and provided access to sufficient information to enable them to assess the risks and obligations associated with providing the services sought. Granite State declared that it effected market notification of the RFP by distributing the RFP to all members of the New England Power Pool (NEPOOL) Markets Committee and posted the RFP on its energy supply website. Granite State contended that as a result, the RFP had wide distribution throughout the New England energy supply marketplace.

Consistent with Order No. 24,577, Granite State indicated that it divided its DS supply needs into two groups: the Large Customer Group and the Small Customer Group. Granite State attested that the RFP requested fixed pricing for each month of service on an as-delivered energy basis, and that the RFP indicated that prices could vary by month and service. Granite State stated that the RFP requested that prices include all market and ancillary costs, including capacity market costs through September 2006. According to Granite State, beginning with October 2006, the RFP also requested pass-through pricing for capacity market costs due to significant uncertainty surrounding the locational installed capacity (LICAP) then under review by the Federal Energy Regulatory Commission (FERC).

Granite State testified that it received indicative proposals on March 6, 2006, and consistent with the Settlement Agreement approved by Order No. 24,577, shared the results with the Staff on March 10, 2006, and reviewed with Staff its proposal regarding the pass-through of

capacity market costs. Granite State received final, binding bids on March 15, 2006. Granite State averred that none of the bidders made their provision of Granite State's DS contingent upon the provision of any other service.

Granite State testified that it evaluated the bids received and selected the supplier that (i) had the lowest price, (ii) met the credit requirements described in the RFP and (iii) passed Granite State's qualitative evaluation. Granite State indicated that it selected Constellation as the DS provider based on both quantitative and qualitative criteria. Granite State testified that on March 15, 2006, it entered into a wholesale PSA with Constellation to provide service to the Large Customer Group for the three-month period from May 1, 2006 through July 31, 2006, and to the Small Customer Group for the six-month period from May 1, 2006 through October 31, 2006. Granite State averred that although the PSA contains differences from the sample power supply agreement in the Settlement Agreement approved in Order No. 24,577, the executed PSA does not contain any provision that shifts any of the risks or obligations described in the sample power supply agreement.

Granite State stated that it will charge its DS customers rates that are based upon its costs to procure DS adjusted to reflect sales at the retail meter, further adjusted by the recovery of administrative costs associated with DS as provided for in the Settlement Agreement.

Granite State described the resulting retail rates for the Large Customer Group as follows:

DS Base Rate May, 2006	DS Base Rate June, 2006	DS Base Rate July, 2006
\$0.08001 per kWh	\$0.08498 per kWh	\$0.09582 per kWh

Consistent with the Settlement Agreement, Granite State offered that the retail rate for the Small Customer Group would be a calculated as the weighted average of the monthly prices for the six-

month period May through October 2006 with weighting based on monthly loads for the Small Customer Group. The monthly prices, exclusive of administrative costs, are as follows:

May 2006	June 2006	July 2006	August 2006	Sept. 2006	Oct. 2006
\$0.07604	\$0.08169	\$0.09336	\$0.09296	\$0.08342	\$0.08438

With administrative costs included, the weighted average retail price is \$0.08595 per kWh.

These rates, according to Granite State, constitute an increase of 29.2% in total bills for customers in the Small Customer Group currently taking Transition Service, an increase of approximately 30% in total bills for customers in the Large Customer Group currently taking Transition Service, and a decrease for existing DS customers of 4% to 10% on total bills.

In Revised Schedule SMM-1 (Exhibit 4), Granite State noted that estimated administrative costs were \$0.00030 per kWh for the Small Customer Group and \$0.00018 for the Large Customer Group. Upon questioning at the hearing, Granite State indicated that the amounts for supply-related working capital and bad debt are included in the amount identified as administrative costs.

Granite State testified that it had complied with the bid procurement and evaluation process approved by the Commission in Order No. 24,577 and that the resulting rates are reasonable and market based. Granite State concluded by requesting that the Commission approve the solicitation process and the resulting rates.

B. The Office of Consumer Advocate

The Office of Consumer Advocate (OCA) stated that it appeared that Granite State had complied with the bid solicitation and evaluation process. The OCA expressed its concern about the sudden increase in rates for residential customers and urged that the

Commission consider for the future whether a laddered portfolio may better protect residential ratepayers from the fluctuation in the price for energy in the wholesale market.

C. Commission Staff

The Commission Staff was initially concerned that Granite State had not included DS-related bad debt and working capital expenses in the DS rate as required in the Settlement Agreement approved by the Commission in Order No. 24,577. At the hearing, Staff was satisfied that these costs were included in the rate. Staff opined that Granite State had complied with the bid solicitation and evaluation process, and that the resulting rates were market based. Staff concluded by expressing its support for the Petition.

III. COMMISSION ANALYSIS

A. Confidentiality

First, we address Granite State's Motion for Confidential Treatment. The materials which Granite State 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 and a ranking of the transactions offered by each bidder in terms of financial security, including consideration of reasonable extension of credit to Granite State 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 PSA.

Granite State asserts that this information must be protected from public disclosure because it is confidential commercial and financial information. Granite State

contends that the information provided by bidders was offered under the express understanding that such information would be maintained as confidential and that suppliers would be reluctant to participate in future solicitations by Granite State if their confidential bid information is disclosed. Granite State argues that the disclosure of the fully negotiated PSA will reveal its negotiating posture to other potential power suppliers and claims that its customers would be harmed by Granite State's diminished negotiating position. Granite State also points out that the information of indicative and final bids discussed with Staff and the OCA, on March 10, 2006, is confidential.

The New Hampshire 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 Motion, we have made an *in camera* review of the material which Granite State 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 need for Granite State and its bidders to maintain confidentiality of such information. *Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540 (1997). We will, therefore, grant protective treatment to the information redacted from Granite State's public filing. 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 by Commission Order No. 24,577 contemplated that any discussion of the indicative bid evaluation would be confidential,¹ and we accord confidential treatment of the information exchanged and the discussion with Staff which occurred on March 10, 2006.

B. Default Service

Regarding Granite State's analysis of the bids and its selection of the winning bidder for DS supply for its Large Customer and Small Customer Groups beginning May 1, 2006, we find that Granite State complied with the procedures approved by Order No. 24,577. We are satisfied that Granite State 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 also find that Granite State's evaluation of the bids and its selection of Constellation as its DS supplier was reasonable. The testimony of Granite State, together with its Bid Evaluation Report, indicates that the bid prices reflect current market conditions and therefore are reasonable. *See also*, Order No. 24,539 (October 31, 2005) approving Granite State Electric Company's DS rates for commercial customers, noting impact of market conditions on rates and the intent of the legislature that DS rates reflect the market. In light of the circumstances, we grant the Petition.

¹ *See* Order No. 24,577 (January 13, 2006) slip op. at 9.

Based upon the foregoing, it is hereby

ORDERED, that the Power Supply Agreement between Granite State Electric Company and Constellation Energy Commodities Group, Inc. is 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 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 and six-month PSA referenced herein for inclusion in retail rates beginning May 1, 2006 are APPROVED; and it is

FURTHER ORDERED, that Granite State’s Motion for Confidential Treatment is GRANTED; and it is

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

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of March, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary