

DE 06-035

GRANITE STATE ELECTRIC COMPANY d/b/a NATIONAL GRID, PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE, UNITIL ENERGY SYSTEMS, INC., BUSINESS & INDUSTRY ASSOCIATION OF NEW HAMPSHIRE, and SELECT ENERGY, INC.

Request to Change Name of Default Service to Basic Energy Service in Customer Communications

Order Granting Request

ORDER NO. 24,614

April 13, 2006

I. BACKGROUND

On March 7, 2005, Granite State Electric Company d/b/a National Grid, Public Service Company of New Hampshire, Unitil Energy Systems, Inc., the Business & Industry Association of New Hampshire, and Select Energy, Inc. (together, "Petitioners") filed with the New Hampshire Public Utilities Commission (Commission) a letter requesting that the Commission authorize for state-wide use by the electric utilities the term "Basic Energy Service" to refer to Default Service on customer bills and other customer communications. The Petitioners requested that the Commission act as soon as possible as the Petitioners hoped to begin using the term "Basic Energy Service" as of May 1, 2006, the end of the Transition Service period. *See* RSA 374-F:3, V(b) (providing for end of Transition Service) and RSA 374-F:2, V (defining Transition Service as "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").

In relevant part, Default Service is defined in the Electric Utility Restructuring Act as "electricity supply that is available to retail customers who are otherwise without an

electricity supplier.” The petitioning utilities sought to employ the term “Basic Energy Service” as a substitute for the term “Default Service” in communications with customers, including customer bills, bill-stuffers, website content, call center, and all forms of advertising and public service messages.

Petitioners characterize the change as non-substantive and state that it will not affect the nature of the service provided to customers. They contend that the term “Basic Energy Service” in customer communications is designed only to better describe the service that is being provided to the consumer and to decrease possible customer confusion. For all regulatory filings, such as tariff filings and other compliance filings with the Commission, the Petitioners indicate they will continue to use the statutory term “Default Service” unless otherwise directed by the Commission.

Petitioners aver that approval of the use of the term “Basic Energy Service” would avoid three types of customer confusion. First, Petitioners contend that the term “Default Service” implies that there is another service option, which will not be true for all customers. Second, Petitioners suggest that the term “Default Service” carries an unintended suggestion of nonfeasance, whereas “Basic Energy Service” describes utility service, but contains no implication about other services and has no negative connotations. Third, Petitioners contend that implementation of the Basic Energy Service nomenclature at the end of the Transition Service period, on May 1, 2006, avoids confusion for customers who would otherwise be transferred first to “Default Service” and then notified of a name change to “Basic Energy Service.”

On March 16, 2006, the Commission issued a letter scheduling a technical session for March 23, 2006, at 10:00 a.m. to allow Petitioners and Commission Staff (Staff) to discuss the proposed name change for purposes of communication with customers. The Commission also recommended that the Petitioners and Staff discuss, among other things, the potential for the name change to affect the competitive, retail energy service market. On March 20, 2006, the Office of Consumer Advocate (OCA) indicated that it would participate in the docket on behalf of residential ratepayers pursuant to RSA 363:28.

On March 30, 2006, the OCA filed a letter with the Commission stating that it had participated in the technical session held at the Commission on March 23, 2006, and a subsequent conference call conducted on March 24, 2006. The OCA expressed concern that the proposed term "Basic Energy Service" would not properly reflect the product being provided. The OCA contended that any change in the reference to Default Service should be one which results in as little consumer confusion as possible. The OCA offered that the use of the word "basic" has potential for confusion by consumers because the word "is associated with a minimal level of service offered by cable and telephone providers." OCA suggested that consumers would see the word "Basic Energy Service" and be confused about what basic service is, and how it compares to premium or other service level. The OCA requested that the word "basic" be dropped and the product simply be called "Energy Service." The OCA indicated that "Energy Service" clearly describes the service and its use should minimize customer confusion.

On March 31, 2006, Staff filed a letter reporting that it had convened an informal technical session in addition to the technical session scheduled by the Commission for March 23, 2006. Staff indicated that at these sessions the interested parties discussed alternatives to the

term “Basic Energy Service.” Staff indicated its agreement with Petitioners that the term “Default Service” may have negative connotations as customers may think Default Service is the least desirable service or that they have somehow “defaulted” on their bill payments. However, Staff stated that the term “Basic Energy Service” creates confusion of its own.

Staff pointed out that, in many industries, the term “basic” is used to describe the service or product that is the elemental or “no frills” service or product, and therefore a lower quality and less expensive service. Staff offered as an example customer choice of basic cable service, or some other cable service package which provides access to more channels than basic cable service provides, and telephone customers who purchase basic service who receive a more pared down product than those telephone customers who purchase basic and optional services.

Staff pointed out that this paradigm does not carry over to the electric industry. Staff observed that with the exception of large commercial and industrial customers, customers who purchase electricity are not choosing between a basic service that has fewer features and is less expensive or a premium service with more features and at a higher cost. Staff stated that electricity consumers are simply buying electricity. Staff indicated that the competitive energy market in the state was not sufficiently robust to produce options for electric service. Staff added that the use of the term “Basic Energy Service” on customer bills and other customer communication pieces would create customer confusion and would be counter-productive in managing customer expectations about New Hampshire’s electric market.

For those customer groups where competition for electric supply is more developed, Staff expressed its concern that the label “Basic Energy Service” might still lead to customer confusion and may have a detrimental effect on the development of the competitive

market. Those customers who have not opted to obtain their supply from a competitive provider and thus are receiving “Basic Energy Service” may be apt to perceive it as the minimum service necessary for their electrical needs and, therefore, be less likely to consider competitive energy supply options.

Staff reported that, at the technical sessions, the terms “Commodity Service,” “Energy Supply Service” and “Electricity Supply Service were considered as alternatives to the proposed “Basic Energy Service.” Staff noted that each of these alternatives was rejected by the Petitioners and the other interested parties as they were seeking regional uniformity in the nomenclature for Default Service. Staff noted that “Basic Energy Service” is the term that has been adopted in Massachusetts to describe the default service offering, and the Petitioners indicated that they would like to use the same term in New Hampshire. Staff stated its understanding of the desire for uniformity, but reiterated the position that the term “Basic Energy Service” does not serve New Hampshire consumers well. Staff suggested that the term “Basic Energy Service” is a misnomer because it does not accurately reflect the service customers are purchasing when they take Default Service. Staff took the position that the use of the term desired by the Petitioners would create customer confusion and could create a barrier to competition. Staff concluded by recommending that the Commission adopt the term “Energy Service” as a substitute for Default Service on customer bills and other customer communications.

On April 3, 2006, the Petitioners, with the exception of Select Energy,¹ filed a letter with the Commission amending its request to change Default Service nomenclature to

¹ Staff’s letter to the Commission noted that Select Energy, Inc., a signatory to Petitioners’ original letter, did not

“Energy Service” as the preferred alternative to the use of "Default Service" in communications with customers.

II. COMMISSION ANALYSIS

The stated “overall public policy goal” of RSA 374-F, the Electric Industry Restructuring Act, is “to develop a more efficient [electric] industry structure and regulatory framework that results in a more productive economy by reducing costs to consumers while maintaining safe and reliable electric service with minimum adverse impacts on the environment.” RSA 374-F:1, I. In reciting this purpose, the Legislature went on to state that “[i]ncreased customer choice and the development of competitive markets” would be “key elements” in achieving the stated public policy objective. The Restructuring Act also authorized the utilities, with Commission oversight, to provide Transition Service so that, “as competitive markets emerge[d], customers [would] have the option of stable and predictable ceiling electricity prices.” RSA 374-F:3, V(b). The statute limited the duration of Transition Service to May 1, 2006, at the latest, also requiring utility-procured Default Service as a permanent “safety net” that would “assure universal access and system integrity.” *Id.* at (b) and (c)²

sign the March 31, 2006 letter but agreed with its content.

² The statute actually describes the last possible end date for Transition Service as “5 years after competition has been certified to exist in at least 70 percent of the state pursuant to RSA 38:36.” The Commission made the required certification on May 1, 2001, in connection with the approval of the agreement by which Public Service Company of New Hampshire, the state’s largest electric utility, was restructured.

When it adopted the Restructuring Act, the Legislature vested in the Commission the authority “to order such charges and other service provisions and to take such other actions that are necessary to implement restructuring and that are substantially consistent with the principles established in this chapter [i.e., the Restructuring Act].” RSA 374-F:4, VIII(a). The Legislature also left intact the Commission’s plenary authority over the electric utilities. *See* RSA 374:3 (noting that the Commission “shall have the general supervision of all public utilities . . . so far as necessary” to effectuate the Commission’s various enabling statutes). We are acting here pursuant to this explicit authority.

We have reviewed the recommendations of the parties and Staff and note that there is agreement to replace the phrase “Default Service” with “Energy Service” for the purpose of describing to electric customers and the public generally the energy supply the utilities must offer pursuant to RSA 374-F:3, V(c). We agree that, for consumers who may not be familiar with the details of the Restructuring Act, the use of the word “default” is confusing and therefore at variance with the purposes of the Act.

It is also our determination that the concerns offered by the OCA and Staff about the use of the phrase “Basic Energy Service” are valid. As Staff points out in its letter, the word “basic” has a special meaning for consumers in that it connotes the least amount of service necessary to achieve the desired result. In this case, an electric consumer may interpret “Basic Energy Service” to be that service needed to turn on the lights. Any service other than “Basic” service arguably would not be desirable to that customer, and the customer may not be inclined to consider service from a competitive supplier. We note that the competitive market for electric service is not robust in New Hampshire and are concerned about any barriers, even

nomenclature, that could tend to discourage competition. We therefore adopt the recommendation of the Parties and Staff that electric utilities be authorized to use the term “Energy Service” in communications with customers when referring to the service identified RSA 374-F as “Default Service.” We do not, however, compel the use of the term.

Based upon the foregoing, it is hereby

ORDERED, that effective on the day of this order, electric utilities providing Default Service to customers in the State of New Hampshire may use the term “Energy Service” interchangeably with, or as an alternative to, the term “Default Service” for purposes of customer communications.

By order of the Public Utilities Commission of New Hampshire this thirteenth day of April, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary