

DE 06-115

GRANITE STATE ELECTRIC COMPANY D/B/A NATIONAL GRID

**Proposed Default Service Rates for the Large Customer Group
for the period February 1, 2007 through April 30, 2007**

Order Approving Petition

ORDER NO. 24,715

December 15, 2006

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

I. BACKGROUND

On December 8, 2006, Granite State Electric Company d/b/a National Grid (GSEC) filed with the New Hampshire Public Utilities Commission (Commission) proposed default service (DS) rates, for the period February 1, 2007 through April 30, 2007, for its medium and large commercial and industrial customers (Large Customer Group). In support of its proposal, GSEC filed the testimony of Michael J. Hager together with accompanying schedules.

GSEC filed the proposal pursuant to the terms of a Settlement Agreement approved by the Commission in Order No. 24,577 (January 13, 2006), Docket No. DE 05-126. Order No. 24,577 approved the process for solicitation and procurement of DS supply for GSEC's large customer and small customer groups, including the bid evaluation process. GSEC attests that it undertook the instant Request for Proposals (RFP) to provide DS for its Large Customer Group in accordance with RSA 374-F:3 and Order No. 24,577, and that it followed the bid evaluation process in selecting the winning bidder, Consolidated Edison Energy, Inc. (ConEd). GSEC states the resulting proposed DS rates are consistent with RSA 374-F:3, V(c), reflect competitive market prices, and are in the public interest.

On December 7, 2006, together with a motion for confidential treatment, GSEC filed a Default Service Indicative Bid Summary (Summary) which included the following information: charts illustrating indicative bids for the most recent procurement period for large customers, inclusive and exclusive of capacity costs, in both dollars per megawatt-hour and in cents per kilowatt-hour; a chart comparing the current rates through January 31, 2007 on a cents per kilowatt-hour basis to average indicative rates including capacity costs; and a key identifying the individual bidders.

On December 8, 2006, GSEC also filed a motion for confidential treatment, seeking to protect the master power supply agreement (PSA) between the company and ConEd for the provision of DS power supply for the Large Customer Group for the period February 1, 2007 through April 30, 2007, its summary of the RFP bid evaluation and its analysis comparing changes in electric and gas futures costs to changes in procurement costs.

GSEC attests that the information for which it seeks confidential treatment contains competitive energy pricing and contract terms which are commercially sensitive, the disclosure of which could be harmful to the competitive position of the suppliers. GSEC further states the disclosure of this information could adversely affect the business position of the parties in the future. GSEC testifies that the parties had taken steps to avoid disclosure of this information. GSEC states that this information qualifies for exemption from public disclosure under the RSA 91-A:5, IV, the New Hampshire Right-to-Know law.

On December 11, 2006, the Commission scheduled a hearing, which was held on December 13, 2006.

II. POSITIONS OF THE PARTIES

A. Granite State Electric Company

GSEC indicated that it procured the DS supply for the Large Customer Group, for the period beginning February 1, 2007, in accordance with applicable New Hampshire rules and regulations and the terms of the Settlement Agreement approved by the Commission in Order No 24,577 (January 13, 2006). GSEC issued the Request for Proposal (RFP) on October 27, 2006, to approximately twenty-five potential suppliers. GSEC also distributed the RFP to all members of the New England Power Pool (NEPOOL) Markets Committee and posted the RFP on its energy supply website.

GSEC stated that indicative bids were received on November 29, 2006, and discussed with Staff. GSEC testified that final bids were received on December 6, 2006 and that none of the bids were contingent upon the provision of any other service. GSEC attested that the company reviewed the bids and selected the supplier that: (i) provided a bid that was conforming to the RFP, (ii) had the lowest price, (iii) passed the company's qualitative and quantitative criteria, and (iv) met the credit requirements described in the RFP. GSEC selected ConEd as the winning bidder and executed a PSA with ConEd on December 6, 2006, to supply DS to the Large Customer Group for the three-month period from February 1, 2007 through April 30, 2007.

According to GSEC, it entered into an energy-only fixed price contract with ConEd based on GSEC's analysis of the projected costs of capacity in the Forward Capacity Market (FCM), as administered by the independent system operator, ISO-New England, Inc. (ISO-NE). GSEC explained that it had calculated a proxy for capacity costs of \$10.56 per megawatt hour (MWh)

based on its load share of the overall demand for capacity in the New England market. Using that proxy as a benchmark to assess the reasonableness of the implied capacity costs in the bids received, the company concluded that the overall costs to customers would be less if the capacity costs were passed through, using a capacity adder of \$10.56 per MWh. GSEC testified that the proxy would be reconciled with actual capacity costs on an annual basis at the same time GSEC reconciles other expenses. GSEC asserted that the company would file the reconciliation with the Commission in the next few months.

GSEC testified that DS retail rates for the Large Customer Group will be 10.983 cents per kilowatt hour (kWh) for February 2007, 9.711 cents per kWh for March 2007, and 9.370 cents per kWh for April 2007. The simple average of these monthly rates is 10.003 cents per kWh, an increase of 0.347 cents per kWh (3.59 percent) when compared to the simple average of the approved rates for the period November 2006 through January 2007.

GSEC testified that the proposed DS rates resulting from this most recent solicitation are consistent with RSA 374-F:3,(V)(c), reflect competitive market prices and are in the public interest. GSEC requested the Commission approve the PSA and the proposed rates no later than December 15, 2006, in order to provide customers with sufficient notice to allow them to make alternative supply arrangements if they wish to purchase their electricity from competitive energy suppliers.

Upon questioning by Staff, GSEC agreed to provide reports regarding customer migration to competitive energy suppliers, including, by class, the number of customers at the end of each month taking service from a competitive supplier and the associated load. GSEC also agreed to meet with Staff before filing its annual reconciliation to assure that the

reconciliation addressed Staff's concerns. Finally, GSEC indicated that, although some changes had been made to the PSA regarding the credit and security provisions, the rights and obligations borne by both GSEC and the seller have not shifted.

B. Commission Staff

Staff did not object to GSEC's selection of energy-only fixed price contracts for the Large Customer Group DS supply based on GSEC's explanation of its calculation of the capacity adder and the company's stated intent to reconcile any over- or under-collections in the DS filing scheduled for May 2007.

Staff requested, and GSEC agreed to provide, quarterly reports from GSEC regarding monthly customer migration and noted that the request was consistent with Staff's recommendation regarding Public Service Company of New Hampshire (PSNH) in Docket No. DE 06-125.

Staff opined that GSEC had complied with the bid solicitation and evaluation process, and had appropriately selected the winning bidder. Staff recommended that the Commission approve GSEC's Petition. Staff concluded by stating that it had no objections to GSEC's Motions for Confidential Treatment.

III. COMMISSION ANALYSIS

A. Confidentiality

First, we address GSEC's motions for confidential treatment. The materials that GSEC 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; comparative energy and capacity prices, 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 GSEC 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.

GSEC asserts that this information should be protected from public disclosure because it is confidential, commercial and financial information. GSEC 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 GSEC if their confidential bid information is disclosed. GSEC 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 GSEC's diminished negotiating position. GSEC also points out that the indicative bids shared with Staff by e-mail on or about December 1, 2006, are 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 motions, we have made an *in camera* review of the material which GSEC 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 GSEC 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 GSEC'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 motions, 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 with Staff and the OCA which occurred on or about December 1 through December 4, 2006, and any subsequent discussion of information for which protection is requested by the company's motions.

B. Default Service

Regarding GSEC's analysis of the bids and its selection of the winning bidder for DS supply for its Large Customer group beginning February 1, 2007, we find that GSEC complied with the procedures approved by Order No. 24,577. Likewise, we are 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 GSEC's evaluation of the bids and its selection of ConEd as its DS supplier for the Large Customer Group is reasonable and that the resulting rates are market-based. We find GSEC's selection of an energy-only bid, with an estimated pass through of capacity charges at \$10.56 per MWh, is reasonable and in the public interest. We note that GSEC followed the Commission's direction to analyze both energy-only and energy-and

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

capacity bids to determine which alternative would result in the lowest price for customers.²

Accordingly, we approve the petition and we will allow the power supply costs to be included in the company's rates beginning February 1, 2007.

Finally, we agree with Staff that the Commission would benefit from GSEC's quarterly reporting of migration information based on monthly migration by customer class and load. We find that GSEC should make quarterly reports to the Commission in addition to including such reports in its DS filings.

Based upon the foregoing, it is hereby

ORDERED, that the master power supply agreement with Consolidated Edison Energy, Inc. to provide Default Service supply to Granite State Electric Company's medium and large customer groups for the period from February 1, 2007 through April 30, 2007, is hereby **APPROVED**; and it is

FURTHER ORDERED, that that the Motions for Confidential Treatment filed December 7th and 8th, 2006 are hereby **GRANTED**; and it is

FURTHER ORDERED, that GSEC shall make calendar quarterly reports to the Commission with monthly information on customer migration by customer class and load; and it is

FURTHER ORDERED, that GSEC shall include the above-referenced quarterly reports in its future DS filings with the Commission; and it is

FURTHER ORDERED, that GSEC shall file conforming tariffs within 30 days of the date of this Order, consistent with N.H. Admin. Rule Puc 1606.02.

² See Order No 24,675 (September 29, 2006) slip op. at 9.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of
December, 2006.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary