

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 08-011

GRANITE STATE ELECTRIC COMPANY

**Petition for Approval of Proposed Default Service Rates for August 1, 2008 through
October 31, 2008 for Large Commercial and Industrial Customers**

Order Approving Petition

ORDER NO. 24,862

June 20, 2008

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

I. BACKGROUND

On June 13, 2008, Granite State Electric Company d/b/a National Grid (National Grid) filed a petition requesting approval of default service rates for its large and medium commercial and industrial customers (Large Customer Group) for the period from August 1, 2008 to October 31, 2008. In support of its petition, National Grid filed the testimony of John D. Warshaw and related exhibits. Mr. Warshaw is the principal New England energy supply analyst for National Grid USA Service Company, the National Grid affiliate with responsibility for procurement of default service power for National Grid. National Grid named Constellation Energy Commodities Group, Inc. (Constellation) as the winning supplier.

National Grid made this filing pursuant to a settlement agreement approved by the Commission in Order No. 24,577 (January 13, 2006), 91 NH PUC 6. In Order No. 24,577, the Commission approved the process for solicitation, bid evaluation and procurement of default service supply by National Grid for its Large Customer Group. According to the terms of the

settlement agreement, National Grid procures default service for its Large Customer Group under three-month contracts with fixed prices that vary month-to-month. National Grid charges the Large Customer Group retail rates consisting of monthly fixed energy charges, administrative costs and a reconciliation charge.

With its petition, National Grid filed a motion for confidential treatment of certain information pursuant to N.H. Code Admin. Rules Puc 203.08. The information for which National Grid seeks confidential treatment is redacted from its public filing and was submitted separately with the motion. In the motion, National Grid requests confidential treatment of: the Master Power agreement confirmation with Constellation (Schedule JDW-4 attached to Mr. Warsaw's testimony); the summary of the RFP bid evaluation (Schedule JDW-2); and an analysis comparing changes in electric and gas futures costs to changes in power procurement costs (Schedule JDW-3).

In support of its motion, the company states that its agreement confirmation with Constellation, the RFP bid evaluation, and the analysis comparing futures costs and power costs contain commercially sensitive information, the disclosure of which could be harmful to the competitive positions of Constellation and the participants in the RFP, and could stifle the willingness of those suppliers to participate in future energy service solicitations in New Hampshire. In addition, National Grid represents that competitive suppliers protect information they deem confidential or commercially sensitive. According to National Grid, the parties have taken steps to avoid disclosure of this information and believe that disclosure of such information could adversely affect the business position of the parties in the future.

The company notes that documents exempt from public disclosure under RSA 91-A:5, IV include records that comprise "confidential, commercial or financial" information and other

documents whose disclosure would constitute an invasion of privacy. National Grid attests that the information for which it seeks protective order is confidential, commercial or financial information within the meaning of RSA 91-A:5, IV and should be exempt from disclosure. National Grid also filed a similar motion for confidential treatment for the information shared with Staff on June 4, 2008 regarding the indicative bids.

On June 16, 2008, the Commission scheduled a hearing for June 18, 2008, that took place as scheduled. At hearing, the Commission directed the company to revise a component of its rate related to the recovery of certain costs incurred by National Grid to comply with the Renewable Portfolio Standard law, RSA 362-F. The Commission designated Exhibit 10 for this revised calculation, and the resulting revised rates. The company filed its response to the record request on June 19, 2008.

II. POSITIONS OF THE PARTIES AND STAFF

A. National Grid

National Grid testified that it conducted its solicitation process consistent with the terms of the settlement agreement approved by the Commission in Order No. 24,577. As with prior solicitations, National Grid and its retail distribution affiliates in Massachusetts prepared a joint RFP (request for proposals) for certain power supplies, including a default service supply for National Grid's Large Customer Group for the period August 1, 2008 through October 31, 2008. The RFP requested fixed pricing for each month of service on an as-delivered energy basis and allowed prices to vary by month so that prices did not have to be uniform across the entire service period.

According to National Grid, the RFP was issued on May 9, 2008 to more than 25 potential suppliers. The RFP was also distributed to all members of the New England Power

Pool (NEPOOL) Markets Committee and was posted on National Grid's energy supply website. According to National Grid, the RFP had wide distribution through the New England energy supply marketplace.

The company testified that suppliers filed indicative bids on June 4, 2008 and final proposals on June 11, 2008. National Grid also shared a confidential summary of the indicative bids with Commission Staff on June 4, 2008. According to the company, none of the bidders made their provision of National Grid's Large Customer Group default service contingent upon the provision of any other service. Pursuant to the settlement agreement, the company testified that it evaluated the received bids and selected Constellation because its bid conformed to the RFP, had the lowest price, met the credit requirements described in the RFP, and passed National Grid's qualitative evaluation. National Grid attested that it complied with the solicitation and bid evaluation process approved by the Commission and that its choice of supplier is reasonable.

On June 11, 2008, National Grid entered into an agreement confirmation with Constellation to provide default service to the Large Customer Group for the three-month period August 1, 2008 through October 31, 2008. National Grid explained that a copy of the master power agreement between National Grid and Constellation was filed with the Commission on March 20, 2006 in Docket No. DE 06-115, a prior default service proceeding. The transaction confirmation, together with the master power agreement, provides the terms of National Grid's purchase of default service for its Large Customer Group from Constellation.

National Grid explained that in its calculation of rates it used a Renewable Portfolio Standard (RPS) adder of \$0.00108 per kWh to account for the cost of compliance with RSA 362-F. According to National Grid, the Commission allowed the use of this adder in a prior default service solicitation. *See* DE 07-012, Order No. 24,787 (September 21, 2007). The RPS statute

requires, for calendar year 2008, each provider of electric service to purchase 4 percent of its load in the form of renewable energy certificates (RECs) -- one REC per megawatt hour (MWh) of load -- or, if a sufficient supply of RECs is not available, to make alternative compliance payments (ACPs) into the renewable energy fund established by the RPS statute. The company testified that it had not yet determined how to satisfy the RPS requirements but, at a minimum, it proposes to purchase RECs in the wholesale marketplace. The company explained that its affiliates in Massachusetts and Rhode Island have satisfied similar RPS requirements by purchasing RECs. Accordingly, to assure that costs are recovered for RPS compliance in this docket, National Grid proposed to use the \$0.00108 adder previously approved by the Commission in the calculation of rates for the Large Customer Group.

National Grid testified that the rates for the Large Customer Group for the period August 1, 2008 through October 31, 2008, including the various components included in the rate, will be as follows:

Month	August 2008	September 2008	October 2008
Base Default Service (DS) Rate	\$0.14666	\$0.13354	\$0.13461
DS Cost Reclassification ¹	\$0.00009	\$0.00009	\$0.00009
DS Adjustment Reconciliation Factor ²	\$0.00032	\$0.00032	\$0.00032
RPS Adder	\$0.00108	\$0.00108	\$0.00108
Total Default Service Rate	\$0.14815	\$0.13503	\$0.13610

¹ The filing states that the DS Cost Reclassification Factor (for use on and after May 1, 2007) recovers costs associated with the unbundling the DS-related administrative costs.

² This factor is approved by the Commission for reconciling costs and revenues for default service. See National Grid Second Revised Page 87 in the National Grid Tariff.

The simple average of the commodity costs for the Large Customer Group for the period August through October, 2008 is \$0.13991 per kWh, compared with the simple average cost of \$0.11344 for the period May through July, 2008. For the approximately 815 customers in the Large Customer Group that remain on default service, roughly 88% of the class, the bill impacts as compared with current rates range from 15.2% to 17.3%.

National Grid reported that, consistent with the settlement agreement, it had solicited both energy-only and energy-and-capacity bids in its RFP. Because the implied cost of capacity in the indicative bids was lower than the company's internal calculation of capacity cost estimates for the months of August, September and October 2008, National Grid selected an all inclusive fixed price energy-and-capacity product from Constellation.

B. Staff

In response to Staff's questions regarding the calculation of Class IV REC costs, the company explained that it used an estimate of \$2.00 per Class IV REC based on its experience in the Rhode Island and Massachusetts markets.³ Staff noted that, in New Hampshire, the existing ACP cost for Class IV is \$29.20 per MWh, and that using an adder based on the cost of \$2.00 could result in an under-collection of RPS compliance costs with associated interest rates, that would later have to be paid by customers. Staff recommended that the Commission require National Grid to revise the calculation of the adder for Class IV RECs based on the ACP cost of \$29.20. National Grid agreed to recalculate the adder and the resulting rates. The Commission reserved Exhibit 10 for the revised rate calculation.

³ Class IV RECs represent the renewable energy attributes of the output of certain small hydroelectric facilities that began operation prior to January 1, 2006. *See* RSA 362-F:4, IV.

Staff concluded by stating that, based on its review of the petition, UES had complied with the terms of the 2005 settlement agreement in its solicitation and bid evaluation process and recommended that the Commission approve the petition.

On June 19, 2008, National Grid filed an electronic copy of the revised RPS adder for Class IV RECs. The company calculated a RPS Class III and IV RPS adder of \$0.00123 per kWh using the ACP of \$29.20 per MWh which applies to both Class III and IV. With this change, the revised total retail rate for the Large Customer Group for the period August 1, 2008 through October 31, 2008 is as follows:

Month	August, 2008	September, 2008	October, 2008
\$ per kWh	\$0.14830	\$0.13518	\$0.13625

III. COMMISSION ANALYSIS

A. Confidentiality

First, we address National Grid's motion for confidential treatment. The materials which National Grid 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), a ranking of the transactions offered by each bidder in terms of financial security (including consideration of reasonable extension of credit to National Grid 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 purchase and sale agreement. Finally, in a subsequent motion, National Grid requests confidential treatment of the indicative bids shared with Staff on or about June 4, 2008.

National Grid asserts that this information should be protected from public disclosure because it is confidential, commercial, or financial information, and provided by bidders with the express understanding that such information would be maintained as confidential. National Grid contends that the disclosure of the fully negotiated transaction confirmation agreement with Constellation would reveal National Grid's negotiating posture to other potential power suppliers and, thus, National Grid asserts that its customers would be harmed by National Grid's diminished negotiating position resulting from public disclosure. National Grid also asserted that the indicative bids shared with Staff by email on or about June 4, 2008 should be confidential for the same reasons.

The 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 National Grid 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 interest that National Grid and its bidders have in maintaining confidentiality of such information. *See Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540 (1997) (requiring the balancing of such interests in RSA 91-A:5, IV determinations). We therefore grant protective treatment to the information redacted from National Grid's public filing.

Pursuant to requirements of the Federal Energy Regulatory Commission (FERC), each wholesale supplier is obligated to report to the FERC the price and volume of its wholesale contractual sales during each quarter and to identify the party to whom the sale has been made,

within 30 days of the end of that quarter. *See Revised Public Utility Filing Requirements*, 99 FERC ¶ 61,107 (April 25, 2002) and 18 CFR Parts 2, 35. FERC makes this information available to the public through electronic quarterly reports. Therefore, insofar as protection is requested for wholesale contractual sales, we grant such information protective treatment until such time as the information is published by the FERC.

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. We therefore, accord confidential treatment of the information provided to Staff which occurred on or about June 4, 2008.

B. Default Service

Regarding National Grid's analysis of the bids and its selection of the winning bidder for default service supply for its Large Customer Group for the three-month period from August 1, 2008 through October 30, 2008, we find that National Grid complied with the procedures approved by Order No. 24,577. 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 National Grid's evaluation of the bids and its selection of Constellation as its default service supplier for the Large Customer Group for the period August 1, 2008 through October 31, 2008 is reasonable. The testimony of National Grid, together with its bid evaluation report, indicates that the bid prices reflect current market conditions that are largely driven by rising natural gas prices, and, therefore, are reasonable. In light of the circumstances,

we grant the petition. Finally, we approve the recalculation of the RPS adder and the revised rates as submitted by National Grid on June 19, 2008.

Based upon the foregoing, it is hereby

ORDERED, that the transaction confirmation agreement between Granite State Electric Company d/b/a National Grid and Constellation Energy Commodities Group, Inc. and resulting proposed rates as revised to reflect the changed RPS adder are 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 Electric Company d/b/a National Grid 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 transaction confirmation for the period August 1, 2008 through October 31, 2008 are APPROVED; and it is

FURTHER ORDERED, that National Grid's motions for confidential treatment are GRANTED; and it is

FURTHER ORDERED, that National Grid shall file conforming tariffs within 30 days of the date of this Order, consistent with N.H. Code Admin. Rule Puc 1603.02.

By order of the Public Utilities Commission of New Hampshire this twentieth day of June, 2008.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Lori A. Normand
Assistant Secretary