

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 09-224**

**UNITIL ENERGY SYSTEMS, INC.**

**Request for Approval of a Renewable Energy Service Rate Option**

**Order Approving Partial Settlement Agreement**

**ORDER NO. 25,102**

**May 7, 2010**

Appearances: Orr & Reno PA by Susan S. Geiger, Esq., on behalf of Unitil Energy Systems, Inc.; the Office of Consumer Advocate by Meredith A. Hatfield, Esq., on behalf of residential ratepayers; and Suzanne G. Amidon, Esq., on behalf of Commission Staff.

**I. PROCEDURAL BACKGROUND**

On November 10, 2009, Unitil Energy Systems, Inc. (UES or Company) filed a proposed renewable default energy source option pursuant to RSA 374-F:3, V(f). With its proposal, UES filed the testimony and attachments of Robert S. Furino, Director of UES' Energy Contracts Department, describing the renewable default energy service rate option. UES also filed a proposed draft tariff to implement the renewable default energy service rate.

On December 1, 2009, the Office of Consumer Advocate (OCA) filed a letter with the Commission indicating that it would participate in the proceeding on behalf of residential customers pursuant to RSA 363:28. The Commission issued an Order on January 15, 2010, suspending UES' tariff and scheduling a prehearing conference for January 28, 2010.

On February 1, 2010, Staff filed a report on the technical session that followed the prehearing conference and a proposed procedural schedule. On March 12, 2010, on behalf of the parties, Staff requested that the Commission approve a change to the procedural

schedule to allow the parties and Staff to file a settlement agreement no later than March 31, 2010. The Commission granted the change to the procedural schedule on March 18, 2010. Staff filed a settlement agreement on behalf of itself and UES on March 31, 2010. The hearing was held as scheduled on April 7, 2010.

In its filing, UES stated that, pursuant to its proposal, the Company would offer a Renewable Source Option (RSO) to its residential and small business customers. On behalf of participating customers, UES would purchase and retire renewable energy certificates (RECs) from renewable generation that is eligible to be certified as Class I (new) or Class II (solar) facilities pursuant to RSA 362-F, New Hampshire's Electric Renewable Portfolio Standard law. These RECs would match either all or a portion of the participating customer's actual energy use. UES said that the Company would bill participating customers for the RSO on a cents per kilowatt hour (kWh) basis, and the customer bill would include a separate line for the charge.

UES' proposal included three levels of RSO participation for eligible default service customers to choose – a 25 percent option, a 50 percent option and a 100 percent option. For each option, UES would purchase and retire RECs to match that level of the customer's actual electricity consumption. According to UES, customers could enter or exit the RSO program on a billing cycle basis.

Under the UES proposal, the RSO program would be available to domestic service (Rate Class D) and regular general service (Rate Class G2) customers who receive electric service under UES' default service tariffs. The Company would not make the RSO program available to customers who are enrolled in UES' low-income electric assistance program or to customers approved to receive payment assistance through the fuel assistance program administered by a Community Action Agency because of the limited funding in those programs.

UES said that outdoor lighting (OL) and large commercial and industrial customers (C&I) taking default service under the general service class (Rate Class G1) would not be eligible to participate in the RSO. According to UES, C&I customers have significant access to the competitive market for energy supply and other services such as renewable energy generation. UES proposed to restrict OL accounts from the RSO program for the following reasons. First, offering the RSO program to the OL accounts would require significant modifications to its billing system. Further, OL services are generally billed as additional services to governmental entities and other customers who take primary service under another rate schedule, such as Class G1 or G2. In addition, OL sales represent approximately three quarters of one percent (0.75%) of the Company's total sales, a good portion of which is believed to be associated with G1 customers. According to the Company, restricting OL accounts from the RSO program would not prevent an otherwise eligible customer from participating under its primary account and would allow UES to more efficiently manage program implementation. UES also said that customers who take their electricity from competitive suppliers would not be eligible for the RSO program because they have access to suppliers who offer renewable products.

UES proposed capping administrative costs for the first year at \$50,000. According to the Company, administrative costs include the costs of bill inserts, website changes, promotion and customer communications. The Company proposed to recover these costs from all customers through its external delivery charge because the RSO program will benefit all customers by increasing the level of financial support for new renewable generation sources. UES stated that it will reconcile the costs of the RSO program in its annual reconciliation of default service charges. UES also stated that it will file a RSO program report on July 1 of each

year, coincident with the filing of its Renewable Portfolio Standard (RPS) compliance report pursuant to RSA 362-F. In addition, UES proposed that it also file a quarterly report to inform the Commission of the number of customers participating in the program by rate class and RSO option chosen, along with the kWh consumption of the participating customers by rate class and RSO option, and the aggregate number of Class I and Class II RECs purchased from the RSO revenues. UES also proposed adjustments to its RSO REC procurement to account for distribution losses between the Company's wholesale delivery points and customer meters in determining the proper number of RECs to acquire for RSO participants.

## **II. PARTIAL SETTLEMENT AGREEMENT**

UES and Staff entered into a partial settlement agreement that modified the Company's filing. The partial settlement agreement left unresolved the issue regarding UES' proposal to preclude OL and large C&I default service customers from participating in the RSO program. In the partial settlement agreement, UES agreed to forgo any adjustment in its RSO REC procurement to account for transmission and distribution losses between the Company's wholesale tie points and customer meters in determining the proper number of RECs to acquire.

UES and Staff agreed that, for the first year of the RSO program as proposed, external start up and administrative costs will be capped at \$50,000. External annual ongoing promotion and customer communication costs will not exceed \$20,000 per year. Pursuant to the partial settlement agreement, this provision will be reviewed after the first year of the program and adjusted as appropriate. The above-referenced costs do not include additional costs that would be incurred if UES were to include large C&I and OL customers in the RSO program. Hearing Transcript of April 7, 2010 (Tr. 4/7/2010) at 14-15.

UES and Staff agreed that eligible customers could begin taking the RSO on the customer's next meter read date. Customers will be able to enroll or withdraw from the RSO program by calling UES' customer service call center or by electronically submitting requests through the Company's website. A customer who chooses to submit an enrollment or a withdrawal request will be required to do so at least 2 business days prior to their next scheduled meter read date. *Id.* at 16.

Pursuant to the partial settlement agreement, UES will file tariff pages for effect 120 days after the Commission approves the program. The tariff pages will be accompanied by testimony or a technical statement explaining the calculation of the rates for the three options and a projection of the prices for Class I and Class II RECs that were used to establish the rates. UES said it intended to use the REC cost estimates used by the Company in setting its RPS compliance in the RSO rate calculation. UES and Staff agreed that any necessary subsequent tariff changes will be filed and accompanied by testimony or a technical statement explaining the derivation of the rates for the three options and a projection of the prices for Class I and Class II RECs, and that any subsequent tariff changes will be for effect on either May 1 or November 1, beginning in 2011, or will otherwise coincide with default energy service rate changes for the Company's residential and small commercial customer classes. *Id.* at 16-17.

The partial settlement agreement provides that UES will reconcile any over- or under-collections in the RSO rate in the next RSO rate. Further, UES agreed that it may seek recovery of any RSO over- or under-collections through its default service rate unless the RSO reconciliation resulted in a negative rate or a rate that was extremely high. In such circumstances, UES agreed that it would have to first seek the approval of the Commission before including any RSO over-or under-collection in its default service rates. *Id.* at 18-19.

In its filing, UES agreed to file quarterly reports with the Commission and the OCA providing information as follows: the number of customers who have elected the RSO; the associated kWh sales; the applicable rate classes of participating customers; the RSO option selected; and the projected annual revenue that would be provided to generators for the purchase of RECs to meet the kWh sales. In the partial settlement agreement, UES also agreed to file a report to the Commission and the OCA after the program has been in place for twelve months, providing details of program participation in each of the three rate options and all incremental marketing and promotion costs associated with the program. After reviewing the report, Staff and the OCA will consider possible changes to the rate or other aspects of the RSO program.

The OCA took no position on the partial settlement agreement. OCA said that it preferred the approach taken by Granite State Electric Company d/b/a National Grid (National Grid), which directs interested customers directly to competitive REC suppliers. OCA cited two reasons for its preference. First, with interested customers paying REC suppliers, it is unlikely that non-participating customers will be responsible for any under-collections in the RSO program. Second, the OCA opined that regulated utilities should not be placed in a situation where they are competing with competitive suppliers in the market. *Id.* at 33-34.

Staff supported the partial settlement agreement. Staff emphasized that the different tracks taken by Public Service Company of New Hampshire (PSNH), UES and National Grid allow the parties and Staff to evaluate the renewable service programs and recommend to the Commission possible changes going forward.

Regarding UES' decision to exclude OL and C&I customers from the program, UES pointed out that the language in RSA 374-F:3, V(f) (2) does not compel a utility to offer a renewable service option to all of its customers but does require a utility to provide a renewable

services option “as approved by the commission.” UES noted that it had used the recently-approved renewable energy service option offered by PSNH as a model for its filing. That being the case, UES said the Commission should authorize the Company to proceed in a similar fashion with its own RSO program. *Id.* at 36. The Company also noted that subsection (9) of RSA 374-F:3, V(f) states that the Commission is to implement the renewable service requirements “through utility-specific filings.” UES argued these statutory provisions suggest that the Legislature intended that each utility and the Commission should have some discretion as to how to implement the renewable services statute and that no universal approach should necessarily apply to all circumstances or to all utilities. *Id.* at 37.

Neither the OCA nor Staff took a position on the exclusion of OL and C&I customers from UES’ RSO program. OCA stated that the Commission’s ruling in the PSNH order, which allowed PSNH to limit its offering to only those customers taking default service, could be extended to support UES’ proposal. *Id.* at 32-33.

### **III. COMMISSION ANALYSIS**

Pursuant to the New Hampshire Code of Administrative Rules Puc 203.20, the Commission shall approve a settlement agreement provided that it finds the agreement is just and reasonable and in the public interest. In this instance, we are presented with a partial settlement agreement that modifies UES’ initial filing to comply with the RSA 374-F:3, V(f) requirement to offer a renewable default service option to its customers. For the reasons stated below, we approve the partial settlement agreement.

The partial settlement agreement slightly modifies the initial filing. Pursuant to the partial settlement agreement, UES will not adjust REC procurement to account for distribution losses

between the Company's wholesale tie points and customer meters in determining the proper number of RECs to acquire. As for reconciliation of RSO costs, the partial settlement agreement requires UES to seek approval of the Commission to include any over- or under-collection in its default energy service rates if the over- or under-collection would result in a negative RSO or in a RSO rate that would discourage participation in the program. .

These are reasonable modifications to the initial filing and provide clarity as well as appropriate regulatory oversight. The partial settlement agreement also requires UES to make certain reports to the Staff and the OCA twelve months after the introduction of RSO program. The reporting provision will allow Staff and the OCA to evaluate the program, both in terms of participation and cost, and to make appropriate recommendations regarding future operation of the program. We find the reporting requirement to be reasonable as this is a new, optional tariff offering with uncertain demand and cost.

The one issue that was not resolved by the settlement agreement is whether UES, or any electric utility, is allowed to limit its RES offering to certain group of default service customers, We agree with UES' assertion that the statute allows discretion as to how to implement the renewable services statute, RSA 374-F:3, V(f). "Green" offerings are already in the market for medium and large customers and there has been no apparent call for this service from those rate classes. To extend the program to all classes would result in additional costs due to programming and outreach. We cannot justify imposing those costs on ratepayers for a program that may have no customers, therefore, we will exclude the OL and C&I customers from eligibility for the RSO.

Finally, we note that the RES filings for PSNH, UES and National Grid are different. The operation of the different programs will allow us to learn more about the demand and cost of



classes. To extend the program to all classes would result in additional costs due to programming and outreach. We cannot justify imposing those costs on ratepayers for a program that may have no customers, therefore, we will exclude the OL and C&I customers from eligibility for the RSO.

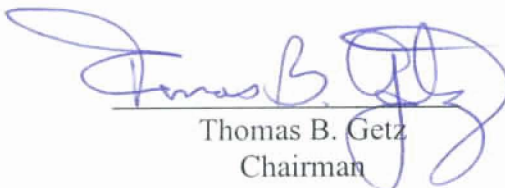
Finally, we note that the RES filings for PSNH, UES and National Grid are different. The operation of the different programs will allow us to learn more about the demand and cost of such renewable energy programs in New Hampshire. The reporting and evaluation requirement after one year of program implementation provides an opportunity to improve all these programs.

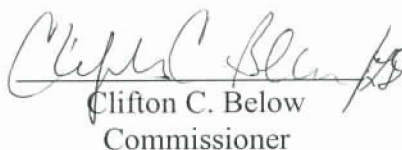
**Based upon the foregoing, it is hereby**

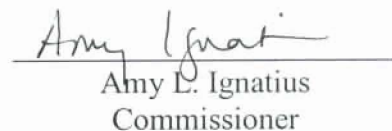
**ORDERED**, that the filing of Unitil Energy Systems, Inc to implement a proposed renewable default energy service rate pursuant to RSA 374-F:3, V(f) as modified by the partial settlement agreement and as discussed herein is hereby APPROVED; and it is

**FURTHER ORDERED**, that Unitil Energy Systems, Inc. shall file a tariff conforming with this Order within 30 days hereof.


By order of the Public Utilities Commission of New Hampshire this seventh day of May, 2010.

  
Thomas B. Getz  
Chairman

  
Clifton C. Below  
Commissioner

  
Amy E. Ignatius  
Commissioner

Attested by:

  
Lori A. Davis  
Assistant Secretary