

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 10-028**

**UNITIL ENERGY SYSTEMS, INC.**

**Petition for Approval of Default Service Solicitation and  
Resulting Rates for Large Commercial and Industrial Customers**

**Order Approving Solicitation, Bid Evaluations and Resulting Rates**

**ORDER NO. 25,116**

**June 18, 2010**

**Appearances:** Gary M. Epler, Esq., on behalf of Unitil Energy Systems, Inc.; and Suzanne G. Amidon, Esq., on behalf of the Staff of the Public Utilities Commission.

**I. BACKGROUND**

On June 11, 2010, Unitil Energy Systems, Inc. (UES or Company) filed a petition requesting approval of its solicitation and procurement of default service for its large commercial and industrial (G1) customers for the three-month period August 1, 2010 through October 31, 2010, and of the resulting default service rates. In support of its petition, UES filed the testimony of Robert S. Furino and Linda S. McNamara, a redacted bid evaluation report (Schedule RSF-1), a copy of the request for proposals (RFP) for default service (Schedule RSF-2) and proposed tariffs. With its petition, UES also included its quarterly customer migration report and a motion for confidential treatment of certain information in the filing. UES stated that with the proposed August 2010 the overall bill<sup>1</sup> impact for G1 customers ranges from negative 2.8% to negative 3.6% when compared to May 2010 bills.

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<sup>1</sup> UES bills include charges for distribution service, external delivery service, stranded costs, system benefits and default service.

UES filed the petition pursuant to the terms of the settlement agreement approved by the Commission in *Unitil Energy Systems, Inc.*, Order No. 24,511 (September 9, 2005) 90 NH PUC 378. Pursuant to the terms of that agreement, UES solicits default service supply for its G1 customers on a quarterly basis in three-month blocks, and establishes fixed monthly prices that vary from month to month.

UES issued the RFP on May 11, 2010. Suppliers submitted indicative bids to UES on June 1, 2010. On June 8, 2010, UES selected Cargill Power Markets, LLC (Cargill) as supplier for G1 default service power supply for the three-month period August 1, 2010 through October 31, 2010. UES stated that it followed the solicitation and bid evaluation process set forth in the settlement agreement and that its analysis of the bids and choice of suppliers is reasonable.

On June 14, 2010, the Commission issued a secretarial letter scheduling a hearing for June 16, 2010, which was held as noticed.

## **II. POSITIONS OF THE PARTIES**

### **A. Unitil Energy Systems, Inc.**

UES stated that, consistent with the 2005 settlement agreement, 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. UES reported that it achieved market notification of the RFP by electronically announcing its availability to all participants in the New England Power Pool (NEPOOL) and to the members of the NEPOOL Markets Committee. UES affirmed that it also announced the issuance of the RFP to a list of contacts from energy companies that had

previously expressed interest in receiving notices of solicitations. In addition, UES issued a media advisory to the power markets trade press announcing the RFP.

UES stated that it provided potential bidders with appropriate and accessible information in order to gain the greatest level of market interest. According to its filing, UES' historic hourly load, historic monthly retail sales and customer counts, large customer concentration data and the evaluation loads, which are the estimated monthly volumes that UES would use to weight bids in terms of price, were made available to potential bidders via UES' web site. Consistent with Order No. 24,921 (December 12, 2008) in Docket No. DE 08-015, UES' 2008 Default Service Procurement docket, UES solicited only all-inclusive energy and capacity bids.

According to UES, it did not discriminate in favor of or against any individual potential supplier that expressed interest in the solicitation. UES said that it negotiated with all potential suppliers that submitted proposals in order to obtain the most favorable terms each supplier was willing to offer.

UES affirmed that it evaluated the indicative bids using both quantitative and qualitative criteria including price, creditworthiness, willingness to extend adequate credit to UES, ability to meet the terms of the RFP in a reliable manner, and willingness to enter into contractual terms acceptable to UES. To evaluate the bids, UES said it compared the pricing strips proposed by each of the bidders by calculating weighted average prices for each supply requirement using evaluation loads that were issued along with the RFP.

The Company testified that it determined that Cargill offered the best overall value in terms of both price and non-price considerations for the supply requirements and selected it as the winning bidder. On June 9, 2010, UES and Cargill executed a Power Supply Agreement

(PSA) for the power supply for G1 customers for the period August 1, 2010 through October 31, 2010.

To comply with RPS requirements for the August 1 through October 31, 2010 period, UES will need to provide Class I (new renewable resources) renewable energy certificates (RECs) for 1.0% of sales, Class II (solar resources) RECs for 0.04% of sales, Class III (existing biomass resources) RECs for 5.5% of sales, and Class IV (existing small hydro resources) RECs for 1.0% of sales. In developing the RPS adder, UES estimated the cost of Class I RECs at \$20.00, Class II RECs at \$50.00, Class III RECs at \$25.00, and Class IV RECs at \$25.00.

Pursuant to a settlement agreement approved by the Commission in Docket No. DE 09-009, UES' 2009 default service proceedings, UES plans to comply with the RPS requirements of RSA 362-F outside the default service procurement process by separately purchasing qualifying available RECs or by making alternative compliance payments as necessary. For 2010 RPS compliance, UES expects to issue its first RFP in October. UES derived the REC values based on broker quotes and the results of its most recent REC RFP, and calculated the retail cost of RPS compliance for G1 customers to be \$0.00291 per kWh for 2010.

UES testified that the revised G1 retail rates, adjusted for reconciliation, working capital requirements, provision for uncollected accounts and internal company administrative costs, and the RPS adder, for each month in the period will be as follows:

Month	August 2010	September 2010	October 2010
\$ per kWh	\$0.07220	\$0.06124	\$0.06090
RPS adder (\$ per kWh)	\$0.00219	\$0.00219	\$0.00219
Total rate (\$ per kWh)	\$0.07439	\$0.06343	\$0.06309

The proposed default service costs produce a simple three-month average rate of \$0.06697 per kWh, which represents a decrease of \$0.00369 per kWh, or approximately 5.22%, over the current simple three-month average rate of \$0.07066 per kWh for the G1 customers that remain on default service. UES said the decrease reflects market rates. Based on the proposed August 2010 default service rate, the overall bill impact for G1 customers is a reduction of 2.8% to 3.6% compared to the May 2010 default service rate.

With regard to Staff's position, expressed at the hearing, that the cost of uncollected accounts should be allocated between classes in proportion to the gross uncollected accounts for G1 versus Non-G1 customers, rather than in proportion to default service sales for each class, UES said that it has the ability to track the gross amounts written-off by class and did not oppose using the allocation method recommended by Staff on a going forward basis. However, in Exhibit No. 4 and at hearing UES indicated that it did not track recoveries of uncollected accounts by customer class or by "distribution" or "default service," but rather netted recoveries against gross uncollected amounts in proportion to the allocation of gross amounts. UES further raised a question as to whether a revision of this allocation method would be consistent with the method approved in the settlement in its last distribution rate case and indicated that such a change would require a tariff revision.

In summary, UES requested that the Commission find that UES: (1) followed the solicitation process approved in Order No. 24,511, (2) conducted a reasonable analysis of the bids submitted, and (3) supplied a reasonable rationale for its choice of supplier. UES also asked the Commission to determine that, based on those findings, the power supply costs resulting from the solicitation are reasonable, subject to the ongoing obligation of UES to act prudently,

according to law and in conformity with Commission orders. Finally, UES requested the Commission grant its motion for confidential treatment.

### **B. Commission Staff**

Staff noted that there was an unresolved issue from the prior proceeding in this docket which related to how the Company allocated uncollected costs among G1 and Non-G1 classes. In response to a record request, Exhibit No. 4 in the instant docket, UES said that pursuant to its tariff, it allocated uncollected costs between the two classes based on relative kWh sales. Staff opined that it would be more appropriate to allocate uncollected costs for default service based on recorded amounts for each class, regardless of how such uncollected accounts are allocated in distribution rates.

Staff stated that it had reviewed the petition and determined that UES had complied with the settlement agreement approved by the Commission in Order No. 24,511 in conducting the bid solicitation process, evaluating the bids, and selecting the final bidder. Staff also said that the resulting rates are market based and recommended that the Commission approve the petition. Finally, Staff noted that UES does not own any generation and procures its entire default service supply through an RFP process. Staff opined that the requirements of the least cost plan statute did not apply to UES except for the filing of a distribution plan that the Company had agreed to file in the near future.

## **III. COMMISSION ANALYSIS**

### **A. Motion for Confidential Treatment**

UES requests confidential treatment of most of the information contained in Tab A to Schedule RSF-1, attached to Exhibit RSF-1 of the petition. Included in Tab A is a brief narrative

discussion of the bids received; a list of the suppliers who responded to the RFP; a pricing summary consisting of a comparison of all price bids, which is followed by each bidder's final pricing; a summary of each bidder's financial security requirements of UES; a description of the financial security offered by each bidder; UES' ranking of each bidder's financial security; the contact list used by UES during the RFP process; and the power supply agreement with Cargill. UES states that the bidders provided information to UES with the express understanding that the information would be maintained as confidential.

In addition to requesting confidential treatment for the material contained in Tab A, UES also requests confidential treatment of the "Total G1 Class DS Supplier Charges," "Working Capital Requirements," "Supply Related Working Capital," and "Provision for Uncollected Accounts" found in columns (a), (d), (f) and (g) of Page 2 of Schedule LSM-2. UES is seeking confidential protection for this information until February 1, 2011, when the Federal Energy Regulatory Commission (FERC) makes the information available to the public through electronic quarterly reports. UES proposes to redact this information from the publicly available material for a limited period because revealing it would allow a person to compute the wholesale rate which UES claims is properly treated as confidential. UES also requested confidential treatment of June 11, 2010 emails to the Staff and the Office of Consumer Advocate that included the confidential material described above.

According to UES, this information represents confidential, commercial or financial information and much of the information was provided to UES on the understanding that it would remain confidential. UES contends that allowing disclosure of this information would injure the suppliers' ability to participate in other competitive solicitations, particularly those

solicitations from UES. Accordingly, it requests confidential treatment pursuant to RSA 91-A:5, IV and New Hampshire Code of Administrative Rules Puc 203.08.

RSA 91-A:5, IV states, in relevant part, that records of “confidential, commercial, or financial information” are exempted from disclosure. *See Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (Sept. 22, 2009) at 2. In determining whether commercial or financial information should be deemed confidential, we consider whether there is a privacy interest at stake that would be invaded by the disclosure. *Id.* at 2-3. Second, when a privacy interest is at stake, the public’s interest in disclosure is assessed. *Id.* at 3. Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interests in non-disclosure. *Id.* This test is similar to that required by the Commission’s rule on requests for confidential treatment, N.H. Code Admin. Rules Puc 203.08. *See Unitil Corp. and Northern Utilities, Inc.*, Order No. 25,014 (Sept. 22, 2009) at 3.

The information UES seeks to protect is financial information related to it as well as its suppliers, and much of it was provided pursuant to the understanding that it would be kept confidential. We conclude that there is a privacy interest at stake that would be invaded by disclosure of this information. We also conclude, however, that there is a public interest in disclosure in that the public has an interest in the information underlying the default service rates paid by customers. Weighing these interests, we find that the interest in confidentiality outweighs that of disclosure. As noted by UES, disclosing the information would likely hamper its ability to engage suppliers in competitive bidding in the future, which would, in turn, make it more difficult to obtain its supply needs at competitive prices and might thereby increase rates to customers. Thus, there is a very strong privacy interest in avoiding disclosure, which we find is



not outweighed by the public's interest in disclosure. Finally, as to the information in Schedule LSM-4, because that information will soon be publicly available through the FERC, we grant confidential treatment to that information only until February 1, 2011 as requested in the motion.

### **B. Default Service**

Regarding UES' analysis of the bids and its selection of the winning bidder, we find that UES substantially complied with the procedures approved in Order No. 24,511 for the G1 default service solicitation. We are satisfied that UES met the procedural requirements set forth in prior orders and that the result of the bidding process 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 UES' evaluation of the bids and selection of Cargill was reasonable. The testimony of UES, together with its bid evaluation report, indicates that the bid prices reflect current market conditions.

We also find that because UES procures both RECs and default service supply through competitive bidding processes pursuant to settlement agreements approved by the Commission, the procurements are just and reasonable and in the public interest.

Finally, while we find merit to Staff's recommendation regarding the allocation of uncollected costs to G1 and Non-G1 customer classes we also find that the issue merits further development and consideration as to the timing and method for transitioning to a changed allocation method and costs that may be incurred in changes to the billing system. We direct the Company and Staff, with notice to the Office of Consumer Advocate, to meet prior to the UES's next default service filing to discuss the allocation of uncollected costs to G1 and Non-G1

customer classes and present further information, including proposed revised tariffs, if appropriate, before or at UES's next default service hearing for our consideration..

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

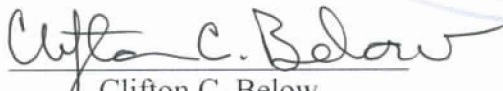
**ORDERED**, that the power supply agreement entered into by Unitil Energy Systems, Inc. with Cargill Power Market, LLC and the resulting proposed rates are APPROVED; and it is

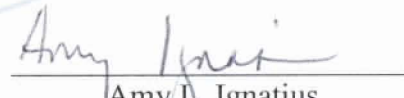
**FURTHER ORDERED**, that the power supply costs resulting from the solicitation are reasonable and, subject to the ongoing obligation of UES to act prudently, according to law and in conformity with Commission orders, the amounts payable to the sellers for power supply costs under the three-month purchase and sale agreement referenced herein and proposed for inclusion in retail rates to G1 customers beginning August 1, 2010 are APPROVED; and it is

**FURTHER ORDERED**, that the pending motion for confidential treatment of documents is GRANTED subject to the conditions discussed herein; and it is


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

By order of the Public Utilities Commission of New Hampshire this eighteenth day of June, 2010.

  
Clifton C. Below  
Commissioner

  
Amy D. Ignatius  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director