STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 10-028

UNITIL ENERGY SYSTEMS, INC.

Petition for Approval of Default Service Solicitation

And Proposed Default Service Tariffs

Order Approving Petition

O R D E R N O. 25,149

September 24, 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. PROCEDURAL BACKGROUND

On September 17, 2010, Unitil Energy Systems, Inc. (UES or Company) filed a petition requesting approval of its solicitation and procurement and the resulting default service rates for three contracts for power purchases. The first contract is for 100 percent of large commercial and industrial customers' (G1) supply requirement for the three-month period of November 1, 2010 through January 31, 2011. The second contract is for 25 percent of its small customers' (Non-G1)[1] supply requirements for 12 months in duration (November 1, 2010 through October 31, 2011) and the third contract is for 25 percent of its Non-G1 supply requirements for 24 months in duration (November 1, 2010 through October 31, 2012). UES selected Hess Corporation (Hess) as the supplier for the 3-month G1 supply requirements. The winning bidder for the 12-month 25-percent block of power requirements for the Non-G1 group is PSEG Energy

[1] Non-G1 includes residential and small commercial (G2) customer classes.

Resource & Trade LLC (PSEG ER&T) and the winning bidder for the 24-month 25-percent block of Non-G1 power supply requirements is TransCanada Power Marketing, LTD (TCPM).

The filing was made pursuant to the terms of a settlement agreement that sets forth the procedures for UES to procure default service power supply for both its G1 and Non-G1 customer groups and was approved by the Commission in *Unitil Energy Systems, Inc.*, Order No. 24,511, 90 NH PUC 378 (2005). 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. For Non-G1 customers, UES solicits a portfolio of power supply, and establishes a fixed rate for a six-month period. In the instant filing, the Company proposes a rate for Non-G1 customers for the period November 1, 2010 through April 30, 2011. UES stated that the resulting default service rates plus Renewable Portfolio Standard (RPS) compliance costs will result in reductions to overall bills by 4.0 percent for residential customers, an average of 4.3 percent for G2 customers, and 1.7 percent for outdoor lighting customers, compared to current rates. Bills for the G1 group would increase 5.5 percent overall as compared to current 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. In addition, UES included its quarterly customer migration report and a motion for confidential treatment for certain information including its bid evaluation process, the resulting purchase power agreements (PPAs) and certain data that could be used to calculate the cost of the purchased power at wholesale, all of which is in a confidential attachment denoted as Tab A. The Office of

Consumer Advocate (OCA) previously filed a letter on March 3, 2010 stating that it would be participating in this docket on behalf of residential ratepayers.

On September 21, 2010, the Commission issued a secretarial letter scheduling a hearing for September 23, 2010. Also on September 21, the OCA filed a letter stating that it was unable to participate in the hearing and requesting more than 48 hours advance notice of future hearings concerning changes to residential rates. The hearing was held as scheduled.

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.

UES testified that it issued the RFPs on August 10, 2010. On August 31, 2010, UES received proposals and indicative bids from several different respondents that included detailed background information on the bidding entity, proposed changes to the contract terms, and indicative pricing. UES stated that it reviewed the proposals and worked with the bidders to establish and evaluate their creditworthiness, their extension of adequate credit to UES to facilitate the transaction, their capability of performing the terms of the power purchase agreement in a reliable manner, and their willingness to enter into contractual terms acceptable to UES. UES negotiated with potential suppliers who submitted proposals in order to obtain the most favorable contract terms each supplier was willing to offer. All bidders were invited to submit final bids.

On September 14, 2010, UES received final pricing from bidders and conducted its evaluation which included both the quantitative and qualitative criteria described above. UES selected PSEG ER&T as the lowest bid for the 12-month block of power requirements for the Non-G1 customer group and TCPM as the lowest bid for the the 24-month block of power requirements for the Non-G1 customer group; HESS was selected as the lowest bid for the G1 customer group. UES has pre-existing power supply agreements with PSEG ER&T, TCPM and Hess, and executed amendments to those agreements with each of the winning suppliers on September 15, 2010.[2]

[2] The original PPA with Hess is dated March 16, 2006 and filed in Docket No. DE 06-123; the original PPA with PSEG ER&T is dated June 11, 2008 and filed in Docket No. DE 08-015; and the original PPA with TransCanada is dated March 13, 2007 and filed in Docket No. DE 07-013.

Based on its selected bids and existing Non-G1 power supply contracts, UES developed Non-G1 rates by dividing the total costs for each month during the November 2010 through April 2011 period, plus an appropriate allocation of the Non-G1 reconciliation account balance at January 1, 2010, by the estimated Non-G1 kilowatt hour (kWh) purchases for the month. UES then applied an estimated loss factor of 6.40% to each monthly unit cost and, finally, averaged the monthly unit costs to arrive at the proposed fixed retail charge. Using this methodology, UES calculated a fixed default service charge for Non-G1 customers of $0.07686 per kWh for the period November 2010 through April 2011. In addition, UES calculated a Non-G1 fixed RPS charge of $0.00213 per kWh for the same six-month period. Together, Non-G1 customers will pay a fixed charge of $0.07899 per kWh, which is a decrease from the current default service rate of $0.08489 per kWh.

For G1 customers, UES used a similar process, dividing the total costs for each month of the November 2010 through January 2011 period, plus an appropriate allocation of the G1 reconciliation account balance at January 31, 2010, by the estimated G1 kWh purchases for the month, adjusted by a loss factor of 4.591%. This process produced the following monthly default service and RPS charges for the G1 customer group:

	November 2010	December 2010	January 2011
Default Service $/kWh	$0.06397	$0.07018	$0.07663
RPS $/kWh	$0.00255	$0.00255	$0.00300
Total $/kWh	$0.06652	$0.07273	$0.07962

The simple average of these monthly total rates is $0.07296 per kWh, which is 8.9% greater than the current simple average of $0.06697 per kWh. UES attributed the changes in default service rates for both the G1 and Non-G1 groups to the changes in market rates. Regarding the increase to rates for G1 customers, UES said that the difference resulted from the low rates offered by the winning bidder in the prior solicitation.

UES testified that, in accordance with the settlement agreement dated July 16, 2009, and approved by the Commission in Order No. 25,011 (September 4, 2009), it plans to issue two RFPs for purposes of acquiring 2010 RECs necessary to comply with the RPS requirements of RSA 362-F. The Company said that it will issue the first of the RFPs on October 11, 2010, seeking approximately 50 percent of its 2010 REC obligations. UES attested that it had not purchased any 2010 RECs as of the day of the filing.

In developing the RPS adder, UES estimated the cost of Class I RECs at $20.00 for 2010 and 2011, Class II RECs at $50.00 for 2010 and 2011, Class III RECs at $25.00 for 2010 and 2011, and Class IV RECs at $25.00 for 2010 and 2011. UES said that the costs are based on market prices communicated to UES by brokers of renewable products.

In testimony, the Company provided a calculation of the Renewable Service Option Charges it proposed in connection with the implementation of RSA 374-F:3,V(f)(1). *See Unitil Energy Systems, Inc. Renewable Service Option*, Order No. 25,102 (May 7, 2010) in Docket No. DE 09-224. Those rates are as follows: for the 25% Plan option, $0.00529 per kWh; for the 50% Plan option, $0.01058 per kWh; and for the 100% Plan option, $0.02115 per kWh. UES requested approval of those rates with the instant filing.

UES noted that two issues pending from the last proceeding in the instant docket were resolved prior to the hearing. One of the issues related to UES' allocation of uncollected costs to G1 and Non-G1 customers. Pursuant to a letter filed with the Commission on September 7, 2010, UES and the Staff recommended that, beginning November 1, 2010, UES charge the monthly bad debt write-offs to Non-G1 and G1 default service costs based on the actual gross default service bad debts by class. Under this proposal, any recoveries would be allocated between Non-G1 and G1 default service, with the allocation also based on the monthly gross amounts. UES requested that the Commission approve this recommendation.

The second outstanding issue related to the Company's most recent (2009) lead/lag study, which was presented to the Commission at a hearing in this docket held on March 17, 2010. At that time, Staff did not have sufficient time to review the study, and the Commission indicated it would approve the resulting rates subject to Staff's recommendation. Order No. 25,082 (March 19, 2010) at 10. On September 21, 2010, UES filed a letter stating that the Company and Staff had discussed the 2009 lead/lag study, and that Staff had completed its review and concluded that the study conforms to the terms of the settlement agreement. Accordingly, UES and Staff recommended that the 2009 study be accepted, the conditional approval of the default service rates be removed, and the default service rates filed in this docket, which incorporate the study results, be fully approved.

In addition to the above requests, UES asked 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 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.

III. COMMISSION ANALYSIS

A. Confidentiality

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 wholesale Transaction Confirmations with PSEG E&RT, Hess and TCPM. 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-4. UES is seeking confidential treatment of this information related to the 3-month G1 contract until May 1, 2011; the information related to the 12-month Non G-1 contract until February 1, 2012; and the 24-

month Non-G-1 contract until February 1, 2013. According to the Company, the dates comport with the time when the Federal Energy Regulatory Commission (FERC) would make 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.

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 N. H. Code of Admin. 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. 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. *See Unitil Corp. and Northern Utilities Inc.*, Order No. 25,014 (Sept. 22, 2009) 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. *Id.* at 3.

The information UES seeks to protect is financial information related to it as well as to its suppliers, and much of the information was provided pursuant to the understanding that it would be kept confidential. We find that there is a privacy interest at stake that would be invaded by disclosure of this information. We also find, however, that there is a public interest in disclosure in that the public has an interest in the information underlying the default service rates proposed to be paid by customers. Weighing these interests, we conclude 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 such time as the FERC would require the information to be made available from wholesale suppliers in mandated quarterly reports.

B. Default Service

Regarding UES' analysis of the bids and its selection of the winning bidders, we find that UES substantially complied with the procedures approved in Order No. 24,511 for the G1 and Non-G1 default service solicitations. 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 the winning bidders for the three purchase power contracts was reasonable. The testimony of UES, together with its bid evaluation report, indicates that the bid prices reflect current market conditions. We find as well 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, we have reviewed the joint UES/Staff proposal regarding the allocation of bad debt and find that it is reasonable and in the public interest. We also accept Staff's approval of the Company's 2009 lead/lag study as conforming with the settlement agreement governing these proceedings.

Based upon the foregoing, it is hereby

ORDERED, that the power supply agreement entered into by Unitil Energy Systems, Inc. with Hess Corporation for the three-month supply beginning November 1, 2010 for G-1 customers and the resulting proposed rates are APPROVED; and it is

FURTHER ORDERED, that the power supply agreement entered into by Unitil Energy Systems, Inc. with PSEG Energy Resource & Trade, LLC for 25 percent of the Non-G1 requirements for twelve months beginning November 1, 2010 is hereby APPROVED; and it is

FURTHER ORDERED; that the power supply agreement entered into by Unitil Energy Systems, Inc. with TransCanada Power Marketing, LTD for 25 percent of the Non-G1 requirements for the twenty-four months beginning November 1, 2010 is hereby APPROVED;

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 for inclusion in retail rates to G1 and Non-G1 customers beginning November 1, 2010 are APPROVED; and it is

FURTHER ORDERED, that the proposed Renewable Service Option charges are hereby APPROVED; and it is

FURTHER ORDERED, that the September 7, 2010 recommendation regarding UES' allocation of uncollected costs to G1 and Non-G1 customers is hereby APPROVED; and it is

FURTHER ORDERED, that UES' 2009 lead/lag study is accepted and the conditional approval of default service rates is hereby fully 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. Code Admin. Rules Puc 1603.02.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of September, 2010.

Thomas B. Getz Chairman	Clifton C. Below Commissioner	Amy L. Ignatius Commissioner

Attested by:

Kimberly Nolin Smith
Assistant Secretary