

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 10-020**

**GRANITE STATE ELECTRIC COMPANY D/B/A NATIONAL GRID**

**Petition for Approval of Proposed Default Service Rates for the Large and Small Customer Groups for the Period beginning November 1, 2010**

**Order Approving Petition**

**ORDER NO. 25,150**

**September 27, 2010**

**APPEARANCES:** McLane, Graf, Raulerson and Middleton, P.A. by Sarah B. Knowlton, Esq., on behalf of Granite State Electric Company d/b/a National Grid; and Suzanne G. Amidon, Esq., on behalf of Staff of the Public Utilities Commission.

**I. PROCEDURAL HISTORY**

On September 20, 2010, Granite State Electric Company d/b/a National Grid (National Grid or Company) filed a petition requesting approval of its solicitation and procurement of default service for 100 percent of its supply requirements for the period November 1, 2010 through January 31, 2011 for its medium and large commercial and industrial customers (Large Customer Group) and for 100 percent of its supply requirements for the period November 1, 2010 through April 30, 2011 for its residential and small commercial customers (Small Customer Group). The filing was made pursuant to a Settlement Agreement approved by the Commission in Docket No. DE 05-126, *Granite State Electric Company, Petition for Approval of Post-Transition Default Service Proposal*, 91 NH PUC 6, Order No. 24,577 (January 13, 2006), as modified by Order No. 24,922, 93 NH PUC 600 (December 19, 2008).

In support of its petition, National Grid filed the testimony and related exhibits of Margaret M. Janzen, Director of Electric Supply and Distributed Generation for National Grid

USA Service Company, Inc. (National Grid USA), with related exhibits and schedules. National Grid USA is the National Grid affiliate with responsibility for procurement of default service power for National Grid. National Grid also filed its quarterly customer migration report with its petition.

The Company selected Dominion Energy Marketing, Inc. (Dominion) to provide default service for the Large Customer Group for the period November 1, 2010 through January 31, 2011, and NextEra Energy Power Marketing, LLC (NextEra) to provide default service for the Small Customer Group for the period November 1, 2010 through April 30, 2011. According to the Company, the typical overall bill impacts for residential customers taking service under rate D-10 will be reductions of 0.5%. For large customers taking service under Rate G-1, monthly bills will decline overall by about 1.6%.

National Grid also submitted a Motion for Confidential Treatment with its filing. In its Motion, National Grid requested that the Commission grant confidential treatment to the RFP bid evaluation, a comparison of changes in electric and gas futures costs to changes in procurement costs, and the calculation of commodity costs at retail. In addition, National Grid requested confidential treatment for the amendments to the Master Power Agreements with Dominion and NextEra.

In support of its Motion for Confidential Treatment, National Grid stated that the information it seeks to protect is confidential, commercial, or financial information that is exempt from public disclosure pursuant to RSA 91-A:5,IV. National Grid also asserted that disclosure of such information could adversely affect the business position of the parties in the future. National Grid said that the Commission had previously recognized the confidentiality of such information in past orders related to default service procurement.

On September 21, 2010, the Commission issued a secretarial letter scheduling a hearing on National Grid's default service filing for September 23, 2010. The Office of Consumer Advocate (OCA) previously filed a notice with the Commission on February 18, 2010 stating that it would participate in Docket No. DE 10-020 on behalf of residential ratepayers consistent with RSA 363:28. 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 AND STAFF**

### **A. National Grid**

National Grid testified that it conducted the default service solicitation process in accordance with applicable New Hampshire rules and regulations and the terms of a Settlement Agreement approved by the Commission in Order No. 24,577 (January 13, 2006), as modified by Order No. 24,922 (December 19, 2008). National Grid stated that, on August 6, 2010 it issued an RFP to approximately twenty-five potential suppliers soliciting default service power supplies for both the Large Customer Group for the period November 1, 2010 through January 31, 2011 and the Small Customer Group for the period November 1, 2010 through April 30, 2011.

National Grid testified that it distributed the RFP to all members of the New England Power Pool Markets Committee and posted the RFP on its energy supply website. As a result, National Grid stated that the RFP had wide distribution throughout the New England energy supply marketplace. The RFP requested fixed pricing for each month of service on an as-delivered energy basis, and allowed prices to vary monthly across the service period. Consistent with Order No. 24,922, National Grid solicited only for all-inclusive energy and capacity supply.

National Grid stated that it received indicative bid proposals on September 8, 2010. The Company received final bid proposals on September 15, 2010. National Grid then evaluated the bids received and selected the suppliers that: (i) provided a bid that conformed to the RFP; (ii) had the lowest price; (iii) met the credit requirements described in the RFP; and (iv) passed National Grid's qualitative criteria.

On September 15, 2010, National Grid entered into a wholesale Transaction Confirmation with Dominion, the winning bidder for the Large Customer Group, and NextEra, the winning bidder for the Small Customer Group.<sup>1</sup> National Grid testified that Schedule MMJ-4 and MMJ-5 of its public filing includes copies of the Transaction Confirmations with both Dominion and NextEra with confidential sections redacted. The Company pointed out that although the Transaction Confirmations are different in some aspects from the sample power supply agreement in the Settlement Agreement approved by the Commission in Order No. 24,577, the executed documents do not shift any of the risks or obligations described in the sample power supply agreement.

For both the Small Customer and Large Customer Groups, National Grid said it calculated the base default service rate by multiplying the commodity cost at the wholesale level (\$ per MWh) by the applicable loss factor and then dividing the results by ten. National Grid said that the load-weighted average of the commodity cost at retail for the Small Customer Group for the period November 2010 through April 2011 is \$0.06685 per kilowatt hour (kWh) compared with the simple average commodity cost of \$0.06711 per kWh for the period May through October 2010. After adjustments for reconciliation and reclassification, and the addition

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<sup>1</sup> National Grid said that the Company filed a copy of the Dominion Master Power Agreement with the Commission on March 16, 2009 in Docket No. DE 09-010, its 2009 default service proceeding. Company filed the NextEra Master Power Agreement with Commission on September 17, 2007 in Docket No. DE 07-012, its 2007 default service proceeding.

of an adder for compliance with the Company's Renewable Portfolio Standard (RPS) obligations, the proposed default service for the Small Customer Group is \$0.07091 per kWh for the period of November 2010 through April 2011. This compares with \$0.07155 per kWh for the period May 2010 through October 2010.

National Grid testified that for residential customers using 500 kWh per month, total monthly bills will decrease by \$0.32, or 0.5% from \$67.32 to \$67.00. For residential customers using 670 kWh per month, which National Grid said is the average monthly kWh usage for the twelve months ending August 2010, the total bill would decrease by \$0.43 from \$90.94 to \$90.51 or 0.5%. Average monthly bills for other customers in the Small Customer Group will also decrease by 0.5%.

For the Large Customer Group, the monthly base default service rates at retail are as follows:

	<u>November 2010</u>	<u>December 2010</u>	<u>January 2011</u>
\$ per kWh	\$0.06368	\$0.06841	\$0.07499

The following adjustments were made to the Large Customer base default service rates:

	November 2010	December 2010	January 2011
Base Retail Rate	\$0.06368	\$0.06841	\$0.07499
2010 Default Service Adjustment Factor <sup>2</sup>	\$0.00123	\$0.00123	\$0.00123
Cost Reclassification Factor <sup>3</sup>	\$0.00037	\$0.00037	\$0.00037
<u>Renewable Portfolio Standard Adder</u>	<u>\$0.00153</u>	<u>\$0.00153</u>	<u>\$0.00208</u>
Total Default Service Rate	\$0.06681	\$0.07154	\$0.07867

<sup>2</sup> This factor is approved by the Commission for reconciling costs and revenues associated with default service.

<sup>3</sup> This factor recovers costs associated with the unbundling of default service-related administrative costs. The Commission approves both the default service adjustment factor and the cost reclassification factor on an annual basis in National Grid's retail rate reconciliation docket. See Docket No. DE 09-234, Order No. 25,057 (December 29, 2009) for approval of the 2010 factors.

National Grid stated that the November default service rate produces total bill reductions for Large Customers ranging from 1.6% to 1.8% when compared to the bills for October 2010.

For 2010, National Grid testified that it needs to provide Class I RECs for 1.0% of sales, Class II RECs for 0.04% of sales, Class III RECs for 5.5 % of sales, and Class IV RECs for 1.0% of sales. For 2011 RPS compliance, National Grid stated that it must procure Class I RECs for 2.0 % of sales, Class II RECs for 0.08% of sales, Class III RECs for 6.5% of sales, and Class IV RECs for 1.0% of sales.<sup>4</sup> National Grid testified that pursuant to a settlement agreement approved by the Commission in the Company's 2009 default service proceeding, National Grid seeks a RPS compliance adder with its RFPs for default service power supply. Order No. 24,953 (March 23, 2009). The RPS compliance adder is the incremental charge by a bidder for agreeing to take on the RPS obligation with the default service obligation. National Grid did receive RPS compliance adder bids with the default service bids, but determined that the adders exceeded the Company's estimated market price for RECs and therefore did not accept the winning bidder's RPS compliance adder. National Grid said it plans to issue an RFP in the future for the acquisition of RECs to meet its RPS obligation.

Based on market information from brokers of RECs, National Grid re-calculated the retail cost of RPS compliance for 2010. For the months of November and December 2010, the RPS adder will reduce from the current \$0.00230 per kWh to \$0.00153 per kWh for the Small Customer Group, and the RPS adder for the Large Customer Group will reduce from the current \$0.00203 per kWh to \$0.00153 per kWh. Effective January 1, 2011, for both the Small Customer Group and the Large Customer Group, National Grid proposes a RPS adder of \$0.00208 per kWh.

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<sup>4</sup> Class I RECs represent "new" renewable generation, Class II RECs represent new solar generation, Class III RECs represent eligible biomass generation, and Class IV RECs represent qualifying small hydro generation.

Staff inquired about the status of the Company's investigation into the losses associated with the lines connecting the Tewksbury and North Litchfield zonal ties. The Company testified that construction to resolve the Tewksbury meter problem is continuing and that it would be updating the Commission with the next quarterly report due on September 30, 2010.

National Grid concluded by requesting that the Commission approve its petition and its Motion for Confidential Treatment.

### **B. Staff**

Staff stated that it had reviewed the petition and concluded that National Grid had followed the solicitation and bid evaluation process approved by the Commission, and that the resulting rates are market based. Staff recommended that the Commission approve the petition.

## **III. COMMISSION ANALYSIS**

### **A. Confidentiality**

First, we address National Grid's motions for confidential treatment. 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. RSA 91-A:5, IV, however, exempts from disclosure certain "confidential, commercial, or financial information." The materials that National Grid seeks to protect contain: power supply agreements between National Grid and the winning suppliers, Dominion and NextEra; the RFP bid evaluation; a comparison of changes in electric and gas futures costs to changes in procurement costs; and a calculation of commodity costs at retail.

National Grid asserts that this information should be protected from public disclosure because it is confidential, commercial, or financial information. National Grid contends that the information provided by bidders was offered with the understanding that such information would be maintained as confidential, and states that suppliers would be reluctant to participate in future

solicitations by National Grid if their confidential bid information is disclosed. National Grid asserts that the disclosure of the fully negotiated power supply agreements will reveal its negotiating posture to other potential power suppliers and claims that its customers would be harmed by National Grid's diminished negotiating position.

The Right-to-Know Law provides each citizen with the right to inspect public information in the possession of the Commission. RSA 91-A:4, I. We have had occasion to rule on motions for confidential treatment in the context of confidential, commercial, and financial information regarding utilities and their affiliates. *See, Unitol Corporation and Northern Utilities, Inc.*, Order No. 25,014 (September 22, 2009) and *Public Service Co. of New Hampshire*, Order No. 25,037 (October 30, 2009). Following the approach in these cases, we consider the three-step analysis applied by the New Hampshire Supreme Court in *Lambert v. Belknap County Convention*, 157 N.H. 375, 382 (2008), in determining whether the information identified by National Grid should be deemed confidential and private. First, the analysis requires an evaluation of whether there is a privacy interest at stake that would be invaded by the disclosure. If no such interest is at stake, the Right-to-Know law requires disclosure. *Id.* at 382-83. Second, when a privacy interest is at stake, the public's interest in disclosure is assessed. *Id.* at 383. Disclosure should inform the public of the conduct and activities of its government; if the information does not serve that purpose, disclosure is not warranted. *Id.* Finally, when there is a public interest in disclosure, that interest is balanced against any privacy interests in non-disclosure. *Id.*

In furtherance of the Right-to-Know law, the Commission's rule on requests for confidential treatment, Puc 203.08, is designed to facilitate the balancing test required by the relevant case law. The rule requires petitioners to: (1) provide the material for which



confidential treatment is sought or a detailed description of the types of information for which confidentiality is sought; (2) reference specific statutory or common law authority favoring confidentiality; and (3) provide a detailed statement of the harm that would result from disclosure to be weighed against the benefits of disclosure to the public. Puc 203.08 (b).

We have conducted an *in camera* review of the materials for which National Grid seeks confidential treatment. We agree that the transaction confirmation between National Grid and the winning bidders (Dominion and NextEra) is proprietary and confidential information. We also find the calculation of commodity costs at the retail customer meter to be confidential.

Next we assess the public's interest in the disclosure of the information. The information, including that contained in the negotiated transaction confirmation and the comparison of procurement costs to electric and gas futures, pertains to the wholesale costs of National Grid's Large Customer Group default service supply for the period November 1, 2010 through January 31, 2011 and of the Small Customer Group default service supply for the period November 1, 2010 through April 30, 2011. These costs are used by the Company to develop the default service retail rates. Public disclosure of these costs would allow for a detailed understanding of the various cost components in the Large and Small Customer Group default service rates and would therefore assist the public in understanding the basis for the Commission's approval of these default service rates. Thus the public has an interest in disclosure. However, as the Company states in its motion, disclosure of this information would allow competitors to see the wholesale costs of National Grid's Large and Small Customer Group default service supply which could negatively impact the ability of National Grid to secure a competitive price in future solicitations.

We find that the interest in public disclosure of such financial, commercially sensitive information is outweighed by the benefit derived from maintaining the confidentiality of such information, given that confidentiality helps produce lower rates. *See Union Leader Corp. v. New Hampshire Housing Fin. Auth.*, 142 N.H. 540 (1997) (requiring application of balancing test to RSA 91-A:5, IV determinations, weighing the public interest in disclosure against privacy interest). We therefore grant the motion for confidential treatment.

Pursuant to Federal Energy Regulatory Commission (FERC) requirements, 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 and 35. The 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 N.H. Code Admin. Rules Puc 203.08(k), the confidential 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.

## **B. Default Service**

Regarding National Grid's analysis of the bids and its selection of the winning bidders for default service supply for its Large Customer and Small Customer Groups beginning November 1, 2010, we find that National Grid complied with the procedures approved by Order No. 24,577. We are satisfied that National Grid met all procedural requirements consistent with prior orders

of this Commission. 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 find that National Grid’s evaluation of the bids and its selection of Dominion as its default service supplier for the Large Customer Group and NextEra for the Small Customer Groups is reasonable. We approve this petition and we will allow the power supply and capacity costs to be included in the Company’s rates beginning November 1, 2010.

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

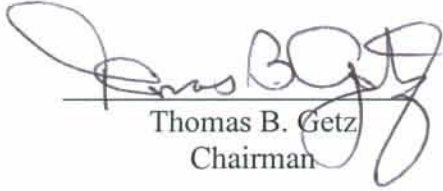
**ORDERED**, that the Power Supply Agreement between Dominion Energy Marketing, Inc. and Granite State Electric Company d/b/a National Grid for the three-month default service power supply beginning November 1, 2010 for the Large Customer Group is hereby APPROVED; and it is

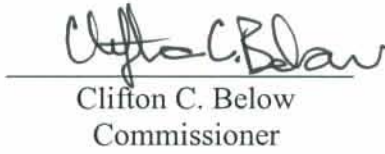
**FURTHER ORDERED** that the Power Supply Agreement between NextEra Energy Power Marketing, LLC and Granite State Electric Company d/b/a National Grid for the six-month default service power supply beginning November 1, 2010 for the Small Customer Group is hereby APPROVED; and it is

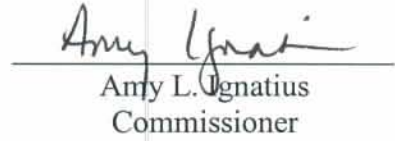
**FURTHER ORDERED**, that National Grid’s Motion for Confidential Treatment is hereby GRANTED as conditioned herein; and it is

**FURTHER ORDERED**, that National Grid file conforming tariffs within 30 days of the date of this Order pursuant to N.H. Admin. Rules Puc 1606.02.

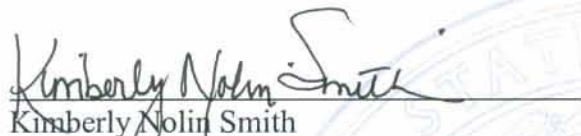
By order of the Public Utilities Commission of New Hampshire this twenty-seventh day  
of September, 2010.

  
Thomas B. Getz  
Chairman

  
Clifton C. Below  
Commissioner

  
Amy L. Ignatius  
Commissioner

Attested by:

  
Kimberly Nolin Smith  
Assistant Secretary

