

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 11-028**

**UNITIL ENERGY SYSTEMS, INC.**

**Petition for Approval of Default Service Solicitation  
And Proposed Default Service Tariffs**

**Order Approving Petition**

**ORDER NO. 25,269**

**September 16, 2011**

**Appearances:** Gary M. Epler, 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 the Staff of the Public Utilities Commission.

**I. PROCEDURAL BACKGROUND**

On September 9, 2011, Unitil Energy Systems, Inc. (UES or Company) filed a petition requesting approval of its solicitation and procurement and the resulting default service rates for two contracts for power purchases. The first contract is for 100 percent of large commercial and industrial (G1) customers' supply requirements for the three-month period of November 1, 2011 through January 31, 2012. The second contract is for 25 percent of UES' small (Non-G1)<sup>1</sup> customers' supply requirements for 24 months in duration (from November 1, 2011 through October 31, 2013). UES selected DTE Energy Trading, Inc. (DTE) as the supplier for the three-month G1 supply requirements and Dominion Energy Marketing, Inc. (Dominion) for a 25 percent block of power requirements for the period November 1, 2011 through October 31, 2013 for the Non-G1 group.

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<sup>1</sup> The Non-G1 customer class includes residential and small commercial (G2) customers.

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 the service period. 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, UES seeks Commission approval of a rate for Non-G1 customers for the period November 1, 2011 through April 30, 2012. UES stated that the resulting default service rates plus Renewable Portfolio Standard (RPS) compliance costs will result in a 5.4 percent increase to overall bills for residential customers, an average bill increase of 5.6 percent for general service (rate G2) customers, and a bill increase of 2.8 percent for outdoor lighting customers, as compared to current rates. Bills for the G1 customer group would increase on average by 9.8 percent overall as compared to current rates. In the filing, UES also proposed increases to the Company's renewable source option (RSO) charges. In addition, UES proposed recovery of a portion of the expenses incurred through July 31, 2011 associated with a "smart grid" pilot program involving time-of-use rates approved by the Commission in Order No. 25,079 (February 26, 2010).<sup>2</sup> UES also revised the Company's internal administrative costs associated with providing default service. The revised costs are \$62,659 as compared with the current costs of \$60,373.

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<sup>2</sup> See Docket No. DE 09-137, Unitil Energy Systems, Inc. for background on the pilot program. UES filed a report regarding the "smart grid" pilot program, including associated expenses, on September 7, 2011.

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 (RFPs) for default service (Schedule RSF-2) and proposed tariffs. In addition, UES included with the filing its quarterly customer migration report and a motion for confidential treatment of 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 10, 2011 stating that it would be participating in this docket on behalf of residential ratepayers.

On September 12, 2011, the Commission issued a secretarial letter scheduling a hearing for September 14, 2011. 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 RFPs on August 9, 2011. On August 30, 2011, UES received 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 term each supplier was willing to offer. All bidders were invited to submit final bids.

On September 7, 2011, UES received final pricing from bidders and conducted its evaluation which included both the quantitative and qualitative criteria described above. UES selected Dominion as the lowest bid for the 24-month block of power requirements for the Non-G1 customer group and DTE as the lowest bid for the three-month block of power for the G1 customer group. UES stated that it executed an amendment to the existing PPA with DTE for the power supply procurement for G1 customers for the three months beginning November 2011.

The Company said that it executed a new PPA with Dominion for the two-year 25 percent block of power for its Non-G1 customers. The amendment and the PPA were executed on September 8, 2011.<sup>3</sup>

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 2011 through April 2012 period, plus an appropriate allocation of the Non-G1 reconciliation account balance at January 1, 2011, 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 energy charge for Non-G1 customers of \$0.07802 per kWh for the period November 2011 through April 2012. In addition, UES calculated a Non-G1 fixed RPS charge of \$0.00224 per kWh for the same six-month period. Together, Non-G1 customers will pay a fixed charge of \$0.08026 per kWh, which is an increase from the current default service rate of \$0.07274 per kWh.

For G1 customers, UES used a similar process, dividing the total costs for each month of the November 2011 through January 2012 period, plus an appropriate allocation of the G1 reconciliation account balance at January 2011, by the estimated G1 kWh purchases for the month, adjusted by a loss factor of 4.591%. The process produced the following monthly default service and RPS charges for the G1 customer group.

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<sup>3</sup> The original PPA with DTE was filed in Docket No. DE 10-028 and approved in Order No. 25,179 (December 17, 2010).

	November 2011	December 2011	January 2012
Default Service \$/kWh	\$0.07933	\$0.07894	\$0.07908
RPS \$/kWh	\$0.00312	\$0.00312	\$0.00350
Total \$/kWh	\$0.08245	\$0.08206	\$0.08258

The simple average of these monthly total rates is \$0.08236 per kWh, which is an increase of \$0.01067 over the current simple average of \$0.07169 per kWh. UES attributed the changes in default service rate for both the G1 and Non-G1 customer classes to the changes in market rates.

UES testified that, in accordance with the settlement agreement dated July 16, 2009 and approved by the Commission in Order No. 25,011 (September 9, 2009)<sup>4</sup>, it plans to issue two RFPs for purposes of acquiring 2011 RECs necessary to comply with the RPS requirements of RSA 362-F. The Company said that it will issue the first of the RFPs in the October 2011 timeframe.

In developing the RPS adder, UES estimated the cost of Class I RECs at \$26.00 for 2011 and \$29 for 2012, Class II RECs at \$50.00 for 2011 and 2012, Class III RECs at \$26.00 for 2011 and 2012 and Class IV RECs at \$26.00 for 2011 and 2012. UES said that the estimated costs are based on market prices communicated to UES by brokers of renewable products and recent purchases of 2010 vintage RECs.

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. UES proposed the following RSO charges for effect November 1, 2011: for the 25 percent option, \$0.00725 per kWh; for the 50 percent option, \$0.01449 per kWh; and for the 100

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<sup>4</sup> See 94 NH PUC 469 (2009).

percent option, \$0.02898 per kWh.<sup>5</sup> UES requested approval of those rates with the instant filing.

The Company testified that in this filing it seeks to recover one-half of the estimated costs associated with the “smart grid” pilot program approved by the Commission in Docket No. DE 09-137 in Non-G1 default service rates beginning November 1, 2011. UES said that it had filed a report on the pilot program and had engaged in preliminary discussions with Staff reviewing the report. The Company stated that it would file written responses to Staff’s questions to allow the OCA to review the issues identified by Staff.

In response to questioning from the OCA, the Company agreed that there are higher costs associated with procuring a fixed 24-month default service product versus a fixed 6-month or 12-month default service product due to the uncertainty and risks associated with a longer term product. UES said that, for these reasons, it was reviewing possible changes to the procurement of power for Non-G1 customers and it would discuss the matter with Staff and the OCA sometime in the future.

In summary, 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 suppliers. 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,

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<sup>5</sup> The current rates are as follows: \$0.00529 per kWh (25% option); \$0.01058 per kWh (50% option); and \$0.02115 per kWh (100% option). These RSO rates are shown as a separate line item on a customer’s bill and are paid in addition to the default service rate for the kWh consumption.

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

**B. Office of Consumer Advocate**

The OCA stated that it had no objections to UES' filing. In its closing, the OCA pointed out that the Commission had not taken any final action on the lead-lag study that the Company filed with its March 2011 default service petition. Finally, the OCA said that it would review UES' RSO report and the final report pertaining to the "smart grid" pilot program with Staff and the Company.

**C. 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.

Staff said that it had no objections to the proposed increase in RSO rates. According to Staff, UES, National Grid and Public Service Company of New Hampshire had all filed reports on the first 12 months' operation of their respective RSO program. Staff said that it planned to meet with the companies and the OCA to review the reports and may make recommendations regarding the design or marketing of the RSO programs.

Regarding the Company's request to recover one-half of the estimated costs of the "smart grid" pilot program, the Staff recommended that the Commission allow recovery of those costs claimed by the Company to be \$166,206 in Non-G1 default service rates beginning November 1, 2011. Staff recommended that any additional recoveries be dealt with after UES files a final



report of its costs and the Staff and the OCA have an opportunity to review the report and make appropriate recommendations. Staff suggested that the Company be allowed to recover any additional costs associated with the “smart grid” pilot program beginning with rates effective May 1, 2012.

### **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; the amendment to the PPA between UES and DTE; and the PPA between UES and Dominion. 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 three-month G1 contract until May 1, 2012. According to the Company, the date comports 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. Finally, UES requested confidential treatment of the information described above provided to Staff and the OCA by e-mail on September 9, 2011.

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 that the public interest in disclosure of the information is minimal, as it is not likely to shed meaningful light on the operation of government. Weighing these interests, we conclude that the Company's 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. 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. We also grant confidential treatment to the information contained in the September 9, 2011 email to Staff and the OCA.

#### **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.

We will allow UES to commence recovery of \$166,206, roughly one-half of the total costs associated with the “smart grid” pilot program in Non-G1 default service rates effective November 1, 2011 as requested in the filing and note that neither Staff or the OCA object to such recovery. We await further recommendation from the parties as to the recovery of the remaining costs following review of the final report.

Finally, with respect to the lead-lag studied filed by UES in March 2011, we direct Staff to make a recommendation to the Commission prior to UES’ next default service filing as to whether the study be accepted and the resulting working capital requirements included in rates.

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

**ORDERED**, that the power supply agreement entered into by Unitil Energy Systems, Inc. with DTE Energy Trading, Inc. for the three-month supply beginning November 1, 2011 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 Dominion Energy Marketing, Inc. for 25 percent of the Non-G1 requirements for the twenty-four months beginning November 1, 2011 and the resulting proposed rates are hereby 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 for G1 customers and the two-year purchase and sale agreement for Non-G1 customers referenced herein for inclusion in retail rates to G1 and Non-G1 customers beginning November 1, 2011 are APPROVED; and it is

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

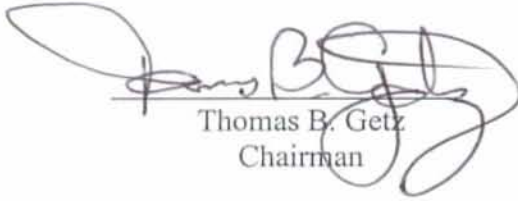
**FURTHER ORDERED**, that recovery of \$166,206 for roughly one-half of the costs associated with the “smart grid” pilot program is APPROVED; and it is

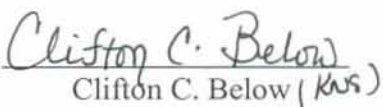
**FURTHER ORDERED**, that the pending motion for confidential treatment of documents is GRANTED subject to the conditions discussed herein; and it is

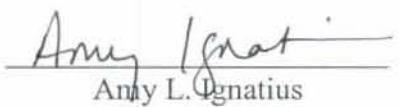
**FURTHER ORDERED**, that prior to UES’ next default service filing, Staff shall file a recommendation regarding the contents of the UES lead-lag study filed in March 2011 and whether the resulting working capital requirements should be included in rates; and it is

**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.

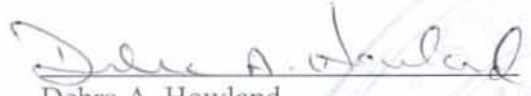
By order of the Public Utilities Commission of New Hampshire this sixteenth day of  
September, 2011.

  
Thomas B. Getz  
Chairman

  
Clifton C. Below (KWS)  
Commissioner

  
Amy L. Ignatius  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director

