

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 09-010**

**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, 2009**

**Order Approving Petition**

**ORDER NO. 25,013**

**September 21, 2009**

**APPEARANCES:** Gallagher, Callahan and Gartrell by Marla B. Matthews, Esq. on behalf of Granite State Electric Company d/b/a National Grid; Kenneth Traum of the Office of Consumer Advocate on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. on behalf of Staff of the Public Utilities Commission.

**I. PROCEDURAL HISTORY**

On September 14, 2009, 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: (1) 100 percent of its supply requirement, for the period November 1, 2009 through January 31, 2010, for its medium and large commercial and industrial customers (Large Customer Group); and (2) 100 percent of its supply requirement, for the period November 1, 2009 through April 30, 2010, for its residential and small commercial customers (Small Customer Group). The filing was made pursuant to a Settlement Agreement approved 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) and modified by Order No. 24,922 (December 19, 2008).

In support of its petition, National Grid filed the testimony of Margaret M. Janzen, the Director of Electric Supply and Distributed Generation for National Grid USA Service Company, Inc., with related exhibits and schedules. The Company selected Constellation Energy Commodities Group, Inc. (Constellation) to provide default service for the Large Customer Group for the period November 1, 2009 through January 31, 2010, and PSEG Energy Resources and Trade LLC (PSEG ER&T) to provide default service for the Small Customer Group for the period November 1, 2009 through April 30, 2010.

With the petition, National Grid filed a Motion for Confidential Treatment. In its Motion, National Grid requested confidential treatment by the Commission with respect to the indicative bid summary provided to Staff on September 10, 2009, 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 Constellation and PSEG ER&T.

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. 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 15, 2009, the Commission issued a secretarial letter scheduling a hearing on National Grid's default service filing for September 18, 2009. The Office of Consumer Advocate (OCA) previously filed a notice with the Commission on February 13, 2009 stating

that it would participate in Docket No. DE 09-010 on behalf of residential ratepayers consistent with RSA 363:28.

## **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) and modified by Order No. 24,922 (December 19, 2008). National Grid stated that, on August 7, 2009, it issued an RFP to over 25 potential suppliers soliciting default service power supplies for both the Large Customer Group and the Small Customer Group.<sup>1</sup>

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 asserts 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 from month to month 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 2, 2009 and provided a confidential summary of those proposals to Commission Staff on September 10, 2009. The Company received final bid proposals on September 9, 2009. National Grid then evaluated the bids received and selected the suppliers that: (i) provided a bid that conformed to

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<sup>1</sup> The RFP also requested bidders to provide a separate Renewable Portfolio Standard (RPS) compliance adder with their bids, which is the charge by a bidder for agreeing to assume the Company's RPS obligation along with the default service obligation.

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 10, 2009, National Grid entered into wholesale transaction confirmations with Constellation, the winning bidder for the Large Customer Group, and PSEG ER&T, the winning bidder for the Small Customer Group.<sup>2</sup> National Grid testified that Schedule MMJ-4 of its public filing includes copies of the transaction confirmations with Constellation and PSEG ER&T 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. National Grid identified two substantive changes in the transaction confirmations that were not part of the Master Power Agreement: 1) incorporation of the New Hampshire Renewable Energy Portfolio Requirements, and 2) implementation of a change in the Company's risk management policy. National Grid said that these changes were also in the documents provided in its last default service filing made by the Company on June 15, 2009.

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 reported the monthly base default service commodity costs for the Small Customer Group as follows:

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<sup>2</sup> National Grid explained that a copy of the Constellation Master Power Agreement was filed on March 20, 2006 in Docket No. DE 06-115 in connection with its selection of winning bidders for its 2006 RFP for default service. With respect to PSEG ER&T, National Grid said it filed a copy of the PSEG ER&T Master Power Agreement on September 22, 2008 in Docket No. 08-011, National Grid's 2008 default service proceeding.

Month	November 2009	December 2009	January 2010	February 2010	March 2010	April 2010
\$ per kWh	\$0.06003	\$0.06831	\$0.07735	\$0.07932	\$0.07272	\$0.07225

National Grid also said that the simple average commodity cost at retail for the Small Customer Group for the period November 2009 through April 2010, including the cost of RPS compliance, is \$0.07405 per kilowatt hour (kWh) compared with the simple average commodity cost of \$0.06883 per kWh for the period May through October 2009. After adjustments for reconciliation and reclassification, the proposed default service is \$0.07280 per kWh for the period of November 2009 through April 2010. This compares with \$0.06891 per kWh for the period May 2009 through October 2009.

National Grid testified that for residential customers using 500 kWh per month, total monthly bills will increase by \$1.94, or 3.0%, from \$64.01 to \$65.95%. For residential customers using 642 kWh per month, which National Grid said is the average monthly kWh usage for the twelve months ending August 2009, the total bill would increase by \$2.50 from \$82.80 to \$85.30, or 3.0%.

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

Month	November 2009	December 2009	January 2010
\$ per kWh	\$0.06373	\$0.07232	\$0.08178

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

	November 2009	December 2009	January 2010
Base Retail Rate	\$0.06373	\$0.07232	\$0.08178
2009 Default Service Adjustment Factor	\$(0.00285)	\$(0.00285)	\$(0.00285)
Cost Reclassification Factor	\$0.00055	\$0.00055	\$0.00055
Renewable Portfolio Standard Adder	\$0.00188	\$ 0.00188	\$0.00258
Total Default Service Rate	\$0.06331	\$0.07190	\$0.08206

National Grid stated that the November default service rate produces total bill reductions for Large Customers ranging from 4.5% to 5.5% when compared to the bills for October 2009. This comparison, however, understates the impact the proposed new default service rates will have on Large Customers. Comparing the simple average base default service rates of \$0.07261 for the period November 2009 through January 2010 with the corresponding figure of \$0.06817 for the period August 2009 through October 2009 indicates the power supply component of bills will increase on average by about 6.5%. On a total bill basis, the average increase will be lower than this figure.

For 2009, National Grid testified that it needs to provide Class I RECs for 0.5% of sales, Class III RECs for 4.5% of sales and Class IV RECs for 1.0 % of sales. National Grid said that for 2010 it needs to procure 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.<sup>3</sup> Based on a recent procurement of Class I RECs, National Grid calculated the cost of Class I RECs at \$32.00 for 2009 and \$37.50 for 2010. For all other classes, National Grid used the actual 2009 and estimated 2010 alternative compliance payments (ACPs) to calculate the RPS adder. For Class II, National Grid used an estimated ACP of \$159.98 for 2010 (the first year Class II RECs are required); for Class III, the ACP is \$29.87 for 2009 with an estimate of \$31.06 used for 2010; and, for Class IV RECs, the ACP is \$29.87 for 2009 with an estimate of \$31.06 used for 2010.

<sup>3</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.

National Grid calculated the retail cost of RPS compliance for the Small Customer Group to be \$0.00191 per kWh for November and December 2009 and \$0.00262 for January through April 2010. For the Large Customer Group, National Grid calculated the retail cost of RPS compliance for November and December 2009 to be \$0.00188 per kWh, and \$0.00258 per kWh for January 2010. The different RPS charges are attributable to the different loss factors for G1 and Non-G1 customers.

Staff pointed out that the prior hearing included a discussion of Staff's testimony on National Grid's lead/lag study and that the Company had disagreed with one of Staff's recommendations regarding payment terms in power supply contracts.<sup>4</sup> In response to a question from Staff, the Company testified that Staff and National Grid met prior to the instant hearing and, based on discussions at that meeting, Staff had determined that the Company's payment terms with providers are consistent with Staff's recommendation and that the 2008 lead/lag study uses Staff's recommended payment terms.

Staff also 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 responded that the investigation was ongoing and that it expected to file a report regarding the investigation in April 2010.

National Grid concluded by requesting that the Commission approve its petition, the Amended RPS Settlement Agreement and its Motion for Confidential Treatment. The Company also requested that the Commission approve its lead/lag study.

#### **B. The Office of Consumer Advocate**

At hearing, the OCA asked the Company to explain the calculation of the default service adjustment factor and the default service reclassification adjustment factor for the Small

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<sup>4</sup> See Order No. 24,981 (June 19, 2009) at 5-6.

Customer Group. When the Company was not able to provide an answer, the Commission reserved Exhibit 13 for the responses to OCA's record request for this information. OCA also inquired as to the change between the default service rate for the Small Customer Group for the period November 2009 through April 2010, and the period November 2008 through April 2009. National Grid offered to provide the answer and the Commission directed the Company to provide this information with the record requests identified as Exhibit 13. The Company filed the response to this record request on September 17, 2009.

Referring to National Grid's confidential copy of the filing (Exhibit 10), the OCA asked why the Company was requesting confidential treatment for the electric futures and NYMEX natural gas prices contained in MMJ-3, "Comparison in Change in Futures Prices to Change in Procurement Cost". The Company agreed that the information was not confidential and that in future filings it would redact only the fields related to the Small Customer Group procurement costs.

The OCA concluded that it had no objections to National Grid's petition.

### **C. 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." In order to rule on the motions, we have made an *in camera* review of the material that National Grid asserts is confidential.

The materials that National Grid seeks to protect contain: power supply agreements between National Grid and the winning suppliers, Constellation and PSEG ER&T, an indicative bid summary provided to Staff on September 10, 2009; 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.

Inasmuch as disclosure in this instance could negatively affect customers, we do not find the public's interest in review of the financial, commercially sensitive information sufficient to outweigh the need for National Grid and its bidders to maintain confidentiality of such information. *See Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540 (1997) (describing applicable balancing test). The materials for which National Grid is seeking confidential treatment in this docket are similar in nature to the materials previously granted protective treatment in past default service dockets, *See, e.g.,* Order No. 24,736 (March 26 2007) in Docket No. DE 07-012; Order No. 24,862 (June 20, 2008) in Docket No. DE 08-

011; and Order No. 24,953 (March 23, 2009) in the instant docket. We therefore grant confidential status to the information redacted from National Grid's public filing with the exception of electric futures and NYMEX natural gas prices contained in MMJ-3. Consistent with past practice, this determination is 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 in light of RSA 91-A, should circumstances warrant.

Further, we note that pursuant to requirements of the Federal Energy Regulatory Commission (FERC), 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, 35. FERC makes this information available to the public through electronic quarterly reports. Therefore, insofar as confidential treatment is requested for wholesale contractual sales, we grant such information confidential treatment until such time as the information is published by the FERC.

#### **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, 2009, 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 Constellation as its default service supplier for the Large Customer Group and PSEG ER&T 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, 2009.

Based upon the parties' agreement and testimony at hearing we conclude that the 2008 lead/lag study reflects the Company's method of paying its suppliers and is consistent with Staff's recommendations. Accordingly, we find the Company's 2008 lead/lag study reasonable and we approve it.

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

**ORDERED**, that the Power Supply Agreement between Constellation Energy Commodities Group, Inc. and Granite State Electric Company d/b/a National Grid for the three-month default service power supply beginning November 1, 2009 for the Large Customer Group is hereby APPROVED; and it is

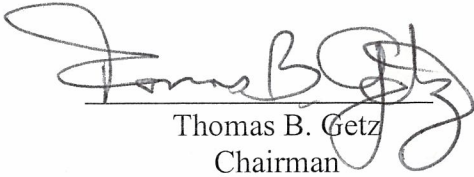
**FURTHER ORDERED** that the Power Supply Agreement between PSEG Energy Resources and Trade LLC and Granite State Electric Company d/b/a National Grid for the six-month default service power supply beginning November 1, 2009 for the Small Customer Group is hereby APPROVED; and it is

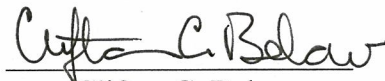
**FURTHER ORDERED**, that National Grid's 2008 lead/lag study is hereby APPROVED; and it is

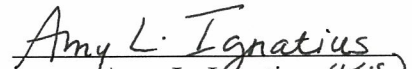
**FURTHER ORDERED**, that National Grid's Motion for Confidential Treatment is hereby GRANTED as conditioned herein; and it is

**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.

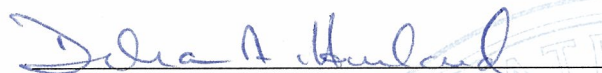
By order of the Public Utilities Commission of New Hampshire this twenty-first day of  
September, 2009.

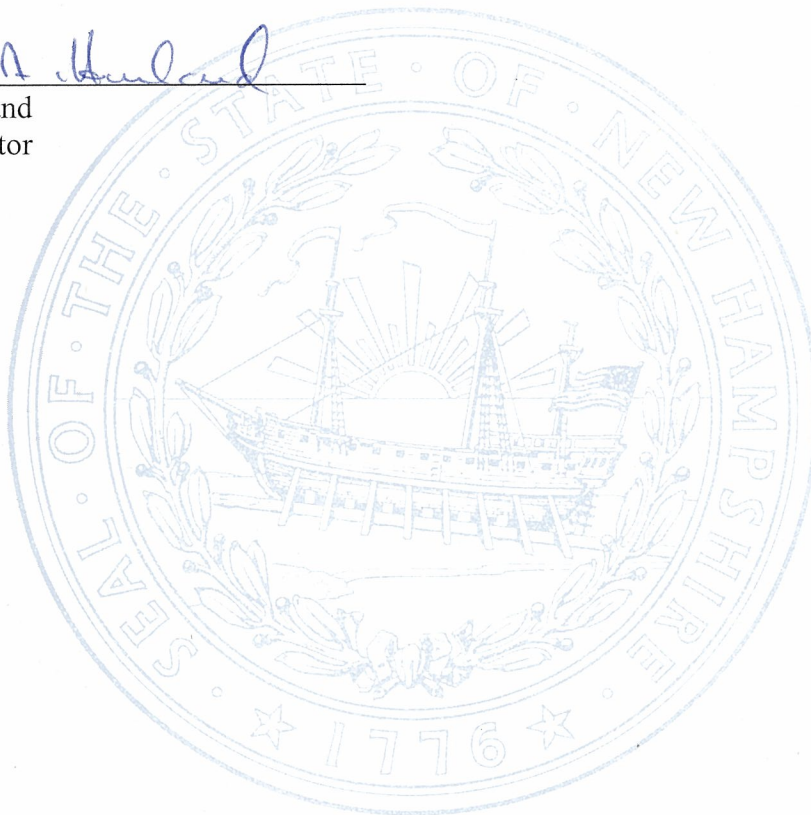
  
Thomas B. Getz  
Chairman

  
Clifton C. Below  
Commissioner

  
Amy L. Ignatius (KAS)  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director



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09/21/09 Order No. 25,013 issued and forwarded to all  
parties. Copies given to PUC Staff.

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Docket #: 09-010

Printed: September 21, 2009

**FILING INSTRUCTIONS: PURSUANT TO N.H. ADMIN RULE PUC 203.02(a),**

**WITH THE EXCEPTION OF DISCOVERY, FILE 7 COPIES (INCLUDING COVER LETTER) TO:**

DEBRA A HOWLAND  
EXEC DIRECTOR & SECRETARY  
NHPUC  
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