

**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**

**ORDER NO. 25,082**

**March 19, 2010**

**APPEARANCES:** Gary M. Epler, Esq. on behalf of Unitil Energy Systems, Inc.; Meredith A. Hatfield of the Office of Consumer Advocate on behalf of residential ratepayers; and Matthew J. Fossum, Esq., on behalf of the Staff of the Public Utilities Commission.

**I. PROCEDURAL HISTORY**

On March 12, 2010, Unitil Energy Systems, Inc. (UES or Company) filed with the Commission a petition requesting approval of its solicitation and procurement of default service rates to supply its large commercial and industrial customers (G1) for the three-month period of May 1, 2010 through July 31, 2010, as well as for one-quarter of its small commercial and residential customers (non-G1) for the two-year period of May 1, 2010 through April 30, 2012. The filing was made pursuant to the terms of a settlement agreement approved by the Commission in *Unitil Energy Systems, Inc.*, Order No. 24,511 (September 9, 2005) and modified by the Commission in *Unitil Energy Systems, Inc.*, Order No. 24,921 (December 12, 2008).

The settlement agreement, and modification, set forth the procedures by which UES procures default service for its G1 and non-G1 customers. Following those procedures, UES solicited 100% of the G1 customer default service requirements for the three-month period beginning May 2010, and established fixed monthly retail prices that vary from month to month.

For non-G1 customers, UES solicited 25 percent of the non-G1 customer default service requirements for the two-year period beginning May 1, 2010, and established a fixed rate for the six-month period beginning May 1, 2010. According to the petition, UES selected Hess Corporation (Hess) as the supplier for its G1 customers' default service requirements and TransCanada Power Marketing Ltd. (TransCanada) for the non-G1 customers' default service requirements. UES stated that the resulting default service rates plus Renewable Portfolio Standard (RPS) compliance costs will decrease bills by 3.6 percent for residential customers, 3.8 percent for small commercial customers, 13.8 percent for large commercial customers and 2.2 percent for outdoor lighting customers, compared to current rates.

In support of its petition, UES filed the testimony of Robert S. Furino, Director of Energy Contracts, Linda S. McNamara, Senior Regulatory Analyst, and David Chong, Director of Finance, as well as a redacted bid evaluation report, a copy of the request for proposals (RFP) for default service and proposed tariffs. In addition, UES provided an update to its lead/lag study, which incorporates changes agreed to by UES and Commission Staff. With the petition, UES also included its quarterly customer migration report and a motion for confidential treatment of certain information contained in the filing.

The Office of Consumer Advocate (OCA) filed a letter on March 3, 2010, stating that it would be participating in this docket on behalf of residential ratepayers. Also on March 3, 2010, the Commission issued an Order of Notice scheduling UES' hearing for March 17, 2010, which was held as scheduled.

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

### **A. UES**

UES stated that, consistent with prior solicitations, it conducted an open solicitation process, actively sought interest among potential suppliers and provided access to sufficient information to enable potential suppliers to assess the risks and obligations associated with providing the services sought. UES reported that it achieved market notification of the RFP by announcing its availability to all participants in the New England Power Pool (NEPOOL) and to the members of the NEPOOL Markets Committee, as well as by announcing 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.

UES attested that in order to gain the greatest level of market interest, it provided potential bidders with appropriate and accessible information, including historic hourly loads, 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. UES testified that it used its corporate website to make this information available to potential suppliers.

UES testified that it issued the RFPs on February 2, 2010. On February 23, 2010, UES received proposals and indicative bids from several 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, extension of adequate credit to UES to facilitate the

transaction, capability of performing the terms of the power purchase agreement in a reliable manner and 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. All bidders were invited to submit final bids.

On March 9, 2010, UES received final pricing from bidders and conducted its evaluation, which included both the quantitative and qualitative criteria described above and selected TransCanada as the supplier for the non-G1 customer group and Hess as the supplier for the G1 customer group. Based upon the selected bid and existing non-G1 power supply contracts, UES developed the non-G1 rate by dividing the total costs for each month by the estimated monthly non-G1 kilowatt hour (kWh) purchases. The total costs for each month include an allocation of the non-G1 reconciliation account balance at January 31, 2009. UES then applied an estimated loss factor of 6.40 percent to each monthly unit cost. Using this methodology, UES calculated a fixed default service charge for non-G1 customers of \$0.08286 per kWh for the period May 1, 2010 through October 31, 2010. In addition, UES calculated a non-G1 fixed RPS charge of \$0.00203 per kWh for the same six-month period. Beginning on August 1, 2009, RPS costs were no longer reconciled with power supply costs, but were tracked separately in their own reconciliation account. Thus, this reconciliation addresses those costs incurred prior to August 1, 2009. In total, non-G1 customers will pay a fixed default service charge of \$0.08489 per kWh, which is a decrease of \$0.00548 per kWh from the current fixed charge of \$0.09037 per kWh.

For G1 customers, UES used a similar process, dividing the total costs for each month of the May 2010 through July 2010 period, plus an appropriate allocation of the G1 reconciliation account balance at January 31, 2009, by the estimated G1 kWh purchases for the month, adjusted

by a loss factor of 4.591 percent. This process produced the following monthly default service and RPS charges for the G1 customer group:

	<b>May 2010</b>	<b>June 2010</b>	<b>July 2010</b>
<b>Default Service \$/kWh</b>	0.06909	0.06671	0.06897
<b>RPS \$/kWh</b>	0.00240	0.00240	0.00240
<b>Total \$/kWh</b>	0.07149	0.06911	0.07137

The simple average of these monthly total rates is \$0.07066 per kWh, which is a decrease of \$0.01746, on average, from the current average rate of \$0.08812 per kWh. UES attributed the decreased default service rates for both classes to their reflections of market pricing.

Regarding the Company's RPS obligation, under which it must obtain and retire renewable energy certificates (RECs) from various renewable energy sources in amounts representing certain percentages of its total megawatt hours of electricity provided to its customers in a given year, UES clarified at the hearing that for its 2009 RPS compliance it had completed one RFP through which it had purchased half of its requirement. Also, as of the date of the hearing it was about to complete a second RFP for the remainder of its 2009 requirement. UES had received bids on this second RFP, but did not enter them into evidence because it had not yet reviewed them with Staff and the OCA. In addition to the purchases made pursuant to the RFP, UES also sought approval of a purchase made outside the RFP process, the details of which are included in the request for confidential treatment. Further, UES included in its filing its estimate of the cost of compliance in 2010.

For 2009, UES' filing noted that it must provide Class I RECs for 0.5 percent of sales, Class III RECs for 4.5 percent of sales and Class IV RECs for 1.0 percent of sales. There is no Class II REC requirement for 2009. For 2010, UES must procure Class I RECs for 1.0 percent of sales, Class II RECs for 0.04 percent of sales, Class III RECs for 5.5 percent of sales, and

Class IV RECs for 1.0 percent of sales. UES currently estimates the cost of Class I RECs at \$50.00 for 2009 declining to \$29.00 during 2010; Class II RECs at between \$55.00 and \$80.00 for 2010; Class III RECs at approximately \$26.00 for 2009 and 2010; and Class IV RECs at about \$26.00 for 2009 and 2010. Based on these presumed market prices, UES calculated the retail cost of RPS compliance for both G1 and non-G1 customers to be around \$2.00 per megawatt hour or \$0.002 per kWh.

With respect to its lead/lag study, UES testified that its study was meant to determine the difference in days of the time that UES has to pay its suppliers for power and RECs purchased on behalf of default service customers, and the time that it must wait to receive payment from customers for the services provided. This difference is used to calculate the working capital that UES needs to provide default service to its customers. The cost to finance this working capital is recovered through default service rates. UES clarified that it had made various changes to the study's methodology, such as removing mailing time from the calculations, and including actual procurement experience for RECs purchases. The net of these changes, and others, reduced the lag slightly and the reduction is reflected in the proposed rates. UES stated that because it had only recently filed this updated study, it assumed that Staff would not have had time to fully review it before the hearing.

## **B. OCA**

The OCA inquired of UES about the amount of the decrease in the default service rate that residential customers could expect. UES confirmed that the decrease would be approximately 3.6 percent on a total bills basis. OCA also questioned the Company about its customer migration report. UES stated that according to the report about 65 percent of its large

customers, representing 80.4 percent of the large customer load, have migrated to competitive supplier service. The OCA also questioned UES on the inclusion of RPS costs in the default service rates. In its closing, OCA stated that it was not opposed to the default service rates proposed by the Company.

### **C. Staff**

Staff questioned the Company about the cost of uncollected accounts, inquiring why it projected that the cost of uncollected accounts would increase when expressed as a percentage of the total default service cost, and why the projection for the G1 class exceeded that for the non-G1 class. The Company stated that the projections are the result of the allocation method used by UES and are not necessarily a reflection of the actual or expected collections performance for each class. The Company also stated that the higher default rate for the G1 class might be caused by a higher than average credit risk for G1 customers remaining on default service compared to those that moved to competitive service and compared to those larger portions of non-G1 customers who have remained on default service.

In its closing, Staff stated that it had reviewed the filing and that it believed the Company had followed a proper bid solicitation and evaluation process and that the rates should therefore be approved. Regarding the lead/lag study, Staff stated that because there had been only a short time to review it, it recommended conditional approval subject to further comment at UES' next default service hearing.

### **III. COMMISSION ANALYSIS**

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

The Company has requested confidential treatment for material contained in its filing, which it labeled Tab A, for certain portions of Schedule LSM-4 relating to supplier charges included in the calculation of the wholesale rate, for certain information underlying the lead/lag study, and for the e-mailed versions of the same information. Tab A contains: a narrative comparison of the default service bids the Company received; identification of the suppliers who submitted bids; a price summary comparing the bids; each bidder's financial security requirements, provision of financial security and creditworthiness; UES' contact list for the RFP process including summaries of the communications with those contacts; the final Power Supply Agreement; and information relating to the REC purchase outside the RFP process.

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. We note that, as to the wholesale rate and the information sought to be protected on Schedule LSM-4, UES requests that the information only be protected until September 1, 2010, by which time such information would be available in public filings with the Federal Energy Regulatory Commission (FERC).

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 Unital 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 thereby increasing rates to customers. Thus, there is a very strong interest in avoiding disclosure, which we find is not outweighed by the public's interest. Finally, as to the information in Schedule LSM-4, since that information will soon be publicly available through the FERC, we grant confidential treatment to that information only until September 1, 2010 as requested in the motion.

**B. Default Service Rates**

Regarding UES' analysis of the bids and its selection of the winning bidders, we find that it substantially complied with the procedures approved in prior orders pertaining to default service for the G1 default service solicitation for the three months May 1, 2010 through July 31, 2010, and for its default service requirements for non-G1 default service customers for the period of May 1, 2010 through April 30, 2012. We are satisfied that UES met all procedural requirements set forth in prior orders and the result 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 its selection of Hess as the supplier for G1 supply and TransCanada as the supplier for non-G1 supply is reasonable. We approve UES' request to include the wholesale power costs reflected in the winning bids in default service retail rates beginning May 1, 2010. The proposed retail rates, however, will be approved subject to Staff's review of the Company's updated lead/lag study. We expect Staff to detail its conclusions and recommendations at UES' next default service filing.

Regarding the costs of uncollected accounts, it appears that the Company does not base its cost projections for such accounts on actual or expected collections performance for each class, but upon some internal method that allocates expected write-offs among the G1 and non-G1 classes. Absent knowledge of the allocation method used it is difficult for us to comment on the reasonableness of the allocated costs. Accordingly, we direct the Company to address this issue in its next default service filing. If we determine that the allocation method is inappropriate or unreasonable, any impact on rates can be addressed through the reconciliation process.

As to the Company's purchase of RECs to comply with its RPS requirements, we note our continuing endorsement of the RFP process. Nevertheless, in this instance we approve the purchase made outside the RFP process because the particular circumstances and terms of the purchase, which include the timing of the unsolicited offer and the favorable pricing, justify such a purchase.

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

**ORDERED**, that the agreement between Hess Corporation and Unitil Energy Systems, Inc. to provide 100 percent of the G1 customer default service power supply for the period May 1, 2010 through July 31, 2010 is hereby APPROVED; and it is

**FURTHER ORDERED**, that the agreement between TransCanada Power Marketing Ltd. and Unitil Energy Systems, Inc. to provide 25 percent of the non-G1 default service power supply for the period May 1, 2010 through April 30, 2012 is hereby APPROVED; and it is

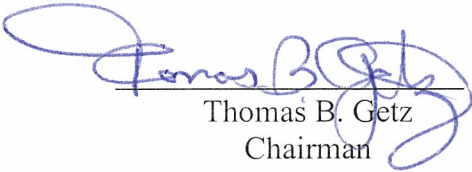
**FURTHER ORDERED**, that the Company's REC purchase made outside the RFP process is hereby APPROVED; and it is


**FURTHER ORDERED**, that confidential treatment is GRANTED as set forth above; and it is

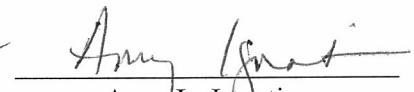
**FURTHER ORDERED**, that analysis of the Company's lead/lag study and allocation of uncollected accounts shall continue and be addressed as appropriate in the Company's next default service proceeding; and it is

**FURTHER ORDERED**, that UES shall file conforming tariffs within 30 days of this order consistent with N.H. Admin. Rules Puc 1606.02.

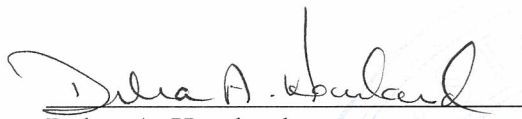
By order of the Public Utilities Commission of New Hampshire this nineteenth day of  
March, 2010.

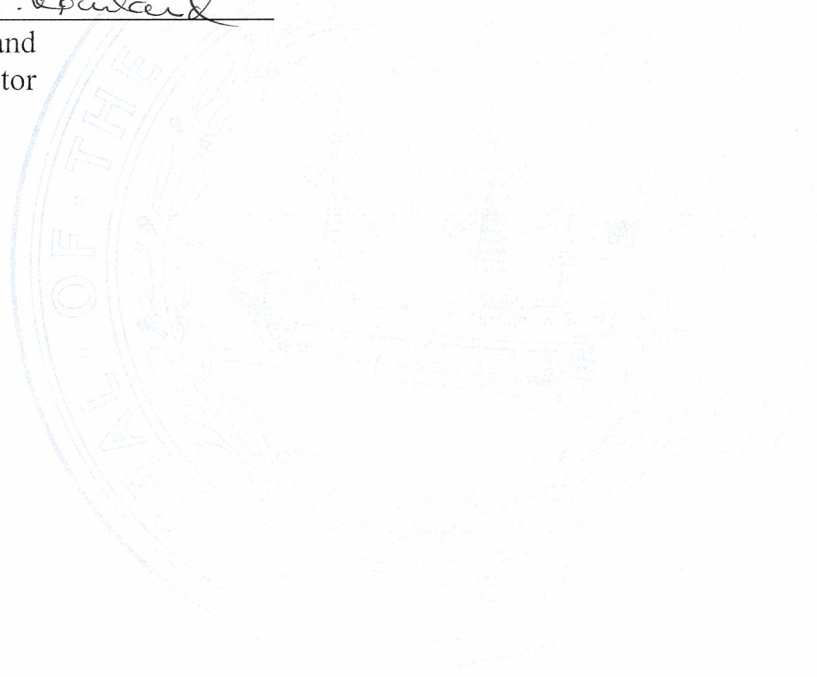
  
Thomas B. Getz  
Chairman

  
Clifton C. Below  
Commissioner

  
Amy L. Ignatius  
Commissioner

Attested by:

  
Debra A. Howland  
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03/19/10     Order No. 25,082 issued and forwarded to all parties.  
Copies given to PUC Staff.

Docket #: 10-028     Printed: March 19, 2010

**FILING INSTRUCTIONS:    PURSUANT TO N.H. ADMIN RULE PUC 203.02(a),**  
**WITH THE EXCEPTION OF DISCOVERY, FILE 7 COPIES (INCLUDING COVER LETTER) TO:**  
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EXEC DIRECTOR & SECRETARY  
NHPUC  
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