

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 08-011**

**GRANITE STATE ELECTRIC COMPANY**

**Petition for Approval of Proposed Default Service Rates**

**Order Approving Petition**

**ORDER NO. 24,902**

**September 29, 2008**

**APPEARANCES:** Alexandra E. Blackmore, Esq. on behalf of Granite State Electric Company d/b/a National Grid; Meredith A. Hatfield, Esq. of the Office of Consumer Advocate on behalf of residential ratepayers; and Suzanne G. Amidon, Esq. on behalf of Staff of the New Hampshire Public Utilities Commission.

**I. PROCEDURAL HISTORY**

On September 22, 2008, Granite State Electric Company d/b/a National Grid (National Grid) filed a petition requesting Commission approval of its solicitation and bid evaluation process and proposed default service rates for the period November 1, 2008 through January 31, 2009 for medium and large commercial customers (Large Customer Group), and November 1, 2008 through April 30, 2009 for its residential and small commercial customers (Small Customer Group). The filing was made pursuant to a settlement agreement approved by the Commission in 91 NH PUC 6, Order No. 24,577 (January 13, 2006) in Docket No. DE 05-126. In support of its filing, National Grid filed the testimony and related exhibits of John D. Warshaw along with an updated quarterly report regarding customer migration to competitive supply.

National Grid's Small Customer Group includes residential and small commercial customers taking service pursuant to Domestic Service Rate D, Domestic Service-Optional Peak Load Pricing Rate D-10, General Service Rate G-3, Outdoor Lighting Service Rate M, Limited Total Electrical living Rate T and Limited Commercial Space Heating Rate V retail rates. The

Large Customer Group consists of customers taking service under General Long-Hour Service Rate G-2 or General Service Time-of-Use Rate G-1. The settlement agreement approved in Docket No. DE 05-126 provides that National Grid shall solicit power supplies on a quarterly basis for 100 percent of the default service requirements for its Large Customer Group at fixed prices that vary from month to month. The settlement further provides that National Grid semi-annually solicit 100 percent of a six-month block of default service requirements for its Small Customer Group at a fixed average price of the six-month period.

As a result of its solicitation process, National Grid selected FPL Energy Power Marketing, Inc. (FPL) to supply 100 percent of the three-month block of default service energy requirements for its Large Customer Group, and PSEG Energy Resources & Trade, LLC (PSEG) as the supplier for 100 percent of the six-month block of the Small Customer Group's default service energy requirements beginning November 1, 2008. According to National Grid, as a result of the bid selections, the Large Customer Group would experience a decrease in overall bills, compared to the prior default service period, in the range of 23.4 percent to 26.3 percent, depending on rate class and customer size, and the Small Customer Group would experience a decrease in overall bills in the range of 8.0 percent to 10.4 percent. On average, a residential customer taking 669 kilowatt hours (kWh) per month, which, according to National Grid, is the average kWh monthly usage over the 12 months ending August, 2008 would experience a bill reduction of 8.3 percent.

Pursuant to RSA 362-F, the Renewable Portfolio Standard (RPS) statute, for calendar year 2008 National Grid must obtain 3.5 percent of its default service load in renewable energy certificates (RECs) representing qualified biomass and methane generators (Class III) and 0.5 percent from existing small hydroelectric generators (Class IV). For calendar year 2009, National Grid will have to obtain 0.5 percent of its default service load in RECs representing

new Class I resources, 4.5 percent from Class III resources, and 1.0 percent from Class IV resources. In the event National Grid cannot acquire the requisite number of RECs from qualified generators, it would have to make Alternative Compliance Payments (ACPs) as established by RSA 362-F. With its petition, National Grid filed a plan for RPS compliance, attached to its filing as Schedule JDW-8, for Commission review and approval. In addition, using the ACP for 2008 and an estimated ACP for 2009 for each of the classes of renewable energy, the company calculated an RPS adder to all customer bills in the amount of \$0.00119 per kWh for 2008 and \$0.00199 per kWh in 2009 to recover the costs associated with RPS compliance.

National Grid filed a motion for confidential treatment with its petition. In its motion, National Grid requested confidential treatment of the power supply agreement (PSA) and confirmation entered into between National Grid and the winning suppliers. In addition, the company also requested confidential treatment of its indicative bid summary provided to Staff on September 11, 2008, the RFP bid evaluation including its analysis comparing changes in the electric and gas futures costs to changes in procurement costs; and the calculation of commodity costs at the retail customer meter.

In support of its motion, National Grid states that the contracts, the bid evaluation and the analysis comparing futures costs contain competitive energy pricing and contract terms which are commercially sensitive, the disclosure of which could be harmful to the competitive positions of FPL and PSEG as well as other participants in the RFP process. According to the company, disclosure of this information could chill the willingness of suppliers to participate in providing energy services in New Hampshire in the future. National Grid states that the parties have taken steps to avoid disclosure of the confidential commercial information contained in the contracts,

and the disclosure of such information could adversely affect the business position of the parties in the future.

National Grid notes that N.H. Code Admin. Rules Puc 203.08 provides that the Commission shall, upon motion, issue an order granting confidential treatment of one or more documents upon a finding that the document or documents are excluded from the disclosure requirements of RSA 91-A:5 of the Right-to-Know Law. National Grid contends that the contracts, the bid evaluation, and the analysis of the futures costs are exempt from public disclosure under RSA 91-A:5, IV as confidential, commercial or financial information.

At hearing on September 25, 2008, National Grid submitted revised testimony of John D. Warshaw correcting errors in the calculation of the retail default service rates for the Small Customer Group. National Grid also provided revised confidential versions of testimony and schedules under its motion for confidential treatment previously submitted to the Commission.

The Office of Consumer Advocate (OCA) previously entered an appearance on behalf of residential ratepayers on March 6, 2008 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 rules and the terms of a settlement agreement approved by the Commission in Order No. 24,577. According to the company, it issued an RFP to more than 25 potential suppliers, soliciting default service power supplies for both the Large Customer Group for the period November 1, 2008 through January 31, 2009 and for the Small Customer Group for the period November 1, 2008 through April 30, 2009. National Grid also distributed the RFP to all members of the New England Power Pool (NEPOOL) 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 entire service period for both customer groups.

National Grid stated that it received indicative bids on September 10, 2008, and provided Staff and the OCA with a confidential summary on September 11, 2008. National Grid testified that it evaluated the implied costs of capacity by comparing the indicative energy-only and energy and capacity bids with its own internal evaluation of the costs of capacity and, after reviewing the indicative bids with Staff, selected bids which provided all inclusive fixed energy and capacity prices.

National Grid received final bids on September 17, 2008. National Grid evaluated the bids received and selected the two suppliers that: (i) provided a bid that was conforming 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. National Grid testified that, on September 18, 2008, it entered into transaction confirmations with FPL, to provide default service to the Large Customer Group for the three-month period from November 1, 2008 through January 31, 2009, and with PSEG, to provide default service to the Small Customer Group for the six-month period from November 1, 2008 through April 30, 2009.

Based FPL's winning bid, the monthly base default service rate for National Grid's Large Customer Group for the months of November and December 2008 and January 2009 are as follows:

| Month  | November 2008 | December 2008 | January 2009 |
|--|---------------|---------------|--------------|
| Base Default Service Rate (\$/kWh)                               | \$0.09268     | \$0.10164     | \$0.11321    |
| 2008 Default Service Reconciliation Adjustment Factor (\$/kWh)   | \$0.00009     | \$0.00009     | \$0.00009    |
| Default Service Cost Reclassification Adjustment Factor (\$/kWh) | \$0.00032     | \$0.00032     | \$0.00032    |
| Proposed RPS Adders (\$/kWh)                                     | \$0.00119     | \$0.00119     | \$0.00199    |
| Total Default Service Rate (\$/kWh)                              | \$0.09428     | \$0.10324     | \$0.11561    |

National Grid states that the simple average of the base default service rates for the Large Customer Group is \$0.10251 cents kWh compared to the simple average of \$0.13827 cents per kWh for the period August 2008 through October 2008. Customers in the Large Customer Group who are billed monthly default service rates will experience typical monthly bill decreases ranging from 23.4 percent to 26.3 percent compared to the prior default service period.

National Grid testified that the base default service rate and other adjustments for the Small Customer Group are as follows:

| Month  | Nov. 08   | Dec. 08   | Jan. 09   | Feb. 09   | March 09  | April 09  |
|--|-----------|-----------|-----------|-----------|-----------|-----------|
| Base Default Service Rate (\$/kWh)                               | \$0.08792 | \$0.09481 | \$0.10821 | \$0.11029 | \$0.09632 | \$0.09525 |
| Default Service Reconciliation Adjustment Factor (\$/kWh)        | \$0.00009 | \$0.00009 | \$0.00009 | \$0.00009 | \$0.00009 | \$0.00009 |
| Default Service Cost Reclassification Adjustment Factor (\$/kWh) | \$0.00116 | \$0.00116 | \$0.00116 | \$0.00116 | \$0.00116 | \$0.00116 |
| Proposed RPS Adders (\$/kWh)                                     | \$0.00119 | \$0.00119 | \$0.00199 | \$0.00199 | \$0.00199 | \$0.00199 |
| Total Default Service Rate (\$/kWh)                              | \$0.09036 | \$0.09725 | \$0.11145 | \$0.11353 | \$0.09956 | \$0.09849 |

National Grid said the effect of its proposal on the monthly bill of a 500 kWh per month residential default service customer is a decrease of \$7.12, or 8.4 percent, from \$84.72 to \$77.60. A residential customer taking 669 kilowatt hours (kWh) per month, which, according to National Grid, is the average kWh monthly usage over the 12 months ending August, 2008 would experience a reduction in rates of 8.3 percent.

As part of its filing, National Grid filed its plan for RPS compliance for the two customer groups. Pursuant to that plan, National Grid solicited bids from RPS compliant resources with its solicitation for default service supply, and National Grid proposes to continue such solicitation in the future. In response to questioning by Staff, National Grid said that the RPS component would be a separate, unbundled product requested by the RFP. In addition, if National Grid accepted a supplier's RPS compliance bid, the winning supplier would be required to provide National Grid with sufficient RECs to meet the RPS requirements associated with the load it would be serving. In the case of the subject power supply solicitation, National Grid determined that the RPS compliance offers were not competitive. Consistent with its RPS compliance plan, National Grid stated that it will seek to purchase RECs at a lower cost through a separate solicitation using a process similar to the one used for procuring default service. In response to questions from the OCA, National Grid stated that it expected to issue an RFP for RECs within the next two months. National Grid testified that, in the event that the company is unable to purchase sufficient RECs to meet its RPS obligation, it will make ACPs to the Renewable Energy Fund consistent with RSA 362-F. Assuming the ACP approach, National Grid established an RPS adder of \$0.00119 per kWh for November and December 2008 and \$0.00199 per kWh in 2009 for both customer groups to recover costs associated with RPS compliance.

**B. Office of Consumer Advocate**

The OCA inquired whether National Grid was concerned about the creditworthiness of the winning bidders given current economic conditions. National Grid stated that it did not have such concerns with the winning bidders. The OCA also inquired about the costs associated with the separate solicitation of RECs through an additional RFP process. National Grid agreed that there were administrative costs associated with the additional RFP but maintained that the results of a separate RFP for RECs would help the company understand the emerging market for RECs in New Hampshire.

The OCA concluded by stating that it did not object to National Grid's petition.

**C. Commission Staff**

In connection with RPS compliance, Staff asked National Grid whether the company believed there is a market for Class III or Class IV RECs in New Hampshire. In response, National Grid testified that it had no direct information that a market had developed, and was uncertain as to the number of eligible facilities that had applied for certification. The company stated that because Class III and Class IV facilities are existing facilities, it expected that there would be a number of facilities which could easily get approval to produce RECs. National Grid stated in response to a Staff inquiry that National Grid agreed to participate in discussions with the OCA and Staff to assure that the details and timing of any REC solicitation were agreed to before the company issued an RFP for RECs.

Staff noted that National Grid had been collecting RPS compliance payments through the RPS adder from customers since January 2008 but was not required to pass those payments to the state until July 2009 at the earliest. Staff noted that the advance receipt of the RPS compliance payments should be recognized as a large lead in any lead/lag study used by National Grid to calculate its working capital. In response to Staff's question, National Grid agreed that

the next time it updates its lead/lag study it will reflect the lead associated with RPS compliance payments.

Staff asked National Grid to explain how it developed the loss factors. The company stated that the losses used to develop default service rates at retail were based on a comparison of National Grid's monthly wholesale purchases and sales to retail customers. National Grid said that both the wholesale and retail quantities were based initially on estimates developed through its meter data services unit. These estimates are subsequently reconciled as actual data becomes available. The reconciled data, however, showed a steady decline in the loss factors for both the Large Customer and Small Customer Groups over the past two years. Following a discussion of trends observed in National Grid's loss factors, and noting that the company had undertaken a review of those trends, National Grid agreed to meet with Staff and the OCA to investigate the above described reduction in loss factors. National Grid noted that the loss factor data provided in its filing is among the information for which it seeks confidential treatment.

Staff stated that it had reviewed the petition and determined that National Grid had complied with the solicitation bid evaluation process as set forth in the settlement agreement. In Staff's view, the resulting retail rates are market based and 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 which National Grid asserts is confidential.

The materials which National Grid seeks to protect contain: power supply agreements between National Grid and the winning suppliers, FPL and PSEG; an indicative bid summary provided to Staff on September 11, 2008; the RFP bid evaluation and its analysis comparing changes in electric and gas future costs to changes in procurement costs; and its calculation of commodity costs at the retail customer meter. 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).

We note that National Grid has filed similar motions for confidential treatment in previous default service dockets before the Commission, such as in Docket No. DE 07-012. Materials for which National Grid is seeking confidential treatment in this docket are similar in nature to the materials previously approved in past default service dockets, *See, e.g.,* Order No. 24,736 (March 26 2007) in Docket No. DE 07-012 and Order No. 24,862 (June 20, 2008) in the instant docket. We therefore grant confidential status to the information redacted from National

Grid's public filing. 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.

### **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, 2008, 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.

Finally, we find that National Grid's evaluation of the bids and its selections of FPL as its default service supplier for the Large Customer Group and PSEG as its default service supplier for the Small Customer Group are 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, 2008.

We approve National Grid's proposal to use an RPS adder to its rates as a proxy for the costs of compliance, reserving our right to revisit the issue of compliance with the RPS requirements based on the discussion which will take place between National Grid, the OCA and Staff. We understand these meetings will discuss the purpose of 1) clarifying the procedure, timing and costs that National Grid will use in acquisition of RECs, and 2) investigating the underlying reasons for the trends observed in the loss factors for the two customer groups. National Grid stated that it intends to solicit for RECs within the next two months. We direct

Staff to provide us with a report regarding the REC discussions sufficiently in advance of the proposed solicitation so we are able to review the appropriateness of National Grid's plan. We also direct Staff to file a report with the Commission on the outcome of the loss factor discussions before the end of calendar year 2008.

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

**ORDERED**, that the power supply agreement between FPL Energy Power Marketing, Inc. and Granite State Electric Company d/b/a National Grid for three months default service power supply for National Grid's Large Customer Group for the period from November 1, 2008 through January 31, 2009 is hereby APPROVED; and it is

**FURTHER ORDERED**, that the power supply agreement between PSEG Energy Resources & Trade, LLC and Granite State Electric Company d/b/a National Grid for six months default service supply for National Grid's Small Customer Group for the period November 1, 2008 through April 30, 2009 is hereby APPROVED; and it is

**FURTHER ORDERED**, that that the rates proposed by National Grid for its Large Customer Group for the period November 1, 2008 through January 31, 2009, and its Small Customer Group for the period beginning November 1, 2008 through April 30, 2009, are hereby APPROVED; and it is

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

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of  
September, 2008.

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Thomas B. Getz  
Chairman

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Graham J. Morrison  
Commissioner

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Clifton C. Below  
Commissioner

Attested by:

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Kimberly Nolin Smith  
Assistant Secretary