

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

IR 22-053

ELECTRIC AND GAS UTILITIES

Investigation of Energy Commodity Procurement (Renewable Portfolio Standard; Default Service Electric Power; Cost of Gas) Methodology and Process

Unitil Energy Systems, Inc. Technical Statement (Electric Default Service and RPS)

I. Introduction

On September 6, 2022, the New Hampshire Public Utilities Commission (the “Commission”), issued an Order of Notice opening an investigation “to examine all pertinent aspects of RPS [Renewable Portfolio Standard], Default Service, and COG procurements in New Hampshire, and related Commission processes.” *Id.* Unitil Energy Systems, Inc. (“UES” or the “Company”) and other interested parties provided initial comments to the Commission on September 26, 2022. On October 11, 2022, the Commission issued a Procedural Order indicating that it would engage in two lines of inquiry in this docket: “one, for the electric utility issues surrounding default service and [RPS] procurements; and the second, for the gas utility issues surrounding cost of gas procurements.” In connection with the first line of inquiry the Commission requested technical statements from the New Hampshire Electric Distribution Companies (“EDCs”) in response to the inquires set forth in Section II.

As explained in the Company’s initial comments, electricity and natural gas markets in New England are highly correlated due to the extensive use of natural gas as a fuel for electric generation. Absent other baseload energy sources in New England, New Hampshire is highly susceptible to shifts in natural gas markets and prices, which lead to corresponding shifts in electricity markets and prices. In other words, the structure of the wholesale gas and electric

markets causes them to vary widely for issues entirely unrelated to actions of a utility including weather and, in recent months, global shifts in fuel demands. As purchasers operating within those wider commodity markets, New Hampshire's utilities have limited ability to affect or influence those markets or the resulting prices paid by end-use customers of the utilities. In other words, EDCs are limited in their ability to influence or direct commodity pricing through their procurement practices, UES believes that its current method of procuring default service is generally sound and produces appropriate and market-reflective rates consistent with New Hampshire law and policy.

UES appreciates the opportunity to provide information to the Commission in connection with its investigation, and offers the following responses to the Commission's inquiries.

II. Responses to Commission Inquiries

(i) Consolidated Procurement: What is the viability of a regionally harmonized and/or a state-wide approach to energy procurement?¹

It is important to draw a distinction between a consolidated procurement that aggregates the load from all investor owned New Hampshire Electric Distribution Companies ("EDC") and a state-wide procurement, whether administered by a state agency or the utilities themselves, in which each EDC's electric service requirements is procured separately. Procurements that would aggregate load for all the EDCs are not generally feasible or desirable due to the differences in load profiles and customer rate class definitions, which create differences in the cost to serve. For example, UES procures default service load for three distinct customer classes, while Eversource, upon information and belief, procures for two classes. To the extent a consolidated procurement

¹ Possibilities include coordinated statewide procurement by the electric utilities, procurement conducted by the New Hampshire Department of Energy (or some other instrumentality of government), as opposed to the utilities themselves, for all default service customers in New Hampshire, and common procurements among retail affiliates across state lines.

was undertaken, the aggregation of load would not be on an “apples to apples” basis, as different customer class characteristics present different levels of risk and attractiveness to potential suppliers. Ultimately, each EDC must report the electric loads consumed by its default service customers into one or more load assets maintained by ISO New England, Inc. and the wholesale supplier(s) serving those load assets would incur wholesale market costs specific to each load asset. While a single bilateral power supply contract to serve multiple load assets across EDCs could reflect common pricing, each asset would have a different cost to serve inevitably creating cost shifts between EDCs and between customer rate classes.

It is possible that a joint EDC or state- or agency-managed procurement process through which each EDC’s default service power supply is procured individually and simultaneously could result in administrative efficiencies, though establishing such a process would likely necessitate a considerable administrative and procedural work, including but not limited to a rulemaking. As for the appropriateness of electric procurement conducted by the New Hampshire Department of Energy (or some other government agency), UES recommends that state agencies focus on transaction oversight, meaning whether the EDC appropriately implemented its procurement process, rather than actual execution of market transactions.

The statewide approach to procuring default service is currently implemented in Maine, where the Maine Public Utilities Commission administers the bidding and selection processes for “standard offer” service. See, e.g., Maine CMR ch. 301 § 8(A)(2) (“The Commission shall develop and issue a request for standard offer bids for each applicable transmission and distribution utility service territory.”); Maine CMR ch. 301 § 8(C)(1) (“For each transmission and distribution utility service territory . . . [t]he Commission shall, by order, select the standard offer provider or providers for each standard offer class on a selection date as determined by the Commission.”);

35-A M.R.S. § 3212 (“Standard Offer”) (“[T]he commission shall administer a bid process to select a standard-offer service provider for [a] transmission and distribution utility’s service territory. . . . [T]he commission shall review the bid submissions for each transmission and distribution utility and select the standard-offer service provider or providers for that utility’s service territory.”).² A state- or agency-administered approach does not mean each utility would have the same resulting energy service rates. Rather, each utility would have different rates as a result of differences in customer class characteristics as mentioned above.³

As a practical matter, with UES adjusting the procurement timeframe of its most recent default service solicitation, as of July 1, 2023 all three of the investor owned EDCs will be purchasing default service supply at essentially the same time and for the same supply periods, subject to any changes that may result from this proceeding.

- (ii) **Flexible Implementation of Laddering/Full Requirement Procurement: Can a more flexible approach to combining laddering and full requirement procurement, based on the expected near future pricing trends, be instituted by the utilities to better manage energy volatility in electric prices and its impact on ratepayers? Please provide alternatives that can be explored herein. In such an exploration of alternatives, please take into consideration factors listed below:**
- a. **the balance between achieving price stability (with risk premiums) versus exposure to market volatility.**
 - b. **laddering timeframes (including their suspension) to more closely reflect market prices with a goal to providing greatest relief to New Hampshire ratepayers, without compromising market bidding outcomes.**
 - c. **The intervals, frequencies, timing, and scale of procurements and/or rate changes.**

² It should be noted that Maine’s Commission-administered procurement process was established by the Maine Legislature as a component of a comprehensive electric industry restructuring act promulgated in 1997. New Hampshire’s electric restructuring policy principles do not expressly contemplate such a role for the Commission. RSA 374-F:3, V(c) (“Default service should be procured through the competitive market and may be administered by independent third parties.”).

³ For example, the Maine PUC issues separate orders designating standard offer providers for each utility and, in the case of Emera (now Versant Power), separate orders for two distinct service territories. See generally Maine PUC Docket 2019-00163, Orders Designating Standard Offer Providers for Emera Maine – Maine Public District, Emera Maine – Bangor Hydro District, and Central Maine Power (November 12-13, 2019).

It is not clear what the Commission contemplates when proposing a “more flexible approach to combining laddering and full requirement procurement, based on the expected near future pricing trends.” Under a “laddering” framework, 100% of a company’s default service requirements are met through two or more overlapping periods of partial procurements. For example, a company may procure 50% of its requirements over a twelve month period, and then six months later procure another 50% of its requirements for another twelve month period. While such a framework with blending of prices obtained at different times has the effect of moderating the impacts of market volatility, it also creates some disconnect between such blended pricing and market-based pricing.

Unitil’s Massachusetts electric distribution affiliate, Fitchburg Gas and Electric Light Company (“FG&E”), employs a laddering strategy (with certain limited exceptions, noted below) to meet its basic service⁴ obligations for residential and small commercial and industrial customers. The Massachusetts Department of Public Utilities has required the application of such a strategy, using staggered six month intervals and fixed rate pricing for six month periods, for almost two decades:

With respect to the default service pricing options available to smaller customers, . . . [t]here is a balance to be struck between providing sufficient price certainty as well as efficient price signals. . . . [T]he Department believes that the . . . fixed, six-month option is the appropriate balance for current and foreseeable market conditions for these customers.

With respect to procurement, shortening the procurement term would ensure that default service prices would more accurately reflect market prices. However, a shortened term would increase the volatility of default service prices. Conversely, lengthening the procurement term would provide for more price stability, but would weaken the connection to market prices. . . .

The Department sees merit . . . in revising the current practice in which each distribution company procures 100 percent of its default service supply every six

⁴ In Massachusetts, “basic service” is the synonymous term applied to what New Hampshire calls “default service.”

months. Because prices in the wholesale market can change quickly, procuring 100 percent of supply at intervals of six-months contracts [sic] could result in prices that represent an anomalous market condition. . . . [P]rocur[ing] 50 percent of [a company's] default service supply semi-annually, for twelve-month terms, strikes a better balance between price certainty and price efficiency than does the current approach. Therefore, the Department directs each distribution company to implement such a procurement strategy at the time of their next default service supply solicitation.

In re Default Service Procurement, D.T.E. 02-40-B, Order at 45 (April 24, 2003); see also

Fitchburg Gas and Electric Light Company d/b/a Unitil, D.P.U. 21-BSF-A4, Order at 11

(October 22, 2021) (“[B]asic service solicitations are structured so that a distribution company procures 50 percent of its residential and small C&I load for twelve-month periods, which are staggered by six months, and then combines the overlapping prices every six months to mitigate price volatility for customers by averaging six monthly prices into one flat rate.”). Stated succinctly, the Massachusetts approach is designed to balance price stability and efficient price signals, id. at 11-12, and has remained in place for almost twenty years.⁵

Laddering contracts creates diversification and dollar-cost averaging, mitigating the risk of a single procurement occurring during a period of high or volatile prices. Contract laddering can, however, result in higher bid prices in that suppliers may add a premium to address additional risk over the longer terms.

Ultimately, UES does not perceive a clear advantage of laddering contracts versus the status quo of procuring one hundred percent (100%) for a period of time. However, since market prices have been extremely volatile, some reasonable balance of term length and laddering may

⁵ More recently, FG&E has, with the permission of the Department, conducted procurements for 100% of its load in six month increments (or, most recently, an eight month increment) due to uncertainty in connection with the start date of a significant municipal aggregation program in its service territory. Fitchburg Gas and Electric Light Company d/b/a Unitil, D.P.U. 21-BSF-A4, Order at 11, 12-13 (October 22, 2021); Fitchburg Gas and Electric Light Company d/b/a Unitil, D.P.U. 22-BSF-A2, Order at 10, 13 (March 21, 2022); Fitchburg Gas and Electric Light Company d/b/a Unitil, D.P.U. 22-BSF-A4, Order at 10-11 (September 14, 2022). The Company intends to return to the laddering process after the aggregation launch date, currently anticipated in the first half of 2023, occurs.

help moderate prices while maintaining a degree of price stability without incurring significant premiums. Should laddering be the procurement method of choice in the future, the Company believes the model prescribed by the Massachusetts Department of Public Utilities provides an appropriate balance of price volatility management and appropriate market price signals.

- (iii) If a solicitation fails to achieve any bid or is found to be noncompetitive, please provide back-up options that can be followed to rely entirely on spot purchases, while instituting a retail-level process that still imparts some stability in energy prices for default service customers.**

In the event of a failed auction or non-competitive solicitation, the Company would propose to self-supply its default service customers by purchasing power supply, capacity and ancillary services directly from the ISO New England, Inc. markets. The Company would estimate the wholesale power supply cost component of the retail rate using forward prices of the ISO-NE Peak and Off-Peak LMP Futures Contracts (“ISO LMP Futures”), Forward Capacity Market prices, plus a set percentage for Ancillary Services.

FG&E recently experienced a failed solicitation in its August 2022 procurement for loads solicited for the December 2022 through July 2023 period. FG&E’s approved Alternative Basic Service Procurement plan includes procuring basic service power supply in the real-time market, while also setting a fixed retail rate to maintain price stability for customers. Fitchburg Gas and Electric Light Company d/b/a Unitil, D.P.U. 22-BSF-A4, Order at 6, 7-8, 10-11 (September 14, 2022). As there may be substantial differences between the actual ISO LMP prices paid relative to the futures pricing at the time the rate was set, the Company is permitted to seek an adjustment of the fixed retail rate if the projected wholesale power supply costs for the balance of the period vary by more than twenty percent (20%) from the wholesale power supply costs projected over the same period at the time retail rates were set. Id. at 8-9, 12-13. This approach preserves rate stability for customers while providing for price adjustment in the event of large changes (greater than 20%)

in futures pricing over the balance of the service period as the service period unfolds, which serves to promote market-based pricing and mitigate the potential for over/under collections.

- (iv) **Balance between Price Stability and Volatility: Are there tangible avenues to reduce the risk premium included in bids by balancing the speed of regulatory approval and effective oversight during the procurement process? If so, please discuss the specific possible improvements in regulatory oversight during Request for Proposals and/or procurement solicitation processes and opine on the possibility of an order *nisi*-based approach to the approval of default service procurements.**

Currently, the typical lag time between receipt of final bids and contract approval is five to seven business days from execution to approval. Abbreviating the period between final contract execution and Commission approval could result in reduced risk premiums. However, UES would expect the impact of a shortened time frame to be minimal, as suppliers hedge their pricing upon notice of a contract award. Suppliers have been willing to hedge their pricing upon contract award by the Company since the regulatory process has consistently resulted in approved contracts.

The Commission defines “order *nisi*” as “an order that will ripen or take effect at some set date in the future unless the order is rescinded by the commission before that date.” Puc. 602.11.⁶ In the current process, the Company receives a final order shortly after making its filing with the Commission. See, e.g., Unitil Energy Systems, Inc., DE 22-017, Order 26,694 (September 30, 2022) (approving UES’s petition requesting approval of its solicitation and procurement of energy service five business days after filing). Regardless of the process used, the timing from receipt of final bids and filing to a final order should not change. To the extent that an order *nisi* does not become effective until some period of time after it is issued, the Commission should ensure that the use of such orders does not extend the period of time between receipt of final bids and contract

⁶ The only definition of “order *nisi*” in the Commission’s rules is in Puc 600, Rules for Water Service.

approval.

- (v) **Default Service Practices: With the goal of enabling consistent pricing and rates across utilities, companies are requested to share a detailed outline as well as supporting process documents on the practices that they have adopted by their affiliates in their various jurisdictions**

As explained in Section (ii) above, UES's affiliate FG&E has historically used the laddering approach required by the Massachusetts Department of Public Utilities, pursuant to which the Company solicits, every six months, fifty percent of load requirements for overlapping twelve month terms. This process was first mandated in In re Default Service Procurement, D.T.E. 02-40-B, Order at 45 (April 24, 2003), and has been subsequently affirmed in numerous subsequent orders (e.g., D.P.U. 21-BSF-A4, Order at 11). Starting in 2021, FG&E altered its procurement practice and procured for a six month period, initially for fifty percent to complement the back half of a prior twelve month procurement, and then for one hundred percent of load requirements, similar to the manner in which UES default service is procured. See Fitchburg Gas and Electric Light Company d/b/a Unitil, D.P.U. 21-BSF-A2, Stamp-Granted Order (April 2, 2021); Fitchburg Gas and Electric Light Company d/b/a Unitil, D.P.U. 21-BSF-A4, Order at 11, 12-13 (October 22, 2021). The shortened procurement period was due to municipal aggregation risk, as a large municipality was waiting for approval of its aggregation plan. With the uncertainty surrounding the start date of the aggregation and ensuing load migration from basic service, FG&E determined, and the Department agreed, that it was in the best interest of ratepayers to only procure for six month periods in order to maintain supplier participation and avoid risk premiums associated with the uncertain aggregation start date.

As explained in Section (iii), FG&E's most recent basic service procurement resulted in a failed solicitation and FG&E is implementing its plan to self-supply as explained in its basic service filing (Docket DPU 22-BSF-A4), which includes testimony and other schedules

supporting its procurement proposal, as well as the Department's approval of the proposal, can be accessed at: <https://eeaonline.eea.state.ma.us/DPU/Fileroom/dockets/bynumber>

(vi) **RPS: Explore possible avenues to improve ratepayer cost outcomes as well as compliance-related and administrative processes to meet RPS standards**

Stability in any Renewable Portfolio Standard (“RPS”) program is fundamental to the viability of such a program, which exists in order to promote investment in renewable generation, whether by incenting construction of new generation or maintaining existing renewable generation. Currently, the NH Class III compliance obligation is subject to change after the compliance year, leaving Load Serving Entities (“LSE”) at risk for their procurements of Renewable Energy Certificates (“RECs”). For example, on April 20, 2021, the Commission issued an order reducing the Class III obligation from eight percent (8%) to two percent (2%) for the 2020 compliance year. Electric Renewable Portfolio Standard, DE 21-037, Order No. 26,472 (April 20, 2021). The Order was issued in the fourth quarter of the trading year, and just 10 weeks before 2020 compliance filings were due on July 1, 2021. This late change in compliance obligations left some LSEs (including UES) who had procured physical RECs to meet their 2020 obligations holding RECs that otherwise would have been needed for compliance had the obligation remained at 8 percent, but which now have the potential to lose value and, depending on the levels of future year Class III requirements, may exceed the maximum banking threshold of thirty percent and become worthless.

RPS programs should be structured to facilitate compliance with physical RECs. However, the instability created by potential late changes in compliance obligations creates an environment in which complying with NH Class III obligations through Alternative Compliance Payments (“ACP”) presents the least risk option for LSEs. The Company recommends adjustments to any

REC class compliance obligations be made only with respect to future compliance years, and not the current or prior compliance year. The Company believes doing so would provide stability in the REC market, and potentially avoid LSE stranded costs associated with unused RECs, or customers unnecessarily paying ACP prices.

In terms of REC procurement, the Company currently solicits RECs outside of default service procurement by issuing REC RFPs and by entertaining offers from sellers and brokers outside of the REC RFPs. The Company believes managing its REC procurement separately from default service procurement results in lower cost to ratepayers. UES has concerns that asking wholesale power suppliers to also bid state RPS requirements results in additional administrative responsibilities on the part of wholesale power suppliers which may make it less likely that they will participate in default service RFPs. Additionally, wholesale suppliers may need to manage their risks in the REC markets by only bidding ACP, which would not result in the least cost option to ratepayers. Finally, purchasing RECs outside of default service procurement provides a hedge against failed default service solicitations. That is, in the event of a failed default service solicitation, the Company would need to find a replacement power supply, but would not also have to find replacement RECs for RPS compliance.

(vii) Miscellaneous: Any other issues that could improve the default service process in New Hampshire

UES does not offer additional comments as of this writing, but reserves the right to provide supplemental or responsive comments during the pendency of this investigation.