

THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

VIVINT SOLAR, INC.

DE 15-303

PETITION OF FREEDOM LOGISTICS LLC FOR INTERVENTION

NOW COMES Freedom Logistics, LLC d/b/a Freedom Energy Logistics (“FEL”) and hereby petitions the New Hampshire Public Utilities Commission for intervention in the above-captioned proceeding pursuant to RSA 541-A:32 and NH Code Admin. Rule Puc 203.17. In support of its Petition for Intervention, Petitioner says the following:

1. On August 14, 2015, Vivint Solar, Inc. filed a petition for declaratory ruling pursuant to N.H. Code Admin. Rules Puc 207.01, seeking a ruling by the Commission declaring that, in offering solar power purchase agreements or solar leases to residential customers in New Hampshire, neither Vivint Solar, Inc., nor its subsidiary or affiliates, will be regulated by the Commission as (1) a "public utility" under RSA 362:2, (2) a “competitive electric power supplier” under N.H. Code Admin. Rules Puc 2002.05, or (3) a "limited producer of electrical energy" under RSA 362-A:2-a.

2. In its petition, Vivint Solar stated that it offers solar energy to qualified residential customers primarily through long-term customer contracts in the form of power purchase agreements, under which a customer agrees to purchase all of the power generated by a solar energy system installed on the customer's rooftop, or solar leases, under which a customer leases the solar energy system installed on the customer's property. Under either such arrangement, Vivint Solar installs, operates, and maintains the solar energy system throughout the term of the contract. The systems installed under these power purchase agreements and solar leases are owned by Vivint Solar's affiliates and financing parties.

3. According to the Order of Notice, “Vivint Solar's filing raises, inter alia, issues related to the interpretation of RSA 362:2, RSA 362-A:2-a, and Puc 2002.05, as these statutory and rules provisions may apply to the third party ownership and operation of behind-the-meter distributed electric generation resources in New Hampshire.”

4. Petitions for Intervention, pursuant to RSA 541-A:32 and Rule Puc 203.1, must set for the facts demonstrating that the petitioner’s right’s, duties, privileges, immunities, or other

substantial interests may be affected by the proceeding, and that the interest of justice and the prompt and orderly conduct of the proceedings would not be impaired by allowing the intervention. Alternatively, the Commission may grant intervention in the interest of justice so long as the intervention “would not impair the orderly and prompt conduct of the proceedings.” RSA 541-A:32, II.

5. On February 17, 2015, FEL filed a petition requesting Commission authorization for the purchase by a private sector retail customer of electrical output generated by a limited electrical energy producer, pursuant to RSA362-A:2-A, II, a section of the Limited Electrical Energy Producers Act (LEEPA). Under RSA362-A:2-a, a facility that produces not more than 5 megawatts of power by means of renewable resources or cogeneration may sell power directly to not more than 3 end users, pursuant to agreements for the retail sale to the purchaser and for the wheeling of power by the franchised electrical public utility that are approved by the Commission as consistent with specific statutory criteria. Under LEEPA, the Commission retains the right to order the wheeling of power by the utility to the end users and to set the price and other terms for a wheeling agreement as it deems necessary.

6. The foregoing Petition was docketed by the Commission as DE 15-068. After surviving two motions for dismissal, an evidentiary hearing on the merits is presently scheduled for November 30, 2015.

7. Upon information and belief, it is expected that at least one of the utilities will contend that as a matter of law, a LEEPA facility selling to end-user pursuant to RSA362-A:2-A, II must obtain a Competitive Electric Power Supplier License from the Commission.

8. FEL was also the Petitioner in a recent proceeding before the Commission, wherein an FEL client sought a clarification of Rule Puc 2002.05. *See* Petition on behalf of Cianbro Energy, LLC for a Declaratory Ruling regarding Rule Puc 2002.05, Docket No. 14-305.

10. For the foregoing reasons, FEL has substantial interests that will be affected by the Commission’s deliberations in this proceeding. FEL’s intervention would also be in the interests of justice and the prompt and orderly conduct of the proceedings would not be impaired by allowing the intervention.

WHEREFORE, FEL hereby respectfully requests the Commission to:

A. Grant it intervener party status;

B. Grant the declaratory rulings requested by Petitioner Vivint Solar, Inc.; and

C. Order such other and further relief as may be just and equitable.

Respectfully submitted,

FREEDOM LOGISTICS, LLC

By its Attorney,

/s/ James T. Rodier

Dated: October 5, 2015

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Certification of Service

Pursuant to Rules Puc 203.02(2) and Puc 203.11, I have served copy of this petition on each person identified on the commission's service list for this docket.

/s/ James T. Rodier