

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

**PETITION FOR AUTHORIZATION PURSUANT TO RSA 362-A:2-A, II
FOR A PURCHASE OF LEEPA OUTPUT BY THE PRIVATE SECTOR**

Now Comes Freedom Logistics, LLC d/b/a Freedom Energy Logistics (“FEL”) and it seeks authorization, from the Commission pursuant to RSA 362-A:2-a, II, for a purchase of LEEPA output by the private sector pursuant transaction set forth hereinafter, and in support hereof says as follows:

I. INTRODUCTION

1. In 1978, the New Hampshire General Court enacted the Limited Electrical Energy Producers Act (LEEPA), codified at RSA chapter 362-A, to encourage "small scale and diversified sources of supplemental electrical power to lessen the state's dependence upon other sources which may, from time to time, be uncertain." RSA 362-A:1.

2. In 1979, the legislature added RSA 362-A:2-a to LEEPA to further that same objective. RSA 362-A:2-a allows a facility that produces not more than 5 megawatts of power by means of renewable resources or cogeneration to sell power directly to not more than 3 end users. RSA 362-A:1-a; RSA 362-A:2-a, I.

3. In 1995, the Commission issued a declaratory ruling that RSA 362-A:2-a is a valid exercise of state police powers which is not preempted by federal law. The declaratory ruling addresses only the constitutionality of RSA 362-A:2-a, and does not authorize any particular proposed arrangement for retail wheeling. Re Cabletron Systems, Inc., DR 95-095, Order No. 21,850, 80 NH PUC 620, (October 3, 1995)¹.

4. It has been 29 years since the legislature enacted RSA 362-A:2-a, and 19 years since the Commission issued its Order that RSA 362-A:2-a is a valid exercise of state police powers which is not preempted by Federal law. No LEEPA facility during this extended period has been willing to litigate to determine the manner in which RSA 362-A:2-a is to be implemented.

5. On December 2, 2014, FEL filed its Petition for declaratory rulings with respect to the continuing effect of RSA 362-A:2-a following electric restructuring, and the applicability of the Commission’s rules to limited electrical energy producers selling at retail to not more than three

¹ Counsel for FEL in the present matter also served as Cabletron’s counsel in the 1995 matter.

end users under RSA 362-A:2-a.

6. On December 29, 2014, the Commission issued Order No. 25,744 denying without prejudice FEL's Petition for declaratory rulings. The Order denied the Petition without prejudice, in part, because, *inter alia*, it did not "include factual representations describing any specific proposed transaction, nor does it identify any particular power producer, customer location, retail meter, interconnecting utility, or distribution company involved in, or affected by any proposed retail sales transaction."

7. As noted above in ¶ 3, the Commission's 1995 declaratory ruling addresses only the constitutionality of RSA 362-A:2-a, and does not authorize any particular proposed arrangement for retail wheeling.

8. FEL intends to enter into an agreement with Fiske Hydro, Inc., a LEEPA facility, to purchase 5 Kw of the output of the Fiske Hydro Project ("Fiske Hydro").

9. This Petition seeks authorization from the Commission pursuant to RSA 362-A:2-a, II for the transaction set out hereinafter, and provides factual representations and other information in support thereof.

II. PROPOSED TRANSACTION

The Purchaser

10. FEL is a delivery customer of Public Service Company of New Hampshire's (Rate G) with a service location at 5 Dartmouth Drive, Unit 8, Auburn, New Hampshire 03032.

The Seller

11. The Fiske Hydro Project ("Fiske Hydro") is located at 15 Main Street in Hinsdale, New Hampshire. Fiske Hydro is interconnected to PSNH's local distribution system.

12. The Commission certified Fiske Hydro as a Class IV renewable energy source on November 30, 2012. *See* DE 12-309.

13. In early 2014, Fiske Hydro was awarded a \$225,000 grant by the New Hampshire Public Utilities Commission to increase its generating capacity to 535 KW. Presently, Fiske anticipates that it will complete this work on or before April 1, 2015. At that time, Fiske Hydro anticipates that it will convert its New Hampshire Class IV certification to a New Hampshire Class I certification.

14. Fiske Hydro is both a Limited Electrical Energy Producer ("LEEPA") and a Qualifying Facility ("QF").

15. Fiske Hydro's ISO-New England asset identification number is MSS #15201.

16. Fiske Hydro commenced initial operations on or about March 1, 1987; subsequently, the Facility shutdown on or about January 31, 2003. The Facility re-commenced operations on or about June 1, 2008. (The Facility is licensed by FERC to operate 810 KW of generation at the site).

17. Fiske Hydro's generator voltage is 480 V and is stepped up to 34.5 KV by the Facility's transformer located near 15 Main Street at Hinsdale, New Hampshire. That power is delivered to PSNH's 34.5 KV distribution line that runs along Main Street in Hinsdale, New Hampshire.

18. A copy of PSNH's Interconnection Report for Fisk Hydro is available in the Commission's file. *See* DE 12-309.

19. Since June 2008, Fiske Hydro has sold its output to PSNH at PSNH's Short Term Avoided Cost Rate. *See* PSNH Delivery Tariff at page 32.²

20. Fiske Hydro does not pay any wheeling or transmission costs to PSNH.

Description of the Proposed Transaction

21. Pursuant to RSA 362-A:2-a, FEL intends to consummate an agreement with Fiske Hydro, Inc. to purchase 5 KW of the output of the Fiske Hydro Project located at 15 Main Street in Hinsdale, New Hampshire pursuant to RSA 362-A:2-a.

22. Under the proposed transaction, FEL will pay Fiske Hydro one hundred fifty percent (150%) of PSNH's Short Term Avoided Cost Rate for each kilowatt-hour delivered to FEL's meter.

23. PSNH will deduct the kilowatt-hours sold by Fisk Hydro to FEL and delivered to FEL's meter from the total usage recorded on FEL's meter. PSNH will render monthly bills to FEL based upon total usage net of the kilowatt-hours purchased from Fiske Hydro.

24. FEL will pay to PSNH for any costs as determined by the Commission (net of locational value resulting from avoided transmission and distribution costs, and avoided line

² Qualifying Facilities selling their output to the Company will be eligible to receive Short Term Avoided Cost Rates equal to the payments received by the Company for the sale of QF generation to the ISO-NE power exchange, adjusted for line losses, wheeling costs and administrative costs incurred by the Company for the transaction.

losses) incurred in wheeling and delivering the 5 KW of the output of Fiske Hydro to FEL's meter. As noted above in ¶ 20, Fiske Hydro does not presently pay any wheeling or transmission costs to PSNH.

WHEREFORE, FEL respectfully requests the Commission to issue an Order of Notice commencing an adjudicatory proceeding and thereafter authorize the foregoing agreement, pursuant to RSA 362-A:2-a, II, whereby FEL will purchase 5 KW of the output of the Fiske Hydro Project, and to issue such other orders that may be in the interest of justice.

Respectfully Submitted,
Freedom Logistics, LLC d/b/a
Freedom Energy Logistics
by its Attorney,

Dated: February 13, 2015

/s/ James T. Rodier
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