

STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

May 6, 2015 - 10:01 a.m.
Concord, New Hampshire

NHPUC MAY21 '15 PM 4:28

RE: DE 15-068
FREEDOM LOGISTICS, LLC, d/b/a
FREEDOM ENERGY LOGISTICS:
Petition for Authorization Pursuant
to RSA 362-A:2-a, II, for a Purchase
of LEEPA Output by the Private Sector.
(Prehearing conference)

PRESENT: Rorie E. Patterson, Esq.
(Presiding as Hearings Examiner)

Sandy Deno, Clerk

APPEARANCES: Reptg. Freedom Logistics, LLC, d/b/a
Freedom Energy Logistics:
James T. Rodier, Esq.
August Fromuth (Freedom Logistics)
Cameron MacLeod (Fiske Hydro)

Reptg. Public Service of New Hampshire,
d/b/a Eversource Energy:
Matthew J. Fossum, Esq.

Reptg. Liberty Utilities (Granite State
Electric) Corp.:
Steven E. Mullen
Heather M. Tebbetts

Reptg. Granite State Hydropower Association:
Susan S. Geiger, Esq. (Orr & Reno)

COURT REPORTER: Steven E. Patnaude, LCR No. 52

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APPEARANCES: *(c o n t i n u e d)*

Reptg. Residential Ratepayers:

Wayne Jortner, Esq.

Pradip Chattopadhyay

Office of Consumer Advocate

Reptg. PUC Staff:

Michael J. Sheehan, Esq.

Stephen Eckberg, Sustainable Energy Div.

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Mr. MacLeod 16, 23

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Mr. Mullen 18

Mr. Fossum 19

Mr. Jortner 20

Mr. Sheehan 21

P R O C E E D I N G

1
2 HEARINGS EXAMINER: Good morning. My
3 name is Rorie Patterson. And, I've been asked to be the
4 Hearings Examiner for today's prehearing conference. This
5 is DE 15-068, Freedom Energy, LLC, d/b/a Freedom Energy
6 Logistics, Petition for Authorization Pursuant to RSA
7 362-A:2-a, for a purchase of a L-E-E-P-A, LEEPA, output by
8 the private sector.

9 The Commission issued an Order of Notice
10 on April 7th, 2015, in which it indicated that, on
11 February 17th, 2015, Freedom Logistics filed a petition
12 requesting the Commission to authorize the purchase by a
13 private sector retail customer of electric output
14 generated by a limited electrical energy producer pursuant
15 to 362-A:2-a, II.

16 At this point in time, the Order of
17 Notice did schedule a prehearing conference for today.
18 The OCA has filed a participation letter dated February
19 25th. We have four petitions to intervene; one from
20 Eversource, one from Liberty, one from UES, and one from
21 Granite State Hydro, which we'll take up in a moment. I'm
22 wondering if there's anyone else in the room?

23 (No verbal response)

24 HEARINGS EXAMINER: No. And, I will

1 note for the record that an affidavit of publication was
2 filed on May 5th, 2015. I would like to proceed with
3 appearances please.

4 MR. RODIER: Yes. Good morning.

5 HEARINGS EXAMINER: Good morning.

6 MR. RODIER: I'm Jim Rodier, and I'm
7 representing the Petitioner. The Petitioner is FEL,
8 Mr. Fromuth's company.

9 MR. FROMUTH: Good morning.

10 HEARINGS EXAMINER: Good morning.

11 MR. RODIER: And, the seller is Ron
12 MacLeod, of Fiske Hydro.

13 HEARINGS EXAMINER: Excellent. Thank
14 you.

15 MR. MacLEOD: Nice to meet you.

16 HEARINGS EXAMINER: Nice to meet you,
17 too.

18 MS. GEIGER: Yes. Good morning,
19 Ms. Patterson. Susan Geiger, from the law firm of Orr &
20 Reno. And, I represent Granite State Hydropower
21 Association.

22 HEARINGS EXAMINER: Thank you.

23 MR. MULLEN: Good morning. Steven
24 Mullen, for Liberty Utilities (Granite State Electric)

1 Corp. I'm the Manager of Rates and Regulatory at the
2 Company. I'm appearing in place of Sarah Knowlton, who
3 had a conflict and couldn't be this morning. And, with me
4 from the Company is Heather Tebbetts.

5 HEARINGS EXAMINER: Thank you. Good
6 morning.

7 MR. FOSSUM: And, good morning. Matthew
8 Fossum, for Public Service Company of New Hampshire, doing
9 business as Eversource Energy. And, with me this morning
10 is Rick Labrecque from the Company.

11 HEARINGS EXAMINER: Good morning.

12 MR. JORTNER: And, Wayne Jortner, for
13 the Office of Consumer Advocate. And, with me is Pradip
14 Chattopadhyay.

15 HEARINGS EXAMINER: Good morning.

16 MR. SHEEHAN: Good morning. Mike
17 Sheehan, for Staff. And, present with me is Steve
18 Eckberg.

19 HEARINGS EXAMINER: Good morning. So, I
20 guess we'll turn to the Petitions to Intervene at this
21 point in time. Before I ask the Petitioners to summarize
22 their Petitions to Intervene, Mr. Rodier, do you have any
23 objections to any of the Petitions to Intervene?

24 MR. RODIER: No.

1 HEARINGS EXAMINER: Okay. Is there any
2 other party in the room that has objections to the
3 Petitions to Intervene?

4 MR. SHEEHAN: Staff does not.

5 HEARINGS EXAMINER: Okay. Thank you. I
6 won't then have everyone -- I've read the Petitions. My
7 inclination is to recommend that they be granted. I do --
8 I haven't yet decided if I will recommend for all but
9 Eversource that they be done as a discretionary
10 participation, but I do believe that Eversource does
11 appear to warrant the allowance of a mandatory intervenor.

12 Mr. Rodier, are there any updates to the
13 filing that you'd like to make at this time?

14 MR. RODIER: No, there are not.

15 HEARINGS EXAMINER: Okay. Then, I'll
16 turn to preliminary statements of position. And, before I
17 do that, I wondered if I might ask the individuals who are
18 participating, if they could think about a few questions
19 that I have about the Petition and this case. And, if you
20 could address those in your petitions **[positions?]**, to the
21 extent that you're able to.

22 Before I do that, is Fiske Hydro
23 planning to participate as a party or are they
24 participating with you through your representation, Mr.

1 Rodier?

2 MR. RODIER: I'm not going to -- well,
3 we haven't really discussed that. But I think that what
4 it's going to come down to is, if they're a party, they're
5 going to get data requests and things like that. So, my
6 inclination is that they would not formally be a party to
7 the proceeding. However, we are certainly going to call
8 them as a witness.

9 HEARINGS EXAMINER: So, would you be
10 then available to receive data requests on their behalf
11 and have them answer questions?

12 MR. RODIER: Yes. Yes.

13 HEARINGS EXAMINER: Is that how you're
14 proposing to proceed?

15 MR. RODIER: Yes. Sure.

16 HEARINGS EXAMINER: Okay. So, with
17 regard to the other parties in the case, if you could just
18 address for me the Petitioner's intentions with regards to
19 Fiske Hydro's participation, as, you know, and what I'm
20 looking for is just a sense from the other parties as to
21 whether or not that's sufficient in your view or if that's
22 going to be a contested issue.

23 And, then, the other questions I had
24 before I proceed would be there is no agreement attached

1 to the Petition. And, it sounds like from my reading that
2 Freedom Logistics intends to enter a contract with Fiske
3 to purchase the retail power, is that correct?

4 MR. RODIER: Yes.

5 HEARINGS EXAMINER: And, the statute
6 speaks about agreements approved by the PUC as agreements
7 for the wheeling of that power between the -- between
8 Fiske and PSNH. And, at this point, I haven't seen either
9 agreement. So, do we have no agreements at this point?

10 MR. RODIER: Well, that is correct.

11 Now, there is no agreement for wheeling. And, what was
12 the other --

13 HEARINGS EXAMINER: Are there -- I was
14 just looking to see if there are actual agreements that
15 the Commission is going to be considering approving in
16 this case. So, they would be the -- either the
17 Petition -- or, the agreement to wheel the power between
18 Fiske and PSNH, --

19 MR. RODIER: Yes.

20 HEARINGS EXAMINER: -- or the retail
21 purchase agreement between Fiske and Freedom Logistics.

22 MR. RODIER: Our plan was to file direct
23 testimony, which would have those in there.

24 HEARINGS EXAMINER: Okay. So, if -- to

1 the extent that any other party wishes to address that
2 issue, I'd be open to hearing anything on that. But it
3 sounds as though that might be a better topic for
4 discussion at the technical session after the prehearing
5 conference, --

6 MR. RODIER: Right.

7 HEARINGS EXAMINER: -- if it's
8 satisfactory, the proposal to file testimony.

9 MR. RODIER: If I might add something?

10 HEARINGS EXAMINER: Uh-huh.

11 MR. RODIER: You know, we thought that
12 one benefit to us being here today is we'd like to hear
13 some input at an early stage. I think some people may
14 have some good ideas about how this would work. And, so,
15 before we file -- have a formal -- or, we have a working
16 agreement, that's for sure, --

17 HEARINGS EXAMINER: Uh-huh.

18 MR. RODIER: -- with Fiske. But, before
19 we formalize that, you know, we may come back with
20 something that's amended to at a time the testimony has
21 to -- the direct testimony has to come up in.

22 HEARINGS EXAMINER: Uh-huh. I
23 understand. Thank you.

24 MR. RODIER: You're welcome. May I ask

1 you another question?

2 HEARINGS EXAMINER: Yes.

3 MR. RODIER: How do we address you?

4 HEARINGS EXAMINER: "Ms. Patterson" is
5 fine.

6 MR. RODIER: Okay.

7 HEARINGS EXAMINER: Thank you.

8 MR. RODIER: Yes.

9 HEARINGS EXAMINER: And, then, lastly, I
10 wondered if anybody could comment on if there's any
11 dispute at this point in time as to whether Fiske
12 qualifies as a limited electrical energy producer.

13 So, with that, Mr. Rodier, if you would
14 like to present your preliminary statement of position or
15 would you prefer to go last?

16 MR. RODIER: No, I'm happy to go first.
17 And, I'm going to try to be fairly brief. As you know,
18 and I think as we all recognize and accept at this point,
19 RSA 362-A:2-a, I think is the relevant section, allows a
20 LEEPA facility, that's Mr. MacLeod's Fiske Hydro, to sell
21 to a retail customer, and that is Mr. Fromuth's company.
22 Now, FEL does a lot of things, but they also have their
23 own account with PSNH. So, they're not here in any other
24 capacity other than, you know, they're a customer.

1 So, the law authorizes Fiske to sell to
2 up to three retail customers. Okay, let's say that they
3 can't be in Usource's territory -- or, these are in Public
4 Service's territory, over in Hinsdale, okay? A lot of
5 this is restricted to just PSNH, maybe it's the Co-op,
6 maybe it's Unitil, maybe it's -- so, but we're all in the
7 same load zone here in New Hampshire. So, you know, that
8 would be a possibility. But we're trying to, at this
9 point, keep this thing as clean as we can, to sort of not
10 get into any fundamental issues, okay?

11 So, we have this working agreement.
12 And, the -- one of the key aspects is we modeled it after
13 net metering, meaning Fiske Hydro generates the
14 electricity, and somehow it is delivered, and that's a big
15 issue, the transmission or the wheeling costs, as you
16 mentioned, to Auburn, New Hampshire, and there is going to
17 be excess electricity. And, does that -- are we going to
18 be able to spin the meter backwards? That's a big issue.
19 Right now, Fiske gets short-term avoided costs, which is a
20 rather, in a relative sense, a low number.

21 Now, a little background here, having
22 said this. The LEEPA statute was passed, I believe, in
23 1976. I think that's 40 years ago. Right. What's the
24 genesis of that? The genesis of it was, and I was

1 around -- by the way, this is my 39th year coming before
2 the PUC, okay? I was around at that time. And, of
3 course, PSNH was trying to build two nuclear units. They
4 really weren't interested in getting involved with
5 purchases from renewable facilities or hydro facilities or
6 anything like that, okay? So, the Legislature passed the
7 law that said, I'm not quite sure what they said, that
8 these guys have a right to sell to the local utility, to
9 put it to the local utility and the utility pays them for
10 it. That didn't work too well, because -- well, for
11 whatever reasons. Didn't get them anywhere. So, two
12 years later, '78, the Legislature passes the
13 "three-customer law", which says they could -- well,
14 "they're not having much luck selling to PSNH. Let's see
15 if they can sell, you know, get -- have new markets by
16 selling to end users directly." And, that's where the --
17 we called it the "three-customer law".

18 So, nothing still happens, because we --
19 we inquired, but "the law was unconstitutional", there's
20 all these things that we heard from the utilities that
21 were mad about the law.

22 So, around about '95, I believe it was,
23 on behalf of Cabletron and Johnson Controls, I filed a
24 Petition for Declaratory Order with the Commission that

1 this law was unconstitutional on the books, okay? I did,
2 thankfully, get a favorable ruling from the Commission, I
3 believe it was sometime in '95.

4 And, shortly thereafter, of course,
5 wasn't that long after I got another ruling out of the New
6 Hampshire Supreme Court that says "franchises aren't
7 exclusive", or "exclusive as a matter of law". Matter of
8 practice, they are. PUC can let somebody else in, if they
9 wanted to, if it's in the public interest. So, that
10 brought 374-F, came into the picture, and everybody has
11 been pretty much working on the retail competition issue
12 since that time. And, there have been quite a few.

13 So, that brings us to lately where we
14 look around and we say "well, let's look at what's going
15 on in Massachusetts", "look at what's going on in Maine",
16 for example. Let me just say this real quick. In
17 Massachusetts, has -- not only has a net metering law,
18 they have a virtual net metering law, where basically you
19 can sell your excess to anybody else in the same load zone
20 and run their meter backwards, okay?

21 And, they just, Friday night, released
22 their Net Metering and Solar Task Force Report to the
23 Legislature, which is, you know, very, very interesting.
24 They are tackling all of these issues in Massachusetts.

1 Not that that should be our model, but, you know, it --
2 certainly, it has influence.

3 Maine, April 14th, issued their, I think
4 they call it a "VOS", I guess, "Value of Service", anyway,
5 Value of Service for Solar. They went through. When
6 you've got, on a small customer, doesn't have to be solar,
7 renewable hooks up way down at the tail end of the system,
8 you have avoided generation, transmission and
9 distribution, not just the generation rate or the
10 generation costs. Okay? That's on the Maine PUC's
11 website. That's very germane to what we're doing here,
12 because all they're getting is the, you know,
13 out-of-pocket generation costs. What other costs of value
14 do they add to the system?

15 And, then, it's -- I'll be real quick
16 here, I hope I'm not working -- you know, wearing out my
17 welcome. But, over the weekend, Tesla announces a deal
18 with Green Mountain Power in Vermont. Batteries,
19 everywhere. The system is going to change dramatically.
20 We're going to get into micro grids, distribution --
21 distributed generation. Which, by the way, the State
22 Office of Energy & Planning released their report last
23 fall, a major prong was "you need distributed generation".
24 That's what's sitting here.

1 So, what we would like to do is to say
2 "Okay, this law has been on the books forever. And, we
3 would like once and for all to try to apply it, because we
4 finally think the time has come to do that." And, we're
5 very interesting -- interested in hearing what other
6 people would have to say about, well, you know, what their
7 suggestions might be about how we could go about doing
8 this. So, thank you very much.

9 HEARINGS EXAMINER: Thank you.

10 MR. MacLEOD: May I make a comment?

11 HEARINGS EXAMINER: You may.

12 MR. MacLEOD: As a small independent
13 power producer in the State of New Hampshire, at this time
14 we get the ISO -- New England ISO avoided cost rate. If
15 we're able to come to terms with Freedom, and if other
16 small hydro producers can follow in our footsteps, it's
17 going to make a terrific difference to the economics of
18 these small projects. And, I feel that these sources of
19 green energy are very important. There are a number of
20 projects in the State of New Hampshire which could be
21 developed or redeveloped, actually, because they were
22 developed at one time, if the economics were better. And,
23 I think this will make a significant impact, you know, for
24 the consumers in the State of New Hampshire, and for the

1 green energy available. Thank you.

2 HEARINGS EXAMINER: Thank you. Ms.
3 Geiger, please.

4 MS. GEIGER: Yes. Thank you. Granite
5 State Hydropower Association believes that Freedom's
6 proposed transaction with Fiske Hydro is the type that was
7 specifically contemplated by RSA 362-A:2-a, and therefore
8 should be allowed. Granite State Hydro Association also
9 believes that other similarly situated LEEPA facilities
10 should be permitted to enter into similar transactions,
11 and therefore intends to participate in this docket to
12 protect its members' interests accordingly.

13 GSHA is interested in exploring other
14 issues, such as the wheeling rates that might apply, and,
15 more specifically, GSHA is interested in whether there
16 should be different wheeling rates for customers located
17 within and outside of the service territory of the local
18 distribution company to which a LEEPA facility sells its
19 power.

20 And, lastly, GSHA will participate
21 cooperatively with other Parties in the docket to help
22 resolve the issues that are raised by it.

23 HEARINGS EXAMINER: Thank you.
24 Mr. Mullen.

1 MR. MULLEN: Yes. On the issue of
2 whether Fiske Hydro is a LEEPA facility, I don't believe
3 we have any question on that.

4 In terms of Fiske's participation in the
5 proceeding, I'd say right now, I heard Mr. Rodier say that
6 the Fiske Hydro would be called as a witness. And, where
7 the Petition came in without testimony or any agreements,
8 I'd say that, you know, once we see the -- once we see the
9 testimony and the agreements, we'd probably have a better
10 understanding exactly of how Fiske will be participating
11 in the proceeding. So, we'll probably reserve judgment
12 until we have that.

13 Liberty is interested, of course, in
14 certain questions that are raised. And, again, once we
15 have the testimony and the agreements, maybe some of those
16 questions will be addressed. And, you know, we'll have
17 to -- some of those questions were raised in our Petition
18 to Intervene.

19 So, I think that, in terms of developing
20 a schedule, that's all going to be determined based on
21 when the -- we see the substance of the testimony and the
22 agreements. Thank you.

23 HEARINGS EXAMINER: Thank you.

24 Mr. Fossum.

1 MR. FOSSUM: Thank you. I believe I can
2 start by saying that, in large measure, Eversource agrees
3 with much of what Mr. Mullen has just stated on behalf of
4 Liberty. We do not have any cause to question Fiske's
5 status as a LEEPA facility.

6 But we will say we do have some concern
7 about Fiske not participating. There was an indication
8 that there was a desire not to have them served with
9 discovery. I don't understand why that might be at this
10 point. But, again, much like Mr. Mullen, some of that may
11 be made more clear when agreements and/or testimony are
12 presented.

13 That said, we do have some other issues
14 that we are interested in understanding better. I think
15 that some of them were laid out succinctly in the Petition
16 that Liberty filed, having to do with the relationship of
17 this arrangement with net metering. We also have some
18 questions about how this would actually work from a
19 billing perspective, and what it would mean for attempting
20 to bill a transaction like this, or some variation of it.

21 So, we're very interested in exploring a
22 lot of those issues. And, again, some of those may be
23 ultimately addressed by an agreement or testimony that's
24 filed. But, in that we haven't seen any yet, we remain

1 open to discovering what it is exactly that is intended to
2 be done. Thank you.

3 HEARINGS EXAMINER: Thank you.

4 Mr. Jortner.

5 MR. JORTNER: Thank you. Good morning.

6 HEARINGS EXAMINER: Good morning.

7 MR. JORTNER: At first blush, the
8 transaction that Mr. Rodier brings here -- that Freedom
9 Energy brings here appears to be one that would be
10 contemplated by the statute, and generally within the
11 policy that the Legislature set out in enacting that
12 statute. But the statute also provides for certain
13 conditions that would cause the Commission to disallow the
14 Petition, and that involves data that we haven't seen yet.
15 So, we're very interested in hearing from other parties
16 and seeing further data to understand, for instance,
17 whether there are uncompensated costs that get shifted to
18 other ratepayers. That would be our primary concern.

19 Whether there are any other harms or
20 results that are not in the public interest. So, we don't
21 have a, you know, a firm position on the matter yet, but
22 we'll be interested in hearing that.

23 In terms of Fiske's participation, we
24 would be more comfortable if there was some assurance that

1 there wouldn't be any data that would be unavailable to
2 the Commission or the Parties because of their lack of
3 status as a party. So, we would hope that any data that
4 we seek would be from Fiske, that isn't within the
5 knowledge of FEL, would be available in this proceeding.

6 That's our only concern about that.

7 Thanks.

8 HEARINGS EXAMINER: Thank you.

9 Mr. Sheehan.

10 MR. SHEEHAN: Thank you. Briefly, on
11 the intervention, I agree with your "first blush"
12 suggestion that PSNH be allowed in as a mandatory, the
13 others as permissive. That seems to make the most sense.

14 The statute requires the Commission to
15 authorize or the Commission to review and approve
16 contracts. So, there is an issue of whether this is
17 premature. I understand the proceeding was initially
18 filed as a declaratory judgment, and that was dismissed
19 without prejudice and it's been refiled. I'm not
20 suggesting we elevate form over substance, but there is
21 certainly an issue of whether there's anything here to
22 support the docket. And, I'm not taking a position that
23 it should be dismissed, perhaps we can get a quick filing
24 of testimony in and an agreement to cure that problem.

1 That seems to be the gist of what the others have said.

2 Otherwise, my thoughts are similar to
3 what you've heard so far. It's certainly up to Fiske
4 whether to participate as a party or not. And, I think it
5 would come to a head should a discovery request go
6 unanswered because they're not a party. And, if that were
7 to be important information, that may be a substantial
8 stumbling block. But, again, it's premature to decide.
9 So, that's just a thought.

10 Otherwise, Staff has no position at this
11 time, because we don't have an agreement to take a
12 position on. Thank you.

13 HEARINGS EXAMINER: Thank you. Well,
14 thank you all for that, for responding, --

15 MR. RODIER: May I, just for one second?

16 HEARINGS EXAMINER: Yes. Yes, of
17 course.

18 MR. RODIER: I'm sorry. I didn't mean
19 to interrupt you.

20 HEARINGS EXAMINER: That's okay.

21 MR. RODIER: Two things. Fiske is a
22 party. The reason that I proposed what I did, I'm trying
23 to protect Fiske from getting inundated with data
24 requests. They're here without the benefit of counsel.

1 We have had some proceedings where we've had two to three
2 hundred data requests propounded. And, if people were
3 willing to abide by what the Superior Court does, which is
4 you only get 25, they get massive cases at the Supreme
5 Court, you get 25 data requests period. That's fine. But
6 I don't want Ron getting hit with 200 data requests, as a
7 way of slowing this proceeding down. I have no basis in
8 that for saying anybody is going to do that, but that's
9 the reason.

10 So, I don't think -- and, I'll let Mr.
11 MacLeod speak for himself on this. But, certainly, you
12 know, he can be a party. The only reason I said that is,
13 like I said, this was to try to put a firewall between
14 him, as a one-man show, and a stack of data requests.

15 MR. MacLEOD: Can I speak?

16 MR. RODIER: And, I have one more
17 comment after this.

18 HEARINGS EXAMINER: Sure.

19 MR. MacLEOD: I have to say I agree.
20 We're a very small facility, very small company. I don't
21 feel we could necessarily afford representation. We're a
22 facility that's in the process of rebuilding. We were
23 fortunate enough to get a grant from the PUC to do that.
24 And, it would be very difficult for us, I imagine, I

1 actually don't have experience with these types of
2 petitions, but I think it would be a pretty big deal for a
3 little tiny company. Thank you.

4 HEARINGS EXAMINER: Thank you. Could I
5 address this, actually? Just it's not uncommon, in cases
6 at the Public Utilities Commission, for there to be
7 co-petitioners, and to have the petitioners working
8 together. And, it sounds like that's what you're
9 proposing.

10 MR. RODIER: Yes.

11 HEARINGS EXAMINER: It also sounds like
12 it's something that may be workable amongst the parties in
13 the tech session. My expectation would be that the Staff
14 would file a report of the tech session afterwards and
15 could present a proposed procedural schedule in that
16 report, as well as any other recommendations with regards
17 to the status of Fiske and how Freedom and Fiske will
18 function in the docket.

19 MR. MacLEOD: Could I ask a question?

20 HEARINGS EXAMINER: Yes, you may.

21 MR. MacLEOD: Freedom is going to be
22 obligated to answer any of these questions that are filed,
23 apparently, is that correct?

24 HEARINGS EXAMINER: Yes.

1 MR. MacLEOD: Okay. So, in that sense,
2 if they're asked a question regarding Fiske Hydro, and we
3 cooperate with them to give them the information, if they
4 fail to file it with you, it would be a problem?

5 HEARINGS EXAMINER: I'm not going to --
6 I'm not going to respond to that, just because I think
7 this is something that you can talk --

8 MR. MacLEOD: Okay.

9 HEARINGS EXAMINER: -- amongst
10 yourselves after the prehearing conference. Because I do
11 believe that there's a way to work it out. It sounds like
12 everyone in the room is amenable to working it out to
13 address any concerns about access to information that's
14 only within Fiske's possession.

15 MR. MacLEOD: Right.

16 HEARINGS EXAMINER: Because you would
17 agree with me, if I said that it's possible for Freedom to
18 say "we don't possess information that you possess". But
19 we don't need to go there.

20 MR. MacLEOD: Okay.

21 HEARINGS EXAMINER: So, why don't you
22 all have a conversation in the tech session and provide a
23 recommendation as to how Fiske will participate at this
24 point in time. And, that could always be something that

1 is revisited at a later date, if there is difficulty, if
2 there is a decision to not have Fiske by a party at this
3 point, if there is difficulty getting access to data, that
4 could be revisited at another point in time as well.

5 MR. MacLEOD: Thank you very much.

6 HEARINGS EXAMINER: Your second
7 question?

8 MR. RODIER: Okay. Two quick things.
9 One is that, and Mr. MacLeod reminds me, that they were
10 the recipient about a year ago of a very -- a very good
11 award of money from the Commission to substantially
12 increase the size of this facility. And, I have quickly
13 reviewed that filing. There is so much data in there.
14 They know more -- the Commission Staff knows more about
15 Fiske Hydro than, you know, any other similarly situated
16 facility around. So, that would be a great resource for
17 us to start with here, the Commission's files.

18 Now, my second point was, okay, there's
19 no contract. But, in substance here, we have a term
20 sheet, we've provided a term sheet. It says this is what
21 we're going to -- this is what they're going to get paid,
22 and this is how we're going to handle the structure of the
23 deal, basically, it's net metering. Everybody
24 understands, with net metering, you just you run your

1 meter backwards, certain components of the rate you're on
2 sort of get reduced because you're running the meter
3 backwards.

4 But, so, we felt that, in terms of all
5 the rules require, as you well, well know, Ms. Patterson,
6 all we have to do is we file a petition, okay? And, I
7 understand these people want to, you know, see a contract.
8 So, we've -- I've said that I'd like to hear what they've
9 got to say, and then we will be filing a contract pursuant
10 to a procedural schedule.

11 HEARINGS EXAMINER: Thank you.

12 MR. RODIER: You're welcome.

13 HEARINGS EXAMINER: Is there anything
14 else before I take this matter under advisement? I've
15 always wanted to say that.

16 (No verbal response)

17 HEARINGS EXAMINER: Nothing?

18 (No verbal response)

19 HEARINGS EXAMINER: Okay. Well, as I've
20 indicated, if you could just discuss the next steps in the
21 technical session, and file a report with the Commission,
22 that would be very much appreciated.

23 MR. RODIER: That's great.

24 HEARINGS EXAMINER: So, thank you.

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MR. RODIER: You're welcome.

**(Whereupon the prehearing conference was
adjourned at 10:33 a.m., and the Parties
and Staff commenced a technical session
thereafter.)**