

**THE STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 15-303

VIVINT SOLAR, INC.

**Petition for Declaratory Ruling regarding RSA 362:2,
362-A:2-a, and Rule Puc 2002.05**

ORDER OF NOTICE

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.

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.

According to Vivint Solar, third party ownership of solar energy systems enables more consumers to generate their own renewable electricity because such arrangements permit investors with federal income tax liability to utilize federal tax credits and benefits, in addition to state and utility solar incentives and net metering programs where available, thereby making solar energy system installations more affordable for residential customers. The solar energy systems installed on customers' rooftops pursuant to Vivint Solar's power purchase agreements and solar leases are located on private property and on the customers' side of utility electric meters. The power purchase agreements and solar leases are offered only to homeowners that meet certain credit and underwriting standards and whose homes meet additional physical and safety criteria, according to Vivint Solar.

In its petition, Vivint Solar represented that, without clarity on how it may be regulated by the Commission, it cannot enter the state to offer its power purchase agreements and solar leases to New Hampshire customers.

Vivint Solar's petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, will be posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2015/15-303.html>.

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.

Based upon the foregoing, it is hereby

ORDERED, that a prehearing conference, pursuant to N.H. Code Admin. Rules Puc 203.15, be held before the Commission located at 21 S. Fruit St., Suite 10, Concord, New

Hampshire on October 8, 2015 at 10:00 a.m., at which each party will provide a preliminary statement of its position with regard to the petition and any of the issues set forth in N.H. Code Admin. Rules Puc 203.15; and it is


FURTHER ORDERED, that, immediately following the prehearing conference, Vivint Solar, the Staff of the Commission, and any intervenors hold a technical session to review the petition and allow Vivint Solar to provide any amendments or updates to its filing; and it is

FURTHER ORDERED, that, pursuant to N.H. Code Admin. Rules Puc 203.12, Vivint Solar shall notify all persons desiring to be heard at this hearing by publishing a copy of this Order of Notice no later than September 11, 2015, in a newspaper with general circulation in those portions of the state in which operations are conducted, publication to be documented by affidavit filed with the Commission on or before October 6, 2015; and it is

FURTHER ORDERED, that, pursuant to N.H. Code Admin. Rules Puc 203.17, any party seeking to intervene in the proceeding shall submit to the Commission seven copies of a petition to intervene with copies sent to Vivint Solar on or before October 6, 2015, such petition stating the facts demonstrating how its rights, duties, privileges, immunities, or other substantial interest may be affected by the proceeding, as required by N.H. Code Admin. Rules Puc 203.17 and RSA 541-A:32, I (b); and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before October 8, 2015.

By order of the Public Utilities Commission of New Hampshire this third day of
September, 2015.


Debra A. Howland
Executive Director

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the Americans with Disabilities Act Coordinator, NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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FILING INSTRUCTIONS:

- a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:
- DEBRA A HOWLAND
EXEC DIRECTOR
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429
- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.