

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 13- 057

**RESIDENT POWER NATURAL GAS AND ELECTRIC SOLUTIONS, LLC
d/b/a RESIDENT POWER**

Petition for Declaratory Ruling

Order Granting Petition In Part, and Dismissing In Part

ORDER NO. 25,467

February 28, 2013

On February 22, 2013, Resident Power Natural Gas and Electric Solutions, LLC d/b/a Resident Power (Resident Power), a registered electric power aggregator headquartered in Manchester, New Hampshire, filed a petition for a declaratory ruling by the Commission regarding its aggregation activities.¹ Specifically, Resident Power requested that the Commission, pursuant to N.H. Code Admin. Rules Puc 207.01, issue an Order ruling that:

(1) The registration of Resident Power as an electric power aggregator with the Commission has not been revoked, suspended, or withdrawn, and remains valid and in full force and effect;

(2) No provision of the Commission's rules prohibits or prevents Resident Power from continuing to represent its customers for electric supply services, in accordance with the terms and conditions specified by the aggregation agreement in place between Resident Power and such customers, including those customers that were formerly customers of PNE Energy Supply, LLC (PNE), a competitive electric power supplier (CEPS) registered with the Commission and headquartered in Auburn, New Hampshire, subject to cancellation by any customer of Resident Power in accordance with the terms and conditions of the aggregation agreement in place;

¹ In its petition, Resident Power referred to its legal name as "Resident Power, LLC." However, the full legal name of Resident Power, as submitted in its application for registration as an electric power aggregator in Docket No. DM 11-081, and approved by the Commission by a secretarial letter dated June 28, 2011, is "Resident Power Natural Gas and Electric Solutions, LLC," with a trade name of "Resident Power." These names also remain registered with the New Hampshire Secretary of State, and are used in this Order.

(3) That the proposed enrollment by Resident Power, or any CEPS with which Resident Power offers an aggregated load, of those Resident Power customers with whom an aggregation agreement exists, who were formerly customers of PNE and were transferred to Public Service Company of New Hampshire (PSNH) default service on February 20, 2013, as a result of the suspension of PNE by ISO-New England, for electric service to be provided by FairPoint Energy LLC or any other CEPS at an energy service rate less than the PSNH default service rate, shall not constitute “slamming” under applicable New Hampshire law, including N.H. Code Admin. Rules Puc 2004.10(b), provided such customer of Resident Power has not provided notice of cancellation to Resident Power in accordance with the terms and conditions of his or her aggregation agreement with Resident Power on or before the date of enrollment of such a customer in the applicable electronic data interchange; and

(4) That the proposed enrollment, by Resident Power, or any CEPS with which Resident Power offers an aggregated load, of those Resident Power customers with whom Resident Power has re-confirmed a prior aggregation agreement, who were formerly customers of PNE and were transferred to PSNH default service on February 20, 2013, as a result of the suspension of PNE by ISO-New England, for electric service to be provided by FairPoint Energy LLC or any other CEPS at an energy service rate less than the PSNH default service rate, shall not constitute “slamming” under applicable New Hampshire law, including Puc 2004.10(b), provided such customer of Resident Power has not provided notice of cancellation to Resident Power in accordance with the terms and conditions of his or her aggregation agreement with Resident Power on or before the date of enrollment of such customer in the applicable electronic data interchange.

On February 27, 2013, the Office of the Consumer Advocate (OCA) filed an objection to Resident Power’s motion for a declaratory ruling. In its objection, the OCA cited the lack of factual clarity regarding the recent events surrounding Resident Power and PNE, which militated in favor of a public hearing to examine facts in dispute in advance of any Commission grant of declaratory relief to Resident Power. The OCA, through its objection, also made certain factual allegations regarding the business relationship between Resident Power and PNE, and Resident Power’s guarantees to customers, which, in OCA’s view, required investigation by the Commission.

The Commission analyzes petitions for declaratory rulings pursuant to the terms of N.H. Code Admin. Rule Puc 207.01, which states, in part (c), that the Commission shall dismiss a

petition for declaratory ruling that (1) fails to set forth factual allegations that are definite and concrete; or (2) involves a hypothetical situation or otherwise seeks advice as to how the Commission would decide a future case.

In this instance, Resident Power first seeks a simple confirmation of its status as a registered electric power aggregator in New Hampshire. We affirm that, as of this date, Resident Power is a duly registered electric power aggregator in this State, as approved in Docket No. DM 11-081 on June 28, 2011.

For its remaining three requests for declaratory ruling, Resident Power seeks confirmation that it may continue to represent the former PNE customers and that certain courses of business action contemplated by Resident Power for its aggregation customers, in relation to the recent suspension of PNE by ISO-New England and the reversion of a number of customers of PNE to PSNH default service, would not constitute “slamming” under RSA 374:28-a and Puc 2004.10(b). In light of the show-cause Order of Notice issued today regarding the recent business activities of Resident Power and PNE², and the factual uncertainties surrounding recent events involving Resident Power and PNE, as independently noticed by the Commission and pointed out by the OCA, we are not convinced that the factual background is sufficiently “definite and concrete” for the granting of the declaratory ruling sought by Resident Power for items 2 through 4, above. Moreover, pursuant to Puc 207.01(c)(2), we may not provide advice as to how, on a facts-and-circumstances basis, the Commission would resolve future slamming complaints brought forward by consumers after Resident Power takes either of its proposed courses of business action. Therefore, we will grant Resident Power’s request for a declaratory

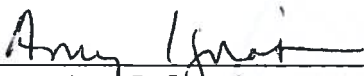
² See Docket Nos. DE 13-059 and DE 13-060.

ruling with regards to its registration status, a matter of public record not in dispute, and will dismiss Resident Power's remaining declaratory ruling petition items.

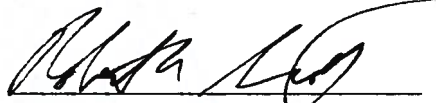
Based upon the foregoing, it is hereby

ORDERED, that the petition for a declaratory ruling by Resident Power is **GRANTED IN PART** and **DISMISSED IN PART**, subject to the terms discussed herein.

By order of the Public Utilities Commission of New Hampshire this twenty-eighth day of February, 2013.

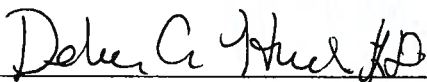


Amy L. Ignatius
Chairman



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director