

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 14-346

FREEDOM LOGISTICS, LLC, D/B/A FREEDOM ENERGY LOGISTICS

Petition for Declaratory Rulings Regarding RSA 362-A:2-a and Rule Puc 2002.05

Order Dismissing Petition Without Prejudice

ORDER NO. 25,744

December 29, 2014

In this order the Commission dismisses without prejudice the Petition for Declaratory Rulings Regarding RSA 362-A:2-a and Rule Puc 2002.05 (Petition) filed on December 2, 2014, by Freedom Logistics, LLC, d/b/a Freedom Energy Logistics (Freedom Energy). The Petition requests that the Commission issue 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 regarding competitive electric power suppliers, N.H. Code Admin. Rules Chapter Puc 2000, to limited electrical energy producers selling at retail to not more than three end users under RSA 362-A:2-a, the New Hampshire Limited Electrical Energy Producers Act (LEEPA).

In particular, the Petition asks the Commission to issue the following rulings of law:

- A. That the Commission's Order in Re Cabletron Systems, Inc. [Order No. 21,850, 80 NH PUC 620 (October 3, 1995) regarding federal preemption] remains good law.
- B. That a LEEPA facility that produces not more than 5 megawatts of power may sell power directly to not more than 3 end users without being required to register as a Competitive Electric Power Supplier (CEPS) with the Commission.

The Petition raises complex issues of interpretation under the federal constitution, state statutes, and Commission rules. It does not, however, 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.

In addition, the Petition appears to ask the Commission to render an advisory opinion on complicated legal and regulatory issues that may in fact be entirely hypothetical. For example, the Petition asserts that “[a]n *issue which may arise* in this proceeding is whether the enactment of RSA 374-F in 1996, *or any other subsequent statute*, has impliedly repealed RSA 362-A:2-a.” Petition at 2 (emphasis supplied).

Under N.H. Code Admin. Rules Puc 207.01(c), the Commission must dismiss any petition for declaratory ruling that:


- (1) Fails to set forth factual allegations that are definite and concrete;
- (2) Involves a hypothetical situation or otherwise seeks advice as to how the commission would decide a future case; or
- (3) Does not implicate the legal rights or responsibilities of the petitioner; or
- (4) Is not within the commission’s jurisdiction.

We believe that Freedom Energy’s Petition both (1) fails to set forth factual allegations that are definite and concrete, and (2) involves a hypothetical situation or otherwise seeks advice as to how the Commission would decide a future case. We therefore dismiss the Petition, without prejudice, pursuant to Puc 207.01(c).


Based upon the foregoing, it is hereby

ORDERED, that Freedom Energy’s Petition for Declaratory Rulings is hereby **DISMISSED**, without prejudice.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth day of
December, 2014.



Martin P. Honigberg
Chairman



Robert R. Scott
Commissioner

Attested by:



Debra A. Howland
Executive Director