

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Integrate and Refine Procurement
Policies and Consider Long-Term
Procurement Plans.

Rulemaking 12-03-014

CLEAN COALITION MOTION FOR RECONSIDERATION OF ALJ RULING ON
NOTICE OF INTENT

Tam Hunt
Attorney for:
Clean Coalition
16 Palm Ct
Menlo Park, CA 94025
(805) 214-6150

September 19, 2013

CLEAN COALITION MOTION FOR RECONSIDERATION OF ALJ RULING ON NOTICE OF INTENT

The Clean Coalition respectfully submits this motion, pursuant to Rule 11 of the *Rules of Practice and Procedure* (motions), for the Commission to re-consider its ruling on the Clean Coalition's Notice of Intent to claim intervenor compensation.

The Clean Coalition is a California-based nonprofit organization whose mission is to accelerate the transition to local energy systems through innovative policies and programs that deliver cost-effective renewable energy, strengthen local economies, foster environmental sustainability, and enhance energy security.

To achieve this mission, the Clean Coalition promotes the vigorous expansion of Wholesale Distributed Generation (WDG) – a market segment defined by renewable energy generation that connects to the distribution grid and serves local load. The Clean Coalition drives policy change to remove major barriers to the procurement, interconnection, and financing of WDG projects. Furthermore, to enable higher penetration of clean local energy generation, the Clean Coalition drives policy innovations that support the deployment of Intelligent Grid (IG) market solutions – such as demand response, energy storage, and advanced forecasting.

I. Discussion

ALJ Gamson issued a ruling in this proceeding on August 27, 2013, denying our Notice of Intent (NOI) to claim intervenor compensation, finding that the Clean Coalition did not qualify as a category 3 customer and had not demonstrated financial hardship.

However, the Clean Coalition had already been found to be a category 3 customer in the previous Long-Term Procurement proceeding (LTPP, R.10-05-006) and guidance in the new LTPP (R.12-03-014) directed that previous findings of eligibility carry over to

the new LTPP. This conflict between rulings resulted from procedural errors by the Clean Coalition and has prompted the current motion for reconsideration.

On September 19, 2012, Dyana Delfin-Polk, a Clean Coalition staffperson active at the Commission, received an email from ALJ Gamson (copied below) advising her that the March 2012 OIR (R.12-03-014) required the Clean Coalition to submit an NOI, despite the fact that the Clean Coalition had been previously granted intervenor compensation eligibility in R.10-05-006 (see approved NOI in Attachment A). We failed to point out at that time that the more recent and relevant precedents were the scoping memo and the Assigned Commissioner's Ruling (ACR) from May 17, 2012 (Attachment B).

The scoping memo and ACR stated at p. 15 (emphasis added): "Parties who were previously found eligible to request compensation in R.10-05-006 shall remain eligible in this proceeding and do not need to file a notice of intent within 30 days, provided there are no material changes in their bylaws or financial status." The scoping memo was issued prior to the deadline for NOIs after the PHC, so it seems that it should have been controlling. Accordingly, we request that the Commission carry over the Clean Coalition's customer status from R.10-05-006 to R.12-03-014 as described further below.

Further, ALJ Gamson's email, copied below, includes language from the March, 2013, Order Instituting Rulemaking that: "Determinations of eligibility for intervenor compensation rendered in R.10-05-006 shall continue to this proceeding upon request in the NOI." This was the guidance that ALJ Gamson relied on in directing us to file a new NOI. Unfortunately, we failed to state in our NOI in R.12-03-014 that we already had an approved NOI from R.10-05-006 and that it should carry over, per the guidance in the scoping memo and ACR. We did, however, highlight this fact in our motion to late-file our NOI (Sept. 25, 2012, Attachment C).

From: Gamson, David M. <david.gamson@cpuc.ca.gov>

Date: Wed, Sep 19, 2012 at 3:39 PM

Subject: RE: Question Regarding Intervenor Comp

To: Dyana Delfin-Polk <dyana@clean-coalition.org>

Cc: Icompcoordinator <icompcoordinator@cpuc.ca.gov>

Per the Rulemaking (R.12-03-014), you do have to file a NOI (now late-filed) in this proceeding, even if you filed one in the last proceeding. The relevant language from R.12-03-014 is as follows:

Any party that expects to claim intervenor compensation for its participation in this rulemaking shall file its notice of intent (NOI) to claim intervenor compensation no later than 30 days after the PHC, even if that party had previously sought intervenor compensation status in R.10-05-006. Determinations of eligibility for intervenor compensation rendered in R.10-05-006 shall continue to this proceeding upon request in the NOI. Contributions made during the pendency of R.10-05-006 to issues within the scope of this proceeding may be considered for compensation in this proceeding.

II. Motion

We request that the Commission consider our procedural errors described above in light of the fact that we have reasonably relied upon the R.10-05-006 (2011 LTPP) ruling, which found that the Clean Coalition is eligible for intervenor compensation. The Clean Coalition has relied heavily on this previous ruling and has invested large sums of time and money based on our approved NOI, in the LTPP and in other proceedings – over the two-year period since the Commission found that we were a category 3 customer.

The Clean Coalition is also happy to meet to discuss ALJ Gamson's concern, expressed in his recent ruling, that the Clean Coalition does not qualify as a customer due to the fact that it is not a membership organization. We addressed this issue with the previous compensation program coordinator, Maria Vengirova, which led to our approval as a customer by ALJ Allen in our NOI in R.10-05-006.

III. Conclusion

Due to the Commission's previous finding of the Clean Coalition being eligible for intervenor compensation as a category 3 customer, and our heavy reliance on this previous finding over the last two years, we request that the Commission reconsider its recent ruling denying our NOI in the LTPP.

Respectfully submitted,

TAM HUNT

A handwritten signature in black ink, appearing to read 'TH', with a long horizontal stroke extending to the right.

Attorney for:
Clean Coalition
2 Palo Alto Square
3000 El Camino Real, Suite 500
Palo Alto, CA 94306
(805) 705-1352

Dated: Sept. 19, 2013

Attachment A: Approved NOI from R.10-05-006

Attachment B: Scoping Memo and Assigned Commissioner's Ruling in R.12-03-014

Attachment C: Clean Coalition Motion to Late-File NOI