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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
(Filed March 22, 2012)

ADMINISTRATIVE LAW JUDGE’S RULING ON CLEAN COALITION’S SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

Customer: Clean Coalition	
Assigned Commissioner: Michel Peter Florio	Assigned ALJ: David M. Gamson

PART I: PROCEDURAL ISSUES

A. Status as “customer” (see Pub. Util. Code § 1802(b)): The party claims “customer” status because it (check one):	Applies
1. Category 1: Represents consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the Commission (§ 1802(b)(1)(A)).	
2. Category 2: Is a representative who has been authorized by a “customer” (§ 1802(b)(1)(B)).	
3. Category 3: Represents a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, to represent “small commercial customers” (§ 1802(h)) who receive bundled electric service from an electrical corporation (§ 1802(b)(1)(C)), or to represent another eligible group.	X
<p>4. The Clean Coalition meets the definition of Category 3 customer because it is a non-profit organization representing California customers and “seeks to protect the broader interests in the environment held by residential ratepayers, most of the membership consists of residential or small commercial electric customers and the financial hardship requirements ... are met.” (Program Guidebook).</p> <p>The Guidebook states: “A Category 3 customer is a formally organized group authorized, pursuant to its articles of incorporation or bylaws, to represent the interests of residential customers or to represent small commercial electric customers.”</p> <p>The Guidebook adds, however:</p> <p>“Certain other environmental organizations may also qualify as Category 3 customers even if the above requirements are not specifically stated in the articles or bylaws as long</p>	

as the Category 3 customer seeks to protect the broader interest in the environment held by residential ratepayers, most of the membership consists of residential or small commercial electric customers and the financial hardship requirements are met.”

The Clean Coalition is a California-based group focused on smart renewable energy policy and is a direct project of Natural Capitalism Solutions, Inc. (NCS), a 501(c)(3) based in Longmont, Colorado. The Clean Coalition’s website states:

“The Clean Coalition is a non-profit organization whose mission is to make clean local energy accessible now. Our top goal is to implement policies and programs that accelerate the adoption of cost-effective clean local energy across the United States. The Clean Coalition believes that the right policies will result in a timely transition to clean energy while yielding tremendous economic benefits, including new job creation, increased tax revenue, and the establishment of an economic foundation that will drive growth for decades. The Clean Coalition is active at the national, state, and local levels.”

We have attached a letter from NCS explaining the relationship between NCS and the Clean Coalition. NCS’ purpose, according to its bylaws (included with this NOI), is as follows:

“The organization promotes the global development of environmental sustainability concepts and guides for educators, governments, international institutions and private and public organizations throughout the world.”

The Clean Coalition is not a membership organization but our newsletter reaches about 3,000 entities each month and our website (www.clean-coalition.org) is designed to provide a broad array of information to the public. The Clean Coalition advocates primarily for “Intelligent Grid” improvements like those being considered under the smart grid proceedings at the Commission, vigorous feed-in tariffs, and “wholesale distributed generation,” which is generation that connects to the distribution grid close to demand centers, thereby avoiding dependencies on transmission build-outs, transmission access charges, transmission line/congestion losses, and other costs/inefficiencies. The lion’s share of our activities are in California, though we are also active on federal policy and active in some other states. The Clean Coalition is active in proceedings at the Commission, Air Resources Board, Energy Commission, California Independent System Operator, the California Legislature, Congress, the Federal Energy Regulatory Commission, and in various local governments around the United States.

B. Timely Filing of NOI (§ 1804(a)(1)):	Check
1. Is the party’s NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
2. Is the party’s NOI filed at another time (for example, because no Prehearing Conference was held, the proceeding will take less than 30 days, the schedule did not reasonably allow parties to identify issues within the timeframe normally permitted, or new issues have emerged)?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

2a. The party's description of the reasons for filing its NOI at this other time:
See attached Motion to Late File NOI (dated September 25, 2012)

2b. The party's information on the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, or ALJ ruling, or other document authorizing the filing of its NOI at that other time:

PART II: SCOPE OF ANTICIPATED PARTICIPATION

A. Planned Participation (§ 1804(a)(2)(A)(i)):

- *The party's description of the nature and extent of the party's planned participation in this proceeding (as far as it is possible to describe on the date this NOI is filed).*

As stated in our Motion for Party Status (dated June 4th, 2012), Long Term Procurement Planning (LTPP) has long been a policy platform of the Clean Coalition, with the specific goal of ensuring that LTPP reflects a long-term plan for the major deployment of Wholesale Distributed Generation (WDG) projects in addition to IOU capital expenditures for distribution grid upgrades being allocated to facilitate full deployment of WDG. We also remain committed to ensuring that the 33% renewable portfolio standards goals for California are included in LTPP. In addition, we have a direct interest in addressing the following:

- The procurement of new infrastructure for local reliability purposes and other local reliability needs (Track 1);
- Ensuring reliability in California over a long-term planning horizon and changes in mandates for renewable power, development of energy storage facilities, increased energy efficiency and demand response resources, and the developing of distributed generation resources, as stated in the Rulemaking (R.) 12-03-014 scoping memo (Track 2);
- That the Commission establishes "up-front standards" for the IOUs' procurement activities and cost recovery, pursuant to Assembly Bill 57 (Track 3); and
- Other matters as they arise within R.12-03-014.

Avoiding Undue Duplication

Pursuant to Decision (D.) 98-04-059, Finding of Fact 13, an intervenor must show that it will represent customer interests that would otherwise be under-represented. The Clean Coalition is the only intervenor representing solely the interests of IG/WDG advocates. While other parties may share some of our policy goals, no party as the singular focus the Clean Coalition has exhibited over an extended period of time. To the extent that other intervenors seek to represent similar customer interests, the Clean Coalition will coordinate its efforts with such parties as is feasible, to avoid duplication of effort.

B. The party's itemized estimate of the compensation that the party expects to request, based on the anticipated duration of the proceeding (§ 1804(a)(2)(A)(ii)):				
Item	Hours	Rate \$	Total \$	#
EXPERT FEES				
Kenneth Sahn White	50	\$175	\$8,750	
Ted Ko	15	\$155	\$2,325	
		Subtotal:	\$11,075	
ADVOCATES FEES				
Dyana Delfin-Polk	225	\$75	\$16,875	
Craig Lewis	15	\$170	\$2,550	
		Subtotal:	16,725	
TOTAL ESTIMATE \$:			\$30,500	
Comments/Elaboration (use reference # from above):				

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

A. The party claims “significant financial hardship” for its claim for intervenor compensation in this proceeding on the following basis:	Applies
1. “[T]he customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation” (§ 1802(g)); or	
2. “[I]n the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding” (§ 1802(g)).	X
3. A § 1802(g) finding of significant financial hardship in another proceeding, made within one year prior to the commencement of this proceeding, created a rebuttable presumption of eligibility for compensation in this proceeding (§ 1804(b)(1)).	
ALJ ruling (or CPUC decision) issued in proceeding number:	
Date of ALJ ruling (or CPUC decision):	

B. The party’s explanation of the factual basis for its claim of “significant financial hardship” (§ 1802(g)) (necessary documentation, if warranted, is attached to the NOI):

The Clean Coalition is making its showing of significant financial hardship at this time, as defined by Section 1802(g) of the Public Utilities Code:

“Significant financial hardship” means either that the customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

The Clean Coalition is a non-profit organization with financial backing from three foundations and the Lewis Family Trust (associated with Craig Lewis, the founder and executive director of the Clean Coalition). The Clean Coalition is a new organization and funding is necessarily tight as we try to improve our capabilities to achieve our public policy goals. The Clean Coalition is dependent on outside funding sources to perform its work. Any economic impact on the organization and our members resulting from the outcome of this proceeding would be negligible. Accordingly, we assert that participation without assistance of the intervenor compensation program would create an undue burden on our young organization and the economic interest of our community is small in comparison to the costs of effective participation in this proceeding.

PART IV: ATTACHMENTS DOCUMENTING SPECIFIC ASSERTIONS MADE IN THIS NOTICE

(Documents are not attached to final ALJ ruling.)

Attachment No.	Description
1	Certificate of Service
2	NCS Sponsorship Letter
3	Motion for Late File of NOI

ADMINISTRATIVE LAW JUDGE RULING

	Applies
1. The Notice of Intent (NOI) is rejected for the following reasons:	
a. The NOI has not demonstrated status as a “customer” for the following reason(s): Clean Coalition states that it is a direct project of Natural Capitalism Solutions, Inc. (NCS). Clean Coalition/NCS is not authorized by its articles of incorporation or bylaws to represent the interests of	X

<p>residential customers or small commercial customers who receive bundled electric service from an electrical corporation, as required by Public Utilities Code Section 1802(b)(1)(C).</p> <p>Clean Coalition/NCS asserts that although its bylaws do not contain the provision required by § 1802(b)(1)(C), the Intervenor Compensation Program Guidelines (Guidelines) provide an exception to this requirement. The Guidelines state, “Certain environmental groups that represent residential customers who have concerns for the environment may also qualify as Category 3 customers, even if the above requirement is not specifically met in the articles or bylaws,” and cites to Decision (D.) 98-04-059, footnote at 30.</p> <p>D.98-04-059 states, in part, “With respect to environmental groups, we have concluded they were eligible in the past with the understanding that they represent customers whose environmental interests include the concern that, e.g., regulatory policies encourage the adoption of all cost-effective conservation measures and discourage unnecessary new generating resources that are expensive and environmentally damaging.”</p> <p>Clean Coalition/NCS asserts that it meets the definition of Category 3 customer because it is a non-profit organization representing California customers and “seeks to protect the broader interests in the environment held by residential ratepayers, most of the membership consists of residential or small commercial electric customers and the financial hardship requirements ... are met.” (Program Guidebook).</p> <p>The Guidelines require those claiming status as Category 3 customers to indicate in their NOI the percentage of their membership that are residential ratepayers (page 8). Clean Coalition/NCS states that it is “not a membership organization.” Because Clean Coalition/NCS has no membership, it does not satisfy the environmental group exception discussed above and cannot comply with the requirement to indicate the percentage of its membership that are residential ratepayers. Clean Coalition/NCS has not shown that it is a customer as defined by § 1802(b)(1)(C) and D.98-04-059.</p>	
<p>b. The NOI has not demonstrated that the NOI was timely filed (Part I(B)) for the following reason(s):</p>	
<p>c. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s):</p>	
<p>2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above).</p>	

<p>3. The NOI has not demonstrated significant financial hardship for the following reason(s):</p> <p>In the case of a group or organization, § 1802(g) defines “significant financial hardship” to mean that the economic interest of <u>the individual members</u> of the group or organization is small in comparison to the costs of effective participation in the proceeding. Emphasis added. Clean Coalition/NCS is not a membership organization. Because Clean Coalition/NCS does not have members but must show that the economic interest of its individual members is small in comparison to the costs of effective participation in the proceeding, Clean Coalition/NCS has not demonstrated significant financial hardship.</p>	<p>X</p>
<p>4. The ALJ provides the following additional guidance (see § 1804(b)(2)):</p>	

IT IS RULED that:

	Applies
1. The Notice of Intent is rejected.	X
2. Additional guidance is provided to the customer as set forth above.	
3. The customer has satisfied the eligibility requirements of Pub. Util. Code § 1804(a).	
4. The customer has shown significant financial hardship.	
5. The customer is preliminarily determined to be eligible for intervenor compensation in this proceeding. However, a finding of significant financial hardship in no way ensures compensation.	

Dated August 27, 2013, at San Francisco, California.

/s/ DAVID M. GAMSON

David M. Gamson
Administrative Law Judge