

**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)

**MOTION OF CAITHNESS ENERGY, L.L.C.
FOR RECONSIDERATION OF RULING DENYING PARTY STATUS**

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Pursuant to Rule 1.4(a)(4) and Rule 11.1 of the Commission’s Rules of Practice and Procedure, Caithness Energy, L.L.C. (“Caithness”) respectfully seeks reconsideration of the “Email Ruling Denying Motions for Party Status” issued by Administrative Law Judge David Gamson on July 29, 2014 (“Ruling” or “Email Ruling”), to the extent the Ruling denied Caithness’s request for party status.

I.

BACKGROUND

On June 3, 2014, Terra-Gen Power, L.L.C. (“Terra-Gen”), which had not theretofore been a party to this rulemaking proceeding, filed a “Petition for Expedited Modification of Decision 13-02-015” (“Petition”). As part of its Petition, Terra-Gen also sought party status. In support of its request for party status, Terra-Gen stated: “Terra-Gen previously participated in this proceeding through its trade association and did not see a need to participate individually until the events described in this petition occurred.” (Petition, p. 3.)

In a Proposed Decision issued on July 29, 2014, Administrative Law Judge Gamson confirmed that he had granted Terra-Gen’s motion for party status, “...solely for the purposes of participating in activities related to its Petition for Modification.” (Proposed Decision, pp. 3-4.)

With respect to the merits of Terra-Gen's Petition, the Proposed Decision recommended that the modifications sought by Terra-Gen be denied.

Earlier, by an email ruling issued June 11, 2014, Administrative Law Judge Gamson set June 20 as the due date for responses to the Terra-Gen Petition.

On June 19, 2014, Caithness filed a motion for party status, in order to participate in the proceedings regarding the Terra-Gen Petition. In the opening paragraph on page 1 of the motion for party status, Caithness made clear that it was seeking party status in order to respond to the Terra-Gen Petition.

The next day, on June 20, 2014, Caithness timely filed a Response in Opposition to the Terra-Gen Petition.

In the Email Ruling issued on July 29 (the same day as the Proposed Decision), Administrative Law Judge Gamson denied Caithness's request for party status, along with a similar request by another entity (Graphite Energy Storage Partners, LLC). In his Ruling Judge Gamson provided the following reasons for denying party status:

Neither party participated in the underlying two-year long proceeding, encompassing four phases and several decisions. Participation of these parties at this time would not significantly add to the record in the proceeding and is unnecessary to ensure well-considered decisions.

(Email Ruling dated July 29, 2014, p. 4.)

II.

DISCUSSION

Caithness respectfully requests that the Ruling should be reversed, and that Caithness be granted party status, for the following reasons:

1. Just as Terra-Gen was granted party status for the purpose of presenting its Petition for Modification, so, too, should Caithness be granted party status for the purpose of

opposing the same Petition. It is not fair, nor is it logical, to grant party status to the entity that filed the Petition, while denying party status to an opponent of the Petition. Fundamental fairness and due process of law require that Caithness be granted the same party status that has been granted to Terra-Gen. Party status will allow Caithness not only the opportunity to state its opposition to the Petition as an initial matter, but also the rights of a party in the event of a rehearing or writ of review proceeding after issuance of a Commission decision.

2. Although the July 29 Ruling opined that Caithness's participation as a party would "not significantly add to the record in the proceeding," and was "unnecessary to ensure well-considered decisions," this rationale does not address the fact that denying Caithness party status deprives Caithness of all the rights of a party, including the right to participate at the rehearing and appellate stages, should those stages occur. Caithness's right of due process encompasses the right to participate at all stages of the proceedings.

3. Like Terra-Gen, Caithness also heretofore participated in these proceedings through its trade association. It was not until the Terra-Gen Petition was filed that Caithness found it necessary to be heard separately on the issues raised in the Petition. Again, fundamental fairness requires that Caithness be given the same treatment as Terra-Gen.

4. Caithness seeks party status solely for the purpose of opposing the Petition, and not for any other purpose. Thus, granting Caithness party status for this limited purpose will not have any disruptive effect on this ongoing rulemaking proceeding.

5. Although Caithness, of course, is not the only party opposing the Petition, Caithness has offered the unique perspective of a company, much like Terra-Gen, whose business is development of power generating projects in the California market. The Commission should welcome the participation of an entity like Caithness, and the record will benefit from Caithness's arguments with respect to the issues raised in the Petition.

III.

CONCLUSION

For the foregoing reasons, Caithness respectfully requests that the July 29 Email Ruling denying Caithness's motion for party status be reversed, and that Caithness be granted party status in this proceeding, for the purpose of participating in the proceedings concerning the Terra-Gen Petition.

Respectfully submitted: August 1, 2014

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