

PUBLIC UTILITIES COMMISSION505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**Agenda ID #15366 11-15-16
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November 15, 2016

TO PARTIES OF RECORD IN APPLICATION 16-03-001 ET AL:

This is the proposed decision of Administrative Law Judge Michelle Cooke. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's December 15, 2016 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ KAREN V. CLOPTONKaren V. Clopton, Chief
Administrative Law Judge

KVC:sf3

Attachment

Decision PROPOSED DECISION OF ALJ COOKE (Mailing 11/15/2016)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Pacific Gas and Electric Company (U39E) for Authorization to Procure Energy Storage Systems During the 2016-2017 Biennial Procurement Period Pursuant to Decision 13-10-040.	Application 16-03-001 (Filed March 1, 2016)
And Related Matters.	Application 16-03-002 Application 16-03-003

**DECISION DENYING PETITION FOR MODIFICATION OF
DECISION 16-09-007 BY GREEN POWER INSTITUTE****Summary**

This decision denies the petition for modification filed by Green Power Institute for modification of Decision 16-09-007.

These applications are closed.

1. Background

On September 15, 2016, the Commission adopted Decision (D.) 16-09-007, which approved 2016 energy storage procurement frameworks for Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E). The applications at issue were filed by PG&E, SCE, and SDG&E on March 1, 2016.

On March 23, 2016, the assigned Administrative Law Judge (ALJ) issued a ruling authorizing the extension of time for the filing of responses/protests and replies. Protests and responses were filed on April 11, 2016 by the Office of

Ratepayer Advocates (ORA); The Utility Reform Network (TURN); Marin Clean Energy and Sonoma Clean Power Authority (jointly CCA Parties); City of Lancaster; the Alliance for Retail Energy Markets and Direct Access Customer Coalition (jointly AReM/DACC); California Energy Storage Alliance (CESA); Green Power Institute (GPI);¹ MegaWatt Storage Farms, Inc.; Stem, Inc; PG&E, SCE, and SDG&E filed replies on April 21, 2016.

All entities that filed protests or responses were made parties to the consolidated proceedings. GPI listed two individuals on their protest: Gregory Morris, Director, and Tam Hunt, Consulting Attorney. The Process Office correctly entered the contact information for Morris and placed him as the party representative for GPI in the proceeding. Hunt's email address was entered incorrectly and he was placed on Information Only status.²

A prehearing conference (PHC) was held on May 24, 2016. GPI attended the PHC. On June 3, 2016, the assigned Commissioner and ALJ issued a Scoping Memo laying out the schedule and issues to be addressed in the proceeding. The Scoping Memo (at 7, emphasis added) included the following admonition:

*The most current service list for this proceeding is maintained by the Commission's Process Office and posted on the Commission's web site, www.cpuc.ca.gov. **Parties are responsible for ensuring that the correct information is contained on the service list, including limiting the persons listed in the "Parties" category to one person per organization.** Parties should note that the maintenance of party status requires active participation in the proceeding, e.g. submitting formal filings, participating in*

¹ GPI was granted leave to file one day late by the assigned ALJ.

² Only one representative per party is provided Party status on the service list per Commission protocols, GPI's protest did not specify which person should be listed as the Party representative.

workshops, etc. The assigned ALJ may remove party status if a party is not actively participating in the proceeding.

GPI did not participate in the remainder of the proceeding. GPI, along with other inactive parties that had filed protests or been granted Party status, were moved to Information Only status as directed in D.16-09-007, Ordering Paragraph 7. On October 11, 2016, following issuance of D.16-09-007, GPI filed a Petition for Modification of D.16-09-007.

2. Should GPI Be Restored to Party Status?

GPI takes issue in its Petition for Modification of its removal from Party status. GPI asserts that it was active in the proceeding through its filing of protests and attendance at the PHC and communications with Energy Division. GPI asserts that because Hunt's email address was incorrectly entered on the service list, it was not notified of the schedule for briefing. GPI asserts that removal of its Party status "hinders intervenors' ability to claim Substantial Contributions" to the Commission's decision. (Petition for Modification at 5.)

GPI is correct that Hunt's email was incorrectly entered on the service list. This error has now been corrected and we apologize to Hunt for the error. However, Morris' email was correctly entered throughout the course of the proceeding. In addition to the notice provided in the Scoping Memo about the Party's obligation to review its information, Rule 1.9(f) of the Commission's Rules of Practice and Procedure state "[i]t is the responsibility of each person or entity on the official service list to ensure that its designated person for service, mailing address and/or e-mail address shown on the official service list are current and accurate." This is because the Commission has no way of knowing which person, among multiple individuals for a particular Party, is the lead, only the Party knows how its participation will be structured. Lack of notice is not

sufficient basis for restoring GPI to party status, as GPI did receive notice through its representative Morris.

GPI's ability to claim intervenor compensation is limited, not because of its conversion to Information Only status, but rather because GPI did not participate in the proceeding following the PHC. Because of its lack of participation beyond the scoping stage, it is unclear how GPI would be able to demonstrate that its participation made a substantial contribution to D.16-09-007 under the standards set forth in Pub. Util. Code §1802(i). The statute requires that an intervenor's factual or legal contentions or policy or procedural recommendations were adopted by the Commission or significantly assisted the Commission in reaching its decision. This rationale is not sufficient basis to grant the petition for modification.

3. Comments on Proposed Decision

The proposed decision of ALJ Cooke in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on ___ by ___, and reply comments were filed on ___ by ___.

4. Assignment of Proceeding

Carla J. Peterman is the assigned Commissioner and Michelle Cooke is the assigned ALJ in these proceedings. Comments on Proposed Decision

Findings of Fact

1. GPI was made a party through its filing of a protest in this proceeding and retained that status until D.16-09-007 was issued.
2. The service list correctly listed the email for GPI representative Morris, but incorrectly listed the email address of GPI's Hunt on Information Only.

3. GPI did not participate in the proceeding following the PHC until it filed its Petition for Modification.

4. D.16-09-007 directed that GPI be removed from party status for lack of participation consistent with the Scoping Memo direction.

Conclusions of Law

1. GPI received notice of activities in this proceeding through its representative Morris.

2. GPI's inability to claim intervenor compensation is driven by its lack of participation beyond the scoping phase, rather than its conversion from party status to Information Only status.

O R D E R

IT IS ORDERED that:

1. The Petition for Modification by Green Power Institute to restore its party status is denied.

2. Applications 16-03-001, 16-03-002, and 16-03-003 are closed.

This order is effective today.

Dated November 15, 2016, at San Francisco, California.