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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Tessera Solar,

Complainant,

vs.

BNSF Railway Company,

Defendant.

Case 10-10-015
(Filed October 21, 2010)

**ADMINISTRATIVE LAW JUDGE'S RULING
CONFIRMING PARTY STATUS OF CALICO SOLAR, LLC**

On January 21, 2011, Calico Solar, LLC (Calico) filed and served a motion requesting party status in this proceeding. Calico is the owner and developer of the Calico Solar Project, which would build a utility-scale solar power plant underlying the Tessera Solar complaint. In its motion for party status, Calico states that it holds the right-of-way grant from the Federal Bureau of Land Management for the land described in the complaint, and that Calico has received permits from the California Energy Commission and the Bureau of Land Management to develop the Calico Solar Project. The complaint by Tessera alleges that BNSF Railway Company (BNSF) is obstructing Calico's ability to move forward with the Calico Solar Project. This ruling confirms that Calico's

motion for party status was granted via an electronic mail ruling on January 27, 2011.¹

Party Status May be Granted to an Intervenor in a Complaint Case

When the possibility of Calico Solar intervening in this proceeding was first raised, at the prehearing conference (PHC) held on November 30, 2010, the defendant, BNSF, objected to the possibility of a party other than the complainant intervening in this (or any) complaint.² Calico declined to become a party to the proceeding at that PHC,³ but has now submitted a motion for party status. In the interest of completeness and clarity, this ruling addresses the earlier objection of BNSF to any person or entity other than the complainant and defendant receiving party status in a complaint case.

First, as noted in my ruling issued on January 18, 2011, the Commission's rules allow a person or entity to file a motion requesting party status in any Commission proceeding.⁴ Such a motion must disclose, among other things, the interest of the requesting person or entity in the proceeding, and must show how the person's or entity's contentions will be reasonably pertinent to issues already presented in the proceeding.⁵ Calico's motion for party status fulfills both of these requirements by disclosing its interest in the complaint as the owner and

¹ That electronic mail is reproduced as Attachment 1 to this ruling.

² RT 55.

³ RT 66.

⁴ Rule 1.4(a)(4). All references to rules refer to the Commission's Rules of Practice and Procedure.

⁵ Rule 1.4(b).

developer of the Calico Solar Project, which is the subject of this complaint. Calico's motion states that it needs the access requested by Tessera in this complaint in order to proceed with its development of the Calico Solar Project, and that it has information pertinent to past interactions with BNSF related to the Calico Solar Project.

It is reasonable and consistent with the Commission's Rules of Practice and Procedure to grant Calico party status in this complaint based on its interest in the Calico Solar Project, consistent with the Commission's Rules. Granting party status to an intervener in a complaint is also consistent with past Commission practice in several previous complaint cases, including (but not limited to) Case (C.) 01-07-027⁶ and consolidated complaints C.99-12-029 and C.00-02-027.⁷

IT IS RULED that the January 21, 2011, motion for party status of Calico Solar, LLC, was granted via an electronic mail ruling on January 27, 2011. The parties' portion of the service list shall reflect that Felicia Bellows is the appearance for Calico Solar, LLC, as noted below:

Felicia Bellows
Calico Solar, LLC
4800 N. Scottsdale Rd.
Scottsdale, AZ 85251
Telephone: (602) 535-3576

⁶ A ruling issued on December 17, 2002, in C.01-07-027 granted party status to Brand X Internet LLC, The Utility Reform Network, and the Utility Consumers' Action Network in a complaint filed by the California ISP Association against Pacific Bell Telephone company.

⁷ In Decision 01-02-017 issued on February 8, 2001, the Commission granted party status to the Greenlining Institute and Latino Issues Forum in C.99-12-029 and C.00-02-027, a consolidated complaint proceeding involving Pacific Bell Telephone Company and AT&T Communications of California.

E-mail: feliciab@kroadpower.com

William Kissinger is added to the information only portion of the service list, as noted below:

William Kissinger
Bingham McCutchen LLP
Three Embarcadero Center, 28th Floor
San Francisco, CA 94111
Telephone: (415) 393-2850
E-mail: william.kissinger@bingham.com

Dated January 31, 2011, at San Francisco, California.

 /s/ JESSICA T. HECHT
Jessica T. Hecht
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

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Dated January 31, 2011, at San Francisco, California.

/s/ OYIN MILON

Oyin Milon

N O T I C E

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