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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of The Nevada Hydro Company for a Certificate of Public Convenience and Necessity for the Talega-Escondido/Valley-Serrano 500 kV Interconnect Project.

Application 10-07-001
(Filed July 6, 2010)

**ADMINISTRATIVE LAW JUDGE'S RULING ON
NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION**

1. Summary

This ruling addresses the notice of intent (NOI) to claim intervenor compensation filed by Forest Residents Opposing New Transmission Lines (FRONTLINES). Today's ruling finds that FRONTLINES is eligible for intervenor compensation in this proceeding.

2. Timeliness

On July 6, 2010, the Nevada Hydro Company (Nevada Hydro) filed an application requesting that the Commission issue a certificate of public convenience and necessity (CPCN) for the construction and operation of the Talega-Escondido/Valley-Serrano (TE/VS) 500 kilovolt Interconnect transmission line. Decision (D.) 09-04-006 dismissed similar Applications (A.) (A.07-10-005 and A.09-02-012), because Nevada Hydro had not included a complete Proponent's Environmental Assessment (PEA) that addressed concerns identified by the Commission's Energy Division staff (Staff).

Nevada Hydro explains that these concerns have been addressed and on August 5, 2010, Staff accepted the PEA as complete for purposes of environmental review. When Nevada Hydro complies with this requirement and when the Notice of Preparation is filed with the Governor's Office of Planning and Research, Staff will begin an independent evaluation of the environmental impacts of the project, pursuant to the California Environmental Quality Act (CEQA).

A prehearing conference (PHC) was held on September 22, 2010. Pursuant to § 1804(a)(1), a customer intending to seek an award of compensation should normally file and serve a notice of intent to claim compensation no later than 30 days after that date.

FRONTLINES filed its NOI on December 17, 2010, more than 30 days after the PHC. Pursuant to § 1804(a)(1), the Commission may provide, in certain circumstances, the appropriate procedure for the filing of new NOIs to claim compensation. I sent an email to the service list, dated October 16, 2010, which states "I have considered the requests of certain intervenors to establish a later date for filing the NOIs as well as the Nevada Hydro Company's objection. Because the information provided in Nevada Hydro's updated testimony may well influence the extent of intervenors' planned participation, I will establish December 17, 2010 as the date by which all NOIs must be filed and served." I find FRONTLINES' NOI to be timely. There were no oppositions to the NOI.

3. Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) and Rule 17.1(c) require an NOI to state the nature and extent of the intervenor's planned participation. FRONTLINES' NOI satisfied this requirement by stating that FRONTLINES intends to actively participate in the proceeding by filing cross examining witnesses, providing

evidence, review rulings, analyze testimony served by other parties, file briefs and motions as needed, and to initiate any other action deemed necessary to preserve the interest of FRONTLINES members. FRONTLINES states it may also present expert witness testimony.

FRONTLINES will raise concerns regarding the proposed project which relate to the project purpose and need, the alternatives that should be considered in the administrative proceeding pursuant to Public Utilities Code Section 1002.3,¹ including Nevada Hydro's lack of standing to apply for a CPCN and the illegality of considering a combined LEAPS²/TE/VS project in the CEQA analysis and a stand-alone TE/VS project in the administrative proceeding. According to FRONTLINES, it is the only party to point out that Nevada Hydro has not applied to the United States Forest Service for a Special Use Permit for the TE/VS project, contrary to Nevada Hydro's claim to the contrary. FRONTLINES argues that the Commission cannot proceed with the TE/VS proceeding until Nevada Hydro submits such an application.

4. Itemized Estimate of Expected Compensation

Section 1804(a)(2)(A)(ii) and Rule 17.1(c) require an NOI to provide an estimate of the total compensation the intervenor expects. FRONTLINES' NOI satisfied this requirement by providing the following table:

Estimate of Expected Compensation		
Time	Participant	Amount \$
600 hrs @ \$100 hr	Consultant	66,000
50 hrs @ \$185 hr	Expert	9,250

¹ Unless otherwise stated, all code references are to the Public Utilities Code.

² Lake Elsinore Advanced Pumped Storage (LEAPS).

20 hrs @ \$ 65 hr	Compensation Preparation	1,300
Other Costs (Postage, Copies, Travel and Lodging)		4,200
TOTAL		\$80,750

As provided for in Section 1804(b)(2), this ruling points out that FRONTLINES' estimate of expected compensation may be unrealistic in comparison to the estimates of the other parties who filed an NOI, and the preliminary scope of issues as identified.

Section 1801.3(b) and (f) recognize that the intervenor compensation provisions are to be "administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process," and "that avoids unproductive or unnecessary participation that duplicated the participation of similar interests otherwise adequately represented or participation that is not necessary for a fair determination of the proceeding."

To avoid duplication of effort, FRONTLINES states that it will seek to coordinate its efforts with other active intervenors in the proceeding.

In addition, Rule 17.1(c) requires an NOI to itemize the estimated compensation by issue. A portion of an intervenor's estimated compensation may also be designated as general costs that are not allocable to any particular issue. FRONTLINES' NOI does not give an approximated budget for its participation on each issue. I remind FRONTLINES here that its claim for compensation must provide this information. In addition, FRONTLINES, like all intervenors, must keep daily records of time and costs spent on each issue by participant on each issue for which it intends to request compensation.

5. Significant Financial Hardship

Section 1804(a)(2)(B) permits an NOI to include a showing of significant financial hardship, which FRONTLINES has elected to do.

Section 1802(g) defines “significant financial hardship” as follows:

“Significant financial hardship” means either that the customer cannot afford, without undue hardship to pay the costs of effective participation, including advocate 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.

FRONTLINES affirmatively states in its NOI that participation in this proceeding will cause its members financial hardship, and that the cost of effective participation, including fees paid to attorneys and expert witnesses and other reasonable costs of participation, are far greater than both the value to individual members of FRONTLINES and the cost to each member of effective participation in the proceeding. (NOI at 3.)

In the instant proceeding, FRONTLINES submits that it represents many³ resident and property owners in the vicinity of the Cleveland National Forest (CNF). FRONTLINES estimates that its member’s annual cost of electricity is less than \$3,000, which is less than FRONTLINES’ estimated cost of full and effective participation in the TE/VS proceeding. In contrast, should an individual

³ In its NOI, FRONTLINES provides no estimate of the actual number of its members. In addition D.98-04-059 (See Finding of Fact 12) states that groups should indicate in the Notice of Intent the percentage of its membership that are residential (vs. business) ratepayers. I remind FRONTLINES, since it is new to Commission proceedings, that future NOIs must include this information.

customer consider representing himself in this proceeding, they would find that the cost of doing so would outweigh the benefits he/she would alone accrue.

FRONTLINES has satisfied the “comparison test” required of Category 3 customers in its NOI and we find that it would be a significant financial hardship for FRONTLINES to participate in this proceeding without an award of fees or costs.

6. Customer

Rule 17.1(d) requires an NOI to demonstrate that the intervenor is a “customer” as defined in Section 1802(b) by providing the following information:

The notice of intent shall provide either (1) verification of the intervenor’s customer status pursuant to Public Utilities Code Section 1802(b)(1)(A) or (B), or (2) a copy of articles of incorporation or bylaws demonstrating the intervenor’s customer status pursuant to California Public Utilities Code Section 1802(b)(1)(C). If current articles or bylaws have already been filed with the Commission, the notice of intent need only make a specific reference to such filings.

Section 1802(b) defines three categories of such customers known as Category 1, Category 2, and Category 3. FRONTLINES states that it is a Category 3 customer, whose bylaws and articles of incorporation authorize it to represent the “the interest of residential customers and property owners that are affected by proposed electrical transmission and/or generation infrastructures in or near the CNF.” Frontline has attached a copy of its Bylaws and Articles of Association to the NOI it filed in this proceeding.

Frontline advocates the interest of residential customers and property owners who are located in or near the CNF. Members interests include conserving the natural beauty and recreational opportunities of the CNF’s vast undeveloped areas, protecting Southern California’s few remaining bucolic rural

communities within and adjacent to the CNF from unsightly and unnecessary industrial infrastructure, and securing the safety of lives and property in the CNF, a high fire hazard area, by ensuring that development projects neither inhibit fire-fighting efforts nor pose an intrinsic fire threat to the CNF.

According to FRONTLINES, its current members reside in the vicinity of the CNF which is located within Southern California Edison's (SCE) territory. Its membership is expanding at a rapid pace and it is possible that future members residing in the vicinity of the CNF will be residential customers of San Diego Gas & Electric Company (SDG&E). Collectively, FRONTLINES members that own undeveloped property in the vicinity of the CNF are all established residential customers of either SCE or SDG&E. These provisions qualify FRONTLINES as a customer under § 1802(b)(1)(C).

7. Intervenor's Economic Interest

Rule 17.1(e) requires an NOI to state the intervenor's economic interest in the proceeding as that interest relates to the issues on which the intervenor intends to participate. To satisfy this requirement, FRONTLINES states that its members are customers in Riverside, Orange, and San Diego Counties who receive energy services from utilities in California. Without FRONTLINES participation, it alleges that the interest of these customers would not be sufficiently represented in this proceeding.

8. Conclusion and Consultation with the Assigned Commissioner

FRONTLINES is eligible to request intervenor compensation pursuant to Section 1804(b)(1). The fact that FRONTLINES is eligible to request compensation in no way ensures that it will receive compensation. As required

by Section 1804(b)(1), this ruling was made after consultation with assigned Commissioner Michael R. Peevey.

IT IS RULED that:

1. Forest Residents Opposing New Transmission Lines (FRONTLINES) filed a timely notice of intent to claim compensation that meets the requirements of Rule 17.1 and California Public Utilities Code Section 1804(a).
2. FRONTLINES is a “customer” as defined in Section (1802(b)(1)(C).
3. It would be a significant financial hardship for FRONTLINES to participate in this proceeding without an award of fees or costs.
4. FRONTLINES is eligible to request intervenor compensation in this proceeding. This finding of eligibility does not ensure that FRONTLINES will receive compensation.

Dated February 1, 2011, at San Francisco, California.

/s/ ANGELA K. MINKIN

Angela K. Minkin
Administrative Law Judge

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

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated February 1, 2011, at San Francisco, California.

/s/ OYIN MILON

Oyin Milon

N O T I C E

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