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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 10-05-006 (Filed May 6, 2010) |
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# ALJ RULING ON SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP OF FIT COALITION'S NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION[1]

| Customer (party intending to claim intervenor compensation): **FIT Coalition** | |
|---|---|
| Assigned Commissioner: **Michael R. Peevey** | Assigned ALJ: **Peter V. Allen** |

## PART I: PROCEDURAL ISSUES

| **A. Status as "customer" (*see* Pub. Util. Code § 1802(b)):** The party claims "customer" status because it (check one): | **Applies (check)** |
|---|---|
| 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)). | **X** |
| 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. | |
| 4. Party's explanation of its customer status, economic interest (if any), with any documentation (such as articles of incorporation or bylaws) that supports the party's status. Any attached documents should be identified in Part IV.<br><br>The FIT Coalition meets the definition of Category 1 customer because it is a participant representing consumers. The FIT Coalition is a California-based group focused on smart renewable energy policy. The FIT Coalition is part of Natural Capitalism Solutions, a 501(c)(3) based in Longmont, Colorado.<br><br>We advocate primarily for vigorous feed-in tariffs and "wholesale distributed generation," which is generation that connects to the distribution grid close to demand centers, thereby | |

[1] We are using the Commission standardized form, while FIT Coalition submitted the notice of intent (NOI) in the traditional pleading format. Information provided by the intervenor has been transferred from its NOI onto this form.

avoiding dependencies on transmission build-outs, transmission access charges, transmission line/congestion losses, and other costs/inefficiencies. The FIT 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.

The FIT Coalition is participating in this proceeding because of its keen interest in helping the Commission to realize the full potential of wholesale distributed generation (WDG) to meet state renewable energy and greenhouse gas mandates; and in helping the Commission to implement an effective feed-in tariff as a key policy tool for realizing this potential. In addition, we will work to ensure that the utility procurement plans reflect the full potential and value of WDG within the utilities' renewable energy portfolios.

The FIT Coalition Community is comprised of hundreds of parties who have a strong interest in seeing WDG and feed-in tariffs advanced at the Commission and within other state policy forums. The FIT Coalition Community has an interest in achieving economic benefits and energy independence for the State of California; and in mitigating climate change by utilizing cost-effective local renewable energy resources that result in significant in-state renewable energy generation, job creation, and tax generation.

Pursuant to 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 FIT Coalition is the only intervenor representing solely the interests of WDG and feed-in tariff advocates. While other parties may share some of our policy goals, no party has the singular focus that the FIT Coalition has exhibited over an extended period of time.

To the extent that other intervenors seek to represent similar customer interests, the FIT Coalition will coordinate its efforts with such parties as is feasible, to avoid duplication of effort.

| **B. Timely Filing of NOI (§ 1804(a)(1)):** | **Check** |
|---|---|
| 1. Is the party's NOI filed within 30 days after a Prehearing Conference?<br>Date of Prehearing Conference: June 14, 2010 | Yes __<br>No **X** |
| 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 **X**<br>No __ |
| 2a. The party's description of the reason for filing its NOI at that other time:<br>ALJ Ruling of June 22, 2010, set the date of August 13, 2010, for filing notices of intent to claim intervenor compensation. | |
| 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:

ALJ Ruling of June 22, 2010, in this proceeding, set the date of August 13, 2010, for filing notices of intent to claim intervenor compensation.

## 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 the party's NOI is filed).
- The party's statement of the issues on which it plans to participate.

The FIT Coalition will be active in this proceeding in many areas, but will focus on the RPS planning standards area. In particular, we will continue to highlight the potential for WDG to meet the 33% by 2020 RPS and the likely flood of new WDG projects in California by 2020, under existing and future policies. We will also work to ensure that the utilities are not granted permission to build unnecessary fossil fuel power plants to provide backup power for renewables or to replace power plants shut down due to once-through cooling concerns. This is a complex debate and we look forward to that debate but we are concerned that these tactics will be used by some parties to argue for construction of far more fossil fuel power generation than is required.

**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 $ | # |
|---|---|---|---|---|
| **ATTORNEY FEES** | | | | |
| Tam Hunt, Attorney | 120 (2010);<br>240 (2011 | $330 (2010)<br>$340 (2011) | $121,200 | |
| | | ***Subtotal:*** | ***$121,200*** | |
| **EXPERT FEES** | | | | |
| Sahm White, Consultant | 60 (2010);<br>120 (2011) | $100 (2010)<br>$110 (2011) | $19,200 | |
| Rob Longnecker, Consultant | 60 (2010);<br>120 (2011) | $100 (2010)<br>$110 (2011) | $19,200 | |
| | | ***Subtotal:*** | ***$38,400*** | |
| **OTHER FEES** | | | | |
| Ted Ko, Assoc. Exec. Director | 60 (2010);<br>120 (2011 | $120 (2010);<br>$120 (2011) | $22,800 | |
| | | | | |
| | | ***Subtotal:*** | ***$22,800*** | |

| COSTS | | | | |
|---|---|---|---|---|
| | | | | |
| | | ***Subtotal:*** | | |
| | | **TOTAL ESTIMATE $:** | **$182,400** | |

Comments/Elaboration:

The FIT Coalition expects to spend up to 15 hours per week of Tam Hunt's time through 2010, for a total of 120 hours, and an additional 240 hours in 2011, for a total of 360 hours. FIT Coalition's Associate Executive Director Ted Ko expects to spend 120 hours through 2011 in this proceeding and Sahm White and Rob Longnecker, consultants to the FIT Coalition expect to spend up to 200 hours each in this proceeding through 2011. See the above table for expected contributions and hourly rates. We will justify our rates when we submit our request for compensation. We do not expect any significant travel or other expenses at this time.

## 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 (check)** |
|---|---|
| 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;" or | **X** |
| 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." | |
| 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)).<br>• ALJ ruling (or Commission decision) issued in proceeding number:<br>• Date of ALJ ruling (or Commission 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):** |
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| The FIT Coalition is a young organization, founded in early-2009. We have very limited funding support at this time and are actively seeking additional funding sources. The FIT Coalition Community is comprised of individuals, companies, and policy advocates, and the |

FIT Coalition organization operates on a very limited budget in trying economic times. Natural Capitalism Solutions, a non-profit organization based in Colorado, is the umbrella organization for the FIT Coalition. As an entity, the FIT Coalition is, accordingly, part of Natural Capitalism Solutions. However, no funding for the FIT Coalition's activities is provided by Natural Capitalism Solutions. Rather, the relationship allows NCS to receive tax-exempt contributions on behalf of the FIT Coalition and pass these funds through to the FIT Coalition. This relationship is thoroughly documented and is common for new non-profit organizations like the FIT Coalition.

The FIT Coalition has been active in California energy policy for nearly two years, recently transitioning into its new role as an organization with a paid team that has grown to nine people; some working only part-time. However, we cannot contribute in a vigorous way at the Commission without a reasonable expectation of intervenor compensation for our substantial contributions. Accordingly, we request the Commission recognize our customer status and our financial hardship. The FIT Coalition has a history of making substantial contributions to Commission proceedings and will continue to demonstrate the same in this proceeding through a final approved decision.

## ADMINISTRATIVE LAW JUDGE'S RULING

| | Check all that apply |
|---|---|
| **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):<br><br>FIT Coalition provides no basis for its selected customer category. | **X** |
| b. The NOI has not demonstrated that the NOI was timely filed (Part I(B)) for the following reason(s): | |
| c. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s): | |
| **2. The NOI has demonstrated significant financial hardship.** | |
| **3. The NOI has not demonstrated significant financial hardship for the following reason(s):** | |
| **4. The ALJ provides the following additional guidance (see § 1804(b)(2)):**<br><br>**To correct its deficient NOI, we allow FIT Coalition to file an amended notice of intent to claim intervenor compensation complying with the relevant requirements explained below. The amended notice must be filed within two weeks from the date of this ruling.**<br><br>4a. Although FIT Coalition claims a Category 1 customer status, information it provides in support the selected category does not match the Category 1 | |

| | |
|---|---|
| customer characteristics: Category 1 customer is an actual customer whose self-interest in the proceeding arises primarily from its role as a customer of the utility and it also must represent the broader interests of at least some other customers. FIT Coalition does not show the coalition is an actual customer, fails to describe its own interest in the proceeding, and how its participation goes beyond just your own self-interest and will benefit other customers generally.<br><br>In the amended NOI, FIT needs to either support the selected customer category with the necessary information or select a different customer category that fits FIT Coalition, and provide supporting documents for that category.<br><br>Category 2 customer differs from Category 1 in that Category 2 customer is a representative who has been authorized to represent an actual customer or customers. Category 2 involves a more formal arrangement where a customer or a group of customers selects a more skilled person to represent the customer's views in a proceeding. A customer or group of customers may also form or authorize a group to represent them, and the group, in turn, may authorize a representative such as an attorney to represent the group. D.98-04-059 at 30 requires a "representative authorized by a customer" to identify the residential customer or customers being represented. If you select Category 2 customer status, you need to provide evidence of authorization in the NOI from at least one customer.<br><br>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. 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 as the Category 3 customer 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, set forth below, are met. If you are a Category 3 customer, you must describe the organization you represent and quote relevant portions of its bylaws or articles of incorporation that authorize your representation of the interests of residential or small commercial electric customers. You must also submit a copy of the bylaws or articles as an attachment to your NOI. If FIT selects Category 3 customer status, it must provide a copy of the Articles or Bylaws of the Natural Capitalism Solutions, a part of which FIT Coalition states it constitutes, unless FIT Coalition has its own bylaws or articles of organization.<br><br>4b. If you select Category 3 customer status and there is another party in the proceeding representing a similar group of ratepayers, you should explain how the two groups differ and why those you represent will not otherwise be adequately represented in the proceeding.<br><br>4c. If FIT chooses to establish significant financial hardship in the NOI, the requirements for the showing of significant financial hardship are different | |

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|---|---|
| depending on the customer category. Categories 1 and 2 customers must show that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation. In the case of a group or organization (Category 3), it must be shown that 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. Documents needed in support of the significant financial hardship statements also differ depending on the customer category.<br><br>More information on the customer status and showing of significant financial hardship requirements can be found at the Intervenor Compensation program web page http://www.cpuc.ca.gov/PUC/IntervenorCompGuide/, and, more specifically, at http://docs.cpuc.ca.gov/PUBLISHED/REPORT/101138.htm, and at http://docs.cpuc.ca.gov/WORD_PDF/REPORT/101123.PDF.<br><br>We also strongly recommend the intervenor to use the Commission standardized form for the amended notice of intent, at http://www.cpuc.ca.gov/PUC/IntervenorCompGuide/standardized.htm. | |

**IT IS RULED** that:

| | Check all that apply |
|---|---|
| 1. The Notice of Intent is rejected. | **X** |
| 2. Additional guidance is provided to the customer as set forth above. | **X** |
| 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 March 18, 2011, at San Francisco, California.

/s/ PETER V. ALLEN
Peter V. Allen
ADMINISTRATIVE LAW JUDGE