

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



**FILED**  
12-21-11  
04:59 PM

Order Instituting Rulemaking on the Commission's own motion to improve distribution level interconnection rules and regulations for certain classes or electric generators and electric storage resources.

Rulemaking 11-09-011  
(Filed September 22, 2011)

CLEAN COALITION MOTION FOR RULING ON CONFIDENTIALITY OF DATA  
SUBMITTED BY THE UTILITIES AND TO REQUIRE THE UTILITIES TO SUBMIT  
ADDITIONAL DATA RELEVANT TO INTERCONNECTION REFORM

Rebecca Davis  
Tam Hunt  
Attorneys for:  
Clean Coalition  
2 Palo Alto Square  
3000 El Camino Real, Suite 500  
Palo Alto, CA 94306  
(805) 705-1352

December 21, 2011

CLEAN COALITION MOTION FOR RULING ON CONFIDENTIALITY OF DATA  
SUBMITTED BY THE UTILITIES AND TO REQUIRE THE UTILITIES TO SUBMIT  
ADDITIONAL DATA RELEVANT TO INTERCONNECTION REFORM

The Clean Coalition respectfully submits this motion, pursuant to Rule 45 (motions), for a ruling on the confidentiality of data submitted by the utilities and to require the utilities to submit additional data relevant to interconnection reform.

The Clean Coalition is a California-based advocacy group, part of Natural Capitalism Solutions, a non-profit entity based in Colorado. The Clean Coalition advocates primarily for vigorous feed-in tariffs and “wholesale distributed generation,” which is generation that connects primarily to distribution lines close to demand centers. Clean Coalition staff are active in proceedings at the Commission, Air Resources Board, Energy Commission, the California Legislature, Congress, the Federal Energy Regulatory Commission, and in various local governments around California.

We are submitting this motion in order to make public data already submitted by the utilities to the Commission, which is highly relevant to the interconnection reform process in this proceeding, and is required for informed decision-making

**We request that the Commission 1) find that information provided by the utilities in response to the Energy Division’s April 27, 2011 Data Request (Attachment A) does not qualify for confidential treatment, and 2) require the utilities to make additional relevant data publicly available to facilitate a meaningful interconnection reform process.**

**I. Introduction**

The Clean Coalition applauds the Commission for initiating this Order Instituting Rulemaking (OIR) to improve California’s distribution level interconnection

process. Interconnection is the largest barrier to the deployment of wholesale distributed generation (WDG) projects, and in turn is a major barrier to meeting the Governor's goal of 12,000 megawatts of distributed generation by 2020.

In order to obtain meaningful public participation and successfully reform California's interconnection process, adequate information must be available to the Commission and parties in this proceeding. The Clean Coalition has worked hard to increase the amount of data publicly available on utility interconnection procedures, and what successes have been achieved are a direct consequence of our work on CAISO and IOU interconnection reform procedures since 2009.

Despite these successes, significant additional data is needed from the utilities in this proceeding on historical and current interconnection procedures. For this Rule 21 reform proceeding to be successful, it is imperative that parties have access to detailed and comprehensive interconnection information from the utilities, including historical information.

In an effort to fully participate in the reform process, the Clean Coalition has on a number of occasions requested access to utilities' interconnection data that was submitted in response to the April 27 Data Request by the CPUC Energy Division. This request has been denied by Commission staff due to utility claims of confidentiality, with the small exception of a very limited amount of aggregated data that has been released to parties in the Distribution System Interconnection Settlement (DSIS).

This assertion of confidentiality by the utilities and Commission staff does not seem in keeping with applicable CPUC precedent, and for the reasons discussed below, the Clean Coalition requests that the Commission release the data submitted by the utilities and submit additional data as described below.

## **II. Background**

The Governor has established a goal of 12,000 megawatts of distributed generation to help meet the 33% by 2020 renewable portfolio standard recently passed into law. To achieve this goal, California must dramatically improve its interconnection

procedures for distribution-interconnected wholesale distributed generation (“WDG”). Interconnection to the distribution grid has emerged as the key bottleneck for WDG. The Clean Coalition supports reformed interconnection procedures that can handle the dramatic expansion of renewable energy interconnection requests in a timely and cost-effective manner. In order to build effective procedures though, we must know details about current and historical interconnection procedures. This is impossible without substantial additional data provided by the utilities.

On April 27, 2011, the CPUC Energy Division Staff (“Staff”) submitted to the utilities a “Data Request for Available Capacity on the Utility Distribution System and the Interconnection Process, Timeline and Costs of Distributed Generation” (“Data Request”) (Attachment A). The utilities eventually responded to the data request.

After requesting access to the utility-submitted data, the Clean Coalition was informed by Commission staff in DSIS that the utilities had claimed that all of the data submitted was confidential. This procedure seems to be contrary to Commission precedent, which requires a rebuttable presumption that information submitted to the Commission is *not* confidential. The party asserting confidentiality always has the burden of proving that information submitted qualifies for confidential treatment. No such showing has been made in this case, to our knowledge.

As a result of this precedent not being followed, there has been, and will continue to be, a lack of interconnection data, on current and historical methods, that will be necessary for any meaningful reform.

### **III. CPUC Precedent on Confidentiality**

The Commission has provided procedures for confidential treatment of information submitted to the Commission in D.06-06-066 and related rulings, which implement Senate Bill 1488 (Bowen 2004). SB 1488 required the Commission to examine its practices regarding confidential information “to ensure meaningful public participation and open decisionmaking” in proceedings, while taking account of the

Commission's obligations to protect the confidentiality of certain information under the Public Utilities Code sections 454.5(g) and 583.

The Commission ordered in D.06-06-066 (p. 12) that confidentiality must "start with a presumption that information should be publicly disclosed." The Commission further clarified that the burden is on the party claiming confidentiality of information submitted to the Commission to prove why such information should not be disclosed to the public (p. 21).

SB 1488 requires that the Commission not accept utilities' assertions that data is confidential without critical analysis (p. 12). The Commission "must act as more than a rubber stamp for a party seeking confidentiality." (P. 12).

The Commission requires a heavy burden of proof in this regard. Boilerplate assertions of the need for confidentiality will not suffice (p. 73). Rather, the party requesting confidentiality must state the legal basis for requiring confidential treatment, and show the factual consequences of release of the information. (*Id.*) It must also show that aggregation, redaction, or other similar methods do not go far enough to protect the data. (*Id.*) "Mere recitation of the conclusory statement ... is not enough to meet the burden of proving entitlement to confidential treatment." (P. 73) D.06-06-066 provides even greater public access to information relating to the Renewable Procurement Standard (RPS) program. In particular, the Commission stated, "[g]reater public access should be provided for procurement documents relating to the RPS programs because of the public interest aspect of the program." (P. 3). The large majority of projects seeking to interconnect to the distribution grid, and thus the subject of this proceeding to reform interconnection under Rule 21, are RPS-eligible renewable energy projects.

Based on the Commission's precedent, the utilities have clearly not met the high burden of proof that information submitted in response to the Data Request qualifies for confidential treatment.

#### **IV. Motion**

##### **A. Motion to Rule on Confidentiality of Information Already Submitted by the IOUs**

The Clean Coalition requests that the Commission facilitate open decision-making and meaningful public participation by denying the IOUs' assertions of confidentiality with respect to the interconnection data that was submitted to the Commission in response to the April 27, 2011, Data Request. Since blanket assertions of confidentiality fail to meet the IOUs' burden of proof, the Clean Coalition requests that the information immediately be made public. Without this data, stakeholders have no way to make informed decisions about necessary reforms. Ultimately, without this data, the reform process is unlikely to result in meaningful change.

##### **B. Motion to Require the Utilities to Submit Additional Information Relevant to Interconnection Reform.**

The Clean Coalition also requests that the Commission facilitate open decision-making and meaningful public participation by requiring the IOUs to submit additional data that we believe is required for a complete assessment of interconnection reform in this proceeding. Specifically, we request that the Commission require the IOUs to submit the following general information and more detailed information for each interconnection application received since Jan. 1, 2008:

###### General Information

- Number of utility full-time equivalent (FTE) staff working exclusively on interconnection studies.
- FTE added in 2009 and 2010.
- Planned FTE additions in 2011 and 2012 to work exclusively on interconnection issues.

## WDAT

- Number of WDAT applications successfully processed since 2008.
- Costs of interconnection studies charged to each applicant.
- Actual time required for each WDAT feasibility study.
- Actual time required for each WDAT system impact study.
- Actual time required for each WDAT facilities study.
- Actual cost to utility of WDAT feasibility studies.
- Actual cost to utility of WDAT system impact studies.
- Actual cost to utility of WDAT facilities studies.
- Specification of why any applicant failed to interconnect under WDAT.

## Fast Track

- Time for processing each Fast Track application.
- Cost of Fast Track studies charged to applicants.
- Actual cost of Fast Track studies incurred by utilities.

## Rule 21

- Actual time required for each Rule 21 feasibility study.
- Actual time required for each Rule 21 system impact study.
- Actual time required for each Rule 21 facilities study.
- Actual cost to utility of Rule 21 feasibility studies.
- Actual time required for completing interconnection studies for each Rule 21 application from start to finish.
- Cost of interconnection studies charged to applicants.
- Actual cost of interconnection studies incurred by utility.
- Specification of why any applicant failed to interconnect under Rule 21.

**V. Conclusion.**

DSIS and this proceeding are hindered by a fundamental lack of data about current and historical interconnection procedures. The Clean Coalition respectfully requests that the Commission: 1) rule that the utilities have not met their burden of proving that information provided to Staff in response to the Data Request qualifies for confidential treatment and require the immediate release of information provided by the utilities in response to the Data Request; and 2) Require the utilities to submit additional information, specified above, to this rulemaking to facilitate meaningful participation and an open decision-making process.

Respectfully submitted,

/s/Rebecca Davis

Attorney for:  
Clean Coalition  
2 Palo Alto Square  
3000 El Camino Real, Suite 500  
Palo Alto, CA 94306  
(805) 705-1352

Dated: 12/21/11