

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Refinements to and Further Development of the Commission's Resource Adequacy Requirements Program.

Rulemaking 05-12-013
(Filed December 15, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING
MOTIONS TO INTERVENE, NOTICES OF INTENT TO CLAIM INTERVENOR
COMPENSATION, REVISED PHASE 1 SCHEDULE, ADVISORY STAFF
WORKSHOP REPORT, AND POST-WORKSHOP COMMENTS**

1 Motions to Intervene

Motions to intervene in this proceeding have been filed by the California Department of Water Resources State Water Project (CDWR-SWP),¹ Edison Mission Energy (EME), J. Aron & Company (J. Aron), Good Company Associates on behalf of TAS (Good Company/TAS), Energy Users Forum (EUF), and the California Electricity Oversight Board (CEOB). Each moving party has shown good cause for its request to intervene, and each request will be granted. I note that Good Company/TAS, which manufactures generation equipment, may seek to raise issues that were not identified in the Assigned Commissioner's Scoping

¹ Pursuant to the Commission's December 15, 2005 order instituting this rulemaking (OIR), the established procedure for parties to enter appearances (other than filing a motion to intervene) was to appear at the first prehearing conference. (OIR, Ordering Paragraph 5.) CDWR-SWP did so on February 3, 2006. Therefore, CDWR-SWP became a party by virtue of its appearance at the prehearing conference.

Memo dated March 1, 2006 (Scoping Memo). Good Company/TAS is placed on notice that the Scoping Memo limits the issues that may be heard in Phase 1 and in Phase 2 of this proceeding.

2 Notices of Intent (NOIs) to Claim Intervenor Compensation

The prehearing conference was held on February 3, 2006. Aglet Consumer Alliance (Aglet) and The Utility Reform Network (TURN) timely filed NOIs to claim intervenor compensation within 30 days of the prehearing conference, on February 23, 2006 and March 6, 2006, respectively. This ruling addresses these NOIs, as provided below.

Public Utilities Code Section 1804(a)(2)² provides that NOIs shall include a statement of the nature and extent of the customer's planned participation in the proceeding and an itemized estimate of the compensation that the customer expects to request. In addition, the NOI may include a showing by the customer that participation in the proceeding will pose a significant financial hardship. If such a showing is made, the Administrative Law Judge (ALJ), in consultation with the Assigned Commissioner, is to issue a preliminary ruling addressing whether the customer will be eligible for an award of compensation and whether a showing of significant financial hardship has been made. (§ 1804(b)(1).) Since both Aglet and TURN purport to make a showing that participation will pose a significant financial hardship, this ruling addresses their eligibility for intervenor compensation.

² All code section references are to the Public Utilities Code.

2.1 Customer Category and Significant Financial Hardship

In D.98-04-059 (79 CPUC2d 628), the Commission directed that if a ruling is issued as a result of the filing of a NOI, the ALJ should rule on whether the intervenor is a customer as defined in § 1802(b),³ and which category of customer the intervenor represents. (79 CPUC2d at 649.) The customer category determines the standard of “significant financial hardship” that applies.

Aglet, an unincorporated nonprofit association registered with the California Secretary of State, states that it is a group authorized pursuant to its articles of organization and bylaws to represent and advocate the interests of residential and small commercial customers of electrical, gas, water, and telephone utilities in California. TURN states that it is authorized pursuant to its articles of incorporation to represent the interests of residential ratepayers. Both Aglet and TURN meet the definition of customer as defined in § 1802(b)(1)(C). The comparison test for significant financial hardship, in which the cost of participation is compared to the economic interest of the individual members of the organization in order to determine whether there will be significant financial hardship, applies to both Aglet and TURN.

Aglet has shown that it meets the comparison test in that typical residential bills of \$800 annually are much less than the estimated cost of participation. Aglet meets the requirements of § 1802(g). In addition, Aglet

³ A “customer” is defined in § 1802(b)(1) to mean: “(A) A participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the commission. (B) A representative who has been authorized by a customer. (C) A representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation.”

received a finding that it met the significant financial hardship test in a ruling issued in Application (A.) 05-06-006 on November 15, 2005. Since this proceeding was initiated within one year of the November 15, 2005 finding, and because no one responded to Aglet's NOI to rebut the presumption of significant financial hardship, Aglet is presumed to be eligible for compensation in this proceeding. (§ 1804(b)(1).)

TURN elected to rely on the rebuttable presumption in § 1804(b)(1) to make its showing of significant financial hardship in this proceeding. TURN received a finding of significant financial hardship in A.05-02-027 in a November 4, 2005 ruling. Since this proceeding was initiated within one year of the November 4, 2005 finding, and because no one responded to TURN's NOI to rebut the presumption of significant financial hardship, TURN is presumed to be eligible for compensation in this proceeding.

2.2 Nature and Extent of the Customers' Planned Participation

Aglet intends to actively participate by participating in workshops, preparing and filing comments, preparing and defending testimony, and filing other pleadings as necessary. Aglet intends to focus on load migration, lumpiness of loads, transfer prices, market power in local areas, and overall cost effectiveness of local area reliability proposals. TURN expects to be an active participant in all phases of the proceeding, as it was in the predecessor resource adequacy proceeding. With respect to local resource adequacy requirements, the focus of Phase 1, TURN expects to address in particular the potential for market power and policies to mitigate its effects on consumer costs. These are issues which have been raised in this proceeding.

2.3 Itemized Estimates of Expected Compensation

To satisfy the requirement that the NOI include an estimate of the compensation the customer expects to request, Aglet expects to request compensation of \$48,540, consisting of \$45,000 in professional time, \$2,000 in compensation-related time, \$800 travel time, and \$740 for other costs such as copying, postage, travel costs, and FAX charges. TURN estimates its total expected compensation at \$146,000, consisting of \$99,000 for its attorney, \$44,000 for its consultant, and \$3,000 in other direct expenses.

2.4 Avoidance of Unproductive and Unnecessary Participation

To satisfy the statement in § 1801.3(f) about unproductive or unnecessary participation, Aglet states that it has conferred with TURN regarding the material issues identified at the current stage of the proceeding with the goal of minimizing duplication of effort regarding issues of concern to residential and small commercial customers. TURN similarly states that it will coordinate as much as possible with Aglet and with other intervenors, including the Division of Ratepayer Advocates (DRA), in order to avoid unnecessary duplication of effort. Both Aglet and TURN note that they represent only small customer interests. DRA on the other hand represents consumer interests generally.

The planned participation of Aglet and TURN and their planned coordination with DRA and other intervenors should result in their effective and efficient participation in this proceeding.

2.5 Conclusion – NOIs to Claim Compensation

Aglet and TURN are eligible for awards of compensation in this proceeding. This finding of eligibility does not mean that they are automatically entitled to intervenor compensation. Pursuant to § 1804, they each must make a

substantial contribution to the Commission decision before they are awarded any intervenor compensation.

3 Revised Phase 1 Schedule

The Scoping Memo adopted a procedural schedule for Phase 1 of this proceeding that accommodated both post-workshop comments and possible evidentiary hearings. The Scoping Memo also provided that, following a workshop on March 15, 2006, the ALJ would make a determination regarding the need for evidentiary hearings and additional workshops. By e-mail to the service list dated March 16, 2006, I announced (1) my determination that Phase 1 evidentiary hearings are not required, (2) that additional workshops would be held on March 27 (Tradable Capacity Product) and April 26 (Local Capacity Requirements Study), and (3) that an updated Phase 1 schedule with revised dates for comments would be issued. On March 29, 2006, Energy Division transmitted the revised schedule for the remaining Phase 1 procedural events by e-mail to the service list. That schedule, copied below, is revised to reflect the fact that this ruling providing direction and guidance on workshop comments is being issued on April 10, 2006; with this revision, the schedule is hereby confirmed.

**Phase I Schedule - Remaining Events
Revised 4/10/06**

Event	Date
Report(s) on tradable capacity product issues filed	April 3, 2006
Ruling providing direction/guidance on workshop comments	April 10, 2006
Workshop comments filed	April 18, 2006
CAISO files 2007 local capacity requirements (LCR) Study	April 21, 2006

Replies to workshop comments filed	April 25, 2006
CAISO workshop on completed LCR study (Folsom)	April 26, 2006
Comments on LCR study filed	April 28, 2006
Replies to comments on LCR study filed; submission of Phase 1	May 3, 2006
Draft decision	May 16, 2006
Comments on draft decision filed	June 5, 2006
Reply to comments on draft decision filed	June 12, 2006
Final Commission order on Phase 1 issues	June 15, 2006

4 Post-Workshop Comments and Replies

The adopted, revised Phase 1 schedule provides that post-workshop comments on issues other than the CAISO's LCR study are due April 18, 2006. Replies to those comments are due April 25, 2006. Advisory Staff has prepared a report on the Phase 1 workshops which includes guidance and direction to parties regarding the post-workshop comments. The workshop report is attached to this ruling. Commenting parties should use the outline of the Staff workshop report in preparing their comments.

IT IS RULED that:

1. California Department of Water Resources State Water Project, Edison Mission Energy, J. Aron & Company, Good Company Associates on behalf of TAS, Energy Users Forum, and the California Electricity Oversight Board are parties to this proceeding.
2. Aglet Consumer Alliance has met the eligibility requirements of § 1804, including the significant financial hardship requirement, and is eligible to file a claim for an award of compensation in this proceeding.

3. The Utility Reform Network has met the eligibility requirements of § 1804, including the significant financial hardship requirement, and is eligible to file a claim for an award of compensation in this proceeding.

4. The revised Phase 1 schedule set forth herein is adopted.

5. Post-workshop comments and replies, and comments and replies on the CAISO's LCR study, may be filed in accordance with the foregoing discussion and schedule.

Dated April 10, 2006, at San Francisco, California.

/s/ MARK S. WETZELL

Mark S. Wetzell

Administrative Law Judge

