CALJ/AES/ek4/avs  **PROPOSED DECISION Agenda ID#16538 (REV. 1)**

**Ratesetting**

Decision **PROPOSED DECISION OF CHIEF ALJ SIMON** (Mailed 5/22/2018)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

|  |  |
| --- | --- |
| Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program. | Rulemaking 15-02-020 |

**DECISION DENYING COMPENSATION   
CLAIM OF CLEAN COALITION**

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ATTACHMENT 1

**DECISION DENYING INTERVENOR COMPENSATION CLAIM OF CLEAN COALITION**

# Summary

This decision denies Clean Coalition’s claim for intervenor compensation for contributions to Decision 16-10-025, implementing provisions of Governor’s Proclamation of a State of Emergency related to tree mortality and Senate Bill 840 on the bioenergy feed-in tariff. Clean Coalition has not demonstrated its status as a representative of residential utility customers pursuant to Section 1802(b)(1)(C), and therefore is not eligible for intervenor compensation.

# 1. Background

Clean Coalition has been appearing in the Commission’s proceedings as a direct project of Natural Capitalism Solutions (NCS), a 503(c)(3) nonprofit formed to “educate senior decision-makers in business, government and civil society about the principles of sustainability.”[[1]](#footnote-1) The CPUC found Clean Coalition[[2]](#footnote-2) eligible under Section 1802(b)(1)(C) in several proceedings. In 2015, the Commission became aware of Clean Coalition’s services to load-serving and other renewable energy entities and examined this group more closely. With more and more facts coming to light, Clean Coalition’s identity as a renewable energy group representing the interests of the renewable power markets, rather than a representative of residential ratepayers, has become clearer. Clean Coalition has been positioning itself in its relationships with the potential clients as a non-profit group providing services to accelerate renewable energy markets, in general, and bring competitive advantages to the markets’ participants, in particular. Based on these facts, the Administrative Law Judge’s ruling of June  30, 2016 in A.15-02-009 rejected Clean Coalition’s NOI; D.16-12-065 affirmed the Ruling and denied Clean Coalition’s motion to reconsider the ruling.[[3]](#footnote-3)

In this proceeding, Clean Coalition’s intervenor status raises similar concerns as in A.15-02-009. On July 12, 2018, a proposed decision denying Clean Coalition’s intervenor compensation claim was mailed for comments. Three parties, Clean Coalition, Phoenix Energy and Sierra Club, commented. A need for a more expanded discussion on the issues raised by Clean Coalition’s customer status commands a use of the more traditional decision format, rather than the simplified standardized form normally used by the Commission for its intervenor compensation decisions. Hence, we revise the original proposed decision, to forego the simplified form and analyze in more detail Clean Coalition’s purposes, activities, and how they affect its standing under the Intervenor Compensation Program (Program), and to address comments on the proposed decision.

# 2. The Intervenor Compensation Program Requirements

The Intervenor Compensation Program, enacted in Public Utilities Code Sections 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor’s participation if the intervenor makes a substantial contribution to the Commission’s final decision. Section 1807 provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements, including the filing of a sufficient notice of intent to claim intervenor compensation (NOI) within 30 days of the prehearing conference.
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction (Section 1802(b)).
3. The intervenor must file and serve a request for compensation award within 60 days of our final order or decision. (Section 1804(c).)
4. The intervenor must demonstrate significant financial hardship. (Sections 1802(h); 1804(b)(1).)
5. The intervenor’s presentation must have made a “substantial contribution” to the proceeding, through the adoption, in whole or in part, of the intervenor’s contention or recommendations by a Commission order or decision. (Sections 1802(j), 1803(a).)
6. The claimed fees and costs are reasonable (Section 1801), necessary for and related to the substantial contribution (Section 1801.3(f)), comparable to the market rates (Section 1806) and productive (Section 1801.3(b), (f)).

Clean Coalition timely filed its NOI and the subject compensation claim. The latter refers to the Commission’s finding of Clean Coalition’s eligibility to claim intervenor compensation, made in the Ruling of July 19, 2011 (R.10-05-006), and relies on that finding through the rebuttable presumption of significant financial hardship (Section 1804(b)(1)). Under Section 1804(b), a rebuttable presumption of eligibility is only valid within a year between the past finding of eligibility in another proceeding and the commencement of the subject proceeding. The ruling of July 19, 2011 issued more than three years before the start of this proceeding in February of 2015, and the rebuttable presumption has long expired.

The claim also refers to D.16-11-017, that awarded intervenor compensation to Clean Coalition in R.11-09-011. However, that decision did not make a substantive finding pursuant to Section 1802(h), relying, instead, on the July 19, 2011 ruling. Therefore, the reference to D.16-11-017 does not support eligibility. For the purposes of this decision, we will focus on the intervenor’s customer status, as a pre-requisite to a finding of significant financial hardship.

# 3. Legal Framework for Determining Eligibility to Claim Intervenor Compensation

## 3.1. Legal Standard for Determining an Eligible “Customer”

Clean Coalition claims that it is a “Category 3 customer” or an organization, authorized, pursuant to its bylaws, to represent residential utility customers (Section 1802(b)(1)(C).) This status reflects the purposes of the Intervenor Compensation Program expressed in Section 1801.3:

It is the intent of the Legislature that:

(b) The provisions of this article shall 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.

…(f) This article shall be administered in a manner that avoids unproductive or unnecessary participation that duplicates the participation of similar interests otherwise adequately represented or participation that is not necessary for a fair determination of the proceeding.

In its seminal decision on the intervenor compensation program policies, D.98-04-059, the Commission explains:

The intervenor compensation program is intended to encourage the participation of all customers in Commission proceedings by helping them overcome the cost barriers to effective and efficient participation. … [W]e must qualify this statement to reflect the intent of the statute that only those particular customer interests that would otherwise be underrepresented should be compensated. (See § 1801.3(f)). D.98-04-059 at 26.

[T]he intent of the statute is that we compensate only those customer interests that would otherwise be underrepresented. …If the intervenor is a “customer” representing interests that would otherwise be underrepresented, who meets the significant financial hardship criteria, that customer may be eligible for an award of compensation. D.98-04-059 at 28 and 29.

The intervenor compensation program … offers customers the prospect of compensation to assist in overcoming the barriers to effective and efficient participation where that participation is on behalf of an otherwise underrepresented voice. D.98-04-059 at 43.

The statute describes two elements of eligibility: customer status and significant financial hardship. We consider here the customer status issue, as the primary matter, in more detail. Section 1802(b)(1)(A – C) describes three categories of eligible “customers.” Of interest here is Category 3, described in Section 1802(b)(C). An eligible Category 3 customer must advocate underrepresented interests and have the authority, stated in its articles or bylaws, to represent these interests in front of the Commission.

The Commission stressed that only those groups “whose raison d’étre ... is the representation of residential consumers”[[4]](#footnote-4) can be found eligible, for example:

TURN is considered a customer by the nature of its raison d'étre as a representative of residential customers. D.91-11-014, Cal. PUC LEXIS 728, \*3; 41 CPUC2d 614.

In the underrepresented ratepayers class, the Legislature has included residential and small commercial customers receiving bundled electric service from an electrical corporation, pursuant to Section 1802(b)(1)(C).[[5]](#footnote-5) The Program’s reach also extends to the underrepresented residential ratepayers with environmental concerns.[[6]](#footnote-6)

## 3.2. Interests Not Covered by the Intervenor Compensation Program

Section 1802(b)(2) excludes from the “customer” categories “any state, federal, or local government agency, any publicly owned public utilities, or any entity that, in the commission’s opinion, was established or formed by a local government entity for the purpose of participating in a commission proceeding.”

The Commission has denied compensation to those interests that do not need incentives in the form of intervenor compensation to advocate in front of the Commission, and therefore are not underrepresented:

Those entities which receive a large benefit from participating in Commission proceedings need no further incentives to participate. This group includes the regulated utilities, big business/large consumers who stand to benefit substantially from any savings achieved, and actual and potential competitors. A second category of entities not in need of compensation are groups with easy access to deep pockets. Included within this category are groups representing municipalities and other governmental entities, and representatives of industries seeking large and tangible gains from the outcome of Commission proceedings.[[7]](#footnote-7)

In subsections 1 – 4, below, we provide several relevant examples of the Commission’s findings regarding non-eligible interests.

### 3.2.1. Utilities, Consultants, Actual and Potential Competitors

In 2007, the Commission considered a compensation request of San Francisco Community Power (SFCP), a non-profit group that had been awarded compensation previously. In the underlying proceeding, SFCP focused its efforts on the pilot program, which the Commission adopted. The evidence showed that SFCP was to become a contractor to Pacific Gas and Electric Company (PG&E) under the pilot program. The Commission held that “SFCP's advocacy put it in the position of being more of a … consultant [to PG&E] than a customer.” (D.07-06-023, Cal. PUC LEXIS 272, \*11.)

Competitors to the utilities have also been ineligible. The Commission excluded “from the definition of customer a competitor of a utility when the competitor is advocating for changes expanding its opportunities to compete.”[[8]](#footnote-8) The Commission observed, for example, that self-interest and participation in our proceedings of TEC, a company providing wiring services, “arise due to its existence as a competitor rather than a customer” of Pacific Bell. TEC’s argument that, as an actual Pacific Bell customer, TEC represents the broader interests of other customers was rejected:

Following TEC's reasoning to an extreme, any participant in our proceedings, regardless of the genesis of its self-interest, could argue that its position "represents" the interests of customers. If coincidence with customers' interests is the primary criterion for establishing "representation," such an argument would likely prevail in any instance where the Commission ultimately adopts the participant's position as reasonable and in the public interest. … We believe that an interpretation of "representation" more narrow than a mere coincidence of interests is appropriate. D.88-12-034, 1988 Cal. PUC LEXIS 770, \*6-7; 30 CPUC2d 93.

### 3.2.2. Medium and Large Commercial and Industrial Utility Customers, Wealthy Customers

The Commission denied compensation to intervenors representing commercial and industrial, medium and large customers, or wealthy individuals. The pertinent analysis was more recently performed in D.15-11-034[[9]](#footnote-9) (rehearing denied, D.16-06-059), where a group claimed that it represented the interests of its fellows, members, and constituents, and all business customers of Southern California Edison Company (SCE). The Commission states:

[W]e reject the notion that the statute contemplates ratepayers having to pay for the participation, under any of the definitions of a “customer[,]” that serves the interest of mid- or large-sized businesses. The Commission’s analysis in D.86-05-007 erects an insurmountable barrier to WBA’s eligibility:

The chief concern is that an affluent client could arrange to be represented by a nonprofit firm to evade the responsibility for paying for the costs of representing the client’s interests. If an award were made to the representative under these circumstances, the costs of representation would have been shifted from the client who could afford the costs to the general body of ratepayers. This is not a result that was intended by the Legislature when it authorized the compensation program. D.86-05-007 1986 Cal. PUC LEXIS 287 at \*11.

The Commission concludes:

…WBA has assumed the role of an agent for entities or individuals who would be found ineligible for compensation under § 1802(b). This conclusion is consistent with what we see as the legislative intent in creating the intervenor compensation program. For example, the legislative history of Senate Bill 521, codified as § 1802.3, [[10]](#footnote-10) notes the prohibition on providing intervenor compensation to customers who are financially able to represent themselves. [[11]](#footnote-11)

### 3.2.3. Conflicting Interests

The Commission denied compensation to the intervenors representing conflicting views of eligible and ineligible ratepayers:

We believe that an intervenor ultimately funded by ratepayers should be single-mindedly pursuing the interest of the utility customers that it purportedly represents. The intervenor compensation program should be implemented in a manner that ensures customer interests are represented by entities free from conflicts that may arise in representing two interests, the competitor's as a competitor and the ratepayers' as customers (either residential or business) (D.00-04-026, Cal. PUC LEXIS 203, \*19; *emphasis added.*)

The requirement that an intervenor must single-mindedly focus on the underrepresented interests has been thoroughly considered in D.93-11-020, precluding a group representing conflicting interests from receiving compensation. In the center of the discussion there was CEERT, a 501(c)(3) nonprofit organization, with membership consisting of renewable energy companies and environmental groups. The Commission, first, reiterated the purpose of the Intervenor Compensation Program:

Our intervenor compensation program targets those situations in which an important aspect of the public good might be overlooked because the persons most interested in that aspect would not otherwise have the financial incentive to participate. D.93-11-020 1993 Cal. PUC LEXIS 854, \*4, 52 CPUC2d 97.

The decision then determined that the “broad based environmental goals” of CEERT also furthered the interests of the renewable energy companies-members, and denied an award (D.93-11-020, 1993 Cal. PUC LEXIS 854, \*6; 52 CPUC 2d 97).

### 3.2.4. Governmental Entities

Governmental entities and their representatives are not “customers” eligible for intervenor compensation.[[12]](#footnote-12) The Commission does not allow compensation to the groups representing local governmental entities. We stated:

[I]t was not our intention that public agencies who generate funds through their taxing power would be eligible. … Agencies with taxing power have an obvious alternative to funding by utility ratepayers and, as such, are not eligible for compensation…[[13]](#footnote-13)

The Commission explained:

If we were to allow eligibility for the potential award of … intervenor fees to entities that have the power of taxation, we would place PG&E's ratepayers in the position of …funding activity that can and should be funded by taxpayers. These agencies participate on behalf of taxpayers.” [[14]](#footnote-14)

# 4. Clean Coalition’s Work

The issue before us is whether, in the light of Clean Coalition’s engagement with the renewable energy markets’ participants, including utilities, community choice aggregators (CCAs), renewable energy companies, and local governments, this organization continues to be eligible for intervenor compensation awarded to representatives of residential utility customers. Below, we provide information on Clean Coalition’s mission and work in furtherance of this mission.

## 4.1. Clean Coalition Positions Itself As A Renewable Energy Nonprofit

We have reviewed evidence in the formal record submitted by the intervenor. Its pleadings repeatedly describe Clean Coalition as a

…California-based nonprofit organization whose mission is to accelerate the transition to renewable energy and a modern grid through technical, policy, and project development expertise. The Clean Coalition drives policy innovation to remove barriers to procurement and interconnection of distributed energy resources (DER) – such as local renewables, advanced inverters, demand response, and energy storage – and we establish market mechanisms that realize the full potential of integrating these solutions. The Clean Coalition also collaborates with utilities and municipalities to create near-term deployment opportunities that prove the technical and financial viability of local renewables and other DER. [[15]](#footnote-15)

Clean Coalition’s interests in our proceedings have reflected Clean Coalition’s position as a nonprofit focusing on the renewable energy markets:

The Clean Coalition is interested in creating a robust renewable energy marketplace with a wide variety of energy options. … Clean Coalition works with municipalities and utilities to develop procurement programs for local renewables... [[16]](#footnote-16)

Supporting these formal filings, its website exhibits Clean Coalition as a nonprofit group for the renewable energy markets, a group providing consulting services benefitting a development of the markets, and helping entities that are entering or have entered the markets, to overcome problems associated with operating within this sector of the economy. In its pleadings, Clean Coalition frequently refers to its own website’s publications at [www.clean-coalition.org](http://www.clean-coalition.org/), as well as other Internet materials as a valid source of information about this organization.[[17]](#footnote-17) Below we provide typical examples of Clean Coalition’s work described in Clean Coalition’s filings and on its website; copies of the website’s details are attached to this Decision.

According to its website, Clean Coalition has initiated Peninsula Advanced Energy Community (PAEC) initiative. This initiative aims at accelerating the planning, approval, and deployment of an Advanced Energy Community in southern San Mateo County. The project is supported by a broad range of collaborators, including PG&E and numerous local governments. PAEC is made possible by a grant through the California Energy Commission’s (CEC) Electric Program Investment Charge program.

The web announcement for the PAEC indicates that Clean Coalition has provided policy support to utilities and community choice aggregators across the country. Most recently, Clean Coalition has designed a CLEAN Program, or FIT, for East Bay Community Energy, a community choice aggregator in Alameda County, California. The program includes Market Responsive Pricing to ensure efficient markets and a Dispatchability Adder to incentivize energy storage.

In March of 2017, the Clean Coalition was selected to receive a grant from the CEC Electric Program Investment Charge program. Under this grant, the Clean Coalition leads the implementation of an innovative energy storage system that will be paired with an existing rooftop solar project. Clean Coalition’s project partners include PG&E, the City and County of San Francisco, and the Mission Housing Development Corporation. The project will leverage in-process efforts between the Clean Coalition and PG&E to streamline wholesale distributed generation interconnection.

In its pleadings[[18]](#footnote-18) and on the web, Clean Coalition has stated that it works with electric utilities and industry stakeholders to design and implement programs that bring local renewable energy online; advances state level policy that accelerates adoption of local renewable energy; works to modernize America’s power system by improving grid planning, access, and solutions; and works with electric utilities to design and implement community microgrids.

The Clean Coalition’s website describes that Clean Coalition “is excited to be part of California’s rapidly emerging CCA market.”[[19]](#footnote-19) According to these materials, over the past several years, the Clean Coalition has worked closely with California’s existing CCAs to develop successful feed-in tariff programs, designed to stimulate local commercial-scale solar photovoltaic systems within the CCA service territories. Clean Coalition states that, moving further into 2017, it is looking forward to working with its partners to develop a plan for an accelerated and deployment of DER for the East Bay Community Energy CCA.

The Clean Coalition stresses that it works with electric utilities and industry stakeholders to design and implement programs that streamline deployment of local renewables. Clean Coalition states that it has provided consultation to multiple utilities across the country on innovative programs to support the deployment of distributed renewable generation.

Clean Coalition works with the City of San Diego (City) and San Diego Gas & Electric Company (SDG&E) to determine a city-wide plan for distributed solar plus energy storage. Clean Coalition’s first task for this project is to conduct a Solar Siting Survey to identify the technical potential for commercial-scale solar throughout the City. Clean Coalition indicates that it has done these before in California – East Bay, Peninsula Advanced, and for SCE. Clean Coalition notes that in the City, the potential for commercial-scale solar remains largely untapped. Clean Coalition is helping the City unlock the potential of this underserved market segment by conducting a Solar Siting Survey and designing a CLEAN Program, a feed-in tariff with streamlined interconnection.

Clean Coalition’s Montecito Community Microgrid Initiative intends to put microgrid along commercial properties within Coast Village Road in the Lower Village.

It is the work described above that justifies the reason for Clean Coalition’s existence as described by its fiscal sponsor NCS:[[20]](#footnote-20)

The Clean Coalition is a nonprofit organization whose mission is to accelerate transition to renewable energy and a modern grid through technical, policy, and project development expertise. The Clean Coalition drives policy innovation to remove barriers to procurement and interconnection of distributed energy resources (DER) – such as local renewables, advanced inverter, demand response, and energy storage – and we establish market mechanisms that realize the full potential of integrating these solutions. The Clean Coalition also collaborates with utilities and municipalities to create near-term deployment opportunities that prove the technical and financial viability of …DER. …

We are building this future through:

Utility Renewables Programs – Working with electric utilities and industry stakeholders to design and implement programs that bring local renewable energy online.

State Renewables Policy – Advancing state level policy that accelerates adoption of local renewable energy.

Grid Modernization Policy – Working to modernize America’s power system by improving grid planning, access, and solutions.

Community Microgrids – Working with electric utilities to design and implement community microgrids that prove local renewables provide a reliable and cost-effective foundation for a modern grid.[[21]](#footnote-21)

Clean Coalition’s own mission statement replicates the above:

Our Mission: To accelerate the transition to renewable energy and a modern grid through technical, policy, and project development expertise.

The Clean Coalition drives policy innovation to remove barriers to procurement and …DER such as local renewables, energy storage, and demand response. The Clean Coalition also establishes programs and market mechanisms that realize the full potential of integrating these solutions. … Clean Coalition collaborates with utilities and other load-serving entities, as well as with municipalities and other jurisdictions, to create near-term deployment opportunities...[[22]](#footnote-22)

## 4.2. Clean Coalition Is Focused on Solving Issues Facing Entities in the Renewable Energy Markets or Entering the Markets

Clean Coalition explains that its main purpose in partnering or collaborating with utilities and municipalities providing interconnection, siting, and other consulting services, is to build its “expertise and gain a better understanding of the issues facing distributed energy resources.”[[23]](#footnote-23) Clean Coalition’s participation in this proceeding is intended to continue sharing this group’s “expertise on issues relating to locational value, the additional benefits resulting from integrated use of multiple types of DER, and developing a market for DER to monetize all grid services the resources are capable of providing.”

Based on this mission, Clean Coalition has distinguished itself from other parties:

The Clean Coalition can be distinguished from other parties by its focus on integrating high levels of distributed renewable generation and its deep expertise with technical planning activities, including interconnection, determining the locational value of distributed resources, and incorporating monitoring, communications, and control technology.[[24]](#footnote-24)

The Clean Coalition can be distinguished from other parties by its focus on advanced inverter capabilities and distribution system modeling to integrate high levels of DER. We have also developed expertise on locational value, procurement processes, and portfolio optimization. Further, the Clean Coalition offers a unique perspective through its experience working with utility, ratepayer, environmental, public agency, and industry stakeholders.[[25]](#footnote-25)

The Clean Coalition … developed its policy positions based on the organization’s expertise developing interconnection requirements and designing procurement mechanisms. We have developed Feed-in-Tariffs with similar requirements to BioMAT for several municipal utilities.[[26]](#footnote-26)

We note that these characteristics do not reflect Clean Coalition’s interest in underrepresented residential ratepayers.

Clean Coalition’s work - “feed-in tariff design, microgrid projects, and solar siting”[[27]](#footnote-27) - includes work for compensation, paid by the investor-owned utilities, publicly owned utilities, and municipalities. For the similar work, Clean Coalition also uses public and foundation grants. Below, we list some of Clean Coalition’s typical projects during the last four years either funded through grants or compensated by renewable energy market participants or by both.[[28]](#footnote-28)

* SCE. Clean Coalition performed a Solar Siting Survey for SCE.
* PSEG Long Island (grid operator). Clean Coalition worked on modeling the grid and identifying siting for DER for PSEG Long Island.
* Metropolitan Washington Council of Governments (MWCG). Clean Coalition won a contract for a microgid program led by the MWCG, a regional organization of 22 Washington D.C. metropolitan area local governments and their governing officials. Clean Coalition is providing expert consultation on the feasibility, design, and implementation of the microgrid.
* PG&E. Clean Coalition has been working with PG&E on the Hunters Point Community Micrgorid Project, on powerflow modeling.
* Los Angeles Department of Water and Power (LADWP). Clean Coalition provides technical and policy expertise to LADWP in the adoption of the City Council’s ordinance concerning the authority to enter into contracts for an additional 450 MW for their FIT program. This expands the initial FIT that the Clean Coalition helped establish in 2013.
* City of Palo Alto Utilities. Clean Coalition worked with the City of Palo Alto Utilities to establish various renewable energy programs. Clean Coalition conducted a Solar Siting Survey, and created a power-flow modeling platform.
* Distributed Energy Alliance (renewable energy nonprofit[[29]](#footnote-29)). Clean Coalition advised on the FIT program.
* Sonoma Clean Power a CCA. Clean Coalition consulted on the development of their renewable energy program.
* U.S. Virgin Islands Water and Power Authority and Energy Office.[[30]](#footnote-30) Clean Coalition conducted a solar siting survey and helped design renewable energy programs.
* Portola Valley. Clean Coalition acts for this affluent town[[31]](#footnote-31) as a consultant on the requirements for and design, of a microgrid, by collaborating with GridScape. GridScape is a for-profit company that received one of the first CEC’s grants as a leader in microgrd projects. GridScape tenders the formal proposal and Clean Coalition requests fees as the expert consultant.
* San Francisco. In March 2017, the Clean Coalition won a grant from CEC’s Energy Electric Program Investment Charge program, which offered “Solar +: Taking the Next Steps to Enable Solar as a Distribution Asset.” Under this grant, the Clean Coalition will lead the implementation of an energy storage system.[[32]](#footnote-32)
* San Diego. In partnership with the City of San Diego and SDG&E, Clean Coalition identifies potential for commercial-scale solar throughout the City, and evaluates these opportunities based on the interconnection potential of the local grid for each site. Clean Coalition will unlock the City’s commercial-scale solar potentials by conducting a Solar Siting Survey and designing a feed-in tariff with streamlined interconnection.

Also, Clean Coalition’s staff members have consulted with renewable energy companies through a for-profit consulting company, RightCycle, in order to raise funds for Clean Coalition. [[33]](#footnote-33) Clean Coalition’s leader – its founder and Executive Director, Craig Lewis, is the Principal and founder of Right Cycle.

## 4.3. Clean Coalition Is Not Authorized to Represent Residential Ratepayers

Clean Coalition asserts that it is “clearly ‘an organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential ratepayers.” However, the most recent version of NCS’s bylaws attached to the comments[[34]](#footnote-34) clearly does not contain such authorization. Based on this fact, alone, the Commission must find Clean Coalition ineligible.

We note, however, that amending bylaws by inserting the Section 1802(b)(1)(C) authorization to represent eligible interests would not solve issues with the group’s eligibility. The authorization is a demonstration of the group’s raison d’étre, but not a substitute for it. It is the Commission’s duty to make sure that the award goes to the intervenors that single-mindedly represent financially constrained ratepayers. We held that the “[t]hird category would consist of groups whose raison d'étre, as demonstrated in their bylaws or articles of incorporation, is the representation of residential consumers.”[[35]](#footnote-35)

If an intervenor’s activities and purposes are in furtherance of an interest that may conflict with the interests of residential customers or benefit directly interests that are not eligible, such an intervenor must be disqualified, even if its bylaws include the required authorization. The Commission has a long practice of inquiring into the activities, membership, and funding of intervenors, to find out which interests the intervenors actually represent, and, if warranted, has denied compensation based on these factors.[[36]](#footnote-36)

## 4.4. Clean Coalition’s Constituents Issues

Significant financial hardship is another element of eligibility that must be demonstrated after the customer status has been shown.[[37]](#footnote-37) Pursuant to Section 1802(h), significant financial hardship for organizations is a demonstration that “the economic interest of the individual members of the … organization is small in comparison to the costs of … participation.” Thus a showing of financial hardship depends on the interests of the group’s members. When asked about its members or constituents, Clean Coalition has stated that it does not have members and that its constituents are subscribers to its free online newsletter.[[38]](#footnote-38) Because the subscribers do not authorize Clean Coalition to represent their interests, and are not obligated to support Clean Coalition in any manner, they cannot reasonably be considered members or constituents. Similarly, Clean Coalition holds no obligations towards these subscribers. Subscription information does not allow determining who the subscribers are. There is no sufficient ground to the claim that Clean Coalition represents the interests of subscribers to these market updates.

As the facts in Sections VI (A) and (B), above, show, this group positions itself as a nonprofit renewable energy project that solves issues facing the renewable energy markets, in general, and entities entering or participating in the markets, in particular. Clean Coalition attracts supporters and partners, accordingly:

Support

The Clean Coalition approach works. We offer proven and pragmatic solutions to resolve the tough energy issues facing our nation today. By collaborating with businesses, governments, and advocates, we … create programs and policies to scale up the production of local renewable energy in communities across the country.[[39]](#footnote-39)

Partner with us

…[W]e are actively looking for potential partners in advancing clean local energy across the country. Our partners include:

* Utilities
* Smart-grid technology providers
* Clean energy organizations
* Local governments and community groups

These entities, more than newsletter subscribers, are likely candidates for the role of Clean Coalition’s constituents. Clean Coalition explains that utilities have sought its support on market programs because of the understanding that Clean Coalition would not compete with the utilities. The economic interest of the utilities, other load-serving entities, renewable power companies and governmental entities in Clean Coalition’s services demonstrates that Clean Coalition brings material value to these entities. Clean Coalition’s assertions that as a nonprofit group it is not a competitor to the utilities does not ease our concerns regarding Clean Coalition’s standing as a non-profit for the renewable energy markets, representing ineligible interests.

## 4.. Clean Coalition’s Stance Does Not Compare to Environmental Intervenors

Clean Coalition argues that it is an environmental group and should not be barred from being compensated because of its regular engagements with the renewable energy markets. Clean Coalition even states that similar engagements are common among environmental organizations. However, three examples put forward by Clean Coalition[[40]](#footnote-40) fail to support the argument. Clean Coalition refers to a collaboration of various groups, including Natural Resources Defense Council (NRDC), resulting in the Oregon Clean Electricity and Coal Transition Act (SB 1547); an agreement between Kansas City Power & Light Company (KCP&L) and Sierra Club; and a partnership between Environmental Defense Fund (EDF) and a labor union. [[41]](#footnote-41)

In the case with NRDC, collaboration among utility, consumer, and environmental interests groups, including NRDC, led to the adoption of the State of Oregon clean energy bill. In the example with the Sierra Club, Sierra Club opposed construction of KCP&L’s coal-fired generation plant in Platter County, MO. KCP&L reached an agreement with Sierra Club, under which KCP&L had to neutralize the project’s carbon emissions by implementing energy efficiency and renewable energy programs, and the Sierra Club had to release its objection to the plant construction. In the example with EDF, EDF partnered with IUE-CWA, with members-workers at manufacturing plants (General Electric, Westinghouse, Sylvania, RCA, Sperry and others). Through the partnership, IUE-CWA developed a program to teach the plants’ employees to easily identify and implement energy savings at the workplace.[[42]](#footnote-42) We note that IUE-CWA is a labor union, not a utility. Unlike Clean Coalition, neither NRDC nor Sierra Club nor EDF, exist to provide services that would economically benefit participants in renewable energy markets. Purposes, for which EDF, Sierra Club, and NRDC have been created, are focused on protecting wildlife, wild places, and the nature, [[43]](#footnote-43) not on helping energy companies and governmental entities to enter and/or compete in the renewable energy markets.

# 5. Comments on Proposed Decision

## 5.1. Clean Coalition

Clean Coalition stresses that its projects are in “the public interest” and “mission-related,” and, therefore, Clean Coalition is eligible for intervenor compensation. Clean Coalition’s mission-driven activities purport to remove obstacles to the development of the renewable energy markets. However, providing renewable energy is typically a for-profit enterprise, and activities of a group created to benefit the renewable energy markets are not compensable.

Clean Coalition argues that it is eligible because some of its activities are funded by public agencies. This reasoning does not serve to support Clean Coalition’s argument. Public agencies award grants not exclusively to nonprofit but also to for-profit corporations, as well (see, for example, a reference to such corporation, GridScape, in Section VI(B), above), when development of a certain sector of the economy needs to be stimulated. Foundation grants also often target economic development of renewable energy.[[44]](#footnote-44) The Intervenor Compensation Program is not comparable to a charitable institution. The intervenor compensation is not a grant, and must not be treated as such. The Program is funded by utility ratepayers. As shown in Section IV, above, the scope of the Program is limited to protecting the interests of residential (or small commercial) utility ratepayers.

Clean Coalition also argues that local governments that have engaged Clean Coalition’s services are not “utilities or renewable industry participants” but are themselves representatives of ratepayers. As we have explained in Section IV, above, local governments are not eligible “customers.” If Clean Coalition alludes to its acting as a representative of governmental entities, such interests are not covered by the Program.

The comments assert that Clean Coalition’s activities arise out of the interests of utility customers. As shown in Section IV, above, the Program does not cover the interests of all utility customers, but targets, exclusively, views of the underrepresented ratepayers. Clean Coalition’s services and projects, on the other hand, embrace a wide range of the property owners, including commercial, industrial, governmental, and wealthy residential.[[45]](#footnote-45) As shown in Section IV, above, the Commission has determined that the interests of these customers are ineligible.

The case of CEERT discussed in Section IV(B)(3), above, is on point.[[46]](#footnote-46) We find the situation with compensating Clean Coalition even clearer. CEERT, at least, had environmental members that have been found eligible for compensation (such as, for example, NRDC or Defenders of Wildlife). Clean Coalition does not have members, and represents interests that would not be eligible if their proponents, Clean Coalition’s clients (renewable energy companies, utilities, municipalities), participated on their own. By advocating on behalf of these interests, Clean Coalition has taken upon itself a role of the agent for the interests that are ineligible. The Commission has denied eligibility to such representatives of ineligible groups. :

SPURR/REMAC is the agent for a group of entities that, individually, would be found ineligible for compensation under § 1802(b), and is therefore not a "customer" eligible for compensation. D.96-09-040, Cal. 1996 PUC LEXIS 907, \*9-10; 68 CPUC2d 33.

As we have explained, unlike people’s environmental concerns,[[47]](#footnote-47) the renewable energy industry and markets are a for-profit arena and many of its members are already parties to our proceedings. Clean Coalition’s mission in providing interconnection, siting, and other consulting services[[48]](#footnote-48) may be worthy, but lies outside the auspices of the Intervenor Compensation Program.

Clean Coalition’s expertise on industrial and market matters does not constitute an element of eligibility.[[49]](#footnote-49) More important, there is strong record evidence that Clean Coalition has consistently provided its expertise on the interconnection and other renewable energy markets’ issues from the business perspectivesof the entities that have entered or are entering the renewable energy markets. These perspectives are sufficiently represented in our proceedings, and must not be equated with the perspectives of underrepresented ratepayers. Therefore, Clean Coalition’s participation duplicates the interests already widely represented before the Commission. Section 1801.3(f), referred to in Section IV, above states:

This article shall be administered in a manner that avoids … unnecessary participation … that is not necessary for a fair determination of the proceeding.

The Comments state that Clean Coalition’s projects are not funded by utilities and other renewable energy industry and markets stakeholders. Clean Coalition’s engagements, however, described in Section VI (A) and (B), above, include those for compensation that comes from utilities, renewable energy companies, and governmental entities. The Comments allege that the proposed decision is “under the mistaken impression” that grants awarded to Clean Coalition can fund its participation in our proceedings. However, the proposed decision was informed about this fact by the Clean Coalition itself. Clean Coalition stated that it may use these sources of funding for its work at the CPUC.[[50]](#footnote-50)

Clean Coalition argues that it derives no income from its participation in our proceedings; therefore, it has no financial interest in participating. However, this argument is not convincing. The formal record referenced in Section VI (A) and (B), above, demonstrates a connection between Clean Coalition’s mission, mission-driven activities, and advocacy; and Clean Coalition does not deny such connection. Clean Coalition’s existence is justified by its assisting renewable energy markets, in general, and their participants, in particular, to succeed and compete - accordingly, Clean Coalition’s advocacy before the Commission puts this intervenor in the beneficial position that brings this group more funding either in the form of paid engagements or grants. On the other hand, Clean Coalition’s services are sought by the ineligible interests precisely because Clean Coalition brings economic advantage to these interests.[[51]](#footnote-51) The comments attack the proposed decision for relying on “highly speculative theory of possible future contracts.” However, financial gains from participation in the proceeding need not be immediate or tangible. A mere potential for such gains has been a factor in denying compensation (see, for example, D.92-04-051 or D.93-11-020).

The Comments mention an existence of the “long record of opposing renewable energy industry participants and utilities”; however, provide only one example - Clean Coalition’s opposition to the Puente and Ellwood projects and the design of the Moorpark Request for Proposal. The example is not supported by a reference to a formal record or a citation to such opposition; and we have not been able to locate it. (We note, that statements in the Comments are often not supported by references or citations.)

The Commission has defined “financially interested” party in various settings. A need for such definition arose, for example, in the energy efficiency Rulemaking (R.01-08-028), to describe criteria for selecting non-financially interested members of Peer Review Groups for utilities’ energy efficiency programs:

A financially interested party is any person who engages in the purchase, sale or marketing of energy efficiency products or services, or who is employed by a private, municipal, state or federal entity in the purchase, sale or marketing [of] energy efficiency products or services, or who provides consulting services regarding the purchase, sale or marketingof energy efficiency products or services… Energy efficiency services include among other things … advising clients [of] potential energy savings they can achieve … D.05-01-055 at 104-105 [*emphasis added*].

Although the above definition was not developed in the context of the Intervenor Compensation Program, we can use a similar approach in determining if Clean Coalition is a “financially interested party.” Clean Coalition engages in renewable energy services and advises its clients, load-serving and renewable energy companies and governmental entities, regarding renewable energy products and technologies.[[52]](#footnote-52) Using the criteria set in D.05-01-055, we can state Clean Coalition’s financial interest in our proceedings.

The Comments vigorously oppose a “new rule that customer organizations may not engage in mission-related pilot projects,” but this objection is misplaced. The Comments cannot provide a reference to any such “new rule” in the proposed decision; and there is no such new rule established by the Commission within its Intervenor Compensation Program. The fact that Clean Coalition’s projects are “mission-related” does not create an issue that would, in itself, preclude compensation. The compensation is precluded by the facts demonstrating that Clean Coalition’s mission and projects are in furtherance of interests that are not covered by the Program. Even if the interests advocated by Clean Coalition were to secondarily benefit or coincide with, the interests of residential customers, such advocacy, as is clear from the examples referred to in Section IV, above, is not compensable:

If coincidence with customers' interests were adequate to establish that a participant in a proceeding "represents" customers, the overall determination … that the party is a "customer" would be unnecessary. D.88-12-034Cal. 1988 PUC LEXIS 770, \*11; 30 CPUC2d 93.

The fact that some Clean Coalition’s projects intend, in addition to expanding the renewable energy market, to benefit residential ratepayers does not offset the major mission-driven thrust of Clean Coalition’s activities and areas of interest. Such intent, if any, is outweighed by Clean Coalition’s projects and advocacy that do not focus on the underrepresented interests.

## 5.2. Phoenix Energy

Phoenix Energy (Phoenix) opposes the proposed decision. Phoenix explains that for private market participants like Phoenix, litigating before the Commission can be burdensome and financially damaging. Phoenix depends on organizations like Clean Coalition to represent Phoenix’s interests before the Commission. The comments argue that Clean Coalition should not be considered an industry consulting business, as Phoenix has never hired Clean Coalition as a consultant. We find that Phoenix’s comments do not provide factual and legal support to this company’s objections to the proposed decision.

Phoenix is a participant of the renewable energy markets as an owner, operator and developer of commercial biomass gasification plants,[[53]](#footnote-53) and thus depends on groups like Clean Coalition “to maintain an ability to participate with competent legal counsel and subject matter experts”[[54]](#footnote-54) in our proceedings. The fact that Clean Coalition’s advocacy helps renewable energy companies like Phoenix to advance their interests supports our finding that Clean Coalition is ineligible. Our denial of Clean Coalition’s claim hinges, among other things, on the facts of Clean Coalition’s expert consulting services that help the renewable energy markets’ participants to profit.

Phoenix further argues that the compensation claim has to be granted because Clean Coalition has not provided business services specifically to Phoenix. This argument is irrelevant as the facts present many examples of the Clean Coalition’s serving other market participants, including Respondents to this Rulemaking.[[55]](#footnote-55)

Finally, Phoenix’s comments fail to comport to the requirements of Rule 14.3 of the Commission Rules of Practice and Procedure, to

…focus on factual, legal or technical errors in the proposed … decision and in citing such errors shall make specific references to the record or applicable law. Comments which fail to do so will be accorded no weight.[[56]](#footnote-56)

## 5.3. Sierra Club

Sierra Club does not identify “factual, legal or technical errors” in the proposed decision but requests clarifications on the type of uncompensated or grant-funded coordination with market participants that has to be avoided and on the type of sustainability advocacy that could pose a risk of reflecting a vested market interest in the regulated industry. The comments do not address facts constituting the basis for the denial of Clean Coalition’s claim, and therefore do not provide a basis for granting the claim. We note that the comments do not follow the mandate of Rule 14.3 to focus on factual, legal or technical errors in the proposed decision. However, we will pause to correct Sierra Club’s misunderstanding of the basis for the denial of Clean Coalition’s claim.

Sierra Club states that the proposed decision relies on Clean Coalition’s assertions that it provides uncompensated coordination with investor-owned and municipal utilities. To be precise, the proposed decision relies on the facts demonstrating that Clean Coalition’s existence is not focused on eligible interests. The proposed decision concludes that facts characterizing Clean Coalition as a non-profit participant in the renewable energy markets are incompatible with the purposes of the Intervenor Compensation Program.

The comments state that some of Clean Coalition’s work for the regulated industry and market participants is uncompensated or funded by grants. This comment overlooks facts of Clean Coalition’s consulting work servicing the needs of the DER/WDG markets. The comments do not mention the fact that Clean Coalition’s services bring economic advantage to the entities entering the markets or already in the business. The comments are silent with respect to the fact that Clean Coalition’s clients are parties to this proceeding. The comments do not pay attention to the fact that Clean Coalition’s work is combined with its staff paid work on behalf of the interests of renewable energy markets and their participants, to earn funds for Clean Coalition.

Sierra Club notes that environmental advocacy that incidentally advances the renewable energy industry does not necessarily reflect a market interest in the industry. This observation, while correct, is irrelevant because the proposed decision does not make findings to the contrary. However, the proposed decision (at 5) distinguishes environmental advocacy groups’ mission and actions from Clean Coalition’s, and this decision adopts this analysis.

The proposed decision’s findings are case- and fact-specific, based on the characteristics of the particular intervenor, Clean Coalition. Sierra Club requests a clarification of the proposed decision, while failing to indicate which of these specific findings are unclear. In essence, the comments ask us to expand this order to consider general, non-specific scenarios, which would require us to make a number of assumptions and generalizations based on these hypothetical scenarios. We are not supposed to, and are not inclined to, do that here.

# 6. Conclusion

The Intervenor Compensation Program has been created to give voice to interests that would otherwise not be heard in our proceedings. The issue before us is whether, given Clean Coalition’s mission and regular engagements with load serving entities, renewable power companies, and governmental entities, it can be described as a group that represents, single-mindedly, the interests of residential ratepayers that are underrepresented in our proceeding. We have analyzed the statute and the Commission’s practice relevant to this issue, and determined that they do not allow compensation to interests that do not have financial barriers to their participation. We determined that Clean Coalition has not provided facts in support of the assertions that it represents the interests of its newsletter subscribers. We have determined, based on the record, that utilities, governmental entities, and renewable energy companies engage Clean Coalition’s services because they bring economic value to these entities. We have determined that Clean Coalition advertises its expertise on interconnection, DER/WDG, and other renewable energy markets matters, from the business and economic perspectives of the entities entering or already operating in the renewable energy markets. We have determined that Clean Coalition’s existence is justified by its solving problems facing renewable energy markets’ entrants and existing participants, and that Clean Coalition participates in our proceedings to present business and economic perspectives of the entities entering renewable energy markets and those that are already in the business. We have reviewed facts showing that Clean Coalition’s services cover large and medium commercial and industrial property owners, and some of the nation’s wealthiest communities. We have emphasized that while Clean Coalition’s services may be beneficial for the renewable energy markets, an intervenor compensation award is not a grant, and the Commission must make sure the award goes to the intervenors created to represent residential ratepayers and working to further their interests. We have noted that mere coincidence, if any, with underrepresented views, does not entitle such group to intervenor compensation. We have also noted that the latest version of Clean Coalition’s bylaws no longer authorizes it to represent residential ratepayers, and we explained that even if the appropriate language were there, it is not a substitute for the raison d’étre of the group.

We have determined that the interests represented by Clean Coalition are not underrepresented in our proceedings. This conclusion is in the most obvious way supported by the proceeding’s service list. It contains not only a multitude of the names of load-serving entities and other renewable energy markets participants or their associations, but also names of Clean Coalition’s actual clients (SCE, City of Los Angeles Department of Water and Power, Pacific Gas and Electric Company, East Bay Community Energy, Sonoma Clean Power, members of the California Municipal Utilities Association (Alameda Municipal Power and City of Palo Alto Utilities, etc.)). Clean Coalition’s purposes to help these entities to succeed in their endeavors in the energy markets may be noble, but it is difficult to see how these interests are underrepresented in our proceedings because of cost barriers.

In the case of Clean Coalition we thus have a unique combination of facts precluding us from finding this group eligible. Because Clean Coalition is not a “customer,” it has not met the Commission’s threshold for eligibility. Since Clean Coalition has not shown its status as a “customer,” the issues of financial hardship and substantial contribution to the decision are moot.

# 7. Comments

The comment period for the proposed decision was not waived (see Rule 14.6(c)(6) of the Commission Rules of Practice and Procedure). The comments on the proposed decision are addressed in Part VII, above, of this decision.

# 8. Assignment of the Proceeding

Rulemaking 15-02-020 is assigned to Commissioner Clifford Rechtschaffen and Administrative Law Judges Anne Simon, Robert Mason, and Nilgun Atamturk.

Findings of Fact

1. Clean Coalition has not demonstrated that the interests it represents have financial barriers to their participation and are, therefore, underrepresented in Commission formal proceedings.
2. Clean Coalition has not demonstrated that it represents single-mindedly the interests of residential utility customers.
3. Clean Coalition has demonstrated that it acts as a representative of interests that are not eligible for compensation under the Intervenor Compensation Program.

Conclusions of Law

1. Clean Coalition is not a “customer” under the provisions of Section 1802(b)(1)(C).
2. Clean Coalition is not eligible to receive intervenor compensation.

ORDER

1. The intervenor compensation claim filed by Clean Coalition is denied.

This order is effective today.

Dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, at San Francisco, California.

**ATTACHMENT 1**

**APPENDIX**

**Compensation Decision Summary Information**

|  |  |  |  |
| --- | --- | --- | --- |
| **Compensation Decision:** |  | **Modifies Decision?** | No |
| **Contribution Decision:** | D1610025 | | |
| **Proceeding(s):** | R1502020 | | |
| **Author:** | Chief ALJ Anne E. Simon | | |
| **Payer(s):** | n/a | | |

**Intervenor Information**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Intervenor** | **Claim Date** | **Amount Requested** | **Amount Awarded** | **Multiplier?** | **Reason Change/Disallowance** |
| Clean Coalition | 12/22/16 | $10,747.50 | $0.00 | No | Not eligible to claim compensation |

**Advocate Information**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **First Name** | **Last Name** | **Type** | **Intervenor** | **Hourly Fee Requested** | **Year Hourly Fee Requested** | **Hourly Fee Adopted** |
| Brian | Korpics | Attorney | Clean Coalition | $205 | 2016 | $0.00 |
| Katie | Ramsey | Attorney | Clean Coalition | $205 | 2016 | $0.00 |
| K. Sahm | White | Expert | Clean Coalition | $300 | 2016 | $0.00 |

**(END OF APPENDIX)**

Attachment 1:

[R1502020 Simon (REV 1) Agenda Dec. Denying Icomp Claim of Clean Coalition ATTACH 1 NOV 8](http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M236/K006/236006965.pdf)

1. NSC’s letter of March 2, 2015, attached to Clean Coalition’s Notice of Intent to Claim Compensation (NOI) filed onf March 19, 2015 (R.14-02-007). [↑](#footnote-ref-1)
2. Until, approximately 2011, Clean Coalition participated under the name of its predecessor, FIT Coalition. [↑](#footnote-ref-2)
3. Administrative Law Judge’s Ruling Rejection Clean Coalition Amended Notice of Intent to Claim Intervenor Compensation at 6-10, issued on June 30, 2016 (A.15-02-009); D.16-12-065, at 4 and Ordering Paragraph 23 at 88. [↑](#footnote-ref-3)
4. D.86-05-007, 1986 Cal. PUC LEXIS 287, \*6-7; 21 CPUC2d 99. [↑](#footnote-ref-4)
5. “Targets of concern include residential customers… and small business customers who cannot afford to take time away from day-to-day operations to invest time and money in PUC proceedings which will ultimately result in dispersed benefits.” Order Instituting Rulemaking on the Commission's Intervenor Compensation Program and Instituting Investigation on the Commission's Intervenor Compensation Program (Rulemaking (R.)97-01-009; Investigation (I.)97-01-010; *1997 Cal. PUC LEXIS 60, \*69.* [↑](#footnote-ref-5)
6. D.98-04-059 fn. 14 at 30. [↑](#footnote-ref-6)
7. R.97-01-009; I.97-01-010; *1997 Cal. PUC LEXIS 60, \*69.* [↑](#footnote-ref-7)
8. D.00-04-026, 2000 Cal PUC LEXIS 203, \*18. [↑](#footnote-ref-8)
9. 2015 Cal. PUC LEXIS 717; Rehearing denied in D.16-06-059, [2016 Cal. PUC LEXIS 344 \*](https://advance.lexis.com/document/?pdmfid=1000516&crid=977ee545-71e8-42bd-9295-9302e37d5db5&pddocfullpath=%2Fshared%2Fdocument%2Fadministrative-materials%2Furn%3AcontentItem%3A5K5D-RRB0-00T9-14W8-00000-00&pddocid=urn%3AcontentItem%3A5K5D-RRB0-00T9-14W8-00000-00&pdcontentcomponentid=139445&pdteaserkey=sr0&pditab=allpods&ecomp=5pkLk&earg=sr0&prid=e04e353d-164a-4c80-967f-b457a2a49397)28-33. [↑](#footnote-ref-9)
10. See Senate Bill 521 legislative history and analysis at http:/leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml. [↑](#footnote-ref-10)
11. D.15-11-034, 2015 Cal. PUC LEXIS 717. [↑](#footnote-ref-11)
12. Under specified circumstances, certain eligible local governmental entities may constitute a separate eligible category pursuant to Sections 1802(d) and 1802.4. [↑](#footnote-ref-12)
13. D.82-09-057, 1982 Cal. PUC LEXIS 1275, \*2-3; 9 CPUC2d 635. [↑](#footnote-ref-13)
14. D.82-06-065, 1982 Cal. PUC LEXIS 580, \*3; 9 CPUC2d 372; rehearing denied (.82-09-057, 1982 Cal. PUC LEXIS 1275, \*2-3; 9 CPUC2d 635). [↑](#footnote-ref-14)
15. Motion for Party Status filed on March 13, 2015, in R.14-02-00 at 1; Clean Coalition’s comments on interconnection issues related to the bioenergy feed-in tariff under the California renewables portfolio standard filed on May 25, 2016, at 1; Clean Coalition Comments on Report and Next Steps for Development of Renewables Integration Cost Adder filed on June 3, 2016, in R.16-02-007 and this proceeding, at 1; Motion for Party Status filed on February 9, 2016, in A.14-05-024, at 2; Motion to Reconsider Administrative Law Judge's Ruling Rejecting Clean Coalition’s Amended Notice of Intent to Claim Intervenor Compensation filed on August 1, 2016, in A.15-02-009, at 1; etc. Reply Comments on the Proposed Decision on Track 3 Policy Issues filed in A.15-07-002, et al. on January 16, 2018; Comments on the Administrative Law Judge’s Ruling Seeking Comment on Greenhouse Gas Emissions Accounting Methods filed in R.16-02-007 on April 20, 2018, at 3. See also Reply Comments on Proposed Decision on Track 2 Demonstration Projects filed on February 6, 2017, in R.14-08-013, et al. at 2. Among more recent filings see Reply Comments on the Proposed Decision on Track 3 Policy Issues filed in A.15-07-002, et al. on January 16, 2018; or Comments on the Administrative Law Judge’s Ruling Seeking Comment on Greenhouse Gas Emissions Accounting Methods filed in R.16-02-007 on April 20, 2018, at 3. [↑](#footnote-ref-15)
16. Motion for Part Status filed on February 9, 2 016, in A.14-05-024 at 2. See, also Motion for Party Status filed on March 26, 2015, in A.14-10-014 at 1: “The Clean Coalition seeks to intervene in this proceeding to ensure that the planning of SCE’s EV Program recognizes the full potential of EVs as a distributed energy resource (“DER”). … The distribution resources planning will demonstrate locations where EVs may provide optimal grid benefit.” [↑](#footnote-ref-16)
17. Amended NOI filed on April 1, 2011, at 2 (R.10-05-006); NOI filed on April 25, 2014, at 3 (R.13-09-011); Motion to Reconsider Administrative Law Judge’s Ruling Rejecting Clean Coalition’s Amended Notice of Intent to Claim Intervenor Compensation filed on August 1, 2016 at 4, 7, 9 and 11 (A.15-02-009); and Clean Coalition’s Comments on Proposed Decision Denying Intervenor Compensation Claim, filed on June 11, 2018, in this proceeding (Comments at 12), refer to [http:∕∕www.clean-coalition.org](http://www.clean-coalition.org/). [↑](#footnote-ref-17)
18. See Motion to Reconsider of August 1, 2016 (A.15-02-009), and numerous other documents filed by Clean Coalition describing this organization (for example, pleadings listed in fn. 15, above). [↑](#footnote-ref-18)
19. See Attachment to this decision. [↑](#footnote-ref-19)
20. Clean Coalition is a direct project of NCS (see NCS’s letter attached to Clean Coalition’s Comments on the Proposed Decision filed on June 11, 2018). [↑](#footnote-ref-20)
21. NCS’s website at <http://natcapsolutions.org/>. [↑](#footnote-ref-21)
22. <http://www.clean-coalition.org/about/mission-vision-approach/>. [↑](#footnote-ref-22)
23. Attachment to Clean Coalition’s notice of ex parte communication filed on August 9, 2016, in A.15-02-009. [↑](#footnote-ref-23)
24. Amended Notice of Intent to Claim Intervenor Compensation filed on March 4, 2016, at 4-5. [↑](#footnote-ref-24)
25. Amended Notice of Intent to Claim Intervenor Compensation filed on November 9, 2015, in A.15-02-009, at 4-5. [↑](#footnote-ref-25)
26. Request for Intervenor Compensation filed on December 22, 2016, at 4-5. [↑](#footnote-ref-26)
27. Motion to Reconsider Administrative Law Judge’s Ruling Rejecting Clean Coalition’s Amended Notice of Intent to Claim Intervenor Compensation, filed on August 1, 2016, in A.15-02-009, at 9. [↑](#footnote-ref-27)
28. These projects are listed on the Attachment to Clean Coalition’s amended NOI filed on November 9, 2015 (A.15-02-009) in response to the Commission’s inquiry, attachment to Clean Coalition’s Comments on the proposed decision, and in Internet publications (see Attachment to the decision). [↑](#footnote-ref-28)
29. According to its website, Indiana Distributed Energy Alliance is a “coalition … amongst businesses, individuals, elected officials, local units of government, colleges and universities, labor unions, economic development groups as well as environmental and consumer organizations” formed to “promote renewable energy and distributed generation” ([https://indianadg.wordpress.com](https://indianadg.wordpress.com/)). [↑](#footnote-ref-29)
30. This entity is described on its website at <http://www.viwapa.vi/AboutUs/AboutWAPA.aspx> as an “autonomous governmental instrumentality of the Government of the U.S. Virgin Islands that produces electricity, and distributes electricity and potable water to approximately 55,000 electrical customers and 13,000 potable water customers.” [↑](#footnote-ref-30)
31. According to Wikipedia, Portola Valley is the wealthiest town in America per the American Community Survey, based on per-capita income for communities larger than 4,000. <https://en.wikipedia.org/wiki/Portola_Valley,_California> [↑](#footnote-ref-31)
32. http://www.clean-coalition.org/clean-coalition-receives-cec-grant-for-solarstorage-in-san-francisco/ [↑](#footnote-ref-32)
33. Attachment 2 to Clean Coalition’s Amended NOI filed on November 9, 2015, in A.15-02-009. [↑](#footnote-ref-33)
34. Attachment to Comments on Proposed Decision Denying Intevenor Compensation Claim of Clean Coalition, filed on June 11, 2018. [↑](#footnote-ref-34)
35. D.86-05-007, 1986 Cal. PUC LEXIS 287, \*6-7. [↑](#footnote-ref-35)
36. In addition to the decisions referred to in Section IV, above (and many other decision on these matters), there are also rulings rejecting NOIs based on the nature of the intervenors’ purposes, activities, or membership. See, for example, rulings rejecting an NOI of the “consortium of around 160 members that include vehicle and fuel technology providers, fleet operators, and public agencies” (Ruling of May 5, 2017, Rejecting CALSTART, Inc.’s NOI (A.17-01-020, et al.), at 6-9); or an NOI of the group representing water ratepayers’ community as a whole, including ineligible customers, (Ruling of July 5, 2016, Rejecting Water Plus’s amended NOI (A.15-07-019) at 5-7); etc. [↑](#footnote-ref-36)
37. Section 1804(a)(2)(B). [↑](#footnote-ref-37)
38. A copy of the newsletter subscription invitation states: “Sign up for our newsletter. Stay informed on important renewable energy developments and upcoming events.” The only requirement for the subscription is entering a subscriber’s e-mail address. See Attachment to this Decision. [↑](#footnote-ref-38)
39. <http://www.clean-coalition.org/connect/support/>. See Attachment to the Decision. [↑](#footnote-ref-39)
40. Motion to Reconsider Administrative Law Judge’s Ruling Rejecting Clean Coalition’s Amended Notice of Intent to Claim Intervenor Compensation, filed on August 1, 2016, fn. 23 at 9. [↑](#footnote-ref-40)
41. Footnote 23 to Clean Coalition’s Motion to Reconsider filed on August 1, 2016, in A.15-02-009 at 9. [↑](#footnote-ref-41)
42. <https://www.iue-cwa.org/treasure-hunts> [↑](#footnote-ref-42)
43. See Article Second of NRDC’s Certificate of Incorporation; Sierra Club’s bylaws (revision of November 16, 2013), section 2.2; EDF’s Fourth Amended and Restated Bylaws, as amended through May 11, 2011, Article 2. Also, these groups’ activities, as reflected on their website are not comparable to Clean Coalition’s activities. [↑](#footnote-ref-43)
44. For example, for the power-flow modeling for PG&E’s microgrid project, Clean Coalition received a grant from Wells Fargo. [↑](#footnote-ref-44)
45. See examples in Section VI (A), (B), above. [↑](#footnote-ref-45)
46. D.93-11-020; 1993 Cal. PUC LEXIS 854; 52 CPUC 2d 97. [↑](#footnote-ref-46)
47. See D.98-04-059 at 30. [↑](#footnote-ref-47)
48. Attachment to Clean Coalition’s notice of ex parte communication filed on August 9, 2016, in A.15-02-009. [↑](#footnote-ref-48)
49. See D.98-04-059 at 26 and 28. See, also our decision on the Utility Design Inc.’s (UDI) claim:

    We also reject UDI's claim that it should be granted intervenor compensation because "no other party provides the same expertise as UDI." … Accepting for the sake of argument UDI's assertion that it provided valuable expertise [\*21] in this proceeding, we disagree with the conclusion that this expertise, in itself, entitles UDI to an award of intervenor compensation. Because UDI does not qualify as a "customer" it is not eligible to receive an award of intervenor compensation. D.00-04-026, 2000 Cal. PUC LEXIS 203, \*20-21. [↑](#footnote-ref-49)
50. Attachment to the Notice of Intent to Claim Compensation filed on March 19, 2015 (R.14-07-002) lists Clean Coalition Grant Funds 2014-2015 and states, as follows: “Funding supports nationwide policy work at the state and federal levels, and is not targeted or restricted to our work with the California Public Utilities Commission. Within California, this also supports our participation in front of the California Independent System Operator and the California Energy Commission, in addition to local jurisdictions.” [↑](#footnote-ref-50)
51. Motion to Reconsider Administrative Law Judge’s Ruling Rejecting Clean Coalition’s Notice of Intent to Claim Intervenor Compensation, filed on August 1, 2016, fn. 14 at 6 (A.15-02-009). [↑](#footnote-ref-51)
52. For example, Clean Coalition’s states that it has “developed Feed-in-Tariffs with similar requirements to BioMAT for several municipal utilities” (see, the subject compensation claim at 4), which is directly relevant to the issues in this proceeding. [↑](#footnote-ref-52)
53. Phoenix Energy’s Comments on Administrative Law Judge’s Ruling on the Staff Proposal to Implement the Governor’s Emergency Proclamation on Tree Mortality, filed in this proceeding on February 26, 2016, at 3. [↑](#footnote-ref-53)
54. PE’s comments on the proposed decision deying intervenor compensation to Clean Coalition filed on June 11, 2018, at 2. [↑](#footnote-ref-54)
55. See Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program, issued on March 6, 2015, at 11. [↑](#footnote-ref-55)
56. Rule 14.3 of the Commission Rules of Practice and Procedure. [↑](#footnote-ref-56)