

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

Order Instituting Rulemaking to Create a Consistent
Regulatory Framework for the Guidance, Planning, and
Evaluation of Integrated Distributed Energy Resources.

Rulemaking 14-10-003
(Filed October 2, 2014)

**RESPONSE OF THE JOINT ENVIRONMENTAL PARTIES TO THE
SIERRA CLUB'S APPLICATION FOR REHEARING OF DECISION 16-12-036**

Merrian Borgeson
NATURAL RESOURCES DEFENSE COUNCIL
111 Sutter St., 21st Floor
San Francisco, CA 94104
415-875-6100
mborgeson@nrdc.org

Larissa Koehler
ENVIRONMENTAL DEFENSE FUND
123 Mission Street, 28th Floor
San Francisco, CA 94105
415-293-6093
lkoehler@edf.org

Brian Korpics
CLEAN COALITION
16 Palm Ct.
Menlo Park, CA 94025
(708) 704-4598
brian@clean-coalition.org

February 7, 2017

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

Order Instituting Rulemaking to Create a Consistent
Regulatory Framework for the Guidance, Planning, and
Evaluation of Integrated Distributed Energy Resources.

Rulemaking 14-10-003
(Filed October 2, 2014)

**RESPONSE OF THE JOINT ENVIRONMENTAL PARTIES TO THE
SIERRA CLUB'S APPLICATION FOR REHEARING OF DECISION 16-12-036**

I. Introduction

On January 23, 2017, Sierra Club submitted an Application for Rehearing of the “Decision Addressing Competitive Solicitation Framework and Utility Regulatory Incentive Pilot,” Decision 16-12-036 (“Decision”). Clean Coalition, Environmental Defense Fund (“EDF”), and Natural Resources Defense Council (“NRDC”) (collectively, the “Joint Environmental Parties”), submit this timely Response within 15 days of when the Sierra Club’s Application for Rehearing¹ was filed, pursuant to Rule 16.1 of the Commission’s Rules of Practice and Procedure.²

The Joint Environmental Parties are in full accord with the Sierra Club, and urge the Commission to act quickly to prevent the unlawful participation of fossil-fueled generation resources in the utility regulatory incentive pilot and any other sourcing conducted under the authority of Public Utilities Code Section 769(a).³

II. The Commission Should Address this Issue Quickly Given the Clear Legal Arguments and Avoid Delay for the Incentive Pilot Program

The Sierra Club lays out a clear and compelling set of legal and policy arguments detailing why the Commission does not have the authority to include fossil-fueled generation resources within the definition of “distributed resources” specified by Public Utilities Code section 769(a). The foundation of this argument is that Section 769(a) defines “distributed

¹ *Application of Sierra Club for Rehearing of Decision 16-12-036*, Order Instituting Rulemaking to Create a Consistent Regulatory Framework for the Guidance, Planning, and Evaluation of Integrated Distributed Energy Resources, R. 14-10-003 (Jan. 23, 2017).

² California Public Utilities Commission, *Rules of Practice and Procedure*, Rule 16.1(d).

³ Public Utilities Code Section 769(a).

resources” as “distributed *renewable* generation resources, energy efficiency, energy storage, electric vehicles, and demand response technologies” (emphasis added).⁴ As Sierra Club states, “a definition explicitly limited to ‘renewable distributed generation’ cannot be expanded to include fossil-reliant distributed generation in direct contravention of Public Utilities Code § 769(a).”⁵ The Commission does not have discretion to interpret the statute in a manner that is inconsistent with its plain meaning. Additionally, from a policy standpoint, given the State’s climate targets and the direction provided by SB 350, there is no reason to include fossil resources. Using the appropriate legal interpretation will further California’s climate leadership, as intended by the statutory language. It is important that the Commission correct the language in Decision 16-12-036 quickly so that experience and insights from the utility regulatory incentive pilot are gleaned rapidly and without delay.

III. Conclusion

The Joint Environmental Parties urge the Commission to respond quickly to Sierra Club’s Application for Rehearing, and change the language in the Decision to align with Public Utilities Code Section 769(a).

Dated: February 7, 2017

Respectfully submitted,



Merrian Borgeson
Natural Resources Defense Council
111 Sutter St., 21st Floor
San Francisco, CA 94104
415-875-6100
mborgeson@nrdc.org



Larissa Koehler
Environmental Defense Fund
123 Mission Street, 28th Floor
San Francisco, CA 94105
415-293-6093
lkoehler@edf.org

⁴ *Id.*

⁵ *Application of Sierra Club for Rehearing of Decision 16-12-036*, Order Instituting Rulemaking to Create a Consistent Regulatory Framework for the Guidance, Planning, and Evaluation of Integrated Distributed Energy Resources, R. 14-10-003 at 6-7 (Jan. 23, 2017).



Brian Korpics
Clean Coalition
16 Palm Ct.
Menlo Park, CA 94025
(708) 704-4598
brian@clean-coalition.org