

**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

**San Diego Gas & Electric Company,  
Complainant,**

**v.**

**Docket No. EL00-95-045**

**Sellers of Energy and Ancillary Service Into  
Markets Operated by the California  
Independent System Operator Corporation  
and the California Power Exchange,  
Respondents.**

**Investigation of Practices of the California  
Independent System Operator and the  
California Power Exchange**

**Docket No. EL00-98-042**

**ORDER REJECTING PETITION AND MOTION OF CALIFORNIANS FOR  
RENEWABLE ENERGY, INC. (CARE) REQUEST FOR COMPENSATION  
FOR PARTICIPATION EXPENSES AND OTHER RELIEF**

**(Issued November 5, 2001)**

On August 15, 2001, the Commission granted the request for late intervention filed by Michael E. Boyd, Californians for Renewable Energy, Inc. (CARE) in Docket No.EL00-95-031 and permitted CARE to participate as a party in the evidentiary hearing before me, subject to the condition that CARE accepts the record as it stands. Subsequently, on August 30, 2001, CARE filed a Petition for Intervention with Financial Hardship and Request for Compensation for Participation Expenses. The petition contained a motion seeking an order or stay canceling or suspending California Department of Water Resources long-term energy contracts and associated IOU rate schedules for lack of proper notice under the Federal Power Act. CARE also requested from the Commission financial assistance to allow it to present its case to the Commission. The Secretary of the Commission referred the petition to me. For the reasons set forth below, the petition is rejected.

In general, the matters raised by CARE's petition with regard to payment of attorneys fees and cancellation of certain contracts are not among the three issues set for

hearing by the Commission's July 25, 2001 order which are before me. As Mr. Boyd currently is acting pro se, he is advised that the petition on its face does not conform with the Commission's Rules of Practice and is not properly before the Commission. By filing the petition with the Commission electronically, CARE was not required to file an additional fourteen copies. But CARE remained obligated to serve its petition on all parties. However, CARE's petition does not contain a certificate of service to all other parties. While CARE requests that the Commission's waive the requirements for service upon the public, this is not a requirement which can be waived by the Commission. Service of pleadings on the public provides the public with notice and the opportunity to comment upon the propriety of the relief sought. In other words, the certificate of service that should have been part of the pleading accords the public due process, of which it has been deprived by CARE's failure to properly file a pleading.

Even if the pleading had been properly filed, CARE's request for financial assistance in the form of attorney's fees is premature. The established practice for Commission proceedings is for parties appearing before the Commission to bear their own legal fees. The public interest is represented by Commission Staff and state agencies and private interests are represented by interested parties who retain separate counsel. Any grant of attorney's fees and costs would fall under the discretionary authority of the Commission, and not this tribunal. In any event, as concerns the evidentiary hearing process in which CARE has been permitted to participate, the exercise of such authority would have to be demonstrated to the Commission at the conclusion of the proceedings and show meaningful and distinctive participation on the three issues set for hearing in this case, and not the broader concerns set forth in CARE's petition for intervention. Thus, any request to the Commission for attorney's fees and costs at this stage is premature and, because of the failure to properly file a pleading is not before the Commission and must be rejected.

Care's request to cancel the long-term power contracts of DWR does not address any of the three issues set for hearing before me and, consequently, could not have been considered by me had its pleading been properly filed. If CARE desires that the Commission consider such relief, it must file a proper pleading with the Commission which complies in all respects with the Commission's Rules of Practice, including but not limited to service of the pleading on all parties on the official service list maintained by the Secretary of the Commission.

In the circumstances present, CARE's petition and motion for compensation for participation expenses and other relief does not conform to the Rules of Practice, and is premature to the extent noted above. Consequently, the petition and motion are rejected.

**So Ordered.**

Bruce L. Birchman  
Presiding Administrative Law Judge