

DOCKETED

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STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

DOCKET NO. 09-AFC-7C

Petition For Amendment for the **PALEN
SOLAR ELECTRIC GENERATING
SYSTEM**

**PALEN SOLAR HOLDINGS, LLC's
OPPOSITION TO SIERRA CLUB'S
UNTIMELY PETITION TO INTERVENE**

Palen Solar Holdings, LLC (PSH) files this Opposition to Sierra Club's untimely Petition to Intervene. As the Committee held in its denial of a previous untimely Petition to Intervene filed by the National Parks Conservation Association (NPCA), the allowable time for filing a Petition expired on September 28, 2013.¹ While the Committee has ordered additional evidentiary hearings with its Order to Reopen the Evidentiary Record, the Committee did not directly or indirectly extend the time to intervene. Therefore, in order for Sierra Club to be granted such a late intervention it would have to establish good cause why it did not, or could not have, filed its petition prior to September 28, 2013.

Sierra Club's own petition acknowledges that it was aware of the PSEGS Amendment proceedings. Sierra Club has filed public comment letters at both the Commission and at the BLM. Sierra Club provided public comment orally at hearings before the Committee. Sierra Club's argument to support good cause is that it simply disagrees with what PSH has filed on avian mortality. This is insufficient.

The Committee should note that the avian mortality comparison table was prepared by PSH because the Committee requested such information at the PMPD Conference to establish a frame of reference of avian mortality across solar technologies. The first comparison table was filed on February 10, 2014 and subsequently updated twice. Sierra Club had known about the request that such a comparison be prepared since January 7, 2014 as it participated in the very hearing in which the Committee requested it. Simply put, Sierra Club has not established good cause to be granted late intervention status. Granting Sierra Club's request and establishing this precedent would be harmful to the process and would be in direct contradiction of having an established regulatory deadline

¹ Transcript of October 24, 2013 Pre Hearing Conference, pages 19-20, TN 201117

at all. Therefore, the Committee should find that Sierra Club's Petition is untimely, and that they have failed to establish good cause for failing to file such a petition prior to the deadline.

As the Committee directed NCPA when it denied its Petition, Sierra Club can still participate through public filings and comments at the hearings. The Committee should also note that Sierra Club's positions, as stated in its petition, are being well represented in the proceedings.

Dated: June 5, 2014

Respectfully Submitted,



Scott A. Galati
Counsel to Palen Solar Holdings, LLC