

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

COMPLAINT AND INVESTIGATION AGAINST
DYO CORE, INC.

DOCKET NO. 11-CAI-03
(Proceeding initiated July 26, 2011)

PETITION TO INTERVENE BY
SOLAR POINT RESOURCES, INC. AND DESERT POWER, INC.

DOCKET	
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DATE	Aug 15 2011
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August 15, 2011

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Pursuant to Sections 1207 and 1236.5 of Title 20 of the California Code of Regulations, Solar Point Resources, Inc. and Desert Power, Inc. (together, the “Distributors”) hereby petition to intervene in the proceeding regarding the Complaint and Investigation Against DyoCore, Inc. (“Complaint”).

I. Grounds for Intervention

The Distributors are authorized distributors of DyoCore, Inc.’s SolAir 800 wind turbine (“DyoCore Turbine”), as noted on page 12 of the Complaint. The Complaint identifies the Distributors as parties who would be affected by the relief sought, per Section 1231(b)(7). (Complaint at 12.) In order to ensure that the interests of the Distributors and their customers are adequately protected in this proceeding, the Distributors have jointly filed this Petition to Intervene.

As discussed in greater detail in the next section, the Distributors and their customers have a direct and significant interest in the outcome of this proceeding. Distributors have invested significant funds and incurred substantial costs in reliance upon the California Energy Commission’s (“Commission”) Emerging Renewables Program (“ERP”), and in reliance upon the inclusion of the DyoCore Turbine within the ERP. Furthermore, the complaint has significant potential to affect the Distributors’ customers, as discussed below. In order to protect these interests, the Distributors wish to participate as parties in this proceeding.

II. Position and Interest of Petitioners in the Proceeding

Since March 2010, the DyoCore Turbine has been eligible for use under the ERP. On July 26, 2011, the Commission filed its Complaint, which requests the immediate removal of the DyoCore Turbine from the Commission's "List of Eligible Small Wind Turbines" on the Commission's ERP website. The Complaint further requests that the Commission provide "guidance regarding the resolution of applications for rebate reservations and payment requests under the ERP for small wind systems that use the DyoCore Turbine, and take such action as may be necessary to recover ERP funds that were paid as rebates for such systems." (Complaint at 1-2.)

The Distributors serve customers including churches, low to moderate income homeowners, schools and small businesses that are now concerned about the ERP and whether they will continue to have access to renewable energy. Those customers, along with the Distributors, wish to better understand the Complaint and how applications for rebate and payment requests will be addressed. The Distributors work directly with their customers in applying for and obtaining ERP funds. Therefore, both the Distributors and their customers need to know whether those projects that have completed Reservation Request Forms (CEC 1038 R1) and Rebate Payment Claim Forms (CEC 1038 R2) will be honored.

Furthermore, the Distributors have invested significant funds and incurred substantial costs in reliance upon the ERP and statements made by the Commission, and are currently facing shortfalls of millions of dollars if the Commission grants the relief requested in the Complaint. The Distributors have existing credit lines secured by personal guarantees that will be maturing in the near future with no source of repayment. These investments, and the Distributors' ability to repay their loans secured by personal guarantees, are directly at stake in this proceeding. Therefore, it is critical to the interests of the Distributors and their customers that the Distributors be allowed to intervene in this proceeding.

III. Extent of Participation

The Distributors and their customers wish to better understand the Complaint and what it means for those projects that have completed R1s and those that have obtained R2s.

Furthermore, as noted above the Distributors have invested significant funds and incurred substantial costs in reliance upon the ERP. Therefore, in order to protect the interests of the Distributors and their customers, the Commission should allow the Distributors to participate fully as parties in this proceeding.

Since the DyoCore Turbine was first considered for inclusion under the ERP, the Distributors have carefully reviewed the ERP program and investigated DyoCore and the DyoCore Turbine. Therefore, the Distributors are familiar with the ERP as well as the equipment at issue, and will be able to contribute meaningfully to this proceeding.

IV. Name, Address, and Phone Number of Petitioners

Petitioners:

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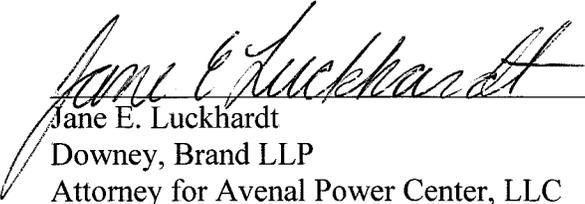
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For the foregoing reasons, the Distributors respectfully request that the Commission grant their Petition to Intervene in this proceeding.

Dated: August 15, 2011

Respectfully,



Jane E. Luckhardt
Downey, Brand LLP
Attorney for Avenal Power Center, LLC

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA**

**COMPLAINT AND INVESTIGATION
AGAINST DYO CORE, INC.**

DOCKET NO. 11-CAI-03

PROOF OF SERVICE

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<p><u>ENERGY COMMISSION STAFF</u></p> <p>Eric Solorio Siting Project Manager esolorio@energy.state.ca.us</p> <p>Kevin W. Bell Staff Counsel kwbell@energy.state.ca.us</p>	<p><u>ENERGY COMMISSION – PUBLIC ADVISOR</u></p> <p>Jennifer Jennings Public Advisor publicadvisor@energy.state.ca.us (email preferred)</p>	

DECLARATION OF SERVICE

I, Lois Navarrot, declare that on August 15, 2001, I served and filed copies of the attached **PETITION TO INTERVENE BY SOLAR POINT RESOURCES, INC. AND DESERT POWER, INC.**, dated August 15, 2011. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at:
[http://www.energy.ca.gov/renewables/emerging_renewables/11-CAI-03/index.html].

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

- Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail preferred."

AND

For filing with the Docket Unit at the Energy Commission:

- by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 11-CAI-03
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
1516 Ninth Street MS-14
Sacramento, CA 95814
mlevy@energy.state.ca.us

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.



Lois Navarrot