

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas & Electric Company for Approval of the 2009-2011 Low Income Energy Efficiency and California Alternate Rates for Energy Programs and Budgets (U39M) and related matters	Application 08-05-022
	Application 08-05-024
	Application 08-05-025
	Application 08-05-026

CLAIM AND DECISION ON REQUEST FOR INTERVENOR COMPENSATION

Claimant: Disability Rights Advocates	For contribution to D.10-12-002		
Claimed \$ 25,125	Awarded (\$):		
Assigned Commissioner: Peevey (formerly Grueneich)	Assigned ALJ: Kim		
I hereby certify that the information I have set forth in Parts I, II, and III of this Claim is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this Claim has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).			
Signature: /s/			
Date:	2/1/11	Printed Name:	Melissa W. Kasnitz

PART I: PROCEDURAL ISSUES (to be completed by Claimant except where indicated)

A. Brief Description of Decision: Decision Granting, in Part, Petition of San Diego Gas & Electric Company and Southern California Gas Company to Modify Decision 08-11-031

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		

1. Date of Prehearing Conference:	6/24/08	
2. Other Specified Date for NOI:	7/24/08	
3. Date NOI Filed:	7/24/08	
4. Was the notice of intent timely filed?		
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	See comment below	
6. Date of ALJ ruling:	See comment below	
7. Based on another CPUC determination (specify):	See comment below	
8. Has the claimant demonstrated customer or customer-related status?		
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	See comment below	
10. Date of ALJ ruling:	See comment below	
11. Based on another CPUC determination (specify):	See comment below	
12. Has the claimant demonstrated significant financial hardship?		
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.10-12-002	
14. Date of Issuance of Final Decision:	December 2, 2010	
15. File date of compensation request:	February 1, 2011; see also comment below.	
16. Was the request for compensation timely?		

C. Additional Comments on Part I (use line reference # as appropriate):

#	Claimant	CPUC	Comment
5-12	DisabRA		No separate ruling was ever made on DisabRA's NOI in this proceeding. However, DisabRA filed an earlier request for compensation; in a decision granting the earlier request, D.09-07-017, the Commission found that DisabRA had demonstrated customer or customer-related status, ¶8, and also that DisabRA had demonstrated significant financial hardship, ¶12.
15			On July 9, 2009, the Commission issued D.09-07-017, awarding compensation to DisabRA for its substantial contributions to D.08-11-031, in the amount of \$26,318.00. DisabRA is now seeking compensation for additional work performed in this docket subsequent to the prior award, including most recently its work that made a substantial contribution to D.10-12-002.

<p>On August 31, 2010, ALJ Kim and then-Assigned Commissioner Grueneich issued a Joint Ruling approving a final manual. In this final ruling, DisabRA’s final recommendations were not adopted. However, by actively participating in the drafting of the manual, DisabRA obtained revisions earlier in the process and appropriately sought to ensure that the needs of its constituency are met at the time measures are actually installed in homes.</p>	<p>Joint Ruling of Assigned Commissioner and Administrative Law Judge Approving the California Statewide Low Income Energy Efficiency Policy and Procedures Manual, issued on August 31, 2010.</p>	
<p><u>Clarification of Process for Self-Identification of People with Disabilities:</u></p> <p>D.08-11-031 set a goal for the 2009-2011 program years that approximately 15% of the households enrolled in LIEE should have at least one disabled member. D.08-11-031 at p. 225 (Ordering Paragraph 29). However, directly in response to input from DisabRA, the decision noted that IOUs should not ask customers whether they are disabled, even as part of a standard enrollment procedure. <i>Id.</i> at p. 75. Rather, IOUs are only permitted to count toward the enrollment goal customers who have an observed disability, customers who request alternative formats of standard communications, customers identified to the IOU via disability rights groups, DDTP or the medical baseline program, or, most importantly for current purposes, customers who self-identify as disabled. <i>Id.</i> at pp. 75, 225 (Ordering Paragraph 31).</p> <p>In its efforts to comply with the requirements of Ordering Paragraph 31, the Sempra Utilities sought clarification</p>		

of ways in which it could appropriately invite customers to volunteer disability status without improperly asking them whether they are disabled. Sempra first initiated discussions on this issue with DisabRA in October of 2009. After a series of calls on the issue, Sempra indicated its preference to seek clarification of the initial decision through a Petition for Modification, in which it asked for specific authorization to include an invitation for customers to self-identify on various written materials.

The petition was eventually filed in May of 2010. DisabRA was supportive of the petition, filing a response that sought slight additional clarification of language to achieve the same goal as the petition. Disability Rights Advocates' Response to Petition of San Diego Gas & Electric Company and the Southern California Gas Company to Modify Decision 08-11-031 at pp. 2-3.

The Proposed Decision of ALJ Kim issued on September 28, 2010, indicated that the language of D.08-11-031 was clear and noted that the Petition was filed late in the budget cycle. For these reasons, it proposed denying the request to modify OP 31. Proposed Decision at p. 5.

In comments, DisabRA noted that the PD implied, but did not state directly, that the methods proposed by Sempra in the Petition for inviting customers to self-identify as disabled were permissible, and asked for the remaining ambiguity to be resolved. DisabRA asked either that OP 31 be modified or that the analysis of the

<p>proposed decision be modified to make clear that requests for self-identification are permissible. Disability Rights Advocates' Comments on the Proposed Decision of Administrative Law Judge Kim Denying the Petition of San Diego Gas & Electric Company and the Southern California Gas Company to Modify Decision 08-11-031 at pp. 3-4.</p> <p>The final decision in fact modifies the discussion of this aspect of the petition to state that "OP 31 already allows the IOUs to include, as part of the required 15% disabled household enrollment, 'customers who voluntarily self-identify as disabled.' Thus the requested modification to OP 31 would merely restate what is already permitted under the current OP 31 language." D.10-12-002 at p. 5. While it denies the petition, this modified discussion provides needed clarity that the process described by Sempra for seeking voluntary self-identification is permissible.</p> <p>This clarification is important for DisabRA's constituency because it enhances Sempra's ability (as well as the ability of the other utilities who were following the issues raised in the Petition) to meet the 15% disabled enrollment goal without inappropriately asking disability status of customers who might be sensitive about such inquiries.</p>	<p>Compare Proposed Decision of ALJ Kim, issued on September 28, 2010, at p. 4-5 with D.10-12-002 at pp. 4-5.</p>	
<p>Additional Issues:</p> <p>As appropriate, DisabRA spent time on other matters necessary for effective implementation of D.08-11-031, including attending workshops, responding to advice letters, reviewing documents, and other items identified</p>		

<p>below. While these activities are not reflected in D.10-12-002, DisabRA's efforts to ensure effective implementation of a program that significantly benefits its constituency are appropriate for compensation.</p> <p>Examples of activities that were appropriately undertaken by DisabRA, but were not reflected in any final decision include:</p> <ul style="list-style-type: none"> • Reviewing various documents, rulings, reports, and other materials filed in the docket; • Attending various public meetings regarding low income program issues; • Participating in workshops addressing the impact that federal stimulus funding would have on the low income programs (early 2009); • Participating in workshops surrounding the High Usage Needs Assessment (Fall, 2009); • Addressing CBO capitation issues (early 2010); and • Participating in other activities to generally monitor the ongoing effectiveness of efforts to implement D.08-11-031, particularly with regard to people with disabilities. 		
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was DRA a party to the proceeding? (Y/N)	Yes	
b. Were there other parties to the proceeding? (Y/N)	Yes	
c. If so, provide name of other parties: QUALITY CONSERVATION SERVICES, INC. NATURAL RESOURCES DEFENSE COUNCIL		

THE UTILITY REFORM NETWORK
 SOUTHWEST GAS CORPORATION
 SIERRA PACIFIC POWER COMPANY
 SO CAL GAS AND SDG&E
 MARAVILLA FOUNDATION
 SOUTHERN CALIFORNIA FORUM
 TELACU
 WINEGARD ENERGY, INC.
 SOUTHERN CALIFORNIA EDISON COMPANY
 BEAR VALLEY ELECTRIC SERVICE
 GOLDEN STATE WATER/BEAR VALLEY ELECTRIC
 PACIFIC ENERGY POLICY CENTER
 RANCHO VALLEY BUILDERS, INC.
 AMERICAN INSULATION INC
 SUNDOWNER INSULATION, INC.
 RICHARD HEATH AND ASSOCIATES, INC.
 UTILITY COST MANAGEMENT, LLC
 RENAISSANCE INC.
 COMMUNITY ACTION AGENCY OF SAN MATEO
 PACIFIC GAS AND ELECTRIC COMPANY
 WESTERN MANUFACTURED HOUSING COMM.
 SVCS.
 MOUNTAIN UTILITIES
 SYNERGY COMPANIES
 ENERGY EFFICIENCY, INC.
 THE GREENLINING INSTITUTE
 LATINO ISSUES FORUM
 DISABILITY RIGHTS ADVOCATES
 COUNTY OF MARIN
 A WORLD INSTITUTE FOR SUSTAINABLE HUMANI
 BO ENTERPRISES
 ALPINE NATURAL GAS OPERATING COMPANY
 WESTERN INSULATION, L.P.
 ACCES
 WEST COAST GAS COMPANY
 COMMUNITY RESOURCE PROJECT, INC.
 RESIDENTIAL WALL INSULATION
 SELF HELP HOME IMPROVEMENT PROJECT INC.
 PACIFICORP

d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:

The various actions taken by DisabRA since the issuance of D.08-11-031 all focused on effective implementation of the initial decision in ways that would assist our constituency and attempts to clarify the initial decision so that the IOUs could more effectively serve our constituency. In our work regarding the policy and procedural manual, DisabRA was the only entity to address the needs of people with disabilities. In efforts to clarify methods for the 15% disability enrollment goal for LIEE, DisabRA worked directly with Sempra on the petition for modification, including the preparation of various documents and joint ex parte meetings. DisabRA's focus on

the limited issues of concern to our constituency were not duplicative of any other party's contributions, and supplemented the record by ensuring the needs of a population specifically targeted for benefits in the initial decision were met effectively.	
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C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Claimant	CPUC	Comment

PART III: REASONABLENESS OF REQUESTED COMPENSATION (to be completed by Claimant except where indicated)

A. General Claim of Reasonableness (§§ 1801 & 1806):

Concise explanation as to how the cost of claimant's participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)	CPUC Verified
<p>The costs of DisabRA's participation in the ongoing work taking place under the auspices of this proceeding are minimal in comparison with the ongoing benefits to customers with disabilities. In particular, DisabRA's ongoing participation in this proceeding has been primarily focused on effective methods to assist the utilities in meeting the 15% enrollment goal adopted in D.08-11-031. Because of the value of this enrollment goal to the disability community, DisabRA has remained actively engaged in all efforts to direct utility communications and work with contractors to maximize disabled enrollment in LIEE. No other party in this proceeding has addressed disability issues, and the utilities have repeatedly indicated directly to DisabRA the value they see both in the program goal and DisabRA's assistance in working toward that goal.</p>	

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Melissa Kasnitz	2009	21.8	\$420	D.09-03-018	\$9,156				
Mary-Lee Kimber Smith	2009	1.0	\$215	D.09-07-017	\$215				
Karla Gilbride	2009	4.0	\$160	D.10-04-024	\$640				
Melissa Kasnitz	2010	13.6	\$420	D.10-07-013	\$5,712				
Mary-Lee	2010	6.4	\$280	See Comment	\$,1792				

Kimber Smith				2, below.					
Karla Gilbride	2010	.1	\$200	D.11-01-022	\$20				
Rebecca Williford	2010	16.1	\$150	D.11-01-022	\$2,415				
					Subtotal:	\$18,158	Subtotal:		
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
[Expert 1]									
[Expert 2]									
					Subtotal:	\$0.00	Subtotal:		
OTHER FEES									
Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.):									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Paralegal	2009	8.7	\$110	D.09-03-018	\$957				
Summer Associate	2009	19.5	\$120	See Comment 3, below.	\$2,340				
Paralegal	2010	10.2	\$110	D.10-07-013	\$1,122				
					Subtotal:	\$4,419	Subtotal:		
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Melissa Kasnitz	2011	9.8	\$210	½ of 2010 rate set in D.09-03-018. See Comment 4, below.	\$2,058				
Rebecca Williford	2011	2.8	\$75	½ of 2010 rate set in D.11-01-022. See Comment 4, below.	\$66				
Paralegal	2011	1.2	\$55	½ of 2010 rate set in D.10-07-013. See Comment 4, below.	\$210				
					Subtotal:	\$2,334	Subtotal:		
COSTS									
#	Item	Detail			Amount	Amount			
	In-house printing/ photocopies	See Comment 5, below.			\$200.00				
	Postage	See Comment 4, below.			\$14.16				

Subtotal:	\$214.16	Subtotal:	
TOTAL REQUEST \$:	25,125	TOTAL AWARD \$:	
<p>When entering items, type over bracketed text; add additional rows as necessary. *If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale. **Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>			

C. Attachments or Comments Documenting Specific Claim (Claimant completes; attachments not attached to final Decision):

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Mary-Lee Kimber Smith is a 2005 law school graduate who has practiced before the Commission on behalf of DisabRA since graduation (primarily under the name Mary-Lee Kimber). Ms. Kimber Smith's rate for 2009 was \$215. In 2010, however, Ms. Kimber Smith moved from the 3-4 year experience range to the 5-7 year experience range. Based on her level of experience, her rate should increase to \$280 per hour, which is the lowest rate within the 5-7 year range.
3	From time to time, DisabRA assigns work to law students working as summer associates or interns. In the past, the Commission has awarded law students a rate slightly higher than that used for paralegals (<i>see</i> D.07-04-032, in which the summer associate spent time on the compensation request only), while at other times the Commission has awarded law students the same rate as that assigned to paralegals. <i>See</i> D.09-10-022. DisabRA believes the additional experience and training of law students justifies a higher rate than that of paralegals, and thus we request a 2009 summer associate rate of \$120 per hour.
4	While this compensation request was drafted in the early weeks of 2011, DisabRA is not seeking a determination of 2011 rates in this proceeding. Rather, we are seeking compensation for work on this request at ½ of our 2010 rates.
5	In its compensation request, DisabRA seeks recovery of \$214.16 in costs. The largest component of these costs is for in-house printing of documents that were filed and served electronically. DisabRA seeks \$200 for such expenses. DisabRA's actual costs, at 20¢ per page, exceed the amount requested, despite the fact that DisabRA routinely makes efforts to avoid printing documents that are not relevant to issues of concern to our constituency. However, in the past the Commission has disallowed printing costs that it deemed excessive. Thus, DisabRA is voluntarily reducing its requested costs to \$200. The only other itemized cost, postage, should be self-explanatory. However, DisabRA is happy to prepare a more detailed description if such documentation would assist the Commission in evaluating and processing this request for compensation.
6	Attached hereto as Exhibit A is a summary of DisabRA's time spent on the merits of this portion of the proceeding.
7	Attached hereto as Exhibit B are DisabRA's detailed time records of time spent on the merits of this portion of the proceeding.
8	Attached hereto as Exhibit C is a summary of DisabRA's time spent on this compensation request.

9	Attached hereto as Exhibit D are DisabRA's detailed time records of time spent on this compensation request.
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D. CPUC Disallowances & Adjustments (CPUC completes):

#	Reason

PART IV: OPPOSITIONS AND COMMENTS
 Within 30 days after service of this claim, Commission Staff
 or any other party may file a response to the claim (see § 1804(c))

(CPUC completes the remainder of this form)

A. Opposition: Did any party oppose the claim (Y/N)?

If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6)) (Y/N)?

If not:

Party	Comment	CPUC Disposition

FINDINGS OF FACT

1. Claimant [has/has not] made a substantial contribution to Decision (D.) _____.
2. The claimed fees and costs [, as adjusted herein,] are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total of reasonable contribution is \$ _____.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, [satisfies/fails to satisfy] all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$ _____.
2. Within 30 days of the effective date of this decision, _____ shall pay claimant the total award. Payment of the award shall include interest at the rate earned on prime,

three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning _____, 200__, the 75th day after the filing of claimant's request, and continuing until full payment is made.

3. The comment period for today's decision [is/is not] waived.
4. [This/these] proceeding[s] [is/are] closed.
5. This decision is effective today.

Dated _____, at San Francisco, California.

**Attachment 1:
Certificate of Service by Customer**

I hereby certify that I have this day served a copy of the foregoing **CLAIM AND ORDER ON REQUEST FOR INTERVENOR COMPENSATION** by (check as appropriate):

- hand delivery;
 first-class mail; and/or
 electronic mail

to the following persons appearing on the official Service List:

Parties:

ALLAN RAGO
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EMAIL ONLY
EMAIL ONLY, CA 00000
FOR: THE ENERGY EFFICIENCY COUNCIL;
QUALITY CONSERVATION SERVICES, INC.

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Executed this 1st day of February, 2011 at Berkeley, California.

/s/

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