

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program

**R. 11-05-005
(Filed May 5, 2011)**

**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
AND, IF REQUESTED (and checked), ALJ RULING
ON SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

Customer (party intending to claim intervenor compensation): Sierra Club California			
Assigned Commissioner: Commissioner Ferron		Assigned ALJs: Anne Simon, Burton Mattson, Regina DeAngelis	
I hereby certify that the information I have set forth in Parts I, II, III and IV of this Notice of Intent (NOI) is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this NOI and Attachments has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 2).			
Signature: /s/ Jim Metropulos			
Date:	6-9-11	Printed Name:	Jim Metropulos

PART I: PROCEDURAL ISSUES

(To be completed by the party ("customer") intending to claim intervenor compensation)

A. Status as "customer" (see Pub. Util. Code § 1802(b)): The party claims "customer" status because it (check one):	Applies (check)
1. Category 1: Represents consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the Commission (§ 1802(b)(1)(A))	
2. Category 2: Is a representative who has been authorized by a "customer" (§ 1802(b)(1)(B)).	
3. Category 3: Represents a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, to represent "small commercial customers" (§ 1802(h)) who receive bundled electric service from an electrical corporation (§ 1802(b)(1)(C)), or to represent another eligible group.	X
4. The party's explanation of its customer status, economic interest (if any), with any documentation (such as articles of incorporation or bylaws) that supports the party's "customer" status. Any attached documents should be identified in Part IV. Sierra Club California meets the third definition of "customer" provided in Public	

Utilities Code section 1802(b)(1)(C). Sierra Club California is a “representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers” Public Utilities Code Section 1802(b).

Sierra Club California is a non-profit, member-based, “public benefit” California corporation. Over 150,000 of Sierra Club California’s members live and purchase utility services in California, and many of these members are residential customers of Pacific Gas & Electric, San Diego Gas & Electric, and Southern California Edison, the regulated utilities in this proceeding. Sierra Club California’s mission and corporate purpose include “promot[ing] the responsible use of the earth’s ecosystems and resources; educat[ing] and enlist[ing] humanity to protect and restore the quality of the natural and human environment; and us[ing] all lawful means to carry out these objectives.” See Sierra Club Articles of Incorporation at III.¹

Sierra Club California’s Articles, Bylaws, Standing Rules, and Policies authorize and require it to represent the environmental interests of its members – including California IOU customers. Sierra Club California’s Board of Directors is democratically elected by its members. See Sierra Club California Standing Rule (“S.R.”) 4.8.1.² Standing Rule 2.2 of Sierra Club California’s mission and corporate purpose includes “promot[ing] the responsible use of the earth’s ecosystems and resources; educat[ing] and enlist[ing] humanity to protect and restore the quality of the natural and human environment; and us[ing] all lawful means to carry out these objectives.” Sierra Club California is expressly authorized to participate in environmental legal actions to advance its mission, including lawsuits and administrative proceedings. See S.R. 5.15.1 and 9.1.1. For decades, Sierra Club California has participated in environmental lawsuits and administrative proceedings, and has appeared many times before the California Public Utilities Commission.

Sierra Club California’s environmental concerns encompass a broad range of energy and pollution issues. Specifically, Sierra Club has become a leader in the effort to reduce California’s and the nation’s dependence on fossil fuels. The highest current priority of Sierra Club’s work is eliminating the need for fossil fuel-fired power plants through the development of affordable renewable energy. The Sierra Club has been active in advocacy before the Legislature and its committees, the Governor’s office, Energy Commission, and Public Utilities Commission to bring renewable energy on-line and to strengthen the state’s renewable portfolio standard and implementation strategies.

Supporting the deployment and use of renewable energy is a high priority for Sierra Club California. Sierra Club California will devote significant resources to these and other renewable energy issues for the next five to ten years in its national and state level “Clean Energy Solutions” campaign. A centerpiece of this campaign is to secure solutions to global warming, using existing and upcoming technology to “curb global warming, while

¹ All Sierra Club Articles, Bylaws, Standing Rules and Policies are publicly retrievable at <http://www.sierraclub.org/policy/>.

² A copy of the Sierra Club’s Bylaws and Standing Rules are attached.

at the same time building a clean, sustainable economy that lowers energy bills and creates thousands of new jobs.” Additional information is available at <http://www.sierraclub.org/energy>.

To advance these energy-related concerns, Sierra Club California has employed litigation, participation in administrative proceedings, public education and organizing, electoral and legislative advocacy efforts, and communications and media outreach. Sierra Club has brought legal actions numerous times to address pollution from coal-fired power plants, while simultaneously affirmatively supporting renewable energy projects involving wind and solar. Sierra Club California lobbyists and members actively worked in favor of passage of California’s landmark global warming laws including A.B. 32 (“Global Warming Solutions Act of 2006”) and A.B. 1493 (the “Pavley bill,” imposing greenhouse gas emission limits on motor vehicles). Sierra Club receives funding for environmental advocacy from many sources, including philanthropic donations, member contributions, and other sources. The Sierra Club has entered into agreements with certain residential rooftop solar installers that will likely result in a small amount of additional funding. However, Sierra Club’s involvement in the present proceeding is completely independent and unrelated to this small amount of funding.

The interests of the customers represented by Sierra Club California are unique and well suited to this case and will compliment interests represented by other parties that have intervened in this case.³ As the Commission has recognized: “With respect to environmental groups, we have concluded they were eligible in the past with the understanding that they represent customers whose environmental interests include the concern that, e.g., regulatory policies encourage the adoption of all cost-effective conservation measures and discourage unnecessary new generating resources that are expensive and environmentally damaging. (D.88-04-066, mimeo at 3). They represent customers who have a concern for the environment which distinguishes their interests from the interests represented by Commission staff, for example.” D.98-04-059, at 30 n. 14. Sierra Club California brings to this proceeding its members’ unique perspective and experience advancing innovative technical and regulatory solutions to increase renewable energy sources and drastically reduce California’s carbon footprint.

In sum, Sierra Club California’s historic and current interests naturally encompass California’s and the Commission’s efforts to increase investment in and commercialization of sufficient renewable power to meet and go beyond the mandated 33% renewables by 2020. Sierra Club, consistent with its governing documents, appropriately represents the environmental and energy conservation interests of its members who are California IOU customers. Sierra Club California therefore qualifies as a “customer” as defined in section 1802(b)(1)(C) of the Public Utilities Code and the

³ “Section 1801.3(f) requires an intervenor to avoid unnecessary participation that duplicates that of similar interests otherwise adequately represented by another party, or unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation if its participation materially supplements, complements, or contributes to that of another party if that participation makes a substantial contribution to the commission order.” D.07-03-011 at 7.

Commission's decisions applying this section to environmental organizations.

B. Timely Filing of NOI (§ 1804(a)(1)):	Check
1. Is the party's NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: <u>June 13, 2011</u>	Yes <u>X</u> No <u> </u>
2. Is the party's NOI filed at another time (for example, because no Prehearing Conference was held, the proceeding will take less than 30 days, the schedule did not reasonably allow parties to identify issues within the timeframe normally permitted, or new issues have emerged)?	Yes <u>X</u> No <u> </u>
2a. The party's description of the reasons for filing its NOI at this other time: The OIR directs parties to file updated Notices of Intent within 30 days of when the OIR was mailed (May 10, 2011).	
2b. The party's information on the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, or ALJ ruling, or other document authorizing the filing of its NOI at that other time: OIR 11-05-005, May 10, 2011.	

PART II: SCOPE OF ANTICIPATED PARTICIPATION

(To be completed by the party ("customer") intending to claim intervenor compensation)

A. Planned Participation (§ 1804(a)(2)(A)(i)):
<ul style="list-style-type: none"> • The party's description of the nature and extent of the party's planned participation in this proceeding (as far as it is possible to describe on the date this NOI is filed): Sierra Club California intends to participate fully in this proceeding proceeding including: <ul style="list-style-type: none"> - Participating in hearings, conferences, and workshops. - Preparing written and oral comments on matters of law and evidence pertinent to this proceeding. - Preparing expert research and comments pertinent to this proceeding. - Filing and reviewing discovery, motions, and/or briefs as necessary. - Additional work necessary for this proceeding. • The party's statement of the issues on which it plans to participate at this time: <ol style="list-style-type: none"> 1. Implementation of Senate Bill 32. 2. Interconnection for small distributed generation. 3. Modification of RPS compliance rules. 4. Modification of renewable energy credit trading rules. 5. Compliance, Reporting, and Enforcement.

- 6. Modifications to bid evaluation methodology.
- 7. Modification of RPS procurement plans.
- 8. Other issues as they arise.

B. The party's itemized estimate of the compensation that the party expects to request, based on the anticipated duration of the proceeding (§ 1804(a)(2)(A)(ii)):

Item	Hours	Rate \$	Total \$	#
ATTORNEY FEES				
Andy Katz	150	205	30,750	1
Jim Metropulos	25	325	8,125	2
		Subtotal:	38,875	
EXPERT FEES				
Robert Freehling	100	200	20,000	3
Ray Pingle	100	200	20,000	4
Experts, as required				5
		Subtotal:	40,000	
OTHER FEES				
		Subtotal:		
COSTS				
Travel Expenses			400	
Estimated Miscellaneous Expenses (e.g. telephone, photocopying)			500	
Legal Research			100	
		Subtotal:	1000	
TOTAL ESTIMATE \$:			79,875	

Comments/Elaboration (use reference # from above):

This is a rough estimate for the costs of this proceeding, because the final schedule and scoping order has not yet been issued. These items may need to be adjusted as the actual length and activities of the proceeding are determined, as it is currently unknown how many workshops will be held or the extent and frequency of written comments that will be required. The estimate provided here is additional to work performed in R.08-08-009. Sierra Club California may request compensation for work performed in R.08-08-009 if that work lead to a substantial contribution to this proceeding.

The reasonableness of the hourly rates for Sierra Club California's representatives will be addressed in our request for compensation (reference # 1 -5). Estimated claim

preparation time is not included.

When entering items, type over bracketed text; add additional rows to table as necessary.
Estimate may (but does not need to) include estimated claim preparation time. Claim preparation is typically compensated at ½ of preparer's normal hourly rate.

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

(To be completed by party ("customer") intending to claim intervenor compensation; see Instructions for options for providing this information)

A. The party claims "significant financial hardship" for its claim for intervenor compensation in this proceeding on the following basis:	Applies (check)
1. "[T]he customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation" (§ 1802(g)); or	
2. "[I]n the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding" (§ 1802(g)).	X
3. A § 1802(g) finding of significant financial hardship in another proceeding, made within one year prior to the commencement of this proceeding, created a rebuttable presumption of eligibility for compensation in this proceeding (§ 1804(b)(1)).	X
ALJ ruling (or CPUC decision) issued in proceeding number: A.10-03-014 Date of ALJ ruling (or CPUC decision): November 30, 2010	

B. The party's explanation of the factual basis for its claim of "significant financial hardship" (§ 1802(g)) (necessary documentation, if warranted, is attached to the NOI):

Sierra Club has received rulings of significant financial hardship in Commission proceedings including A.10-03-014 and R.08-08-009. The rebuttable presumption therefore applies in this case.

In R.08-08-009 the ALJ Mattson found:

Sierra Club states that the average utility bill of its individual members and the customers it represents is small compared to the costs of effective participation in this proceeding. This is consistent with prior Commission determinations regarding the Sierra Club, and no new facts are known that result in reaching a different outcome. Sierra Club California has established it will face a significant financial hardship for participation in this proceeding absent intervenor compensation.

ALJ Ruling, R.08-08-009 (June 25, 2009) (BWM).

The average utility bill of Sierra Club California’s members and the customers it represents continues to be small compared to the costs of effective participation in this proceeding. Sierra Club California, therefore, should continue to be entitled to a finding of significant financial hardship pursuant to Public Utilities Code section 1802(g).

PART IV: THE PARTY’S ATTACHMENTS DOCUMENTING SPECIFIC ASSERTIONS MADE IN THIS NOTICE

(The party (“customer”) intending to claim intervenor compensation identifies and attaches documents (add rows as necessary.) Documents are not attached to final ALJ ruling.)

Attachment No.	Description
1	Articles of Incorporation, Bylaws and Standing Rules of the Sierra Club http://www.sierraclub.org/policy/downloads/bylaws.pdf
2	Certificate of Service

ADMINISTRATIVE LAW JUDGE RULING⁴
(ALJ completes)

	Check all that apply
1. The Notice of Intent (NOI) is rejected for the following reasons:	
a. The NOI has not demonstrated status as a “customer” for the following reason(s):	
b. The NOI has not demonstrated that the NOI was timely filed (Part I(B)) for the following reason(s):	
c. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s):	
2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above).	
3. The NOI has not demonstrated significant financial hardship for the	

⁴ An ALJ Ruling will not be issued unless: (a) the NOI is deficient; (b) the ALJ desires to address specific issues raised by the NOI (to point out similar positions, areas of potential duplication in showings, unrealistic expectations for compensation, or other matters that may affect the customer’s claim for compensation); or (c) the NOI has included a claim of “significant financial hardship” that requires a finding under § 1802(g).

following reason(s):	
4. The ALJ provides the following additional guidance (see § 1804(b)(2)):	

IT IS RULED that:

	Check all that apply
1. The Notice of Intent is rejected.	
2. Additional guidance is provided to the customer as set forth above.	
3. The customer has satisfied the eligibility requirements of Pub. Util. Code § 1804(a).	
4. The customer has shown significant financial hardship.	
5. The customer is preliminarily determined to be eligible for intervenor compensation in this proceeding. However, a finding of significant financial hardship in no way ensures compensation.	

Dated _____, at San Francisco, California.

ADMINISTRATIVE LAW JUDGE

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

I hereby certify that I have this day served a copy of the foregoing **NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION** by (check as appropriate):

- hand delivery;
- first-class mail when e-mail is not available;
and/or
- electronic mail

to the following persons appearing on the official Service List:

By First Class Mail:

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San Francisco, CA 94102

ALJ Anne E. Simon
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