

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Rulemaking 11-05-005
(Filed May 5, 2011)

REQUEST OF L. JAN REID FOR AWARD OF COMPENSATION

I. Summary

Pursuant to Public Utilities Code Section (PUC §) 1804(c), L. Jan Reid requests an award of compensation in the amount of \$17,045.67 for substantial contributions to Decision (D.) 11-12-020, issued in Rulemaking (R.) 11-05-005. D.11-12-020 sets the new renewables portfolio standard (RPS) procurement quantities required by new Public Utilities Code Section (PUC §) 399.15(b), for all retail sellers (investor-owned utilities, community choice aggregators, and electric service providers).

In drafting this request, I have generally followed the template for compensation requests set forth in the Commission's "Intervenor Compensation Program Guide," Appendix B, published in April 2005.

II. Timely Filing of Request for Award of Compensation

This request is timely under Public Utilities Code § (PUC §) 1804(c) and Rule 17.3 of the Commission's Rules of Practice and Procedure because the request is filed prior to the closing of R.10-05-006, which is still open. Rule 17.3 states that "A request for an award of compensation may be filed after the issuance of a decision that resolves an issue on which the intervenor believes it made

a substantial contribution, but in no event later than 60 days after the issuance of the decision closing the proceeding.” Therefore, the request is timely because R.11-05-005 has not been closed. I will send this pleading electronically to the Docket Office on January 29, 2012, intending that it be timely filed.

An intervenor who intends to seek compensation for participation in a Commission proceeding must file a Notice Of Intent to Claim Intervenor Compensation (NOI) no later than 30 days after the prehearing conference, or a date otherwise set by the Commission. (PUC § 1804(a)(1) and Rule 17.1 of the Commission’s Rules of Practice and Procedure.)

Reid timely filed a Notice of Intent to claim intervenor compensation (NOI) on July 4, 2011, within 30 days after a prehearing conference convened by assigned Administrative Law Judge (ALJ) Anne Simon on June 13, 2011.

III. Customer Status

In his NOI, Reid claimed that he is a Category 1 customer as defined in PUC § 1802(b), has met the eligibility requirements of PUC § 1804(a), has established significant financial hardship, and is eligible to apply for compensation in this proceeding. The Commission has not ruled on the NOI, but I hope for such a ruling before the Commission acts on the instant compensation request.

IV. Significant Financial Hardship

PUC § 1802(g) defines significant financial hardship:

"Significant financial hardship" means either that the 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, or that, in 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.

PUC § 1804(b)(1) states that “A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other commission proceedings commencing within one year of the date of that finding.”

On March 10, 2011, the Commission found that “Reid demonstrated that his participation would impose a significant financial hardship by filing, under seal, a summary of his annual gross income, net income, annual expenses, cash, and other assets.” (D.11-03-019, slip op. at 6)

The instant rulemaking commenced within one year of the date of the issuance of D.11-03-019, in accordance with PUC § 1804(b)(1).

Based on my estimate of the cost of effective participation as compared to my income, expenses, and assets, I do not have the resources to pay for the costs of effective participation. I believe that I qualify for a ruling of eligibility for compensation on the merits of this pleading and through the rebuttable presumption created in D.11-03-019.

V. Substantial Contribution to Resolution of Issues

As defined in PUC § 1802(h), the participation of Reid in R.11-05-005 has made a “substantial contribution” to the Commission's decisions. I discuss my contributions to specific issues below.

A. Quantitative Measures

The Commission notes that “Both Reid and TURN/CUE argue that the statutory language requires that ‘quantities’ be the measure in the intervening years and does not allow purely qualitative measures.” (D.11-12-020, slip op. at 14)

The Commission found that “Reasonable progress for the compliance periods 2014-2016 and 2017 2020 should be determined by means of quantitative targets for the intervening years.” (D.11-12-020, Conclusion of Law 5, slip op. at 22)

Thus, Reid made a substantial contribution to the Commission’s resolution of the quantitative measures issue.

B. RPS Targets

The Commission notes that Reid recommended RPS targets of 19% in 2011, 20% in 2012, 21% in 2013, 22.33% in 2014, 23.67% in 2015, 25% in 2016, 27% in 2017, 29% in 2018, 31% in 2019, and 33% in 2030. (D.11-12-020, Appendix B, slip op. at 2)

Reid based his recommendations on his econometric study of the effect of compliance goals on RPS prices. Reid argued that: (Reid Comments, p. 6)

All other things being equal, RPS prices will increase as demand for renewables increases due to an increase in the compliance requirement. For illustrative purposes, I used the market price referent (MPR) as a proxy for the market price of renewables, and estimated that the price of renewables will increase on average by \$.003628/megawatt hour (MWh) for every gigawatt hour (GWh) of renewables procured.

Although the Commission did not agree with all of Reid’s recommendations concerning RPS targets, Reid made a substantial contribution to the Commission’s resolution of the RPS target issue.

C. Start of New Compliance Period

Reid argued that “it is clear that the legislature intended that the Commission should no longer account for a 20% RPS after December 31, 2010, and should begin to account for a 33% RPS requirement beginning on January 1, 2011.” (Comments of L. Jan Reid on New Procurement Targets and Certain Compliance Requirements (Reid Comments), August 30, 2011, p. 5)

The Commission found that “Although the full range of the compliance rules necessary to implement SB 2 (1X) [Senate Bill 2 (1X)] is outside the scope of this decision, the 2011-2013 compliance period begins on January 1, 2011 and ends on December 31, 2013, by the express terms of the statute.” (D.11-12-020, slip op. at 10)

Thus, Reid made a substantial contribution to the Commission’s resolution of the start of the new compliance period issue.

D. Linear Trend

Reid recommended that a linear trend (i.e., straight-line trend) be used to determine RPS targets for the years 2014-2020. Reid argued that: (Reid Comments, p. 6)

For illustrative purposes, I used the market price referent (MPR) as a proxy for the market price of renewables, and estimated that the price of renewables will increase on average by \$.003628/megawatt hour (MWh) for every gigawatt hour (GWh) of renewables procured.

Thus, an increase of 1,000 GWh of RPS procurement will lead to a price increase of \$3.63/MWh.

Reid concluded that: (Reid Comments, p. 7)

In general, a linear trend should be used whenever feasible. The use of a linear trend will tend to smooth out procurement over time, thus at least partially mitigating renewables price increases.

The Commission found that “Over all, the straight-line trend provides the most sensible approach to setting quantitative targets that represent retail sellers ‘reasonable progress’ for the ‘intervening years’ of a compliance period. (D.11-12-020, slip op. at 14)

Thus, Reid made a substantial contribution to the Commission’s resolution of the linear trend issue.

E. Flexible Compliance

Reid argued that: (Reid Comments, p. 9)

SB2 (1x) repealed PUC § 399.14 and replaced it with a new section. The legislative counsel has pointed out that SB2(1x) 'would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers.'

In response to Question 10, AReM incorrectly states that "nothing in the new statute changes the prior year's compliance regime." (AReM Comments, p. 21)

Reid argued that: (Reply Comments of L. Jan Reid on New Procurement Targets, (Reid Reply Comments) September 12, 2011, p. 9

The Commission does not have the authority to apply flexible compliance rules after December 8, 2011. (See Reid Comments, answer to Question 11) Prior to the passage of SB2(1x), (PUC § 399.14(a)(2)(C)(i) gave the Commission authorization to adopt flexible compliance rules. SB2(1x) repealed PUC § 399.14 and replaced it with a new section. The legislative counsel has pointed out that SB2(1x) 'would delete an existing requirement that the PUC adopt flexible rules for compliance for retail sellers.' (SB2(1x) Legislative Counsel's Digest, p. 2)

The Commission agreed with Reid when it stated that SB 2 (1X):
(D.11-12-020, slip op. at 9)

- eliminates the carry-over of deficits from one compliance period to another (Section 399.15(b)(9)); and
- eliminates the direction to the Commission to adopt flexible rules for compliance; instead the statute provides specific requirements.

Thus, Reid made a substantial contribution to the Commission's resolution of the flexible compliance issue.

F. Deficits

Reid argued that: (Reid Comments, p. 10)

The Commission should interpret the statutory language as applying only to deficits in meeting the 2010 target of 20% of retail sales, without the use of flexible compliance. As discussed above, it is clear that the legislature did not intend for deferrals to be counted when deficits are calculated. Otherwise, the legislature would not have eliminated the statutory language that authorized the Commission to allow flexible compliance mechanisms such as deferrals.

The Commission agreed with Reid when it stated that SB 2 (1X) “eliminates the carry-over of deficits from one compliance period to another (Section 399.15(b)(9)).” (D.11-12-020, slip op. at 9)

Thus, Reid made a substantial contribution to the Commission’s resolution of the deficits issue.

G. Minor Errors

The proposed decision (PD) stated that: (PD, pp. 10-11, footnotes omitted)

The Ruling includes a straw proposal for setting the target for each of the three years in this compliance period as 20% of retail sales. Most parties endorse the straw proposal.

Reid pointed out that: (Reid PD Comments, p. 4)

Most of the parties did not support the straw proposal. There are a total of 136 parties in this proceeding, 24 of whom filed opening comments. The PD lists only 12 parties who support the straw proposal.¹ It would be more accurate to state that approximately one-half of the active parties support the straw proposal.

¹ See PD, p. 11, footnote 18.

In the final decision, the Commission changed the PD so that it more accurately stated that “Many parties endorse the straw proposal.” (D.11-12-020, slip op. at 11)

* * *

Taken as a whole, Reid’s work made a substantial contribution to D.11-12-020.

VI. Overall Benefits of Participation

Reid contributed to the proceeding in a manner that was productive and will result in benefits to ratepayers that exceed the costs of participation.

In consolidated Rulemaking 97-01-009 and Investigation 97-01-010, the Commission required intervenors seeking compensation to show that they represent interests that would otherwise be underrepresented and to present information sufficient to justify a finding that the overall benefits of a customer's participation will exceed the customer's costs. (D.98-04-059, 79 CPUC2d 628, Finding of Fact 13 at 674, Finding of Fact 42 at 676) The Commission noted that assigning a dollar value to intangible benefits may be difficult.

As mentioned previously, Reid made a substantial contribution to the proceeding. It is reasonable to assume that the resolution of the issues raised in this proceeding will benefit ratepayers in the future.

If the Commission had established qualitative measures rather than the quantitative ones recommended by Reid and CUE, and this had resulted in an increase of just \$1/megawatt hour (MWh) for renewable facilities that produced 100 GWh of electricity annually, ratepayers would have paid an additional \$100,000 annually – more than five times the compensation that I have requested in this proceeding.

The Commission can safely find that the participation of Reid in this proceeding was productive. Overall, the benefits of Reid's contributions to D.11-12-020 justify compensation in the amount requested.

VII. Duplication

Reid contributed to the proceeding in a manner that did not repeat the work of other parties. Reid represents customer interests that would otherwise be underrepresented in this proceeding. In the Commission's own words, "The Commission should encourage the presentation of multiple points of view, even on the same issues, provided that the presentations are not redundant."

(D.98-04-059, 79 CPUC2d 628, 642)

As ALJ Minkin noted in her eligibility ruling for Aglet Consumer Alliance in Application (A.) 98-09-003 et al.:

Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation. (Ruling dated July 7, 1999, p. 3)

As a matter of personal policy, I do not participate in Commission proceedings where my showing is likely to duplicate the showings of other consumer representatives such as the Division of Ratepayer Advocates (DRA) and The Utility Reform Network (TURN). For example, I did not serve testimony in Phase 2 of A.09-12-020 because my showing would likely have duplicated the showings of DRA and TURN.²

² A.09-12-020 is PG&E's most recent general rate case application.

In this proceeding, Reid and TURN have been the sole active parties who represent only residential and small commercial customers.³ DRA was an active party, but by its charter DRA must represent the interests of all customers, not only residential and small commercial customers. Reid conferred with DRA and TURN on several occasions during this proceeding.⁴ (See Attachment A)

VIII. Reasonableness of Requested Compensation

In this pleading, Reid requests compensation in the total amount of \$17,045.67 for time reasonably devoted to this proceeding. Below is a summary table and listing of hours claimed, hourly rates, and direct expenses. A more detailed breakdown of the time devoted to this proceeding by Reid is provided in Attachment A to this pleading.

TABLE 1. COMPENSATION REQUESTED

\$ 15,965.50	86.3 hours, Reid 2011 professional time, at \$185/hr.
268.25	2.9 hours, Reid 2011 compensatory time at \$92.50/hr.
767.75	8.3 hours, Reid 2012 compensatory time at \$92.50/hr.
39.33	Reid 2011 direct costs
<u>4.80</u>	Reid 2012 direct costs
\$ 17,045.67	Total request

³ In his NOI, Reid stated that “Although I represent myself in this proceeding, I will take positions that I believe will benefit all residential customers of PG&E and not just myself.” (NOI, p. 2)

⁴ I do not claim compensation for all of these communications.

Reid's work was performed efficiently. L. Jan Reid is a former Commission employee who has testified on many occasions on issues such as renewables procurement, cost-of-capital, utility finance, and electricity and natural gas procurement issues.

Reid has allocated his professional time to major subjects, except for general activities that cannot reasonably be assigned to substantive issues. See Section X below for more detail.

On July 15, 2011, Administrative Law Judge (ALJ) Anne Simon issued a ruling (Ruling) concerning New Procurement Targets. In the Ruling, ALJ Simon requested that parties answer a number of questions. (See Ruling, pp. 4-16) Therefore, general activities include some of the time which was spent answering ALJ Simon's questions and responding to the answers of other parties.

A. Hours Claimed

Daily listings of the specific tasks performed by Reid in connection with this proceeding are available in Attachment A to this pleading. The cost listings demonstrate that the hours claimed are reasonable given the scope and time-frame of this part of the instant rulemaking.

No compensation for administrative time is requested, in accordance with Commission practice. (D.99-06-002, discussion, slip op. at 8-10) I understand that the Commission may audit my books and records to the extent necessary to verify the basis for any award, pursuant to PU Code §1804(d).

B. Hourly Rates

I request Commission approval of: (1) an hourly rate of \$185 for professional work performed by Reid in 2011; and (2) an hourly rate of \$92.50 (one half of a 2011 professional rate of \$185) for compensatory work performed by Reid in 2011 and 2012. The reduced rate for compensation time is consistent with Commission practice. (D.89-09-046, slip op. at 1.)

The Commission has previously awarded Reid compensation for 2008-2010 professional work at a rate of \$185 per hour. (D.10-10-015, Appendix)

Reid is an economist by education and experience. Reid holds a B.A. degree in economics and an M.S. degree in applied economics and finance, both from the University of California, Santa Cruz. Reid was employed at the Commission for almost seven years, often appearing as an expert witness for the Office of Ratepayer Advocates (now the Division of Ratepayer Advocates) on policy and technical issues relating to utility finance, cost of capital, and electric procurement. Since his retirement from the Commission in June 2005, Reid has worked in various ratemaking proceedings, focusing on cost of capital and complex electric and gas procurement issues.

C. Direct Expenses

The direct expenses of \$44.17 or 0.3% of the total compensation request, listed in Table 1, are reasonable and were necessary for the substantial contribution of Reid in this proceeding. Copying costs are computed at 8 cents per page. Postage costs are included at actual costs.

I request compensation in full for these expenses without reduction for any adjustment in compensation hours that the Commission might impose. Such compensation is consistent with past Commission practice.

IX. Allocation of Costs by Major Issue

Assigned Commissioner Mark Ferron issued a scoping memo in R.11-05-005 on July 8, 2011. The following issues were identified in the Scoping Memo:⁵

1. Implementing the new portfolio content categories, set out in new PUC § 399.16.
2. Setting new RPS procurement targets mandated by new PUC § 399.15(b)(2)(A).
3. Implementing the most urgent new compliance rules and resolving initial “seams” issues between compliance rules for the 20% RPS program and new 33% RPS program compliance rules set by SB 2 (1x).
4. Implementing new PUC § 399.20, expanding the prior feed-in tariff provisions for RPS-eligible generation.

I have identified and allocated my professional time to the following issues: Quantitative Measures, RPS Targets, Start of New Compliance Period (Start), Linear Trend, Flexible Compliance, Deficits, and Minor Errors.

Allocation of professional time to major issues is shown in Table 2 below. The allocations in Table 2 are based on my time records in Attachment A to this pleading.

⁵ See Scoping Memo and Ruling of Assigned Commissioner, July 8, 2011, pp. 2-3.

TABLE 2. ALLOCATION OF PROFESSIONAL TIME BY MAJOR ISSUES

Cost Category	Hours
General Work	28.8
Issues:	
Deficits	10.5
Flexible Compliance	13.9
Linear Trend	4.8
Minor Errors	0.8
Quantitative Measures	5.7
RPS Targets	18.7
Start	<u>3.1</u>
Issues subtotal	<u>57.5</u>
Total	86.3

X. Conclusion

Reid has satisfied the requirements of timely filing an NOI, customer status, and demonstration of financial hardship. Reid has met all of the requirements of Section 1801 et seq. of the Public Utilities Code, and therefore requests an award of compensation in the amount of \$17,045.67.

* * *

Dated January 29, 2012, at Santa Cruz, California.

/s/
 L. Jan Reid
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VERIFICATION

I, L. Jan Reid, make this verification on my behalf. The statements in the foregoing document are true to the best of my knowledge, except for those matters that are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Dated January 29, 2012 at Santa Cruz, California.

/s/

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