

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans.	Proceeding 12-03-014 (Filed March 12, 2012)
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**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION AND, IF REQUESTED (and [X] <sup>1</sup> checked), ADMINISTRATIVE LAW JUDGE'S RULING ON SIERRA CLUB CALIFORNIA'S SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

Customer (party intending to claim intervenor compensation): Sierra Club California			
Assigned Commissioner: Michel Peter Florio		Assigned ALJ: David M. Gamson	
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 has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).			
		Signature: /s/ William Rostov	
Date:	5/18/12	Printed Name:	William Rostov

**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 the party (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, with any documentation (such as articles of incorporation or bylaws) that supports the party's "customer" status. Any	

<sup>1</sup> DO NOT CHECK THIS BOX if no finding of significant financial hardship is needed (in cases where there is a valid rebuttable presumption of eligibility (Part III(A)(3)) or significant financial hardship showing has been deferred to the intervenor compensation claim).

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 . . . .”

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.<sup>2</sup> 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 9.1.2. 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 was an active participant in the predecessor 2010 Long-Term Procurement Plan proceeding (“LTPP”).

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. Sierra Club has been active in the legislature and its committees as well as in the Governor’s office to bring renewable energy on line and to reform the state’s renewable portfolio standard.

Maintaining an electricity rate structure that encourages energy conservation, home retrofits, and adoption of rooftop solar remains 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 is to secure solutions to global warming, using existing and upcoming technology to “curb global warming, while at the same time building a clean, sustainable economy that lowers energy bills and creates thousands of new jobs.” *See* Sierra Club, “Clean Energy Solution,” 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 lobbying efforts, and communications and media work. 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 volunteer members actively worked in favor of passage of California’s landmark laws and implementing regulations to address global warming, 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).

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<sup>2</sup> A copy of the Sierra Club’s Bylaws and Standing Rules is attached.

The interests of the customers represented by Sierra Club California are unique and well suited to this case and are not adequately represented by other parties that have intervened in this case.<sup>3</sup> 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 29 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. The Commission has accordingly approved Sierra Club California’s intervention with entitlement to compensation on several occasions. *See, e.g.*, D.09-10-054; D.06-06-056.

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 Commission’s decisions applying this section to environmental organizations.

- Describe if you have any direct economic interest in outcomes of the proceeding.

<b>B. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)):</b>	<b>Check</b>
1. Is the party’s NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: <u>April 18, 2012</u>	Yes <u>X</u> No __
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 __ No <u>X</u>
2a. The party’s description of the reasons for filing its NOI at this other time:	
2b. The party’s information on the proceeding number, date, and decision number for	

<sup>3</sup> “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.

any Commission decision, Commissioner ruling, ALJ ruling, or other document authorizing the filing of NOI at that other time:

**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)):**

- The party's statement of the issues on which it plans to participate.

Sierra Club plans to address the main issues in the proceeding including, but not limited to, LCR needs, system needs, renewable integration, IOU bundled plans, and procurement policies. Additionally, Sierra Club will advocate for policies and strategies that achieve compliance with California's greenhouse gas reduction mandates and goals. This proceeding goes to the heart of Sierra Club California's work on energy issues and climate protection, because it directly addresses the future direction of the California energy system and provides an important vehicle for leading California on a path to a low-carbon future and compliance with AB 32.

- The party's explanation as to how it plans to avoid duplication of effort with other parties and intervenors.

To the extent possible, Sierra Club will coordinate its participation with other parties who have similar interests to avoid duplication of efforts. For example, Sierra Club may not submit expert testimony on issues if other parties with similar positions have retained experts on those issues. In addition, Sierra Club has already communicated with both the California Environmental Justice Alliance and the Division of Ratepayer Advocates, and as the proceeding progresses, will consult with both of these organizations, as well as other environmental and ratepayer organizations that share the same positions on specific issues.

- 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 plans to fully participate in this proceeding and work on the main issues raised by it. Similar to its involvement in the 2010 LTPP, Sierra Club will be an active participant in this proceeding. Sierra Club's work will include participating in workshops, conferences and hearings, submitting comments and briefs, working with an energy expert, preparing and filing testimony, cross-examining witnesses, and propounding discovery.

Given the breadth and complexity of the issues and the importance of the outcome of this proceeding, Sierra Club California anticipates this proceeding will require significant

resources to successfully address the variety of issues raised. Sierra Club California plans to play a substantial role in each phase of the proceedings. To augment its ability to fully address the issues raised by this proceeding, Sierra Club California is represented by Earthjustice, a non-profit environmental law firm.

**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 \$	#
<b>ATTORNEY, EXPERT, AND ADVOCATE FEES</b>				
William B. Rostov	300	380	114,000	1
Paul R. Cort	100	380	38,000	2
Matthew Vespa	75	325	24,375	3
Robert Freehling	100	175	17,500	4
Other energy expert, as required	75	225	16,875	5
Adenike Adeyeye	100	125	12,500	6
		<i>Subtotal:</i>	223,250	
<b>OTHER FEES</b>				
[Person 1]				
[Person 2]				
		<i>Subtotal:</i>		
<b>COSTS</b>				
Estimated Miscellaneous Expenses (e.g. photocopying)			500	
		<i>Subtotal:</i>	500	
<b>TOTAL ESTIMATE \$:</b>			223,750	

**Estimated Budget by Issues:**

Sierra Club plans to be actively involved in each Track of the proceeding. Sierra Club cannot provide a more detailed budget at this time, because the contours of Sierra Club's participation will develop as the proceeding progresses. Sierra Club's participation on certain issues may depend on whether other intervenors have sufficiently covered those issues.

**Comments/Elaboration (use reference # from above):**

The reasonableness of the hourly rates for Sierra Club's representatives will be addressed in our request for compensation (# 1-6). Additionally, Sierra Club will file a request for compensation in the 2010 LTPP. Sierra Club anticipates that the compensation decision in that proceeding will adopt rates for Paul R. Cort and William B. Rostov and update the rate for Robert Freehling, which is currently lower (# 1, 2, 4). An additional energy expert may be used at rate up to \$225 (# 5). Sierra Club has not included in this estimate claim preparation time (#1). Sierra Club's ultimate request will depend on the outcome of the proceeding.

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 (as well as travel time) 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)

<b>A. The party claims “significant financial hardship” for its Intervenor Compensation Claim in this proceeding on the following basis:</b>	<b>Applies (check)</b>
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)).	
ALJ ruling (or CPUC decision) issued in proceeding number:  Date of ALJ ruling (or CPUC decision):	

**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):**

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).

Sierra Club has received a finding of significant financial hardship in Commission proceedings including A.10-03-114 and R.08-08-009, but not within the last year. Although the rebuttable presumption does not apply, these previous decisions provide support for the finding. For example, in R.08-08-009 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). Sierra Club also notes that Sierra Club was found eligible for intervenor compensation within the last year in R.10-12-007.

(Administrative Law Judge’s Ruling Finding Various Parties Eligible for Intervenor Compensation, July 5, 2011.) This ruling did not make an explicit finding of financial hardship but since this finding is an element for eligibility, this should also support a finding of financial hardship for Sierra Club.

Sierra Club does not anticipate any challenge to its eligibility for compensation in this proceeding. If any party does attempt to challenge Sierra Club’s eligibility, Sierra Club requests that it be granted the opportunity to reply to such party's allegations within 10 days after the service of such filing.

**PART IV: ATTACHMENTS DOCUMENTING SPECIFIC  
ASSERTIONS MADE IN THIS NOTICE  
(The party (“customer”) intending to claim intervenor compensation  
identifies and attaches documents; add rows as necessary)**

Attachment No.	Description
1	Certificate of Service
2	Sierra Club Bylaws and Standing Rules

**ADMINISTRATIVE LAW JUDGE RULING<sup>4</sup>**  
(ALJ completes)

	Check all that apply
<b>1. The Notice of Intent (NOI) is rejected for the following reasons:</b>	
a. The NOI has not demonstrated the party’s 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):	
<b>2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above).</b>	
<b>3. The NOI has not demonstrated significant financial hardship for the following reason(s):</b>	
<b>4. The ALJ provides the following additional guidance (see § 1804(b)(2)):</b>	

<sup>4</sup> An ALJ Ruling needs 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 Intervenor Compensation Claim); or (c) the NOI has included a claim of “significant financial hardship” that requires a finding under § 1802(g).

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**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.

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ADMINISTRATIVE LAW JUDGE