

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	Rulemaking12-03-014 Filed March 27, 2012
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NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION AND, IF REQUESTED (and [X]checked), ADMINISTRATIVE LAW JUDGE'S RULING ON CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE'S SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

Customer (party intending to claim intervenor compensation): California Environmental Justice Alliance			
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/ Deborah N. Behles
Date:	May 10, 2012	Printed Name:	Deborah N. Behles

PART I: PROCEDURAL ISSUES

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 attached documents should be identified in Part IV. The California Environmental Justice Alliance (CEJA) is an alliance of six grassroots environmental justice organizations that are situated throughout the state of California. CEJA is an unincorporated organization that is fiscally sponsored by the Environmental Health Coalition. All of the members of CEJA are non-profit public	

interest entities.

CEJA was recently found to be eligible for intervenor compensation in proceeding A.11-05-023. In the assigned Administrative Law Judge's (ALJ's) ruling dated April 23, 2012, the assigned ALJ found that CEJA met the eligibility requirements of Public Utilities Code Section 1804 based on CEJA's status as a Category 3 customer. CEJA requests the same ruling here.

Since CEJA did not participate in the 2010 LTPP as an alliance (one member organization did participate), CEJA is including a description of the alliance and its members, why it meets Category 3 customer status, and a description of its interest in the 2012 LTPP. In A.11-05-023, CEJA qualified as a Category 3 customer under Section 1802(b)(1)(C) of the Public Utilities Code because each of its member organizations qualify as a Category 3 customer. In D.98-04-059 (Intervenor Compensation Order), the Commission explained that:

[w]ith 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.¹

As described herein, CEJA represents organizations whose members live in environmental justice communities and are customers that share a concern for the environment. The concerns of these members distinguish their interests from Commission staff and other California ratepayers participating in this matter.

Together, the six member organizations of CEJA are working to achieve environmental justice for low-income communities and communities of color throughout the state of California. In particular, CEJA is "pushing for policies at the federal, state, regional and local levels that protect public health and the environment."² CEJA is also "working to ensure that California enacts statewide climate change policies that protect low-income communities and communities of color."³

As an organization CEJA has worked in communities throughout the state on its Green Zones Initiative. To transform the environmental justice communities into Green Zones, CEJA works to reduce existing pollution levels, institute community based land-use planning, support green community based development, and build community capacity and power.⁴ Related to this initiative, in January 2012, CEJA co-sponsored a stakeholder event to discuss renewable energy development.⁵

¹ D.98-04-059 at p. 29 n. 14.

² California Environmental Justice Alliance, <http://caleja.org/about-us/>

³ California Environmental Justice Alliance, <http://caleja.org/climate-justice/>

⁴ *Id.*

CEJA's six organizations represent utility customers throughout California that are concerned about their health and the environment. The organizational members of CEJA are: Asian Pacific Environmental Network, The Center for Community Action and Environmental Justice, Center on Race, Poverty & the Environment, Communities for a Better Environment, Environmental Health Coalition, and People Organizing to Demand Environmental and Economic Justice. Each of these organizations qualifies as a Category 3 customer. Pursuant to Rule 17.1(d), a true and correct copy of each of these organizations' articles of incorporation and bylaws were attached to CEJA's Notice of Intent to Claim Intervenor Compensation in A.11-05-023 filed on February 29, 2012 and deemed eligible for intervenor compensation by the assigned ALJ on April 23, 2012.

Asian Pacific Environmental Network (APEN) - APEN is a non-profit environmental justice organization that focuses on Asian and Pacific Islander environmental and social justice issues.⁶ APEN is based in California and works with Asian and Pacific Islander communities that are also located in California. The majority of APEN's approximately 800 members live in California.

APEN is a category 3 customer due to its representation of ratepayers with environmental concerns in Asian and Pacific Islander communities in California.

Communities for a Better Environment (CBE) - CBE's mission "is to achieve environmental health and justice by building grassroots power in and with communities of color and working-class communities."⁷ CBE has participated independently from CEJA in proceedings before the Commission on previous occasions; including: A.09-04-001, A.09-09-021, and R.10-05-006. CBE was determined preliminarily eligible to receive intervenor compensation in A.09-04-001.⁸ CBE's bylaws, which were provided with the NOI filed in A.09-04-001, provide that:

the mission of the organization is to conduct 'education, research, litigation, fundraising and advocacy . . . promoting the protection of the environment and public health'

. . . the organization and its members have engaged in research, advocacy and litigation specifically directed at securing "cost effective conservation measures and discourag[ing] unnecessary new generating resources that are expensive and environmentally damaging."⁹

CBE has thousands of members throughout the state of California. More than 2,700 of CBE's members live, work, or engage with environmental justice issues in urban communities in Northern and Southern California.

⁵ California Environmental Justice Alliance, <http://caleja.org/news>

⁶ See Articles of Incorporation of Asian Pacific Environmental Network at p. 1, filed on Feb. 29, 2012 in A.11-05-023.

⁷ Communities for a Better Environment, Mission, <http://www.cbecal.org/about/mission.html>.

⁸ See December 1, 2011 ALJ Ruling in A.09-04-001.

⁹ A.09-04-001, CBE Notice of Intent to Claim Intervenor Compensation (Nov. 10, 2011)

CBE is a category 3 customer due to its representation of ratepayers with environmental concerns in low-income communities of color in California.

The Center for Community Action and Environmental Justice (CCA EJ) - CCA EJ is a non-profit organization that provides leadership training and skills development programs to educate and empower the community. CCA EJ's mission is to organize local leadership and to build a base of community power to improve the social and natural environment.¹⁰ CCA EJ has worked on creating solutions for high pollution levels and land use problems in Latino communities in California. CCA EJ's bylaws provide that it will "work within communities to develop and sustain democratically based, participatory decision-making that promote involvement of a diverse segment of the community in ways that empower and create safe, healthy, toxic free places to live, work, learn and play."¹¹

CCA EJ is a category 3 customer due to its representation of ratepayers with environmental concerns in communities in California. The majority of CCA EJ's approximately 5,400 members reside in California.

Center on Race, Poverty & the Environment (CRPE) - CRPE is an environmental justice organization that provides organizing, technical and legal assistance to communities.¹² CRPE works with low-income communities and communities of color that are fighting environmental hazards.¹³ CRPE's Articles of Incorporation provide that the purpose of the organization is: "to perform advocacy on behalf of low-income communities and communities of color to address environmental hazards faced by those communities and to build the capacity of those communities to protect themselves from environmental hazards."¹⁴

CRPE is based in California and has approximately 500 members, the majority of whom reside in California. CRPE is a category 3 customer due to its representation of ratepayers with environmental concerns in low-income communities of color in California.

Environmental Health Coalition (EHC) - EHC is a non-profit organization that is a member and the fiscal sponsor of CEJA.¹⁵ EHC operates in the San Diego area representing San Diego area ratepayers and environmental interests. EHC has approximately 3,950 members in its organization, most of whom reside in the San Diego

¹⁰ The Center for Community for Action and Environmental Justice, About CCA EJ, <http://www.ccaej.org/#!about-cca ej>.

¹¹ Bylaws of The Center for Community Action and Environmental Justice at p. 1, attached to Feb. 29, 2012 CEJA NOI in A.11-05-023.

¹² Center on Race, Poverty and the Environment, About Us, <http://www.crpe-ej.org/crpe/index.php/aboutus>.

¹³ Center on Race, Poverty and the Environment, <http://www.crpe-ej.org/crpe/>

¹⁴ Center on Race, Poverty and the Environment, Articles of Incorporation, attached to Feb. 29, 2012 CEJA NOI in A.11-05-023.

¹⁵ Agreement between EHC and CEJA, attached to Feb. 29, 2012 CEJA NOI in A.11-05-023.

area and are thus SDG&E customers. As a prior ruling already acknowledged, EHC brings a “wealth of experience” to a Commission proceeding.¹⁶ EHC’s bylaws provide that its purpose is:

[t]o integrate the work of all groups that are concerned with environmental and occupational causes of disease in the health care system; [t]o generate public discussion on the environment and occupational causes of disease; [and] public discussion on the environment and occupational causes of disease;¹⁷

EHC’s Green Energy and Green Jobs Campaign aims to reduce energy use, maximize local, small scale clean energy generation and create high-quality, career-track jobs in the area’s disadvantaged and heavily impacted communities. EHC is also committed to creating a home retrofit industry to meet GHG reduction goals and create employment. EHC is committed to pursuing pilot programs that push the policy envelope and increase awareness of energy use in buildings. EHC has also done in home peer-to-peer education programs for HUD’s Healthy Homes Program, SDG&E’s Smart Meter Program, and the City of San Diego’s Home Energy Retrofit program.

EHC’s work related to communities and reduction of toxics is furthered by its fiscal sponsorship of CEJA. EHC is a category 3 customer due to its representation of ratepayers with environmental concerns in San Diego.

People Organizing to Demand Environmental and Economic Justice (PODER) -

PODER is an organization that works to organize residents in San Francisco’s Mission neighborhood in order to find local solutions for low income communities and communities of color.¹⁸ In particular, PODER has organized around reducing environmental hazards impacting immigrant communities.¹⁹ PODER is funded by Tides Foundation, a non-profit organization that provides fiscal sponsorship to over 230 groups across the United States.²⁰ The Tides Foundation’s Articles of Incorporation provide that “[t]he specific purpose of this corporation includes, but is not limited to, the nurture and development of competently managed charitable and educational non-profit activities.”²¹

PODER, as a project of the Tides foundation, is a Category 3 customer due to its representation of ratepayers with environmental concerns in communities in California.

CEJA has brought together these organizations to impact and change policy decisions throughout the state. These organizations have joined together as one alliance to advocate together for environmental justice throughout the state of California. CEJA is

¹⁶ R.09-11-014, Dec. 22, 2011 ALJ Ruling Granting Party Status to EHC.

¹⁷ Bylaws of the Environmental Health Coalition at p. 1, attached to Feb. 29, 2012 CEJA NOI in A.11-05-023. *See also* Articles of Incorporation of the Environmental Health Coalition, attached to Feb. 29, 2012 CEJA NOI in A.11-05-023.

¹⁸ PODER, <http://www.podersf.org/node/5>.

¹⁹ PODER, Immigrant Power for Environmental Health and Justice, <http://www.podersf.org/?q=node/42>

²⁰ The Tides Center, <http://www.tides.org/about>.

²¹ Tides Revised Articles of Incorporation 2006 at p.1, attached to Feb. 29, 2012 CEJA NOI in A.11-05-023.

an alliance of organizations that all qualify as Category 3 customers and therefore, CEJA qualifies as a Category 3 customer.

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

All of CEJA's members are non-profit organizations and projects and as such have no economic interest in this proceeding. All the members of CEJA are focused and committed to representing communities of color and low-income communities that are traditionally exposed to pollution and environmental contamination in much higher capacity than their higher income neighbors.

B. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)):	Check
1. Is the party's NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: April 18, 2012	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 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

A. Planned Participation (§ 1804(a)(2)(A)(i)):
<ul style="list-style-type: none"> <input type="checkbox"/> The party's statement of the issues on which it plans to participate. <p>CEJA will be a participant representing environmental concerns in this proceeding. CEJA will work to assure that decisions made in the proceeding do not adversely impact low income communities of color that are disproportionately impacted by pollution. CEJA will work to ensure that California meets and exceeds its environmental goals.</p> <ul style="list-style-type: none"> <input type="checkbox"/> The party's explanation as to how it plans to avoid duplication of effort with other parties and intervenors.

To the extent possible, CEJA will coordinate its responses and participation with other parties to avoid duplication. CEJA through its legal representation, the Environmental Law and Justice Clinic at the Golden Gate University School of Law (ELJC), has previously worked with other parties including the Division of Ratepayer Advocates (DRA) in past proceedings to coordinate efforts. ELJC has also worked closely with other environmental groups including Sierra Club California to avoid duplication in past proceedings. CEJA has already communicated with DRA and Sierra Club California about this proceeding and expects to be in regular contact with these two parties and other parties that are covering similar issues and interests.

- 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).

CEJA will be an active participant in all issues relating to need determination, renewable integration, and the development and review of procurement plans and procurement policy. CEJA will have legal representation from staff attorneys and student clinicians from ELJC and attorneys from the alliance's members. CEJA also plans to obtain experts in its representation, and plans to participate in all hearings and potential workshops related to the proceeding, offer testimony, and brief legal issues.

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, EXPERT, AND ADVOCATE FEES				
[Attorney 1] Deborah N. Behles	200	\$300	\$60,000	
[Attorney 2] Shana Lazerow	150	\$350	\$52,500	
[Expert 1] Energy Expert	200	\$225	\$45,000	
[Expert 2]				
[Advocate 1]				
[Advocate 2]				
		Subtotal:		
OTHER FEES				
[Person 1] Law Student Clinicians	300	\$100	\$30,000	
[Person 2]				
		Subtotal:		
COSTS				
[Item 1] Copying			\$1000	
[Item 2] Travel			\$2000	
		Subtotal:		
TOTAL ESTIMATE \$:			189,500	

Estimated Budget by Issues: Since CEJA does not have a description of all the issues that will be presented in the proceeding, it cannot break down its estimated budget. These estimates are

based on the experience of the attorneys in the 2010 LTPP, the Order Instituting Rulemaking, and the discussion in the April 18, 2012 prehearing conference. .

Comments/Elaboration (use reference # from above):

CEJA, pursuant to its environmental justice goals has retained outside counsel, the Environmental Law and Justice Clinic (ELJC). ELJC has been found to bring environmental justice expertise to past Commission proceedings: D.04-04-012; D.99-09-023; D.99-01-020. ELJC has also recently been awarded intervenor compensation for substantial contribution in D.11-03-025, representing Pacific Environment.²² CEJA was found eligible for intervenor compensation in A.11-05-023, where it is also being represented by the ELJC.²³

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)

A. The party claims "significant financial hardship" for its Intervenor Compensation Claim 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)).	
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.11-05-023 Date of ALJ ruling (or CPUC decision): April 23, 2012	

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

²² CEJA's legal representation, ELJC, has represented interests before the Commission in past proceedings, most recently in previous LTPP representing Pacific Environment. ELJC provides free legal services and education on environmental justice issues to San Francisco Bay Area residents, community groups and public interest organizations. The Clinic assists communities bearing disproportionate environmental burdens, particularly communities of color and low-income neighborhoods. CEJA and the ELJC are involved in this proceeding to represent environmental interests in regard to the procurement of energy for the state of California and to ensure that new, unnecessary power plants are not built.

²³ See Administrative Law Judge's Ruling on Showing of Significant Financial Hardship, A.11-05-023 (April 23, 2012).

NOD:

The assigned ALJ in A.11-05-023 recently made a finding of CEJA’s significant financial hardship. This finding was based on CEJA meeting the standard listed in Public Utilities Code Section 1802(g): “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.”

The assigned ALJ’s finding in A.11-05-023, creates a rebuttal presumption that CEJA is eligible for compensation. In addition, all of CEJA’s members are non-profit organizations and projects and as such have no economic interest in this proceeding. All the members of CEJA are focused and committed to representing communities of color and low-income communities that are traditionally exposed to pollution and environmental contamination in much higher capacity than their higher income neighbors.

Finally, the average utility bill of the individual California members and supporters of the six organizations of CEJA are small compared to the costs of effective participation in this proceeding. Due to these factors, CEJA, representing each of the six member organizations, is entitled to a finding of significant financial hardship pursuant to Public Utilities Code Section 1802(g) (“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.”).

**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

ADMINISTRATIVE LAW JUDGE RULING

	Check all that apply
1. The Notice of Intent (NOI) is rejected for the following reasons:	
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):	
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 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