

Decision \_\_\_\_\_

**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 R.10-05-006 (Filed <i>May 6, 2010</i> )
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**INTERVENOR COMPENSATION CLAIM OF Communities for a Better Environment  
AND DECISION ON INTERVENOR COMPENSATION CLAIM OF  
Communities for a Better Environment**

<b>Claimant: Communities for a Better Environment (CBE)</b>	<b>For contribution to: D.12-01-033; D.12-04-046.</b>
<b>Claimed (\$): \$56,091</b>	<b>Awarded (\$):</b>
<b>Assigned Commissioner: Michael R. Peevey</b>	<b>Assigned ALJ: Peter V. Allen</b>
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).	
<b>Signature:</b>	<b>/s/ Shana Lazerow</b>
<b>Date:</b> 6/15/12	<b>Printed Name:</b> Shana Lazerow Communities for a Better Environment 1904 Franklin, Suite 600 Oakland, CA 94612 510/302-0430 slazerow@cbeocal.org

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

<b>A. Brief Description of Decision:</b>	<b>D.12-01-033:</b> This decision approved with modifications the plans of the three major California electric utilities to procure electricity for their bundled customers, consistent with Pub. Util. Code §454.5. In addition, the decision provided guidance to the utilities for their future bundled procurement plans.
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	<p><b>D.12-04-046:</b> This decision approved a proposed settlement resolving most issues relating to generation need through 2020, concluding there was no evidence that new generation would be needed within PG&amp;E and SCE territories. It also addressed utility solicitations aimed at plants operating without a contract.</p> <p>This decision also allowed, subject to several conditions, the utilities to contract with once-through cooling plants beyond the Water Control Board compliance date; rejected SCE’s proposal for a new general auction mechanism; ruled that utility-owned generation be procured only after a request for other offers has failed; allowed, subject to conditions, these utilities to purchase GHG compliance instruments; and mandated certain disclosures related to GHG compliance.</p>
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	6/14/2010	
2. Other Specified Date for NOI:	8/13/2010	
3. Date NOI Filed:	8/13/2010	
4. Was the NOI timely filed?		
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	A.09-04-001	
6. Date of ALJ ruling:	12/1/2011	
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	A.09-04-001	
10. Date of ALJ ruling:	12/1/2011	
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		
<b>Timely request for compensation (§ 1804(c)):</b>		

13. Identify Final Decision:	D.12-04-046	
14. Date of Issuance of Final Order or Decision:	4/19/2012	
15. File date of compensation request:	6/15/2012	
16. Was the request for compensation timely?		

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

#	Claimant	CPUC	Comment
7	X		At the time it filed its NOI in August 2010, CBE's "customer" status had not yet been decided. CBE's NOI sets forth CBE's "customer" status at pages 2-3.
8	X		At the time it filed its NOI in August 2010, CBE's "significant financial hardship" had not yet been decided. CBE's NOI sets forth CBE's "significant financial hardship" at page 6.

**PART II: SUBSTANTIAL CONTRIBUTION (to be completed by Claimant except where indicated)**

**A. In the fields below, describe in a concise manner Claimant's contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059). (For each contribution, support with specific reference to the record.)**

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
1.(a) Track I Settlement: CBE engaged in this proceeding for the primary express purpose of preventing unnecessary procurement of new gas-fired generation where it organizes – in SCE and PG&E territory. D.12-04-046 acknowledged that CBE sought specific findings concerning long term need and local area need in PG&E and SCE territory. D.12-04-046 made those specific findings.	CBE Motion for Party Status, p. 2. D.12-04-046, pp. 9-10. D.12-04-046, pp. 11-12.	
1.(b) Track I Settlement: D.12-04-046 adopts the Track I Settlement Agreement.	D.12-04-0046 at pp. 9-10; D.12-04-046 Order Paragraph #1; Track I Settlement Agreement; CBE Track I/III Opening Brief at p. 3.	
1.(c) Track I Settlement: CBE's comments seeking specific findings approving the Track I Settlement are not limited to procurement needs by 2020 – CBE's Opening Brief seeks a finding that	D.12-04-0046 p. 11 fnt 9; D.12-04-046, p. 12.	

<p>the record does not support new generation for PG&amp;E and SCE at all. This is a particular concern to CBE, which intervened in proceedings A.09-09-021, A.09-04-001, and A.12-03-026 in order to address PG&amp;E’s attempts to procure new generation that did not address a need identified in the previous LTPP. In two places, D.12-04-046 emphasizes that there is no evidence of need for new generation by 2020 <b>or thereafter</b>, squarely addressing CBE’s concern.</p>		
<p>2. SCE Generation Auction Proposal: CBE argued that the Commission should reject SCE’s suggestion to open a new proceeding to address its proposal for a new generation auction through CAISO, and that the Commission should also reject the suggestion.</p> <p>D.12-04-046 notes that many parties opposed the creation of this new proceeding, and rejects SCE’s proposal.</p>	<p>D.12-04-046 at pp. 27-28; D.12-04-046 Conclusion of Law #4; D.12-04-046 Order Paragraph #4; CBE Track I/III Opening Brief at pp. 5-6.</p>	
<p>3. OTC Contracting: CBE urged the Commission to limited contracts with OTC facilities, based on sound policy and environmental concerns.</p> <p>While D.12-04-046 did not adopt the one year contracting limit for which CBE advocated, it did impose limits on contracts with OTC facilities in response to comments by CBE and its allies.</p>	<p>CBE Track I/III Opening Brief at pp. 4-5. D.12-04-046 at pp.</p>	
<p>4. Renewable Integration Products: CBE argued that SCE’s request to add “Renewable Integration Products” to the list of approved procurement products should be rejected because the explanation of these products was far too vague. D.12-01-033 adopts this position in whole.</p>	<p>D.12-01-033 at pp. 28-30; D.12-01-033 Findings of Fact #12; D.12-01-033 Conclusions of Law #12; D.12-01-033 Order Paragraph #7; CBE Track II Opening Comments at p. 2; CBE Track II Reply Br. at p. 6; Exhibit 1000: Testimony of J. May at p. 20.</p>	
<p>5. SCE’s Preferred Assumptions: CBE argued that that SCE’s Preferred Assumptions led to inflated energy forecasts by using energy efficiency saving estimations that were lower than other</p>	<p>D.12-01-033 at pp. 16-17, 22; Exhibit 1000: Testimony of J. May at pp. 2-10.</p>	

<p>utilities and in direct contravention of PUC policy and recent developments concerning energy efficiency.</p> <p>D.12-01-033 takes note of the significant attention that CBE and other organizations gave to SCE’s assumptions on energy efficiency and demand response, and emphasizes that requirements relating to the two would not be changed in this proceeding.</p> <p>With some exceptions, D.12-01-033 permitted SCE to use its Preferred Assumptions for the first five years, but required that the standard assumptions be used after that.</p>		
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	Claimant	CPUC Verified
<p><b>a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?</b></p>	Y	
<p><b>b. Were there other parties to the proceeding with positions similar to yours?</b></p>	Y	
<p><b>c. If so, provide name of other parties:</b>  Pacific Environment, Sierra Club California, The Utility Reform Network, Center for Energy Efficiency and Renewable Technologies, Natural Resources Defense Council, Green Power Institute, Vote Solar Initiative.</p>		
<p><b>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:</b></p> <p>CBE worked closely with allies Pacific Environment and Sierra Club California, and coordinated with other parties, to avoid duplication. When similar issues were covered, CBE provided analysis, studies, and expert materials that highlighted its own arguments and added to other common arguments. Rather than duplicating the expert testimony its allies prepared, CBE focused its Track II expert analysis on narrow issues of special concern to its members: flaws in SCE assumptions that could result in overprocurement; oil refinery CHP; and ambiguous language of specific concern. CBE coordinated with allies to conduct a joint ex parte meeting regarding the Tracks I and III decision. CBE met with other parties to negotiate the Track I settlement that resolved CBE’s concerns in SCE and PG&amp;E territory, obviating its need to submit expert testimony on system plans.</p>		

<p>This close coordination allowed CBE to make singular arguments of specific concern to its members. CBE members are particularly affected by procurement targeting renewables integration, which SCE and PG&amp;E have cited as the basis for long term contracts CBE has had to oppose. For that reason, CBE was particularly engaged in the initial discussions, advocating for use of the E3 model, which CBE believed was better able to model actual conditions than the alternative, simplistic model. Additionally, many CBE members live close to oil refineries and decisions concerning CHP at refineries will affect them. CBE members care very much about renewables procurement – incentives such as renewable energy credits and the loading order have a clear, foreseeable impact on their goals to achieve a reliable, just distributed generation system.</p>	
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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):**

<p><b>a. 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)</b></p> <p>CBE is asking for \$56,091 in fees and costs for helping negotiate a settlement agreement, preparing expert testimony, and advocating legal and policy positions before the Commission. CBE’s efforts in negotiating the settlement and several of its arguments before the Commission have helped avoid the procurement of unneeded generation, the procurement of ill-defined products that would expose ratepayers to risk and undermine settled policy, and the misuse of this proceeding to create a new auction process that would also undermine public participation.</p> <p>CBE’s efforts have also raised several important criticisms regarding SCE’s proposed assumptions, which are critical for modeling future need.</p> <p>CBE’s constituents will realize both economic and environmental benefits due to the participation of CBE and other organizations in this proceeding. Procurement of unneeded generation leads to rate increases, which would collectively dwarf the amount of money CBE is requesting. Moreover, this generation can have severe environmental impacts through the operation of existing generation facilities and the potential construction of new</p>	<p><b>CPUC Verified</b></p>
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<p>facilities. Similarly, allowing utilities to purchase vaguely defined products for renewable integration would have a serious potential to undermine the 33% RPS and the public policies behind it, which are critical to ensuring California’s future environmental health. While the negative impacts on public health and on environmental resources are difficult to measure, CBE strongly believes they justify the hours spent advocating for its positions. Lastly, CBE and other organizations successfully argued against the use of this proceeding, or the creation of a new proceeding, to litigate the creation of a new auction proceeding, to be run through CAISO, that would have further limited the ability of the public to meaningfully participate in the process. This participation is critical to ensuring that future procurement decisions are made after full consideration of the relevant factors and impacts.</p>	
<p><b>b. Reasonableness of Hours Claimed.</b>  <b>CBE’s hours were extremely reasonably spent, especially in light of the excellent result achieved and its contributions to that result. CBE’s hours divide into four categories: Track I, including work around system need; Track II, including work specifically on SCE Bundled Plan: Analysis and advocacy concerning renewables integration products, use of standard planning assumptions; Track III, addressing rules; and General, which included time spent reviewing documents, participating in some workshops, and coordinating with allies to ensure CBE’s efforts were strategic and efficient.</b></p> <p>CBE excluded time spent analyzing and advocating for consideration of Combined Heat and Power, and for application of new RECs procurement rules to this proceeding. The Commission dismissed these concerns, and CBE does not argue it made a substantial contribution meriting intervenor compensation.</p> <p>The rates requested for these tasks are at the low end of the ranges authorized by the CPUC for attorneys, experts, and law students. These considerations are reflected in the attached timesheets.</p>	
<p><b>c. Allocation of Hours by Issue</b>  Track I (A) 30%  Track II (B) 42%  Track III (C) 3%  General (D) 25%</p>	

**B. Specific Claim:**

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$

Shana Lazerow	2010	28.8	\$350	See comment 1.	\$10,080			
Shana Lazerow	2011	88.1	\$355	See comment 1.	\$31,276			
Shana Lazerow	2012	9.4	\$360	See comment 1.	\$3,384			
Julia May	2011	59.8	\$150	See comment 1.	\$8,970			
<b>Subtotal:</b>					\$53,710	<b>Subtotal:</b>		
<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>								
<b>Item</b>	<b>Year</b>	<b>Hours</b>	<b>Rate</b>	<b>Basis for Rate*</b>	<b>Total \$</b>	<b>Hours</b>	<b>Rate</b>	<b>Total \$</b>
Shana Lazerow	2010	1	\$175	half 2010 rate	\$175			
Shana Lazerow	2012	6.7	\$180	half 2010 rate	\$1,206			
Joel Tadmor	2012	10	\$100	rate awarded law students in D.11-03-025	\$1000			
<b>Subtotal:</b>					\$2,381	<b>Subtotal:</b>		
<b>TOTAL REQUEST \$:</b>					<b>\$56,091</b>	<b>TOTAL AWARD \$:</b>		
<p>When entering items, type over bracketed text; add additional rows as necessary.</p> <p>*If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>								

**C. Attachments Documenting Specific Claim and Comments on Part III (Claimant completes; attachments not attached to final Decision):**

Attachment or Comment #	Description/Comment
1	<b>Certificate of Service</b>
2	<b>Timesheet detailing CBE hours</b>
3	<b>Resumes of Shana Lazerow and Julia May</b>
Comment 1	<p>Ms. Lazerow is Chief Litigation Attorney at CBE. She graduated from law school at the University of California, Los Angeles in 1997. Based on Resolution ALJ-267, her requested rate of \$350 is the lowest reasonable rate for an attorney of her experience. ALJ-267 authorizes a 5% annual increase, which is reflected in the \$5/year increase in Ms. Lazerow's rate.</p> <p>Ms. May is Senior Staff Scientist a CBE. For more than twenty years, Ms. May has been providing technical advice to community members concerning environmental and energy-related matters. Ms. May holds a BS in Electrical Engineering from University of Michigan, Ann Arbor (1981). Based on Resolution ALJ-267, her requested rate of \$150 is the lowest reasonable rate for an expert of her experience.</p> <p>Resumes for Ms. Lazerow and Ms. May are attached hereto as attachment 3.</p>

**D. CPUC Disallowances, Adjustments, and Comments (CPUC completes):**

#	Reason



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**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)

<b>A. Opposition: Did any party oppose the Claim?</b>	
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If so:

Party	Reason for Opposition	CPUC Disposition

<b>B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?</b>	
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If not:

Party	Comment	CPUC Disposition

**FINDINGS OF FACT**

1. Claimant [has/has not] made a substantial contribution to Decision (D.) \_\_\_\_\_.
2. The requested hourly rates for Claimant’s representatives [,as adjusted herein,] are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses [,as adjusted herein,] are reasonable and commensurate with the work performed.
4. 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. [for multiple utilities: “Within 30 days of the effective date of this decision, ^, ^, and ^ shall pay Claimant their respective shares of the award, based on their California-jurisdictional [industry type, for example, electric] revenues for the ^ calendar year, to reflect the year in which the proceeding was primarily litigated.”] 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 75<sup>th</sup> 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 decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.