

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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Rulemaking regarding whether, or subject to what Conditions, the suspension of Direct Access may be lifted consistent with Assembly Bill 1X and Decision 01-09-060.	Rulemaking 07-05-025 (Filed May 24, 2007)
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**INTERVENOR COMPENSATION CLAIM OF L. JAN REID
AND DECISION ON INTERVENOR COMPENSATION CLAIM OF L. JAN REID**

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Claimant: L. Jan Reid	For contribution to D.11-12-018
Claimed (\$): 55,388.99	Awarded (\$):
Assigned Commissioner: Ferron	Assigned ALJ: Pulsifer
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).	
Signature:	/s/ L. Jan Reid
Date: 08/21/12	Printed Name: L. Jan Reid

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

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A. Brief Description of Decision:	The decision adopted various updates and reforms in the rate setting methodologies and rules applicable to Direct Access service.
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
4	1. Date of Prehearing Conference:	November 5, 2010
	2. Other Specified Date for NOI:	N/A
	3. Date NOI Filed:	December 6, 2010
	4. Was the NOI timely filed? Yes.	
Showing of customer or customer-related status (§ 1802(b)):		
5	5. Based on ALJ ruling issued in proceeding number:	A.07-12-021
	6. Date of ALJ ruling:	April 15, 2008
	7. Based on another CPUC determination (specify):	
	8. Has the Claimant demonstrated customer or customer-related status?	
Showing of "significant financial hardship" (§ 1802(g)):		
6	9. Based on ALJ ruling issued in proceeding number: k	A.07-12-021
	10. Date of ALJ ruling: k	April 15, 2008
	11. Based on another CPUC determination (specify):	
	12. Has the Claimant demonstrated significant financial hardship?	
Timely request for compensation (§ 1804(c)):		
7	13. Identify Final Decision:	N/A. See comment below.
	14. Date of Issuance of Final Order or Decision:	N/A
	15. File date of compensation request:	August 21, 2012
	16. Was the request for compensation timely? Yes.	

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

#	Claimant	CPUC	Comment
8	4 L. Jan Reid		The NOI was filed within 30 days of the PHC, accounting for holidays and weekends. The NOI would have been due on December 5, 2010. However, December 5, 2010 was a Sunday, so the NOI was due on December 6, 2010.
	13 L. Jan Reid		A final decision closing proceeding R.07-05-025 has not been issued. Therefore, the request is timely pursuant to Public Utilities Code § 1804(c).

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.)

9	Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
	1. RPS	<p>The Commission noted that “Reid recommends adopting the proposal in TURN’s post-workshop comments which maintains the current MPB methodology such that the PCIA would incorporate the entire RPS adder premium inherent in the IOUs’ costs of procurement to meet the RPS goals, but non-utility retail suppliers would be given RPS credit for their proportionate share of the IOU’s RPS purchases.” (D.11-12-018, slip op. at 12)</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the RPS issue.</p>	
	2. Resource Adequacy	<p>The Commission stated that “Reid proposes the use of the Interim CPM (ICPM) price of \$41/kw-year pending further developments on the CPM.” (D.11-12-018, slip op. at 26). The ICPM</p> <p>The Commission effectively agreed with Reid when it adopted a proposal to “update the RA capacity adder using the California Energy Commission’s estimates of the going forward costs of a combustion turbine, which is updated biannually, including the Net Qualifying Capacity of all generation resources in the utility portfolio.”(D.11-12-018, slip op. at 30)</p>	

<p>3. Negative PCIA</p>	<p>The Commission stated that “PG&E, SDG&E and Jan Reid propose that in the event PCIA is negative, the PCIA charge should be set to zero and any negative PCIA should only be used to offset positive PCIA in future periods, rather than first offsetting that year’s CTC charges.” (D.11-12-018, slip op. at 36-37).</p> <p>Although the Commission did not agree with Reid on this issue, Reid made a substantial contribution’s to the Commission’s resolution of the negative PCIA issue.</p>	
<p>4. Residential Ratepayers</p>	<p>Reid recommended that “the Commission should consider qualitative factors when reaching a decision in this case. One of those factors should be the existing status of different customer classes with respect to direct access.” (Reid Amended Testimony, pp. 6-7)</p> <p>Reid pointed out a number of ways in which residential ratepayers were treated differently than commercial and industrial customers and noted that Public Utilities Code §365.1(a) specifically prohibits the vast majority of residential customers from receiving service from a direct access provider. (Reid Amended Testimony, pp. 5-7)</p> <p>The Commission effectively agreed with Reid and made a number of changes to the program to account for the effect on residential ratepayers. These changes include:</p> <p>The Commission found that “ A 60-day safe harbor period followed by a six-month period offers a reasonable time frame for calculating the duration of re-entry fees for involuntary returned residential and small commercial DA customers, in terms of keeping the bond costs manageable while protecting bundled customers against cost shifting. (D.11-12-018, Finding of Fact 30, slip op. at 101)</p>	

	<p>The Commission found that “Placing involuntarily returned residential and small commercial customers on the BPS rate will protect them against the risk of higher procurement costs, and will transfer that risk of higher procurement costs to the ESP.” (D.11-12-018, Finding of Fact 50, slip op. at 104)</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the Residential Customer issue.</p>	
<p>5. CAISO Costs</p>	<p>Reid argued that “One of the purposes of the PCIA is to attempt to make sure that bundled ratepayers are indifferent to the movement of load from the IOUs to direct access providers. Since many of the CAISO load charges are based on volume, they should not be paid for by direct access providers.” (Reid Amended Testimony, pp. 14-15)</p> <p>The Commission agreed with Reid and other parties when it ordered that “All California Independent System Operator (CAISO) charges that vary based on the amount of load including congestion charges, shall be excluded from the total portfolio cost and Market Price Benchmark for purposes of calculating the Power Charge Indifference Amount and Competition Transition Charge.” (D.11-12-018, Ordering Paragraph 6, slip op. at 113)</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the CAISO Costs issue.</p>	

<p>6. Load Profiles</p>	<p>Reid argued that “Whenever possible, the Commission should authorize the use of publicly available data in calculating the MPB and PCIA. The bundled customer load profile is confidential and thus will not be available to the public or to many of the parties in this proceeding.” (Reid Amended Testimony, p. 15)</p> <p>The Commission agreed with Reid when it stated that “We conclude that the MPB should be weighted based on the historical IOU bundled load profile. . . . The use of historical bundled load data will avoid the need to use confidential data, and will still promote reasonable accuracy.” (D.11-12-018, Ordering Paragraph 6, slip op. at 113)</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the Load Profiles issue.</p>	
<p>7. Reentry Fees</p>	<p>Reid argued that “Since the utilities have a fixed base rate revenue requirement, any misallocation of customer costs for one customer or customer class must be paid for by bundled customers in a future period.”</p> <p>...</p> <p>“Thus, reentry fees must be based on the utility’s cost of providing service to the reentering customer. Otherwise, additional costs would be imposed on other customers in violation of PUC §394.25(e).” (Reid Reply Testimony, pp. 2-3)</p> <p>The Commission effectively agreed with Reid when it stated that “We therefore authorize that administrative fees to cover involuntarily returned DA customers be set using the IOU’s authorized service fee rate for voluntarily returning CCA accounts.” (D.11-12-018, slip op. at 70)</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the Reentry Fees issue.</p>	

<p>8. Minimum Stay</p>	<p>In its opening testimony, Southern California Edison Company (SCE) argued that the minimum stay be changed from three years to 18 months. (SCE Testimony, p. 15)</p> <p>Reid argued that “If the Commission adopts SCE’s proposal, the planning risk will be borne by SCE’s bundled customers and if that risk is realized, the costs will be paid for by SCE’s bundled customers. Therefore, the Commission should not decrease the minimum stay for customers returning from direct access service to bundled utility service.” (Reid Reply Testimony, p. 5)</p> <p>Although the Commission did not agree with Reid on this issue, Reid made a substantial contribution to the Commission’s resolution of the Minimum Stay issue.</p>	
<p>9. Security Requirements</p>	<p>Reid argued that “The Commission should not allow an Energy Service Provider (ESP) to meet its financial security requirement through having an investment grade credit rating, or by a parent company guarantee. An IOU has a financial claim on a surety bond, a letter of credit, or credit. An IOU has no financial claim to an investment grade credit rating or a parent company guarantee.” (Reid Reply Testimony, p. 6)</p> <p>The Commission agreed with Reid when it found that “A security bond, letter of credit, or secured cash deposits are alternative means that can meet the ESP financial security obligations of § 394.25(e). The use of self insurance or showing of an ESP’s investment-grade bond ratings are inadequate alternatives that fail to provide the requisite financial security required by § 394.25(e).” (D.11-12-018, Finding of Fact 28, slip op. at 101)</p>	

<p>10. Bonding Requirements</p>	<p>Reid argued that “Thus, the bond or insurance must be equal to the Commission’s estimate of reentry fees. Although this is a rather simple legal requirement, there are a number of quantitative issues which the Commission must address before it can determine the appropriate bonding level.”</p> <p>“The calculation of reentry fees and therefore the bonding level is complicated by two major uncertainties: (1) reentry costs change as market prices for energy and capacity change; and (2) the number of returning customers and the average reentry cost for those customers is unknown.” (Opening Brief of L. Jan Reid on Bonding Requirements. January 24, 2011, pp. 3-4)</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the Bonding Requirements issue.</p>	
<p>11. Short Term Purchases</p>	<p>Reid argued that “I define short-term purchases as purchases with a contract term of less than one year. Since short-term purchases are obviously used to serve bundled load, they should not be accounted for in the MPB or in the PCIA. Therefore, I recommend that short-term purchases be removed from the MPB and PCIA.” (Opening Brief of L. Jan Reid, May 6, 2011, p. 15)</p> <p>The Commission agreed with Reid when it found that “Short-term power purchases for terms of less than one year, do not belong in the calculation of total portfolio costs.” (D.11-12-018, Finding of Fact 24, slip op. at 100)</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the Short Term Purchases issue.</p>	

12. Forward Banking	<p>The Joint Parties (JP) recommended changes to the RPS calculation and argued that “And provided that they meet certain requirements, IOUs can also bank excess RPS-eligible renewables from one year for credit in a future year, thus avoiding the need for a subsequent procurement.” (JP Comments, p. 4)</p> <p>Reid argued that “Under SB 2 1 X, banking of excess procurement is not unlimited and does not include all RPS purchases.” (Reid PD Reply Comments, pp. 2-3)</p> <p>In this instance, the Commission did not adopt the Joint Parties’ recommendation. Thus, Reid made a substantial contribution to the Commission’s resolution of the Forward Banking issue.</p>	
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

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	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes.	
b. Were there other parties to the proceeding with positions similar to yours?	No.	
c. If so, provide name of other parties:		
<p>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:</p> <p>I met with the DRA on several occasions throughout the course of the proceeding in order to avoid duplication. I do not seek compensation for all of these meetings. 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 the DRA and TURN.</p> <p>There was very little agreement on key issues between Reid and the DRA in the instant proceeding. Of the 12 issues listed in Section II.A, Reid and the DRA had similar positions on only four issues: load profiles, minimum stay, security requirements, and reentry fees.</p>		

C. Additional Comments on Part II (use line reference # or letter as appropriate):

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#	Claimant	CPUC	Comment

PART III: REASONABLENESS OF REQUESTED COMPENSATION (to be completed by Claimant except where indicated)

A. General Claim of Reasonableness (§§ 1801 & 1806):

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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)	CPUC Verified
<p>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.</p> <p>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.</p> <p>Reid opposed the RPS recommendations of the Joint Parties (JP). If the Commission had adopted the JP’s recommendations, I estimated that bundled ratepayers would have paid over \$81 million in additional rates if the JP’s RPS recommendation had been accepted by the Commission compared to the \$62 million rate increase authorized in D.11-12-018. (See Amended Testimony of L. Jan Reid, Table 5, p. 12, and Reid PD Comments, p. 8) Thus, Reid and other parties saved ratepayers approximately \$19 million — more than five times the compensation that I have requested in this proceeding.</p> <p>The Commission can safely find that the participation of Reid in this Proceeding was productive. Overall, the benefits of Reid’s contributions to D.11-12-018 justify compensation in the amount requested.</p>	
<p>b. Reasonableness of Hours Claimed.</p> <p>All of Reid’s work in this proceeding was performed by L. Jan Reid. Thus, no unnecessary internal duplication took place.</p>	

c. Allocation of Hours by Issue	
General	32%
Bonding	
Requirements	2%
CAISO Costs	3%
Forward Banking	1%
Load Profiles	6%
Minimum Stay	8%
Negative PCIA	5%
Reentry Fee	1%
Residential	
Ratepayers	11%
Resource Adequacy	5%
RPS	21%
Security Requirements	4%
Short Term Purchases	1%

B. Specific Claim:

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CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
[Attorney 1]			\$					
[Attorney 2]								
L. Jan Reid, Expert	2010	38.5	185	D.12-06-011, Appendix	7,122.50			
L. Jan Reid, Expert	2011	256.2	185	D.12-06-011, Appendix	47,397.00			
[Advocate 1]								
[Advocate 2]								
Subtotal:					54,519.50	Subtotal:		

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OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
15 L. Jan Reid, NOI	2010	1.4	\$92.50	D.12-06-011, Appendix	129.50			
Subtotal:					129.50	Subtotal:		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
16 L. Jan Reid	2012	5.7	\$97.50	See Comments of L. Jan Reid on Proposed Decision of ALJ Simon, August 9, 2012, Section V. Hourly Rates, pp. 5-6.	555.75			
[Preparer 2]								
Subtotal:					555.75	Subtotal:		
COSTS								
#	Item	Detail			Amount	Amount		
1	Postage	Postage for 2010-2011 (See Attachment A)			49.68			
2	Copies	1682 copies for the period 2010-2011 at 8 cents/page. (See Attachment A)			134.56			
Subtotal:					184.24	Subtotal:		
TOTAL REQUEST \$:					55,388.99	TOTAL AWARD \$:		
When entering items, type over bracketed text; add additional rows as necessary. *If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale. **Travel and Reasonable Claim preparation time typically compensated at 1/2 of preparer's normal hourly rate.								

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

Attachment or Comment #	Description/Comment
18 1	Certificate of Service
2	Service List

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

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#	Reason

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)

A. Opposition: Did any party oppose the Claim?	
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If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?	
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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 75th 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.