

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

1	Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans.	Rulemaking 10-05-006 (Filed May 6, 2010)
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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.12-01-033	
Claimed (\$): 34,982.25		Awarded (\$):	
Assigned Commissioner: Peevey		Assigned ALJ: Allen	
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:	08/29/12	Printed Name:	L. Jan Reid

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

3	A. Brief Description of Decision:	The decision approves 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.
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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:	June 14, 2010
	2. Other Specified Date for NOI:	August 13, 2010
	3. Date NOI Filed:	August 9, 2010 Amended NOI was filed on January 4, 2011 (See D.11-03-019, slip op. at 6)
	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:	
	6. Date of ALJ ruling:	
	7. Based on another CPUC determination (specify):	D.11-03-019, Conclusion of Law 1, slip op. at 16
	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:	
	10. Date of ALJ ruling:	
	11. Based on another CPUC determination (specify):	D.11-03-019, slip op. at 6
	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 29, 2012
	16. Was the request for compensation timely? Yes.	

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

8	#	Claimant	CPUC	Comment
	13	L. Jan Reid		A final decision closing proceeding R.10-05-006 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. Consumer Risk Tolerance	<p>The Division of Ratepayer Advocates (DRA) recommended that the Commission change the Consumer Risk Tolerance (CRT) from 1 cent/kWh to 1.5 cents/kWh.</p> <p>Reid argued that: (Track II Reply Brief of L. Jan Reid, pp. 6-7)</p> <p>“Thus, the primary purpose of the CRT is to trigger a planning meeting between the utility and its Procurement Review Group (PRG) when electricity and natural gas prices increase significantly. The PRG meeting may result in the filing of plan modifications by the utility.”</p> <p style="text-align: center;">...</p> <p>“The Commission should not adopt DRA’s recommendation to increase the CRT because such action will decrease the number of planning meetings and reduce the effectiveness of the PRG.”</p> <p>The Commission did not adopt the DRA’s recommendation concerning the CRT. Thus, Reid made a substantial contribution to the Commission’s resolution of the CRT issue.</p>	

<p>2. Third Party Review of Hedging Activities</p>	<p>The DRA recommended that the Commission should order an independent third party review of Time to Expiration Value at Risk (TeVaR) models and practices. (DRA Track II Opening Brief, p. 14)</p> <p>Reid argued that: (Reid Track II Reply Brief, p. 7)</p> <p>“In the past, I have reviewed the TeVaR models of PG&E and SCE. I found the application of these models to be consistent with generally accepted practice and Commission direction.”</p> <p>“The DRA (or any other PRG member) is capable of providing the oversight that it seeks within the PRG process. The DRA can simply request the information from the IOUs as part of the PRG process. If the DRA wishes to evaluate the TeVaR models in PG&E’s PRG, I will be willing to assist them in this process. However, bundled ratepayers should not be burdened with the additional costs associated with the hiring of outside consultants.”</p> <p>The Commission effectively agreed with Reid when it stated that “While these may be reasonable activities for the Commission to undertake, it is not clear that there is a need for them now, particularly with the changes we are making in the use of the CRT.” (D.12-01-033, slip op. at 27)</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the Third Party Review issue.</p>	
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<p>3. Hedging Plans</p>	<p>DRA proposed “that the Commission, under the guidance of Energy Division, conduct a stakeholder process to define the circumstances under which exceptions to limits outside of the approved IOU hedging plans will be authorized, and how these requests will be reviewed.” (DRA Track II Opening Brief, p. 14)</p> <p>Reid argued that: (Track II Reply Brief of L. Jan Reid, pp. 8-9)</p> <p>“DRA has it backwards. It is the Commission which guides the Energy Division, not the reverse. The Commission should not cede regulatory authority to either the Energy Division or to stakeholders in this matter. It is the Commission which has the statutory obligation under Public Utilities Code §451 to ensure that rates are just and reasonable.”</p> <p>“The Commission has a well-defined process for the litigation of changes to hedging plans. When an IOU seeks to modify its hedging plan, it must file an advice letter and seek Commission approval for its proposed modifications. The DRA and other parties then have the right to protest any advice letter filed by the IOUs or other parties.”</p> <p style="text-align: center;">. . .</p> <p>“Therefore, it is both unnecessary and poor public policy for the Commission, under the guidance of the Energy Division, to establish a new stakeholder process.”</p> <p>The Commission effectively agreed with Reid when it stated that “While these may be reasonable activities for the Commission to undertake, it is not clear that there is a need for them now, particularly with the changes we are making in the use of the CRT.” (D.12-01-033, slip op. at 27)</p>	
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<p>4. The Rate Cap</p>	<p>The PD stated that: (Track II PD, pp. 13-14)</p> <p>“Based on our analysis and conclusions in the hedging section below, we find that procurement activities (consistent with this and other Commission decisions) that result in no more than a 10% system average rate increase over a rolling 18-month period are reasonable. We modify the procurement plans of PG&E and SDG&E to include this 10% cap.”</p> <p>Reid opposed the rate cap and argued that: (Reid Track II PD Comments, p. 9)</p> <p>“It is the Commission, not the utilities, that controls rates. The Commission determines a revenue requirement for each IOU in the IOU’s general rate case. The Commission determines the cost of capital for the IOUs in cost-of-capital proceedings. The Commission also increases rates to accomplish policy goals such as in the case of smart meters, greenhouse gas reduction, resource adequacy, and many other policy goals.”</p> <p>“The IOUs should only be responsible for costs which they have the ability to control. Much of their procurement costs are beyond their control. The IOUs do not control the market price of electricity or the market price of natural gas.”</p> <p>The Commission effectively agreed with Reid and removed the 10% rate cap from the final decision (D.12-01-033). Therefore, Reid made a substantial contribution to the resolution of the Rate Cap issue.</p>	
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<p>5. Risk Management</p>	<p>With some modifications, the Commission approved the bundled procurement plans (including the hedging proposals) of the three IOUs. (See D.12-01-033, Ordering Paragraphs 1-12, slip op. at 50-51)</p> <p>Reid included five proposed modifications to PG&E’s hedging proposal in Reid’s confidential testimony. (Track II Corrected Confidential Testimony of L. Jan Reid, pp. 2-7). Although the Commission did not adopt Reid’s modifications, Reid made a substantial contribution to the Commission’s resolution of the Risk Management issue.</p>	
<p>6. Legal Requirements</p>	<p>The Proposed Decision (Track II PD) stated that “To the extent that the cost of procurement is higher than forecast, however, there is a potentially significant problem, as the Commission cannot be said to have found the correspondingly higher rates to be just and reasonable, as required under section 454.5(d).” (Track II PD, p. 7)</p> <p>Reid argued that: (Comments of L. Jan Reid on Proposed Decision of ALJ Allen, November 30, 2011, (Reid Track II PD Comments) p. 4)</p> <p>“Procurement costs may be higher than forecasts due to an increase in natural gas prices, an increase in electricity prices, new regulatory requirements (e.g., carbon reduction), an increase in the IOUs’ authorized rate of return, an increase in interest rates, and other factors. I note that all of these factors are beyond the control of the utilities.”</p> <p style="text-align: center;">...</p>	

	<p>“Even if rates increase due to the factors listed above, the Commission will still be in compliance with the “just and reasonable” requirements of PUC § 454(d), as long as the Commission ensures that the approved procurement plans accomplish the objectives (see above) of PUC § 454(d).”</p> <p>Although the Commission did not agree with Reid, Reid made a substantial contribution to the Commission’s resolution of the Legal Requirements issue.</p>	
<p>7. Planning Assumptions</p>	<p>Reid argued that: (Reid Track II PD Comments, p. 6</p> <p>“The PD incorrectly states that ‘In essence, SDG&E and PG&E are saying that it does not matter what comes out of this proceeding – they will procure whatever they want, in whatever quantity they think best.’ (Track II PD, p. 10)”</p> <p>“SDG&E and PG&E are saying that they will procure based on the latest available information, and not on planning assumptions that may be up to two years old. SDG&E witness Anderson has explained that ‘[a]ctual procurement will vary over time, based on the best available data at that time.’ (Track II PD, p. 9) Anderson’s statement is consistent with the prudent manager standard that has guided Commission decision-making for decades.”</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 Planning Assumptions issue.</p>	

<p>8. Greenhouse Gas Costs</p>	<p>Reid criticized PG&E’s forecast of the Greenhouse Gas (GHG) costs for 2012 and 2013 and presented an alternate forecast for the years 2011-2045. (Testimony of L. Jan Reid on Bundled Procurement Plans, May 4, 2011 (Reid Track II Testimony), pp. 3-8)</p> <p>Reid argued that: (Reid Track II Testimony, p. 8)</p> <p>“An unreasonably low estimate of carbon costs means that PG&E could select inefficient fossil fuel projects with high heat rates in their near-term procurement. The use of high carbon cost estimates simply means that PG&E will be more likely to select relatively clean fossil fuel projects with low heat rates.”</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the Greenhouse Gas Costs issue.</p>	
<p>9. Liquidity</p>	<p>Reid raised a number of questions concerning PG&E’s proposal to mitigate liquidity risk. (Reid Track II Testimony, pp. 9-10)</p> <p>Reid argued that “It would have been useful if PG&E had conducted backtesting to determine if their plan for accounting for liquidity risk is cost-effective. Backtesting (or back-testing) is the process of evaluating a strategy, theory, or model by applying it to historical data. A key element of backtesting that differentiates it from other forms of historical testing is that backtesting calculates how a strategy would have performed if it had actually been applied in the past. For example, backtesting can be used in studying how a trading method would have performed in past markets.”</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the Liquidity issue.</p>	

<p>10. Duration of Transactions</p>	<p>PG&E discussed short-term, medium-term, and long-term transactions on pages 34-42 of PG&E Exhibit 2. PG&E does not provide the percentage of energy that it intends to purchase via these three types of transactions.</p> <p>Reid argued that: (Reid Track II Testimony, pp. 10-11)</p> <p>“All of the limiting factors mentioned by PG&E are known. PG&E knows what their RPS targets are. They are aware of the requirements of the Energy Action Plan (EAP), planning reserve requirements, and portfolio hedging requirements.”</p> <p>...</p> <p>“Short-term, medium-term, and long-term transactions have different volatilities and correlations; different costs; and can impact rates in different ways. The Commission must determine whether or not PG&E’s BPP is optimal and will result in the lowest risk-adjusted cost for PG&E’s ratepayers.”</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the Transaction Duration issue.</p>	
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<p>11. Congestion Revenue Rights</p>	<p>PG&E argued that “Due to the very tight schedule and short lead time with the associated with the CAISO monthly CRR process, PG&E cannot provide the PRG with its nominations prior to submission or hold PRG consultations.” (PG&E Exhibit 2, p. 148)</p> <p>Reid argued that: (Reid Track II Testimony, pp. 16-17, footnote omitted)</p> <p>“It is true that the CAISO’s monthly CRR process has extremely tight deadlines. In 2011, the CAISO will post its CRR Full Network Model less than one day before the monthly CRR nomination process begins.”</p> <p>“However, the tight schedule does not prevent PG&E from discussing its nomination process with the PRG. The Commission should require PG&E to discuss its planned nominations and its modeling process with the PRG prior to the start of the CAISO monthly nomination process. The PRG should be aware that the planned nominations may be different from PG&E’s actual nominations.”</p> <p>Thus, Reid made a substantial contribution to the Commission’s resolution of the CRR 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 decision. Of the 11 issues listed in Section II.A, Reid and the DRA had similar positions on zero issues. There were issues (such as the strong showing standard) raised by the DRA with which Reid agreed. However, Reid did not spend time nor address any of those issues in his testimony or briefs.</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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<p>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)</p> <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>The PD had recommended that the Commission establish a 10% rate cap. Reid opposed the rate cap. If the Commission had approved a 10% rate cap, and this had resulted in an increase of just \$2/megawatt hour (MWh) for an electricity plant that produced 100,000 MWh of electricity annually, ratepayers would have paid an additional \$200,000 annually — over five times the compensation that Reid has 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.12-01-033 justify compensation in the amount requested.</p>	<p>CPUC Verified</p>																								
<p>b. Reasonableness of Hours Claimed.</p> <p>All of Reid’s work in this proceeding was performed by L. Jan Reid and James Weil. All of Mr. Weil’s work occurred when Mr. Reid was on vacation. Thus, no unnecessary internal duplication took place.</p>																									
<p>c. Allocation of Hours by Issue</p> <table border="0"> <tr> <td>General</td> <td>39%</td> </tr> <tr> <td>Congestion Revenue Rights</td> <td>3%</td> </tr> <tr> <td>Consumer Risk Tolerance</td> <td>5%</td> </tr> <tr> <td>GHG Costs</td> <td>10%</td> </tr> <tr> <td>Hedging Plans</td> <td>19%</td> </tr> <tr> <td>Legal Requirements</td> <td>3%</td> </tr> <tr> <td>Liquidity</td> <td>6%</td> </tr> <tr> <td>Planning Assumptions</td> <td>3%</td> </tr> <tr> <td>Rate Cap</td> <td>3%</td> </tr> <tr> <td>Risk Management</td> <td>3%</td> </tr> <tr> <td>Third Party Review</td> <td>3%</td> </tr> <tr> <td>Transaction Duration</td> <td>3%</td> </tr> </table>	General	39%	Congestion Revenue Rights	3%	Consumer Risk Tolerance	5%	GHG Costs	10%	Hedging Plans	19%	Legal Requirements	3%	Liquidity	6%	Planning Assumptions	3%	Rate Cap	3%	Risk Management	3%	Third Party Review	3%	Transaction Duration	3%	
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Transaction Duration	3%																								

B. Specific Claim:

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CLAIMED						CPUC AWARD		
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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	9.1	185	D.12-06-011, Appendix	1,683.50			
L. Jan Reid, Expert	2011	164.2	185	D.12-06-011, Appendix	30,377.00			
James Weil, Expert	2011	7.6	300	D.12-01-029, Appendix	2,280.00			
[Advocate 2]								
Subtotal:					34,340.50	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 \$
Subtotal:						Subtotal:		

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INTERVENOR COMPENSATION CLAIM PREPARATION **

Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
L. Jan Reid	2012	4.9	\$97.50	See Comments of L. Jan Reid on Proposed Decision of ALJ Simon, August 9, 2012, Section V. Hourly Rates, pp. 5-6.	477.75			
James Weil	2012	0.5	\$150	D.12-01-029, Appendix	75.00			
Subtotal:					552.75	Subtotal:		

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COSTS					
#	Item	Detail	Amount	Amount	
1	Reid, Postage	Postage for 2010-2011 (See Attachment A)	17.66		
2	Weil, Postage and Fax	Postage and Fax charges for 2011 (See Attachment B)	21.95		
3	Reid, Copies	Copies for the period 2010-2011 (See Attachment A)	35.20		
4	Weil, Copies	2011 Copying charges (See Attachment B)	14.19		
Subtotal:			89.00	Subtotal:	
TOTAL REQUEST \$:			34,982.25	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 ½ of preparer's normal hourly rate.

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

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Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Service List
3	Attachment A, Time Records of L. Jan Reid
4	Attachment B, Time Records of James Weil

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.