

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.

Rulemaking 12-03-014
(Filed March 22, 2012)

**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
AND, IF REQUESTED (and [X] checked), ADMINISTRATIVE LAW JUDGE’S RULING
ON SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

Customer (party intending to claim intervenor compensation): Friends of the Earth			
Assigned Commissioner: Michel Peter Florio		Assigned ALJ: David M. Gamson	
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/ Laurence G. Chaset	
Date:	08-31-12	Printed Name:	Laurence G. Chaset Attorney for Friends of the Earth

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 it (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.

Friends of the Earth ("FOE") is a non-profit organization within the meaning of Section 501(c)(3) of the United States Internal Revenue Code. FOE has worked for over forty years to reduce economic drivers that encourage environmental degradation from nuclear energy and address the threats to human health and the environment that nuclear power poses. FOE and its affiliates have used, and continue to use, technical and policy expertise to combat irresponsible nuclear development in state, federal and international arenas, including Iowa, Missouri, North Carolina, various federal agencies and throughout the Pacific Rim. FOE's nuclear campaign works to reduce risks for people and the environment by supporting efforts to close and defund existing nuclear reactors and fighting proposals to design and build new reactors.

FOE's focus on preventing the procurement of irresponsible nuclear energy generators qualifies it for Category 3 customer status. FOE is specifically authorized by Article III, Section 2 of its articles of incorporation ("Attachment 3") to "engage in programs to reduce the cost and waste of energy and energy resources and fuels", a necessary corollary of which is the representation of the interests of residential and small commercial customers of electric utilities. See Cal. Pub. Util. Code § 1802(b)(1)(C). Article 1, Section 1 of FOE's Bylaws ("Attachment 2") authorize FOE "to do any and all lawful acts and things which may be necessary, useful, suitable, and proper for the furtherance or accomplishment of the purposes of the corporation." This authorization clearly includes participation in regulatory proceedings to further its purpose of preventing the development of nuclear resources.

FOE's members share its core purposes. FOE has one class of members who are required to make dues payments. FOE's Bylaws authorize it to advance the interests of its members, which include residential ratepayers located in California. FOE has over 2,200 California members, representing over 20% of its total nationwide membership. Of this number, FOE estimates that approximately 1,203 of its California members, or roughly 11% of its total membership, are residential customers of electrical corporations subject to the Commission's jurisdiction. It further estimates that 896 of those members are in Southern California Edison Company's service territory, and 307 are in San Diego Gas & Electric Company's service territory.

FOE's nuclear campaign works to reduce the risks to people and the environment posed by nuclear energy by providing independent expert review, testimony, and working for accountability and transparency in public proceedings. The organization works to ensure that public safety is not endangered by nuclear reactors and that neither ratepayers nor taxpayers are unfairly allocated the costs of nuclear facilities throughout the country.

FOE's organizational purposes, and its members' shared interest in those purposes, are consistent with Commission guidance on Category 3 customer eligibility with regard to environmental groups. Indeed, Commission precedent shows that FOE's Bylaws adequately establish the members' broad interest in the environmental and societal

impacts the Commission has previously recognized as sufficient to establish Category 3 status:

“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, mimeo, fn 14 at 16-17.

The Commission’s Intervenor Compensation Program Guide (“Guide”) also supports FOE’s Category 3 status. The Guide states that certain environmental organizations may qualify as Category 3 customers “as long as these organizations seek to protect the broader interests in the environment held by residential ratepayers, and address the customers’ environmental concerns.” FOE’s focus on reducing economic drivers for environmentally harmful technologies is of considerable benefit to residential ratepayers in California. This places FOE within the spectrum of groups that the Commission has previously recognized as representing residential ratepayer concerns. See, e.g., D. 11-03-025 at 3-4; D.09-09-045 at 6.

FOE’s California membership represents over 20% of its total nationwide membership. All of FOE’s California members are in the residential class, including residential customers of electrical corporations subject to the Commission’s jurisdiction. FOE, therefore, satisfies the statutory threshold to qualify as a Category 3 customer, authorized by its bylaws to “engage in programs to reduce the cost and waste of energy and energy resources and fuels,” a necessary corollary of which is the representation of the interests of residential and small commercial customers of electric utilities in California. FOE respectfully requests that the Commission recognize FOE’s Category 3 customer status so that FOE may further the interest of its members and California residential ratepayers in demonstrating that California’s power needs can be reliably met without the San Onofre Nuclear Generating Station (SONGS) through continued investment in safe, clean and responsible technologies such as renewable energy and energy efficiency.

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

FOE is a Section 501(c)(3) non-profit organization and does not have any direct economic interest in the outcome of this proceeding. FOE does not own any generation facilities, does not have any generation facilities under construction, and does not have any prospective plans to construct any generation facilities within the State of California. The consideration of the long-term procurement plans of California’s three

largest investor-owned utilities, thus, does not provide a direct financial benefit to FOE and FOE's activities are pursuant to its educational, scientific, and charitable purposes, as described in Article I of its Bylaws. See Attachment 2.

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: _____	Yes ___ No X
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 X No ___
2a. The party's description of the reasons for filing its NOI at this other time:	
FOE is filing its NOI at this time because of the lack of public information surrounding outages at SONGS, the Commission's unexpected delay in instituting an investigation into those outages, and the likely limited scope of the Commission's investigation. As detailed in FOE's concurrently filed motion to late-file this Notice, FOE could not reasonably anticipate the importance of its participation in R.12-03-014 before the original filing deadline.	
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 its 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)):
<ul style="list-style-type: none"> The party's statement of the issues on which it plans to participate. <p>FOE will be actively engaged on a limited number of issues in this proceeding related to the likelihood that SONGS will be closed permanently. Commission Staff has crafted planning assumptions based on three nuclear retirement outcomes: (1) SONGS shuts down in 2015; (2) SONGS shuts down in 2022 when its current license expires; and (3) SONGS is relicensed and operates indefinitely.¹ Further, two sensitivities in the proposed base case scenario consider closing SONGS in 2015.² FOE will work on</p>

¹ *Planning Assumptions for use in R. 12-03-014, pages 22-23, Attachment to Assigned Commissioner's Ruling on Standardized Planning Assumptions* (June 27, 2012).

² *Energy Division Proposed Scenarios for use in R. 12-03-014, pages 14-15* (August 2, 2012).

planning issues related to these assumptions and sensitivities. More specifically, FOE will work on the issue of whether Southern California's power needs can be reliably met without SONGS through continued investment in safe, clean and responsible technologies such as renewable energy and energy efficiency.

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

FOE's contribution to this proceeding will be distinct from all other parties due to FOE's combination of extensive technical experience related to nuclear policy. FOE's members will not be adequately represented without FOE's participation. FOE will communicate with other intervening parties, as necessary, to avoid duplication of effort and encourage settlement of 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).**

FOE, through its attorney(s) and technical expert(s), plans: to participate in all meetings and workshops scheduled by the Commission in this proceeding; to engage in strategic planning with other parties to avoid duplication of effort and encourage settlement of issues; to participate in evidentiary hearings, if any; to submit comments and briefing, if any; and to undertake all other activities reasonably necessary to effectively participate or substantially contribute to a resolution of the issues and a Commission decision resolving the scoped 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			
Laurence G. Chaset	150	\$350/hr	\$52,500
Tim Lindl	200	\$215/hr	\$43,000
Thadeus B. Culley	100	\$200/hr	\$20,000
<i>Subtotal</i>			\$115,500
EXPERT FEES			
To be determined	100 to 150	\$150-300/hr	\$15,000 to \$45,000
<i>Subtotal</i>			\$130,500 to \$160,500

COSTS			
Travel/copying/ mailings/etc.			\$2,000 (rough estimate)
<i>Subtotal</i>			\$2,000
TOTAL ESTIMATE \$			\$132,500 to \$162,500
<p>Comments/Elaboration (use reference # from above):</p> <p>FOE's time allocations for attorneys and experts reflects a reasonable estimate of the time necessary to effectively participate in this proceeding.</p> <p>The reasonableness of rates for all persons listed above will be addressed in the request for award of intervenor compensation.</p>			
<p>When entering items, type over bracketed text; add additional rows to table as necessary.</p> <p>Estimate may (but does not need to) include estimated Claim preparation time. Claim preparation is typically compensated at 1/2 of preparer's normal hourly rate.</p>			

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 Claim for intervenor compensation 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)).	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):	
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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):

As estimated in Part II, Section B, the economic interests of an individual FOE member are small in comparison to the cost of effective participation in this proceeding. FOE’s members wish to further FOE’s objectives to promote safe and cost-effective energy sources, goals that go beyond an easily identified individual economic interest. These are goals that represent a broader public interest perspective, consistent with the Legislature’s intent that the Commission encourage participation by “administer[ing] the provisions of §§ 1801 et seq. in a manner ‘that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process.’” D.06-05-027, mimeo, at 9.

FOE’s purposes for participating in this proceeding reflect the broader public interest of safe and cost-effective electric generation. The benefits of FOE’s participation to a particular member are difficult to isolate from this broader public benefit. This means that the cost of participation (\$130,000+) is much greater than any one individual member’s benefit. While the potential public benefits of a nuclear-free California are not defined or quantifiable at this time, it is unlikely that the financial benefit to individual members will outweigh the cost of participation.

**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	Amended Bylaws of Friends of the Earth
3	Articles of Incorporation of Friends of the Earth and Proof of Merger

**ADMINISTRATIVE LAW JUDGE RULING
(ALJ completes)**

	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