

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations

R. 12-06-013
(Filed June 21, 2011)

**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
AND, IF REQUESTED (and checked), ALJ RULING
ON SIERRA CLUB'S SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

Customer (party intending to claim intervenor compensation):			
Sierra Club			
Assigned Commissioner: President Peevey		Assigned ALJ: Jeanne McKinney and Timothy J. Sullivan	
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/ Andy Katz			
Date:	11/26/12	Printed Name:	Andy Katz Attorney for Sierra Club 2150 Allston Way Ste. 400 Berkeley, CA 94704

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 (§	X

1802(b)(1)(C)), or to represent another eligible group.

4. The party's explanation of its customer status, economic interest (if any), 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.

Public Utilities Code Section 1802(b) defines a customer eligible to claim compensation as:

"[A] participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the commission; any representative who has been authorized by a customer; or any representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers..."

Sierra Club falls within the third category listed in Section 1802(b) because it is a "representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers..." In D.98-04-059, page 29, footnote 14, (The Intervenor Compensation Order) the Commission reaffirmed its "previously articulated interpretation that compensation be proffered only to customers whose participation arises directly from their interests as customers." The Commission in that Order further explained what qualifies as customer interests for environmental groups. "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." As described herein, Sierra Club represents customers with a concern for the environment that distinguishes their interests from Commission staff and other California ratepayers participating in this matter.

Sierra Club Members include PG&E, SCE, SDG&E Customers: Sierra Club California is a non-profit, member-based, "public benefit" California corporation that has been found several times by the Commission to be qualified for intervenor compensation. *See, e.g.,* A.04-01-009; A.05-12-014; R.08-08-009, A.10-03-014, R.10-12-007, R.11-03-012, R.11-05-005. Over 150,000 of Sierra Club's members live and purchase utility services in California, and many of these members are residential customers of Pacific Gas & Electric, Southern California Edison, and San Diego Gas and Electric, the respondent regulated utilities in this proceeding.

Authorization under Articles and By-laws: Sierra Club's Articles, Bylaws, Standing Rules, and policies authorize and require it to represent the environmental interests of its member/customers. Sierra Club's Board of Directors is democratically elected by its members. Sierra Club's mission and corporate purpose includes "promot[ing] the responsible use of the earth's ecosystems and resources; educat[ing] and enlist[ing]

humanity to protect and restore the quality of the natural and human environment; and us[ing] all lawful means to carry out these objectives.” *See* Articles of Incorporation at III. Sierra Club is expressly authorized to participate in environmental legal actions to advance its mission, including lawsuits and administrative proceedings. *See* S.R. 5.15.1; 9.1.2. Sierra Club has for decades participated in thousands of environmental lawsuits and administrative proceedings, and has appeared many times before the California Public Utilities Commission.

Sierra Club’s environmental concerns encompass a broad range of energy and pollution issues. Specifically, Sierra Club has become a leader in the effort to reduce California’s and the nation’s dependence on fossil fuels. The highest current priority of the Sierra Club’s work is eliminating the need for fossil fuel-fired power plants through the development of affordable renewable energy, energy efficiency, and conservation programs. Sierra Club supports a robust renewable energy portfolio will help meet the law that California generates 33% of its energy from renewable sources by 2020, and the Governor’s goal of 12,000 MW of distributed generation. The Sierra Club has been active before the legislature and Administration to accelerate the development of renewable energy and to implement the state’s renewable portfolio standard, energy efficiency, and conservation incentives. Recently, Sierra Club participated actively in A.10-03-014 to oppose proposals for imposing a customer charge and eliminating Tier 4, providing substantial research demonstrating to the Commission that these effects would be detrimental to conservation, efficiency, and rooftop solar.

Maintaining a residential electricity rate structure that encourages energy conservation, home retrofits, and adoption of rooftop solar remains a high priority for the Sierra Club. Sierra Club is engaged in national and state level campaigns for clean energy solutions to address climate change. This includes using existing and emerging technology to “curb global warming, while at the same time building a clean, sustainable economy that lowers energy bills and creates thousands of new jobs.” Additional information is available at <http://www.sierraclub.org/energy/>

To advance these energy-related concerns, Sierra Club and its subsidiary Sierra Club California has employed litigation (including participation in administrative proceedings), public education and organizing, electoral and lobbying efforts, and communications and media work. Sierra Club has brought legal actions numerous times to address pollution from coal-fired power plants, while simultaneously affirmatively supporting renewable energy projects involving wind and solar. Sierra Club California lobbyists and volunteer members actively worked in favor of passage of California’s landmark laws and implementing regulations to address global warming, including AB 32 (the “Global Warming Solutions Act of 2006”) and AB 1493 (Pavley - imposing greenhouse gas emission limits on motor vehicles).

The interests of the customers represented by Sierra Club are unique and well suited to this case.³ Sierra Club brings to this proceeding its members’ unique perspective and experience advancing innovative technical and regulatory solutions to increase renewable energy sources and drastically reduce California’s carbon footprint. In addition, Sierra

Club is a recognized leader in environmental protection, energy conservation and environmental justice.

In sum, Sierra Club’s historic and current interests naturally encompass California’s and the Commission’s efforts to provide incentives for conservation and efficiency, increase investment in and commercialization of sufficient renewable power to meet and go beyond the target of 33% renewables by 2020. Sierra Club, consistent with its governing documents, appropriately represents the environmental, environmental justice, and energy conservation interests of its California customer/members. It therefore asserts it continues to qualify as a Category 3 customer pursuant to Section 1802(b) of the Public Utilities Code and the Commission’s repeated decisions applying this Section to Sierra Club and similarly situated environmental organizations:

[r]epresents 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.

B. Timely Filing of NOI (§ 1804(a)(1)):	Check
1. Is the party’s NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: ___ October 24, 2012_____	Yes ___ No <u>X</u>
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 <u>X</u> No ___
2a. The party’s description of the reasons for filing its NOI at this other time: The 30 th day after the Prehearing Conference is Friday, November 23, a California state holiday. According to the Commission’s Rules of Practice and Procedure, when a deadline falls on a holiday, the deadline is tolled until the next day that the Commission offices are open, which is Monday, November 26.	
2b. The party’s information on the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, or ALJ ruling, or other document authorizing the filing of its NOI at that other time: Commission Rule of Practice and Procedure 1.15; State Personnel Board listing the day after Thanksgiving as a California state holiday.	

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 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).

Sierra Club California intends to actively participate in this proceeding including:

- Attendance at hearings, conferences, and workshops.
 - Preparing written and oral testimony on matters of law and evidence pertinent to this proceeding.
 - Preparing expert research and testimony pertinent to this proceeding.
 - Participating in public hearings and evidentiary hearings.
 - Serving and reviewing discovery.
 - Filing comments, motions, and/or briefs as necessary.
 - Meeting with parties, including other interveners, to avoid duplication of efforts.
 - Meeting with parties in pursuit of settlement negotiations.
 - Additional work necessary for this proceeding.
- The party's statement of the issues on which it plans to participate.

Preparing a proposal for residential rate design that achieves many of the goals proposed by the ALJ Ruling. Sierra Club will, to the extent feasible, collaborate with other environmental and consumer parties to prepare a proposal that maintains affordable electricity service for residential customers while providing adequate incentives for conservation, efficiency, customer-level distributed generation, demand response, electric vehicles, and storage.

Commenting on the residential rate design proposals of other parties. Analysis of rate design proposals by Sierra Club and other parties will involve economic analysis of customer response, and performance measures.

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 FEES				
Andy Katz	150	205	30,750	1
Matt Vespa	75	325	24,375	2
		Subtotal:	55,125	
EXPERT FEES				
EcoShift Consulting	150	190	28,500	3
		Subtotal:	28,500	
OTHER FEES				

		Subtotal:		
COSTS				
Estimated Miscellaneous Expenses (e.g. mailing, photocopying)			500	
		Subtotal:	500	
TOTAL ESTIMATE \$:			84,125	
<p>Comments/Elaboration (use reference # from above):</p> <p>The reasonableness of the hourly rates for Sierra Club's representatives will be addressed in our request for compensation, and will be consistent with rates approved in previous Commission Decisions (reference #1, #2, #3).</p> <p>This budget provides an estimate of the time that will be required to provide expert economic analysis to propose and analyze rate design options. Actual hours worked may differ depending on the extent that Sierra Club can coordinate and collaborate with other parties.</p> <p>This is an overall estimate for the costs of this proceeding, including proposal development, analysis, and briefing, but not estimated claim preparation time. These items may need to be adjusted as the actual length and activities of the proceeding is determined.</p>				
<p>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 is typically compensated at ½ 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)).	
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

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):

Section 1804(a)(2)(B) provides that “[t]he notice of intent may also include a showing by the customer that participation in the hearing or proceeding would pose a significant financial hardship. Alternatively, such a showing shall be included in the request submitted pursuant to subdivision (c).” Sierra Club hereby demonstrates its showing of significant financial hardship.

Public Utilities Code Section 1802(g) states in part that:

“Significant financial hardship” means either that the 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, or that, *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.* (Emphasis added.)

The average utility bill of Sierra Club’s individual California members and the customers it represents is small compared to the costs of effective participation in this proceeding, which qualifies Sierra Club California to a finding of significant financial hardship pursuant to Public Utilities Code Section 1802(g). Sierra Club therefore has demonstrated its showing for a finding of significant financial hardship.

**PART IV: THE PARTY’S ATTACHMENTS DOCUMENTING SPECIFIC
ASSERTIONS MADE IN THIS NOTICE**

(The party (“customer”) intending to claim intervenor compensation identifies and attaches documents (add rows as necessary.) Documents are not attached to final ALJ ruling.)

Attachment No.	Description
1	Articles of Incorporation
2	By-laws

ADMINISTRATIVE LAW JUDGE RULING¹
(ALJ completes)

	Check all that apply
1. The Notice of Intent (NOI) is rejected for the following reasons:	
a. The NOI has not demonstrated 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)):	

¹ An ALJ Ruling will not be issued unless: (a) the NOI is deficient; (b) the ALJ desires to address specific issues raised by the NOI (to point out similar positions, areas of potential duplication in showings, unrealistic expectations for compensation, or other matters that may affect the customer’s claim for compensation); or (c) the NOI has included a claim of “significant financial hardship” that requires a finding under § 1802(g).

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