

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local Procurement Obligations.	Proceeding 11-10-023 (Filed October 20, 2011)
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**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
AND, IF REQUESTED (and [X] ¹ checked), ADMINISTRATIVE LAW JUDGE'S
RULING ON SIERRA CLUB'S SHOWING OF SIGNIFICANT FINANCIAL
HARDSHIP**

Customer (party intending to claim intervenor compensation): Sierra Club			
Assigned Commissioner: Mark J. Ferron		Assigned ALJ: David M. Gamson	
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/ Matthew Vespa	
Date:	12/19/12	Printed Name:	Matthew Vespa

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 the party (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	

¹ DO NOT CHECK THIS BOX if no finding of significant financial hardship is needed (in cases where there is a valid rebuttable presumption of eligibility (Part III(A)(3)) or significant financial hardship showing has been deferred to the intervenor compensation claim).

articles of incorporation or bylaws) that supports the party's "customer" status. Any attached documents should be identified in Part IV.

Sierra Club meets the third definition of "customer" provided in Public Utilities Code section 1802(b)(1)(C). Sierra Club is a "representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers" Public Utilities Code Section 1802(b).

Sierra Club is a non-profit, member-based, "public benefit" California corporation. Over 187,000 of Sierra Club's members live and purchase utility services in California. Sierra Club's mission and corporate purpose include "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* Sierra Club Articles of Incorporation at III.² Sierra Club's Articles, Bylaws, Standing Rules, and Policies authorize and require it to represent the environmental interests of its members – including California IOU customers. Sierra Club's Board of Directors is democratically elected by its members. *See* Sierra Club Standing Rule ("S.R.") 4.8.1.³ 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 and 9.1.1. For decades, Sierra Club has participated in environmental lawsuits and administrative proceedings, and has appeared many times before the California Public Utilities Commission.

For example, Sierra Club was an active participant in the 2010 Long-Term Procurement Plan proceeding ("LTPP") and is currently participating in the 2012 LTPP. Sierra Club has also been active in PUC dockets specifically related to distributed generation, including reforms to Rule 21 in R.11-09-011 and the issues related to net metering in R.10-05-004.

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 Sierra Club's work is eliminating the need for fossil fuel-fired power plants through the development of affordable renewable energy. Sierra Club has been active in the legislature and its committees as well as in the Governor's office to bring renewable energy on line and to reform the state's renewable portfolio standard.

The interests of the customers represented by Sierra Club are unique and well suited to this case and are not adequately represented by other parties that have intervened in this case.⁴ As the Commission has recognized: "With respect to environmental groups, we

² All Sierra Club Articles, Bylaws, Standing Rules and Policies are publicly retrievable at <http://www.sierraclub.org/policy/>.

³ A copy of the Sierra Club's Bylaws and Standing Rules are attached.

⁴ "Section 1801.3(f) requires an intervenor to avoid unnecessary participation that duplicates that of similar interests otherwise adequately represented by another party, or unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation if its participation materially supplements, complements, or contributes to that

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, at 29 n. 14. 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. The Commission has accordingly approved Sierra Club’s intervention with entitlement to compensation on several occasions. *See, e.g.*, D.09-10-054; D.06-06-056.

Sierra Club, consistent with its governing documents, appropriately represents the environmental and energy conservation interests of its members who are California IOU customers. Sierra Club therefore qualifies as a “customer” as defined in section 1802(b)(1)(C) of the Public Utilities Code and the Commission’s decisions applying this section to environmental organizations.

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

Sierra Club does not have a direct economic interest in this proceeding.

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: <u>November 28, 2011</u>	Yes <u> </u> 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 <u> </u>
2a. The party’s description of the reasons for filing its NOI at this other time: As set forth more fully in the accompanying Motion for Leave to Late-File NOI, issues identified in the December 6, 2012 Scoping Memo are closely related to the Sierra Club’s existing work and mission. At the time of the Prehearing Conference in late 2011, it was unclear whether and to what extent the issues identified in the Phase II Scoping Memo would be addressed as part of this proceeding.	
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 NOI at that other time:	

of another party if that participation makes a substantial contribution to the commission order.”
D.07-03-011 at 7.

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)):

- The party’s statement of the issues on which it plans to participate.

Sierra Club plans to question assumptions underlying proposals calling for the near-term incorporation of flexible capacity into the existing resource adequacy program. The Sierra Club will also opine on ways any changes to the resource adequacy program could be modified to more closely align with California’s environmental objectives and ensure that the environmental implications of any changes to the program are analyzed and mitigated. This proceeding goes to the heart of Sierra Club’s work on energy issues and climate protection because it directly addresses the future direction of the California energy system and role of fossil fuels in the integration of variable energy resources.

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

To the extent possible, Sierra Club will coordinate its participation with other parties who have similar interests to avoid duplication of efforts. Sierra Club has already communicated with the Vote Solar Initiative, and as the proceeding progresses, will consult with this and other organizations to collaborate where appropriate to minimize unnecessary duplication of effort.

- 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 plans to participate with the expert assistance of Bill Powers on the question of whether, when, and how to introduce flexible procurement into the resource adequacy program. To the extent resource adequacy as it related to distributed generation and energy storage are addressed in this proceeding, the Sierra Club intends to participate in these questions as well.

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				
Matthew Vespa	150	325	48,750	1
Bill Powers, P.E.	100	150	15,000	2

			63,750	
OTHER FEES				
[Person 1]				
[Person 2]				
		Subtotal:		
COSTS				
Estimated Miscellaneous Expenses (e.g. photocopying)				
		Subtotal:		
TOTAL ESTIMATE \$:			63,750	
<p>Estimated Budget by Issues: Sierra Club estimates that the majority of this budget will be used on the issue of adding flexible capacity into the resource adequacy program.</p> <p>Comments/Elaboration (use reference # from above): The reasonableness of the hourly rates for Sierra Club’s representatives will be addressed in our request for compensation (# 1-2).</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 (as well as travel time) 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 Intervenor Compensation Claim 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):	

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):

The average utility bill of Sierra Club’s members and the customers it represents continues to be small compared to the costs of effective participation in this proceeding. Sierra Club, therefore, should continue to be entitled to a finding of significant financial hardship pursuant to Public Utilities Code section 1802(g).

Sierra Club has received a finding of significant financial hardship in Commission proceedings including A.10-03-114 and R.08-08-009, but not within the last year. Although the rebuttable presumption does not apply, these previous decisions provide support for the finding. For example, in R.08-08-009 ALJ Mattson found:

Sierra Club California states that the average utility bill of its individual members and the customers it represents is small compared to the costs of effective participation in this proceeding. This is consistent with prior Commission determinations regarding the Sierra Club, and no new facts are known that would result in reaching a different outcome. Sierra Club California has established it will face a significant financial hardship for participation in this proceeding absent intervenor compensation.

ALJ Ruling, R.08-08-009 (June 25, 2009) (BWM).

Sierra Club does not anticipate any challenge to its eligibility for compensation in this proceeding. If any party does attempt to challenge Sierra Club’s eligibility, Sierra Club requests that it be granted the opportunity to reply to such party's allegations within 10 days after the service of such filing.

**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	Sierra Club Bylaws and Standing Rules

ADMINISTRATIVE LAW JUDGE RULING⁵
(ALJ completes)

⁵ An ALJ Ruling needs 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 Intervenor Compensation Claim); or (c) the NOI has included a claim of “significant financial hardship” that requires a finding under § 1802(g)

	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