

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Continue Implementation and Administration of California Renewable Portfolio Standard Program	R.11-05-005 (Filed May 5, 2011)
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**INTERVENOR COMPENSATION CLAIM OF SIERRA CLUB CALIFORNIA AND DECISION ON INTERVENOR COMPENSATION CLAIM OF SIERRA CLUB CALIFORNIA**

<b>Claimant:</b> Sierra Club California	<b>For contribution to D.13-01-041</b>
<b>Claimed (\$):</b> \$3,655.50	<b>Awarded (\$):</b>
<b>Assigned Commissioner:</b> Ferron	<b>Assigned ALJ:</b> DeAngelis
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).	
<b>Signature:</b>	/s/ Andy Katz
<b>Date:</b> 3/29/13	<b>Printed Name:</b> Andy Katz

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

<b>A. Brief Description of Decision:</b>	Denied in part Application for re-hearing, and adopting modifications to D.12-05-035, which adopted policies implementing the Section 399.20 feed-in tariff.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	July 11, 2011	
2. Other Specified Date for NOI:		

3. Date NOI Filed:	June 9, 2011	
4. Was the NOI timely filed?		
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	A.10-03-014	
6. Date of ALJ ruling:	November 30, 2010	
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		
<b>Showing of "significant financial hardship" (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	A.10-03-014	
10. Date of ALJ ruling:	November 30, 2010	
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.13-01-041	
14. Date of Issuance of Final Order or Decision:	January 28, 2013	
15. File date of compensation request:	March 29, 2013	
16. Was the request for compensation timely?		

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

#	Claimant	CPUC	Comment

**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.)**

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
1. Incorporating compensation for mitigation of local environmental compliance costs.	"modifications, as described herein, are warranted to: (1) explain that the adopted pricing mechanism should account for all of the generator's costs, including	

	<p>environmental compliance costs.” (Decision at 4) – citing CC/SC Rehr. App at 7, Decision at 5-7.</p> <p>“But we agree that there is no legal requirement that these costs be recovered and we modify the Decision, as set forth in the ordering paragraphs below, to delete this unnecessary statement.” (Decision at 7).</p> <p>Ordering 1w, 1kk (Decision at 35, 37-38).</p>	
<p>2. Removing contradictions regarding whether the FiT program can be quickly subscribed.</p>	<p>“modifications, as described herein, are warranted to: (6) delete the statement that the FiT program may be quickly subscribed” (Decision at 4)</p> <p>“Clean Coalition/Sierra Club assert that the Decision contradicts itself when it suggests the FiT program may be expanded if the program’s capacity is quickly subscribed because it is not possible to fully subscribe the program before 24 months.” (citing Rehr. App at 8; Decision at 14).</p> <p>“we acknowledge that the statement that the program may be quickly subscribed may be confusing in light of the directive that the utilities incrementally release their allocated capacity over a 24-month period. Therefore we modify the Decision to delete this unnecessary statement.” (Decision at 14-15).</p>	
<p>3. Clarification regarding allocation of capacity. Clarification of “initial starting capacity” and “initial capacity allocation” terms.</p>	<p>Sierra Club was the primary drafting party for this issue.</p> <p>“modifications, as described herein, are warranted to: (7) clarify how the program’s capacity is allocated and incrementally released...(9) clarify statements regarding the legal requirements for setting avoided costs...(10) correct the statement that subscription in a two-month period can equal more than 100% of the initial capacity allocation for a product type.” (Decision at 4)</p>	

	<p>“Clean Coalition/Sierra Club claim that the Decision’s methodology for allocating capacity is unclear and potentially contradictory. According to Clean Coalition/Sierra Club, it’s not clear that each two-month adjustment period has a capacity sum of the two months.” (Decision at 16, citing Rehr. App. at 10-11)</p> <p>“But we recognize that aspects of the Decision’s discussion of the incremental release of capacity may have caused confusion and take this opportunity to make some clarifications...It appears that there is some confusion in that there are 12 adjustment periods but the Decision directed the Utilities to divide the total program capacity by 24. This directive may also be confusing in light of the mandatory 3 MW allocation during the first period. [modifications for] (1) the utilities should divide the total program capacity by 12 and then assign one-third into each product type; and (2) if dividing the total program capacity by 12 results in less than 3 MW being allocated to a product type per adjustment period, the utilities are to first allocate the minimum 3 MW per product type in the first adjustment period , and then equally allocate their remaining capacity among the three product types over the remaining 11 adjustment periods. We also clarify that the terms ‘initial starting capacity’ and ‘initial capacity allocation’ both refer to the amount of capacity allocated to each adjustment period. (Decision at 17)</p> <p>Ordering dd – gg (Decision at 36-37)</p>	
<p>4. Interpretation of PURPA, avoided cost, FERC Orders, and the Commission’s jurisdiction.</p>	<p>See Ordering 1d, 1f, 1g, 1ww. Sierra Club Comments in response to several ALJ rulings commented extensively on these issues. Ordering 1ww clarifies that the basis of the revised Decision is the Commission’s own policy and not adopts Sierra Club’s interpretation of PURPA.</p>	

**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	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?	Yes.	
c. If so, provide name of other parties: Clean Coalition, Sustainable Conservation, CEERT, SEIA, CALSEIA.		
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:  Sierra Club California coordinated with other parties with similar positions via conference call and e-mail throughout the proceeding. Sierra Club conferred with other parties after D. 12-05-035 and discussed interest in filing an Application for Rehearing, and continued discussions with Clean Coalition to avoid duplication of effort. Clean Coalition and Sierra Club initially drafted different portions of the Application. Clean Coalition/Sierra Club's Application was distinct in the issues addressed compared to CEERT's Application.		

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

#	Claimant	CPUC	Comment

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

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

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)  Sierra Club's cost of participation related to this Application is small compared to the importance of the clarifications achieved. The Decision prior to modification would have resulted in confusion and material disputes at the Advice Letter stage, or potentially disputes between market participants during the administration of the program. The benefits realized through participation include the elimination of several specific clarifications to avoid confusion and/or disputes.	CPUC Verified
b. Reasonableness of Hours Claimed.	

<p><b>Sierra Club California participated actively in the proceeding, commenting on rulings requesting comment and collaborating with the Joint Parties on drafting a proposal. Sierra Club California is claiming a small amount of hours that accounts for the reasonable costs of drafting the application and reviewing the resulting Decision.</b></p>	
<p><b>c. Allocation of Hours by Issue</b></p> <p>Sierra Club allocates all hours drafting the Application to the overall issue of revisions to the Section 399.20 Feed-in tariff. The time spent on subissues are approximately equally split between each main subissue that Sierra Club substantially contributed to: (1) environmental compliance costs, (2) overall functioning of the FIT program, (3) key definitions and clarifications, and (4) legal issues and jurisdiction.</p>	

**B. Specific Claim:**

CLAIMED						CPUC AWARD		
<b>ATTORNEY, EXPERT, AND ADVOCATE FEES</b>								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Andy Katz	2012	15	\$205	D.12-05-032; See Comment 2	3,075			
Andy Katz	2013	1.7	\$215	See Comment 2	365.50			
<i>Subtotal:</i>					\$3440.50	<i>Subtotal:</i>		
<b>OTHER FEES</b>								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
			\$					
<i>Subtotal:</i>						<i>Subtotal:</i>		
<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Andy Katz	2013	2	\$107.5	See Comment 2	215			
<i>Subtotal:</i>					\$215	<i>Subtotal:</i>		
<b>COSTS</b>								
#	Item	Detail			Amount	Amount		

<b>Subtotal:</b>			<b>Subtotal:</b>
<b>TOTAL REQUEST \$:</b>		<b>\$3655.50</b>	<b>TOTAL AWARD \$:</b>

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
1	<b>Certificate of Service</b>
2	<p><b>Hourly Rate for Mr. Katz in 2012</b></p> <p>For Mr. Katz's work in 2012, Sierra Club California seeks an hourly rate of \$205, based on an allowed increase of 2.2% approved in Res. ALJ-281, and the second 5% step increase within the 0-2 year experience level, and rounded to the nearest \$5.</p> <p><b>Hourly Rate for Mr. Katz in 2013</b></p> <p>For Mr. Katz's work in 2013, Sierra Club California seeks an hourly rate of \$215, based on a 5% step increase for the 1<sup>st</sup> Step Increase within the experience level for attorneys with 3 or more years of experience. For claim preparation work in 2013, Sierra Club California seeks an hourly rate that is half the 2013 rate.</p>
3	<p><b>VERIFICATION</b></p> <p>I am the Attorney for Sierra Club California and am authorized to make this verification on its behalf. I am informed and believe that the matters stated in this pleading are true.</p> <p>I declare under penalty of perjury that the matters stated in this pleading are true and correct.</p> <p>Executed on the <b>March 29, 2013</b>, at Berkeley, California.</p> <p>/s/ Andy Katz</p> <p>_____ Andy Katz</p>

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

#	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)

<b>A. Opposition: Did any party oppose the Claim?</b>	
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If so:

Party	Reason for Opposition	CPUC Disposition

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