

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**

Claimant: Sierra Club California	For contribution to D.13-05-034; Includes correction to request RE: D.13-01-041; Request RE: D.12-05-035 pending
Claimed: \$ 7,891	Awarded: \$
Assigned Commissioner: DeAngelis	Assigned ALJ: Ferron
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/ Andy Katz
Date: 7/29/13	Printed Name: Andy Katz

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

A. Brief Description of Decision:	Adopting Joint Standard Contract for Section 399.20 Feed-in Tariff Program and Granting in part Petition for Modification of Decision 12-05-035.
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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)):		
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?		

Showing of customer or customer-related status § 1802(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?		
Showing of "significant financial hardship" (§ 1802(g)):		
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?		
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.13-05-034	
14. Date of Issuance of Final Order or Decision:	May 30, 2013	
15. File date of compensation request:	July 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. Substantial Contributions related to the Petition for Modification related to the price adjustment mechanism. Sierra Club made substantial	1. Re-MAT Price Adjustment Period Length "Because both petitions request that we modify the FiT program's price adjustment intervals from bi-monthly to monthly and that we reduce the length	

<p>contributions to the Decision through comments in response to prior ALJ Rulings and Proposed Decisions, and through comments on the Clean Coalition / CALSEIA Petition for Modification. Sierra Club coordinated with Clean Coalition and commented on draft versions, although we did not formally sign on to the November 12, 2012</p> <p>Also see Sierra Club April 8, 2013 Opening Comments on the Proposed Decision at 1.</p> <p>1. Re-MAT Price Adjustment Period Length</p> <p>“Because both petitions request that we modify the FiT program’s price adjustment intervals from bi-monthly to monthly and that we reduce the length of the program from 24 to 12 months.” (Decision at 9-10).</p> <p>“The FD also states that “each utility must divide the total program capacity by 24 and then assign one-third into each product type” (p.44) However, this figure should be 12, not 24, since the FD creates a 24-month long program consisting of 12 two-month periods.” (Sierra Club and Clean Coalition June 29, 2012 Application for Re-hearing, at 11).</p>	<p>of the program from 24 to 12 months.” (Decision at 9-10).</p> <p>“It is reasonable to modify aspects of the ReMAT mechanism to prevent unreasonable price increases and promote administrative ease.” (Finding of Fact 2)</p> <p>2. Re-MAT program capacity in each interval.</p> <p>“Re-MAT program capacity is far too small to provide valid price discovery and the bimonthly capacity should be increased.” (Clean Coalition/CalSEIA PFM at 4)</p> <p>“In many instances, too few megawatts would be offered by the IOUs under the megawatt allocation process adopted in D.12-05-035, which may hinder the advancement of the program by providing insufficient opportunities for eligible projects.” (Finding of Fact 1)</p> <p>“In response to the petitions for modification, we find that the megawatt allocation process adopted in D.12-05-035 for PG&E, SCE, and SDG&E may hinder the advancement of the program because it may result in too few megawatts being offered during each bi-monthly program period. We retain the bi-monthly price-adjustment intervals but increase the total number of megawatts that the IOUs must offer for each product type...” (Decision at 10).</p>	
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2. Re-MAT program capacity in each interval.

“Re-MAT program capacity is far too small to provide valid price discovery and the bimonthly capacity should be increased.” (Clean Coalition/CalSEIA PFM at 4)

Sierra Club drafted portions of this section, and discussed these policy objectives with Clean Coalition during the drafting process. Sierra Club did not sign onto the document due to issues related to other sections.

Sierra Club also commented on this issue during the Commission’s consideration of 12-05-035: “We note that the proposed mechanism to decrease the price requires sufficient capacity to measure whether the monthly allotment is representative of a price that stimulates market demand. A larger monthly allocation is more likely to accurately represent this quality, whereas a smaller allocation could fill with just a few projects, resulting in a premature reduction of the price and an expected 2 month delay to the program for the market to remain flat and again increase to re-start each time this occurs.” (Sierra Club April 16 2013 Comments on PD at 5.)

<p>2. Support for Clean Coalition Proposed Standard Contract</p> <p>See Sierra Club September 10, 2012 comments at 4.</p>	<p>“On August 15, 2012, Clean Coalition filed a contract in this proceeding, referred to as a “model contract” to be used in lieu of the draft joint standard contract developed by the IOUs at the direction of the assigned Commissioner and ALJ. The Agricultural Energy Consumers Association (AECA) and Sierra Club state support for the alternative contract on the basis that it is workable but does not elaborate further. That said, we considered Clean Coalition’s comments regarding the needs of small developers and address them in our discussion of specific sections of the standard contract” (Decision at 37)</p>	
<p>3. Specific Standard Form PPA Terms</p> <p>1. Forecasting</p> <p>Sierra Club September 10, 2012 Reply Comments at p. 3</p> <p>2. Resource Adequacy Concerns</p> <p>“Sierra Club California strongly agrees with CALSEIA and Clean Coalition that Resource Adequacy should be incorporated for projects that are equal to or lesser than the minimum coincident load of the local substation, and thus eligible for higher TOD factors...” (Sierra Club California Reply Comments to Third Revised Standard Form Contract, September 10, 2012).</p>	<p>1. Forecasting</p> <p>SEIA, CALSEIA, Sierra Club, AECA suggest that sellers have the option to forecast and pay buyer a reasonable cost for this service... We find that providing sellers with the option of paying buyer a reasonable fee for the forecasting service is reasonable. This outcome furthers our goal of streamlining the FiT contracting process by reducing the burden on the small developers without subjecting ratepayers to additional costs or risks. (Decision at 61-62)</p> <p>2. Resource Adequacy Concerns</p> <p>“Section 4.4.3 provides that “Seller shall cooperate in good faith with Buyer to pursue and obtain any and all Capacity Attributes....” Clean Coalition states that the term is overbroad and should be stricken. Accordingly, the IOUs are directed to revise the draft joint standard contract to clarify that sellers are provided the option to convert, at their discretion,</p>	

<p>3. Sierra Club California additionally commented on the program effective date, insurance requirements, and telemetry. Although the Commission did not agree with Sierra Club and other parties on all of these issues, Sierra Club’s comments assisted the Commission to develop a record of full consideration of important issues for this new program.</p>	<p>to Full Capacity Deliverability Status in accordance with § 399.20(i) and D.12-05-035.” (Decision at 47)</p>	
<p>Correction to request RE: D.13-01-041</p> <p>On page 4 of Sierra Club’s Request for Compensation for substantial contribution to D.13-01-041, a typo was included in the copy filed with the Commission. The word “not” should read “now” at the last paragraph, second column. The correct version should read:</p> <p>4. Interpretation of PURPA, avoided cost, FERC Orders, and the Commission’s jurisdiction.</p> <p>See Sierra Club May 31, 2011 Opening Comments on OIR at 7-8; Sierra Club Opening Comments on ALJ Ruling on July 21, 2011 at 5-7;</p>	<p>Ordering dd – gg (Decision at 36-37) 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 now adopts Sierra Club’s interpretation of PURPA (in part).</p>	

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

	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party	Yes.	

to the proceeding?		
b. Were there other parties to the proceeding with positions similar to yours?	Yes.	
c. If so, provide name of other parties: Clean Coalition, CALSEIA, SEIA, CEERT, Sustainable Conservation.		
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 Clean Coalition, CALSEIA, SEIA, CEERT, and Sustainable Conservation through e-mail correspondence and telephone calls. Sierra Club principally coordinated with Clean Coalition on specific issues related to proposing improvements to the Decision and the Draft PPA. Sierra Club coordinated to submit Joint Comments where possible, and minimized duplication through editing joint comments. In the case of the Petition for Modification, some topics were drafted and developed jointly even though Sierra Club did not eventually sign on. To minimize duplication, Sierra Club did not proceed to draft separately because joint text was included in the filing on record.		

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):

<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>Sierra Club's cost of participation related to the Application for Rehearing, Petition for Modification, and Comments on the Draft PPA is small in comparison to the importance of the clarifications and modifications achieved. The Commission found that the improvement to the program monthly allocation will promote cost efficiency by improving the ability of the Re-Mat to develop a tariff price resembling the market price. Modifications to the PPA will improve the ability of the PPA to function more effectively as a standard contract that can save ratepayers transactional/soft costs over the course of the program.</p>	CPUC Verified
<p>b. Reasonableness of Hours Claimed.</p> <p>Sierra Club California participated actively in this proceeding, commenting on rulings requesting comment and collaborating with parties on the Application for Re-Hearing and Petition for Modification. These comments</p>	

made substantial contributions to the proceeding, and result in a claim for a small amount of hours that account for the reasonable costs of drafting these filings and reviewing the resulting Decision.	
c. Allocation of Hours by Issue Sierra Club California allocates all hours drafting the Application for Re-Hearing and Petition for Modification to the overall issue of revisions to the Section 399.20 Feed-in tariff program, primarily the price adjustment mechanism and monthly allocation system. Hours drafting comments on the PPA or Proposed Decision were related to proposing improvements to the standard form contract.	

B. Specific Claim:

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Andy Katz	2012	21	205	D.12-05-032; see Comment 2	4,305			
Andy Katz	2013	14	220	D.12-05-032; see Comment 2	3,080			
Subtotal: \$ 7,385						Subtotal: \$		
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: \$		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Andy Katz	2013	4.6	110	Half of 2013 rate	506			
Subtotal: \$7,891						Subtotal: \$		
COSTS								
#	Item	Detail			Amount	Amount		
TOTAL REQUEST: \$7,891						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 are compensated at ½ of preparer's normal hourly rate.								
Attorney		Date Admitted to CA BAR¹		Member Number		Actions Affecting Eligibility (Yes/No?)		

			If "Yes", attach explanation
Andy Katz	December 2009	264941	No

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

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	<p>Hourly Rate for Mr. Katz's work in 2012</p> <p>For Mr. Katz's work in 2012, Sierra Club California seeks a rate of \$205, based on an allowed increase of 2.2% approved in Res. ALJ-281, and the second step increase within the 0-2 year experience level, and rounded to the nearest \$5.</p> <p>Hourly Rate for Mr. Katz's work in 2013</p> <p>For Mr. Katz's work in 2013, Sierra Club California seeks a rate of \$220, based on an allowed increase of 2% approved in Res. ALJ-287, and the first step increase within the 3-4 year experience level, and rounded to the nearest \$5.</p>

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

Item	Reason

¹ This information may be obtained at: <http://www.calbar.ca.gov/>.

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 non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning [date], 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.