

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Electric Procurement Policy Refinements pursuant to the Joint Reliability Plan.	R.14-02-001 (Filed February 5, 2014)
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NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION AND, IF REQUESTED (and 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: Carla Peterman	Assigned ALJs: David M. Gamson, Colette Kersten
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: May 9, 2014	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 is (check one):	Applies (check)
1. A Category 1 customer that is an actual customer whose self-interest in the proceeding arises primarily from his/her role as a customer of the utility and, at the same time, the customer must represent the broader interests of at least some other customers. In addition to describing your own interest in the proceeding you must show how your participation goes beyond just your own self-interest and will benefit other customers. See, for example, discussion in D.08-07-019 at 5-10.	

¹ DO NOT CHECK THIS BOX if a finding of significant financial hardship is not 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).

<p>2. A Category 2 customer that is a representative who has been authorized by actual customers to represent them. Category 2 involves a more formal arrangement where a customer or a group of customers selects a more skilled person to represent the customer’s views in a proceeding. A customer or group of customers may also form or authorize a group to represent them, and the group, in turn, may authorize a representative such as an attorney to represent the group. A representative authorized by a customer must identify the residential customer(s) being represented and provide authorization from at least one customer (D.98-04-059 at 30).</p>	
<p>3. A Category 3 customer that is a formally organized group authorized, by its articles of incorporation or bylaws to represent the interests of residential customers or small commercial customers receiving bundled electric service from an electrical corporation.² Certain environmental groups that represent residential customers with concerns for the environment may also qualify as Category 3 customers, even if the above requirement is not specifically met in the articles or bylaws.</p>	X
<p>4. The party’s explanation of its customer status must include the percentage of the intervenors members who are residential ratepayers or the percentage of the intervenors members who are customers receiving bundled electric service from an electrical corporation, and must include supporting documentation: (i.e., articles of incorporation or bylaws).</p> <p>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” Sierra Club is a non-profit, member-based, “public benefit” California corporation with over 600,000 members nationwide and more than 140,000 members living in California. Many of Sierra Club’s California members are residential customers of the three Investor Owned Utilities (“IOUs”). Sierra Club’s membership consists entirely (100%) of residential ratepayers.</p> <p>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 Energy Storage and 2010 and 2012 Long-Term Procurement Plan proceedings (“LTPP”), and was awarded fees for its substantial contribution to the 2010 LTPP. (See D.13-10-068.) Sierra Club is also currently active in the Resource Adequacy, Residential Rate Design and RPS proceedings.</p> <p>Sierra Club’s environmental concerns encompass a broad range of energy and pollution issues.</p>	

² Intervenors representing either a group of residential customers or small commercial customers who receive bundled electric service from an electrical corporation, must indicate in Part I, Section A, Item #4 of this form, the percentage of their members who are residential customers or the percentage of their members who receive bundled electric service from an electrical corporation. The NOI may be rejected if this information is omitted.

³ A copy of the Sierra Club’s Bylaws and Standing Rules and Articles of Incorporation are attached. (See Attachment 2 and 3.)

Specifically, Sierra Club is 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 and clean integrating resources. Sierra Club has been active in the Legislature and its committees, as well as in the Governor's office, to accelerate California's transition to a carbon free grid.

The interests of the customers represented by Sierra Club are unique and well suited to this proceeding and are not adequately represented by other parties that have intervened in this proceeding.⁴ As the Commission has recognized: "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, 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.13-10-068, 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.

Identify all attached documents in Part IV. 1) Sierra Club Bylaws and Standing Rules; 2) Sierra Club Articles of Incorporation

Do you have any direct economic interest in outcomes of the proceeding?⁵ No. If so, explain:

B. Conflict of Interest (§ 1802.3)	Check
1. Is the customer a representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. If the answer to the above question is "Yes", does the customer have a conflict arising from prior representation before the commission?	<input type="checkbox"/> Yes <input type="checkbox"/> No

⁴ See D.07-03-011 at p. 7 ("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 of another party if that participation makes a substantial contribution to the commission order.")

⁵ See Rule 17.1(e).

C. 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>April 17, 2014</u>	<u> X </u> Yes ___ No
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: N/A	
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: N/A	

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)):
<p>⌘ The party's statement of the issues on which it plans to participate. Sierra Club plans to address the main issues in this proceeding to the extent potentially impact deployment of preferred resources and state decarbonization objectives. In Track 1, whether multi-year resource adequacy is needed to maintain grid reliability, and if so, how the program should be designed to facilitate, rather than frustrate, deployment of preferred resources. In Track 2, to ensure a robust long-term reliability planning assessment that does not overstate "disorderly" retirement risk of fossil fuel generation. In Track 3, Sierra Club is specifically concerned with the potential impact of a FERC-jurisdictional procurement mechanism on state clean energy and climate policy.</p> <p>⌘ The party's explanation of how it plans to avoid duplication of effort with other parties. 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 Office or Ratepayer Advocates and Natural Resources Defense Council. As the proceeding progresses, Sierra Club will consult with these organizations, as well as other environmental and ratepayer organizations that share similar positions on specific issues.</p> <p>⌘ The party's description of the nature and extent of the party's planned participation in this proceeding (to the extent that it is possible to describe on the date this NOI is filed).</p>

Sierra Club plans to fully participate in this proceeding and work on the main issues raised by it. Sierra Club's work will include participating in workshops, conferences and hearings, submitting comments and briefs, and propounding discovery.

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	345	51,750	1
[Expert 1]				
[Expert 2]				
[Advocate 1]				
[Advocate 2]				
			<i>Subtotal: \$ 51,750</i>	
OTHER FEES				
[Person 1]				
[Person 2]				
			<i>Subtotal: \$</i>	
COSTS				
Estimated Miscellaneous Expenses (e.g. photocopying)	Copes and Expenses	50		
Hearings/ Workshops	Travel, copies and expenses			
			<i>Subtotal: \$ 50</i>	
TOTAL ESTIMATE: \$ 51,800				
<p>Estimated Budget by Issues:</p> <p>Of the total time set forth in #1 above, Sierra Club expects participation in the issues identified in Tracks 1, 2 and 3 will be divided to 40%/20%/40% of total time respectively. Sierra Club's participation on certain issues may depend on whether other intervenors have sufficiently covered those issues.</p> <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 (# 1).</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 compensated at ½ professional 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 in this proceeding (§ 1804(b)(1)).	X
ALJ ruling (or CPUC decision) issued in proceeding number: D 13-12-027 Date of ALJ ruling (or CPUC decision): 12/11/2013	

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):

Sierra Club received a ruling of significant financial hardship in R.10-12-007 within the last year. (See D.13-12-027.) Thus, the rebuttable presumption applies. Sierra Club has also received the same finding in other Commission proceedings including A.10-03-014, R.08-08-009, R.10-05-006, R.12-06-013. In R. 12-06-013, ALJs Sullivan and McKinney determined, on February 25, 2013, that:

Sierra Club’s estimated cost of participating in this proceeding far exceeds the economic interests of the individual members of Sierra Club or of Sierra Club itself. Thus, Sierra Club showing meets the eligibility criteria for intervenor compensation set forth in § 1804 because Sierra Club has demonstrated that it qualifies for a finding of significant financial hardship pursuant to § 1802(g).

The average utility bill of Sierra Club’s California 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 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 claimintervenorcompensation identifies and attaches documents;add rowsas necessary)

Attachment No.	Description
1	Certificate of Service
2	Sierra Club Bylaws and Standing Rules
3	Sierra Club Articles of Incorporation

ADMINISTRATIVE LAW JUDGE RULING⁶
(ALJ completes)

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 reasons.	
4. The ALJ provides the following additional guidance (see § 1804(b)(2)):	

IT IS RULED that:

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

⁶ 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).