

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

| | |
|--|---|
| Order Instituting Rulemaking to Develop a Risk-Based Decision-Making Framework to Evaluate Safety and Reliability Improvements and Revise the General Rate Case Plan for Energy Utilities. | Rulemaking 13-11-006 (Filed November 14, 2013) |
|--|---|

**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
AND, IF REQUESTED (and ¹ checked), ADMINISTRATIVE LAW JUDGE'S
RULING ON COMMUNITIES FOR A BETTER ENVIRONMENT'S SHOWING
OF SIGNIFICANT FINANCIAL HARDSHIP**

| | | |
|--|------------------------------------|---------------------|
| Customer (party intending to claim intervenor compensation): Communities for a Better Environment | | |
| Assigned Commissioner: Peevey | Assigned ALJ: Wong | |
| 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/ Maya Golden-Krasner | |
| Date: 5/13/14 | Printed Name: | Maya Golden-Krasner |

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>Please see Attachment 2 in Part IV</p> | |
| <p>Identify all attached documents in Part IV.</p> <p>Attachment 2</p> | |
| <p>• Do you have any direct economic interest in outcomes of the proceeding?³ If so, explain:</p> <p>CBE is a non-profit organization and as such has no economic interest in this proceeding. All the members of CBE are focused and committed to representing communities of color and low-income communities that are exposed to health and safety risks, pollution and environmental contamination in much higher capacity than their higher income neighbors.</p> | |

| B. Conflict of Interest (§ 1802.3) | Check |
|---|-------------------------------------|
| <p>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?</p> | <p>___ Yes</p> <p><u> X </u> No</p> |
| <p>2. If the answer to the above question is "Yes", does the customer have a conflict arising from prior representation before the commission?</p> | <p>___ Yes</p> <p>___ No</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 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 29, 2014</u> | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> 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)? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| 2a. The party's description of the reasons for filing its NOI at this other time: <u>N/A</u> | |
| 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: On February 26, 2014, ALJ Wong issued a ruling scheduling a prehearing conference on April 29, 2014, making May 29, 2014 the final deadline for filing an NOI. On the same date, ALJ Wong approved CBE as a party. Thus, CBE's NOI is timely filed. | |

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.

CBE will work to ensure that the Commission’s goal of developing a risk-based decision-making framework and tools for it are included in an updated RCP, and that this framework encourages utilities to prioritize safety, and takes into account environmental justice community concerns. CBE supports and intends to advocate for the implementation of inherently safer systems. CBE also supports the Safety Case regime across all industries and seeks the Commission’s consideration with regard to utilities.

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

To the extent possible, CBE will coordinate its responses and participation with other parties to avoid duplication. CBE has previously worked with other parties including the Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN) in past proceedings to coordinate efforts, and expects to be in regular contact with these and other parties that are covering similar issues and interests. CBE has already begun discussing the proceedings with the Utility Workers Union, ORA and TURN.

- 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).

To date, CBE filed its Motion for Party status on March 6, 2014, participated in the 3-day workshop March 19-21, filed redlines on the straw proposal on April 7 and attended the Prehearing Conference on April 29. CBE will continue to be a participant representing environmental justice concerns in this proceeding, including drafting opening and reply comments, participating in any evidentiary hearings, and any other briefing or procedures requested.

Specifically, the issues from the OIR CBE intends to address include, but are not limited to:

- The goals, structure, tools, and methodologies used in the risk/safety assessment process;
- Timing and process of the risk assessment vis-à-vis the GRC proceeding;
- Metrics used in assessing risk of safety, security, and/or reliability deficiencies and linking it to the requested funding in a GRC, and in determining whether a utility has produced an adequate risk-informed filing;
- Who should bear the cost of developing safety assessment and review tools that the Commission might be using;
- Process changes that could enhance transparency and participation of stakeholders and the general public.

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 | | | | |
| Maya Golden-Krasner (Atty) | 80 | 300 | \$24,000 | |
| Roger Lin (Atty) | 60 | 300 | \$18,000 | |
| Timothy Malloy, UCLA Law School and Faculty Dir., UCLA Sustainable Technology and Policy Program | 20 | 300 | \$6,000 | |
| Robert Freeling | 20 | 180 | 3,600 | |
| | | | <i>Subtotal: \$51,600</i> | |
| OTHER FEES | | | | |
| NA | | | | |
| | | | <i>Subtotal: \$</i> | |
| COSTS | | | | |
| Misc expenses (e.g., copying, telecommunications) | | | \$500 | |
| Travel | | | \$1,500 | |
| | | | <i>Subtotal: \$ 2,000</i> | |
| TOTAL ESTIMATE: \$53,600 | | | | |
| <p>Estimated Budget by Issues:</p> <p>General administrative, procedure, and case management (15% of time) Legal and expert research, briefing, drafting comments, preparing testimony (60% of time) Attending hearings, meetings, workshops, examining witnesses (25% of time)</p> <p>Comments/Elaboration (use reference # from above): The above time estimates reflect CBE's reasonable estimate of the amount of time required for CBE to effectively participate in this proceeding. The amount of any future Request for Compensation will depend upon the Commission's decision in this case, as well as the resources that CBE will be able to dedicate to this proceeding going forward. The reasonableness of CBE hourly rates will be addressed in our Request for Compensation.</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 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 | X |
| 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 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): |
|---|
| <p>CBE meets the standard listed in Public Utilities Code Section 1802(g): “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.” CBE is a non-profit corporation. The majority of its members are members of low-income communities of color. The comparison between their economic interest in this proceeding and the scale of the proceeding shows an extreme disparity. CBE therefore respectfully requests a finding of financial hardship under Public Utilities Code section 1802(g).</p> |

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 | CBE’s Response to Part 1, A.4 |

ADMINISTRATIVE LAW JUDGE RULING⁴

(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

⁴ 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).

**Attachment 1:
Certificate of Service by Customer**

I hereby certify that I have this day served a copy of the foregoing **NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION** by (check as appropriate):

hand delivery;
 first-class mail; and/or
 electronic mail

to the following persons appearing on the official Service List:

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Executed this 13th day of May, 2014, at Huntington Park,
California.

/s/

[Signature]

Maya Golden-Krasner
6325 Pacific Blvd., Suite 300
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[Typed name and address]

Attachment 2: CBE's Response to Part 1, A.4

Communities for a Better Environment (“CBE”) is an environmental justice organization with members throughout the state of California. CBE is a non-profit public interest organization. CBE’s mission is to achieve environmental health and justice in California’s low-income communities of color by preventing and reducing pollution, and building green, healthy and sustainable communities and environments.

CBE qualifies as a Category 3 customer under Section 1802(b)(1)(C) of the Public Utilities Code. In D.98-04-059 at 29, n. 14 (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.” In that Order, the Commission further explained what qualifies as customer interests for environmental groups:

[w]ith 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.⁵

The Commission has given further guidance for the specificity required in the bylaws and/or articles of incorporation in D.09-09-045. The Commission stated:

there are numerous other participants in our proceedings that have been found eligible as Category 3 customers whose bylaws do not contain an explicit reference to representation of residential or small commercial customers. For the most part, the organizations whose bylaws are less explicit with respect to ratepayer representation have a broader purpose than just appearing before the California Public Utilities Commission.⁶

As described herein, CBE’s members live in environmental justice communities and are customers that share a concern for the environment. The concerns of these members distinguish their interests from Commission staff and other California ratepayers participating in this matter.

CBE’s mission “is to achieve environmental health and justice by building grassroots power in and with communities of color and working-class communities.”⁷ CBE is a member of the California Environmental Justice Alliance (CEJA), which has and currently participates in proceedings at the Commission. CBE has participated independently from CEJA in proceedings before the Commission on previous occasions, including: A.09-04-001, A.09-09-021, and R.10-

⁵ D.98-04-059 at p. 29 n. 14.

⁶ D.09-09-045 at p. 8.

⁷ Communities for a Better Environment, Mission, <http://www.cbecal.org/about/mission.html>.

05-006. CBE was determined preliminarily eligible to receive intervenor compensation in A.09-04-001.⁸ CBE's bylaws, which were provided with the NOI filed in A.09-04-001, provide that:

the mission of the organization is to conduct 'education, research, litigation, fundraising and advocacy . . . promoting the protection of the environment and public health'

. . . the organization and its members have engaged in research, advocacy and litigation specifically directed at securing "cost effective conservation measures and discourag[ing] unnecessary new generating resources that are expensive and environmentally damaging."⁹

CBE has thousands of members throughout the state of California. More than 2,700 of CBE's members live, work, or engage with environmental justice issues in urban communities in Northern and Southern California. CBE is a category 3 customer due to its representation of ratepayers with environmental concerns in low-income communities of color in California.

Relevant to this proceeding, CBE's members also live, work, breath and play in close proximity to industrial facilities, and are therefore also on the front lines of potential catastrophic industrial disasters. The concerns of these members distinguish their interests from Commission staff and other California ratepayers participating in this matter.

For example, CBE is pushing for policies at the federal, state, regional, and local levels that protect the health and safety of workers and community. Following the August 6, 2012 fire at the Chevron Richmond Refinery, CBE engaged multiple agencies, including the federal Chemical Safety Board. CBE drew on its past experience in successfully advocating for greater worker and community protections, for instance, in amendments to the Contra Costa County Industrial Safety Ordinance and the adoption of the City of Richmond Industrial Safety Ordinance. CBE was also a driving partner in establishing the Refinery Action Collaborative in Northern California, a partnership of labor and community groups that provides critical input to the Governor's Interagency Working Group on Refinery Safety.

CBE's concerns for industrial safety are not limited to refineries, but all industrial infrastructure and operations that endanger the health and safety of workers and communities in and around low-income communities of color. CBE supports the use of inherently safer systems in risk-based decision making. Moreover, CBE is also actively pursuing adoption of the Safety Case Regulatory Regime at industrial facilities, including power plants (and related infrastructure, such as pipelines). CBE has promoted this Safety Case regime at federal agency public hearings, workshops, listening sessions, and now hopes to bring the same protections of worker and community health and safety to the attention of the Commission. CBE offers organizing, legal, and research resources to the communities most at risk from harmful incidents that occur at these facilities in the absence of such policies.

⁸ See December 1, 2011 ALJ Ruling in A.09-04-001.

⁹ A.09-04-001, CBE Notice of Intent to Claim Intervenor Compensation (Nov. 10, 2011)

Given these interests, CBE anticipates addressing the following issues related to risk-based decision-making and safety procedures identified by the Commission in the Order Instituting Rulemaking (“OIR”) on this matter:

- Would developing a review process similar to the Current CEQA review process, where internal review by the Commission staff is supplemented by technical review conducted by consultants, be effective, adequate, and desirable? (OIR section 4.1.)
- How should the Commission develop a new RCP for energy utilities in a way that will link strategy and goals to resource allocation? What kind of reporting requirements are needed in order to identify the framework, method, practices and activities used in assessing risk of safety, security, and/or reliability deficiencies and linking it to the requested funding in a GRC? (OIR section 4.2.)
- What criteria should be used by the Commission to evaluate whether a utility has produced an adequate risk-informed GRC filing? (OIR section 4.2.)
- Who should bear the cost of developing safety assessment and review tools that the Commission might be using? (OIR section 4.2.)
- How much variation (if any) should be allowed between different utilities, between the gas and electric industries, or on any other basis? (OIR section 4.5.)

CBE may also address questions regarding the complexity of the General Rate Case application process in order to allow for increased transparency and meaningful public participation in these matters. As a result, CBE may also address the following questions:

- What kind of process changes might be helpful for stakeholders to enable them to review the application in an expedited manner? For example, would a presentation by the utility filing the application right after the submittal be helpful to familiarize the stakeholders with the application early in the process? (OIR section 4.6.)
- What kind of process changes would be helpful for the general public to better understand the impact of rate case and participate in the proceeding? (OIR section 4.6.)

At this time, CBE anticipates participating actively in the remaining aspects of this proceeding which address the questions above, by representing the environmental, public health, and ratepayers’ interests as described above. CBE may elect not to participate in issues that have no clear effect on its members or the environment.

CBE is already working with members of the legal, technical, labor groups, and affected ratepayer and environmental justice communities throughout the state to discuss the safety issues to be considered in this proceeding. CBE intends to ensure environmental, public health, and ratepayer interests are protected, by participating in all related conferences and hearings, offering

testimony, and briefing legal issues. To the extent possible, CBE will coordinate its participation with other parties in the proceeding to avoid duplication.

At a minimum, CBE intends to participate in any opportunities for commenting and briefing on these topics. Should the Commission determine that evidentiary hearings are appropriate, CBE will likely participate in the hearings and may present expert testimony.

As a non-profit organization that works to improve public health and safety and advocate for environmental justice across California, CBE qualifies as a Category 3 customer. As an organization that advocates for safe and renewable energy, and an organization that works on developing and implementing risk-based decision-making safety frameworks at facilities, and overall policies promoting industrial safety, CBE brings an important and unique perspective, and thereby intends to claim intervenor compensation.