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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Approval of its 2012-2014 California Alternate Rates for Energy (CARE) and Energy Savings Assistance Programs and Budgets.

Application 11-05-017
(Filed May 16, 2011)

And Related Matters.

Application 11-05-018
Application 11-05-019
Application 11-05-020

ADMINISTRATIVE LAW JUDGE’S RULING ON BRIGHTLINE DEFENSE PROJECT’S SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

Customer: Brightline Defense Project (Brightline)	
Assigned Commissioner: Timothy Alan Simon	Assigned ALJ: Kimberly H. Kim

PART I: PROCEDURAL ISSUES

A. Status as “customer” (see Pub. Util. Code § 1802(b)): The party claims “customer” status because:	Applies
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
<p>4. The party’s explanation of its customer status, with any documentation (such as articles of incorporation or bylaws) that supports the party’s “customer” status. Any attached documents should be identified in Part IV.</p> <p>Describe if you have any direct economic interest in outcomes of the proceeding.</p> <p>Brightline Defense Project (hereinafter referred to as “Brightline”) falls within the third category listed in Section 1802(b) because it is a “representative of a group or</p>	

organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers.”

As described in Brightline’s bylaws, Brightline's mission is "to promote sustainability and opportunity in traditionally underserved communities through public policy advocacy and partnerships." Brightline pursues its mission "for the purpose of protecting and empowering vulnerable communities through three primary pathways: 1) advancing environmental justice, 2) ensuring job creation and retention, particularly in the green sector, and 3) advocating for the development of fair, affordable, and sustainable housing." The bylaws further provide that Brightline "may advocate on behalf of low-income communities and communities of color by participation in regulatory and judicial proceedings."

Consequently, Brightline represents the environmental justice and economic development interests of communities of color and low-income ratepayers before this Commission. Since 2006, Brightline has advocated on behalf of low-income residents of San Francisco and the San Francisco Bay Area, building expertise in connecting local taxpayers and regional water ratepayers with public works construction employment opportunities that are created with their dollars through local hiring policies and agreements.

In this consolidated Application before the Commission, we believe that there is a unique opportunity to draw from best practices that we have developed in the San Francisco Bay Area in bringing together stakeholders in the public works employment context to build deep connections between the targeted communities emphasized in the Long Term Energy Efficiency Strategic Plan (ESAP) and actual employment, while strengthening our partnerships with community-based organizations that are currently providing energy efficiency outreach and education in IOU service territories.

Since its founding, Brightline has also promoted clean energy, environmental justice, and green job development by supporting the closure of the Potrero Power Plant, San Francisco’s last dirty power plant, blocking the construction of two unnecessary replacement power plants in that community and securing job guarantees for low-income residents on projects such as the 5-megawatt Sunset Reservoir solar project. The majority of Brightline’s low-income residents resides within the San Francisco Bay Area and is customers of Pacific Gas and Electric (PG&E).

In a prior CPUC hearing, Brightline has also provided testimony on behalf of the Greenlining Institute in the Application of Pacific Gas and Electric Company to Implement and Recover in Rates the Costs of its Photovoltaic (PV) Program (Application 09-02-019). In that PV proceeding, Brightline testified as a green workforce development expert, siting solar power not only as an investment in the renewable infrastructure necessary to stave off global warming, but as an important opportunity to fulfill a promise to communities that have historically borne the brunt of energy investments that have slowly destroyed the environment. As further stated in the testimony, Brightline believes that this promise exists in the potential to create employment opportunities through the development of a green economy for those same community members who suffered from the ills of our pollution-based economy.

In Decision (D.) 98-04-059, page 29, footnote 14, the Commission stated that, “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.”

Brightline falls in line with this articulation by the Commission in that Brightline represents the interests of low-income customers with a concern for the environment and environmental justice that distinguishes their interests from the interests represented by other intervenors. Brightline's expertise is in developing the job opportunities that clean energy and energy efficiency afford otherwise vulnerable communities to become sustainable, more environmentally healthy, and more equipped with the realization of promises that are articulated as we create a vibrant new green economy.

Brightline has no direct economic interest in the outcome of this proceeding. However, the low-income communities and ratepayers that Brightline will represent have a critical interest in the job opportunities that ESAP and California Alternate Rates for Energy (CARE) can provide.

Attachment: Bylaws of Brightline Defense Project, A California Public Benefit Corporation, Testimony of Brightline's Joshua Arce on Behalf of the Greenlining Institute.

B. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)):	Applies
1. Is the party’s NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: August 8, 2011 Brightline’s NOI was filed on September 7, 2011.	Yes
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)?	No
2a. The party’s description of the reasons for filing its NOI at this other time:	
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:	

PART II: SCOPE OF ANTICIPATED PARTICIPATION

A. Planned Participation (§ 1804(a)(2)(A)(i)):

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

Brightline’s participation in this proceeding will be focused on forming a concrete workforce development and jobs strategy that connects ratepayers, particularly low-income ratepayers residing in disadvantaged communities and environmental justice communities historically bearing a disproportionate share of pollution, with jobs created by the Energy Savings Assistance Program.

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

To the extent possible, Brightline will coordinate its participation with other parties in the proceeding to avoid duplication.

- 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).

While a schedule that includes workshops, the filing of intervenor rebuttal testimony, and possible hearings, has yet to be fully determined, Brightline currently intends to participate actively in workshops relating to subjects of interest to it; is considering filing testimony on a range of issues relating to the interests of workforce development and jobs strategy; and would likely cross-examine witnesses should evidentiary hearings be held. Brightline also intends to file written briefs as the schedule allows. Brightline also may conduct written discovery, participate in settlement discussions, and engage in other activities necessary to protect its interests in this case.

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				
Joshua Arce, Executive Director	100	275	27,500	1
Eddie H. Ahn, Legal Counsel	200	150	30,000	1
			Subtotal:	
			\$57,500	
OTHER FEES				
Roxanne Caldera, Associate Director	40	150	6,000	1
			Subtotal:	
			\$6,000	
COSTS				
Briefing	Copies &	100		100

	Expenses		
Hearing	Travel, copies & expenses	500	500
			Subtotal: \$600
TOTAL ESTIMATE: \$64,100			2
<p>Estimated Budget by Issues: Brightline has not prepared separate budgets by issue, as it expects that the vast majority of time it will spend will be on issues relating to workforce development and jobs placement. Brightline estimates that 10% of the budget will be spent on CARE issues (especially any review of categorical eligibility for enrollment), or a total of \$6,410 of the entire budget; that 80% of the budget (\$51,280) will be devoted to the issue of creating a comprehensive jobs strategy for ESAP; and that 10% of the budget will be devoted to general work not attributable to a particular issue.</p> <p>Comments/Elaboration (use reference # from above): #1 The rates above are reasonable because Brightline’s staff has extensive experience in promoting clean energy services that advance environmental stewardship, environmental justice and economic opportunity on behalf of low-income ratepayers. #2 We have revised our requested rates to be consistent with the Commission-adopted rate ranges, but continue to request conservative rates at the low ends of those ranges.</p> <p>Estimate may include estimated claim preparation time. Claim preparation and travel hours are typically compensated at ½ of preparer’s normal hourly rate.</p>			

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

A. The party claims “significant financial hardship” for its Claim for intervenor compensation in this proceeding on the following basis:	Applies
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 cost of Brightline's participation in this proceeding, which is estimated to be \$64,100, substantially outweighs the benefit to the individual members it represents. These members are low-income residential customers whose individual interests in this proceeding are limited to no-cost energy efficiency services, or low-income discounts of between one hundred and three hundred dollars annually. Any decision in this proceeding will provide limited changes to these existing programs and benefits.

Accordingly, these economic interests are small relative to the costs of participation, and Brightline's funding is restricted to specific purposes and programs which do not include intervention in CPUC proceedings. It is unlikely that Intervenor's members will see financial benefits that exceed Intervenor's costs of intervention.

CPUC Guidance:

Currently 13 intervenors: National Housing Law Project, Black Economic Council, Latino Business Chamber of Greater Los Angeles, National Asian American Coalition, San Francisco Community Power; National Consumer Law Center, Inc., Association of California Community and Energy Services, California Housing Partnership Corporation, Center for Accessible Technology, Natural Resources Defense Council, The Utility Reform Network, Brightline Defense Project and The Greenlining Institute have filed Notices of Intent to claim compensation in this proceeding. The combined estimated hours and costs associated with the intervention of these parties is \$717,425. This amount is staggering given a proceeding of this nature, especially considering the overlap in interests of Black Economic Council, Latino Business Chamber of Greater Los Angeles, National Asian American Coalition, San Francisco Community Power; National Consumer Law Center, Inc., Association of California Community and Energy Services, California Housing Partnership Corporation, Center for Accessible Technology, Natural Resources Defense Council, The Utility Reform Network, Brightline Defense Project and The Greenlining Institute. I reiterate in this ruling that each intervenor will have the burden to demonstrate the reasonableness of the costs it may ultimately claim for compensation and to demonstrate that its efforts were not unreasonably duplicative of the work of other parties.

Part of the burden is that each intervenor must demonstrate that it has taken all reasonable steps to coordinate its participation with that of other similarly-interested parties. Each intervenor is responsible to understand the types of activities that are eligible for compensation and other policies regarding intervenor compensation, and to coordinate with other parties to minimize duplication of effort. National Housing Law Project, Black Economic Council, Latino Business Chamber of Greater Los Angeles, National Asian American Coalition, San Francisco Community Power; National Consumer Law Center, Inc., Association of California Community and Energy Services, California Housing Partnership Corporation, Center for Accessible Technology, Natural Resources Defense Council, The Utility Reform Network, Brightline Defense Project and The Greenlining Institute are under an obligation to meet and confer with other parties likely to take the same or similar positions

in this case and coordinate with other intervenors, and distinguish their participation from the work of other intervenors. Each intervenor prior to receiving an award of compensation, must comply with Pub. Util. Code §§ 1801-1812 and the Commission’s regulations, which are to be “administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process,” and “that avoids unproductive or unnecessary participation that duplicated the participation of similar interests otherwise adequately represented or participation that is not necessary for a fair determination of the proceeding.”

In addition, the reasonableness of the hourly rates requested by all parties, including Brightline Defense Project must be addressed in each filed claim for an award of compensation, should a substantial contribution be made. Finally, Rule 17.1(c) requires that all intervenors maintain and submit daily records of time and costs spent on each issue by participant on each issue for which an intervenor intends to request compensation.

ADMINISTRATIVE LAW JUDGE RULING

	Applies
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).	X
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)): CPUC Guidance:	X
Currently 13 intervenors: National Housing Law Project, Black Economic Council, Latino Business Chamber of Greater Los Angeles, National Asian American Coalition, San Francisco Community Power; National Consumer Law Center, Inc., Association of California Community and Energy Services, California Housing Partnership Corporation, Center for Accessible Technology, Natural Resources Defense Council, The Utility Reform Network, Brightline Defense Project and The Greenlining Institute have filed Notices of Intent to claim compensation in this proceeding. The combined estimated hours and costs associated with the intervention of these parties is \$717,425. This amount is staggering given a proceeding of this nature, especially considering the overlap in interests of Black	

Economic Council, Latino Business Chamber of Greater Los Angeles, National Asian American Coalition, San Francisco Community Power; National Consumer Law Center, Inc., Association of California Community and Energy Services, California Housing Partnership Corporation, Center for Accessible Technology, Natural Resources Defense Council, The Utility Reform Network, Brightline Defense Project and The Greenlining Institute. I also note that in the midst of large number of very complex issues in this proceeding, Brightline's role appears limited. There are already number of other parties in this proceeding representing similar, if not, some interests. That said, the amount of estimated compensation is quite disproportionate, it seems. I reiterate in this ruling that each intervenor will have the burden to demonstrate the reasonableness of the costs it may ultimately claim for compensation and to demonstrate that its efforts were not unreasonably duplicative of the work of other parties.

Part of the burden is that each intervenor must demonstrate that it has taken all reasonable steps to coordinate its participation with that of other similarly-interested parties. Each intervenor is responsible to understand the types of activities that are eligible for compensation and other policies regarding intervenor compensation, and to coordinate with other parties to minimize duplication of effort. National Housing Law Project, Black Economic Council, Latino Business Chamber of Greater Los Angeles, National Asian American Coalition, San Francisco Community Power; National Consumer Law Center, Inc., Association of California Community and Energy Services, California Housing Partnership Corporation, Center for Accessible Technology, Natural Resources Defense Council, The Utility Reform Network, Brightline Defense Project and The Greenlining Institute are under an obligation to meet and confer with other parties likely to take the same or similar positions in this case and coordinate with other intervenors, and distinguish their participation from the work of other intervenors. Each intervenor prior to receiving an award of compensation, must comply with Pub. Util. Code §§ 1801-1812 and the Commission's regulations, which are to be "administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process," and "that avoids unproductive or unnecessary participation that duplicated the participation of similar interests otherwise adequately represented or participation that is not necessary for a fair determination of the proceeding."

In addition, the reasonableness of the hourly rates requested by all parties, including Brightline Defense Project must be addressed in each filed claim for an award of compensation, should a substantial contribution be made. Finally, Rule 17.1(c) requires that all intervenors maintain and submit daily records of time and costs spent on each issue by participant on each issue

for which an intervenor intends to request compensation.	
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IT IS RULED that:

	Applies
1. The Notice of Intent is rejected.	
2. Additional guidance is provided to the customer as set forth above.	X
3. The customer has satisfied the eligibility requirements of Pub. Util. Code § 1804(a).	X
4. The customer has shown significant financial hardship.	X
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.	X
6. Brightline Defense Project's claim if filed at a later date must comply with Pub. Util. Code §§ 1801-1812, in addition to Rule 17.1(c).	X
7. Brightline Defense Project shall make every effort to avoid duplicating the Efforts of other parties with similar interests.	X

Dated October 27, 2011, at San Francisco, California.

/s/ KIMBERLY H. KIM

Kimberly H. Kim
Administrative Law Judge