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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.

Rulemaking 14-02-001
 (Filed February 5, 2014)

ADMINISTRATIVE LAW JUDGE’S RULING ON NATURAL RESOURCES DEFENSE COUNCIL’S SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

Customer: Natural Resources Defense Council (NRDC)	
Assigned Commissioner: Carla Peterman	Assigned Administrative Law Judges (ALJ): David M. Gamson and Colette Kersten

PART I: PROCEDURAL ISSUES

A. Status as “customer” (see Pub. Util. Code § 1802(b)): The party claims “customer” status because the party is:	Applies (check)
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. 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.	X
<p>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>i.e.</i>, articles of incorporation or bylaws).</p> <p>NRDC falls within the third category listed in Section 1802(b) because it is a “representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers....”</p> <p>NRDC is a non-profit membership organization with a long-standing interest in minimizing the societal costs of the reliable energy services that a healthy California economy requires. We have participated in numerous California Public Utilities Commission proceedings over the last 25 years with a particular focus on representing our California members’ interest in the utility industry’s delivery of cost-effective energy efficiency programs, renewable energy resources, and other sustainable energy alternatives. The majority of our California members are residential customers.</p>	

NRDC is a formally organized group authorized pursuant to our bylaws to represent the interests of our members, nearly all of whom are residential customers. NRDC’s bylaws state in Section 1.02(a) that: “Individual membership in the Corporation shall constitute an authorization for the Corporation to represent members’ interests in regulatory and judicial proceedings within the scope of the activities of the Corporation.” The Certificate of Incorporation of the Natural Resources Defense Council, Inc., states that: “The purposes for which the corporation is formed are: To preserve, protect and defend natural resources, wildlife and environment against encroachment, misuse and destruction” and “[t]o take whatever legal steps may be appropriate and proper to carry out the foregoing purposes.” Attachment 1 includes the relevant section of the Certificate. The relevant section of the bylaws is included in Attachment 2. Over 80,000 of NRDC’s members live and purchase utility services in California. NRDC’s members are dispersed throughout the state and the majority of these members are residential customers of Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, or San Diego Gas and Electric Company. This qualifies NRDC as a Category 3 customer pursuant to Section 1802(b) of the Public Utilities Code.

The interests of the customer represented by NRDC are unique and are not adequately represented by other parties that have intervened in the case. NRDC’s members highly prioritize the need to preserve environmental quality while minimizing the societal costs of providing electric service through energy efficiency, renewable resources, and other cost-effective alternative energy resources.

In D.98-04-059 at 29, footnote 14, the Commission reaffirmed its “previously articulated interpretation that compensation be proffered only to customers whose participation arises directly from their interests as customers.” The Commission explained 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.” Consistent with this articulation, NRDC represents customers with a concern for the environment that distinguishes their interests from the interests represented by other consumer advocates who have intervened in this case.

• Do you have any direct economic interest in outcomes of the proceeding?¹ NO

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

¹ See Rule 17.1(e).

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 checked="" type="checkbox"/> No
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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: April 17, 2014	<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 checked="" type="checkbox"/> No

PART II: SCOPE OF ANTICIPATED PARTICIPATION

A. Planned Participation (§ 1804(a)(2)(A)(i)):
<p>The party’s statement of the issues on which it plans to participate.</p> <p>NRDC will participate in all aspects of the preliminary scope, including – but not limited to – ensuring the CPUC designs and implements: 1) a forward-looking resource adequacy procurement requirement, 2) a long-term joint reliability planning assessment, and 3) rules/policies related to CAISO’s development of a backstop procurement mechanism, that is in alignment with the state’s Energy Plan, long-term climate goals, and loading order. We will strive to ensure all new processes and studies properly account for energy efficiency, other preferred resources, and energy storage. We will also focus on ensuring preferred resources and energy storage can contribute to meeting forward reliability needs and that their capacity value calculations realistically reflect their contribution to identified needs. Overall, we intend to represent our California members’ interest in the utility industry’s delivery of cost-effective energy efficiency programs, renewable energy resources, and other sustainable energy alternatives.</p> <p>The party’s explanation of how it plans to avoid duplication of effort with other parties.</p> <p>To the extent possible, when there are overlapping efforts, concerns, and recommendations, NRDC will coordinate its participation with other parties to avoid duplication, resolve issues ahead of time when possible, and utilize joint comments as an advocacy option whenever possible.</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> <p>NRDC will participate in all workshops, hearings, and related meetings as well as submit comments.</p>

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				
Maria Stamas	75	\$160	\$12,000.00	1
Sierra Martinez	75	\$305	\$22,875.00	2
			TOTAL ESTIMATE: \$34,875.00	
Estimated Budget by Issues:				
<p>60% related to ensuring proposed refinements and implementation of the Joint Reliability Framework are in alignment with the state's Energy Action Plan, the state Loading Order policies which prioritize certain preferred resources, and the state's climate goals as articulated in AB 32; 30% related to accounting for energy efficiency, other preferred resources, and energy storage and ensuring they are able to contribute to meeting forward reliability needs where appropriate and that their capacity value calculations realistically reflect their contribution to identified needs; and 10% for remaining issues, including aligning policies in this proceeding with other relevant reliability proceedings at the CPUC.</p>				
Comments/Elaboration (use reference # from above):				
<p>NRDC expects to be an active participant in this proceeding, although it is difficult to estimate with certainty the magnitude of our expected request at this early stage of the proceeding. The amount of any future claim to compensation is dependent upon the Commission's final decision in this proceeding, as well as the resources NRDC has to devote to this proceeding going forward.</p> <p>The rates above are reasonable because the energy project staff in NRDC's San Francisco office have participated in Commission proceedings for over 40 years and have extensive experience in promoting reliable, affordable energy services at the lowest environmental impact. The Commission's recognition of NRDC's role as a leading stakeholder has been demonstrated by repeated invitations to appear at full panel hearings. Public Utilities Code § 1806 directs the Commission to consider "the market rates paid to persons of comparable training and experience who offer similar services" when computing a compensation award.</p> <p>The rates requested by NRDC for its expert staff are consistent with D.07-01-009 (which established rate ranges for experts based on years of experience), with D.08-04-010 (which provides considerations for establishing rates for new representatives), and with Resolution ALJ-287, April 29, 2013. 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 in addition to being extremely conservative with amount of time we claim.</p> <p><u>Comment #1:</u> Maria Stamas is an attorney with expertise in energy policy and analysis and holds a joint M.A. in Energy and Resources and J.D. degree from the University of California, Berkeley. She also has passed the California Bar Exam. Ms. Stamas has over four years of experience working on energy policy and analysis. As Ms. Stamas is a first year attorney, we request \$160 hourly rate, which is the low end of rates published for 2013 in Resolution ALJ-267 (April 29, 2013).</p> <p><u>Comment #2:</u> In 2014, Sierra Martinez is a 6th year attorney. We request the hourly rate of \$305 for work done in 2014. Per Resolution ALJ-287 and per D.08-04-010 (at 8), intervenors can</p>				

qualify for a rate increase when “moving to a higher experience level: where additional experience since the last authorized rate moved a representative to a higher level of experience.” We therefore requested \$290 for Mr. Martinez for work done in 2013. For 2014, we request \$305, which includes the first step-wide increase of 5% per D.08-04-010. (290*1.05=304.5) Mr. Martinez represents NRDC at state and local fora to promote energy efficiency and renewable energy resources as solutions to climate change that stimulate California’s economy.

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

A. The party claims “significant financial hardship” for its Intervenor Compensation Claim in this proceeding on the following basis:	Applies (check)
1. “[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
2. 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: A.10-07-007 and A.11-09-016 Date of ALJ ruling (or CPUC decision): February 21, 2013 (Over a year ago, but recently requested a new ruling for renewed showing of financial hardship.)	

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 economic interest of individual NRDC members is small when compared to the costs of effective participation. NRDC is representing the interests of its members in California who are customers of utilities under the jurisdiction of the Commission. These customers share an interest in the environmental and economic impacts of this proceeding. While some of these California-resident members may eventually experience lower and/or more stable electricity bills because of NRDC’s contribution in this proceeding on the design, implementation, and review of the Joint Reliability Framework, the economic interest represented by such savings is very small in comparison to the expenses incurred by the organization to present its views in this proceeding.

ADMINISTRATIVE LAW JUDGE RULING

1. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III(B) of the NOI (above).
2. The ALJ provides the following additional guidance (see § 1804(b)(2)): Pub. Util. Code § 1801.3(f) states that the intervenor compensation program “shall be administered in a manner that avoids unproductive or unnecessary participation that duplicates the participation

of similar interests otherwise adequately represented or participation that is not necessary for a fair determination of the proceeding.” § 1801.3(b) indicates that the Legislature intends for us to administer the provisions of §§ 1801et seq. in a manner “that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process.” When it codified the intervenor compensation program, the Legislature struck a balance between competing goals: to encourage the effective and efficient participation of all groups that have a stake in the public utility regulation process while avoiding unproductive or unnecessary participation that duplicates the participation of others (D.98-04-059 at 19).

Seven intervenors have announced their intent to claim compensation in this proceeding. Although NRDC clearly defines the scope of its participation, because of the broad level of the participation of many of the parties it is not possible to determine at this time whether the intervenor’s efforts will duplicate those of other parties in this proceeding. It is critical for each intervenor seeking compensation to limit its participation to the specific issues of the intervenor’s expertise within the scope of this Rulemaking and to coordinate its participation with other parties, to ensure that its efforts complement or supplement, but do not duplicate, their efforts. Merely appearing, stating a position, and cross-examining will not assure compensation. NRDC must demonstrate that its participation resulted in a substantial contribution by presentation of facts or arguments that were relied upon by the Commission in the decision making in this proceeding. Any subsequent request for an award of compensation must document all time and expenses.

IT IS RULED that:

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| 1. Natural Resources Defense Council (Customer) has satisfied the eligibility requirements of Pub. Util. Code § 1804(a). |
| 2. The Customer has shown significant financial hardship. |
| 3. 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. |
| 4. Additional guidance is provided to the Customer as set forth above. |

Dated July 25, 2014, at San Francisco, California.

/s/ DAVID M. GAMSON

David M. Gamson
Administrative Law Judge