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JSW/jt2 7/21/2014

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)

ADMINISTRATIVE LAW JUDGE’S RULING ON SAN DIEGO CONSUMERS’ ACTION NETWORK’S SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

Customer: San Diego Consumers’ Action Network (SDCAN)	
Assigned Commissioner: Michael R. Peevey	Assigned Administrative Law Judge: John S. Wong

PART I: PROCEDURAL ISSUES

A. Status as “customer” (see Pub. Util. Code § 1802(b)): The party claims “customer” status because it is:	Applies (check)
A Category 3: Represents a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent “small commercial customers” (§ 1802(h)) ¹ who receive bundled electric service from an electrical corporation (§ 1802(b)(1)(C)), or to represent another eligible group.	X
<p>The party’s explanation of its customer status, economic interest (if any), 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>SDCAN is an unincorporated nonprofit association that is authorized by its articles and bylaws to represent the interests of SDG&E’s residential and small business customers. Specifically, its Articles state at Article 3 that SDCAN is charged with “Advocating on behalf of customers of these necessary-services companies at state legislative, regulatory or civil court forums.” SDCAN’s members are and will be SDG&E customers and their interests reflect those of the customers which SDCAN seeks to represent in this proceeding.</p>	

¹ This and subsequent code references are to the California Public Utilities Code, unless specified otherwise.

B. Timely Filing of NOI (§ 1804(a)(1)):	Check
1. Is the party's NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: <u> n/a </u> Pursuant to Section 9 of the OIR, this NOI is filed within 30 days of the filing of reply comments (due January 31, 2014) and is therefore timely.	Yes <u> </u> No <u> X </u>
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 <u> </u>

PART II: SCOPE OF ANTICIPATED PARTICIPATION

A. Planned Participation (§ 1804(a)(2)(A)(i)):				
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). In this proceeding, SDCAN plans on submitting comments, expert testimony and participating in any workshops. As per its Opening Comments, SDCAN's focus is upon reform of the GRC process and a re-examination of utility business models.				
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 FEES				
Michael Shames	100	\$365	\$36,500	
		Subtotal:	\$36,500	
EXPERT FEES				
Experts	300	\$250 (avg)	\$75,000	
		Subtotal:	\$75,000	
OTHER FEES				
Estimated miscellaneous expenses related to this proceeding (e.g., photocopying, telecommunications)			\$500	
		Subtotal:	500	
COSTS				
Travel & Lodging			\$3,000	
Legal services			-	
Copying & delivery			-	
		Subtotal:	\$3,000	
TOTAL ESTIMATE \$:			\$115,000	

Comments/Elaboration:

Comment 1: Michael Shames is an experienced practitioner before the CPUC, with an established rate of \$365 per hour from his prior position with UCAN. This rate, or whatever is the appropriate attorneys fee rate at the time of filing, will be fully justified when SDCAN files its Request for Compensation at the end of this proceeding.

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 (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

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>SDCAN is presenting comments in this proceeding that will bear directly on the process by which SDG&E’s rates are set. It proposes reforms that should reduce IOU gaming and result in more accurate costs for which ratepayers are charged.</p> <p>While SDCAN seeks to obtain these benefits for its constituents, it does not collect any money from the people it seeks to benefit. As a small non-profit entity with limited assets, SDCAN would not be able to engage in representation of SDG&E small customers before the Commission without the availability of compensation through the intervenor compensation program. For the purposes of establishing financial hardship, SDCAN has attached its Articles and ByLaws.</p>

ADMINISTRATIVE LAW JUDGE RULING

<p>The NOI has not demonstrated significant financial hardship for the following reason(s):</p> <p>San Diego Consumers’ Action Network (SDCAN) asserts its eligibility to claim intervenor compensation as a “Category 3” customer (“[a] representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation” (Cal. Pub. Util. Code Section 1802(b)(1)(C)).</p> <p>In order to demonstrate significant financial hardship, this customer category has to show that “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”</p>

(Cal. Pub. Util. Code Sec. 1804(g)). Instead of using the “comparison test”, SDCAN asserts that without the availability of compensation, it would not be able to engage in representation of SDG&E small customers before the Commission (Notice of Intent at 4). This showing does not demonstrate significant financial hardship for the customer category asserted by SDCAN.

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

SDCAN must include its showing of significant financial hardship in the request for intervenor compensation in this proceeding.

Pub. Util. Code § 1801.3(f) states that “[t]his article 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).

Six intervenors filed their notices of intent of intent to claim intervenor compensation in this proceeding, with the combined estimated budget in excess of \$700,000. 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. I urge each intervenor to achieve a high level of the efficiency in this rulemaking. SDCAN may participate strictly within the scope of this proceeding as identified in the Order Instituting Rulemaking, Scoping Memo and Ruling of May 15, 2014, and any subsequent scoping rulings in this proceeding. Issues outside the scope are not compensable. Any subsequent request for an award of compensation must document all time and expenses. Merely appearing, stating a position, and cross-examining will not assure compensation. SDCAN 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.

