



**FILED**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

6/30/16  
08:36 AM

In the Matter of the Application of Pacific Gas and Electric Company for Approval of its Electric Vehicle Infrastructure and Education Program (U39E).

Application 15-02-009  
(Filed February 9, 2015)

**ADMINISTRATIVE LAW JUDGE’S RULING REJECTING CLEAN COALITION’S AMENDED NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION**

<b>Party intending to claim intervenor compensation:</b> Clean Coalition	
<b>Assigned Commissioner:</b> Carla J. Peterman	<b>Administrative Law Judges:</b> Darwin E. Farrar

**PART I: PROCEDURAL ISSUES**  
(Completed by the party intending to claim intervenor compensation)

<b>A. Status as “customer” (see Pub. Util. Code § 1802(b)):</b> The party claims “customer” status because the party is (check one):	<b>Applies (check)</b>
<p>1. A <b>Category 1</b> customer 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.</p> <p>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.</p>	<input type="checkbox"/>
<p>2. A <b>Category 2</b> customer 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.</p> <p>A representative authorized by a customer must identify the residential customer(s) being represented and provide authorization from at least one customer. See D.98-04-059 at 30.</p>	<input type="checkbox"/>
<p>3. A <b>Category 3</b> customer is a formally organized group authorized, by its articles of incorporation or bylaws to represent the interests of residential customers or</p>	

<p>small commercial customers receiving bundled electric service from an electrical corporation.<sup>1</sup> 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. <i>See</i> D.98-04-059, footnote at 3.</p>	<input checked="" type="checkbox"/>
<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.e., articles of incorporation or bylaws).</p> <p>The Clean Coalition meets the definition of a Category 3 customer provided in Public Utilities Code section 1802(b)(1)(C) because the Clean Coalition is an “organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers.” The Clean Coalition is a California-based nonprofit organization whose mission is to accelerate the transition to a modern energy system where smaller-scale, efficient, and clean renewable energy projects deliver affordable and reliable power to communities. We represent the interests of more than 8,000 individual subscribers—over 3,050 are residents of California—who share an interest in our organization’s mission. The Clean Coalition is a direct project of Natural Capitalism Solutions, Inc. (“NCS”), a 501(c)(3) based in Longmont, Colorado. As such, NCS exercises administrative, programmatic, financial, and legal oversight of Clean Coalition activities. Article 12 of NCS’s bylaws states: “[NCS] is authorized to represent the interests of residential electric customers in front of state and federal government entities in order to promote a more sustainable energy system.” Although not relied upon here, the Clean Coalition also notes that the Commission previously granted the organization Category 3 customer status in R.11-09-011; R.11-05-005; and R.13-09-011. <i>See</i> D.13-12-021; D.13-12-023; D.15-07-023; D.15-10-007; D.15-10-044.</p> <p>Further, the Commission has stated that “[c]ertain other environmental organizations may also qualify as Category 3 customers even if the above requirements are not specifically stated in the articles or bylaws as long as the Category 3 customer seeks to protect the broader interest in the environment held by residential ratepayers, most of the membership consists of residential or small commercial electric customers and the financial hardship requirements are met.” D.98-04-059. In the Decision, the Commission clarified its “previously articulated interpretation that compensation be proffered only to customers whose participation arises directly from their interests as customers.” <i>Id.</i> The Commission explained that “[w]ith respect to environmental</p>	

<sup>1</sup> 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.

<p>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 interest from the interests represented by Commission staff, for example.” <i>Id.</i></p> <p>The Clean Coalition meets the definition of Category 3 customer because it is a non-profit organization representing California ratepayers in our mission to modernize the electric grid, recognize the value of distributed energy resources, and avoid unnecessary procurement of generating resources that are expensive and harmful to the environment. The Clean Coalition is active in front of state PUCs, the Federal Energy Regulatory Commission, and other California agencies—advocating for more environmentally friendly policies that support increased adoption of distributed energy resources. The Clean Coalition therefore qualifies as a Category 3 customer under section 1802(b)(1)(C) of the Public Utilities Code and the Commission’s decisions applying this section to environmental organizations.</p>	
<p>Do you have any direct economic interest in outcomes of the proceeding?<sup>2</sup></p> <p>Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/></p> <p>If “Yes”, explain:</p>	
<p><b>B. Conflict of Interest (§ 1802.3)</b></p>	
<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><input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p><b>C. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)):</b></p>	
<p>1. Is the party’s NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: 6/12/2015</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>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)?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>2a. The party’s description of the reasons for filing its NOI at this other time:</p> <p>The Clean Coalition first filed an NOI on July 10, 2015, which was within 30 days of the Prehearing Conference. This amended NOI responds to questions the Administrative Law Judge</p>	

<sup>2</sup> See Rule 17.1(e).

issued on October 9, 2015.

2b. The party's information on the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, Administrative Law Judge's ruling, or other document authorizing the filing of NOI at that other time: A.15-02-009 EDF/KAR 10/9/2015

**PART II: SCOPE OF ANTICIPATED PARTICIPATION  
(Completed by the party 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:

The Clean Coalition intends to participate in this proceeding to ensure that the deployment of EV infrastructure is planned and executed in coordination the development of other cost-effective distributed energy resources ("DER"). Infrastructure deployment should not be narrowly focused on the needs of the EV charging stations merely as new load, but as a visible and controllable demand side resource. Further, the Clean Coalition will participate to coordinate this proceeding with other relevant proceedings in which we are active, including the Distribution Resources Plans, Rulemaking 14-08-013; Integrated Demand Side Management, Rulemaking 14-10-003; and Demand Response, Rulemaking 13-09-011. We will bring our expertise on issues related to locational value and monetizing grid services that various DER are capable of providing alone or in tandem with other DER.

The party's explanation of how it plans to avoid duplication of effort with other parties:

Pursuant to D.98-04-059, Finding of Fact 13, an intervenor must show that it will represent customer interests that would otherwise be under-represented.

The Clean Coalition can be distinguished from other parties by its focus on advanced inverter capabilities and distribution system modeling to integrate high levels of DER. We have also developed expertise on locational value, procurement processes, and portfolio optimization. Further, the Clean Coalition offers a unique perspective through its experience working with utility, ratepayer, environmental, public agency, and industry stakeholders. The Clean Coalition will continue to coordinate comments with parties with related interests to avoid duplication of effort.

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).

The Clean Coalition will continue to be engaged in this proceeding. The Clean Coalition plans to provide comments at each appropriate stage, participate in workshops, submit testimony and participate in hearings if deemed necessary, and file briefs and comments on decisions.

<b>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)):</b>				
<b>Item</b>	<b>Hours</b>	<b>Rate \$</b>	<b>Total \$</b>	<b>#</b>
<b>ATTORNEY, EXPERT, AND ADVOCATE FEES</b>				
Brian Korpics	100	\$220	\$22,000	
Kenneth Sahn White	50	\$310	\$15,500	
<b>Subtotal: \$37,500</b>				
<b>COSTS</b>				
Copying and mailing expenses		\$150		
<b>Subtotal: \$150</b>				
<b>TOTAL ESTIMATE: \$37,650</b>				
<p><b>Estimated Budget by Issues:</b> The Clean Coalition reasonably estimates that it will allocate its time on the following issue areas:</p> <ul style="list-style-type: none"> <li>• Ensuring that the deployment of EV infrastructure aligns with the development of other cost-effective DER (75%); and</li> <li>• Coordinating efforts with the Distribution Resources Plans and other related proceedings (25%).</li> </ul> <p>The Clean Coalition will also be submitting a first-time representative rate request of approximately \$220 for Brian Korpics as part of the Clean Coalition's intervenor compensation request in this proceeding. The reasonableness of hourly rates requested for Clean Coalition's attorneys and experts will be addressed in our Request for Compensation.</p>				

**PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**  
**(Completed by party intending to claim intervenor compensation)**

<b>A. The party claims "significant financial hardship" for its Intervenor Compensation Claim in this proceeding on the following basis:</b>	<b>Applies (check)</b>
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	<input type="checkbox"/>
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)).	<input checked="" type="checkbox"/>
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)).	<input checked="" type="checkbox"/>
Commission's finding of significant financial hardship made in proceeding number: R.13-09-011 (D.15-10-044)	
Date of Administrative Law Judge's Ruling (or CPUC Decision) in which the finding of significant financial hardship was made: 10/22/2015	

<p><b>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:</b></p>
<p>The Clean Coalition received a ruling of significant financial hardship in R.13-09-011 within the past year. <i>See</i> D.15-10-044 (Oct. 22, 2015). Therefore, the rebuttable presumption applies. The Clean Coalition has received the same finding in other Commission proceedings, including R.12-03-014.</p> <p>Further, the economic interest of individual Clean Coalition subscribers is small in comparison to the costs of effective participation in the proceeding. The Clean Coalition represents the interests of its subscribers in California who are customers of utilities under the jurisdiction of the Commission. Our subscribers share our goal of promoting policies that modernize the energy grid, increase use of distributed energy resources, and prevent new generating resources that are expensive and harmful to the environment. We estimate that well over half of our 3,050 subscribers who reside in California are residential utility ratepayers. These customers share an interest in the environmental and economic impacts of this proceeding. Some of the Clean Coalition’s California resident subscribers may eventually experience lower and/or more stable electricity bills because of the Clean Coalition’s contribution in this proceeding.</p> <p>The Clean Coalition does not anticipate any challenge to its eligibility for compensation in this proceeding. If any party does attempt to challenge the Clean Coalition’s eligibility, the Clean Coalition requests that it be granted the opportunity to reply to such party’s allegations within 10 days after the service of such filing.</p>

**ADMINISTRATIVE LAW JUDGE RULING**

<p><b>1. The NOI has not demonstrated the party’s status as a “customer.”</b></p>	<p><b>X</b></p>
<p>The October 9, 2015 ruling directed Clean Coalition (CC) to complete a showing of customer status. The amended NOI responded to the ruling.</p> <p>CC claims customer status under §1802(b)(1)(C) as an organization authorized, pursuant to its bylaws, to represent residential or small commercial electric customers. CC is a direct project of its fiscal sponsor, Natural Capitalism Solutions (NCS), and is governed by its bylaws.</p> <p>NCS’s bylaws, as recently amended, contain the following clause:</p> <p style="padding-left: 40px;">Natural Capitalism Solutions is authorized to represent the interests of residential electric customers in front of state and federal government entities in order to promote a more sustainable energy system (NCS’s bylaws, Art. 13).</p> <p>The bylaws provide this authorization as a means to accomplish NCS’s purpose of promoting</p>	

a sustainable energy system. CC's activities reflected in the proceeding's record conform to this purpose. Neither the bylaws, nor the record demonstrate that CC's *raison d'être* is to represent residential customers.<sup>3</sup> The facts show CC is an active part of the distributed energy resources (DER)/wholesale distributed generation (WDG) industry and market.<sup>4</sup> This creates an obstacle to CC's ability to claim compensation. CC's mission is to accelerate the transition to renewable energy and a modern grid through technical, policy, and project development expertise. CC works to remove barriers to procurement and interconnection of DER and establish market mechanisms that realize the full potential of integrating these solutions.<sup>5</sup> CC contracts and partners with municipalities, grid owners and operators, utilities, including PG&E (the applicant in this proceeding), and other renewable energy industry and market stakeholders. CC identifies and evaluates for them DER siting opportunities; creates power-flow modeling platforms, tools, and methodologies; models the local grid; develops Feed-In Tariff programs; consults on the feasibility, design, and implementation of micro-grids; designs and implements wholesale distributed generation and intelligent grid; consults on the distributed generation development, etc. CC's staff members provide utility companies guidance on policy options to leverage distributed generation; design heating, ventilation and air conditioning demand response; design and implement the solar power purchase program; design and administer requests for proposals process for solar installations and deployment of the micro-grid. Some of CC's DER/WDG projects are on a paid basis,<sup>6</sup> while some are not – but remunerations for unpaid projects may not be necessarily immediate or monetary.<sup>7</sup>

<sup>3</sup> The Commission explained: “The third category would consist of groups whose *raison d'être*, as demonstrated in their bylaws or articles of incorporation, is the representation of residential consumers.” D.86-05-007, 1986 Cal. PUC LEXIS 287, \*6 – 7; 21 CPUC2d 99; *see, also* D.91-11-014, fn. 2 at 2; and D.98-04-059 at 30.

<sup>4</sup> *See*, NOI Part I(3), Attachment to the NOI, and CC's website at <http://www.clean-coalition.org>.

<sup>5</sup> *See*, NOI Part I(3) and CC's website at <http://www.clean-coalition.org>.

<sup>6</sup> For example, CC's work for Southern California Edison Company, Alameda Municipal Power, etc. – *see* Attachment to the NOI at 3.

<sup>7</sup> For example, CC provided technical and policy expertise to Los Angeles Department of Water and Power (LADWP) in its efforts to seek adoption of the ordinance authorizing LADWP to enter into contracts for its Feed-In Tariff program. Since CC has done Feed-In Tariff program design projects and thus is a likely contractor for LADWP, this unpaid work for LADWP may directly link to the potential future contracts with that agency. Certain voluntary work may also be a pre-requisite to economic

As a competitive part of the industry and market CC is not a “customer” contemplated by the statute. The Commission excludes “from the definition of customer a competitor of a utility when the competitor is advocating for changes expanding its opportunities to compete.”<sup>8</sup> We have denied customer status to entities that are part of the industry or market. For example, in D.88-12-034, the Commission concluded that only participation on behalf of the interests as customers is covered under the program, and denied eligibility to a company that provided services in the same market as the applicant.<sup>9</sup> Similarly, in D.00-04-026, the Commission analyzed the customer status of the intervenor and found it participated as a competitor rather than a representative of PG&E’s customers and thus was not eligible. The Commission set the following policy guidelines:

[W]e find that it makes sound policy sense to preclude competitors that have a clear and substantial competitive interest in an issue from claiming compensation for advocacy efforts on that issue. We believe that an intervenor ultimately funded by ratepayers should be single-mindedly pursuing the interest of the utility customers that it purportedly represents. The intervenor compensation program should be implemented in a manner that ensures customer interests are represented by entities free from conflicts that may arise in representing two interests, the competitor's as a competitor and the ratepayers' as customers (either residential or business). D.00-04-026, 2000 Cal. PUC LEXIS 203, \*19.

As a contractor-competitor in the DER/WDG industry and market CC can benefit “materially and directly” from its participation in this proceeding.<sup>10</sup> The Intervenor Compensation program, on the other hand, was designed to remove financial barriers to effective participation on behalf of residential or small commercial electric utility customers.<sup>11</sup>

CC asserts it is also eligible as an environmental organization because it represents California ratepayers in CC’s mission to modernize the electric grid and recognize the value of the

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benefits. For example, for the power-flow modeling for PG&E’s micro-grid project, CC will receive a grant from Wells Fargo. See Attachment 2 to the NOI and CC’s website at [www.clean-coalition.org](http://www.clean-coalition.org).

<sup>8</sup> D.00-04-026, 2000 Cal. PUC LEXIS 203, \*19.

<sup>9</sup> 1988 Cal. PUC LEXIS 770, \*6-8; 30 CPUC2d 9

<sup>10</sup> D.07-06-023, 2007 Cal. PUC LEXIS 272, \*11.

<sup>11</sup> See, for example, D.98-04-059 at 26.

<p>distributed energy resources that are better for the environment. Contrary to CC’s claim, the fact that renewables are better for the environment does not transform utilities, municipalities, trade organizations, and other renewables industry and market participants into environmental organizations, similar to, for example, the Sierra Club. Rather, CC’s role as an advocate is comparable to that of nonprofit trade associations with a focus on common business interests.</p>	
<p><b>2. The NOI has not demonstrated significant financial hardship.</b></p> <p>As shown in section 1, above, because CC is a part of the industry and market and can benefit economically from its participation in this proceeding, CC is not a “customer” under §1802(b)(1)(C) and has not demonstrated significant financial hardship.</p> <p>We are cognizant of the July 19, 2011 ruling in R.10-05-006 that made a preliminary finding of CC’s eligibility<sup>12</sup> based on CC’s assertions. At that time CC (formed in the same year) was a new project, and its role in the DER/WDG industry and market was not apparent or did not exist. Subsequent findings relied on that ruling, and did not require additional information or clarification in support of CC’s status and significant financial hardship. The Commission now has updated information sufficient to review CC’s eligibility.</p> <p>The Commission regrets having to deny eligibility to claim compensation. However, the Commission’s obligation to residential or small commercial customers who must fund compensation awards requires that the Commission make a finding that the intervenor participates, free of conflict, on behalf of these customers. We are unable to do it here.</p> <p>This ruling does not preclude CC from participating at its own costs.</p>	<p><b>X</b></p>

**IT IS RULED that:**

<p>1. The Amended Notice of Intent to claim intervenor compensation filed by the Clean Coalition is rejected.</p>	<p><b>X</b></p>
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<sup>12</sup> No final determination was made in that proceeding because no intervenor compensation decision regarding CC issued.

