



Decision _____

FILED

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

04:59 PM

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| Application of Pacific Gas and Electric Company to Revise its Electric Marginal Costs, Revenue Allocation and Rate Design. (U 39 M) | Application 16-06-013 (Filed June 30, 2016) |
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**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
AND, IF REQUESTED (and []¹ checked), ADMINISTRATIVE LAW JUDGE’S
RULING ON [Agricultural Energy Consumers Association]’S SHOWING OF
SIGNIFICANT FINANCIAL HARDSHIP**

NOTE: After electronically filing a PDF copy of this Notice of Intent (NOI), please email the document in an MS WORD format to the Intervenor Compensation Program Coordinator at Icompcoordinator@cpuc.ca.gov.

| | |
|--|---|
| Customer (party intending to claim intervenor compensation): Agricultural Energy Consumers Association (AECA) | |
| Assigned Commissioner: Carla Peterman | Administrative Law Judge: Jeanne M. McKinney |
| 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. | |
| Signature: | /s/ |
| Date: October 11, 2016 | Printed Name: Michael Boccadoro |

**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 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. | <input type="checkbox"/> |

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>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> | |
| <p>2. A Category 2 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. <i>See D.98-04-059 at 30.</i></p> | <input type="checkbox"/> |
| <p>3. A Category 3 customer 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. <i>See D.98-04-059, footnote at 3.</i></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>AECA is an incorporated nonprofit association registered with the California State Secretary of State (C1682808). AECA is authorized pursuant to its articles of incorporation and bylaws to represent and advocate the interests of agricultural customers of electrical and gas utilities in California. As stated in the AECA Bylaws, "The specific purpose of the corporation is to improve agricultural conditions by the promotion, encouragement and fostering of the education of the general public concerning the cost of energy to agriculture, including, but not limited to, participation in the discussion of issues and participation and intervention in governmental proceedings affecting agricultural use of energy and</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.

the cost of energy to agriculture in the State of California.” AECA is not established or formed by a local government entity for the purpose of participating in Commission proceedings, although it does have some public water agencies as members. The treatment of these public water agencies in any subsequent claim for compensation is addressed below.

Current AECA Bylaws are on file with the Commission. (*See, e.g.*, AECA Notice of Intent to Claim Intervenor Compensation in R.11-05-005 and A.11-06-007, filed July 11, 2011 and October 12, 2011, respectively.) Accordingly, pursuant to Commission Rule 17.1(d), AECA does not attach another copy of AECA’s Bylaws with this Notice of Intent to Claim Intervenor Compensation.

At the present time, AECA’s members include individual producers, processors, produce cooling operations, agricultural water agencies and member agricultural associations. The vast majority of these members are direct customers of PG&E, SCE and SDG&E. Approximately 75% are served by PG&E, 20% served by SCE and the remainder served by SDG&E or other utilities. The agricultural associations’ members are not direct customers of the utilities but collectively represent thousands of agricultural customers.

A Category 3 customer is a “representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers or small commercial customers who receive bundled electric service from an electrical corporation.” (Pub. Util. Code § 1802(b)(1)(C).) Public Utilities Code section 1812 explicitly states “A group or association that represents the interests of small agricultural customers in a proceeding and that would otherwise be eligible for an award of compensation pursuant to Section 1804 without the presence of large agricultural customers, as determined by the commission, shall not be deemed ineligible solely because that group or organization also has members who are large agricultural customers.”

In recognition of these provisions, the Commission has consistently awarded intervenor compensation for the membership of AECA with annual electricity bills less than \$50,000. In D.96-11-048, Conclusion of Law 2, the CPUC stated “It is reasonable to exclude AECA members with annual bills in excess of \$50,000 when

considering whether AECA is eligible for compensation.” It is important to note that D.16-08-013, D.15-02-041, D.14-12-069, D.13-02-019, D.07-05-048, D.95-02-093, D.96-08-040, and D.96-02-011 reached the same conclusion. This \$50,000 determination was most recently upheld by the Commission in D.16-08-013.

In those aforementioned decisions, awards of intervenor compensation were made to AECA, specifically excluding members of AECA whose annual electricity bills exceed \$50,000/year, as well as associations and water districts. AECA has recently demonstrated that it is largely composed of small agricultural customers, and has revised its compensation factor as a result of proceeding A.10-03-014 (D.13-02-019), where it was found that a compensation factor of 68% reflected the percentage of AECA members who were “small agricultural customers”. Previously, in proceedings A.04-11-007 and A.04-11-008, D.06-04-065 found that a compensation factor of 77.3% reflected the percentage of AECA members who were “small agricultural customers.” This figure can be updated at the time of request for intervenor compensation or as otherwise requested by the Commission. Despite inflation and rising energy rates, AECA makes no request to alter the \$50,000 “small agricultural customer” determination at this time.

For the purposes of this proceeding, AECA requests to be found eligible as a Category 3 customer intervening on behalf of these small agricultural customers. In filing to claim intervenor compensation, AECA will not request any compensation for its representation on behalf of water districts, which are public agencies, its agricultural associations or for large agricultural customers.

Identify all attached documents in Part IV.

Do you have any direct economic interest in outcomes of the proceeding?³

Yes: No:

If “Yes”, explain:

³ See Rule 17.1(e).

| 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? AECA is an association that represents the interests of agricultural customers of electrical and gas utilities in California, including small agricultural customers of electrical and gas utilities who receive bundled service from utilities. Mr. Boccadoro, AECA’s Executive Director, is AECA’s representative in this proceeding.</p> | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| <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> | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

| C. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)): | Check |
|--|--|
| <p>1. Is the party’s NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: September 12, 2016</p> | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| <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> | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| <p>2a. The party’s description of the reasons for filing its NOI at this other time:</p> | |
| <p>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:</p> | |

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)): |
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| <p>The party’s statement of the issues on which it plans to participate: AECA has been active in Commission proceedings for over 20 years, and AECA intends to be fully involved in all areas of this proceeding as they pertain to agricultural and agricultural processing issues. AECA’s focus will be on rate design and revenue allocation issues. AECA intends to be an active party in the proceeding, including reviewing the utility’s application, submitting data requests, developing testimony and participating in hearings and any settlement discussions.</p> |

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

This participation will not be duplicative of the participation of other parties in this case, in that AECA will be specifically and narrowly addressing issues as they pertain to agricultural and agricultural processing customers. Historically, AECA has offered unique and substantive testimony, and has been awarded intervenor compensation numerous times in recognition of this participation. AECA also coordinates closely with the California Farm Bureau Federation to avoid any unnecessary duplication of issues.

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).

AECA's participation will focus on rate design and rate allocation issues. AECA also intends to fully address issues relating to costs being assigned to customer classes that are growing the fastest, rate stability, new rate proposals and TOU shifts. AECA will also focus on the effects of the drought on agricultural energy rates and revenue.

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 | | | | |
| Ann Trowbridge, Attorney | 100 | \$410 | \$ 41,000 | 1 |
| Steven Moss, Expert | 150 | \$220 | \$ 33,750 | 1 |
| Richard McCann, Expert | 200 | \$210 | \$ 42,000 | 1 |
| Elizabeth Stryjewski | 150 | \$75 | \$ 11,250 | 1 |
| | | | <i>Subtotal: \$ 128,000</i> | |
| OTHER FEES | | | | |
| Michael Boccadoro | 200 | \$215 | \$ 43,000 | 1 |
| Beth Olhasso | 130 | \$155 | \$ 20,150 | 1 |
| | | | <i>Subtotal: \$ 63,150</i> | |
| COSTS | | | | |
| Travel | 60 | \$7,000 | \$7,000 | 1 |
| Copies and Postage | | \$1,000 | \$1,000 | 1 |
| Telephone and Other Expenses | | \$550 | \$550 | 1 |
| | | | <i>Subtotal: \$ 8,550</i> | |
| | | | TOTAL ESTIMATE: \$199,700 | |

Estimated Budget by Issues: No. 1. At this point in the proceeding, AECA's estimate of potential compensation is necessarily quite subjective as the full scope of issues and proceeding

processes are still being determined. AECA’s legal costs will be driven by the number of issues litigated and the length of the hearings. AECA also expects its participation to be higher than usual because of the time needed to discuss the proposed rate reform for the agricultural class. Additionally, there will be significant time needed to discuss and propose ideas to mitigate the effects of the continued drought on the agricultural class. The table above outlines the estimated costs of fully litigating this proceeding. It is not expected that costs will run this high, and these estimates are consistent with previous estimates by AECA.

Proper compensation for claim preparation and travel will be appropriately reflected in any subsequent claims for compensation. These hourly costs are consistent (and in the case of attorney fees, lower) with historical estimates and compensation awards by AECA.

All persons listed above have been previously awarded compensation upon application of AECA. All rates are requested at the amounts approved in Decision 16-08-013.

**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 | <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: | |

| | |
|---|--|
| <p>AECA has been awarded intervenor status in numerous proceedings under this finding of significant economic hardship. The most recent finding of significant hardship was issues in proceeding number A. 13-04-012.</p> <p>Date of Administrative Law Judge’s Ruling (or CPUC Decision) in which the finding of significant financial hardship was made: The ALJ Ruling A. 13-04-012 finding of significant hardship was issued on July 29, 2013.</p> | |
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| <p>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> |
| <p>AECA has been previously found eligible for this hardship for the portion of its membership that constitutes “small agricultural customers” per Public Utilities Code section 1812 (see D.13-02-019 (and ALJ Ruling in A.10-03-014), D. 07-05-048 and D. 06-04-065).</p> <p>The cost of AECA’s participation in this proceeding, which is estimated to be approximately \$200,000, substantially outweighs the benefit to the individual small agricultural members it represents. Those members’ individual interests in this proceeding are estimated to be approximately 10% in potential annual rate changes. These economic interests are small relative to the costs of participation. It is very unlikely that AECA’s small agricultural members will see financial benefits that exceed the costs of intervention.</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 |
| | |

ADMINISTRATIVE LAW JUDGE RULING⁴
(Administrative Law Judge completes)

| | Check all that apply |
|--|-----------------------------|
| 1. The Notice of Intent (NOI) is rejected for the following reasons: | <input type="checkbox"/> |
| a. The NOI has not demonstrated the party’s status as a “customer” for the following reason(s): | <input type="checkbox"/> |
| b. The NOI has not demonstrated that the NOI was timely filed (Part I(B)) for the following reason(s): | <input type="checkbox"/> |
| c. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s): | <input type="checkbox"/> |
| 2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above). | <input type="checkbox"/> |
| 3. The NOI has not demonstrated significant financial hardship for the following reason(s): | <input type="checkbox"/> |
| 4. The Administrative Law Judge provides the following additional guidance (see § 1804(b)(2)): | <input type="checkbox"/> |

IT IS RULED that:

| | |
|---|--------------------------|
| 1. The Notice of Intent is rejected. | <input type="checkbox"/> |
| 2. The customer has satisfied the eligibility requirements of Pub. Util. Code § 1804(a). | <input type="checkbox"/> |
| 3. The customer has shown significant financial hardship. | <input type="checkbox"/> |
| 4. 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. | <input type="checkbox"/> |
| 5. Additional guidance is provided to the customer as set forth above. | <input type="checkbox"/> |

Dated _____, at San Francisco, California.

Administrative Law Judge

⁴ A Ruling needs not be issued unless: (a) the NOI is deficient; (b) the Administrative Law Judge 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).