



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, And Recovery of Associated Costs Through Proposed Ratemaking Mechanisms (U39E).	Application 16-08-006 (Filed August 11, 2016)	11-04-16 08:09 AM
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**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
AND, IF REQUESTED (and; []¹ checked), ADMINISTRATIVE LAW JUDGE'S
RULING ON FRIENDS OF THE EARTH'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 lcompcoordinator@cpuc.ca.gov.

Customer (party intending to claim intervenor compensation): Friends of the Earth	
Assigned Commissioner: Michael Picker	Administrative Law Judge: Peter V. Allen
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/ Frank R. Lindh
Date: November 4, 2016	Printed Name: Frank R. Lindh Attorney for Friends of the Earth

**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. 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.	<input type="checkbox"/>
2. A Category 2 customer is a representative who has been authorized by actual	

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>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</i> D.98-04-059 at 30.</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</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>Friends of the Earth ("FOE") is a non-profit organization within the meaning of Section 501(c)(3) of the United States Internal Revenue Code. FOE has worked for over forty years to reduce economic drivers that encourage environmental degradation from nuclear energy and address the threats to human health and the environment that nuclear power poses. FOE and its affiliates have used, and continue to use, technical and policy expertise to combat irresponsible nuclear development in state, federal and international arenas, and to replace nuclear energy with renewable and alternative energy sources that do not emit greenhouse gases. FOE has been an advocate for this cause in California and other states, including Iowa, Missouri, North Carolina, before various federal agencies, and throughout the Pacific Rim. FOE's nuclear campaign works to reduce risks for people and the environment by supporting efforts to close and defund existing nuclear reactors and fighting proposals to design and build new reactors. FOE has actively participated in proceedings before this Commission and the Nuclear Regulatory Commission on matters related to Diablo Canyon Power Plant. FOE also actively participated before this Commission on matters related to the closure of the San Onofre Nuclear Generating Station (SONGS) as well as in past Long Term Procurement Plan (LTPP) proceedings. FOE has been awarded intervenor compensation for its substantial contributions to the outcomes in prior proceedings before this Commission</p> <p>FOE's focus on preventing the procurement of irresponsible nuclear energy generators</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.

qualifies it for Category 3 customer status. FOE is specifically authorized by its bylaws, articles of incorporation and policy manual to “transfor[m] the economy so it protects the environment and enhances people’s well being,” a necessary corollary of which is the representation of the interests of residential and small commercial customers of electric utilities. See Cal. Pub. Util. Code § 1802(b)(1)(C). Article 1 of FOE’s Bylaws authorizes FOE to participate in regulatory proceedings to further its purpose of preventing the development of nuclear resources:

“In pursuit of these purposes, the Corporation will conduct research and education and other activities consistent with [FOE’s Section 501(c)(3) tax status].” (FOE Bylaws § 1.02.)

Section 3.06 of FOE’s bylaws further authorizes the creation of a Legal Committee “with full authority to review, evaluate and approve all litigation. Upon approval of the Committee, the Committee may initiate litigation, joining a lawsuit or filing an amicus brief.” (FOE Bylaws § 3.06.) In order to make the extent of this authorization even more apparent on its face, FOE recently amended Section 3.06 of its Bylaws to explicitly state that “[s]ubject to any procedures adopted by the Legal Committee, the Corporation may also participate in formal administrative proceedings, settlements and informal legal actions.” (FOE Bylaws, as amended June 10, 2016, at § 3.06.) Although this authority has always been implicitly granted in every iteration of FOE’s bylaws, this amended language makes FOE’s ability to represent residential ratepayer interests before the Commission even more apparent.

A copy of FOE’s Bylaws was previously filed with the Commission on May 26, 2016, in Rulemaking 16-02-007. Accordingly, FOE is not resubmitting its Bylaws with this Notice,

FOE’s members share its core purposes. FOE members are required to make dues payments. (See FOE Bylaws, Art. V, § 5.01.) FOE advances the interests of its members, a group which includes residential ratepayers located in California. Friends of the Earth’s nuclear campaign works to reduce the risks to people and the environment posed by nuclear energy by providing independent expert review, testimony, and working accountability and transparency in public proceedings. The organization works to ensure that public safety is not endangered by nuclear reactors and that neither ratepayers nor taxpayers are unfairly allocated the costs of nuclear facilities throughout the country. FOE also strives to ensure that, as nuclear power is phased out, it is not replaced by greenhouse-gas-emitting resources that contribute to global climate change.

FOE’s organizational purposes, and its members’ shared interest in those purposes, are consistent with Commission guidance on Category 3 customer eligibility with regard to environmental groups. Commission precedent shows that FOE’s Bylaws adequately establish the members’ broad interest in the environmental and societal impacts the Commission has previously recognized as sufficient to establish Category 3 status:

“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.” D.98-04-059, mimeo, fn 14 at 16-17.

The Commission, moreover, previously has found that FOE qualifies for Category 3 customer status. This prior finding properly can be relied upon to confirm FOE’s Category 3 customer status in the instant proceedings. In Decision 14-10-022, the Commission found as follows:

“Based on FOE’s showing in its NOI, we determine that FOE qualifies for Category 3 customer status consistent with the requirements of Pub. Util. Code § 1802(b). In addition, FOE has demonstrated significant financial hardship consistent with the requirements of Pub. Util. Code § 1802(g).” (D.14-10-022, mimeo p. 4 (Oct. 2., 2014).)

The Commission’s Intervenor Compensation Program Guide also supports FOE’s Category 3 status. The Guide states that certain environmental organizations may qualify as Category 3 customers, “as long as these organizations seek to protect the broader interests in the environment held by residential ratepayers, and address the customers’ environmental concerns.” FOE’s focus on reducing economic drivers for environmentally harmful technologies is of considerable benefit to residential ratepayers in California. This places FOE within the spectrum of groups that the Commission previously has recognized as representing residential ratepayer concerns. See, e.g., D.11-03-025 at 3-4; D.09-09-045 at 6.

FOE’s California membership represents over 20% of its total nationwide membership. All of FOE’s California members are in the residential class, including residential customers of electrical corporations subject to the Commission’s jurisdiction. FOE therefore satisfies the statutory threshold to qualify as a Category 3 customer, authorized by its bylaws to “engage in programs to reduce the cost and waste of energy and energy resources and fuels,” a necessary corollary of which is the representation of the interests of residential and small commercial customers of electric utilities in California. FOE respectfully requests that the Commission recognize FOE’s Category 3 customer status so that FOE may further the interest of its members and California residential ratepayers in demonstrating that California’s power needs can be reliably met without the Diablo Canyon Power Plant (DCPP) through continued investment in safe, clean and responsible technologies such as renewable energy and energy efficiency.

Identify all attached documents in Part IV.

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

Yes: No:

FOE is a Section 501(c)(3) non-profit organization and does not have any direct economic interest in the outcome of this proceeding. FOE has no opportunity for direct financial benefit from the Commission's disposition of issues in this case. The consideration of rate recovery from, and future operations of, the DCPD does not provide a direct financial benefit to FOE and FOE's activities are pursuant to its educational, scientific, and charitable purposes, as described in Article I of its Bylaws.

If "Yes", explain:

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
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 type="checkbox"/> No

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: 10/6/2016	<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
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, Administrative Law Judge's ruling, or other document authorizing the filing of NOI at that other time:	

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)):
The party's statement of the issues on which it plans to participate:

³ See Rule 17.1(e).

FOE has participated actively in prior proceedings before this Commission and before the Nuclear Regulatory Commission concerning the question whether the Diablo Canyon Power Plant should continue to operate or whether it should be closed. FOE has consistently argued that the cost to ratepayers and the risks to health and safety risks far outweigh any benefit of continued operation. FOE was active in initiating negotiations with PG&E commencing in January 2016 regarding Diablo Canyon Power Plant, and FOE participated in negotiations leading to execution of the Joint Proposal dated June 20, 2016, to which FOE is a signatory. The Joint Proposal forms the basis of PG&E's Application in this case (A.16-08-006). Under the terms of the Joint Proposal, the Diablo Canyon facility will be closed at the end of its current operating licenses in 2024 and 2025, and will be replaced with a variety of greenhouse-gas-free resources to be procured at a reasonable cost to ratepayers. As it did in the negotiations leading up to execution of the Joint Proposal, FOE intends to lend its special expertise to these proceedings and will actively support approval of the Joint Proposal as PG&E has set forth in its Application and supporting testimony. The Commission record will benefit from the unique perspective FOE will be able to bring to the issues in this case.

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

FOE is mindful of its obligation to work as efficiently and effectively as possible under the Intervenor Compensation guidelines, and in particular to avoid duplicating the efforts of other parties. Toward this end, FOE pledges to do the following:

- Whenever feasible, FOE will attempt to prepare joint submissions along with aligned parties, particularly the other environmental advocacy organizations that are signatories to the Joint Proposal (*i.e.*, Alliance for Nuclear Responsibility, Environment California, and the Natural Resources Defense Council). Even when joint submissions are not feasible, FOE will attempt to coordinate with these aligned parties to avoid duplication. Already in this docket FOE has participated in several joint submissions with aligned parties.
- An important part of FOE's mission is to protect the interests of low-income and disadvantaged communities, and to this end FOE will be a strong advocate in this case for cost-effective solutions that do not impose undue burdens on PG&E's ratepayers. FOE has close ties with the principal ratepayer advocacy organizations in this case, the Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN). FOE will coordinate with these organizations, and defer to them when reasonable, so as to not duplicate their advocacy on behalf of PG&E's ratepayers.
- In preparing testimony and in participating at the evidentiary hearings, FOE will make a strong effort to bring its own, unique expertise to bear. FOE will be attentive to the presentations of other parties and will be vigilant in not presenting information that is redundant or duplicative.
- FOE will attempt to submit joint post-hearing briefs with aligned parties.
- Where it appears that issues can be resolved via settlement, and that a settlement might help dispose of otherwise contested issues in an amicable and cost-effective manner, FOE will use its skills and resources to help encourage such settlement efforts.
- FOE already has demonstrated its ability and commitment to resolve contested issues through negotiation rather than litigation by virtue of its participation in the negotiations leading up to execution of the Joint Proposal dated June 20, 2016, that forms the basis for PG&E's Application in this proceeding.

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).

FOE in this case will have the services of experienced and capable staff and technical consultants, and FOE is represented by legal counsel with many years of experience appearing before this Commission and similar agencies. FOE intends to be an active participant in all aspects of the case, including the following:

- As described above and in its Motion for Party Status in this case, FOE was a key participant in the negotiations leading up to execution of the Joint Proposal dated June 20, 2016, which forms the basis for PG&E's Application in this case.
- FOE intends to submit testimony explaining the benefits of the Joint Proposal and supporting PG&E's request to replace Diablo Canyon with greenhouse-gas-free resources at reasonable cost to its customers.
- FOE intends to participate actively in the evidentiary hearings. FOE will present argument and cross-examine witnesses as appropriate to make its positions clear.
- FOE expects to file post-hearing briefs, comments and reply comments concerning any Proposed Decision issued by the Assigned Commissioner and the Assigned Administrative Law Judge, etc.
- As discussed above, FOE will make a concerted effort to avoid duplication of effort with other parties, and FOE will endeavor to make joint submissions with aligned parties when feasible.

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				
Frank Lindh (Attorney)	250	\$570	\$142,500	
S. David Freeman	200	\$475	\$95,000	
Damon Moglen	920	\$170	\$153,000	
Erich Pica	50	\$200	\$10,000	
Michelle Chan	50	\$175	\$8,750	
Ben Schreiber	100	\$115	\$11,500	
Consultant Study			\$60,000	
Subtotal: \$480,750				
OTHER FEES				
Subtotal: \$0				
COSTS				
Travel – Three people on six trips			\$36,000	
Copy & Mailing			\$500	

Subtotal: \$36,500		TOTAL ESTIMATE: \$517,250
Estimated Budget by Issues:		
Negotiation of Joint Proposal:	25%	
Orderly Closure of Diablo Canyon	25%	
Replacement Procurement	50%	
<p>All of these costs will be incurred in connection with FOE’s position that continued reliance on energy from the Diablo Canyon Power Plant as a baseload power source for PG&E’s customers would be unduly costly and environmentally harmful as compared to the alternative approach in the Joint Proposal, which calls for an orderly shut-down of the Diablo Canyon plant at the end of its current operating licenses in 2024 and 2025, and replacement with renewable and other alternative energy sources that will not produce any increase in emission of greenhouse gases. FOE will demonstrate through its participation in this case that the approach put forth in the Joint Proposal is consistent with the goals of SB 350 and other California state laws and policies.</p>		
<p><i>When entering items, type over bracketed text; add additional rows to table as necessary. Estimate may (but does not need to) include estimated Claim preparation time. Claim preparation time is typically compensated at ½ professional hourly rate.</i></p>		

**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 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)). Commission’s prior finding of significant financial hardship made in proceeding number: A.15-09-001 Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2017. (U39M) Date of Administrative Law Judge’s Ruling in which the finding of significant financial hardship was made: July 11, 2016 (Ruling of ALJ Stephen Roscow)	<input checked="" type="checkbox"/>

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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:

**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"/>

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).

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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