



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED

Application of Pacific Gas and Electric Company (U 39 E) for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, and Recovery of Associated Costs Through Proposed Ratemaking Mechanisms.	11-03-16 A. 16-08-006 04:59 PM (Filed August 11, 2016)
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NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION AND, IF REQUESTED (and []¹ checked), ADMINISTRATIVE LAW JUDGE’S RULING ON THE SIERRA CLUB’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): Sierra Club	
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/ Matthew Vespa
Date: November 3, 2016	Printed Name: Matthew Vespa

**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>Sierra Club meets the third definition of "customer" provided in Public Utilities Code section 1802(b)(1)(C). Sierra Club is a "representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers" Sierra Club is a non-profit, member-based, "public benefit" California corporation with over 600,000 members nationwide and more than 140,000 members living in California. Sierra Club's membership consists entirely (100%) of residential ratepayers, many of whom are customers of SDG&E and SoCal Gas, and whom would be affected by the outcome of this Application. (Sierra Club does not have easily obtainable data on the percentage of its California members that are customers of individual IOUs or POUs.)</p> <p>Sierra Club's Articles, Bylaws, Standing Rules and policies authorize and require it to represent the environmental interests of its members. Sierra Club's Board of Directors is democratically elected by its members. (See Sierra Club Standing Rule ("S.R.") 4.8.1.) Sierra Club is expressly authorized to participate in environmental legal actions to advance its mission, including lawsuits and administrative proceedings. (See S.R. 5.15.1 and 9.1.1.) For decades, Sierra Club has participated in environmental lawsuits and administrative proceedings, and has appeared many</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.

times before the California Public Utilities Commission. For example, Sierra Club has participated and been awarded intervenor compensation for substantial contributions in SDG&E's Carlsbad Application (A.14-07-009), SCE's Moorpark Application (A.14-11-006) and the Net Metering Successor Tariff docket (R.14-07-002). Open proceedings Sierra Club is active include the Demand Response rulemaking (R.13-09-011) and LTPP-IRP (R.16-02-007)..

Sierra Club's environmental concerns encompass a broad range of energy and pollution issues. In California, Sierra Club supports efforts to develop cost-effective incentives and policies that promote local clean energy development, and that also help the state meet its air quality and climate protection goals, create jobs for California families, and reduce our dependence on dirty forms of energy.

The interests of the customers represented by Sierra Club are unique and well suited to this proceeding and are not adequately represented by other parties that have intervened in this proceeding.³ As the Commission has recognized: "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, at 29 n. 14. Sierra Club brings to the proceeding its members' unique focus on all the costs and benefits of our use of energy, including the benefits for public health and the environment of increasing reliance on renewable generation sources and energy efficiency and redirecting investment from fossil fuel infrastructure. The Commission has accordingly approved Sierra Club's intervention with entitlement to compensation on several occasions. See, e.g., D.16-09-034, D. 16-05-046, D. 16-01-022, D. 15-01-044.

Sierra Club, consistent with its governing documents, appropriately represents the environmental and energy conservation interests of its members who are California IOU customers. Sierra Club therefore qualifies as a "customer" as defined in section 1802(b)(1)(C) of the Public Utilities Code and the Commission's decisions applying this section to environmental organizations.

Identify all attached documents in Part IV.

Attachment 1: Certificate of Service;

³ See D.07-03-011 at p. 7 ("Section 1801.3(f) requires an intervenor to avoid unnecessary participation that duplicates that of similar interests otherwise adequately represented by another party, or unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation if its participation materially supplements, complements, or contributes to that of another party if that participation makes a substantial contribution to the commission order.").

Attachment 2: Sierra Club Bylaws and Standing Rules;
Attachment 3: Sierra Club Articles of Incorporation.

Do you have any direct economic interest in outcomes of the proceeding?⁴

Yes: No:

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: N/A	
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: N/A	

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: As expressed in Sierra Club’s Protest to the Diablo Application, Sierra Club has two primary concerns in the proceeding. The first is to ensure that the vision of carbon-free resource replacement articulated in the Diablo Application is meaningfully realized. Sierra Club is concerned that as currently contemplated, the proposed replacement of resources for Diablo does not have the requisite additionality, timing, and ambition to ensure reliance on fossil fuels

⁴ See Rule 17.1(e).

does not increase upon Diablo’s retirement. Sierra Club therefore intends to participate in issues in this proceeding related to the replacement of resources for Diablo.

The second issue is that ecological value of lands surrounding the facility that are owned by PG&E or an affiliate (the “Diablo Lands”) is not comprised by sale of these lands to private entities for residential or commercial development. Sierra Club understands there are currently different views on whether this issue is properly within the scope of this proceeding. Should issues around the Diablo Lands be found to be in the scope of PG&E’s Application, Sierra Club intends to also focus on this issue.

The party’s explanation of how it plans to avoid duplication of effort with other parties:
Sierra Club has reviewed the protests and related filings in this proceeding and reached out to many of the parties that share Sierra Club’s concerns. Sierra Club intends to coordinate closely with these parties as the proceeding progresses.

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).
Sierra Club intends to participate in evidentiary hearings, and submit briefing on the issues identified above. Sierra Club is in the process of speaking to parties that share similar views and objectives to determine the need for additional or joint expert testimony.

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				
Matt Vespa (attorney)	150	\$350	\$52,500	1
Expert Witness, to be determined	100	\$200	\$20,000	2
Subtotal: \$72,500				
OTHER FEES				
[Person 1]				
[Person 2]				
Subtotal: \$				
COSTS				
[Item 1]				
[Item 2]				
Subtotal: \$				
			TOTAL ESTIMATE: \$72,500	

Estimated Budget by Issues: Sierra Club intends to focus primarily on carbon free replacement issues. This may also include issues around cost allocation for those resources. Should issues concerning sale of Diablo Canyon lands for development be in the scope of this proceeding, Sierra Club estimates 15% of its time would be spent on these concerns.

Comments/Elaboration (use reference # from above):

#1. Mr. Vespa’s approved rate for 2016 is \$350. Mr. Vespa intends to seek his second 5% step increase for attorneys with 13+ years’ experience for work done in 2017.

#2. This entry is a placeholder should Sierra Club determine, after consulting with parties with similar views that may also be filing testimony, that additional (or jointly sponsored) expert testimony will contribute to a more informed resolution of this proceeding.

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.

**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)). Commission’s finding of significant financial hardship made in proceeding number: R.14-02-001 Date of Administrative Law Judge’s Ruling (or CPUC Decision) in which the finding of significant financial hardship was made: June 25, 2014 (please note, this finding is now over one year old)	<input checked="" type="checkbox"/>

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:
Sierra Club has received many findings of significant financial hardship in the past in similar proceedings, including in A.10-03-014, R.08-08-009, R.10-05-006, R.12-06-013, and most recently, in R. 14-02-001.

The latest finding, in R. 14-02-001, was granted on July 25, 2014. In that ruling, ALJ Gamson found that “Sierra Club demonstrated that its estimated cost of participating in this proceeding far exceeds the economic interests of the individual members of Sierra Club or of Sierra Club itself.”

The reasoning applies to this proceeding. We estimate the cost of Sierra Club’s effective participation in this proceeding is \$72,500. Sierra Club is seeking to ensure additional and cost-effective carbon-free replacement resources for Diablo to avoid the cost of increased reliance on fossil fuels upon Diablo’s retirement. It is difficult to estimate today what impact this proceeding could have on the bills of Sierra Club’s California members, but it is highly likely the individual benefit will be small, and unlikely that our members will see financial benefits that exceed the cost of Sierra Club’s participation. Therefore, Sierra Club requests a finding of significant financial hardship pursuant to Public Utilities Code section 1802(g).

Sierra Club does not anticipate any challenge to its eligibility for compensation in this proceeding. If any party does attempt to challenge Sierra Club’s eligibility, Sierra Club requests that it be granted the opportunity to reply to such party’s allegations within 10 days after the service of such filing.

**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
2	Sierra Club Bylaws and Standing Rules
3	Sierra Club Articles of Incorporation

ADMINISTRATIVE LAW JUDGE RULING⁵
(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	<input type="checkbox"/>

⁵ 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).

the following reason(s):	
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