

Decision \_\_\_\_\_

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

Application of Pacific Gas & Electric Company  
To Recover the Costs Associated with Renewal of  
the Diablo Canyon Power Plant Operating  
Licenses.

Application 10-01-022  
(Filed January 29, 2010)

**DECISION ON INTERVENOR COMPENSATION CLAIM OF ALLIANCE FOR  
NUCLEAR RESPONSIBILITY FOR SUBSTANTIAL CONTRIBUTION TO  
DECISION 12-02-004**

<b>Claimant: Alliance for Nuclear Responsibility</b>	<b>For contribution to Decision (D.) 12-02-004</b>
<b>Claimed (\$): \$35,232.55</b>	<b>Awarded (\$): \$25,383.00</b>
<b>Assigned Commissioner: Mike Florio</b>	<b>Assigned Administrative Law Judge (ALJ): ALJ Robert Barnett</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	Decision grants a motion to dismiss the Application for ratepayer financed license renewal funding for the Diablo Canyon nuclear power plant.
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	Claimant	Commission Verified
<b>Timely filing of notice of intent to claim compensation Notice of Intent (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	4/14/2010	Correct
2. Other Specified Date for NOI:		
3. Date NOI Filed:	5/14/2010	Correct
4. Was the NOI timely filed?		Yes
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	Application (A.) 10-01-022	Correct
6. Date of ALJ ruling:	07/02/2010	Correct
7. Based on another Commission determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
<b>Showing of "significant financial hardship" (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	A.10-01-022	Correct
10. Date of ALJ ruling:	07/02/2010	Correct
11. Based on another Commission determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.12-02-004	Correct
14. Date of Issuance of Final Order or Decision:	2/7/2012	Correct
15. File date of compensation request:	02/28/2012	Correct
16. Was the request for compensation timely?		Yes

**PART II: SUBSTANTIAL CONTRIBUTION****A. Claimant's Contribution to Final Decision**

<b>Contribution</b>	<b>Citation to Decision or record as provided by claimant</b>	<b>Showing Accepted by Commission</b>
1. Protested Pacific Gas and Electric Company's (PG&E) Application as premature because of non-completion of seismic studies as requested of utility in previous Commission Decision.	Claimant's Protest (March 10, 2010) D.07-03-044 March 15, 2007 at 91-93.	No, the Commission did not find that PG&E's application was premature because of non-completion of seismic studies.
2. Filed Rebuttal Testimony noting among other items that Division of Ratepayer Advocates (DRA) failed to acknowledge NRC's Atomic Safety and Licensing Board's comments regarding inadequacy of PG&E's seismic studies. PG&E files "Motion to Strike."  File response to PG&E "Motion to Strike."	Claimant's Rebuttal Testimony (September 17, 2010). D.12-02-004 at 4 (ASLB 52 month delay) Rebuttal withstands "Motion to Strike" by PG&E.	Correct
3. Filed comments opposing proposed Settlement Agreement between PG&E, The Utility Reform network (TURN) and DRA citing inadequacy of record and failure of PG&E to complete Assembly Bill (AB) 1632 seismic studies prior to submitting application per D.07-03-044 maintaining that the Application is premature.	Claimants Opposition Comments (12/14/10).  ALJ sets hearings (01/28/11) citing unresolved questions of initial scoping memo including: "Should funding for PG&E's license renewal application be resolved before the seismic studies recommended by the CEC are completed?"	Correct
4. A4NR Filed Testimony prior to hearings citing failure of PG&E to complete actions prescribed in D.07-03-044 citing, among others, the NRC's Atomic Safety and Licensing Board's contention regarding, "whether the new information and earthquake	Claimant's Testimony (02/18/11). D.12-02-004 at 4 recognizing implications of NRC's Atomic Safety and Licensing Board's decision.	Correct

situation at Diablo Canyon constitute special circumstances warranting site-specific consideration of these risks under NEPA.”		
5. Filed motion to oppose PG&E and TURN’s motion to “suspend” calling instead for a “dismissal.”	Claimant’s Motion (06/17/11) D.12-02-044 at 3; Application is dismissed.	Correct

**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>Commission Verified</b>
<b>a. Was the DRA a party to the proceeding?</b>	Yes	Correct
<b>b. Were there other parties to the proceeding with positions similar to the claimants?</b>	Yes	Correct
<b>c. If so, provide name of other parties:</b> Sierra Club, CalPIRG, Environment California Research and Policy Center were joint intervenors under the umbrella and leadership of A4NR.		Correct
<p><b>Alliance for Nuclear Responsibility’s description of how it coordinated with DRA and other parties to avoid duplication or how Alliance for Nuclear Responsibility’s participation supplemented, complemented or contributed to that of another party</b></p> <p>A4NR was in opposition to DRA throughout this proceeding; DRA was a party to the Settlement Agreement that A4NR opposed. A4NR’s filings argued that DRA was doing an inadequate job of protecting ratepayers. A4NR was ultimately in opposition to TURN as well once TURN became a party to the proposed Settlement Agreement. Nominally, the only other intervenor was CARE, however they did not file Testimony, Rebuttal, Response, Opposition, nor did they attend the hearing on July 7, 2011. CARE’s “Motion to Dismiss” of 4/29/11 would have been moot had A4NR not previously opposed the proposed Settlement Agreement of autumn, 2010.</p>	<p>We make no reductions to the Alliance for Nuclear Responsibility’s claim for unnecessary duplication of effort with other parties. Alliance for Nuclear Responsibility’s assertion that it worked in opposition to most parties is affirmed by our review of its timesheets and its filings.</p>	

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

**A. General Claim of Reasonableness (§§ 1801 & 1806):**

<b>a. Explanation by Claimant</b>	<b>Commission Verified</b>
<p>Had A4NR not participated in this Application, a likely settlement would have been approved before the devastating tragedy at Fukushima, Japan, made clear the inadequacies of both seismic preparation and regulatory oversight at nuclear reactors. From the outset, A4NR placed into the record evidence of past lapses in Commission oversight regarding seismic</p>	<p>Though we do not agree that a settlement would have been reached prior to the tragedy in Fukushima, we do agree that Alliance</p>

<p>miscues at Diablo Canyon. A4NR continually claimed that the requirements of D.07-03-044 were being skirted by the utility and that seismic studies that fully satisfied the AB 1632 recommendations had to be completed before PG&amp;E could apply for ratepayer funding for relicensing. A4NR presented evidence that the Application was premature and the dismissal saves ratepayers as much as \$85 million which would have been completely wasted if the seismic studies revealed flaws that would make the continued operation of Diablo Canyon uneconomical or unreliable. This \$85 million savings far exceeds the cost of A4NR’s intervention in the process.</p>	<p>for Nuclear Responsibility provided helpful analysis and evidence to supplement the record and influence remaining areas of the decision. Also, for the most part, the benefits to ratepayers are both financial and in reliability and will outweigh the costs of Alliance for Nuclear Responsibility’s participation in the proceeding.</p> <p>After some disallowances and adjustments to this claim, the remainder of Alliance for Nuclear Responsibility’s hours and costs are reasonable and warrant compensation.</p>
<p><b>b. Reasonableness of Hours Claimed</b></p> <p>A4NR has only two principal workers: Executive Director Rochelle Becker and Outreach Coordinator David Weisman. They completed all the work claimed herein. As such, it fell to both parties to review, research, compile, confer and edit all documents. Ms. Becker attended more hearings at the Commission than Mr. Weisman; Mr. Weisman completed more of the Commission’s e-filing and administrative chores.</p>	<p>Yes, with adjustments to David Weisman’s time to 120 hours over the course of the proceeding. Several of Mr. Weisman’s tasks were deemed duplicative of Ms. Becker’s tasks.</p> <p>Alliance for Nuclear Responsibility’s filings were not extensive and we deem the hours excessive given the filings. Time has been adjusted accordingly.</p> <p>In addition, we have made reductions in Mr. Weisman’s hours for time spent on clerical and administrative tasks which are not compensable.</p>

<p><b>c. Allocation of Hours by Issue</b></p> <p>100 % of all hours by the claimant were spent on one item: Seeking the dismissal of this Application as premature.</p>	Correct
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**B. Specific Claim\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Rochelle Becker, Advocate	2010	105	\$125	D.07-10-022 with a 3% increase per year.	\$13,125.00	55	\$125	\$6,875.00
Rochelle Becker, Advocate	2011	7	\$125	D.07-10-022 with a 3% increase per year.	\$875.00	7	\$125	\$875.00
David Weisman, Advocate	2010	136.25	\$75	Rate as adopted in this decision.	\$10,218.75	91	\$75	\$6,825.00
David Weisman, Advocate	2011	31.75	\$75	Rate as adopted in this decision.	\$2381.25	29	\$75	\$2,175.00
				<b>Subtotal:</b>	<b>\$26,600.00</b>		<b>Subtotal:</b>	<b>\$16,750.00</b>
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Rochelle Becker	2010	28	\$125/hr	Travel @ 50%	\$1750.00	28	\$125/hr. Travel @ 50%	\$1750.00
Rochelle Becker	2011	11	\$125/hr	Travel @ 50%	\$687.50	11	\$125/hr. Travel @ 50%	\$687.50
David Weisman	2010	22	\$75/hr	Travel @ 50%	\$825.00	22	\$75/hr Travel @ 50%	\$825.00
David Weisman	2011	16	\$75/hr	Travel @ 50%	\$600.00	16	\$75/hr Travel @ 50%	\$600.00
				<b>Subtotal:</b>	<b>\$3862.50</b>		<b>Subtotal:</b>	<b>\$3862.50</b>

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
David Weisman	2012	10	\$75	Compensation at 50% rate	\$375.00	10	\$75	\$375.00
<b>Subtotal:</b>					\$375.00	<b>Subtotal:</b>		\$375.00
COSTS								
#	Item	Detail			Amount	Amount		
1	Airfare	Becker: 4 Flights from San Diego to San Francisco			\$ 569.80	\$569.80		\$569.80
2	Copies				\$ 136.27	\$136.27		\$136.27
3	Gasoline				\$ 29.37	\$ 29.37		\$ 29.37
4	Hotels	San Francisco and Vicinity			\$ 2876.83	\$ 2876.83		\$ 2876.83
5	Railfares	Amtrak and BART			\$ 492.66	\$492.66		\$492.66
6	Taxis	San Francisco			\$ 290.15	\$290.15		\$290.15
						<b>Subtotal:</b>		<b>\$4395.05</b>
<b>TOTAL REQUEST \$:</b>					<b>35,232.55</b>	<b>TOTAL AWARD \$:</b>		<b>25,383.00<sup>1</sup></b>
<p>* We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>** Reasonable claim preparation and travel time typically compensated at ½ of preparer's normal hourly rate.</p>								

### C. Commission Disallowances, Adjustments, and Comments:

#	Reason
1. Adoption of Rochelle Becker's hourly rate for 2010 and 2011.	The Alliance for Nuclear Responsibility requests an hourly rate of \$125 for its advocate, Rochelle Becker. This hourly rate represents approximately a 3% per year increase in Rochelle Becker's hourly rate of \$110 established in D.07-10-022 in 2006. Given her decades of experience advocating before the Commission the requested hourly rate of \$125 is reasonable and we adopt it here.
2. Adoption of David Weisman's hourly rate for 2010 and	The Alliance for Nuclear Responsibility requests an hourly rate of \$75 for its advocate, David Weisman. The \$75 hourly rate for David Weisman is reasonable, in light of his experience and the adopted rates of other advocates. We adopt David Weisman's hourly rate of \$75 here.

<sup>1</sup> Rounded to the nearest dollar.

2011.	
3.2010-2011 hours for Rochelle Becker	Rochelle Becker's time is reduced to 62 hours over the course of the proceeding. After reviewing the filings and comparing their content to Ms. Becker's time sheet we find that the filings were not extensive enough to warrant the amount of time spent. These hours have been reduced as necessary to a reasonable and efficient number.
4. 2010 & 2011 hours for David Weisman.	David Weisman's time is reduced to 120 hours over the course of the proceeding. Several of Mr. Weisman's tasks were deemed duplicative of Ms. Becker's tasks. Filings were not extensive enough to warrant the amount of time spent by two people. Time has been adjusted accordingly. Reductions were also made for Mr. Weisman's billed clerical and administrative tasks that can not be compensated.

#### **PART IV: OPPOSITIONS AND COMMENTS**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
<b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?</b>	Yes

#### **FINDINGS OF FACT**

1. Alliance for Nuclear Responsibility has made a substantial contribution to Decision (D.) 12-02-004.
2. The requested hourly rates for Claimant's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses as adjusted herein are reasonable and commensurate with the work performed.
4. It is reasonable to award Claimant \$25,383.00 for its contributions to D. 12-02-004.

#### **CONCLUSION OF LAW**

The Claim, with the adjustments set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

**ORDER**

1. Alliance for Nuclear Responsibility is awarded \$25,383.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay Alliance for Nuclear Responsibility the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 13th, 2012, the 75<sup>th</sup> day after the filing of Alliance for Nuclear Responsibility's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D.12-02-044	
<b>Proceeding(s):</b>	A.10-01-022	
<b>Author:</b>	ALJ Robert Barnett	
<b>Payer(s):</b>	Pacific Gas and Electric Company	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier</b>	<b>Reason Change/Disallowance</b>
Alliance for Nuclear Responsibility	02/28/2012	\$35,232.55	\$25,383.00	No	Adjusted hours worked for duplication, efficiency, disallowance of administrative and clerical hours expenses.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Rochelle	Becker	Advocate	Alliance for Nuclear Responsibility	\$125	2010/2011	\$125
David	Weisman	Advocate	Alliance for Nuclear Responsibility	\$75	2010/2011	\$75

**(END OF APPENDIX)**