

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans.

Rulemaking 10-05-006
(Filed May 6, 2010)

**DECISION GRANTING INTERVENOR COMPENSATION TO THE VOTE
SOLAR INITIATIVE FOR SUBSTANTIAL CONTRIBUTION
TO DECISION 12-04-046**

Claimant: The Vote Solar Initiative (Vote Solar)	For contribution to Decision (D.) 12-04-046
Claimed: \$28,365	Awarded: \$27,907 (reduced 2%)
Assigned: Commissioner: Michael R. Peevey	Assigned ALJ: Peter V. Allen

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: D.12-04-046 addresses issues in System Track I and Track III of the Long Term Procurement Plan Rulemaking. Most potential issues in System Track I were resolved, or at least deferred, by a proposed settlement supported by most of the parties. The Commission approved the proposed settlement, and addressed one other System Track I issue not resolved by the settlement: A proposal by Calpine Corporation for utility solicitations aimed at existing power plants operating without contracts. A second System Track I issue, relating to local reliability requirements in the San Diego Gas & Electric Company (SD&E) service territory, was moved to Application 11-05-023.

In addition, this decision addresses a number of Track III issues, specifically: Procurement rules relating to power plants using once-through cooling, a proposal from Southern California Edison Company for a new generation auction, refinements to evaluating bids where utility-owned generation and independent generation are competing, utility procurement of greenhouse gas related products, a

request from the Independent Energy Producers relating to generator recovery of greenhouse gas compliance costs, and general procurement oversight rules.

B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	June 14, 2010	Correct
2. Other Specified Date for NOI:	August 13, 2010 ¹	On June 22, 2010, the Administrative Law Judge (ALJ) issued a ruling granting parties an additional 30 days to file NOIs. This extended the deadline to August 13, 2010.
3. Date NOI Filed:	August 13, 2010	Correct
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.10-05-006	Correct
6. Date of ALJ ruling:	March 3, 2011	Correct
7. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
8. Based on ALJ ruling issued in proceeding number:	R.10-05-006	Correct
9. Date of ALJ ruling:	March 3, 2011	Correct
10. Has the Claimant demonstrated significant financial hardship?		Yes

¹ See Administrative Law Judge’s Ruling Revising the Schedule for the Proceeding and Regarding Staff’s Proposal for Resource Planning Assumptions - Part 2 (Long Term Renewable Resource Planning Standards) issued on June 22, 2010, Ordering Paragraph 5 at 8.

Timely request for compensation (§ 1804(c)):		
11. Identify Final Decision:	D.12-04-046	Correct
12. Date of Issuance of Final Order or Decision:	April 24, 2012	Correct
13. File date of compensation request:	June 22, 2012	Correct
14. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant's description of its claimed contribution to the final decision:

Vote Solar's Claimed Contribution	Citation to Decision or Record	Showing Accepted by CPUC
<p>1. Consistent with D.12-04-046, Vote Solar commented that "the modeling should not be used to make procurement decisions for scenarios extending out as far at 2020." <i>January 14, 2011 Comments at 2.</i></p> <p>Vote Solar also commented that the proceeding need not produce "a concrete flexible operating resource procurement target" and that "the luxury of at least some time appears to be on the Commission's side." <i>November 22, 2010 Comments at 3.</i></p> <p>Finally, Vote Solar commented that the Commission should not attempt "to declare flexible operating resource procurement targets" in the proceeding. <i>November 22, 2010 Comments at 4.</i></p>	<p>"There is clear evidence on the record that additional generation is not needed by 2020, so there is record support for deferral of procurement." <i>D.12-04-046 at 8.</i></p> <p>"In looking at the whole record, it would be reasonable to find that there is no need for additional generation by 2020 at this time, and accordingly it is reasonable to defer authorization to procure additional generation based on system and renewable integration need." <i>D.12-04-046 at 10.</i></p>	Yes

<p>2. Consistent with D.12-04-046, Vote Solar commented that “[b]y taking this approach, the Commission avoids making premature, potentially regrettable and irreversible, long term flexible operating resource procurement decisions.” <i>November 22, 2010 Comments at 4.</i></p> <p>Vote Solar also commented that “[d]eferral of as much new procurement authority as possible to subsequent LTPP proceedings could [result] in lower customer costs.” <i>September 21, 2010 Comments at 2-3.</i></p>	<p>“First, if there is no need to authorize procurement of generation, then there is no need to incur the costs for procurement of generation...” <i>D.12-04-046 at 12.</i></p>	<p>Yes</p>
<p>3. Consistent with D.12-04-046, Vote Solar commented that “renewable integration research is progressing rapidly and thus a little more time may result in a lot more understanding.” <i>November 22, 2010 Comments at 3 (footnote omitted).</i></p> <p>Vote Solar also commented that “a perfectly productive and appropriate outcome of this 2010 LTPP Renewables Integration process can be the establishment of the proper framework for the CAISO modeling ‘tools,’ and how they should be refined, updated and improved in anticipation of the 2012 LTPP.” <i>November 22, 2010 Comments at 4.</i></p>	<p>“Second, what the parties propose to do with more time – conduct a better analysis of the need for procurement, particularly for renewables integration, with updated information – may provide a significant benefit.” <i>D.12-04-046 at 12.</i></p>	<p>Yes</p>
<p>4. Consistent with D.12-04-046, Vote Solar commented that “[t]he Commission must have a full understanding of when new resources have to be procured to meet system needs in order to avoid granting premature, inflated or inadequate procurement authority in this proceeding.” <i>September 21, 2010 Comments at 2.</i></p> <p>Vote Solar also commented on the need for transparency in noting that “the computing requirements of the CAISO model are so complex and immense that only the CAISO can run alternative scenarios, and even then it can take many weeks to process the data.” <i>September 21, 2010 Comments at 7.</i></p>	<p>“A robust and transparent process is essential to support and develop the complex and sophisticated analyses required, such as the detailed power flow modeling required for determination of local area needs. Given the long-term ramifications that will flow from this or successor proceedings, it is important that the outcome is the result of a solid and credible process.” <i>D.12-04-046 at 12.</i></p>	<p>Yes</p>

<p>5. Vote Solar is a party to the settlement approved by D.12-4- 046. <i>Multi-Party Motion to Adopt Settlement filed on August 3, 2011.</i></p> <p>Vote Solar also supported adoption of the settlement and adoption of Judge Allen’s Proposed Decision approving the settlement. <i>September 16, 2011 Brief and March 12, 2012 Comments.</i></p>	<p>“The proposed settlement is reasonable in light of the whole record, consistent with law, and in the public interest.” <i>D.12-04-046 at 70, Finding of Fact 2.</i></p> <p>“The Proposed Settlement, as attached to the August 3, 2011 Motion... is approved.” <i>D.12-04-046 at 73, Ordering Paragraph 1.</i></p>	Yes
<p>6. Vote Solar advocated for adoption of the solar modeling research of Thomas E. Hoff of Clean Power Research and Richard Perez of SUNY Albany. <i>November 22, 2010 Comments at 3-4 and January 14, 2011 Comments at 5-6.</i> Pursuant to that work, Vote Solar facilitated a presentation by Dr. Hoff to the CAISO and interested parties at the CAISO on November 18, 2010, and to all parties and Commission Staff at a Commission workshop on November 30, 2010.</p> <p>In addition, at least in part, Vote Solar’s advocacy and facilitation in this area led to Clean Power Research receiving a June 30, 2011 California Energy Commission PIER Grant to “validate existing research and tools in partnership with the California ISO, and to integrate the methodologies into the California ISO planning process in order to address existing and future variability from PV generation.” <i>California Energy Commission PIER 2011 Annual Report at 3,</i> (March 2012) found at: http://www.energy.ca.gov/2012publications/CEC-500-2012-003/CEC-500-2012-003-CMF.pdf</p> <p><i>Evaluating Irradiance Accuracy Using California ISO Data: Lessons Learned at 3,</i> Tom Hoff (February 9, 2012) found at: http://www.cleanpower.com/wp-content/uploads/2012/02/087_EvaluatingIrradianceAccuracy.pdf</p>	<p><i>December 23, 2010 Administrative Law Judge’s Ruling Requesting Post-Workshop Comments, Updating Standardized Planning Assumptions, and Providing Lawrence Berkeley Report on Modeling Issues,</i> Appendix A at 1-3.</p>	Yes

<p>Based on recent conversations with CAISO Staff, Vote Solar understands that the CAISO now includes Clean Power Research modeling concepts in the CAISO’s renewables integration/flexible resource system needs analysis and modeling.</p>		
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

Claimant		CPUC Verified
<p>a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?</p>	<p>Yes</p>	<p>Correct</p>
<p>b. Were there other parties to the proceeding with positions similar to yours?</p>	<p>Yes</p>	<p>Correct</p>
<p>c. If so, provide name of other parties: First Solar, Solar Alliance, CalWEA, LSA, Pacific Environment, FiT Coalition (now Clean Coalition), UCS, CBE, CEERT, Sierra Club.</p>		<p>Correct</p>
<p>d. Claimant’s description of how it coordinated with DRA and other parties to avoid duplication or how claimant’s participation supplemented, complemented, or contributed to that of another party: Vote Solar aligned with DRA as well as a number of the parties in Section 10.d in the settlement process that led to the proposed settlement filed on August 3, 2011. Vote Solar also had informal discussion with DRA staff. Vote Solar also initiated, organized, and hosted the Environmental Working Group “EWG” Meeting via conference call on October 29, 2010. Representatives from all of the parties in Section 10.d attended, as well as Keith White from Commission Staff, and Barney Speckman of Nexant on behalf of the CAISO. Thomas Hoff of Clean Power Research and Richard Perez of SUNY Albany presented. In January of 2011, Vote Solar initiated e-mail contact with Sierra Club, Pacific Environment, and FiT Coalition (now Clean Coalition) regarding possible coordination/joint sponsorship of testimony/etc.</p>		<p>We make no reductions to Vote Solar’s claim for unnecessary duplication of effort with other parties.</p>

PART III: REASONABLENESS OF REQUESTED

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

Claimant’s explanation as to how the cost of its participation bore a reasonable relationship with benefits realized through participation: (include references to record, where appropriate)	CPUC Verified
<p>Vote Solar’s recommendations and advocacy in this proceeding were directed at policy and environmental matters, and therefore ascertaining direct benefits, in terms of actual dollars, to ratepayers is essentially impossible. Nevertheless, Vote Solar’s areas of advocacy in this proceeding, i.e. 1) use of the best, most state of the art analysis in modeling renewables integration needs, particularly solar analysis, 2) minimizing green-house gas impacts by considering alternatives to fossil fueled generation, and 3) preventing premature procurement of additional resources for integrating renewable generation.</p> <p>Vote Solar brought a unique voice to the proceeding by being the only industry independent, environmental group focused solely on solar related issues. In this context, by introducing and facilitating the work of Thomas Hoff and Richard Perez, Vote Solar helped to considerably improve the solar forecasting assumptions utilized in modeling renewable integration/flexible resource needs. Considering that, unlike wind generation, relatively little actual solar generation data exists, refinement of the solar modeling assumptions was particularly important.</p> <p>Ultimately, Vote Solar’s membership, which now includes over 10,000 Californians, are directly benefitted by the above described advocacy in that it directly addresses their environmental concerns and desire to see the full potential of solar solutions realized. All Californians, including Californian investor owned utility customers, also benefit, albeit more generally and indirectly, from Vote Solar’s mission to fight global warming, increase energy independence, decrease fossil fuel dependence, and foster economic development by bringing solar energy into the mainstream.</p>	<p>The benefits to customers as a result of Vote Solar’s participation are difficult to quantify since Vote Solar’s participation was directed at policy and environmental matters. It is reasonable to find however, that the costs of Vote Solar’s participation bears a reasonable relationship with future benefits to customers which will exceed the amount awarded to Vote Solar by today’s decision. We find that Vote Solar’s participation in this proceeding was productive.</p>

Reasonableness of Hours Claimed:	CPUC Verified
<p>Vote Solar is a small, tightly staffed, and budgeted organization with a very “flat” management structure. Accordingly, Vote Solar does not have the resources to “delegate” work from senior to more junior staff. The “lead” attorney, Kelly Foley, is the only in house attorney at Vote Solar and the only employee, attorney or otherwise, dedicated full time to California issues.</p> <p>In recognizing that Ms. Foley is a senior attorney theoretically eligible to bill at a fairly high rate, she compensated for her inability to delegate work by applying up front reduction of her work hours as appropriate, or with respect to preparing intervenor compensation related filings, reducing her rate by more than required by the Commission. Furthermore, Vote Solar continuously strives, whenever practical or possible, to narrow participation to areas where Vote Solar is more likely to bring a unique voice, perspective or contribution. An example of this is Vote Solar’s introduction and facilitation of the Thomas Hoff and Richard Perez solar analysis.</p> <p>Vote Solar also actively seeks out “pro bono” assistance from experts. In this case, Vote Solar’s witness, had Track 1 hearings proceeded, would have been Dan Shugar, a PE Electrical Engineer with over 30 years of utility and solar experience, including as past and current president/CEO of major solar companies. Because Mr. Shugar was willing to essentially donate his time to testify on behalf of Vote Solar, Vote Solar does not need compensation for his testimony preparation. In light of the fact that Track 1 did not proceed to hearings, this is particularly helpful in keeping Vote Solar’s total compensation claim reasonable.</p>	<p>We make no reductions to Vote Solar’s claim for excessiveness. Vote Solar’s request is reasonable and commensurate with the work it performed.</p>
Allocation of Hours by Issue	CPUC Verified
<p>A. Advocate for the use of the best most state of the art analysis in modeling renewables integration needs, particularly in the area of solar forecasting -- 22.01%</p> <p>B. Promote minimizing green-house gas impacts by considering alternatives to adding additional fossil fueled generation --17.55%</p> <p>C. Prevent premature procurement of additional resources for integrating renewable generation --16.93%</p> <p>D. General, including intervenor compensation related work --43.51%</p>	<p>Vote Solar has satisfied the requirement to provide a breakdown of its hours by major issue in accordance with the guidance provided in D.98-04-059.</p>

B. Specific Claim*:

CLAIMED						CPUC AWARD			
ATTORNEY, EXPERT, AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Rate Rationale	Total \$	Year	Hours	Rate \$	Total \$
K. Foley	2010	49.1	300	Adopted here, See Part III, Section C.	14,730	2010	49.1	300	14,730
K. Foley	2011	39.1	325	Adopted here, See Part III, Section C.	12,707	2011	39.1	315	12,317
K. Foley	2012	0.1	350	Adopted here, See Part III, Section C.	35	2012	0.1	320	32
Subtotal: \$27,472						Subtotal: \$27,079			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Rate Rationale	Total \$	Year	Hours	Rate \$	Total \$
K. Foley	2010	2.5	100**	1/3 of rate adopted here	250	2010	2.5	100	250
K. Foley	2012	5.5	117**	1/3 of rate adopted here	643	2012	5.5	105**	578
Subtotal: \$893						Subtotal: \$828			
TOTAL REQUEST: \$28,365						TOTAL AWARD: \$27,907²			
<p>*We remind all intervenors that Commission staff may audit their records related to an 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 rate, fees paid to consultants and by 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 is typically compensated at 1/2 of preparer's normal hourly rate. Vote Solar states that it requests only 1/3rd of Foley's approved hourly rate for time spent preparing Vote Solar's NOI and request for an award. We applaud this practice and approve the hourly rate (rounded to the nearest \$5.00 increment) as requested without adjustment.</p>									

² Rounded to nearest dollar.

C. CPUC Adoptions:

Adoptions	
<p>2010-2012 hourly rates for K. Foley</p>	<p>Vote Solar requests new hourly rates for Kelly M. Foley. CPUC’s search of The State Bar of California’s database indicates that Foley was admitted into the BAR in August 1994 (#171536). According to Vote Solar, Foley has been a practicing attorney for 18 years, 15 of these years have been spent working as an energy regulatory attorney. Vote Solar submits that Foley has been an advocate for its organization for nearly 2 years and prior to this, Foley spent nearly 12 years working for two of the three major California investor owned utilities with about 2 years in private practice at a major energy law firm. According to Vote Solar, Foley has extensive experience appearing before the Commission, including acting as a second chair in a major GRC, as well as experience appearing before FERC, The California Energy Commission and other state and federal regulatory agencies. Vote Solar has attached Foley’s curriculum vitae which support its claims regarding Foley’s relevant background and experience. We find the requested rate of \$300, adopted in ALJ 267, to be at the lowest end of the (\$300-\$535) range for attorneys with 13+ years of experience to be reasonable and approve this rate for Foley’s 2010 work. For Foley’s work in 2011 and 2012 Vote Solar requests an hourly rate of \$325 for 2011 and \$350 for 2012. D.07-01-009 authorizes an annual “step-increase” of 5%, twice within each experience level and D.08-04-010 requires that an intervenor clearly and separately explain in its compensation request, whether the requested step increase is the first or second such increase for that individual within a given level of experience. This procedure allows the Commission to accurately track step increases from year to year. Vote Solar’s request fails to include this information. In addition, the requested hourly rates for Foley’s 2011 and 2012 work represent an approximate increase of 8% for each of these years. Since Vote Solar is fairly new to Commission proceedings, we apply a 5% step-increase to Foley’s 2010 hourly rate adopted here and authorize the rate of \$315 for her 2011 work. We apply the 2.2% COLA authorized in ALJ-281 for 2012 intervenor work (rounded to the nearest \$5.00 increment) and adopt a rate of \$320 for Foley’s 2012 work. Vote Solar may request the second and final 5% step-increase for Foley at a later time. Guidance for intervenors on hourly rates and other matters is available at http://www.cpuc.ca.gov/PUC/IntervenorCompGuide/.</p>

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	Yes

FINDINGS OF FACT

1. The Vote Solar Initiative made a substantial contribution to Decision 12-04-046.
2. The Vote Solar Initiative's requested hourly rates for representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The Vote Solar Initiative's claimed hours are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$27,907.

CONCLUSION OF LAW

1. The Vote Solar Initiative's claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Vote Solar Initiative is awarded \$27,907.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company shall pay The Vote Solar Initiative's total award. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company shall each pay The Vote Solar Initiative their respective shares of the award, based on their California-jurisdictional electric revenues for the 2010 Year. This represents the year in which the proceeding was primarily litigated. 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 September 12, 2012, the 75th day after the filing of The Vote Solar Initiative's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision? No
Contribution Decision:	D1204046	
Proceeding:	R1005006	
Author:	ALJ Peter V. Allen	
Payees:	Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Vote Solar Initiative	06-22-12	\$28,365	\$27,907	No	Adjusted hourly rates

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Kelly	Foley	Attorney	The Vote Solar Initiative	\$300	2010	\$300
Kelly	Foley	Attorney	The Vote Solar Initiative	\$325	2011	\$315 ³
Kelly	Foley	Attorney	The Vote Solar Initiative	\$350	2012	\$320 ⁴

(END OF APPENDIX)

³ Includes a 1st step-increase for Foley of 5%.

⁴ Includes the 2.2 cost-of-living adjustment approved in Resolution ALJ-281.