

Decision \_\_\_\_\_

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

Order Instituting Rulemaking on the Commission's own motion to determine the impact on public benefits associated with the expiration of ratepayer charges pursuant to Public Utilities Code Section 399.8.

Rulemaking 11-10-003  
(Filed October 6, 2011)

**DECISION GRANTING COMPENSATION TO  
THE NATURAL RESOURCES DEFENSE COUNCIL FOR SUBSTANTIAL  
CONTRIBUTIONS TO DECISION (D.) 11-12-035 AND D.12-05-037**

<b>Claimant:</b> Natural Resources Defense Council (NRDC)	<b>For contribution to</b> D.11-12-035 (Phase 1) and D.12-05-037 as amended by D.12-07-001 (Phase 2)
<b>Claimed (\$):</b> 18,007	<b>Awarded (\$):</b> 18,205.50
<b>Assigned Commissioner:</b> Michael R. Peevey	<b>Assigned ALJs:</b> ALJ Division

**PART I: PROCEDURAL ISSUES****A. Brief Description of Decision:**

*Per page 2 of D.11-12-035,*

D.11-12-035 “institutes a new surcharge, known as the Electric Program Investment Charge (EPIC), to fund renewables and RD&D programs. The levels and allocations for the EPIC will be at the same levels as for the current public goods charge, after subtracting the energy efficiency component. The EPIC is instituted on an interim basis, subject to refund, until policy, programmatic, governance, and allocation issues are decided in Phase 2 of this Rulemaking.”

*Per page 2 of D.12-05-037,*

D.12-05-037 “sets up a framework for Commission oversight of the Electric Program

Investment Charge (EPIC) established by Decision (D.) 11-12-035 in Phase 1 of this proceeding. The purpose of the funding is to provide public interest investments in applied research and development, technology demonstration and deployment, market support, and market facilitation, of clean energy technologies and approaches for the benefit of electricity ratepayers of Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison (SCE), the three large investor-owned utilities (IOUs). EPIC funding is initially authorized in the areas of applied research and development, technology demonstration and deployment, and market facilitation, as further defined in” D.12-05-037. Further, D.12-05-037 “establishes electricity ratepayer benefits as a mandatory guiding principle and adopts several other related and complementary principles designed to guide investment decisions.”

*The one page D.12-07-001 is purely ministerial, adjusting the “Program Administration annual budget for the Utilities beginning January 1, 2013, in Table 2 at 73 of Decision 12-05-037...to \$3.4 million.”*

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

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	10/27/2011	Correct
2. Other Specified Date for NOI:	n/a	
3. Date NOI Filed:	11/14/2011	Correct
4. Was the NOI timely filed?		
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	Rulemaking (R.) 09-08-009	Correct
6. Date of ALJ ruling:	1/28/2010	Correct
7. Based on another CPUC determination:		

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:	Application (A.) 11-05-017 et al.	Correct
10. Date of ALJ ruling:	10/28/2011	Correct
11. Based on another CPUC determination:		
12. Has the Claimant demonstrated significant financial hardship?		
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.11-12-035 (Phase 1) and D.12-05-037 (Phase 2), as amended by D.12-07-001	Correct
14. Date of Issuance of Final Decision:	5/31/2012	Correct
15. File date of compensation request:	7/30/2012	Correct
16. Was the request for compensation timely?		Yes

**C. Additional Comments on Part I:**

#	Claimant	CPUC	Comment
2	NRDC		<p>In Phase 1, the following six “Joint Environmental Groups” collaborated and advocated as one group: the NRDC, Union of Concerned Scientists, The Vote Solar Initiative, Sierra Club California, Californians for Clean Energy and Jobs, and The Nature Conservancy. In Phase 2, all parties (with the exception of Californians for Clean Energy and Jobs) continued the collaboration and single group advocacy. The Ella Baker Center joined the Joint Parties in Phase 2.</p> <p>NRDC, Union of Concerned Scientists, and The Vote Solar Initiative orchestrated the overall Joint Environmental Groups collaboration and performed all of the review, research, and drafting work and are therefore referenced as the “Core Parties.” The other parties reviewed the advocacy, provided feedback, and consulted with the Core Parties, but only the Core Parties are seeking Intervenor Compensation because they were responsible for the vast majority of the substantive work.</p> <p>Because our work was closely coordinated and all of our comments were jointly written and filed, we also coordinated our request for intervenor compensation. As such we are using the same issue areas and same numbered substantial contributions (included below in Part II.A). While each organization in the Core Parties spent differing times on each issue (which reduced duplication and was one of the key benefits of collaboration), all organizations (Core and Joint) reviewed, analyzed, and approved of our positions in each area. For this reason, the contributions and benefits reflect the impacts of our joint filings, though each organization is only claiming</p>





	<p>research and development efforts of gas and electricity providers. Given the plain language of § 740 and the judiciary’s willingness to respect the Commission’s interpretation of its governing laws, Joint Environmental Groups contend the Commission has solid legal ground for continuing to factor in research and development costs when setting gas and electricity rates.” <b><i>D.11-12-035, at 14. October 20, 2011 Joint Opening Comments on OIR at 3-8.</i></b></p> <p>“By statute, the Commission is additionally authorized to “supervise and regulate every public utility in the State and may do all things, whether specially designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.” 10 FN 10 cites to San Diego Gas &amp; Elec. Co. v. Superior Court, 13 Cal.4th 893, 914-15 (1996). <b><i>D.11-12-035, at 15. October 20, 2011 Joint Opening Comments on OIR at 5 n.13; October 25, 2011 Joint Reply Comments at 3.</i></b></p> <p>“The Commission has general authority in § 701 to “do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.” For RD&amp;D, §§ 74013 and 740.1,14 added in 1973 and 1984, respectively, together with § 701, provided this authority.” <b><i>D.11-12-035, at 16. October 20, 2011 Joint Opening Comments on OIR at 4-6, October 25 Joint Reply Comments on OIR at 2-5.</i></b></p> <p>“The Commission has both broader Constitutional regulatory authority to do all things cognate and germane to the regulation of public utilities, and specific statutory authority to set regulatory policies regarding RD&amp;D and renewables. [The Commission has] sufficient authority to require the utilities to impose a new</p>	<p>Correct</p> <p>Correct</p> <p>Correct</p>
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	<p>surcharge for RD&amp;D and renewables programs under... Constitutional authority, and under §§ 451, 701, 701.1, 701.3, 740, 740.1 and other relevant code sections specific to RD&amp;D and renewables programs and the Commission’s ratemaking authority. This authority does not substitute for the expiring funding authority in § 399.8, but provides separate funding authority. Thus, any rates or charges... are not a continuation of the § 399.8 system benefits charge, but instead new or different charges for programs within the existing Constitutional and statutory framework.” <b><i>D.11-12-035, at 21. October 20, 2011 Joint Opening Comments on OIR at 4-6, October 25 Joint Reply Comments on OIR at 2-5.</i></b></p> <p>“Further, as discussed above, the Commission has adequate authority through the combination of Constitutional authority and §§ 701, 701.1, 740, 740.1 to require the collection of RD&amp;D funds which are cognate and germane to the regulation of public utilities.” <b><i>D.11-12-035, at 28. October 20, 2011 Joint Opening Comments on OIR at 3-6, October 25 Joint Reply Comments on OIR at 2-5.</i></b></p> <p>“The California Constitution and the §§ 451, 701, 701.1, 701.3, 740, 740.3 provide authority for the Commission to require a surcharge by electrical corporations to ensure continuation of the ratepayer and public benefits associated with the expiring system benefits charge in Public Utilities Code Section 399.8 for renewables and RD&amp;D programs.” <b><i>D.11-12-035, Conclusion of Law #2. October 20, 2011 Joint Opening Comments on OIR at 3-6, October 25 Joint Reply Comments on OIR at 2-5.</i></b></p> <p>“The principles articulated in law in</p>	<p>Correct</p> <p>Correct</p> <p>Correct</p>
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	<p>§ 740.1 and § 8360 offer useful guidance for the EPIC program. The administrators should be required to address in their investment plans how these statutory principles are applied.” <i>D.12-05-037, Conclusion of Law #1. October 20, 2011 Joint Opening Comments on OIR at 4-6, October 25 Joint Reply Comments on OIR at 2-5.</i></p> <p>“The 2008 budget bill AB 1338 does not prohibit EPIC expenditures on a program of ratepayer-benefit-focused investments related to reductions of GHG in the electricity sector and reducing costs to ratepayers of compliance with GHG emissions reduction regulations.” <i>D.12-05-037, Conclusion of Law #2. March 16, 2012 Joint Reply Comments on Scoping Ruling and Staff Proposal at 4.</i></p>	<p>Correct</p>
<p>3. The Joint Environmental Groups presented legal authority supporting the Commission’s ability to select the Energy Commission to administer programs. (H)</p>	<p>“There are precedents for other transfers of funds for Energy Commission administration, subject to this Commission oversight. In D.04-08-010, Ordering Paragraph 18, we selected the Energy Commission over at least three other possible administrators, to administer natural gas RD&amp;D funds. . . This authority is independent of Section 399.8 authority for electric RD&amp;D funds, as the natural gas RD&amp;D program was not based on Section 399.8.” <i>D.11-12-035, at 21-22 and October 25, 2011 Joint Reply Comments at 6.</i></p> <p>“The relevant section of D.06-01-024 discusses the limits of the Commission’s ability to fully transfer oversight of programs, as distinguished from administration: . . . while the Commission cannot delegate its authority and responsibility to determine recoverable costs, program rules, regulations and policies, it does have authority to transfer the day to day administration of a program, as it does with a variety of programs. The</p>	<p>Correct</p> <p>Correct</p>

	<p>Commission can and should accept the input of the Energy Commission in its oversight, planning, rule and policy making, but can and should maintain appropriate responsibility for final authority of the program. . . We conclude that we have continued authority to provide funding for RD&amp;D programs, which may be administered by the Energy Commission, through a surcharge other than the existing system benefit charge.” <b><i>D.11-12-035, at 22-23 and October 25, 2011 Joint Reply Comments at 6-7.</i></b></p> <p>“While the Commission cannot delegate its authority and responsibility to determine rates, program rules, regulations and policies, it does have authority to transfer the day to day administration of a program.” <b><i>D.11-12-035, Conclusion of Law # 3 and October 25, 2011 Joint Reply Comments at 6.</i></b></p> <p>“The Commission should retain policy oversight over all EPIC electric ratepayer funds.” <b><i>D.12-05-037, Conclusion of Law #3. October 25, 2011 Joint Reply Comments on OIR at 6-7.</i></b></p>	<p>Correct, however this is Conclusion of Law #4</p> <p>Correct</p>
<p>4. The Joint Environmental Groups advocated for a robust level of research, development, demonstration and renewable energy investment. (A)</p>	<p>“Joint Environmental Groups...claim California’s public interest RD&amp;D investments have produced multiple benefits for electricity ratepayers, resulting in breakthroughs in energy efficiency and renewable energy, clean energy technology, energy security, environmental protection, and significant bill savings. Regarding renewable programs, Joint Environmental Groups believe that there is unique added value to using ratepayer funds to invest in technologies that have moved past the research and development phase, but are not yet mature enough to compete successfully in a Renewables Portfolio Standard solicitation. Supporting such technologies will ultimately create a larger pool of resources for utilities to</p>	<p>Correct</p>

	<p>choose from and create additional and lower cost options for renewable energy investments.” <i>D.11-12-035, at 7-8 and October 20, 2011 Joint Opening Comments on OIR at 6-9, 19-25.</i></p> <p>“As many parties have stated, there are both ratepayer and public benefits associated with the current RD&amp;D programs funded by the PGC.” <i>D.11-12-035, at 28 and October 20, 2011 Joint Opening Comments on OIR at 6-7, 19-25.</i></p> <p>“It is in the public interest to impose an interim surcharge, subject to refund, on distribution customers of electric corporations at the same rates as the expiring system benefits charge in Public Utilities Code Section 399.8 (subtracting out the portion of the rates collected for energy efficiency programs), for renewables and RD&amp;D programs that are just and reasonable, and in the ratepayer interest and the public interest.” <i>D.11-12-035, Conclusion of Law #3. D.11-12-035, at 28 and October 20, 2011 Joint Opening Comments on OIR at 3-7, 19-25.</i></p>	<p>Correct</p> <p>Correct</p>
<p>5. The Joint Environmental Groups recommended continuing to collect renewable and RD&amp;D funding at the current level. (A)</p>	<p>“Many parties have stated that there are significant ratepayer and public benefits associated with the current renewables programs funded by the PGC.” <i>D.11-12-035, at 25 and October 20, 2011 Joint Opening Comments on OIR at 6-7.</i></p> <p>The Commission will “continue to collect funds for future renewables programs at approximately the same level as currently collected.” <i>D.11-12-035, at 27. D.11-12-035, at 28 and October 20, 2011 Joint Opening Comments on OIR at 3-7, 19-25.</i></p> <p>The Commission will “continue to collect funds for RD&amp;D programs at approximately the same level as currently collected...” <i>D.11-12-035, at 30.</i></p>	<p>Correct</p> <p>Correct</p> <p>Correct</p>

	<p><b><i>D.11-12-035, at 28 and October 20, 2011 Joint Opening Comments on OIR at 3-7, 19-25.</i></b></p> <p>“Energy RD&amp;D funding is vital to achieving our state’s aggressive policy goals related to energy efficiency, renewable energy, petroleum reduction, smart grid integration and reliability, and GHG reductions. Investments in energy RD&amp;D stimulates innovation, attracts new businesses, and create jobs in academia and the private sector. Ratepayers receives the benefit of more cost efficient, lower environmental impact and higher reliability solutions.” <b><i>D.11-12-035, at 29-30. October 20, 2011 Joint Opening Comments on OIR at 19-25.</i></b></p>	Correct
<p>6. The Joint Environmental Groups advocated for guiding principles for investment that incorporate public, societal and environmental benefits. (C)</p>	<p>“Many parties support the basic policy rationale for funding and supporting public purpose activities in the electricity industry. AEE, the Joint Environmental Groups, Efficiency Council, PFT/WRTC, TURN, University of California, and Waste Management all generally support the policy case for ratepayer support and the guiding principles laid out in the staff proposal.” <b><i>D.12-05-037, at 10 and May 14, 2012 Joint Opening Comments on PD at 3.</i></b></p> <p>“The Joint Environmental Groups also support the principles, with the linkage to providing ratepayer benefits, which they suggest should be broadly defined.” <b><i>D.12-05-037, at 15 and May 14, 2012 Joint Opening Comments on PD at 3.</i></b></p> <p>The “Joint Environmental Groups, in comments on the proposed decision, point out that the additional principles articulated below, rather than being subordinate to electricity ratepayer benefits, are actually components of those benefits. [The Commission agrees] with this clarification as well.” <b><i>D.12-05-037, at 19 and May 14, 2012 Joint Opening Comments on PD</i></b></p>	<p>Correct</p> <p>Correct</p> <p>Correct</p>

	<p><i>at 3.</i></p> <p>“The following guiding principles for EPIC expenditures, while complements to the principle of electricity ratepayer benefits, are also reasonable: societal benefits; GHG emissions reductions in the electricity sector at the lowest possible cost; the loading order; low-emission vehicles and transportation; economic development; and efficient use of ratepayer monies.”</p> <p><b><i>D.12-05-037, Finding of Fact #2 and May 14, 2012 Joint Opening Comments on PD at 3.</i></b></p>	Correct
7. The Joint Environmental Groups supported retaining CEC administration. (H);	<p>“The Joint Environmental Groups...agree that the Commission should retain policy oversight with the CEC as administrator.”</p> <p><b><i>D.12-05-037, at 24. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 12.</i></b></p>	Correct
8. Joint Environmental Groups supported consolidating utility RD&D activities into one proceeding. (H)	<p>“The EPIC funds will be administered 80% by the California Energy Commission (CEC) and 20% by the three IOUs, with the IOU role limited to the area of technology demonstration and deployment. All funds will be administered under the oversight and control of the Commission, which will conduct a public proceeding every three years to consider investment plans presented by the administrators for coordinated public interest investment in clean energy technologies and approaches, including both the supply side and the demand side of electricity use.”</p> <p><b><i>D.12-05-037, at 2-3. May 14, 2012 Joint Opening Comments on PD, at 4.</i></b></p> <p>“The Joint Environmental Groups suggest that the CEC EPIC program should not supplant all utility RD&amp;D, but support staff’s proposals to consider the review and approval of all utility RD&amp;D activities into one proceeding.” <b><i>D.12-05-037, at 26. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 14-15.</i></b></p>	Correct  Correct

	<p>The Commission will “consider utility RD&amp;D investments as part of the EPIC program...” <i>D.12-05-037, at 28. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 14-15.</i></p> <p>“[I]nstead of having the utilities propose RD&amp;D investments in parallel with the EPIC process, we will have both the CEC and utilities present their investment plans as part of EPIC at the same time, for joint consideration by the Commission.” <i>D.12-05-037, at 28. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 14-15.</i></p> <p>“The Commission should retain policy oversight over all EPIC electric ratepayer funds.” <i>D.12-05-037, Conclusion of Law # 3. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 12.</i></p>	<p>Correct</p> <p>Correct</p> <p>Correct</p>
<p>9. Joint Environmental Parties recommend investment categories and guiding principles for investment including climate change research. (C)</p>	<p>“The Joint Environmental Groups also believe that the scope of applied research should be expanded to include research on the impact of electricity sector on the environment and public health.” <i>D.12-05-037, at 34. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 6-7.</i></p> <p>“In addition, applied research and development that addresses the environmental and public health impacts of electricity-related activities is also included.” <i>D.12-05-037, at 36. May 14, 2012 Joint Opening Comments on PD at 6-7.</i></p> <p>“Clean transportation is also an acceptable funding area, as long as there is a linkage to the electricity sector and ratepayer benefits.” <i>D.12-05-037, at 36. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 6.</i></p>	<p>Correct</p> <p>Correct</p> <p>Correct</p>

	<p>We generally support the other activities described in the comments or in the staff proposal and \$15 million is a reasonable sum annually to fund these combined activities. <i>D.12-05-037, at 61. May 14, 2012 Joint Opening Comments on PD at 12.</i></p> <p>“Applied research and development should include activities that address environmental and public health impacts of electricity-related activities, support building codes and appliance standards, as well as clean transportation with a linkage to electricity sector ratepayer benefits.” <i>D.12-05-037, Finding of Fact # 14. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 6-7.</i></p> <p>“All clean energy technologies and approaches/methods should be eligible for EPIC funding, on both the supply side and demand side.” <i>D.12-05-037, Finding of Fact #16. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 4-5.</i></p>	<p>Correct, however at 62 of D12-05-037</p> <p>Correct</p> <p>Correct</p>
<p>10. The Joint Environmental Groups strongly supported the Staff Proposal’s recommendation to invest in the demonstration of emerging and pre-commercial clean energy technologies. (D)</p>	<p>“The Joint Environmental Groups generally support using EPIC funds to support pre-commercial clean energy technologies and emphasize that “information about the funded demonstration projects should be made public to the greatest extent possible, to ensure market participants are able to learn from the experiences of previously-funded projects.”” <i>D.12-05-037, at 38 and October 20, 2011 Joint Parties Opening Comments on OIR at 11-13.</i></p> <p>“The Electric Program Investment Charge program shall fund investments in the following defined areas: ...b. Technology demonstration and deployment. The installation and operation of pre-commercial technologies or strategies at a scale sufficiently large and in</p>	<p>Correct</p> <p>Correct</p>

	<p>conditions sufficiently reflective of anticipated actual operating environments to enable appraisal of the operational and performance characteristics and the financial risks.[...]" <b><i>D.12-05-037 Ordering Paragraph #3 and March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 7-8.</i></b></p>	
<p>11. The Joint Environmental Groups opposed the prohibition on utility funding of generation-only projects. (H)</p>	<p>"...the Joint Environmental Groups... oppose this prohibition as too restrictive, potentially defeating the purpose of some technology demonstration and deployment funding." <b><i>D.12-05-037, at 41. May 14, 2012 Joint Opening Comments on PD at 4-5.</i></b></p> <p>"... there may be instances where utility investments in generation-only projects could be desirable and appropriate." <b><i>D.12-05-037, at 42. May 14, 2012 Joint Opening Comments on PD at 4-5.</i></b></p> <p>"Thus, the prohibition on funding generation-related demonstration and deployment projects with EPIC funds does not apply to the CEC." <b><i>D.12-05-037, at 42-43. May 14, 2012 Joint Opening Comments on PD at 4-5.</i></b></p> <p>"Utilities should be authorized to propose generation-only projects in their triennial investment plans utilizing non-EPIC funding." <b><i>D.12-05-037 Conclusion of Law # 14 and May 14, 2012 Joint Opening Comments on PD at 4-5.</i></b></p>	<p>Correct</p> <p>Correct</p> <p>Correct</p> <p>Correct</p>
<p>12. Joint Environmental parties Support use of matching funds. (A)</p>	<p>"Finally, we ask the administrators to propose in their investment plans any requirements to seek or obtain matching funds from other sources. In general, consistent with the comments on the proposed decision from several parties . . . we encourage the use and leveraging of matching funds whenever possible." <b><i>D.12-05-037, at 44. March 7, 2012 Joint Opening Comments on Staff Report at 8.</i></b></p>	<p>Correct</p>



	<p>approaches that have been proven to be technically viable, offer meaningful prospects to enhance the economics of bioenergy within a reasonable timeframe/at reasonable scale...’ but also offer meaningful prospects to enhance the environmental performance of utilizing bioenergy feedstocks for electricity generation. This is consistent with the <i>Ratepayer and Societal Benefits</i> principle contained in the Staff Proposal to justify and guide the use of EPIC monies.”</p> <p><b><i>March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 9.</i></b></p> <p>“For subsequent investment plan cycles, [the Commission] will reevaluate this set aside, depending on the results during 2012-2014. The proposed decision applied the 20% set-aside for bioenergy from both the utility and CEC budgets for technology demonstration and deployment. In comments on the proposed decision...the Joint Environmental Groups...argue that a 20% set-aside only makes sense in the context of the CEC’s portion of the EPIC program, especially when the utility funds are divided across utilities. [The Commission agrees and clarifies] that the 20% set-aside for bioenergy for the first investment plan cycle should only apply to the CEC’s funding for technology demonstration and deployment.”</p> <p><b><i>D.12-05-037, at 46. May 14, 2012 Joint Opening Comments on PD at 9-10.</i></b></p> <p>“It is reasonable to set aside 20% of the technology demonstration and deployment funds for 2012-2014 being administered by the CEC to fund bioenergy projects or activities. This percentage should be re-evaluated in the second triennial investment plans.” <b><i>D.12-05-037, Finding of Fact #20. May 14 Joint Opening Comments on PD at 9-10, March 7, 2012 Joint Opening Comments on the Scoping</i></b></p>	<p>Correct</p> <p>Correct</p>
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	<b><i>Ruling and Staff Proposal at 8.</i></b>	
15. The Joint Environmental Groups supported elimination of the Existing Renewables Program. (F)	<p>“The Joint Environmental Groups also support discontinuing funding for the ERFP, arguing that mature renewable technologies, including existing biomass facilities, can compete for contracts in the RPS solicitations.” <b><i>D.12-05-037, at 52. May 14, 2012 Joint Opening Comments on PD at 11.</i></b></p>	Correct
	<p>“Thus, it is unclear why electricity ratepayers should be the sole funding source, via EPIC, for subsidizing commercialized technologies using these fuels for their potential non-energy benefits.... biomass and other bioenergy facilities are free to compete in RPS solicitations and other related programs such as the feed in tariff.... EPIC funds alone are not the appropriate source for funding such a program.” <b><i>D.12-05-037, at 53-54. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 10.</i></b></p>	Correct
	<p>“EPIC funds should not be used to subsidize output from existing facilities indefinitely and thus the ERFP program should be discontinued.” <b><i>D.12-05-037, Finding of Fact #23. May 14, 2012 Joint Opening Comments on PD at 11.</i></b></p>	Correct
16. The Joint Environmental Groups supported the objectives of the New Solar Homes Partnership. (E)	<p>“The Joint Environmental Groups also support continuing the NSHP, but agree it must be done statutorily.” <b><i>D.12-05-037, at 56. May 14, 2012 Joint Opening Comments on PD at 11.</i></b></p>	Correct
	<p>“Thus, although conceptually we would be willing to allocate EPIC funds to help continue the NSHP, we would have to reduce the budget of the CSI general market program in order to do so. . . it could be appropriate for EPIC funds to be used to cover the NSHP program funding that has not yet been collected from ratepayers.” <b><i>D.12-05-037, at 57. March 7, 2012 Joint Opening Comments</i></b></p>	Correct

	<p><i>on the Scoping Ruling and Staff Proposal at 11.</i></p> <p>“To resolve this situation, [the Commission urges] the Legislature, in 2012, to...modify both the total CSI funding cap and/or the funding source for the NSHP to allow the Commission to continue to fund the NSHP without reducing the budget for the CSI general market program.” <b><i>D.12-05-037, at 58. May 14, 2012 Joint Opening Comments on PD at 11, March 7, 2012 Joint Opening Comments On Staff Proposal, at 10-11.</i></b></p> <p>“There is a strong policy rationale for continuing to fund the NSHP because it supports the state’s goals for zero net energy new housing by 2020 and solar on new homes.” <b><i>D.12-05-037 Finding of Fact #26. May 14, 2012 Joint Opening Comments on PD at 11, March 7, 2012 Joint Opening Comments On Staff Proposal, at 10-11.</i></b></p> <p>“The Commission should support Legislative action in 2012 to authorize funding for the NSHP or otherwise remove the CSI budget cap that currently limits general market program and NSHP funding.” <b><i>D.12-05-037 Conclusion of Law #20. May 14, 2012 Joint Opening Comments on PD at 11.</i></b></p>	<p>Correct</p> <p>Correct</p> <p>Correct</p>
<p>17. The Joint Environmental Groups recommended governance and administrative policies designed to encourage robust participation cost consolidation, transparency, and fund protection. (H)</p>	<p>“Next, we agree with the rationale put forward in the staff proposal that collections of the EPIC funds should continue through 2020.” <b><i>D.12-05-037 at 63. May 14, 2012 Joint Opening Comments on PD at 12.</i></b></p> <p>“The Joint Environmental Groups believe the Commission should not impose a hard cost cap, but instead should direct the CEC program administrator to minimize and explain administrative expenses to the fullest extent possible.” <b><i>D.12-05-037, at 65. May 14, 2012 Joint Opening Comments on PD at 13.</i></b></p>	<p>Correct</p> <p>Correct</p>

	<p>... as a general matter, it is important to minimize administrative costs for overseeing the EPIC funds to ensure that the greatest possible amount of funding can be used to support the policy purposes...[The Commission wants] to send a clear signal about the need to minimize these costs by setting an administrative cost cap. This cap will be, like the overall program budget, a soft cap.” <i>D.12-05-037, at 66. May 14, 2012 Joint Opening Comments on PD at 13, Joint Opening Comments on Staff Proposal, at 12-13.</i></p> <p>“Utilizing IOU ratepayer funds from EPIC only for the purposes described herein is an important consideration. The best way to accomplish this protection is a hybrid of the two options presented by staff. That is, funds devoted to administration and staffing costs should be transferred by the IOUs to the CEC on a quarterly basis.” <i>D.12-05-037, at 69-70. May 14, 2012 Joint Opening Comments on PD at 14.</i></p> <p>“Thus, many of the types of workshops and processes requested above by parties will be conducted during the process of evaluating the investment plans, and need not be done in phase 2 of this proceeding.” <i>D.12-05-037, at 81. March 16, 2012 Joint Reply Comments on the Scoping Ruling and Staff Proposal at 3.</i></p> <p>“The EPIC funding amounts collected in rates are the default budgets for the EPIC program in each investment plan. These are guidelines that may be proposed to be adjusted by the program administrators in each investment plan to be considered by the Commission. Amounts that are uncommitted at the end of a triennial investment funding period should be used to offset future program funding requirements.” <i>D.12-05-037, Finding of Fact # 32. May 21, 2012 Joint Opening</i></p>	<p>Correct</p> <p>Correct</p> <p>Correct</p> <p>Correct</p>
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	<i>Comments on PD at 4.</i>	
18. The Joint Environmental Groups recommended that the Commission eliminate geographical restrictions on funding awards. (A, H)	<p>“In reply comments, the Joint Environmental Groups agree that ‘ensuring that EPIC funds are not awarded to generation projects that plan to sign a power purchase agreement with a POU and serve POU electricity customers is appropriate and easy to implement. But categorically excluding major research institutions in POU service territories, including Stanford University and the University of California at Los Angeles, does not serve the public interest or IOU customers.’” <i>D.12-05-037, at 71-72. March 16, 2012 Joint Reply Comments on the Scoping Ruling and Staff Proposal at 11.</i></p> <p>“... consistent with those of the Joint Environmental Groups, there is no evidence that a research or demonstration project undertaken by an entity that happens to be located within the service territory of a POU would necessarily produce fewer ratepayer benefits than the same activity by an entity located anywhere else.... Therefore, [the Commission declines] to set any explicit limits on the geographic eligibility for funding...” <i>D.12-05-037, at 72-73. March 16, 2012 Joint Reply Comments on the Scoping Ruling and Staff Proposal at 11.</i></p> <p>“For example, there are a number of world-class academic institutions in California that happen to be located within POU territories, and it seems potentially self-defeating to exclude them from the ability to compete for relevant research funds.” <i>D.12-05-037, at 73. March 16, 2012 Joint Reply Comments on the Scoping Ruling and Staff Proposal at 11.</i></p>	<p>Correct</p> <p>Correct</p> <p>Correct</p>
19. The Joint Environmental Groups advocated for intellectual property policies that are as broad and inclusive as possible. (G)	<p>“The Joint Environmental Groups recommend that the Commission structure its intellectual property policies to ensure that important research funded by EPIC is</p>	<p>Correct</p>

	<p>shared in an open and transparent manner.” <i>D.12-05-037, at 78. March 7, 2012 Joint Opening Comments on the Scoping Ruling and Staff Proposal at 13-14.</i></p> <p>[Intellectual property policies] “should also strive to be consistent with the current statutory requirements regarding intellectual property treatment for other state RD&amp;D programs, as suggested by the Joint Environmental Groups.” <i>D.12-05-037, at 79. May 14, 2012 Joint Opening Comments on PD at 14.</i></p> <p>“Thus, we ask the administrators to propose, in each investment plan, the treatment of intellectual property rights either in the investment plan as a whole, or for particular areas of investment within the investment plan.” <i>D.12-05-037, at 79. May 14, 2012 Joint Opening Comments on PD at 14.</i></p> <p>“The administrators should be required to make specific proposals for intellectual property rights in each investment plan where the specific types of projects proposed will be provided in more detail.” <i>D.12-05-037, Finding of Fact # 40. May 14, 2012 Joint Opening Comments on PD at 14.</i></p> <p>“Intellectual property rules should be tailored to the specific types of projects proposed.” <i>D.12-05-037, Conclusion of Law # 28. May 14, 2012 Joint Opening Comments on PD at 14.</i></p> <p>“The Commission should decline to adopt an overall policy on intellectual property rights at this time.” <i>D.12-05-037, Conclusion of Law # 29. May 14, 2012 Joint Opening Comments on PD at 14.</i></p>	<p>Correct</p> <p>Correct</p> <p>Correct</p> <p>Correct</p> <p>Correct</p>
<p>20. The Joint Environmental Groups advocated for a competitive bidding system for funding of research projects. (H)</p>	<p>“Finally, on the issue of competitive bidding, this is generally our selection process of choice in all areas. However, there may be limited and unique circumstances where it is not possible or</p>	<p>Correct</p>

	<p>desirable. In each investment plan, the administrators may propose a limited authorization for non-competitive bidding for particular purposes.” <i>D.12-05-037, at 36-37. March 16, 2012 Joint Reply Comments on the Scoping Ruling and Staff Proposal at 8.</i></p> <p>“Projects should be selected for award of EPIC funding on a competitive basis unless the administrators have specifically detailed and justified exceptions to this in their approved investment plans.” <i>D.12-05-037, Finding of Fact #18. March 16, 2012 Joint Reply Comments on the Scoping Ruling and Staff Proposal at 8.</i></p>	<p>Correct</p>
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<p><b>a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?</b></p>	<p>Yes</p>	<p>Correct</p>
<p><b>b. Were there other parties to the proceeding with positions similar to the Claimant’s?</b></p>	<p>Yes</p>	<p>Correct</p>
<p><b>c. Names of other parties (if applicable):</b></p> <p>NRDC, the Union of Concerned Scientists, Sierra Club California, The Nature Conservancy, Californians for Clean Energy and Jobs (CCEJ), the Ella Baker Center for Human Rights, Department of Ratepayer Advocates, the Center for Biological Diversity (CBD), Solar Energy Industries Association (SEIA), and the University of California.</p>		<p>Correct</p>
<p><b>d. Claimant’s description of how Claimant coordinated with DRA and other parties to avoid duplication or of how Claimant’s participation supplemented, complemented, or contributed to that of another party:</b></p> <p>The Joint Parties worked extensively together to ensure maximum collaboration and coordination to ensure there was no duplication, as discussed in detail below in Part III.A (#12). The Core Parties actively worked together to (1) develop joint comments (as opposed to filing individual similar sets of comments for each Joint Environmental Group organization), (2) design consistent advocacy strategy efforts, and (3) streamlined the work wherever possible. Furthermore, whenever possible, the Joint Parties consulted with SEIA and Commission Staff and crossed reference with other parties that had similar positions to assess whether there were further areas of opportunity to minimize duplication. However, the vast majority of the work and resources went to substantive contributions to comment</p>		<p>Correct</p>

<p>letters, thereby minimizing duplication as well as ensuring resolution of any differences between parties, therefore reducing the time needed by the Commission and other parties to address differing viewpoints. The benefits from the Joint Environmental Groups efforts are described in more detail below (See III.A.b).</p>	
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**C. Additional Comments on Part II:**

#	Claimant	CPUC	Comment
			None

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<b>a. Explanation by Claimant of how the cost of Claimant’s participation bore a reasonable relationship with benefits realized through participation</b>	<b>CPUC Verified</b>
<p>NRDC consistently advocates for policies to reduce the long term societal costs of electric generation. NRDC’s continued focus in this and other proceedings is on policies that ensure a reliable, affordable, and environmentally sustainable energy resource portfolio that should have lasting benefits to billpayers. NRDC contributed substantially to the resolution of a nearly every issue addressed in D.11-12-035 (Phase 1) and D.12-05-037, as amended by D.12-07-001 (Phase 2), which will allow create a framework for ongoing electric RD&amp;D investments.</p> <p>California has a long history of clean energy policy leadership and RD&amp;D continues to be a core component of its success. In our comments we presented a strong case for the creation of an RD&amp;D program at a robust funding level (issue A); made a clear and successful legal argument for the CPUC’s legal authority to fund the program (issue B); recommending specific investment categories and principles for customer benefit (issue C); brought forward the importance of technology demonstration in the emerging renewable sector (issue D); provided support and analysis for the Commission’s review of the New Solar Homes Partnership (issue E); demonstrated the need to focus on environmental performance and funding flexibility for new bioenergy projects, and the need to cease funding of existing biomass projects (issue F); recommended intellectual property policies that are as broad and inclusive as possible (issue G); recommended governance and administrative policies designed to encourage robust participation and cost consolidation (issue H); and advocated for consolidating the Emerging Renewable Program with the Small Generator Incentive Program (SGIP), provided that funding levels for the SGIP are monitored for adequacy and scope is expanded to wholesale generation (issue I).</p> <p>While it is challenging to quantify the benefits of an improved RD&amp;D program, there are numerous and important direct benefits that will accrue to Californians directly from improved technology that is expected to reduce the amount of energy Californians use. Our participation on these nine issues contributed to the creation and direction of a significant</p>	<p>Correct</p>

<p>electricity related RD&amp;D program that will expand clean energy and energy efficiency technologies, intellectual capital, and opportunities for companies, researchers, and implementers in California. This redesigned program will lead directly to (1) economic growth, (2) lower energy consumption, (3) reduced pollution and environmental degradation, and (4) improved public health by avoiding the use of dirtier and more costly fossil fuel. This program will help California develop a robust clean energy industry, which will produce new technologies for commercialization by utility program intervention. The benefits associated with bringing new technologies to market and integrating them into efficiency programs for customers will create jobs, save customers money on their energy bill, and help California achieve its aggressive environmental and energy policy mandates.</p> <p>The final decisions closely tracked our recommendations in most areas and, where there were differences or the Commission ultimately decided against our position, our advocacy shaped the analysis and discussion, ultimately improving the final outcome for customers.</p>	
<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>The substantial contributions to Commission policy described above would not have been possible without the individual contributions of each of the Joint Environmental Group organizations. Furthermore, our joint advocacy in this proceeding sets a hallmark for Commission collaboration. The difficulty of keeping a six party coalition (unaffiliated but for the purposes of advocacy in R.11-10-003) together throughout the entirety of the proceeding is a feat that should not be underestimated.</p> <p>The time and resources needed to ensure such a coordinated effort are far less than the time it would have taken for each organization to participate. The savings are exceptional. Not only are the hours claimed and resources expended by the three members of the Core Parties extremely conservative and far below what all Joint Environmental Groups would have claimed and expended had each party intervened individually, but the hours claimed and resources expended by the members of the Core Parties were also highly leveraged and streamlined as much as possible to reduce duplication. Where more than one party worked on a single issue area, it was because the parties were adding new research and information specific to the individual strengths and expertise of the varying organizations or were working out differences in advance of filing comments. This provided the Commission with a single strong recommendation.</p> <p>Furthermore, each of the Core Parties possessed particular expertise in distinctly different areas (e.g. NRDC – RD&amp;D and legal and administrative structure, UCS – bioenergy, Vote Solar – solar energy), providing all of the Joint Environmental Groups with information that each would have had to individually research. The Core Parties were also able share the responsibility of outreach to the larger Joint Environmental Groups, thus avoiding duplication of efforts.</p> <p>NRDC maintained detailed time records indicating the number of hours that were devoted to proceeding activities. All hours represent substantive work related to this proceeding. When staff ‘reviewed’ or ‘edited’ other staff work, this involved detailed comments, additional language, clarity of position, and effectiveness of recommendations to ensure that the work product delivered to the Commission was substantive and useful. This activity was not merely grammar checking, but added significant value to the end product.</p> <p>Since the core parties filed only one set of pleadings representing six parties, other parties</p>	<p>Correct</p>

<p>and the Commission did not have to spend time reviewing five additional sets of pleadings each time comments were required.</p> <p>Ultimately, the Joint Environmental Groups truly captured the essence of productive, beneficial collaboration. Robust and substantial contributions were made through exceptionally efficient resource sharing and allocation.</p> <p>The amounts claimed by NRDC are further conservative for the following reasons: (1) None of the hours were claimed from time spent by other NRDC staff who consulted regularly on this proceeding. This included Sheryl Carter, Sierra Martinez, Peter Miller, and Ralph Cavanagh, all of whom provided substantive work and/or guidance particular to their area of expertise, and (2) no time was claimed for pure coordination among the staff.</p>	
<p><b>c. Allocation of Hours by Issue</b></p> <p>The Natural Resources Defense Council properly allocated its time by major issues in its timesheets as required by Rule 17.4.<sup>1</sup></p>	

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate	Total	Hours	Rate	Total
Noah Long	2011	47.85	\$200	D.08-04-010 at 8; Resolution ALJ – 267 Comment 1	\$9,570	47.85	\$200	\$9,570
Noah Long	2012	38.20	\$210	D.08-04-010 at 8; Resolution ALJ – 267; 5% increase Comment 1	\$8,022	38.20	\$215 (Resolution ALJ-281, 2.2% increase)	\$8,213
<b>Subtotal:</b>					<b>\$17,592</b>	<b>Subtotal:</b>		<b>\$17,783</b>
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate	Total	Hours	Rate	Total
Noah Long	2011	1	\$100	½ Rate; D.08-04-010 at 8; Resolution ALJ – 267 Comment 1	\$100	1	\$100	\$100
Noah Long	2012	3	\$105	½ Rate; D.08-04-010 at 8; Resolution ALJ – 267; 5% increase Comment 1	\$315	3	\$107.50 Resolution ALJ-281, 2.2% increase)	\$322.50
<b>Subtotal:</b>					<b>\$415</b>	<b>Subtotal:</b>		<b>\$422.50</b>
<b>TOTAL REQUEST:</b>					<b>\$18,007</b>	<b>TOTAL AWARD:</b>		<b>\$18,205.50</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</p>								

<sup>1</sup> See D.98-04-059 and D.85-08-012.

intervenor compensation. Claimant's records should identify specific issues for which it requested 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.

\*\* Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate (the same applies to the travel time).

Attorney	Date Admitted to CA BAR	Member Number
Noah Long	March 2009	262571

### C. Additional Comments on Part III:

Comment #	Description/Comment
Comment #1	<p>Mr. Long holds a JD from Stanford University Law School, an MSc from the London School of Economics and a BA in Government and Environmental Studies from Bowdoin College.</p> <p><u>2011 Rate:</u> Noah Long was previously awarded intervenor compensation at the hourly rate of \$150 in D.10-05-022 for work in R.06-04-009 and D.10-05-014 for work in A.08-07-021, et al. Mr. Long is currently a fourth year attorney and also worked in energy policy for 7 years. When Mr. Long was awarded an hourly rate of \$150 for his work in 2008, he was a first year attorney (see D.10-05-022 at 39). Since Mr. Long is now a fourth year attorney (and was a third year attorney working on these issues), we request a rate of \$200. This rate is at the low end of the published range in Resolution ALJ – 267 for attorneys with 3-4 years experience (\$200-235). Intervenors can qualify for a rate increase when “moving to a higher experience level: where additional experience since the last authorized rate moved a representative to a higher level of experience.” (D.08-04-010, at 8)</p> <p><u>2012 Rate:</u> Assuming a rate of \$200 for 2011, we request a rate of \$210 for Mr. Long in 2012, which includes the allowable 5% increase per year as noted in D.08-04-010 (at 8) which states “Step increases: limited to two annual increases of no more than 5% each year within any given level of experience for each individual.”</p>

### D. CPUC Disallowances & Adjustments:

#	Reason
14, 16	NRDC requests and has been approved for an hourly rate of \$210 for Mr. Long. In addition, we apply the recent Commission approved Resolution ALJ-281 of September 13, 2012 to Mr. Long's hours during the 2012 calendar year. Resolution ALJ – 281 applies a Cost-of-Living Adjustment (COLA) of 2.2% to intervenor rates for work done during the 2012 calendar year. This COLA adjustment, after rounding, results in an hourly rate of \$215 for Mr. Long.

**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)) (Y/N)?</b>	Yes

**FINDINGS OF FACT**

1. NRDC has made a substantial contribution to Decision (D.) 11-12-035 and D.12-05-037 as amended by D.12-07-001.
2. The requested hourly rates for Claimant's representative, 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. The total of reasonable compensation is \$18,205.50.

**CONCLUSION OF LAW**

1. The claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

**ORDER**

1. Natural Resources Defense Council is awarded \$18,205.50.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) shall pay the Natural Resources Defense Council the total award. PG&E, SD&E, and SCE shall allocate payment responsibility among themselves based on their California-jurisdictional electric revenues for the 2011 calendar year, reflecting 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 October 13, 2012, the 75th day after the filing of Claimant's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This order 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>	D1112035 (Phase 1) and D1205037, as amended by D1207001 (Phase 2)	
<b>Proceeding(s):</b>	R1110003	
<b>Author:</b>	ALJ Division	
<b>Payer(s):</b>	Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison 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>
Natural Resources Defense Council (NRDC)	7/30/2012	\$18,007	\$18,205.50	No	Adjusted hourly rate

**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>
Noah	Long	Attorney	NRDC	\$200	2011	\$200
Noah	Long	Attorney	NRDC	\$210	2012	\$215

**(END OF APPENDIX)**