

Decision **PROPOSED DECISION OF ALJ EBKE** (Mailed 6/11/2013)

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

Application of Southern California Edison Company (U338E) for authority to Implement and Recover in Rates the Cost of its Proposed Solar Photovoltaic (PV) Program.

Application 08-03-015  
(Filed March 27, 2008)

**DECISION GRANTING COMPENSATION TO CALIFORNIANS FOR RENEWABLE ENERGY FOR SUBSTANTIAL CONTRIBUTIONS TO DECISIONS (D.) 09-06-049 AND D.12-02-035**

<b>Claimant:</b> CALifornians for Renewable Energy (CARE)	<b>For contribution to</b> D.09-06-049 and D.12-02-035
<b>Claimed (\$):</b> 54,515	<b>Awarded (\$):</b> 28,612
<b>Assigned Commissioner:</b> Mark J. Ferron	<b>Assigned ALJ:</b> Maryam Ebke

**PART I: PROCEDURAL ISSUES**

**A. Brief Description of Decision:**

D.09-06-049 addresses the Solar Photovoltaic Program (SPVP) for Southern California Edison Company (SCE) to install 500 megawatts (MW) of solar photovoltaic on existing commercial rooftops in the service territory. D.12-02-035 grants SCE petition for modification of D.09-06-049 and makes conforming changes to D.10-12-048. As modified, the program will be no more than 125 MW of utility ownership, no more than 125 MW of independent power producer ownership, and 225 MW to be produced through the Renewable Auction Mechanism Program.

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

	Claimant	CPUC Verified
<b>Timely filing of notice of intent (NOI) to claim compensation (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	July 10, 2008	Correct
2. Other Specified Date for NOI:		
3. Date NOI Filed:	August 11, 2008	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:	A.08-03-015	Correct
6. Date of ALJ ruling:	September 12, 2008	Correct
7. Based on another CPUC 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.08-03-015	Correct
10. Date of ALJ ruling:	September 12, 2008	Correct
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.12-02-035	Correct
14. Date of Issuance of Final Order or Decision:	February 16, 2012	Correct
15. File date of compensation request:		March 8, 2012
16. Was the request for compensation timely?		Yes

**C. Additional Comments on Part I (use line reference # as appropriate):**

#	Claimant	CPUC	Comment
15		Correct	CARE participated in the A.08-03-015 proceeding by filing a prehearing conference statement, testimony, attending hearings, submitting opening and reply briefs, commenting on the proposed decision, filing a rehearing request of D.09-06-049, participating in Oral Argument, Ex Parte meetings with decision makers, and commenting on SCE's Petition to Modify D.09-06-049. Pursuant to Rule 17.3, CARE is submitting the compensation request for the entire proceeding now that it has been closed.

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. Claimant’s Contribution to Final Decision**

<b>Contribution</b>	<b>Specific References to Claimant’s Presentations and to Decision</b>	<b>Showing Accepted by CPUC</b>
<p>1. CARE’s Protest and PHC Statement explained that the SCE proposal to compete with private solar installers was flawed because the CPUC’s affiliate transaction rules recognize the conflict of interest can harm the ratepayers by reducing competition. SCE’s Petition to Modify requested a reduction from 250MW to 125MW of solar capacity and the remaining 125MW to be transferred to independent power producers. D.12-02-035 recognizes that the SPVP did not achieve the amount of solar PV capacity authorized in 2009.</p>	<p>CARE Protest dated April 28, 2008, at 4.                      CARE PHC Statement July 7, 2009, at 3 and 4.                      D.12-02-035 at 2.</p>	<p>No, the Commission reduced MW of the program to reduce costs, promote simplicity, maximize program efficiency, and minimize market disruption-- not because of CARE’s analysis of the CPUC’s affiliate transaction rules and conflict of interest.</p>
<p>2. CARE’s Rehearing Request for D.09-06-049 and Response to SCE’s Petition to Modify it addressed the federal law known as the American Recovery and Reinvestment Act of 2009 (ARRA) that became law in March 2009. The ARRA provided a tax grant for many renewables companies that weren’t utility companies. This gave the independent power producer companies a cost advantage over the utility companies. SCE’s Petition to Modify and D.12-02-035 recognized that granting SCE’s Petition reduces costs, promotes simplicity, maximizes program efficiency, and minimizes market disruption.</p>	<p>CARE Rehearing Request of July 2009, Item 4 at 6 and 7, and CARE Response to Petition to Modify, March 11, 2011, at 2.                      D.12-02-035 at 2 recognizes that the SPVP is not cost effective for California ratepayers and changes it to require less capacity to be owned by SCE and allows more capacity to be owned by non-utility companies. D.12-02-035 doesn’t address the tax grant issues discussed by CARE but simply states on page 7 in section 3 that the Commission recognizes that the SCE owned solar PV facilities are not as cost effective as the solar PV facilities owned by others.</p>	<p>No, the Commission modified SPVP because solar PV costs have fallen. As such, program modifications would be the best opportunity to secure savings for ratepayers because recent prices are substantially lower than during the initial SPVP approval, the lingering economic downturn has slowed development opportunities, and to reduce the gap in development of one to two MW wholesale distributed solar projects--not because the SCE- owned solar PV facilities were not</p>

		as cost effective, as stated by CARE.
3. CARE contends that the SPVP is inconsistent with § 2775.5 because it places the utility in direct competition with companies participating in CSI for rooftops and grid access.	CARE Opening Brief at 12. D.09-06-049 at 20-25, says that the statute requires that the Commission find whether the proposed program of solar energy development will accelerate the development and <i>use of solar energy systems</i> in the state for the duration of the program. D.12-02-035 recognizes that the SPVP did not do so.	Claimant has not concisely described how their participation on this issue substantially contributed to the decision.
4. CARE recommended a ratemaking proposal designed to provide a financial incentive for SCE to minimize costs. It is addressed in Section 6.1 of D.09-06-049. CARE also urged the Commission to encourage SCE to add solar power plants to the existing power plant sites within its service area subject to a cost sharing proposal.	CARE Opening Brief at 9. CARE comments on Alternate Decision. D.09-06-049 at 46. SCE’s SPVP did not achieve the 500MW of solar power generation capacity required by D.09-06-049. D.12-02-035 acknowledged it.	Claimant has not concisely described how their participation on this issue substantially contributed to the decision.

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

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?</b>	Yes	Correct
<b>b. Were there other parties to the proceeding?</b>	Yes	Correct
<b>c. If so, provide name of other parties:</b> Greenlining Institute, TURN, DRA		Correct
<b>d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b>  CARE communicated by telephone and e-mail with DRA’s staff.		These coordination efforts are supported by CARE’s time sheet entries.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<b>a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)</b>	<b>CPUC Verified</b>																				
<p>CARE recommended a cost sharing mechanism to encourage SCE to operate the SPVP efficiently. D.12-02-035 shows that SCE was not able to install the authorized 250MW of solar PV electric generation capacity because of economic factors. See D.12.02-035 at 5. CARE’s participation was considered in adopting a safety mechanism in D.09-06-049 requiring SCE to compare its costs to those of independent power producers. This resulted in SCE not constructing solar PV generating capacity that cost more than available alternatives.</p>	<p>CARE actively participated in the proceeding but testimony was lacking and intervenor often appeared ill-prepared for hearings.</p>																				
<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>Martin Homec managed the CARE presentation and Juliette Anthony wrote the testimony. Ms. Anthony was unable to attend the hearings because of medical problems but did assist as she was able.</p>	<p>CARE’s briefs, comments and testimony were not extensive and we deem the hours excessive given the filings. Especially noteworthy was the excessive amount of time spent preparing intervenor compensation requests. Time has been adjusted accordingly for this lack of efficiency.</p>																				
<p><b>c. Allocation of Hours by Issue</b></p> <table border="0"> <tr> <td>1. reasonableness of cost estimate</td> <td>30%</td> </tr> <tr> <td>2. reasonableness of elements of SCE plan</td> <td>10%</td> </tr> <tr> <td>3. cost effectiveness of SCE plan</td> <td>10%</td> </tr> <tr> <td>4. benefits to ratepayers</td> <td></td> </tr> <tr> <td>5. cost benefits reasonable compared to RPS program</td> <td></td> </tr> <tr> <td>6. costs reasonable compared to other utility alternatives</td> <td></td> </tr> <tr> <td>7. costs reasonable compared to CSI alternatives</td> <td>30%</td> </tr> <tr> <td>8. how SPVP satisfies CPUC policy of implementing renewables</td> <td>10%</td> </tr> <tr> <td>9. requirements of section 2775.5</td> <td>5%</td> </tr> <tr> <td>10. should any means of oversight be implemented to assure performance</td> <td>5%</td> </tr> </table>	1. reasonableness of cost estimate	30%	2. reasonableness of elements of SCE plan	10%	3. cost effectiveness of SCE plan	10%	4. benefits to ratepayers		5. cost benefits reasonable compared to RPS program		6. costs reasonable compared to other utility alternatives		7. costs reasonable compared to CSI alternatives	30%	8. how SPVP satisfies CPUC policy of implementing renewables	10%	9. requirements of section 2775.5	5%	10. should any means of oversight be implemented to assure performance	5%	<p>CARE has satisfied the requirement to provide a breakdown of its hours by major issue in accordance with guidance provided in D.98-04-059.</p>
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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 \$
Martin Homec	2008	132.4	\$185	D.12-02-034 13+ years of experience	\$24,494	66	\$185	\$12,210
Martin Homec	2009	46.5	\$185		\$8,603	23	\$185	\$4,255
Martin Homec	2011	6	\$185		\$1,110	3	\$185	\$555
Juliette Anthony	2008	44.8	\$125	D.11-03-027 based on D.07-12-007+3% COLA	\$5,600	31	\$125	\$3,875
Juliette Anthony	2009	7	\$125		\$875	3.5	\$125	\$438
Michael Boyd	2008	53.5	\$135	D.09-05-012	\$7,223	27	\$135	\$3,645
Michael Boyd	2009	35	\$135		\$4,725	18	\$135	\$2,430
Michael Boyd	2011	3	\$135		\$405	2	\$135	\$270
<b>Subtotal:</b>					<b>\$53,035</b>	<b>Subtotal:</b>		<b>\$27,678</b>
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Martin Homec	2008	4	\$92.50	D.09-05-012	370	3	\$92.50	\$278
Martin Homec	2009	6	\$92.50		555	3	\$92.50	\$278
Martin Homec	2010	2	\$92.50		185	1	\$92.50	\$93
Martin Homec	2012	4	\$92.50		370	3	\$95	\$285
<b>Subtotal:</b>					<b>\$1,480</b>	<b>Subtotal:</b>		<b>\$934</b>
<b>TOTAL REQUEST:</b>					<b>\$54,515</b>	<b>TOTAL AWARD:</b>		<b>\$28,612</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 rates.</p>								
Attorney				Date Admitted to CA BAR		Member Number		
Martin Homec				May 1979		85798		

**C. CPUC Disallowances, Adjustments, and Comments:**

#	Reason
Reductions for efficiency Martin Homec	Martin Homec's time is reduced over the course of the proceeding. Several of Mr. Homec's time sheet entries appeared to be excessive in light of the depth and breadth of the filings in the proceeding. As such, his time has been adjusted for efficiency. Additionally, his time preparing for hearings has also been reduced as necessary because Homec did not appear to be well prepared in this proceeding. Finally, the number of hours that Mr. Homec billed to prepare a routine filing like intervenor compensation claims were excessive and have been reduced.
Reductions for efficiency Juliette Anthony	Juliette Anthony's time is reduced over the course of proceeding. The testimony that Ms. Anthony prepared for CARE did not provide enough substantive value to the proceeding for the number of hours that were billed.
Reductions for efficiency and duplication Michael Boyd	Michael Boyd's time is reduced over the course of the proceeding for both efficiency and duplication. Several of Mr. Boyd's time sheet entries are not only duplicative of Mr. Homec's work and Ms. Anthony's work but are excessive in light of the lack of depth and breadth found in the testimony and filings provided by CARE. Reductions are made as necessary.
Adoption of Martin Homec's hourly rate for 2012	Though CARE request the same hourly rate of \$185 for Martin Homec (awarded in D.12-02-034), the Commission adopts a rate of \$190 for Mr. Homec for 2012. We apply the recent Commission approved Resolution ALJ-281 of September 13, 2012 to Mr. Homec'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 a new rate for Mr. Homec for 2012 of \$190.

**PART IV: OPPOSITIONS AND COMMENTS**  
**Within 30 days after service of this Claim, Commission Staff**  
**or any other party may file a response to the Claim (see § 1804(c))**

<b>A. Opposition: Did any party oppose the claim (Y/N)?</b>	No
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<b>B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6)) (Y/N)?</b>	No
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If not:

Party	Comment	CPUC Disposition
	No reply comments were filed by parties on the proposed decision.	

**FINDINGS OF FACT**

1. Californians for Renewable Energy has made a substantial contribution to Decision (D.) 09-06-049 and D.12-02-035.
2. The requested hourly rates for Claimant’s 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 claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$28,612.

**CONCLUSION OF LAW**

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

**ORDER**

1. CALifornians for Renewable Energy is awarded \$28,612.
2. Within 30 days of the effective date of this decision, Southern California Edison Company shall pay CALifornians for Renewable Energy the total award of \$28,612. 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 22, 2012, the 75th day after the filing of CALifornians for Renewable Energy's request, and continuing until full payment is made.
3. The comment period for today's decision is not waived.
4. 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>	D0906049 and D1202035	
<b>Proceeding(s):</b>	A0803015	
<b>Author:</b>	ALJ Ebke	
<b>Payer(s):</b>	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>
CALifornians for Renewable Energy (CARE)	3/8/2012	\$54,515	\$28,612	No	Rate for 2012 is increased, for intervenor compensation claim preparation, to reflect cost-of-living adjustment. Resolution ALJ-281 (September 18, 2012). Hours for preparation for hearings, of testimony, briefs, comments, and intervenor compensation claim are reduced for efficiency and duplication.

## 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>
Martin	Homec	Attorney	CARE	\$185	2008-2011	\$185
Martin	Homec	Attorney	CARE	\$185	2012	\$190
Juliette	Anthony	Advocate	CARE	\$125	2008-2009	\$125
Michael	Boyd	Advocate	CARE	\$135	2008-2011	\$135

(END OF APPENDIX)