Decision 13-10-068 October 31, 2013

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 COMPENSATION TO SIERRA CLUB CALIFORNIA FOR SUBSTANTIAL CONTRIBUTION TO DECISIONS (D.) 12-04-046 and D.12-01-033

Claimant: Sierra Club California	**For contribution to Decisions (D.) 12-04-046 and D.12-01-033**
Claimed ($): $256,928.50	**Awarded ($): $250,306.75** (reduced 2.6%)
Assigned Commissioner: Michael R. Peevey	**Assigned ALJ: Peter V. Allen**

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: **3.A.:**

This proceeding was divided into three "Tracks." In Track I, the Commission considered issues related to the overall long-term need for new system and local reliability resources, including adoption of "system" resource plans for each of the three utilities' service area. The purpose of these resource plans was to allow the Commission to comprehensively consider the impacts of state energy policies on the need for new resources. In Track II, the Commission considered adoption of "bundled" procurement plans pursuant to AB 57 (codified as Pub. Util. Code § 454.5) for the Investor Owned Utilities (IOUs) to authorize their procurement needs for their bundled customers. In Track III, the Commission considered a number of rules and policy issues related to procurement plans.

On January 12, 2011, the Commission made its decision on the Track II bundled plans. D.12-01-033. The decision approved with modifications the plans of the three major California electric utilities to procure electricity for their bundled customers. *Id*. at 2. In addition, the Commission provided guidance to the utilities for their future bundled procurement plans. Of particular relevance to this claim for compensation, the Commission rejected utility claims that they could ignore standardized planning assumptions and "procure whatever they want, in whatever quantity they think

A. Brief Description of Decision (cont'd):

best." *Id.* at 10. Instead the Commission capped the amount of procurement pre-approved under AB 57, *id.* at 12-15, and reiterated the need to apply, or justify any departures from, the standardized planning assumptions. *Id.* at 16. Finally, the Commission rejected utility arguments that the loading order only guided resource choices until policy goals or targets are met. The Commission clarified that "the utility obligation to follow the loading order is ongoing" and that "[t]he loading order applies to all utility procurement, even if pre-set targets for certain preferred resources have been achieved." *Id.* at 20.

On April 18, 2012, the Commission made its decision addressing issues in System Track I and Rules Track III of the Long-Term Procurement Plan Rulemaking. D.12-04-046. Many of the potential issues in System Track I had been resolved, or at least deferred, by a proposed settlement supported by most of the parties. In this second decision, 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. *Id.* at 2. A second System Track I issue, relating to local reliability requirements in the San Diego Gas & Electric Company (SDG&E) service territory, was moved to Application (A.) 11-05-023. *Id.* The second decision also addressed a number of Rules Track III issues, including utility procurement of greenhouse gas related products. *Id.*

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 (PHC):	June 14, 2010	Correct
2. Other Specified Date for NOI:	August 13, 2010; *see* comment 2	Correct
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 Administrative Law Judge (ALJ) ruling issued in proceeding number:	A.10-03-014	
6. Date of ALJ ruling:	November 30, 2010	
7. Based on another CPUC determination (specify):	D.12-05-032	Correct
8. Has the Claimant demonstrated customer or customer-related status?		Yes

Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	ALJ's Ruling on Notice of Intent to Claim Intervenor Compensation filed by Sierra Club California (June 25, 2009) in R.08-08-009; see comment 3	Correct
10. Date of ALJ ruling:	June 25, 2009	Correct
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.12-04-046	Correct
14. Date of Issuance of Final Order or Decision:	April 19, 2012[1]	April 24, 2012
15. File date of compensation request:	June 18, 2012	Correct
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	Sierra Club		Sierra Club California ("Club")[2] is a grassroots environmental organization interested in implementing measures to reduce greenhouse gas emissions and increase reliance on renewable energy sources. The Club's interest in this proceeding is not related to any business interest. The Club receives funding for environmental advocacy from many sources, including philanthropic donations, member contributions and other sources. The Club has entered into agreements with certain residential rooftop solar installers that will likely result in a small amount of additional funding. However, the Club's involvement in the present proceeding is completely independent and unrelated to those small amounts of funding.
2	Sierra Club		A 30-day extension was granted by the ALJ at the PHC and reported in the ALJ'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), June 22, 2010 at 7.
3	Sierra Club		The ALJ's June 25, 2009 Ruling on NOI to Claim Intervenor Compensation filed by the Club (at 3-4) in R.08-08-009 stated that: "[b]y verified NOI, Sierra Club California states that the average utility bill of its individual members and the customers it represents is small compared to the costs of effective participation in

[1] Please note although the Decision Date is April 19, 2012, the date of Issuance is April 24, 2012.

[2] Please note "Club" and "Sierra Club" refer to Sierra Club California.

			this proceeding. This is consistent with prior Commission determinations regarding the Sierra Club, and no new facts are known that would result in reaching a different outcome. Sierra Club California has established it will face a significant financial hardship for participation in this proceeding absent intervenor compensation." (footnote omitted)

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant's contribution to the final decision:

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
The Club was an active participant throughout the nearly two-year duration of this proceeding. For purposes of demonstrating the Club's substantial contribution to the final decision, we have divided the discussion into three phases: (1) Finalization of the Scoping Ruling and Development of Standardized Planning Assumptions; (2) the Bundled Plan Decision (Track II); and (3) the System Plan and Policy Decisions (Tracks I and III). A. <u>Scoping Ruling and Development of Standardized Planning Assumptions</u> The Club invested significant time in the proceedings to refine and develop the final Scoping Order and Standardized Planning Assumptions. In total, the Club participated in multiple workshops and submitted seven sets of comments. Over the course of this phase of the proceeding, the Club contributed to the decisions on the following issues: (1) Energy efficiency (EE) assumptions. *See* Comments of Sierra Club California on Ruling on Resource Planning Assumptions – Part 3 (Energy Efficiency) – Track I (July 2, 2010). The Club provided detailed answers with supporting data to questions posed by Staff and ALJ, including a discussion on inclusion of "Big Bold Energy Efficiency Strategies" (BBEES) in the	The Scoping Ruling included a discussion of the various comments on whether to include BBEES in the EE assumptions. *See* "Assigned Commissioner And Administrative Law Judge's Joint Scoping Memo And Ruling," at 35-37 (December 3, 2010) (discussing recommendation by the Club and others).	Correct

analysis. (2) Demand and growth assumptions. *See* Reply Comments of Sierra Club California on Initial Ruling on Procurement Planning Standards (June 28, 2010); Sierra Club California's Comments On Pacific Gas And Electric Company (PG&E)'s (U 39 E) Supplemental Comments On Resource Planning Assumptions (Part 1) Filed On June 21, 2010 (July 12, 2010) (both comments opposing PG&E recommendations to deviate from IEPR projections).	The Commission retained the IEPR demand forecast numbers. *See* "Assigned Commissioner And Administrative Law Judge's Joint Scoping Memo And Ruling," at 22 (December 3, 2010).	
(3) Renewable resource planning assumptions. *See* Comments of Sierra Club California on Ruling on Resource Planning Assumptions – Part 2 (Long-Term Renewable Resource Planning Standards) (July 9, 2010). The Club provided detailed answers with supporting data to questions posed by Staff and ALJ, including: - at 2-3: demonstrating that geothermal cost assumptions were too high; - at 7-10: recommending "High DG" modeling scenario.	The updated planning assumptions included a lower geothermal cost assumption. *See* "Assigned Commissioner And Administrative Law Judge's Joint Scoping Memo And Ruling," Attachment 2 ("Standardized Planning Assumptions (Part 2 – Renewables) for System Resource Plans"), at 17 (Table 1) (December 3, 2010). The Scoping Ruling discussed the comments on the high DG scenario, though ultimately decided not to include a separate scenario. *See* "Assigned Commissioner And Administrative Law Judge's Joint Scoping Memo And Ruling," at 26-27 (December 3, 2010).	See page 18.
B. <u>Bundled Plan Decision (Track II)</u> In this phase of the proceeding the central issues for the Club, and upon which, it contributed were the following: (1) The need for bundled plans to be based on standardized planning assumptions.		

Sierra Club in its Opening Brief highlighted the fact that "[b]undled plans should fully comply with the Scoping Memo and other Commission Rulings, using planning assumptions that are consistent with the Scoping Memo" and identified how the utilities improperly concluded that they were free to revise or ignore these assumptions. Track II Opening Brief of Sierra Club California, at 2-9 (June 17, 2011). The Club further explained: "In addition, if utilities are using planning assumptions that are inconsistent with the Commission's requirements, this undermines comparative analysis between plans and analysis of how the current plans relate to the prior procurement plan which the 2010 plan is supposed to update." Track II Opening Brief of Sierra Club California, at 13 (June 17, 2011).	The Decision took up this issue and agreed with Sierra Club's objections: "There is one area, however, that reflects a fundamental tension in the process that we need to address. The basic idea that forms the foundation of this proceeding is that the Commission will pre-approve a utility procurement plan, and subsequent utility procurement consistent with that plan is considered reasonable. In proposing their procurement plans, the utilities were directed by the December 3, 2010 Scoping Memo (reiterating the OIR) to base their submissions upon a set of standardized planning assumptions . . . . The standardized planning assumptions that are being used in this proceeding were developed through an exhaustive and open process, involving a wide range of stakeholders. (*See, e.g.*, Scoping Memo at 7-8, 24.) As described above, one important purpose for the standardized planning assumptions was to allow for the utilities' plans to be more readily comparable. Absent some common basis, it would be impossible for the Commission to perform a meaningful comparative analysis of the utilities' procurement plans, and more difficult for the Commission to ensure that those plans are consistent with the requirements of § 454.5. Basing the plans on a known starting point also helps evaluate the scope and effect of any subsequent proposed changes to the plans. . . . While we should not force utility procurement to precisely conform to	

(2) The function of the loading order in guiding procurement decisions: The Club argued that "[a]lthough each IOU makes statements that it will abide by the loading order, each of the bundled plans fails to adequately show how each IOU over the 10-year planning period will adhere to the loading order." *See* Track II Opening Brief Of Sierra Club California, at 9-11 (June 17, 2011).	the standardized planning assumptions, the utilities cannot just disregard the standardized planning assumptions and procure whatever they want. Doing so would make this whole process – and more importantly, Pub. Util. Code § 454.5, which we are implementing here – pointless. The Commission has a legal duty to ensure that ratepayers pay just and reasonable rates, and accordingly the utilities' procurement activities must have some correlation to the procurement plan approved by the Commission." D.12-01-033, at 5-7 (January 18, 2012). As the Decision noted: "The question raised by the utilities' arguments is whether the obligation to procure resources in the sequence set forth in the loading order is finite or if it is ongoing. The utility position is that the obligation is finite – once the required levels of preferred resources are reached, the obligation to procure more of those resources ends, and the utility is free to procure any needed residual amounts from conventional sources (although it may procure additional preferred resources). Under the Pacific Environment interpretation (also supported by Sierra Club), even if enough of the preferred resources have been procured to meet the utilities' obligations under the Commission's program-specific decisions, any residual procurement should also follow the loading order." D.12-01-033, at 18-19 (January 18, 2012).	
(3) Load projections in PG&E's bundled plan. The Club challenged the assumptions used in	The Commission ultimately agreed with the Club and Pacific Environment and rejected the IOU's argument that the loading order only	

PG&E's bundled plan regarding the load served by the Marin Energy Association (MEA). *See* Track II Opening Brief of Sierra Club California, at 7-8 (June 17, 2011).	guided procurement until certain relevant policy targets were met: "Accordingly, to clarify the Commission's position, we expressly endorse the general concept that the utility obligation to follow the loading order is ongoing. The loading order applies to all utility procurement, even if pre-set targets for certain preferred resources have been achieved. This is only a clarification of our existing policy, and does not modify any Commission decision relating to procurement of specific resources, such as energy efficiency or renewable generation." D.12-01-033, at 20 (January 18, 2012).	
C. <u>System Plan and Policy Decisions (Track I and III)</u> The Club's contribution to the Decision on Track I and III issues falls into the following two categories: (1) Settlement. Many of the issues central to Track I were resolved through a settlement agreement of the Parties approved by the Commission. D.12-04-046, at 2. The Club was an active participant in those settlement negotiations, contributed to the terms of the final agreement, advocated for its approval by the Commission, and resisted attempts by some parties to alter the proposed approval of the agreement. *See* Opening Brief Of Sierra Club California On Track I And Track III Issues, at 2-3 (September 16, 2011). ("Sierra Club supports the Settlement Agreement proposed in this proceeding, which acknowledges that the Commission should not, at this time, authorize additional capacity for renewable integration purposes . . . ."); *see also* Reply Comments Of Sierra Club California On Proposed Decision On System Track I And Rules Track III Of The Long-Term Procurement Plan Proceeding And Approving Settlement, at 1-2 (Mar. 19, 2012).	The Commission ultimately agreed with these objections holding: "It is appropriate to use more accurate load forecasts for MEA, consistent with SB 695, instead of the load forecast in the standardized planning assumptions. SCE is authorized to use its direct access assumptions for purposes of establishing position limits and ratable rates for its bundled procurement plan. The other utilities should engage in procurement consistent with SCE's assumptions for direct access." D.12-01-033, at 30 (January 18, 2012).	
(2) Greenhouse gas offsets. Of the remaining issues addressed by the Commission in its April 24, 2012 decision, the Club contributed significantly to the issue of procurement of offsets as a	After noting that a number of parties addressed the issue of need in their briefs, the Commission concluded:	

compliance option under the California Global Warming Solutions Act ("AB32"). The Club raised two objections to authorizing procurement of "offsets" as a compliance instrument: (1) that approval of such instruments is bad policy and (2) that such approval could have environmental impacts triggering the obligation for review under the California Environmental Quality Act ("CEQA"). *See* Opening Brief Of Sierra Club California On Track I And Track III Issues, at 10-19 (September 16, 2011).	"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. The proposed settlement is therefore reasonable in light of the whole record." D.12-04-046, at 10 (April 24, 2012). While the Commission ultimately rejected both of these objections, the final decision more fully articulated the policy and legal rationale for its decision. In addition, the Commission did recognize the potential obligation to conduct environmental review on future IOU projects to generated offset credits: "To the extent that the Commission approves specific offset projects, the Commission will consider tiering off the CARB document as appropriate. For example, if the utilities want Commission authorization to develop offset projects, they need to file an application with this Commission, at which time this Commission would perform the appropriate project-level CEQA review." D.12-04-046, at 47 (April 24, 2012); *see also id.* at 44 (establishing other limits on offset procurement).	

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

	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Yes
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Yes
c. If so, provide name of other parties: See Service List for R.10-05-006 in the attached certificate of service for a listing of all		Yes

the parties that participated in this proceeding. Pacific Environment and Communities for a Better ("CBE") had the most similar positions. There were other environmental interests represented in the proceeding that generally had aligned interests. DRA also had aligned interests on many issues. The Club entered into the settlement in which most of the parties agreed to the same resolution.	
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: During the proceeding, the Club coordinated most closely with Pacific Environment. Both the Club and Pacific Environment were very active participants in the proceeding. Although we often shared similar positions, our advocacy was complementary. Typically, our briefs presented different approaches/perspectives on the same goals which resulted in a fuller presentation of the issues and stronger decisions. In addition, given the multitude of parties, two similar but unique voices from the environmental community provided an important balance to other interest in the proceeding. Rather than creating duplication the advocacy magnified the importance of certain issues and had a cumulative effect. The Club also coordinated closely with CBE. After consultation with CBE, the Club did not address certain issues related to SCE, because CBE was covering those issues. The Club coordinated with DRA in several ways. We had a meeting with DRA and other aligned parties and had informal discussions at a variety of hearings and workshops. In addition, Pacific Environment kept in very close contact with DRA. The Club was often informed about DRA's strategy through Pacific Environment. As a result of all of this coordination, the Club chose to focus on legal and policy arguments to which the Club brought its unique perspective and expertise. During the hearings, the Club concluded that there were sufficient parties filing testimony on the Club's issues of concern, making additional witnesses from the Club unnecessary. During the course of the two-year proceeding, the Club met with a cross section of the parties either in formal meetings or after workshops and hearings. About eight percent of the Club's time was spent engaging with other parties. This informed the Club's decision to focus on its core issues, which included no new procurement of fossil fuel infrastructure, the promotion of the state's clean energy policies, and ensuring the decision addressed greenhouse gas reduction and offset issues. With respect to the settlement discussions, the Club participated to ensure the best settlement possible. The Club believes that its participation improved the final outcome. The settlement agreement achieved the Club's primary objective for the proceeding: a finding of no new need.	Verified; we make no reductions in Sierra Club's hours for duplication of efforts with other parties.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

a. Concise explanation as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation:	**CPUC**
The Club had three major objectives in the proceeding: First, the Club sought a finding a no new need for long-term fossil fuel infrastructure. The Club believes that California needs to reorient its energy system to a clean energy future centered on renewable energy, and consequently, California needs to stop building infrastructure that will be made obsolete by the carbon constrained world in which we have already entered. Second, the Club promoted vigorous implementation of California's clean energy laws. Third, the Club pushed to integrate AB 32 and its requirements for greenhouse gas reductions into the long-term planning process and analysis. The Club was successful in each of its objective. Approval of the Track I settlement held that there was no need for new infrastructure. The Track II decision affirmed the application of the loading order to all procurement decisions. The Track III decision specifically addressed the greenhouse and offsets issues raised by the Club. Although the Club did not get the specific result for which it advocated, its participation and arguments provided for a full discussion of the offset issue. The Commission ultimately placed some limits on the use of offsets, which can be attributed to the Club's position. The Club's participation in this proceeding will result in benefits to ratepayers that exceed the cost of participation. Although these benefits are not quantifiable, the finding of new need directly reduces the costs to ratepayers. Moreover, the Club's fee request is miniscule in comparison to the tens of billions of dollars in procurement that this type proceeding often authorizes. Additionally, the Club's advocacy on behalf of aggressive implementation of the State's clean energy and environmental goals will benefit the ratepayers over the long-term because California's environment will reap the public benefits intended by these laws.	Verified
b. Reasonableness of Hours Claimed. This was a complex, multi-year proceeding that addressed a large number of issues. Rather than participate on every issue presented, the Club focused on its major objectives and tailored its comments, briefs and cross-examination to those issues. In addition, the Club focused on legal and policy issues that related to its area of expertise, California's energy and environmental laws. The Club relied on one expert, Robert Freehling, to ensure that its presentations reflected a comprehensive understanding of California's energy system and ensured that arguments were technically accurate. In addition, the Club's attorneys were able to leverage the extensive knowledge of the Club's volunteers on its energy and climate committee.	Verified

The case was staffed by two attorneys and one expert. The attorneys, Paul Cort and William Rostov, graduated law school in the same year and have comparable legal experience. As a result, Mr. Cort and Mr. Rostov were able to minimize duplication by dividing the case by issue area, comment letter, brief, and/or other required document. The Club filed twenty-four documents in this case. Mr. Cort and Mr. Rostov did confer about particular issues and strategy during the course of the proceeding, but these meetings allowed the Club to gain the synergistic thinking of two experienced attorneys who were familiar with the facts of the case. The Club also actively participated in many of the procedural issues that arose, but this involvement was well-suited to the Club's attorneys' experience and was a reasonable expenditure of time. How and when a case of this size is prosecuted does have an effect on its outcome. The Club also judiciously used the expertise of Robert Freehling. He is an energy expert who contributed to many of the Club's filings and its strategy. The Club spent a significant amount of time addressing specific questions regarding planning assumptions and scenarios. These filings were important because the final planning assumptions became the basis of the modeling that took place in the proceeding. The non-conclusive nature of the modeling results ultimately led to the settlement. The Club recognizes that it did not fully prevail in all of the areas in which participated. For example, the Club argued that there should be a finding of no local need for SDG&E; this issue was transferred to another proceeding. In addition, the Club made arguments regarding the Procurement Review Groups that were not addressed in the final decision. The Club has deleted 67.9 hours that were related to SDG&E and PRG issues. In addition, to ensure that sufficient hours were reduced for these issues, the Club also reduced its time on the Track I and Track III decision by an additional fifteen percent. (This is reflected in the claimed hours.) The Club also did not claim any time for its comment on the final decision, because the Club focused on changing the CEQA analysis which was upheld. Additionally, in the exercise of reasonable billing judgment, the Club excised dozens of hours. The Club also eliminated many hours near the beginning of the case that related to the attorneys becoming familiar with the LTPP, its history, and Commission procedure. The Club is also not requesting reimbursement for 82.6 hours of law clerk time. Finally, the Club did not request reimbursement for meeting time that was not recorded by a timekeeper, even if another timekeeper did record the meeting. In such cases, the Club has requested reimbursement only for the time recorded by the individual timekeeper.	
c. Allocation of Hours by Issue The Club has allocated its daily time entries by activity code to better reflect the nature of the work. The Club used the following seven categories to allocate its work. • Planning assumptions ("PA")	Verified

- Track II bundled plans ("BP")
- Renewable Integration Modeling ("RIM") – (this exercise led to the settlement agreement)
- Track I Settlement ("Settlement")
- Track I and III Decision ("I & III")
- Procedural work in proceeding including attending prehearing conferences, scheduling motions, other proceeding work, coordination with clients and internal coordination ("PW")
- Coordination with other parties ("COOR")

Based on the number of hours recorded and included in the attached timesheets, the allocation by activity code is approximately:

Category	%
PA	31.80%
BP	16.87%
RIM	3.04%
Settlement	5.78%
I & III	15.59%
PW	19.31%
COOR	7.61%

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total $	Hours	Rate	Total $
Paul Cort	2010	145.50	$345	See Comment 1, below	$50,197.50	145.50	$345	$50,197.50
Paul Cort	2011	107.25	$360	See Comment 1, below	$38,610.00	107.25	$345	$37,001.25
William Rostov	2010	130.40	$345	See Comment 1, below	$44,988.00	130.40	$345	$44,988.00
William Rostov	2011	287.00	$360	See Comment 1, below	$103,320.00	287	$345	$99,015.00
William Rostov	2012	8.20	$380	See Comment 1, below	$3,116.00	8.20	$350	$2,870.00
Robert Freehling	2010	37.50	$155	See Comment 2, below	$5,812.50	37.50	$155	$5,812.50

Robert Freehling	2011	30.50	$165	See Comment 2, below	$5,032.50	30.50	$165	5,032.50
					Subtotal: **$251,076.50**		***Subtotal:***	**$244,916.75**
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	**Year**	**Hours**	**Rate**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**
Paul Cort	2012	19.30	$190		$3,667.00	19.30	$175	$3,377.50
William Rostov	2012	11.50	$190		$2,185.00	11.50	$175	$2,012.50
					Subtotal: **$5,852**		***Subtotal:***	**$5,390**
					TOTAL REQUEST: $256,928.50		**TOTAL AWARD:**	**$250,306.75**

*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.

**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer's normal hourly rate.

Attorney	Date Admitted to CA BAR[3]	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Paul Cort	December 3, 1996	184336	No
William Rostov	December 3, 1996	184528	No

C. Sierra Club California's Comments and Attachments on Part III:

Attachment or Comment #	Description/Comment
Comment 1	**Hourly Rates of Paul Cort and William Rostov – Attorneys** Paul Cort and Will Rostov are both 1996 law school graduates and Staff Attorneys in the California Regional Office of Earthjustice, a non-profit public interest law firm dedicated to protecting the magnificent places, natural resources, and wildlife of this earth, and to defending the right of all people to a healthy environment. Earthjustice is the largest non-profit, environmental law firm in the United States; it recruits and hires top environmental lawyers. Earthjustice received no compensation for its representation and will only receive compensation for its services based on the award of intervenor compensation. Throughout his career, Paul Cort has worked on numerous projects involving the regulation

[3] This information may be obtained at: http://www.calbar.ca.gov.

	and permitting of power plants. He is the chair of Earthjustice's Air Practice Group and works on a wide variety of national Clean Air Act issues as well as air quality issues in the San Joaquin Valley in California. Prior to joining Earthjustice in 2005, Mr. Cort was an air attorney with the U.S. Environmental Protection Agency's Office of General Counsel in Washington, D.C. and Office of Regional Counsel for Region 9 in San Francisco, CA. Mr. Cort is also an adjunct professor at the U.C. Hastings School of Law. (See attached resume describing Mr. Cort's experience, Attachment 2.) William Rostov is an experienced litigator in both state and federal court, and he also has extensive administrative law experience. Since joining Earthjustice in 2008, Mr. Rostov has focused on energy and global warming issues. In addition to participating in the 2010 LTPP, Mr. Rostov represents Sierra Club in the successor LTPP Proceeding as well as in the energy storage proceeding. Mr. Rostov has a long history of working on energy issues and power plant siting decisions before California Energy Commission. Mr. Rostov has also worked on a variety of matters related to pollution from industrial facilities including power plants. (See attached resume describing Mr. Rostov's experience, Attachment 3.) Mr. Cort and Mr. Rostov both fall into the top range of experience 13+ years of experience. Since both have the same year of graduation, Sierra Club requests the same rates for both. Based on review of the PUC's compensation decisions, Sierra Club requests the following rates: $345 for 2010; $360 for 2011; and $380 for 2012. The requested rates fit within the rate range for attorneys with similar experience. For example, Sierra Club set the initial 2010 rate at $345 which is the hourly rate assigned to Lisa Belenky, staff attorney for the Center for Biological Diversity. *See* D.11-10-041, at 7-8. Ms. Belenky is an environmental law practitioner who participated in her first PUC proceeding and did not have an awarded rate, *id*.; she was admitted to the bar in 1999, three years after Mr. Cort and Mr. Rostov. *Id*. Although Mr. Cort and Rostov are both experienced environmental attorneys who, *inter alia*, have considerable experience working on issues related to power plants and energy issues, this was the first Public Utilities Commission Proceeding for both attorneys. Correlating the hourly rate with Ms. Belenky's rate, who similarly received a rate for her first participation before the Commission, supports the reasonableness of the requested 2010 hourly rate of $345.[4] For 2011, Mr. Cort and Mr. Rostov take the 5% step increase pursuant to D.08-04-110 for an hourly rate of $360. Mr. Cort and Mr. Rostov take the second 5% step increase for 2012 for a rate of $380 per hour. Not only is this a reasonable rate in relation to other environmental attorneys practicing before the Commission, it is a substantial discount on the hourly rates that Mr. Cort and Mr. Rostov receive in court proceedings. Both Mr. Cort and Mr. Rostov have received much higher hourly rates from court awarded fees and/or the successful settlement of fees. For example, two separate federal courts have awarded Mr. Rostov an hourly rate of $575. In *Geertson Seed Farms v. Johanns*, the court awarded fees for appellate work done by Mr. Rostov in 2007 and 2008 at the hourly rate of $575. *See* Attachment 4, Order Awarding Attorneys' Fees, at 17. The court in *Center for Food Safety v. Vilsack* applied the same $575 rate for Mr. Rostov's 2007 and 2008 work in that matter. *See* Attachment 5, Report and Recommendation Re: Plaintiffs' Motion for Attorneys' Fees, at 15 and Order Adopting

[4] This request is slightly less than two other attorneys who graduated law school after Mr. Cort and Mr. Rostov. Marcel Hawiger, a 1998 law school graduate, received an hourly rate of $350 in 2010. *See* D.11-09-014. Alexis Wodtke, a 1997 law school graduate, received the same rate of $350 per hour in 2010. *See* D.10-08-0178.

	Report and Recommendations. Mr. Rostov and Mr. Cort have also settled several cases for rates that are significantly higher than requested in this proceeding.
Comment 2	**Hourly Rates of Robert Freehling - Expert:** Robert Freehling is an independent energy policy consultant who has been working in this field since 2001, focusing on community energy programs and renewable energy policy. Mr. Freehling has been an intervenor at the CPUC in both the 2006 and 2010 Long-Term Procurement Proceedings, and provided written testimony in the Community Choice proceeding. He has participated in other CPUC proceedings, including the RAM, PG&E's rate case, and RPS. Mr. Freehling has performed consulting work for SMUD, IID, SFPUC, and several non-profit organizations including Sierra Club, Environmental Health Coalition, Communities for a Better Environment, California Environmental Justice Alliance, and Climate Protection Campaign. (See attached resume describing Mr. Freehling's experience, Attachment 6.) Sierra Club requests that Mr. Freehling receive a higher rate than his previous award, because Mr. Freehling's experience has moved him into a different fee range. Robert Freehling was awarded an hourly rate of $130 for his participation in the 2006 LTPP. *See* D.09-03-043, at 15. Since that award, Mr. Freehling has gained more experience and moved from the expert range with 0-6 years of experience to the 7-12 years of experience range. Consequently, Sierra Club requests that the Commission set Mr. Freehling's hourly rate for 2010 at $155, which is the lowest rate in Mr. Freehling's new range. *See* D.08-04-110[5], Resolution ALJ-267. For the year 2011, Mr. Freehling should receive the 5% step increase for an hourly rate of $165.
1	**Certificate of Service**
2	**Paul Cort Resume**
3	**William Rostov Resume**
4	**Geertson Seed Farms v. Johanns: Order Awarding Attorneys' Fees**
5	**Center for Food Safety v. Vilsack: Report and Recommendation re: Attorneys' Fees; Order Adopting Report and Recommendations**
6	**Robert Freehling Resume**
7	**Timesheets - Attorney and Expert Time**

[5] This is an incorrect citation. The proper Decision number is D.08-04-010.

D. CPUC Disallowances & Adjustments:

#	Reason
1. Adoption of Mr. Cort's hourly rate(s).[6]	Resolution ALJ-281 sets 2010 rates for Attorneys with 13-plus years of experience at $300-$535 per hour. Although Mr. Cort's credentials support a rate within this range, it is important to note that this is Mr. Cort's first proceeding in front of the Commission warranting Intervenor Compensation. As such the Commission awards Mr. Cort the following rates: (1) for 2010, $345 per hour; (2) for 2011, $345 per hour; and (3) for 2012, $350 per hour. These rates take into account Mr. Cort's qualifications, as well as his work in this proceeding. Furthermore, the rate of $345 per hour is within the parameters set by Resolution ALJ-281.
2. Adoption Mr. Rostov's hourly rate(s).	Resolution ALJ-281 sets 2010 rates for Attorneys with 13-plus years of experience at $300-$535 per hour. Although Mr. Rostov's credentials support a rate within this range, it is important to note that this is Mr. Rostov's first proceeding in front of the Commission warranting Intervenor Compensation. As such, the Commission awards Mr. Rostov the following rates: (1) for 2010, $345 per hour; (2) for 2011, $345 per hour; and (3) for 2012, $350 per hour. These rates take into account Mr. Rostov's qualifications, as well as his work in this proceeding. Furthermore, the rate of $340 per hour is within the parameters set by Resolution ALJ-281.
3. Adoption of Mr. Freehling's hourly rate(s).	Resolution ALJ-281 sets 2010 rates for Experts with 7-12 years of experience at $155-$270 per hour. Mr. Freehling had previously been awarded the hourly rate of $130 per hour for work he completed in 2007(*See* D. 09-03-043). This rate is consistent with those awarded to experts with 0-6 years of experience ($120-$180 per hour). As Mr. Freehling is now in the category of experts having 7-12 years of experience it is appropriate to award him the 2010 hourly rate of $155 per hour. In addition, because Mr. Freehling has participated in more than one proceeding warranting Intervenor Compensation, the Commission will apply the requested 5% step increase[7] to Mr. Freehling's 2011 hourly rate; awarding him the rate of $165 per hour. It is important for organizations utilizing Mr. Freehling to note that Mr. Freehling will be allowed only to request 1 additional step increase while in the 7-12 year range.
4. Increase in 2012 hourly rates.	Abiding by Resolution ALJ-281, 2012 hourly rates have been raised to reflect the 2.2% Cost-of-Living Adjustment adopted by the resolution. Please the $350 2012 hourly rate awarded to Mr. Cort and Mr. Rostov take into account this 2.2% COLA.

[6] In Footnote (4) Sierra Club refers to Attorneys Hawiger and Wodtke. Mr. Hawiger is an Attorney for The Utility Reform Network, and Mr. Wodtke is currently an inactive member of the California State Bar. Each of these attorneys work for completely different intervenor groups, and should not be used to justify hourly rates for Mr. Cort and Mr. Rostov.

[7] *See* D.08-04-010 at 11.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No

B. Comment Period: Was the 30-day comment period waived (*see* Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

1. Sierra Club California has made a substantial contribution to Decisions (D.) 12-04-046 and D.12-01-033.

2. The requested hourly rates for Sierra Club California's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.

3. The claimed costs and expenses are reasonable and commensurate with the work performed.

4. The total of reasonable contribution is $250,306.75.

CONCLUSION OF LAW

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

ORDER

1. Sierra Club California is awarded $250,306.75.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay Sierra Club California (Club) their respective shares of the award, based on their California-jurisdictional electric revenues for the 2011 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on primes, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning September 1, 2012, the 75th day after the filing of the Club'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 October 31, 2013, at San Francisco, California.

MICHAEL R. PEEVEY
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
CARLA J. PETERMAN
Commissioners

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	D1310068	**Modifies Decision?**	**No**
Contribution Decision(s):	D1204046, D1201033		
Proceeding(s):	R1005006		
Author:	ALJ Peter Allen		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Sierra Club California	6/18/12	$256,928.50	$250,306.75	No	Resolution ALJ-281.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Paul	Cort	Attorney	Sierra Club	$345	2010	$345
Paul	Cort	Attorney	Sierra Club	$360	2011	$345
Paul	Cort	Attorney	Sierra Club	$380	2012	$350
William	Rostov	Attorney	Sierra Club	$345	2010	$345
William	Rostov	Attorney	Sierra Club	$360	2011	$345
William	Rostov	Attorney	Sierra Club	$380	2012	$350
Robert	Freehling	Expert	Sierra Club	$155	2010	$155
Robert	Freehling	Expert	Sierra Club	$165	2011	$165

(END OF APPENDIX)