

Decision \_\_\_\_\_

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

Application of Pacific Gas and Electric Company for Approval of 2013-2014 Energy Efficiency Programs and Budget (U39M).

Application 12-07-001  
(Filed July 2, 2012)

And Related Matters.

Application 12-07-002  
Application 12-07-003  
Application 12-07-004

**DECISION GRANTING THE INTERVENOR COMPENSATION CLAIM OF  
BRIGHTLINE DEFENSE PROJECT FOR CONTRIBUTION TO  
DECISION 12-11-015**

<b>Claimant: Brightline Defense Project</b>	<b>For contribution to D.12-11-015</b>
<b>Claimed: \$28,267.50</b>	<b>Awarded (\$): 20,218.70 (approx. 28.474% reduction)</b>
<b>Assigned Commissioner: Michael R. Peevey</b>	<b>Assigned ALJ: Todd O. Edmister</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	D.12-11-015 approves a portfolio of energy efficiency programs and budgets to be implemented in 2013 and 2014 by Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company (collectively, the utilities), as well as two regional energy networks (RENs) (San Francisco Bay Area Regional Energy Network and Southern California Regional Energy Network) and one community choice aggregator (CCA) (Marin Energy Authority (MEA)).
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>Intervenor</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	Aug. 16, 2012	Yes
2. Other Specified Date for NOI:	Sept. 17, 2012	Yes
3. Date NOI Filed:	Sept. 17, 2012	Yes
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.12-07-001 et al.	
6. Date of ALJ ruling:	Jan. 4, 2013	Yes
7. Based on another CPUC determination (specify):	N/A	
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.12-07-001 et al.	Yes
10. Date of ALJ ruling:	Jan. 4, 2013	Yes
11. Based on another CPUC determination (specify):	N/A	
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.12-11-015	Yes
14. Date of Issuance of Final Order or Decision:	Nov. 15, 2012	Yes
15. File date of compensation request:	Jan. 14, 2013	Yes
16. Was the request for compensation timely?		Yes, although the request was not filed until January 15, 2013 it was, nonetheless, timely filed.

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

#	Claimant	CPUC	Comment
9-10	X		Brightline filed for a determination of significant financial hardship in its NOI for this proceeding, and ALJ Julie Fitch’s ruling finding significant financial hardship was issued on Jan. 4, 2013.

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).**

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>1. WE&amp;T-related benefits</p> <p>Brightline argued for increased attention and comprehensive strategy for workforce, education, and training (WE&amp;T) issues, specifically incorporating WE&amp;T hiring goals for disadvantaged workers and future quality workforce standards.</p> <p>Brightline recommended data collection practices in the Energy Savings Assistance Program, as recently directed in D.12-08-044, to be extended to the mainstream portfolio.</p> <p>Brightline has also supported focusing on the linkages to efficient and effective job pathways – explore ways to leverage (with green jobs programs, community-based and non-profit organizations, educational institutions, the business community, and labor organizations, etc.) wherever possible and incorporate teaching</p>	<p>Response of Brightline Defense Project (8/01/12), pp. 1-5; Comments of Brightline Defense Project on Utility Responses to Scoping Memo and Ruling, (9/14/12), pp. 1, 4-5; Brightline Defense Project’s Opening Comments on Proposed Decision (10/29/12), p. 2-4. D.12-11-015, pp. 89-90; COL 75, 77.</p> <p>Comments of Brightline Defense Project on Utility Responses to Scoping Memo and Ruling, (9/14/12), pp. 2-3; Brightline Defense Project’s Reply to Opening Comments on the Proposed Decision (11/05/12), pp. 2-3. D.12-11-015, p. 91-92; COL 76.</p> <p>Brightline Defense Project’s Opening Comments on Proposed Decision (10/29/12), p. 3; Comments of Brightline Defense Project on Utility Responses to Scoping Memo and Ruling, (9/14/12), pp. 3-5. D.12-11-015, pp. 90-91; COL 77(a).</p>	<p>Verified, but partially disallowed for non-substantial contribution and duplication. (See Part III.C below.)</p>

<p>minority, local, low-income, disabled, displaced, and other disadvantaged communities the skills needed to meet energy efficiency program needs.</p> <p>Brightline also suggested to explore ways to leverage the aforementioned partners to identify currently unemployed workers equipped with the skills needed</p> <p>Brightline recommends consideration of pilot programs during 2013-2014 to test new quality standards with training, increased pay for performance for contractors, and links to job placement.</p> <p>Brightline also recommends that this activity be conducted in close alignment with the CPUC’s Strategic Plan Goals.</p> <p>Brightline recommends that any expert entity should be required to pursue a “comprehensive approach” including targeted hiring and enhanced labor standards.</p> <p>2. Cost-Effectiveness Requirements for Investor Owned Utilities (IOUs) and Regional Energy Networks (RENs)/Total Resource Cost (TRC)</p> <p>Brightline recommends that IOUs should retain flexibility in determining budget cuts in order to avoid jeopardizing non-resource programs.</p>	<p>Brightline Defense Project’s Opening Comments on Proposed Decision (10/29/12), p. 3; Comments of Brightline Defense Project on Utility Responses to Scoping Memo and Ruling, (9/14/12), pp. 3-5. D.12-11-015, pp. 90-91; COL 77(b).</p> <p>Brightline Defense Project’s Opening Comments on Proposed Decision (10/29/12), p. 3; Comments of Brightline Defense Project on Utility Responses to Scoping Memo and Ruling, (9/14/12), pp. 3-5 D.12-11-015, pp. 90-91; COL 77(c).</p> <p>Brightline Defense Project’s Opening Comments on Proposed Decision (10/29/12), pp. 3, 6-9. D.12-11-015, p. 90.</p> <p>Brightline Defense Project’s Reply to Opening Comments on the Proposed Decision (11/05/12), pp. 4. D.12-11-015, p. 89-90.</p> <p>Brightline Defense Project’s Opening Comments on Proposed Decision (10/29/12), p. 6. D.12-11-015, pp. 99-103.</p>	
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<p>Brightline recommends the cost-effective standard used in the proposed decision be revised to resolve negative impacts resulting from cuts.</p>	<p>Brightline Defense Project’s Reply to Opening Comments on the Proposed Decision (11/05/12), pp. 3-4. D.12-11-015, p. 99-103.</p>	
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Intervenor’s Assertion</b>	<b>CPUC Discussion</b>
<p><b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?<sup>1</sup></b></p>	<p>Yes</p>	<p>Yes</p>
<p><b>b. Were there other parties to the proceeding with positions similar to yours?</b></p>	<p>Yes</p>	<p>Yes</p>
<p><b>c. If so, provide name of other parties:</b> Some references to WE&amp;T issues were made in varying degrees by San Diego Gas and Electric Company/Southern California Gas Company, California Construction Industry Labor Management Cooperative Trust, City and County of San Francisco, Pacific Gas &amp; Electric Company, Ella Baker Center for Human Rights, The Greenlining Institute, Marin Energy Authority, Local Government Sustainable Energy Coalition, California Center for Sustainable Energy, County of Los Angeles/Southern California Regional Energy Network, Southern California Edison Company, Global Green USA, Association of Bay Area Governments/San Francisco Bay Area Regional Energy Network (SFBA YREN), Green for All.</p>		<p>Yes</p>
<p><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></p> <p>Brightline coordinated with other parties most focused on WE&amp;T issues, including Greenlining Institute and Green for All. In preparation for numerous filings, the parties have communicated to not be duplicative in their advocacy for changes to WE&amp;T aspects of A.12-07-001. In addition to bringing together its own unique set of community, labor, and government stakeholders informing the CPUC, Brightline and its partners also directly communicated with IOUs to discuss WE&amp;T issues.</p>		<p>Verified, but partially disallowed for unnecessary duplication of other parties’ participation. (See Part III.C below.)</p>

<sup>1</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

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

#	Intervenor’s Comments	CPUC Discussion
2	Brightline also contributed to the discussion on revising the cost-effectiveness standard to resolve negative impacts to non-resource programs such as WE&T programs. While D.12-11-105 did not expressly attribute these recommendations as Brightline’s, Brightline believes its information was useful to the Commission and other stakeholders in making a fully informed judgment.	
	Brightline has been tracking the energy efficiency financing pilots and WE&T expert consultant selection process (now Phase II) of the proceeding and intends to file an Intervenor Compensation Claim for that work, if any is conducted, upon final resolution of the issues.	

**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 Discussion</b>
<p>Brightline’s cost of participation was much lower than anticipated in its NOI, coming under \$30,000. The interests represented in this proceeding were not solely economic and are difficult to calculate, particularly given that the Commission has just begun tracking WE&amp;T data under its ESA Program (and has recently extended these practices to the mainstream energy efficiency programs). Nevertheless, the economic benefits could be significant as better WE&amp;T programs and quality jobs result in greater quality installations and longer lasting savings. While pushing to create low-income ratepayers to economic opportunities generated by energy efficiency programs, Brightline’s cost of participation was thus reasonable in relation to public purpose benefits realized from improved WE&amp;T goals set in D.12-11-015.</p>	<p>Verified, <i>but see</i> “CPUC Disallowances and Adjustments” in Part III.C.</p>
<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>Brightline’s hours are reasonable, in part because of its efforts to coordinate with other parties, which avoided duplication. Additionally, staff efficiently divided its tasks with its executive director constantly collaborating with Brightline’s partners to create a better roadmap for an energy efficiency workforce, and its counsel executing much of the</p>	<p>Verified, <i>but see</i> “CPUC Disallowances and Adjustments” in Part III.C.</p>

<p>drafting and detail for its roadmap. Where possible, Brightline also claimed expert witness fees only when absolutely necessary even as it organized much larger coalitions. For instance, this claim covers the hours of Jacqueline Flin, executive director of the A. Philip Randolph Institute of San Francisco (APRI-SF). While the original NOI had specified James Bryant (also affiliated with APRI), Ms. Flin assumed many of his responsibilities in bringing stakeholders ranging from the City of San Francisco, representatives of trade unions, and contractors and service providers working with low-income communities of color and educating the Commission of the necessity of these stakeholders.</p> <p>Due to these diligent efforts, Brightline has been able to minimize the ratepayer costs associated with its participation in this proceeding per the direction of ALJ Fitch. Generally, the rates and hours requested are very conservative, and the Commission should find Brightline’s claim to be reasonable.</p>									
<p><b>c. Allocation of Hours by Issue</b></p> <p>Brightline’s time is allocated by issue category as follows:</p> <table border="1" data-bbox="237 961 1166 1117"> <tr> <td>A. WE&amp;T Costs and Benefits</td> <td>68.75%</td> </tr> <tr> <td>B. Cost-Effectiveness</td> <td>9.54%</td> </tr> <tr> <td>C. General</td> <td>21.71%</td> </tr> <tr> <td>Total</td> <td>100.00%</td> </tr> </table>	A. WE&T Costs and Benefits	68.75%	B. Cost-Effectiveness	9.54%	C. General	21.71%	Total	100.00%	<p>Verified.</p>
A. WE&T Costs and Benefits	68.75%								
B. Cost-Effectiveness	9.54%								
C. General	21.71%								
Total	100.00%								

**B. Specific Claim:**

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Eddie Ahn	2012	72.7	\$150	D.12-04-043	\$10,905	49.79	\$155.00	7,717.45
Joshua Arce	2012	49.2	\$275	D.12-04-043	\$13,530	34.04	\$275.00	9,361.00
Jacqueline Flin	2012	11.1	\$225	D.12-04-043	\$2,497.5	7.82	\$225.00	1,759.50
Eddie Ahn	2013	.1	\$150	D.12-04-043	\$15	.1	\$155.00	15.50

				<b>Subtotal:</b>	\$26,947.50		<b>Subtotal:</b>	\$18,853.45
<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>								
<b>Item</b>	<b>Year</b>	<b>Hours</b>	<b>Rate</b>	<b>Basis for Rate*</b>	<b>Total \$</b>	<b>Hours</b>	<b>Rate</b>	<b>Total \$</b>
Eddie Ahn	2013	12.1	\$75	Rate is half of normal hourly rate	\$907.50	12.1	\$77.50	937.75
Joshua Arce	2013	3	\$137.50	Rate is half of normal hourly rate	\$412.50	3	\$142.50	427.50
				<b>Subtotal:</b>	\$1,320.00		<b>Subtotal:</b>	\$1,365.25
<b>TOTAL REQUEST:</b>					\$28,267.50		<b>TOTAL AWARD:</b>	\$20,218.70

\*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. Intervenor'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 INFORMATION

<b>Attorney</b>	<b>Date Admitted to CA BAR<sup>2</sup></b>	<b>Member Number</b>	<b>Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation</b>
Edward H. Ahn	May 28, 2010	269714	No.
Joshua A. Arce	January 4, 2002	218563	No.

<sup>2</sup> This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

**C. Disallowances and Adjustments:**

#	Reason
Lack of substantial Contribution	<p>Brightline Defense Project (Brightline) claims a substantial contribution by advocating, together with Greenlining, and Green for All, for 1) increased attention and comprehensive strategy for workforce, education, and training (WE&amp;T), specifically incorporating WE&amp;T hiring goals for disadvantaged workers and future quality workforce standards (68.75 % of time); 2) improved cost effectiveness requirements (9.54% of time); and 3) general participation (21.71% of time).</p> <p>However, Brightline did not make as large a contribution as it claims for the following reasons:</p> <ol style="list-style-type: none"> <li>a. Brightline spent a disproportionate amount of time preparing ex parte communications for other partners, which do not become part of any official record according to Commission rules. Further, many of the partners they collaborated with, who represent local City and County of San Francisco employees and civic organizations (as verified by a follow up response to questions by our Commission Intervenor Compensation Review Group), were not parties on the official service list for this proceeding. While these community oriented meetings may have been productive in some form, it is difficult to ascertain their value as contribution to the final decision, D.12-11-015. For these reasons, hours claimed for ex parte activities (e.g., review of other parties ex parte notices, preparing other partners and/or documents for ex parte communications, ex parte communications) are reduced by approximately 50% or 15 hours. 6 hours have been deducted from Arce's 2012 total, 8 hours from Ahn's 2012 total, and 1 hour from Flin's 2012 total.</li> <li>b. As stated in the introductory paragraph above, Brightline Defense Project spent a disproportionate amount of time in general administration activities (e.g., review of comments, review of ex parte communications) versus other activities. Therefore we find that 25% of Brightlines' total claimed hours in general administration, excluding ex parte related activities and hours for NOI preparation and claim preparation, should be disallowed for non-substantial contribution. For these reasons, 2.78 hours have been removed from Arce's 2012 total, 3.23 hours have been removed from Ahn's 2012 total, and .1 hours have been removed from Flin's 2012 total.</li> <li>c. We note that it appears that the Director and Counsel spent a disproportionate time drafting an initial response to a Consolidation ruling (approximately 15 hours) versus drafting more extensive comments on the PD (approximately 10 pages at approximately 10 hours).</li> </ol>
Duplication	<p>Brightline Defense Project claims a substantial contribution for its support of Greenlining's recommendations in the area of Workforce, Education, and Training (WE&amp;T) - related benefits and cost-effectiveness requirements. In both Brightline's comments and actual claim, they acknowledge Greenlining's and Green for All's</p>

	<p>leadership in these areas and often reinforced the comments of other parties. However, we find that Brightline’s efforts duplicated the participation of other parties without concurrently complementing, supplementing or contributing to the work of other parties to a material degree. Brightline did not report time in a way that allows for a precise disallowance for duplication. Based on our observation of Brightline’s participation, we find that 25% of Brightline’s total claimed hours in the areas of “A. WE&amp;T Costs and Benefits” and “B. Cost-Effectiveness” should be disallowed for unnecessary duplication of other parties’ participation. This results in a reduction of 6.38 hours from Arce’s 2012 total, 11.68 from Ahn’s 2012 total, and 2.18 from Flin’s 2012 total.</p>
<p>Hourly Rates</p>	<p>The Commission makes note that Arce requested a rate below the designated range for attorneys with similar experience. All of Brightline Defense Projects’ requested hourly rates are approved. In D.14-05-031, Ahn’s 2012 rate was set at \$155 and Arce’s at \$280.</p> <p>Both Arce and Ahn are entitled to 2% a cost-of-living adjustment (COLA) for the work performed in 2013. <i>See</i> Resolution ALJ-287. After rounding, Arce’s 2013 rate is set at \$285. After applying the COLA to Ahn’s rate, and rounding, the 2013 rate does not change.</p>

**PART IV: OPPOSITIONS AND COMMENTS**

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

**FINDINGS OF FACT**

1. Brightline Defense Project has made a substantial contribution to Decision (D.) 12-11-015.
2. The requested hourly rates for Brightline Defense Project’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 compensation is \$20,218.70.

**CONCLUSION OF LAW**

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

**ORDER**

1. Brightline Defense Project is awarded \$20,218.70.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company, Southern California Gas Company, Southern California Edison Company, and Pacific Gas and Electric Company shall pay Brightline Defense Project their respective shares of the award, based on their California-jurisdictional energy revenues for the 2012 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 prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning March 31, 2013, the 75<sup>th</sup> day after the filing of Brightline's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

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

**APPENDIX**

**Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>
<b>Contribution Decision(s):</b>	D. 12-11-015	
<b>Proceeding(s):</b>	A. 12-07-001	
<b>Author:</b>	ALJ Edmister	
<b>Payer(s):</b>	San Diego Gas & Electric Company, Southern California Gas Company, Southern California Edison Company, and Pacific Gas and Electric Company	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
Brightline Defense Project	01/15/2013	\$28,267.50	\$20,218.70	No.	<i>See Part III.C, above.</i>

**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>
Eddie	Ahn	Attorney	Brightline Defense Project	\$150.00	2012	\$155.00
Eddie	Ahn	Attorney	Brightline Defense Project	\$150.00	2013	\$155.00
Joshua	Arce	Attorney	Brightline Defense Project	\$275.00	2012	\$280.00
Joshua	Arce	Attorney	Brightline Defense Project	\$275.00	2013	\$285.00
Jacqueline	Flin	Expert	Brightline Defense Project	\$225.00	2012	\$225.00

**(END OF APPENDIX)**