

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans.	Rulemaking 12-03-014 (Filed March 22, 2012)
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**DECISION GRANTING COMPENSATION TO FRIENDS OF THE EARTH
FOR CONTRIBUTION TO DECISION 12-12-010**

Claimant: Friends of the Earth	For contribution to Decision (D.) 12-12-010
Claimed (\$): \$40, 237.10	Awarded (\$): \$28,350.00 (reduced 29.5%)
Assigned Commissioner: Michel Peter Florio	Assigned ALJ: David M. Gamson

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	In Decision 12-12-010 (“Decision”), the Commission adopted final Standardized Planning Assumptions and Scenarios for Track 2 of the 2012 Long-Term Procurement Plan (LTPP) proceeding. These assumptions will be used for forecasting system reliability needs for California’s electricity grid. Based on these forecasts, future decisions will determine specific procurement system and bundled need authorizations or requirements for California investor-owned utilities. The Decision prioritizes modeling an important Early SONGS Retirement (“ESR”) sensitivity to the Base Case scenario.
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B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	April 18, 2012	Verified.
2. Other Specified Date for NOI:	N/A	

PROPOSED DECISION

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
3. Date NOI Filed:	August 31, 2012	Verified.
4. Was the NOI timely filed?		Yes, see comment below.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	Please see comment.	See comment below.
6. Date of ALJ ruling:		
7. Based on another CPUC determination (specify):		
8. Has the Claimant demonstrated customer or customer-related status?		Yes, see comment below.
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	Please see comment.	See comment below.
10. Date of ALJ ruling:		
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes, see comment below.
Timely request for compensation (§ 1804I):		
13. Identify Final Decision:	D.12-12-010	Verified.
14. Date of Issuance of Final Order or Decision:	December 24, 2012	Verified.
15. File date of compensation request:	February 22, 2013	Verified.
16. Was the request for compensation timely?		Yes.

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
4	Friends of the Earth (“FOE”) was unable to timely file its NOI in this proceeding because of the lack of publicly available information surrounding the January 2012 outages at the San Onofre Nuclear Generating Station (“SONGS”), the Commission’s unexpected delay in issuing	The Commission accepts this assertion.

<p>an Order Instituting Investigation (“OII”) into those outages and the lack of clarity regarding the scope and interrelatedness of the OII and the LTPP.</p> <p>FOE had followed all publicly available information regarding the SONGS outages. However, the U.S. Nuclear Regulatory Commission (“NRC”) did not issue a public report detailing the technical equipment problems and the current status of SONGS until July 18, 2012. That July report was not issued until two months after the filing deadline for NOIs in this proceeding.</p> <p>In addition, the roles of this Commission and the NRC in determining SONGS’ future were unclear. It was not until the August 2, 2012 CPUC Business Meeting that comments from President Peevey made clearer the role of each agency and the expected timing of the Commission’s investigation.</p> <p>FOE originally planned to limit its participation to the OII. However, President Peevey’s August 2, 2012 comments on the limited scope of the anticipated OII, which would not be issued until October 25, 2012, suggested that FOE needed to participate in both the LTPP and the OII in order to represent the interests of its members.</p> <p>Therefore, the lack of publicly available information from the NRC, the confusion and delay surrounding the Commission’s issuance of an OII, and the limited scope of the OII made participation in the LTPP more important than originally anticipated. Because of this lack of clarity, FOE only decided it should participate in the LTPP after the filing deadline for NOIs.</p> <p>FOE’s late-filed NOI was accepted as filed August 31, 2012.</p>	<p>While we do not comment on FOE’s representations in the statements above, we accept FOE’s late-filed NOI as timely-filed.</p>
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5, 6	<p>This request is FOE’s first request for intervenor compensation and the Assigned ALJ in this proceeding has not yet ruled on FOE’s customer-related status or its showing of “significant financial hardship.” FOE respectfully requests that the Commission approve FOE’s showing of significant financial hardship in its NOI and similarly make a finding that FOE qualifies for intervenor compensation with Category 3 customer-related status.</p>	<p>Based on FOE’s showing in its NOI, we determine that FOE qualifies for Category 3 customer status consistent with the requirements of Pub. Util. Code § 1802(b). In addition, FOE has demonstrated significant financial hardship consistent with the requirements of Pub. Util. Code § 1802(g).</p>
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PART II: SUBSTANTIAL CONTRIBUTION

A. Description of Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).

Intervenor’s Claimed Contribution	Specific References to Intervenor’s Presentations and to Decision	Showing Accepted by CPUC
<p>FOE’s substantial contribution relates to the inclusion and high priority of the ESR sensitivity to the base case scenario in the planning assumptions. Prior to FOE’s involvement in this proceeding and its request in technical comments that the ESR sensitivity be included as a high priority, the retirement of SONGS by 2015 was considered a high, <i>i.e.</i>, unlikely, nuclear retirement scenario. The other two potential nuclear scenarios, the Mid and Low retirement scenarios, did not assume the retirement of SONGS until after 2022. Moreover, Commissioner’s Ruling on June 27, 2012, (“June Ruling”) included these three possible nuclear retirement scenarios among numerous other supply-side assumptions and sensitivities. After the June Ruling, it was uncertain whether the early retirement of SONGS would be modeled</p>	<ul style="list-style-type: none"> • Technical Comments of Friends of the Earth on Energy Division’s Proposed Scenarios, pp. 1-3 (Sep. 5, 2012) (“Technical Comments”). Per the Commission’s request, these comments were sent directly to Energy Division Staff and were not formally filed. • Policy Comments of Friends of the Earth on the Planning Assumptions to be Used in Track 2, pp. 1-7 (Oct. 5, 2012) (“Policy Comments”). • Reply Comments of Friends of the Earth on the Planning Assumptions to be Used in Track 2, pp. 6-7 (Oct. 19, 2012) (“Reply Comments”). • D.12-12-010, Attachment A, pp. 10-11, 14-15, 20 (The ESR is not only included in as a sensitivity 	<p>Yes.</p> <p>We agree that FOE has made a contribution to this decision and the Energy Division workshops and technical comments were authorized in the assigned Commissioner’s Scoping Memo and Ruling, dated May 17, 2012, as well as Assigned Commissioner Rulings dated June 27, 2012, September 29,</p>

<p>and appropriately considered in the LTPP.</p> <p>FOE’s presentation of facts and arguments in several rounds of comments addressed the importance of assuming the early retirement of SONGS and, therefore, substantially contributed to the Decision.</p> <p>As discussed at more length below, FOE made a substantial contribution by clearly establishing the following two points:</p> <ul style="list-style-type: none"> • The future operation of SONGS is highly uncertain due to a long list of economic and regulatory factors that make its continued operation speculative; and • This uncertainty makes the ESR sensitivity critically important to include in modeling because the SONGS plant represents a substantial amount of capacity. <p>These two propositions constitute a unique and substantive contribution, because they helped to inform the Commission determination to not only include the ESR sensitivity in the base case, but also to give the ESR sensitivity the third highest modeling priority of any scenario or sensitivity.</p>	<p>to the base case scenario in response to FOE’s comments, but it is also listed as the third modeling priority in column 3 of the LTPP Scenario Matrix on p. 20 of Attachment A (“Decision”).</p>	<p>2012, and September 25, 2012.</p>
<p><u>Establishing the extent of uncertainty surrounding the future operation of SONGS.</u></p> <p>FOE made a substantial contribution to the Decision with its extensive discussion and presentation of the factors that make reliance on the future, full-capacity operation of SONGS a high-risk procurement planning assumption that is fraught with economic and regulatory uncertainty.</p> <p>FOE presented a comprehensive list of</p>	<ul style="list-style-type: none"> • Technical Comments at 1-2. • Policy Comments at 4-12. • Reply Comments at 6-7. • Decision at p. 8 (The “nuclear retirement assumption labels have been changed in the final scenarios to refine the analysis, given the heightened uncertainty surrounding [SONGS].”). • Decision at Attachment A, pp. 11-12 (listing the ESR 	<p>Yes.</p>

<p>the economic factors creating uncertainty in the long-term operation of SONGS, including:</p> <ul style="list-style-type: none"> • Replacement or repair of steam generators and the cost of replacement power during those repairs; • Construction of alternative cooling methods to comply with the State Water Board’s once-through cooling rules; • Cost of seismic studies and installation of seismic upgrades and cost of replacement power during that construction; • Increased maintenance costs associated with an older plant; • Potential increases in uranium costs; • The costs of storing additional amounts of spent fuel; and • The costs of complying with any new seismic regulations from the Nuclear Regulatory Commission. <p>Moreover, FOE’s comments argued that SONGS is not needed for system reliability and adequate alternatives to SONGS exist. If a plant will be extremely expensive to operate and is not needed for reliability, its future as an operating resource is questionable. Accordingly, FOE’s comprehensive showing of the uncertainty facing the long-term operation of SONGS informed the Commission’s understanding of the significance and depth of that uncertainty, provided support for including the ESR sensitivity in the base case and substantially contributed to the Decision.</p>	<p>sensitivity as one of four high priority modeling scenarios).</p>	
<p><u>Establishing the importance of modeling the ESR sensitivity.</u></p>	<ul style="list-style-type: none"> • Technical Comments at 3. • Policy Comments at 8-11. 	<p>Yes.</p>

<p>FOE substantially contributed to the Decision, and its inclusion and prioritization of the ESR sensitivity, by stressing the policy importance of making the ESR sensitivity a high-priority. Energy Division acknowledged in LTPP workshops in which FOE participated that the resources available to the Commission to model the different scenarios and sensitivities would be limited. The limited funds demand that only the most important sensitivities be modeled. FOE’s comments ensured that the ESR scenario, a crucial look into the likely 2200 MW hole that will exist in the State’s generation portfolio from the closure of SONGS, received status as one of four high-priority scenarios to be modeled.</p> <p>Also, as FOE noted in its Policy Comments, the ability of cost-effective alternatives to meet the load once met by the 2200 MW full capacity of the SONGS facility is a better match to California’s evolving grid management challenges.</p> <p>Finally, in its Reply Comments, FOE again stressed that the Commission should not rely on the continued operation of SONGS for the creation of Bundled Procurement Plans.</p>	<ul style="list-style-type: none"> • Reply Comments at 6-7. • Decision at 14-15 (stating, among other things, that “[t]he acutely heightened uncertainty surrounding the San Onofre Nuclear Generating Station (SONGS) requires particular focus on understanding the long term planning implications of the state’s nuclear fleet.”). 	
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA)¹ a party to the proceeding?	Yes	Yes.
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Yes.

¹ 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.

<p>c. If so, provide name of other parties:</p> <p>The California Independent System Operator, Clean Coalition, Alliance for Nuclear Responsibility, L. Jan Reid, Large-Scale Solar Association, Sierra Club, Union of Concerned Scientists, and Women’s Energy Matters all addressed the importance of considering the early retirement of SONGS.</p>	<p>Yes.</p>
<p>d. Intervenor’s claim of non-duplication:</p> <p>The LTPP considers a wide swath of issues related to meeting the energy procurement needs of California’s investor-owned utilities. FOE made a unique presentation regarding the depth and breadth of an enormously important single issue, the loss of 2200 MW of capacity in Southern California. No other party provided the same extent of detail on the factors that make future operation of SONGS uncertain, and FOE made a unique, in-depth argument regarding the likelihood of the retirement of SONGS. Given FOE’s surgical focus on SONGS-related issues, FOE avoided duplication with parties that addressed the full range of issues considered in the LTPP. FOE supplemented parties’ comments on the ESR sensitivity by providing detailed and focused comments that drew upon FOE’s unique institutional knowledge and expertise on nuclear issues.</p> <p>Also, As FOE’s time entries for Laurence G. Chaset demonstrate, FOE was proactive in meeting with other intervenors to discuss positions and coordinate participation in this proceeding. Accordingly, FOE’s participation avoided duplication to the extent possible and, where duplication existed, complemented the presentations of other groups.</p>	<p>Yes, although Women’s Energy Matters and Alliance for Nuclear Responsibility emphasized the need to consider planning scenarios without accounting for nuclear power.</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>a. Intervenor’s claim of cost reasonableness</p> <p>FOE’s participation contributed to Staff’s adoption of the ESR sensitivity in its base case scenario, a critically important component of the Decision. At the outset of FOE’s participation, FOE raised its core issue: the planning assumptions should reflect, on a high priority basis, the uncertainty surrounding the future operation of SONGS.</p> <p>FOE only undertook tasks or activities that it deemed necessary to its effective presentation of its core concern to decision-makers. These tasks include drafting the Technical Comments, Policy Comments, and Reply Comments, referenced in Part II, <i>ex parte</i> meetings with Commissioners’ policy advisors and staff, and brief Reply Comments on the Proposed</p>	<p style="text-align: center;">CPUC Verified</p> <hr/> <p>Yes.</p>
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<p>Decision preceding the Decision.</p> <p>All of FOE’s tasks were reasonably calculated to achieve its core interest in this proceeding and all bear a reasonable relationship to the ultimate outcome of this proceeding: the inclusion and high prioritization of the ESR sensitivity in the base scenario. The ultimate request for compensation of \$40,237.10 is reasonable in light of the importance of the ESR sensitivity to future resource planning in California.</p>	
<p>b. Reasonableness of Hours Claimed.</p> <p>FOE takes seriously its responsibility to California’s ratepayers as an intervenor. Its hours are reasonable and reflect conscientious efforts to limit the expenses associated with participation to solely those topics pertinent to FOE’s key concern. FOE reviewed all relevant filings, as is necessary to competently participate in the LTPP proceeding, but limited its active participation to only those opportunities to advance its core issue of making the ESR sensitivity a high priority.</p> <p>For attorney hours, FOE effectively delegated appropriate tasks to attorneys Timothy J. Lindl and Thadeus B. Culley, limiting to the extent possible the higher billing rate of its lead attorney, Laurence G. Chaset. FOE avoided duplication of hours, to the extent possible, by primarily conducting its meetings with its lead attorney and by also substantially limiting participation in related workshops and client strategy meetings to one attorney.</p> <p>The hours spent by FOE’s attorneys to research and draft the documents submitted in this proceeding are reasonable and within the customary range for projects of similar complexity and scope.</p>	<p>We disallow costs of attending the client meeting in Washington D.C. and the hours associated with that meeting. These costs should be included in overhead. We also disallow hours spent in meetings with the California Energy Commission (CEC), the Governor’s Office, and the California Independent System Operator (CAISO). While Friends of the Earth (FOE) may have considered these important meetings, they are not relevant to any substantial contribution to D.12-12-010.</p>
<p>c. Allocation of Hours by Issue</p> <p>FOE is claiming a substantial contribution to the Decision on the basis of its work to advance, and rebut counterarguments against, inclusion of the ESR sensitivity in the base scenario. Accordingly, all time entries in <i>Attachment 2</i>, relate solely to this issue.</p>	<p>Yes.</p>

B. Specific Claim:

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
L. Chaset	2012	55.8	\$350/hr	Res. ALJ-281	\$19,530	39.9	\$350.00	\$13,965.00
T. Lindl	2012	70.7	\$215/hr	Res. ALJ-281	\$15,200.50	70.7	\$155.00	\$10,985.50
T. Culley	2012	11.4	\$200/hr	Res. ALJ-281	\$2,280	11.4	\$190.00	\$2,166.00
Subtotal:					\$37,010.50	Subtotal:		\$27,116.50
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
T. Lindl	2012	5.5	\$107.50/hr	50% of rate	\$591.25	0.5	\$77.50	\$38.75
T. Lindl	2013	6.1	\$107.50/hr	50% of rate	\$655.75	6.10	\$77.50	\$472.75
T. Culley	2012	3.4	\$100/hr	50% of rate	\$340	00.00	\$95.00	\$ 00.00
T. Culley	2013	10.1	\$100/hr	50% of rate	\$1,010	7.6	\$95.00	\$722.00
Subtotal:					\$2,597	Subtotal:		\$1,233.50

PROPOSED DECISION

COSTS					
#	Item	Detail	Amount	Amount	
1	Travel	L. Chaset round trip airfare to Washington D.C. for in person meeting with client to discuss LTPP proceeding. (Attachment 4)	\$629.60	Not compensated	
Subtotal:			\$629.60	Subtotal:	\$ 0
TOTAL REQUEST \$:			\$40,237.10	TOTAL AWARD \$:	\$28,350.00

*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	Member Number	Actions Affecting Eligibility (Yes/No?)
Laurence Chaset	June 23, 1976	68750	No
Timothy Lindl	December 4, 2009	267030	No
Thadeus Culley	December 2, 2010	271602	No

C. CPUC Disallowances and Adjustments:

#	Reason
Hourly Rate for Chaset	The Commission has not previously set an hourly rate for Chaset. Chaset was admitted to the California Bar in 1976 and has over 30 years of experience in energy law matters, including practice at the Commission. The requested rate of \$350 per hour for 2012 is reasonable, based on Resolution ALJ-281, and is in the mid-range for practitioners with more than 13 years of experience. We adopt it here.
Hourly Rate for Lindl	FOE requests an hourly rate of \$215 for Lindl in 2012. D.13-10-017 adopted a rate of \$150 per hour for Lindl for 2012. We will apply the 2.2% cost of living adjustment (COLA) authorized in Resolution ALJ-281 and award \$155 per hour for his work in 2012 in this proceeding. 2013 work was for preparing the intervenor compensation claim and we will apply half of the 2012 rate for this work.

Hourly Rate for Culley	FOE requests an hourly rate of \$200 for Culley's work in 2012. D.12-04-042 adopted a rate of \$185 per hour for Culley's work through July 25, 2012. D.13-10-017 applied the 2.2% COLA and adopted a rate of \$190 for his work in 2012. We will retain the previously-adopted 2012 rate of \$190 for this matter. For the 2013 work preparing the intervenor compensation claim, we will apply half of the 2012 rate for this work.
Disallowance of hours for travel to client meeting	Chaset has billed \$629.60 for travel to Washington D.C. for a client meeting. We disallow this amount. While the client may be based in Washington D.C., Chaset is based in the Bay Area and such a conference could have occurred by phone or by Skype. We also disallow hours claimed for this meeting as such meetings should be included in overhead.
Disallowance for hours not pertinent to contribution to D.12-12-010	FOE has claimed certain hours related to attending speeches, meeting with the Governor's office, meeting with CEC Commissioners, and attending meetings at the CAISO. These meetings are not pertinent to FOE's contribution to this decision and are not compensable.
Disallowance for hours related to clerical tasks	We have disallowed certain hours that were claimed for clerical tasks, such as preparing filings, compiling timesheets, and preparing templates. These hours were deducted from the intervenor compensation preparation claim for Lindl and Culley.

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))**

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

1. Friends of the Earth has made a substantial contribution to D.12-12-010.
2. The requested hourly rates for Friends of the Earth 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 \$28,350.00.

CONCLUSION OF LAW

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

ORDER

1. Friends of the Earth is awarded \$28,350.00.
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 Friends of the Earth, their respective shares of the award, based on their California-jurisdictional electric 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 non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 8, 2013, 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.
4. Rulemaking 12-03-014 is closed.

This decision is effective today.

Dated _____, at San Francisco, California.

Appendix**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1212010		
Proceeding(s):	R1203014		
Author:	ALJ Gamson		
Payer(s):	PG&E, SDG&E, SCE		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Friends of the Earth	02/22/2013	\$40,237.10	\$28,350.00	No	Reduced hourly rates, disallowance of hours for matters not pertinent to decision, disallowance of travel, disallowance of clerical work

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Laurence	Chaset	Attorney	Friends of the Earth	\$350.00	2012	\$350.00
Timothy	Lindl	Attorney	Friends of the Earth	\$215.00	2012	\$155.00
Thadeus	Culley	Attorney	Friends of the Earth	\$200.00	2012	\$190.00

(END OF APPENDIX)