

Decision **Proposed Decision of Commissioner Peterman** (Mailed 4/3/2015)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Pursuant to  
Assembly Bill 2514 to Consider the Adoption of  
Procurement Targets for Viable and Cost-Effective  
Energy Storage Systems.

Rulemaking 10-12-007  
(Filed December 16, 2010)

**DECISION GRANTING COMPENSATION TO CONSUMER FEDERATION OF CALIFORNIA FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-10-040**

<b>Claimant: Consumer Federation of California</b>	<b>For contribution to Decision (D.) 13-10-040</b>
<b>Claimed (\$): \$48,882.25</b>	<b>Awarded (\$): <del>18,885.40</del>18,887.45 (approximately 61% reduction)</b>
<b>Assigned Commissioner: Carla J. Peterman (Assigned Jan 29, 2013)</b>	<b>Assigned ALJs: Amy C. Yip-Kikugawa (Assigned Dec 21, 2010) Colette Kersten (Assigned Jul 11, 2013)</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	Decision adopting Energy Storage Procurement Framework and Design Program issued October 21, 2013.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	March 27, 2013	April 21, 2011
2. Other Specified Date for NOI:	N/A	n/a
3. Date NOI Filed:	April 12, 2013	May 19, 2011
4. Was the NOI timely filed?		
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.13-02-008	R.10-12-007

6. Date of ALJ ruling:	October 25, 2013	July 5, 2011
7. Based on another CPUC determination (specify):	N/A	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	R.13-02-008	R.10-12-007
10. Date of ALJ ruling:	October 25, 2013	July 5, 2011
11. Based on another CPUC determination (specify):	N/A	n/a
12. Has the Claimant demonstrated significant financial hardship?	Yes	
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.13-10-040	Correct
14. Date of Issuance of Final Order or Decision:	October 21, 2013	Correct
15. File date of compensation request:	December 17, 2013	December 16, 2013
16. Was the request for compensation timely?	Yes	

**PART II: SUBSTANTIAL CONTRIBUTION**

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

<b>Intervenor’s Claimed Contribution</b>	<b>Specific References to Intervenor’s Presentations and to Decision</b>	<b>Showing Accepted by CPUC</b>
<p>1. Market needs and procurement mechanisms, including a reverse auction.</p> <p>The Assigned Commissioner Ruling (ACR) asked parties address the proposed mechanisms, mainly, reverse-auctions and a set procurement target.</p> <p>CFC asserted from the beginning that one of the primary issues relating to energy storage is the lack of a procurement method which would apply uniformly with no unforeseen consequences. CFC asserted that the chosen procurement mechanism will, ultimately, have a great impact on the development of cost-effective energy storage systems, their cost, and their impact on ratepayers and must be carefully selected.</p>	<p>Assigned Commissioner’s Ruling Proposing Storage Procurement Targets and Mechanisms and Noticing All-Party Meeting (ACR), P.17-20</p> <p>Opening Comments of the Consumer Federation of California on the Energy Division Staff Interim Report (Phase 2) on Energy Storage in Rulemaking R.10-12-007 (Workshop Report), pp.2-3.</p> <p>CFC Reply Comments on ACR pp. 2-3.</p> <p>Opening Comments of the</p>	<p>Accepted as to the topics listed. Other issues, such as duplication of efforts, are discussed further in Parts II.B and III below. For example, on the last point cited as a contribution in this column, the parties were generally uniformly</p>

<p>Ultimately, CFC argued against the reverse-auction mechanism and set targets. They would likely lead to a stunting of growth and lock ratepayers into technologies available now from a select few ready to sell.</p> <p>The Commission found reverse auctions were not appropriate and some flexibility in procurement targets is necessary.</p>	<p>Consumer Federation of California on the Assigned Commissioner’s Proposed Decision (PD), pp. 2-3.</p> <p>Reply comments on PD, pp. 3-4.</p> <p>D.13-10-040, pp.26-27, 52-57.</p>	<p>opposed to the reverse auction mechanism.</p>
<p><b>2. Market Barriers</b></p> <p>CFC suggested market barriers can best be minimized through the coordination of pertinent proceedings addressing the same issues, thus maintaining consistency in approach.</p> <p>The Commission found that coordination with other proceedings should not only occur but should be ongoing to accommodate changing environmental conditions, thus reducing barriers.</p>	<p>CFC Opening Comments on workshop Report, pp. 2-3.</p> <p>CFC Reply Comments on ACR p. 2.</p> <p>CFC Opening Comments on PD, p. 3.</p> <p>CFC Reply Comments on PD, p. 2.</p> <p>D.13-10-040, pp. 7, 67.</p>	<p>Accepted except as to the CFC reply comments on the ACR at 2. Also, the correct citation to D.13-10-040 is to pp. 8 and 67. <i>See</i> also comment to section 1 above.</p>
<p><b>3. Cost Effectiveness</b></p> <p>CFC asserted that, should the PUC adopt cost effective methodologies, more concrete data on the suggested methods is necessary before any can be selected. CFC suggested the Commission wait for information thereby avoiding inaccurate assumptions which would be costly to the ratepayer.</p> <p>The Commission ultimately determined the providers should not be required to use a specific model nor meet a cost cap. A decision consistent with CFC’s position. It required projects to be installed and operational by the end of 2024 and that electric service providers shall provide a description of the best applicable methodology for measuring cost effectiveness.</p>	<p>Opening Comments on Workshop Report, pp. 4-5.</p> <p>Reply Comments ACR, pp. 2</p> <p>CFC Opening Comments on PD, p. 4.</p> <p>CFC Reply Comments on PD, pp. 4-5.</p> <p>D.13-10-040, pp.59-64, 77</p>	<p>Accepted. We note that the CFC Opening and Reply comments on the PD were very general on this issue. <i>See</i> also comment to section 1 above.</p>
<p><b>4. Demand Response/loading</b></p>		<p>Accepted. We</p>

<p>order/preferred resources</p> <p>One issue prominent in the proceeding was whether the “Loading Order,” which prioritized the order in which energy resources are procured, should be revised to include energy storage.</p> <p>CFC asserted it was not necessary to revise the loading order as energy storage is not a preferred resource but a tool, a technology which assists each of the preferred resources; energy efficiency, demand response, renewable and clean distributed resources.</p> <p>Ultimately the Commission agreed and found that it was not necessary to formally revise the loading order to include energy storage.</p>	<p>ACR p. 21; D.13-10-040, p.10</p> <p>Opening Comments on workshop Report, pp. 3-4.</p> <p>Opening Comments on ACR, pp. 2-4.</p> <p>D.13-10-040, pp. 10-11.</p>	<p>note that the Opening Comments on the ACR were very general. See also comment on section 1 above.</p>
<p>5. Procurement Targets</p> <p>CFC did not favor allowing the IOUs to carry over procurement volumes from one year to the next. CFC felt “carry over” as presented would delay development by locking rate payers into a set few early technologies.</p> <p>D.13-10-040 ultimately allowed procurement carry-over but chose to allow flexibility at the early stages of the program avoiding some of the potential problems pointed out by the CFC.</p>	<p>Opening Comments on Workshop Report, p 2.</p> <p>Reply Comments on ACR, pp. 2-4.</p> <p>D.13-10-040, pp.16-21</p> <p>CFC Opening Comments on PD, p. 3.</p> <p>CFC Reply Comments on PD, p. 1.</p> <p>D.13-10-040, p.20-25.</p>	<p>Accepted with the proviso that at least 11 parties (including the CFC) were in favor of carrying over procurement volumes from one year to the next. (D.13-10-040 at 21, stating that the CFC, as well as 10 other parties the decision names, was in favor of such carry over.) See also comment on section 1 above.</p>
<p>6. Ownership Model</p> <p>CFC supported RFO’s, tolling arrangements, and fixed storage payments</p>	<p>Reply Comments on ACR, pp. 3.</p>	<p>Accepted. See also comment to section 1</p>

<p>rather than an auction. These would allow the purchaser of energy storage to “own” the energy output but not lock the ratepayers into specific types of technologies for long periods of time.</p> <p>The Commission ultimately agreed that these and other ownership models were appropriate. It is determined that the program would benefit from a mix of ownership models.</p>	<p>D.13-10-040, pp. 49-52.</p>	<p>above.</p>
<p>7. Use Cases/”Buckets”</p> <p>Another essential part of the proceeding was the three use-case buckets: transmission-connected, distribution-connected, and customer-side applications.</p> <p>CFC posited that the Use Cases, as illustrative tools, are adequate to show the value, variety, and potential costs of energy storage application. But use cases are not based on real data and should not be used as the sole foundation for state mandates or Commission Decisions. As illustrations, they showed flexibility is necessary.</p> <p>Like the CFC, Commission relied on use cases and “buckets” (isolated connection points and types of associated technology) in making this decision. Ultimately, it was decided that focusing on a storage system’s point of interconnection, rather than the type of function, will allow for multiple ownership models, providing the IOUs flexibility in breaking down their procurement targets by functions depending on their needs. This approach would prevent market power concerns since it does not give preference to one technology over another.</p>	<p>D.13-10-040, pp. 11-14</p> <p>Opening Comments on Workshop Report, pp. 3-5.</p> <p>Opening Comments on ACR, p.2.</p> <p>D.13-10-040, p. 13</p>	<p>Accepted. <i>See</i> also comment to section 1 above.</p>

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

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?<sup>1</sup></b>	<b>Yes</b>	Correct
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	<b>Yes</b>	Correct
<b>c. If so, provide name of other parties: EDF, ORA, TURN</b>		Correct. As stated above, there were many other parties to this proceeding, some with positions similar to CFC on certain issues above.
<p><b>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b></p> <p>CFC shared similar views with other parties regarding ultimate outcome but differed in which approach it preferred to reach that outcome; each party had a particular take on the argument making it an original contribution. CFC argued an application based approach to energy storage not relying heavily on Use Cases or allowing carry over of previously purchased energy contracts. CFC offered a consumer-based argument that an application specific, RFP approach might be the most efficient approach and an important step to avoid unnecessary spending, especially since utility customers would be the ones ultimately bearing the cost of energy storage technology purchasing.</p>		Claimant put forth arguments and views that were largely duplicative with other parties and were of a general nature. As such, the Commission makes the adjustments in Part III.C below.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<b>a. How the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation</b>	<b>CPUC Verified</b>
<p>There will be monetary benefits for ratepayers based on CFC’s participation, although it is difficult to estimate a specific amount of monetary benefits. Some of the CFC’s contributions adopted by the final decision will result in a clearer framework that will, in part, help to focus any cost recovery</p>	<p>Claimant put forth arguments and views that were largely duplicative with other parties and</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.

<p>model and rates. Though currently abstract, these issues will be necessary in developing policy that will save utility customers money in the long term.</p> <p>Because of CFC’s contribution, the Commission adopted an official definition of energy storage which will minimize confusion in the future and make it easier to develop uniform standards and policies. CFC also supported an application based approach, a valuation framework and a clear cost recovery model for energy storage which, CFC believes, will help avoid unnecessary spending .</p>	<p>were of a general nature. As such, the Commission makes the adjustments set forth in Part III.C below.</p>
<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>CFC worked efficiently and recorded hours rounding down to the nearest decimal. The attorney fee hours are equal to just 4 week’s time while the intervenor compensation claim preparation hours are equal to just 2 days. Both hourly amounts are reasonable in light of the work performed and product produced.</p>	<p>See above.</p>
<p><b>c. Allocation of Hours by Issue</b></p> <p><b>See Attachment</b>                  B = Barriers to Entry                  C = Cost Effectiveness                  D = Demand Response/loading order/preferred Resources                  M = Market Needs/Methodologies                  O = Ownership Model                  P = Procurement Target (If Any)                  U = Use Cases                  W = Issues related to Workshops                  GP = General Prep.                  # = Where time entries cannot easily be identified with a specific activity code. For these entries, the allocation of time spent on activities can be broken equally.</p>	<p>See above.</p>

**B. Specific Claim:**

ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Nicole A. Blake	2013	12.75	\$205	D.12-09-017	\$2,613.75	<del>12</del> 49	\$205.00	\$ <del>2,558.40</del> 2,560.45
Nicole D. Johnson	2013	144.90	\$305	D.13-02-008	\$43,843.75	53.3	\$290.00	\$15,457.00
<i>Subtotal:</i>					\$46,457.50	<i>Subtotal:</i>		\$ <del>18,015.40</del> 8,017.45
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for	Total \$	Hours	Rate	Total \$

				<b>Rate*</b>				
Nicole Johnson	2013	15.9	152.5	½ D.13-02-008	\$2,424.75	6	\$145.00	\$ 870.00
<b>Subtotal:</b>					\$2,424.75	<b>Subtotal:</b>		\$ 870.00
<b>TOTAL REQUEST \$:</b>					<b>\$48,882.25</b>	<b>TOTAL AWARDS:</b>		<b><del>18,885.40</del>18,887.45</b>

\* 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.

<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>
Nicole A. Blake	January 4, 2010	268541	No
Nicole D. Johnson	June 1, 2006	242625	No

### C. CPUC Disallowances and Adjustments:

<b>#</b>	<b>Reason</b>
1	Hourly Rate for Nicole A. Blake: Claimant claims a \$205 hourly rate for Nicole A. Blake for her work done in 2013. However, the work Blake performed in this proceeding occurred in 2012. The only work claimed for in 2013 is for attending a workshop, but the workshop was held on December 4, 2012, not January 4, 2013 as claimed. (See D.13-10-040 at 5.) Thus, we give Blake credit for these workshop hours but correct the entry to reflect the proper 2012 date. D.13-01-014 awarded a \$205 hourly rate for Blake's work for 2012. We therefore award Blake a \$205 hourly rate for her work performed in 2012 in this proceeding.
2	Claimant states that Nicole D. Johnson spent 7.9 hours on general preparation, largely in early 2013 for reviewing past filings, performing "catch up on last years' issues", etc. Although the Commission understands this work might be necessary for a new attorney to the proceeding, it does not constitute a required showing of substantial contribution to the final decision for which compensation is sought, and we disallow those hours. Additionally, Claimant requests 3 hours for Johnson's reading reply comments on the PD and 3 hours for Johnson's reading D.13-10-040 (the decision for which intervenor compensation is requested), which

<sup>2</sup> This information was obtained at <http://www.calbar.ca.gov/>. CFC did not include this chart with its request but should do so in its future requests for intervenor compensation.

	work similarly did not result in a substantial contribution to that decision. Also, Claimant claims 5.8 hours for Johnson preparing for and attending a workshop in February 2013 and 4.5 hours for attending a workshop in July 2013. We have no record of workshops occurring at those times in this proceeding and therefore disallow these hours. (See generally D.13-10-040 at 5-6 listing the time of the workshops, etc.) This results on a reduction of 24.2 hours (144.9 claimed hours – 24.2 hours) for Johnson for a total of 120.7 claimed hours which is further reduced in #3 below.
3	<p>We grant Claimant the full hours claimed for attending workshops and all party meetings and related preparation, other than those discussed in #2 above. This is a total of 12 hours for Nicole A. Blake and a total of 17 hours for Nicole D. Johnson.</p> <p>We note that Claimant put forth arguments that were duplicative of positions and more general than those put forth by many other parties to the proceeding. The Commission also finds that Claimant spent excessive hours on reviewing parties’ comments and in drafting the comments, replies, etc. As such, we reduce the remaining hours claimed by 65%. This results in a reduction of <del>0.27</del><u>0.263</u> hours of the total of 12.75 hours claimed by Blake (65% reduction of <u>non-workshop related</u> 0.75 hours) and a reduction of 67.40 hours for Johnson (65% reduction of 103.7 hours.) Thus, we award Blake 12 hours for her work in 2012 and Johnson 53.3 hours for her work in 2013 (36.3 hours plus 17 hours attending workshops, all party meetings, etc., as discussed in the first paragraph of this section.)</p>
4	Claimant failed to justify the requested 2013 hourly rate of \$305 for Nicole D. Johnson despite the fact that the Commission has not established an hourly rate for Johnson in past cases. (The decision summarily cited by Claimant, D.13-02-008, does not address Johnson’s hourly rate but is in fact a decision on a complaint case in a different matter.) Based on the Commission’s own inquiry, the California State Bar website lists Johnson as an attorney in good standing admitted to the California Bar in June 2006. (See Part III. b above.) That means that Johnson was an attorney with seven years of experience in 2013, when working on this case. Pursuant to Resolution ALJ-287, the lowest hourly rate in the rate range for an attorney with seven years of experience in 2013 is \$290. Because Claimant presented no further justification, we award Johnson \$290 an hour for her work performed in this proceeding in 2013.
5	Excessive Hours: We reduce the hours spent to prepare the intervenor compensation claim from 15.9 hours to 6 hours due to the multiple inaccuracies in, and overall quality of the document.

**PART IV: OPPOSITIONS AND COMMENTS**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
<b>B. Comment Period: Was the 30-day comment period waived (see</b>	No

<b>Rule 14.6(2)(6)?</b>	
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**FINDINGS OF FACT**

1. Consumer Federation of California has made a substantial contribution to D.13-10-040.
2. The requested hourly rates for Consumer Federation of California’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 \$~~18,885.40~~18,887.45.

**CONCLUSION OF LAW**

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

**ORDER**

1. Consumer Federation of California is awarded \$~~18,885.40~~18,887.45.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall pay Consumer Federation of California their respective shares of the award, based on their California-jurisdictional electric revenues for the 2013 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 March 1, 2014, the 75<sup>th</sup> day after the filing of Claimant’s request, and continuing until full payment is made.
3. The comment period for today’s decision is not waived.
4. This decision is effective today.

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

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D1310040	
<b>Proceeding(s):</b>	R1012007	
<b>Author<del>s</del>Authors:</b>	ALJ Yip-Kikugawa; ALJ Kersten	
<b>Payer(s):</b>	Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & 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>
Consumer Federation of California	12/16/2013	\$48,882.25	<del>\$18,885.40</del> <u>18,887.45</u>	n/a	Adjustment in hourly rate; Disallowance of hours for duplication and contribution of a general nature; for hours not contributing to substantial contribution; and for hours spent on intervenor compensation request due to multiple inaccuracies in, and overall quality of the document.

**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>
Nicole A.	Blake	Attorney	Consumer Federation of California	\$205	2013	\$205
Nicole D.	Johnson	Attorney	Consumer Federation of California	\$305	2013	\$290

**(END OF APPENDIX)**



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