

Decision **PROPOSED DECISION OF ALJ EBKE** (Mailed on 4/20/2015)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

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

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

**DECISION DENYING INTERVENOR COMPENSATION TO
CLEAN COALITION FOR CONTRIBUTION TO DECISIONS
(D.) 13-05-033 AND D.12-02-035**

Claimant: Clean Coalition	For contribution to D.13-05-033 & D.12-02-035
Claimed (\$): \$12,693.75	Awarded (\$): 00.00
Assigned Commissioner: Michael Picker	Assigned ALJ: Maryam Ebke

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	D.13-05-033 resolved SCE's petition for modification of its solar PV program. D.12-02-035 resolved additional issues within SCE's petition for modification of its solar PV programs and made adjustments to the RAM program
-----------------------------------	---

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 (§ 1804(a)):		
1. Date of Prehearing Conference:	There was no PHC	Verified.
2. Other Specified Date for NOI:		
3. Date NOI Filed:	July 23, 2013	July 24, 2013
4. Was the notice of intent timely filed?	No; See line 6 below for an explanation as to why the NOI is	

	<p>untimely and why Clean Coalition’s compensation request is therefore denied.</p>
<p>Showing of customer or customer-related status (§ 1802(b)):</p>	
<p>5. Based on ALJ ruling issued in proceeding number:</p>	
<p>6. Date of ALJ ruling:</p>	<p>The August 15, 2013, ALJ ruling determined that Clean Coalition’s NOI was untimely with respect to SCE’s February 11, 2011 and July 27, 2012 petitions for modification of D.09-06-049 and D.12-02-035, respectively. We affirm the ALJ ruling on untimeliness of the NOI, as the late NOI was tendered almost two years after Clean Coalition became a party and more than a year after D.12-02-035 issued (addressing SCE’s February 11, 2011 petition) , and two months after D.13-05-033 issued (addressing SCE’s July 27, 2012 petition.) We affirm that Clean Coalition is not eligible to claim intervenor compensation with regard to D.12-02-035 and D.13-05-033 because those decisions were</p>

		<p>issued prior to the filing of Clean Coalition’s July 24, 2013 motion to late file the NOI.</p> <p>In addition, on August 23, 2013, an ALJ ruling incorrectly determined that Clean Coalition was ineligible for compensation for any substantial contribution because Clean Coalition is not a membership organization. We reverse the August 23, 2013 ALJ ruling on this issue because Clean Coalition satisfies the environmental group exception set forth in D.98-04-059. However, we deny compensation because Clean Coalition’s NOI is untimely.</p>
<p>7. Based on another CPUC determination (specify):</p>	<p>D.12-09-014 found the Clean Coalition to be an eligible customer.</p>	<p><i>See above.</i></p>
<p>8. Has the claimant demonstrated customer or customer-related status?</p>		<p>Yes.</p>
<p>Showing of “significant financial hardship” (§ 1802(g)):</p>		
<p>9. Based on ALJ ruling issued in proceeding number:</p>		<p>The August 23, 2013 ALJ ruling found that Clean Coalition did not demonstrate significant financial hardship. We reverse</p>

		the August 23, 2013 ruling on this issue because D.12-09-014 created a rebuttable presumption of eligibility for compensation in this proceeding (on the point of significant financial hardship). However, Clean Coalition is ineligible to receive compensation because of the lack of timeliness of the NOI as set forth above.
10. Date of ALJ ruling:		August 23, 2013
11. Based on another CPUC determination (specify):	D.12-09-014 found the Clean Coalition had demonstrated significant financial hardship.	D.12-09-014 issued September 20, 2012.
12. Has the claimant demonstrated significant financial hardship?		Yes.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D. 13-05-033 & D. 12-02-035	Yes.
14. Date of Issuance of Final Decision:	June 3, 2013 and February 23 rd , 2012	Yes.
15. File date of compensation request:	July 23, 2013	Yes.
16. Was the request for compensation timely?		No, because of an untimely NOI (<i>see above</i>).

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(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<u>D.13-05-033</u> (resolving SCE’s request to modify SPVP). The Clean Coalition	<i>The Commission partially granted SCE’s PFM, against our</i>	Clean Coalition is not

<p>was active in this matter from the outset, commenting on SCE’s advice letter, the proposed decision and the alternate proposed decision.</p>	<p><i>recommendations, but agreed with some of our points.</i></p> <p>“Clean Coalition opposes SCE’s petition. Clean Coalition contends that SCE’s proposed changes fail to support the program’s original goals (including development of projects in the one to two MW range, and securing benefits of generation that is close to load). Clean Coalition also asserts that SCE’s proposal is not adequately justified by estimated savings. Clean Coalition concludes that the successful SPVP program should not be abandoned without good cause.... We partially grant SCE’s petition to modify the SPVP by reducing the UOG portion of the SPVP from 125 MW to 91 MW and transferring 34 MW DC (31 MW AC) to SCE’s RAM program. Other SPVP program and solicitation parameters remain unchanged.” (FD at 6)</p> <p>“The Clean Coalition disputes the necessity for any modifications, arguing that further modification will undermine the original goals of the SPVP. (Clean Coalition Response at 2.) We find for the reasons below that limited modifications are reasonable based on changed conditions.” (FD at 7).</p>	<p>eligible to claim intervenor compensation because of an untimely NOI. However, we note that, while D.13-05-033 partially granted SCE’s petition to modify D.12-02-035, we did not do so based on Clean Coalition’s reasoning. Instead, the decision modified SCE’s SPVP based on changed conditions, including reductions in solar PV costs, the availability of other programs providing development opportunities for distributed Solar PV projects sized at 1-2 MW, as we previously determined in D.12-02-035.</p>
<p>“Despite our multiple requests in public comments for SCE to provide details on its claimed cost savings, none have been provided. From what we know,</p>	<p>“The Clean Coalition questions whether any actual savings will result from the modifications, indicating that SCE’s cost savings analysis is flawed</p>	<p>Clean Coalition is not eligible for intervenor</p>

<p>SCE’s analysis is clearly flawed on two key points: 1. It assumes the cost of UOG rooftop solar to be 26 cents/kWh, which is artificially high and far higher than the cost of IPP rooftop solar and 2. It benchmarks the cost of the SPVP program against an RSC program which, as reported by the Independent Evaluator of the</p> <p>RSC, specifically does not fully take into consideration upgrade and transmission costs. Therefore SCE’s savings analysis specifically ignores upgrade and transmission costs that the ratepayer will ultimately have to pay for. As we stated in previous comments, SCE should be required to recalculate the savings using reasonable estimates for transmission and upgrade costs for both the RSC contracts and the rooftop solar projects. This “fully weighted” analysis would allow an accurate and meaningful discussion of actual savings (if any) for the ratepayer at a time when urgent additional local capacity procurement is being pursued.” (Clean Coalition Response at 3).</p>	<p>because it is calculated based on the cost cap of \$260.00/MWh. (Clean Coalition Response at 3.) We disagree.” (FD at 9).</p>	<p>compensation because of an untimely NOI. In addition, Clean Coalition did not make a substantial contribution to D.13-05-033 on this point.</p>
<p>“While we recognize the benefit of avoiding high cost generation, we note that SCE fails to analyze or discuss the approach of simply shifting the 34 MW from high cost UOG rooftop solar to lower cost IPP rooftop solar. This solution would create substantial savings for California ratepayers, while simultaneously supporting the original goals of the SPVP program.” (Clean Coalition Response at 3).</p>	<p>“The Clean Coalition generally opposes the reduction, contending the SPVP should not be changed, but indicates that, if granted, any reduction should be reallocated the IPP portion of the program. We will grant SCE’s request to reallocate the 34 MW UOG reduction to the RAM program. We adopt the equivalent of a 34 MW DC (31 MW AC) increase in RAM, including the provision that this increment be procured consistent with existing RAM protocols.” (FD at 11-12).</p>	<p>Clean Coalition is not eligible for intervenor compensation because of an untimely NOI. In addition, the Commission rejected Clean Coalition’s argument on this issue.</p>

	<p>“SEIA and the Clean Coalition argue that the reallocated 34 MW should be transferred to the IPP portion of SPVP rather than the RAM program because this would support the SPVP goal of robust competition for rooftop projects near load centers. We disagree. The requested 34 MW reduction consists of an 18 MW reduction of ground-mount PV and 16 MW of rooftop PV. Parties have not provided compelling evidence that the relatively small reduction in rooftop PV in the UOG portion of the SPVP will materially affect the level of competition for rooftop projects near load centers.” (Id.)</p>	<p>Clean Coalition is not eligible for compensation because of an untimely NOI. In addition, Clean Coalition did not make a substantial contribution on this point.</p>
<p><i>Inclusion of Projects 3 MW or less in RAM</i></p> <p>“RAM only allows projects above 3 MW to bid into the program, and even if 1-2 MW solar projects could bid into RAM it is highly unlikely that these relatively small projects could compete with projects up to 20 MW, which comprise the majority of bids into RAM.” (Clean Coalition reply comments on Alternate Proposed Decision at 8)</p>	<p>“We have reviewed the comments and determined that there is a need to make one change to the alternate proposed decision. Clean Coalition indicated that the RAM program no longer allows projects under 3 MW. The alternate proposed decision has been changed to reflect this.” (D. 13-05-033 at 17)</p>	<p>Yes, but Clean Coalition is not eligible for intervenor compensation because of an untimely NOI.</p>
<p><u>D.12-02-035 (Resolves Additional Issues within SCE’s PFM and Making Changes to the RAM program)</u> The Clean Coalition was also active in this matter, offering comments, analysis and recommendations on various aspects of the proposed modifications.</p> <p>“In terms of the UOG, SCE has modeled the savings based on the maximum allowed rate of 26 cents / kWh, even though actual costs are</p>	<p><i>The Clean Coalition was one of few parties to file in opposition to the proposed modifications, which received support from Solar Alliance. The Commission evaluated the analysis offered by the Clean Coalition on the proposed modifications to the programs.</i></p> <p>“On November 7, 2011 a response in opposition [to the [proposed modifications] was filed by Clean</p>	<p>Clean Coalition is not eligible or intervenor compensation because of an untimely NOI and Clean Coalition did not make a substantial contribution to D.12-02-035</p>

<p>likely far lower. Our analysis, detailed below, indicates that roughly 75% of the claimed \$300 million in savings are attributed to reducing this overstated UOG portion. SCE needs to recalculate the savings based on the actual expected cost of UOG going forward. (If the actual expected cost of UOG is 26 cents / kWh, then we recommend keeping the IPP portion at 250 MW, reducing the extremely expensive UOG portion to 125 MW and transitioning 125 MW of the UOG portion to the RAM. This would allow program goals to be met and market disruptions to be minimized while STILL maintaining 75% of the claimed \$300 million in savings.)” (Clean Coalition comments on the PFM at 2)</p>	<p>Coalition, and a response in conditional support was filed by the Solar Alliance.” (FD at 4).</p> <p>“Clean Coalition contends that SCE’s analysis is flawed and its estimate overstated, but “[i]n no way does the Clean Coalition claim that the proposed modifications would produce no savings.” (January 31, 2012 Clean Coalition Comments at 14.) FD at 9)</p>	<p>on this point.</p>
---	---	-----------------------

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

	Claimant	CPUC Verified
<p>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceedings?¹</p>	<p>Yes</p>	<p>Yes.</p>
<p>b. Were there other parties to the proceeding? (Y/N)</p>	<p>Yes</p>	<p>Yes.</p>
<p>c. If so, provide name of other parties:</p> <p>Comments were filed by a number of parties, including the Clean Coalition, Silverado Power, LLC; Office of Ratepayer Advocates (ORA); The Utility Reform Network (TURN); Independent Energy Producers Association (IEP); the Greenlining Institute (Greenlining); and Recurrent Energy. California Solar Energy Industries Association; the Solar Alliance; jointly by SolarCity, Solyndra LLC, United Solar Ovonic (Joint Solar Parties); CALifornians for Renewable Energy, Inc. CARE); and Commercial Solar Solutions, LLC (CSS) and Vote Solar.</p>	<p>Yes.</p>	

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>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:</p> <p>Our involvement in this proceeding was fairly limited and we did not actively collaborate with other parties. As always, however, we present a unique voice focused on smart energy policy that both gets us to a renewable and energy efficient future as quickly as possible while also ensuring that savings accrue to ratepayers in the long-term.</p>	<p>We agree with Clean Coalition that its involvement was fairly limited and it did not coordinate with other parties in this proceeding.</p>
--	---

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>Concise explanation as to how the cost of claimant’s participation bears a reasonable relationship with benefits realized through participation</p>	<p>CPUC Verified</p>
<p>It is difficult to point directly to savings for ratepayers from our involvement; however, we repeatedly stressed in our comments the need for actual data to be used in informing the final outcome of the decision. We raised cost issues repeatedly, using actual data, and calling for actual data, stressing that alleged cost savings by SCE were not based on actual or reliable data. As such, our involvement, insofar as it helped to improve the final decision, will very likely result in cost savings for ratepayers and a better program.</p> <p>In terms of allocation of time between issues in this proceeding, we were always careful in terms of using the most appropriate personnel for each task. Rob Longnecker was the lead early in our involvement, with attorney Tam Hunt assisting substantially on most issues and later taking the lead on drafting documents. Associate Executive Director Ted Ko provided close support and guidance on policy decisions. Dyana Delfin-Polk assisted with the comp request.</p>	<p>Clean Coalition is not eligible for intervenor compensation because of the lack of an untimely NOI. Hypothetically, if the Commission were somehow to deem the NOI timely, the Commission would make the adjustments set forth in Section III.C below so that only Clean Coalition’s substantial contribution (on one issue set forth in Part II.A) is compensated.</p>

B. Specific Claim:*

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Hunt	2012	5.5	\$330	D.12-09-014 and D.08-04-010	\$1,815	2012	0	\$330	00.00
<i>Subtotal:</i>					\$1,815	<i>Subtotal:</i>			00.00
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Rob Longnecker	2011	9	\$145	D.12-09-014 and D.08-04-010	\$1,305	2011	0	0	No rate adopted
Rob Longnecker	2012	26.25	\$155 ²	D.12-09-014 and D.08-04-010	\$4068.75	2011	0	0	No rate adopted
Sahm White	2011	5	\$185	D.12-09-014 and D.08-04-010	\$925	2011	0	\$185	00.00
Sahm White	2012	13.75	\$194	D.12-09-014 and D.08-04-010	\$2667.5	2012	0	\$190 ³	00.00
<i>Subtotal:</i>					\$8,966.25	<i>Subtotal:</i>			00.00
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Hunt	2012	10	\$165	D.12-09-014 and D.08-04-010	\$1,650	2012	0	\$165	00.00
Dyana Delfin-Polk	2012	7	\$37.5	D.08-04-010	\$262.5	2012	0	\$40 ⁴	00.00
<i>Subtotal:</i>					\$1,912.5	<i>Subtotal:</i>			00.00
TOTAL REQUEST \$:					\$12,693.75	TOTAL AWARD \$:			00.00
*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.									

2 Although Clean Coalition’s request states that Rob Longnecker has many years of experience, both in finance and in the renewable energy field and refers to the attachments for resume, there are no such attachments on file with Clean Coalition’s request.

3 See D.14-12-075.

4 Id.

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.

**Reasonable claim preparation time typically compensated at ½ of preparer’s normal hourly rate.

ATTORNEY INFORMATION

Attorney	Date Admitted to CA BAR ⁵	Member Number	Actions Affected Eligibility (Yes/No?) If “Yes”, attach explanation
Tamlyn (Tam) Hunt	January 29, 2002	218673	No; Please note from January 1st, 2005 to April 27th, 2009 Mr. Hunt was an inactive.

C. CPUC Disallowances & Adjustments

#	Reason
1	Clean Coalition is not eligible for intervenor compensation in this proceeding, because of the lack of timeliness of its NOI. See Section I.B.6 and 16 above.
2	Hours claimed by Clean Coalition: Although Clean Coalition’s request for compensation in this proceeding is denied as set forth above, we note that hypothetically, if we were somehow to find the NOI timely, only hours spent for substantial contribution would be compensated. Clean Coalition only substantially contributed to one issue set forth above with respect to its contribution to D.13-05-003. Thus, hours spent before SCE’s Petition for Modification of D.12-02-035 (filed July 27, 2012) would not be compensated. Clean Coalition did not set out with sufficient particularity the time spent on each issue set forth above in Section II.A. However, if we were to apportion the hours reasonably spent based on an examination of the pleadings (which raised five issues; the issue for which Clean Coalition substantially contributed is not complex), we would compensate 0 hours for time spent on the issues leading up to D.12-02-035 and the following hours for time spent on issues leading up to D.13-05-033: 1.5 hours for Hunt in 2012; 1 hour for Longnecker for 2012 and 2 hours for White for 2012. Additionally, we would award the following hours for intervenor compensation claim preparation: 8 hours for Hunt’s work performed in 2012 and 7 hours for Delfin-Polk’s work performed in 2012.
3	Clean Coalition failed to establish an hourly rate for Mr. Longnecker. The citations listed in this document are to decisions in which no rate for Longnecker are discussed. Additionally, the docket card does not contain a referenced attachment which Clean Coalition references to

⁵ This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>

provide further information on Longnecker’s education or experience. (The request states that an attachment sets forth these credentials but this document was not filed.) We have not established a prior hourly rate for Longnecker in another proceeding. Therefore, Clean Coalition failed to establish an hourly rate for Longnecker, and on that alternative ground cannot receive compensation for his substantial contribution to this proceeding (which is 1 hour).

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim (Y/N)?

No.

B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(C)(6)) (Y/N)?

No.

If not:

Party	Comment	CPUC Disposition
	No comments were filed.	

FINDINGS OF FACT

1. The Clean Coalition is not eligible for intervenor compensation in this proceeding because of an untimely Notice of Intent to claim intervenor compensation.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, fails to satisfy all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Clean Coalition is not eligible for and is denied intervenor compensation for this proceeding.
2. The comment period for today’s decision is not waived.
3. This proceeding 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):	D1202035 and D1305033		
Proceeding(s):	A.08-03-015		
Author:	ALJ Ebke		
Payer(s):	N/A (No intervenor compensation awarded)		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Clean Coalition	July 23, 2013	\$12,693.75	\$0.00	N/A	Clean Coalition is not eligible for intervenor compensation in this proceeding because of an untimely NOI.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted ⁶
Tamlyn	Hunt	Attorney	Clean Coalition	\$330	2012	\$330.00
Rob	Longnecker	Expert	Clean Coalition	\$145	2011	No rate adopted
Rob	Longnecker	Expert	Clean Coalition	\$155	2012	No rate adopted
Sahm	White	Expert	Clean Coalition	\$185	2011	\$185.00
Sahm	White	Expert	Clean Coalition	\$194	2012	\$190.00
Dyana	Delfin-Polk	Expert	Clean Coalition	\$75	2012	\$80.00

(END OF APPENDIX)

⁶ No intervenor compensation awarded, but hourly rates were adopted when possible.