

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of Modifications to its SmartMeter™ Program and Increased Revenue Requirements to Recover the Costs of the Modifications (U39M).

Application 11-03-014
(Filed March 24, 2011)

And Related Matters.

Application 11-03-015
Application 11-07-020

DECISION GRANTING INTERVENOR COMPENSATION CLAIM TO EMF SAFETY NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 14-12-078

Intervenor: EMF Safety Network	For contribution to Decision (D.) 14-12-078
Claimed: \$63,366.07	Awarded: \$63,014.85 (reduced .5%)
Assigned Commissioner: Michael Picker	Assigned ALJ Amy C. Yip-Kikugawa

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	The decision allows Investor Owned Utilities (IOU's) to charge customers fees for using analog meters; caps fees at three years; one fee per IOU location; denies exit fees; denies applicability of discrimination and safety laws; allows IOU's to recover millions in costs.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	05/06/2011	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	06/06/2011	Verified
4. Was the NOI timely filed?		Yes

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.11-03-014	Verified
6. Date of ALJ ruling:	10/26/2011	Verified
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.11-03-014	Verified
10. Date of ALJ ruling:	10/26/2011	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-12-078	Verified
14. Date of issuance of Final Order or Decision:	12/23/2014	Verified
15. File date of compensation request:	2/23/2015	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
	In A.11-03-014 a second prehearing conference was held on 5/16/2012. Network relied on Aglet Consumer Alliance, and I believe a call to the Public Advisor, that a second NOI did not need to be filed.	Only one Notice of Intent is required to be filed in each proceeding, unless otherwise stated by the assigned ALJ.

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (see § 1802(i), § 1803(a), and D.98-04-059).

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
EMF Safety Network (Network) participated fully in A.11-03-014 (et al). Network attended, filed and or served: Prehearing Conference and statement; All	D.14-12-078 recognized Network’s participation at pages 60, 68 and 72.	Not a Contribution.

<p>Party Settlement; Response and 2 motions; Legal brief; Reply brief; Testimony; Rebuttal testimony; Evidentiary hearings, Inc. examination of witnesses; discovery; surveyed IOU's, intervenor's and the public on Public Participations Hearings (PPH) locations; second Opening brief; Reply brief; Comments on the Proposed and Alternate Decisions; and Reply comments.</p>		
<p>2. The June 8, 2012 scoping memo: p.4 Cost and cost allocation issues included (b) "Should more than one opt-out option be offered to customers to customers who do not wish to have a wireless smart meter (e.g. a digital non communication meter)?</p> <p>Network consistently argued for analog meters. For example see Opening Brief 1/11/2013, Summary p.1 "Allow residential and commercial customers for any reason to retain or restore analog meters..."</p>	<p>D.14-12-078 Finding of Fact 14, p.74 "All parties agree that the only opt-out option should be an all analog meter.</p>	<p>No. Opt-out eligibility was decided in D.12-02-014 at 20. Network did not address the actual question of other potential opt-out options. <i>See also</i> June 8, 2012 Scoping Memo at 3.</p>
<p>3. Network consistently argued against charging fees, including exit fees. For example see Opening Brief 1/11/2013 "Allow residential and commercial customers for any reason to retain or restore analog meters at no cost." P.1 "There should be no initial fees, no monthly fees, and no exit fees." P.1</p> <p>Although the Decision charges fees, the fees were capped at three years.</p>	<p>D.14-12-078 Conclusion of law 23 p. 77: "Exit fees should not be assessed upon opt-out customers"</p> <p>D.14-12-078 Conclusion of law 14 p.76 "A rate cap on opt-out fees and charges should be established to ensure that customers are not unreasonably deterred from electing this option."; Conclusion of Law 18, p.76: "The collection of the monthly charge from opt out customers should be limited to three years from the date they choose to opt-out."</p>	<p>Yes.</p>
<p>4. Intervenors were asked to file briefs on legal issues (Scoping memo pp.5-6) on whether imposing an opt out fee violated</p>	<p>Network's participation is noted in D.14-12-078 p.60, 68 and p.72:</p> <p>D.14-12-078 (p.72) recognizes value in intervenor comments, including Network's</p>	<p>Yes.</p>

<p>ADA or PUC 453 (b).</p>	<p>by stating, “We have considered these arguments and revised this discussion accordingly.”</p>	
<p>5. The June 8, 2012 scoping memo: p.4 Cost and cost allocation issues included (d) “...should the fees be assessed on a per meter or per location basis?” Network alerted the Commission to the problem of multiple meters in one location. See Network testimony p.3 line 24 to p.4 line 6. See Network Opening Brief 1/11/2013 p.3 “...customers should not be charged who...have multiple meters on one property who are being charged two, three or more times for each meter...”</p>	<p>D.14-12-078 Conclusion of law 20 p.77. “Each utility should collect opt-out fees and charges on a per location, not per meter basis.”</p>	<p>Yes, however EMF did not directly address the question.</p>
<p>6. The June 8, 2012 scoping memo p.6 asked parties questions on Community opt-out. Although D.14-12-078 rules against it, the context for that decision was provided in part by County of Marin, which was supported by Network. In July 30 2012 Reply Brief Network answered scoping memo questions on community opt-out and supported community opt-out comments of Marin County.</p>	<p>D.14-12-078 refers to [Counties] arguments pp. 52,53,57,59.</p>	<p>Yes.</p>
<p>7. Network was honored to be asked by ALJ Yip-Kikugawa to help determine Public Participation Hearing locations. To do so we created an online survey, issued discovery on IOU’s and other intervenors, and provided the suggested locations to the ALJ.</p>	<p>June 8, 2012 Scoping memo p.7 “ As directed by the ALJ, Network shall work with the utilities and intervenors to determine the appropriate locations and proposed dates for PPH and provide that information to the assigned ALJ no later than July 16, 2012.” See also PHC transcript p. 283 line 16 to p. 284 line 12.</p>	<p>Yes.</p>

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

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding? ¹	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: : Ecological Options Network (EON), Center for Electrosmog Prevention (CEP), Town of Fairfax (Marin County, et al), and Aglet Consumer Alliance (Aglet).		Verified
d. Intervenor's claim of non-duplication: Network coordinated with the above on different issues. EON and Marin County were going to focus more on Community issues, with Network support. Network attempted to coordinate with the ORA and The Utility Reform Network, but our positions were not the same.		Verified

C. Additional Comments on Part II:

#	Intervenor's Comment	CPUC Discussion
	See Attachment 2 for time and cost records for Maurer's activity. I have done my best to categorize my efforts per issue. I did not include in this compensation request time networking with other group members or networking with the public on CPUC issues as I am compensated for this work by the EMF Safety Network. The time I have listed is solely focused on CPUC activities, and staying informed of the activity in the proceeding. 21.6 hours of travel time to San Francisco is waived.	

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>See attachment 3 for time and cost records of Best and Krieger attorneys. In 2013 and 2014 Maurer made careful use of attorney time. Maurer did not claim her time for email and phone conversations with legal team.</p>	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

a. Intervenor’s claim of cost reasonableness:	CPUC Discussion
<p>EMF Safety Network supported the analog meter as the opt out option, opposed charging customers fees; and provided legal arguments against the fees. D.14-12-078 upheld the analog meter for the opt out; and removed or set limits on opt-out fees. Network’s participation provided a context for the Commission to base its determinations.</p> <p>The value of consumer protections is difficult to quantify. Investor owned utilities will receive tens of millions for providing the analog option. The ratepayer money at stake and the value of ratepayer consumer rights, and health and safety considerations greatly exceed the cost of Network’s participation.</p>	<p>Verified</p>
<p>b. Reasonableness of hours claimed: Maurer worked closely with two Best Best and Krieger attorneys, Mr. James Hobson and Mr. Joshua Nelson to ensure all activities were accomplished as efficiently as possible. Given her close connection to the substance of the proceeding, Maurer took the lead in much of the drafting of pleadings. Mr. Hobson and Mr. Nelson provided legal feedback and review of all pleadings, including providing legal drafts and research as needed.</p> <p>As shown in Attachment 2, Time and Cost Records of Sandi Maurer, and Attachment 3, Time and Costs Records of BBK, Network has spent over 400 hours in the second phase of the opt-out proceeding. This substantial contribution of effort was necessary and contributed to Network’s prevailing on providing customers who did not want a smart meter some relief. This relief will pay off in CPUC and utility costs to manage customer dissatisfaction and complaints. Considering the ratepayer funds and public health concerns at stake, Network’s costs are reasonable.</p> <p>* Basis for rate: Sandi Maurer has represented EMF Safety Network at the Commission for nearly five years since April 2010, in three proceedings: A.1004018, A.1103014 and I.1204010. Maurer was trained in the CPUC process by retired CPUC law judge and Aglet Consumer Alliance director, James Weil, who is an expert in Commission procedures. She has spent over 700 hours on CPUC work.</p>	<p>Verified</p>

<p>Maurer has researched EMF/RF health impacts for over 8 years. In 2007 she organized a wi-fi education campaign at the local level, which resulted in the City of Sebastopol rescinding a contract for city wide wi-fi. As an activist in 2008-2009 Maurer helped to raise \$600K for a Walk and Roll to School safe roads project in Sonoma County.</p> <p>As director of the EMF Safety Network Maurer represents the public good as a liaison to government and decision makers. She has made many written and oral presentations to local, state, and federal governmental bodies.</p> <p>Maurer administrates the EMF Safety Network website which keeps the public informed of EMF issues and developments. Since 2007 Maurer has been quoted in numerous media news articles, both online and in print, and done numerous radio show interviews.</p> <p>As administrator and moderator of the EMF Safety Coalition, Maurer coordinates with, and supports efforts of local, national and international EMF health and safety advocates. She has the most current knowledge and awareness of EMF/RF health impacts, and has helped thousands of people with EMF health related complaints.</p> <p>Previous long term work experience includes running a successful business making and selling handmade art to stores across the United States, and before that, sales of figurative ceramics to galleries in Sonoma County and San Francisco, California.</p> <p>Sonoma State University, California (BA, Art 1984).</p>	
<p>c. Allocation of hours by issue: combined time and cost records of Maurer and BBK attorneys:</p> <p>Cost (Cost and cost allocation) 167.3 (40.2%) PPH (Network was asked by the ALJ to help determine PPH locations) 18.5 (4.4%) Legal (includes ADA, discrimination, PUC 453 (b) and other laws) 143.4 (34.4%) General (includes all activities necessary for participation) 65.9 (15.8%) Community (concerns of customers in cities and multi-family units) 21.2 (5.1%)</p> <p>Total 416.3 hours (100%)</p>	<p>Verified</p>

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
James Hobson	2012	37	\$300	D.13-10-066	\$11,100.00	35.5	\$350.00 ²	\$12,425.00
James Hobson	2013	1	\$300	D.13-10-066	\$300.00	.96	\$360.00 ³	\$345.60
James Hobson	2014	4.9	\$300	D.13-10-066	\$1,470.00	4.7	\$370.00 ⁴	\$1,739.00
Joshua Nelson	2012	11.1	\$210	D.13-10-066	\$2,331.00	1.066	\$205.00 ⁵	\$2,185.39
Joshua Nelson	2013	0.7	\$220	D.13-10-066	\$154.00	0.67	\$210.00 ⁶	\$140.70
Joshua Nelson	2014	2.2	\$220	D.13-10-066	\$484.00	2.11	\$215.00 ⁷	\$453.65
Sandi Maurer	2012	220.2	\$125	D.13-10-066	\$27,525.00	211.4	\$125.00 ⁸	\$26,425.00
Sandi Maurer	2013	62.3	\$130	Resolution ALJ-303	\$8,099.00	59.81	\$130.00 ⁹	\$7,775.30
Sandi Maurer	2014	76.9	\$133	Resolution ALJ-303	\$10,227.70	73.82	\$135.00 ¹⁰	\$9,965.70
Subtotal: \$61,690.70						Subtotal: \$61,455.34		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Sandi Maurer	2015	20.2	\$66.5	½ rate based on D.13-10-066	\$1,343.30	20.2	\$67.50	\$1,363.50
Subtotal: \$1,343.30						Subtotal: \$1,363.50		

² Approved in D.13-10-066.³ Approved in D.13-10-066.⁴ Application of 2.58% Cost of Living Adjustment approved in Res. ALJ-303.⁵ Approved in D.13-10-066.⁶ Approved in D.13-10-066.⁷ Application of 2.58% Cost of Living Adjustment approved in Res. ALJ-303.⁸ Approved in D.13-10-066.⁹ Approved in D.13-10-066.¹⁰ Application of 2.58% Cost of Living Adjustment approved in Res. ALJ-303.

COSTS				
#	Item	Detail	Amount	Amount
	Research tool	Lexis online research	\$100	\$100.00
	Postage	Total postage for 2012-2014	\$37.40	\$37.40
	Copies	Total copies	\$104.17	\$58.70 ^[B]
	Bridge tolls	Travel to CPUC	\$30	\$0.00 ^[B]
	Parking	Travel to CPUC	\$60.50	\$0.00
TOTAL REQUEST: \$63,366.07			TOTAL AWARD: \$63,014.94	

*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			
Attorney	Date Admitted to CA BAR¹¹	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
James Hobson	January 05, 1972	50760	No
Joshua Nelson	December 05, 2008	260803	No

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service

¹¹ This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

D. CPUC Disallowances and Adjustments:

Item	Reason
A	Reduction of 10% to Costs hours, equivalent to 4% of overall hours, to all intervenors for non-substantial contribution on issues related to costs. <i>See</i> Part II for discussion.
B	Reductions for parking, toll, and printing fees. Copies are compensated at a rate of 10 cents per page, even if obtained at a print shop. EMF Safety Network’s travel was within a 120 mile radius, and therefore is non-compensable. <i>See</i> D.09-04-029 and D.10-11-032.

PART IV: OPPOSITIONS AND COMMENTS

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

FINDINGS OF FACT

1. EMF has made a substantial contribution to D.14-12-078.
2. The requested hourly rates for EMF’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 \$63,014.85.

CONCLUSION OF LAW

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

ORDER

1. EMF Safety Network shall be awarded \$63,014.85.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas & Electric Company shall pay EMF Safety Network 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 09, 2015, the 75th day after the filing of EMF Safety Network's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1412078		
Proceeding(s):	A1103014; A1103015; A1107020		
Author:	ALJ Yip-Kikugawa		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
EMF Safety Network	2/23/2015	\$63,366.07	\$63,014.85	N/A	Non-substantial contribution; Inappropriate costs.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
James	Hobson	Attorney	EMF Safety Network	\$300.00	2012	\$350.00
James	Hobson	Attorney	EMF Safety Network	\$300.00	2013	\$360.00
James	Hobson	Attorney	EMF Safety Network	\$300.00	2014	\$370.00
Joshua	Nelson	Attorney	EMF Safety Network	\$210.00	2012	\$205.00
Joshua	Nelson	Attorney	EMF Safety Network	\$220.00	2013	\$210.00
Joshua	Nelson	Attorney	EMF Safety Network	\$220.00	2014	\$215.00
Sandi	Maurer	Advocate	EMF Safety Network	\$125.00	2012	\$125.00
Sandi	Maurer	Advocate	EMF Safety Network	\$130.00	2013	\$130.00
Sandi	Maurer	Advocate	EMF Safety Network	\$133.00	2014	\$135.00

(END OF APPENDIX)