

Decision **PROPOSED DECISION OF ALJ HYMES** (Mailed 8/11/2015)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Enhance the Role of Demand Response in Meeting the State's Resource Planning Needs and Operational Requirements.

Rulemaking 13-09-011  
(Filed September 19, 2013)

**DECISION AWARDING INTERVENOR COMPENSATION TO ENVIRONMENTAL DEFENSE FUND FOR CONTRIBUTION TO DECISION 14-12-024**

<b>Intervenor: Environmental Defense Fund</b>	<b>For contribution to Decision (D.) 14-12-024</b>
<b>Claimed: \$141,850.00</b>	<b>Awarded: \$95,255.00 (~32.85% reduction)</b>
<b>Assigned Commissioner: Michel Peter Florio</b>	<b>Assigned ALJ: Kelly A. Hymes</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief description of Decision:</b>	The decision adopted the policies, procedures and guidelines to enhance the role of demand response in meeting California's energy goals and needs. The decision adopted, with modifications, a settlement proposal to resolve Phase Three issues; three main demand response working groups will be established and a study conducted to determine the potential demand response in each of the service areas of Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company. The Commission modified the settlement to ensure resolution of all the issues in a timely manner and approved the study as well as the establishment of the working groups, but set specific work products and timelines for these working groups. In addition, the decision adopts policies for the Phase Two issues of cost allocation and the use of backup generators, and addresses issues regarding the proposed demand response auction mechanism.
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**B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:**

	<b>Intervenor</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference (PHC):	October 24, 2013	Verified.

2. Other specified date for NOI:	n/a	
3. Date NOI filed:	November 14, 2013	Verified.
4. Was the NOI timely filed?		Yes, Environmental Defense Fund (EDF) timely filed the Notice of Intent to claim intervenor compensation.
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R. 12-06-013	Verified.
6. Date of ALJ ruling:	February 25, 2013	Verified.
7. Based on another CPUC determination (specify):	n/a	
8. Has the Intervenor demonstrated customer or customer-related status?		Yes, EDF demonstrated appropriate status as a customer, as defined by § 1802(b)(1)(C).
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:		R.12-06-013
10. Date of ALJ ruling:		February 25, 2013
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes, the Ruling in R.12-06-013 provided EDF with a rebuttable presumption of significant financial hardship in the present proceeding.
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D. 14-12-024	Verified.
14. Date of issuance of Final Order or Decision:	December 9, 2014	Verified.
15. File date of compensation request:	February 6, 2015	Verified.
16. Was the request for compensation timely?		Yes, EDF timely filed

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

#	Intervenor's Comment(s)	CPUC Discussion
1	The rate proposed for expert Steven Moss is lower than originally stated in EDF's NOI. The rate identified in the current document is based on Moss's last award amount of \$205 in 2012 in D. 14-12-069, escalated to \$225 to account for a modest cost-of-living adjustment.	Verified.
2	The rate proposed for Michael Panfil is lower than originally stated in EDF's NOI. The rate reflected in the current document is in line with the award amounts for Experts in ALJ-303.	Verified.

**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
1. This proceeding reflected a wide-ranging effort by the Commission to address the policies, procedures and guidelines necessary to enhance the role of demand response in California's energy grid.	EDF was an active participant in both the formal (e.g., testimony) and informal (e.g., settlement) elements of this proceeding. Throughout the proceeding EDF was a leader in championing the potential benefits and need for proper treatment of load-modifying DR. In particular, EDF submitted:  Response to the Set of Six Questions regarding Demand Response Program Bridge Funding and the Staff Pilot Proposal, October 21, 2013.  Particularly noteworthy was EDF's identification of the need to treat load-	Verified, although the Commission notes that EDF's listing of submitted documents does not, on its own, demonstrate substantial contribution to this proceeding.

	<p>modifying DR (including time-of-use rates) commensurately with supply DR, a point it supported empirically in our opening and reply testimony.</p> <p>EDF Amended Opening Testimony of Steven Moss, EDF-101, filed on June 3, 2014.</p> <p>In addition to supporting load-modifying DR, EDF pointed to the potential of tariffs (i.e., rate design and time-variant rates) to provide DR services.</p> <p>EDF Reply Testimony of Steven Moss, EDF-102.</p>	
<p>2. Settlement Process</p> <p>Environmental Defense Fund and other parties, including California investor-owned utilities (Pacific Gas &amp; Electric, Southern California Edison, and San Diego Gas &amp; Electric), the California Independent System Operator, other environmental advocates (Sierra Club and Clean Coalition), and consumer groups (The Utility Reform Network and the Office of Ratepayer Advocates), collaborated in this effort to increase the role of demand response as a clean, cost-effective approach to meet California’s rising energy demands, reduce hazardous air pollution, and more efficiently operate the state’s power grid.</p> <p>EDF was an active participant throughout the entire</p>	<p>On August 25, 2014, the Settling Parties filed a settlement to address Phase Three issues. EDF was one of the Settling Parties. The proposed Settlement addressed five overlapping issues, 1) Demand Response Goals; 2) Demand Response Valuation; 3) Demand Response Auction Mechanism/Utility Roles/Future Procurement; 4) CAISO Integration; and 5) Budget Cycles. Final Decision, pages 8-9.</p> <p>Issue 1 Goals: The Settling Parties agreed to interim statewide goals. Final Decision page 10.</p> <p>Issues 2 &amp; 4 Valuation and CAISO Integration: The Settling Parties recommended that the Commission continue the current system and local resource adequacy valuation of demand response programs through 2019 to provide sufficient time to gain a better understanding of costs and existing barriers to CAISO integration. Furthermore, the Settling Parties recommended the development of three technical non-policy working groups to</p>	<p>Verified.</p>

<p>settlement process, as reflected in the Settlement Agreement and references in the document itself. Pursuant to Rule 12, EDF cannot discuss what it specifically advocated in the course of the Settlement, other than to note that its efforts were based on formal documents submitted to the Commission in this proceeding, and centered on Load-Modifying DR (time-of-use rates) and the impact of TOU rates.</p>	<p>inform the categorization and valuation of demand response programs after 2019: Supply Resource Demand Response Integration Working Group, Load Modifying Resource Demand Response Valuation Working Group, and Load Modifying Resource Demand Response Operations Working Group. Final Decision page 11.</p> <p>September 8, 2014 Reply Comments of the Settling Parties on the Settlement Agreement.</p>	
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**B. Duplication of Effort (§ 1801.3(f) and § 1802.5):**

	<b>Intervenor’s Assertion</b>	<b>CPUC Discussion</b>
<p><b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?</b><sup>1</sup></p>	<p><b>Yes</b></p>	<p>Verified.</p>
<p><b>b. Were there other parties to the proceeding with positions similar to yours?</b></p>	<p><b>Yes</b></p>	<p>Verified.</p>
<p><b>c. If so, provide name of other parties:</b> <b>Sierra Club, NRDC, ORA, Joint Demand Response Parties</b></p>		<p>Verified.</p>
<p><b>d. Intervenor’s claim of non-duplication:</b> EDF’s advocacy was not duplicative of other parties’ efforts. EDF helped lead efforts on the valuation of load modifying demand response, producing stand-alone documents and presentation materials during settlement negotiations that outlined the importance of this resource, which had previously been under-appreciated by other parties. EDF’s efforts in this realm were pivotal to how load modifying DR resources were characterized in the resulting settlement and Commission outcome. EDF also engaged in the working group related to demand response goals, and participated as needed in other working groups, being careful to yield to other environmental advocacy groups where they provide sufficient leadership and empirical support (e.g., NRDC championship of BUG issue). EDF worked closely, particularly with other environmental groups, throughout the discovery, testimony, hearing and ultimately the settlement process to</p>		<p>Verified.</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>coordinate positions and tasks to strive for resolution and minimize duplicative efforts. Internally, staff was tasked with distinct responsibilities throughout the proceeding.</p>	
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**PART III: REASONABLENESS OF REQUESTED COMPENSATION (to be completed by Intervenor except where indicated)**

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

<b>a. Intervenor’s claim of cost reasonableness:</b>	<u><b>CPUC Discussion</b></u>
<p>EDF’s claim represents significant work by its staff to address a wide-ranging and groundbreaking docket to advance the policies, procedures and guidelines necessary to enhance demand response in California’s electric grid. EDF spent considerable time and resources to produce the most comprehensive research and material on demand response to enlighten the discussion. Once settlement was launched, EDF was careful to focus its efforts on areas of greatest importance to the organization – load modifying DR – without duplicating other parties’ efforts, and to play a support role in other issue areas as needed.</p>	<p>Verified.</p>
<p><b>b. Reasonableness of hours claimed:</b> As stated above, while EDF’s claim consists of more hours than originally envisioned in our NOI, the proceedings settlement of the Phase Three issues took considerable time and effort. EDF worked diligently throughout the process to only spend a reasonable and prudent amount of time.</p>	<p>Verified, but <i>see</i> CPUC Disallowances and Adjustments, below.</p>
<p><b>c. Allocation of hours by issue:</b> The Settlement Proposal by the Settling Parties took the five issues in turn, but as one comprehensive agreement. It is difficult for EDF to distinguish between the settling issues, other than to note that EDF concentrated its efforts in Issues 1, 2 &amp; 4.</p>	<p>The Commission notes that the five issues were:</p> <ol style="list-style-type: none"> <li>1) Demand Response Goals</li> <li>2 &amp; 4) Valuation/Program Categorization and CAISO Integration</li> <li>3) Demand Response Auction Mechanism, Utility Roles, and Future Procurement</li> <li>5) Budget Cycle.</li> </ol> <p>For future requests for intervenor compensation, EDF must clearly indicate</p>

	in the submitted time records the allocation of time by issue.
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**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours [A]	Rate \$	Total \$
Michael Panfil	2013	127.5	\$175	ALJ-303	\$22,312.50	44.00 [1]	\$175.00	\$7,700.00
Michael Panfil	2014	149.5	\$175	ALJ-303	\$26,162.50	170.00 [2]	\$180.00	\$30,600.00
Steven Moss	2013	98.5	\$225	ALJ-303	\$22,162.50	47.00 [3]	\$210.00 <i>See D.14-12-069 (setting 2012 rate at \$205) and Res. ALJ-287 (adopting 2% cost-of-living adjustment for 2013).</i>	\$9,870.00
Steven Moss	2014	316.5	\$225	ALJ-303	\$71,212.50	219	\$215.00 <i>See Res. ALJ-303 (adopting 2.58% cost-of-living adjustment for 2014).</i>	\$47,085.00
<b>Subtotal: \$ 141,850</b>						<b>Subtotal: \$95,255.00</b>		
<b>TOTAL REQUEST: \$ 141,850</b>						<b>TOTAL AWARD: \$95,255.00</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.

**ATTORNEY INFORMATION**

<b>Attorney</b>	<b>Date Admitted to CA BAR<sup>2</sup></b>	<b>Member Number</b>	<b>Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation</b>
Michael N. Panfil	New York State Bar, 2012		No.

**C. CPUC Disallowances and Adjustments:**

<b>Item</b>	<b>Reason</b>
[A]	<p>Environmental Defense Fund claims an excessive amount of hours concerning areas of internal duplication, including: team scheduling emails, team calls to strategize, and consultations. While the Commission encourages consultation and communication, such efforts should not dominate an intervenor’s claim. In 2013, approximately 43 hours are claimed by Moss related to phone calls, emails, and other internal consultations. 97.33 hours, for the same efforts, are claimed by Moss in 2014. Similarly, in 2013, Panfil claims 15 hours for such tasks and for 2014, 55.5 hours.</p> <p>Because EDF did not adequately label the issues worked on in the timesheet filed, it is impossible for the Commission to determine if such team consultations actually contributed to the Commission’s decision.</p> <p>For the excessiveness, the Commission disallows 38 hours from Moss’ claim in 2013 and 87 hours from 2014. The Commission disallows 13 hours from Panfil’s 2013 claim and 50 hours from Panfil’s 2014 claim.</p> <p>In 2014, Moss additionally claim an excessive amount of hours related to “literature review.” The Commission will not compensate for excessive hours claimed, particularly when the hours do not directly result in substantial contribution to a proceeding. The Commission disallows 20 hours related to literature review.</p> <p>Lastly, Moss claims 8 hours for work on October 17, 2013, related to attending a workshop, consulting, and editing draft comments. The claiming of hours for the workshop are not allowed, as the Administrative Law Judge explicitly stated the findings of the workshop would not be allowed to enter the record and would therefore not contribute to the proceeding. 4 hours are disallowed.</p>
[1]	Based on the timesheet submitted, Panfil worked 57 hours in 2013 and 220 hours in 2014.
[2]	Based on the resume provided for Panfil, the Commission approves a rate of \$175 for work performed in 2013. In 2014, the Commission adopted a cost-of-living adjustment, in Resolution ALJ-303, of 2.58%. When applied to Panfil’s 2013 rate, and rounded to the

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

	nearest five-dollar increment, a rate of \$180 is allowed for 2014 work. The Commission adopts a rate of \$180 for Panfil in 2014.
[3]	Moss' timesheets indicate 89 hours were worked in 2013 and 326 hours in 2014.

**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))**

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

If not:

Party	Comment	CPUC Discussion
	No comments were filed.	

**FINDINGS OF FACT**

1. EDF has made a substantial contribution to Decision 14-12-024.
2. The requested hourly rates for EDF'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 \$95,255.00.

**CONCLUSION OF LAW**

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

**ORDER**

1. Environmental Defense Fund shall be awarded \$95,255.00.
2. Within 30 days of the effective date of this decision Pacific Gas and Electric Company, San Diego Gas & Electric, and Southern California Edison Company shall pay Environmental Defense Fund their respective shares of the award, based on their California-jurisdictional electric revenues for the 2014 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 April 22, 2015, the 75<sup>th</sup> day after the filing of Environmental Defense Fund's request, and continuing until full payment is made.

3. The comment period for today's decision is not waived.

This decision is effective today.

Dated \_\_\_\_\_, 2015, at San Francisco, California.

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

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	
<b>Contribution Decision(s):</b>	D1412024		
<b>Proceeding(s):</b>	R1309011		
<b>Author:</b>	ALJ Hymes		
<b>Payer(s):</b>	Pacific Gas and Electric Company, San Diego Gas & Electric and Southern California Edison 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>
Environmental Defense Fund (EDF)	02/06/2015	\$141,850.00	\$95,255.00	N/A	<i>See Disallowances &amp; Adjustments, above.</i>

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Michael	Panfil	Attorney	EDF	\$175	2013	\$175.00
Michael	Panfil	Attorney	EDF	\$175	2014	\$180.00
Steven	Moss	Expert	EDF	\$225	2013	\$210.00
Steven	Moss	Expert	EDF	\$225	2014	\$215.00

**(END OF APPENDIX)**