

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company; Notice of Opportunity for Hearing; and Order to Show Cause Why the Commission Should Not Impose Fines and Sanctions for the June 19, 2012 Incident at the Kern Power Plant.	Investigation 14-08-022 (Filed August 28, 2014)
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**DECISION GRANTING COMPENSATION TO
BAYVIEW/HUNTERS POINT COMMUNITY LEGAL
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 15-07-014**

Intervenor: Bayview/Hunters Point Community Legal (BHPCL)	For contribution to Decision (D.) 15-07-014
Claimed: \$4,736.00	Awarded: \$4,240.70 (reduced 10.5%)
Assigned Commissioner: Michael Picker	Assigned ALJs: ALJ Division¹

PART I: PROCEDURAL ISSUES

A. Brief description of Decisions:	The Final Decision approves the joint settlement between the Commission's Safety and Enforcement Division (SED), the Pacific Gas and Electric Company (PG&E) and Bayview/Hunters Point Community Legal (BHPCL). Under this settlement, PG&E will implement, on a company-wide basis, a Corrective Action Plan that includes a Contractor Safety Program and an Enterprise Causal Evaluation Standard. The settlement also imposed \$5,569,313 in penalties for PG&E shareholders. The Commission finds that "the settlement is reasonable in light of the record, consistent with law and Commission precedent, and in the public interest."
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¹ This proceeding was originally assigned to ALJ Jean Vieth.

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):	09/24/14	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	10/21/14	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:	I.14-08-022	Verified
6. Date of ALJ ruling:	12/9/2014	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:	I.14-08-022	Verified
10. Date of ALJ ruling:	12/9/2014	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.15-07-014	Verified
14. Date of issuance of Final Order or Decision:	July 30, 2015	Verified
15. File date of compensation request:	August 28, 2015	Verified
16. Was the request for compensation timely?		Yes

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 case arose because of a fatality that occurred during the demolition of one of PG&E’s	Final decision at p. 2.	Yes

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>power plants in Kern County. BHPCL, SED and PG&E worked together to achieve a settlement containing a Corrective Action Plan that includes a Contractor Safety Program and an Enterprise Causal Evaluation Standard. In addition, the parties agreed that Final decision at p 2. PG&E shareholders would pay penalties totaling \$5,569,313.</p> <p>BHPCL was an active and integral part of the Joint Settlement and the Commission should find that the resulting settlement reflects BHPCL’s substantial contribution. The settled outcome represents a mutually acceptable agreement.</p> <p>D.15-07-014 approves the settlement and declares that “[t]he parties have met their burden to establish that the settlement is reasonable in light of the record, consistent with law and Commission precedent, and in the public interest.</p>		
<p><i>2. Collaborative Process</i></p> <p>BHPCL was an active participant in the entire settlement process. The parties held several telephone conferences and collaborated on creating a Corrective Action Plan, resolving the six issues</p>	<p>See Scoping Memo at 2-3, quoting OII at 6.</p>	<p>Yes</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>set forth in the Commission’s scoping memo:</p> <ul style="list-style-type: none"> • PG&E’s role in the 2012 incident; • PG&E’s compliance with state laws, general orders, regulations and rules including, without limitation, Public Utilities Code Section 451; • Whether any of PG&E’s acts or omissions contributed to the incident; • What actions PG&E has taken, or should take, to prevent another incident from occurring; • The necessary breadth of those actions, including whether they should be area-specific or system-wide; and • Any fines or penalties that the Commission believes should be imposed on PG&E for any possible violations that are proven as a result of this investigation. <p>The Commission found that, “the parties’ settlement efforts</p>		

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>reasonably focused on developing a forward-looking Corrective Action Plan to improve safety at PG&E on a company-wide basis.”</p> <p>The parties also collaborated on the Settlement Agreement and the joint motion for the approval of the Settlement Agreement. BHCPL reviewed each iteration of the Settlement Agreement and provided comments and feedback. The Commission found that, “[t]he settlements are the product of good faith negotiations between the SED, PG&E and BHP Community Legal.”</p> <p>The Commission approved the settlement, concluding that, “the settlement is reasonable in light of the record, consistent with law and precedent, and in the public record.”</p>	<p>Decision Approving Settlement at 25, filed July 23, 2015.</p> <p>Motion for approval of Settlement Agreement filed February 11, 2015;</p> <p>Amendment to Motion of Settling Parties for Approval of Settlement Agreement filed April 10, 2015; Decision Approving Settlement at 24, filed July 23, 2015.</p> <p>Decision Approving Settlement at 23, filed July 23, 2015.</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?	No	Verified
b. Were there other parties to the proceeding with positions similar to yours?	No	Verified
c. If so, provide name of other parties:		Verified
d. Intervenor’s claim of non-duplication:		Verified

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

a. Intervenor’s claim of cost reasonableness:	<u>CPUC Discussion</u>
<p>BHPCL’s request for \$4,736 reflects the work that BHPCL contributed to the Settlement Agreement. While savings to ratepayers cannot be quantified, BHPCL’s participation ensured that its stakeholders as well as the public and future employees and contractors of PG&E would benefit from the Settlement Agreement, approving PG&E’s Corrective Action Plan.</p>	<p>Verified</p>
<p>b. Reasonableness of hours claimed:</p> <p>Onki Kwan was BHPCL’s lead attorney for this case. She was responsible for working with PG&E and SED in addition to supervising work from BHPCL’s law clerk, Mark Desrosiers. She worked with PG&E and SED to create the Corrective Action plan and in reviewing and finalizing the settlement documents.</p> <p>Mark Desrosiers was a law clerk at BHPCL. He was responsible for preparing the notice of intent for intervenor compensation.</p> <p>BHPCL’s request for compensation is consistent with resolution ALJ-287. Ms. Kwan has practiced law for four years. At the time, Mr. Desrosiers worked on this case, he had recently received his JD.</p>	<p>Verified</p>
<p>c. Allocation of hours by issue:</p> <p>BHPCL has allocated its time on its time sheets based on the following codes:</p> <p>GP – General Preparation – work that generally does not vary with the number of issues BHPCL addresses in the case</p> <p>GH – General Hearing – Hearing related work that was not issue-specific. For example, attending the prehearing conference.</p> <p>SETT – Settlement- work that includes discussing substantive settlement issues with the other parties and reviewing and finalizing settlement documents.</p> <p>COMP – Compensation – work on BHPCL’s compensation request and compensation-related activities such as the NOI.</p> <p>Specifically, BHCPL spent approximately 14% of its time or 3.3 hours on general preparation (GP); 64% of its time or 14.66 hours on compensation</p>	<p>Verified</p>

related activities (COMP); 16% of its time or 3.7 hours on settlement related activities (SETT); and 5% of its time or 1.2 hours on hearingrelated work.	
BHPCL allocated approximately equal amounts of time on each issue set forth in the Scoping Memo filed on November 19, 2014.	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Onki Kwan	2014	11.3	225	ALJ-287	\$2,542.50	11.3	\$215.00 ^[A]	\$2,429.50
Onki Kwan	2015	2.7	225	ALJ-287	\$607.50	2.7	\$215.00	\$580.50
Mark Desrosiers	2014	0.6	160	ALJ-287	\$96.00	0.6	\$130.00 ^[A]	\$78.00
Subtotal: \$3,246.00						Subtotal: \$3,088.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Onki Kwan	2014	4.2	\$112.50	ALJ-287	\$472.50	2.2 ^[B]	\$107.50	\$236.50
Onki Kwan	2015	5.56	\$112.50	ALJ-287	\$625.50	5.56	\$107.50	\$597.70
Mark Desrosiers	2014	4.9	\$80.00	ALJ-287	\$392.00	4.9	\$65.00	\$318.50
Subtotal: \$1,490.00						Subtotal: \$1,152.70		
TOTAL REQUEST: \$4,736.00						TOTAL AWARD: \$4,240.70		
<p>*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. Intervenors' 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.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at 1/2 of preparer's normal hourly rate</p>								
Attorney	Date Admitted to CA BAR ²			Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation		
Onki Kwan	06/03/2011			276931		No		

² This information may be obtained at: <http://www.calbar.ca.gov/>.

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

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	BHPCL Timesheet

D. CPUC Disallowances and Adjustments:

Item	Reason
A	<p>Bayview/Hunters Point Community Legal (BHPCL) requests a rate of \$225 per hour for work completed by Kwan in 2014 and 2015. Kwan had completed 3 years of work as an attorney at the time of her participation. However, based on resumes provided by BHPCL, Kwan had no prior experience practicing before the Commission nor any experience working on safety issues. The Commission therefore finds reasonable a rate of \$215 per hour for work completed by Kwan in 2014 and 2015.</p> <p>BHPCL requests a rate of \$160 per hour for Desrosiers in 2014. In September 2014, Desrosiers had graduated from law school but had yet to gain admission to the California Bar. The Commission therefore finds reasonable a rate of \$130 per hour for work completed by Desrosiers in 2014.</p>
B	Reduction of 2 hours for time spent reviewing and editing NOI. Given the 4.9 hours spent by Desrosiers drafting the NOI, 2 hours spent reviewing is excessive.

PART IV: OPPOSITIONS AND COMMENTS

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

1. BHPCL has made a substantial contribution to D.15-07-014.
2. The requested hourly rates for BHPCL'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 \$4,240.70.

CONCLUSION OF LAW

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

ORDER

1. Bayview/Hunters Point Community Legal shall be awarded \$4,240.70.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay Bay View/Hunters Point Community Legal (BHPCL) the total award. 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 November 11, 2015, the 75th day after the filing of BHPCL's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, at Sacramento, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	
Contribution Decision(s):	D.15-07-014		
Proceeding(s):	I.14-08-022		
Author:	ALJ Division		
Payer(s):	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Bayview/Hunters Point Community Legal	August 28, 2015	\$4,736.00	\$4,240.70	N/A	Inefficient hours.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Onki	Kwan	Attorney	Bayview/Hunters Point Community Legal	\$225.00	2014	\$215.00
Onki	Kwan	Attorney	Bayview/Hunters Point Community Legal	\$225.00	2015	\$215.00
Mark	Desrosiers	Law Clerk	Bayview/Hunters Point Community Legal	\$160.00	2014	\$130.00

(END OF APPENDIX)