

Decision \_\_\_\_\_

**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 SIERRA CLUB FOR SUBSTANTIAL CONTRIBUTION TO DECISIONS (D.) 14-12-024, D.14-03-026, AND D. 15-02-007**

<b>Intervenor: Sierra Club</b>	<b>For contribution to D.15-02-007, D.14-12-024, and D.14-03-026</b>
<b>Claimed: \$ 306,993.00</b>	<b>Awarded: 278,218.15 (~9.37% 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>	<p>In D.14-03-26, Decision Addressing Foundational Issues of the Bifurcation of Demand Response Programs, date of issuance, April, 04, 2014, the Commission “conceptually” bifurcated Commission-regulated demand response portfolio programs into two categories: 1) load modifying resources, which reshape or reduce the net load curve and 2) supply resources, which are integrated into the California Independent System Operator (CAISO) energy markets.</p> <p>In D.14-12-024, Decision Resolving Several Phase Two Issues and Addressing the Motion for Adoption of Agreement on Phase Three Issues, date of issuance, December 09, 2014, the Commission adopted interim policies and guidance to enhance the role of demand response (DR) in meeting California’s electric resource planning needs and operational requirements. The Commission approved, with modifications, a settlement proposal to resolve the Phase Three issues. The Commission modified the settlement to ensure resolution of all the issues in a timely manner and approved the study as well as the</p>
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	<p>establishment of the working groups, but set specific deliverables and timelines for these working groups. In addition, the Commission adopted policies for the Phase Two issues of cost allocation and the use of backup generators and addressed the issue of whether the proposed demand response auction mechanism (DRAM) should be the preferred means for procuring DR supply resources.</p> <p>In D.15-02-007, Decision Modifying Decision 14-12-024, date of issuance, February 13, 2015, the Commission subsequently modified D.14-12-024 in response to a request from the settling parties. D.15-02-007 modified D.14-12-024, by amending the “settlement agreement” to be a “joint proposal.” Additionally, the modification decision adds a new ordering paragraph to address existing language in D.14-12-024 regarding a funding extension for the approved study on the potential of demand response in California. The decision also corrected two minor typographical errors.</p>
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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 25, 2013	Verified.
4. Was the NOI timely filed?		Yes, Sierra Club 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. 10-12-007	Verified.
6. Date of ALJ ruling:	July 5, 2011	Verified.
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes, Sierra Club demonstrated appropriate customer-

		related status.
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	R.14-02-001	Verified.
10. Date of ALJ ruling:	July 25, 2014	Verified.
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes, Sierra Club demonstrated significant financial hardship.
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.15-02-007	Verified.
14. Date of issuance of Final Order or Decision:	February 13, 2015	Verified.
15. File date of compensation request:		April 13, 2015
16. Was the request for compensation timely?		Yes, Sierra Club timely filed the request for compensation.

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

#	Intervenor’s Comment(s)	CPUC Discussion
	Sierra Club is a grassroots environmental organization interested in implementing measures to reduce greenhouse gas emissions and increase reliance on DR and renewable energy sources. Sierra Club’s overriding interest in this proceeding is to see demand response become more widely and effectively used in California to obviate the need for construction and operation of natural gas-fired power plants whose emissions adversely impact the global climate. Sierra Club has not been a participant in California’s DR markets, and does not have a commercial interest in the outcome of	Verified.

	<p>this proceeding. Sierra Club’s comments and testimony in this proceeding focused on the role of policy in achieving the Commission’s DR policy objectives and on program designs that might best implement Commission policy.</p>	
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**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
<p>In this proceeding, the Commission is determining the policies and procedures necessary to enhance the use of demand response in California.</p> <p>Sierra Club submitted testimony and comments as well as actively participating in both the workshops and the extensive settlement negotiations.</p> <p><b>1. Bifurcation</b></p> <p>In its Response to Phase II Foundational Questions, the approach advocated by Sierra Club was to classify resources based on whether they were amenable to acquisition using market mechanisms. Sierra Club also encouraged the Commission to adopt a flexible program design that treats different resources appropriately to their functions; simplifies program administration; and streamlines Commission dockets.</p>	<p>Sierra Club Response to Phase II Foundational Questions (December 13, 2013) at 4-6.</p>	<p>Verified, but we note Sierra Club put forth arguments that were duplicative of other parties, including Consumer Federation of California and The Utility Reform Network, on this issue. This demonstrates that the parties failed to adequately coordinate on this issue, which</p>

<p>In Reply Comments, Sierra Club argued that classifying resources for bifurcation purposes should not determine their final status or regulatory treatment. Sierra Club also recommended that bifurcation emphasize the load modifying characteristics of the demand response resources.</p> <p>Sierra Club submitted comments on the proposed decision arguing that the Commission should further refine the definitions of “load modifiers” and “supply resources.” (pg. 2-3) Sierra Club also argued for clarification of the categorization of existing demand response programs.</p> <p>The Commission found it reasonable to revise the terms proposed in the OIR and adopt more specific definitions, in accord with the concerns raised by Sierra Club.</p> <p><b>2. Cost Allocation</b></p> <p>In its Reply to the December 13 Responses to Phase Two Foundational Questions, Sierra Club recommended that any demand response program</p>	<p>Sierra Club’s Reply to December 13 Responses to Phase Two Foundational Questions (December 31, 2013) at 4-7.</p> <p>Sierra Club Opening Comments (March 13, 2014).</p> <p>D.14-03-026 at 14.</p> <p>Sierra Club’s Reply to December 13 Responses to Phase Two Foundational Questions (December 31, 2013) at 8-10.</p>	<p>resulted in a duplicative effort.<sup>1</sup></p> <p>Verified.</p>
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<sup>1</sup> See Pub. Util. Code §1801.3(f) (stating that intervenor compensation program articles “shall be administered in a manner that avoids unproductive or unnecessary participation that duplicates the participation of similar interests otherwise adequately represented or participation that is not necessary for a fair determination of the proceeding.”); see also Decision (D.) 15-05-016.

<p>costs should be allocated among groups of energy consumers according to the benefits they receive from that program. Sierra Club also argued that bifurcation in and of itself would not require revision to the cost allocation requirements, but the Commission may need to revise its cost allocation based on information regarding the costs and benefits of a particular demand response program.</p> <p>The Commission agreed with Sierra Club, finding that any demand response program or tariff, including a pilot, that is available to all customers shall be paid for by all customers and therefore allocated to distribution rates. Likewise, if a program or tariff is only available to bundled customers, that program’s cost shall be allocated solely to generation rates.</p> <p><b>3. DR Goals</b></p> <p>Sierra Club filed testimony addressing the issue of DR goals. Sierra Club advocated that the Commission should proceed in a measured fashion to transition supply DR from</p>	<p>D.14-12-024 at 48.</p> <p>Testimony and exhibits of Ronald J. Binz on behalf of Sierra Club (May 6, 2014) at pg 3-4 and 8.</p>	<p>Verified.</p>
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<p>utility-dispatched to CAISO dispatched and adopt measurable goals for DR growth at the beginning of the transition process.</p> <p>Sierra Club contended that success should be judged by whether the amount of DR increases year-on-year by a reasonable percentage and whether the mechanics of the process are transparent, do not discriminate among providers, and are both provider and consumer friendly.</p> <p>The Settling Parties agreed to an interim statewide demand response goal of 5% of the sum of the peak demands of SCE, PG&amp;E, and SDG&amp;E. The Settling Parties also agreed that this interim statewide goal should be in effect until superseded by a IOU-specific, firm DR Goal, as described in the Criteria for Establishing Firm Demand Response Goals, and the firm goal should be informed by the results of the DR Potential Study.</p> <p>The Commission found that studying the potential of demand response in the utilities' service areas will assist the Commission in setting a goal based on potential, needs, and value. The Commission modified the Settlement to confirm that emergency or reliability programs do not count toward the proposed interim five percent goal.</p>	<p>Settlement Agreement at 12-15.</p> <p>D.14-12-024 at 18 -19.</p>	
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<p>Thus, the Commission ultimately adopted Sierra Club’s suggestion with regard to DR goals.</p> <p><b>4. DRAM</b></p> <p>Among other things, Sierra Club advocated that the Commission should gather more evidence to determine which procurement mechanisms are best suited to meet a range of specific wholesale market needs.</p> <p>The Settling Parties agreed to conduct DRAM Pilot auctions, the first of which would be held in 2015 for 2016 delivery of supply resource DR and the second would be conducted in 2016 for deliveries beginning in 2017. Each auction would be for a minimum of 22 MW statewide, apportioned among the IOUs, as reflected in the Settlement Agreement except that if a utility’s DRAM contract(s) from the first auction includes MW commitments after 2016, the MWs from the first auction that continue after 2016 will count towards that utility’s MW minimum for the second auction. The Settling Parties also agreed that a working group should be used to develop the design, protocol, and standard offer contracts of the DRAM Pilot and that the resulting DRAM Pilot design, protocol and standard offer</p>	<p>Testimony and exhibits of Ronald J. Binz on behalf of Sierra Club (May 6, 2014) at pg 17.</p> <p>Settlement Agreement at 24-29.</p>	<p>Verified.</p>
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<p>contracts would be submitted to the Commission for its review and approval.</p> <p>The Commission agreed that the prudent approach is a two-year DRAM pilot, where the Commission can learn from experience while simultaneously increasing understanding of the CAISO complexities through the working groups.</p> <p>The Commission found that the pilot will ensure that the Commission takes the appropriate steps to making the DRAM a successful means to procure supply resources.</p> <p>Essentially, the Settlement and the Commission’s approval adopted Sierra Club’s positions on this issue. The Commission approved a pilot program for the DRAM so that the parties and the Commission can gather evidence of the best practices.</p> <p style="text-align: center;"><b>5. Integration</b></p> <p>Sierra Club also strongly recommended that the Commission stage the transition of groups of DR resources to the CAISO market and move only portions of each resource initially. (pg.11-14).</p> <p>Essentially, the Settlement and the Commission’s approval adopted Sierra Club’s position on this issue. Integration is to take place over a period of three years, to be completed in 2018</p>	<p>D.14-12-024 at 35 – 36.</p> <p>Testimony and exhibits of Ronald J. Binz on behalf of Sierra Club (May 6, 2014) at pg 11-14.</p>	<p>Verified.</p>
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<p style="text-align: center;"><b>6. Collaborative Process</b></p> <p>On June 10<sup>th</sup> through June 12<sup>th</sup>, the parties participated in workshops facilitated by the Administrative Law Judge. As a result of these workshops, the parties held subsequent settlement discussions over the course of six weeks.</p> <p>Sierra Club was an active participant throughout the settlement process. Pursuant, to Rule 12, Sierra Club cannot discuss what it specifically advocated in the course of the settlement. However, Mr. Binz was a principal negotiator regarding the demand response goals, an issue which was ultimately settled by the parties. Similarly, Mr. Nimmons was a principal negotiator regarding the DRAM, and the Settlement Agreement ultimately established a pilot program for the DRAM.</p> <p>On August 4, 2014, Nineteen parties, including Sierra Club, submitted a Joint Settlement that addressed five Phase Three issue areas: 1) demand response goals, 2) demand response valuation and program categorization, 3) demand response auction mechanism/utility roles/future procurement, 4) CAISO integration, and 5) budget cycles. The Settlement not only</p>	<p>Settlement Agreement Between and Among Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas and Electric Company, California Independent System Operator Corporation, Office of Ratepayer Advocates, The Utility Reform Network, California Large</p>	<p>Verified.</p>
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<p>allowed for a reasonable transition to a competitive market for demand response supply resources that improves and increases the level of all demand response resources but also established a process through which the interim aspects of the Settlement can be finally resolved.</p> <p>It took a truly collective effort to reach a settlement and prepare the settlement documents. There were six weeks of settlement meetings, hours of drafting and editing documents, and several interim steps before the parties reached a final settlement proposal.</p> <p>At each step Sierra Club provided specific input, through its advocate and its witness.</p> <p>As is often the case for a settlement, due to the number and range of disputed issues the Settlement does not address each and every issue or every proposal put forth by Sierra Club or other parties in any level of detail. In some instances the settled outcome may represent a combination or blending of issues to create a mutually acceptable agreement.</p> <p>Sierra Club expert and counsel’s, Mr. Binz and Mr. Nimmons, respectively, contributions to the settlement process were recognized by the</p>	<p>Energy Consumers Association, Consumer Federation of California, Alliance for Retail Energy Markets, Direct Access Customer Coalition, Marin Clean Energy, EnerNOC, Inc., Comverge, Inc., Johnson Controls, Inc., Olivine, Inc., Sierra Club, Environmental Defense Fund, Clean Coalition, and EnergyHub/Alarm.com on Phase 3 Issues.</p> <p>Reply of CAISO, CLECA, Clean Coalition, Comverge, Inc., EnerNOC, Inc., Environmental Defense Fund, Johnson Controls, Inc., Olivine, Inc., PG&amp;E, SDG&amp;E, Sierra Club, and SCE (Sept. 8, 2014).</p>	
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<p>other settling parties who specifically requested that Mr. Binz testify and explain the goal provisions of the settlement at the settlement hearing. Similarly, Mr. Nimmons was asked to testify and explain the demand response auction mechanism at both the settlement hearing before the Administrative Law Judge and at the subsequent All Parties Meeting. (The settling parties also requested that Mr. Binz be a speaker at the All Party Meeting but he was not available on the scheduled date for that meeting.)</p> <p>The Commission approved the Settlement and declared that the Settlement, as modified, “is in the public interest for multiple reasons. First, it puts the Commission on a solid path toward resolution of Phase Three issues and thus another step closer to direct participation of demand response into the CAISO market. Second, the Settling Parties represent diverse interests, including residential and large energy customers, third party demand response providers, community choice aggregation providers, direct access providers, environmental organizations, and utilities, and therefore balances the various interests at stake. Third, the Settlement strives to balance the interest of these various stakeholders</p>	<p>D.14-12-024 at 42-43.</p>	
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<p>while enhancing the role of demand response in California. Fourth, as a result of moving another step forward in the implementation of bifurcation and CAISO market implementation, the Settlement should lend in providing: a) reductions in peak electricity consumption; b) ratepayer savings through the avoidance of new generation construction; and c) reduced greenhouse gas emissions...”</p> <p>Sierra Club worked extensively with the other settling parties to negotiate the Settlement Agreement and to draft the motion and Settlement Agreement that was ultimately filed with the Commission.</p> <p>The Commission should find that Sierra Club’s active participation in the settlement negotiations and active advocacy substantially contributed to the resolution of these matters.</p> <p><b>7. Request for Modification</b></p> <p>In D.14-12-024, the Commission made significant modifications to material terms of the Settlement Agreement. Because of these changes, the Settling Parties were required to “elect” one of the following two options: (1) “accept the modifications herein” or (2) “request other relief.”</p> <p>The Settling Parties did not</p>		<p>Verified.</p>
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<p>accept the modifications to the Agreement contained within D.14-12-024 and, therefore, requested other relief.</p> <p>The Settling Parties, including Sierra Club, filed a letter stating that while they were not able to accept the modifications to D.14-12-024. According to the Settling Parties, in making these material changes, which not all signatories accepted, D.14-12-024 has altered the Agreement in such a material way that it no longer represents the commitment and concessions made by its signatories. Under Condition 10 of the Agreement, thus rendering the Agreement null and void.</p> <p>However, the Settling Parties stated that “to respect the sustained and conscientious work done and to preserve the process made in achieving the Agreement, its signatories are committed to moving forward in good faith to comply with the orders contained in D.14-12-024” and thus request other relief through modifications to D.14-12-024.</p> <p>The Settling Parties requested that D.14-12-024 be modified to treat the Settlement Agreement as a Joint Proposal of the Joint Sponsoring Parties, rather than a binding agreement among them.</p> <p>Specifically, the Settling Parties requested that D.14-12-024 be modified: 1) To state that, as a contested settlement</p>	<p>Compliance Letter Filing in Response to Ordering Paragraph 2 of Decision 14-12-024. (Dec. 22, 2014)</p>	
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<p>and with the material modifications made by D.14-12-024, the Agreement cannot be considered a binding settlement, but instead is to be treated as a Joint Proposal of the Joint Sponsoring Parties; 2) to reflect this treatment in the Commission’s discussion of the Settlement Agreement and to add a Finding of Fact and a Conclusion of Law to confirm this treatment; 3) to replace the words “Settlement” or “Settlement Agreement” in the discussion following identification of this treatment and in any Finding of Fact, Conclusion of Law, and in all Ordering Paragraphs with the term “Joint Proposal.</p> <p>The Commission found that it was “reasonable to treat the contested settlement as a joint position of the Joint Sponsoring Parties as it moves the Commission forward in its goal to enhance the role of demand response in meeting California’s resource planning needs and operational requirements.” Accordingly, the Commission modified D.14-12-024 to explain and confirm this treatment. The Commission further found that a Finding of Fact and a Conclusion of Law were also necessary in D.14-12-024 to confirm this treatment. The Commission found it reasonable to modify D.14-12-024 to treat the Settlement Agreement as a Joint Proposal, as it moves the Commission forward in its goal to enhance</p>	<p>D.15-02-007 at 7.</p>	
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<p>the role of demand response in meeting California’s resource planning Therefore, the Commission revised the language in D.14-12-024 for clarification of this matter.</p> <p>Sierra Club worked extensively with the other settling parties to negotiate the agreed upon resolution of the issues raised by the modification of the settlement and to draft the letter that was ultimately filed with the Commission. Sierra Club also participated in the hearing which the ALJ and the assigned Commissioner held regarding the requested modifications.</p> <p style="text-align: center;"><b>8. Back - up Generator (BUGS) Issue</b></p> <p>While the Natural Resources Defense Council (NRDC) took the lead on the BUGS issue during the settlement negotiations, Sierra Club was the lead drafter of the joint brief filed on August 25, 2014 and the reply brief filed on September 8, 2014.</p> <p>In these briefs, Sierra Club and the NRDC argued that for over ten years, the Commission had consistently held it is inappropriate to use fossil fueled back-up generation for demand response and argued that the Commission should adopt a rule requiring utility contracts governing demand response resources to simply</p>	<p>Initial Brief of Sierra Club and Natural Resources Defense Council (Aug. 25, 2014)</p> <p>Reply Brief of Sierra Club and Natural Resources Defense Council (Sept. 8,</p>	<p>Verified, but we note Sierra Club put forth arguments that were duplicative of other parties, including Consumer Federation of California, on this issue. This demonstrates that the parties failed to adequately coordinate on this issue, which resulted in a duplicative effort.</p>
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<p>state whether the potential provider has a fossil-fueled back-up generator and to provide the make, model and location of that BUG if they do own or operate this type of generator. The contract should also provide that if the demand response customer currently does not own or operate a BUG but obtains one during the contract period, it will notify the utility. With regard to aggregators or third parties, they should be directed to provide this information to the utility. The third parties or aggregators may collect this information in any reasonable manner, including the including the contractual provisions described above.</p> <p>Sierra Club actively participated in the All Parties Meeting regarding the proposed decision and alternative proposed decision, defending both decisions conclusion regarding the BUGS issue. Sierra Club also filed Reply comments defending the BUGS decisions.</p> <p>The Commission found that there are four questions before it regarding the use of back-up generation: 1) What is the Commission’s current policy regarding the use of back-up generation in demand response programs; 2)Whether the Commission has the jurisdiction to determine whether demand response programs should allow the use</p>	<p>2014).</p> <p>Reply Comments of Sierra Club on Proposed Decision and Alternate Proposed Decision Addressing Use of Back-Up Generators in Demand Response Programs (Nov. 24, 2014)</p>	
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<p>of back-up generation; 3) If the Commission has jurisdiction, whether it should allow the use of back-up generation; and 4) If the Commission has jurisdiction, is there a need to collect additional data to determine whether the Commission should allow the use of back-up generation. With regard to each of these questions, the Commission adopted the argument put forth by Sierra Club and NRDC.</p> <p>First, Sierra Club and NRDC presented a historical timeline of Commission decisions regarding BUGS to establish why the tracking of BUGS usage is consistent with previous Commission action and in D. 14-12-024, the Commission adopted the historical timeline of Commission decisions regarding BUGS and agreed that As such, while that the Commission has not yet implemented a policy prohibiting the use of fossil-fueled backup generation for demand response programs, it has certainly made clear its preference for cleaner technologies.</p> <p>Second, the Commission also agreed with Sierra Club and NRDC's argument that the Commission has the authority to regulate the use of back-up generation by any participant of a Commission-regulated demand response program (pg. 57-58). The Commission also agreed with the arguments</p>	<p>D. 14-12-024 at 53-56.</p> <p>D. 14-12-024 at 58-59.</p>	
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<p>presented in Sierra Club’s reply comments that federal law does not preempt the Commission’s action to bar fossil-fueled BUGS and recently-enacted SB 1414 supports the conclusion that the Commission has jurisdiction to bar fossil-fueled BUGS</p> <p>Thus, the Commission found that, “as recommended by the NRDC and Sierra Club”, it would take an initial step of requiring that each contracted demand response participant self-certify whether they own or operate a back-up generator and, if they do, provide the make, model and location of the generator.</p>	<p>D. 14-12-024 at 60-61.</p>	
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**B. Duplication of Effort (§ 1801.3(f) and § 1802.5):**

	<b>Intervenor’s Assertion</b>	<b>CPUC Discussion</b>
<b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?<sup>2</sup></b>	<b>Yes</b>	<b>Verified.</b>
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	<b>Yes</b>	<b>Verified.</b>
<b>c. If so, provide name of other parties:</b> The other parties to this proceeding who generally had aligned interests included the Environmental Defense Fund, the Natural Resources Defense Council, and the Clean Coalition.		<b>Verified.</b>
<b>d. Intervenor’s claim of non-duplication:</b>		<b>Verified.</b> As discussed, above, hours claimed related to BUGs and

<sup>2</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>During the proceeding, Sierra Club coordinated closely the other environmental organizations. Although we often shared similar positions, our advocacy was complementary. Typically, our comments and briefs presented different approaches/perspectives, which collectively provided a complete presentation of the issues and a strong decision. In addition, given the multitude of parties, similar but unique voices from the environmental community provided an important balance to other interests in the proceeding. Rather than creating duplication the advocacy magnified the importance of certain issues and had a cumulative effect.</p> <p>With regard to specific issues, Sierra Club took the lead for the environmental parties in settlement negotiations on the demand resource goals and the auction mechanism. The Environmental Defense Fund took the lead on the potential benefits and need for proper treatment of load modifying demand resources and the Natural Resources Defense Council took the lead in the back-up generator settlement negotiations.</p> <p>With respect to the settlement discussions, the Sierra Club participated to ensure the best settlement possible. The Sierra Club and the Environmental Defense Fund were very active participants in the settlement negotiations. Because of the myriad of issues being simultaneously negotiated during the settlement discussions, the Sierra Club and the Environmental Defense Fund focused on separate issues during the negotiations. The Sierra Club believes that its participation improved the final outcome. The settlement agreement achieved the Sierra Club’s primary objective for the proceeding: strong interim demand response goals and a framework for a successful demand response auction.</p> <p>The Sierra Club coordinated with ORA through informal discussions at a variety of hearings and workshops and settlement negotiations. As a result of this coordination, the Sierra Club chose to focus on legal and policy arguments to which the Sierra Club brought its unique perspective and expertise.</p>	<p>Bifurcation were duplicative. Hours claimed in these areas are reduced by 30%.</p>
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**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<p><b>a. Intervenor’s claim of cost reasonableness:</b></p> <p>The Sierra Club’s participation in this proceeding will result in benefits to ratepayers that far exceed the cost of its participation. The creation of a robust demand response market, which Sierra Club has helped to develop through its active participation and leadership in this case, directly reduces the costs to ratepayers. Additionally, the Sierra Club’s advocacy on behalf of aggressive implementation of the State’s clean energy and</p>	<p style="text-align: center;"><b>CPUC Discussion</b></p> <hr/> <p>Verified.</p>
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<p>environmental goals will benefit the ratepayers over the long-term because California’s environment will reap the public benefits intended by these laws.</p> <p>Sierra Club’s claim represents significant work by its staff to address a wide-ranging docket designed to advance the policies, procedures and guidelines necessary to enhance demand response in California. Sierra Club spent considerable time and resources to produce comprehensive comments and testimony on demand response to enlighten the discussion. Once settlement negotiations began, Sierra Club to focused its efforts on areas of greatest importance to the organization, demand response goals and the DRAM, without duplicating other parties’ efforts, and played a supporting role in other issue areas as needed.</p>	
<p><b>b. Reasonableness of hours claimed:</b></p> <p>This was a complex, multi-phase proceeding that addressed a large number of issues. Rather than participate on every issue presented, the Sierra Club focused on its major objectives and tailored its participation to focus on those issues. Sierra Club relied on one expert, Mr. Ronald Binz, to ensure that its presentations reflected a comprehensive understanding of demand response markets. In addition, the Sierra Club was able to leverage not only the legal expertise of Mr. John Nimmons but also his extensive knowledge of auction mechanisms. Sierra Club worked diligently throughout the process to only spend a reasonable and prudent amount of time on both document preparation and participation in the hearings and settlement negotiations.</p> <p>Mr. John Nimmons has over 30 years of energy-related advocacy and litigation experience, including representing clients in a variety of proceedings before this Commission. Mr. Nimmons also was an integral part of the settlement process, including spending significant time working with the other settling parties to draft and finalize the settlement and appearing before the ALJ and the Commission to explain the auction mechanism aspect of the settlement.</p> <p>Based on his years of experience, Mr. Nimmons would be entitled to an hourly rate of between \$310-\$555 an hour for work performed in 2013 and a rate of between \$320-\$570 for 2014 and 2015. Sierra Club’s requested rate of \$375 is at the low end of this range and is fully justified given Mr. Nimmons extensive experience and active participation in the proceeding.</p> <p>Similarly, Mr. Ronald Binz has extensive regulatory experience, including serving as Chairman of the Colorado Public Utilities Commission and Director of the Colorado Office of the Consumer Counsel. Mr. Binz has been actively involved in utility regulatory matters for over 30 years. Based on his years of experience, Mr. Binz would be entitled to an hourly rate of between \$165 - \$410 for 2013 and a rate of between \$170 - \$420 for</p>	<p>Verified, but <i>see</i> CPUC Disallowances and Adjustments, below.</p> <p>Sierra Club’s representation of the terms of the settlement approved in D.15-02-007 and D.14-12-024 is accurate and its description of its prior litigation positions is also accurate. Pursuant to D.94-10-029, the Commission has discretion to award compensation to parties who participated in settlement agreements, when there is a finding that they made a substantial contribution to a decision. We find that Sierra Club’s participation in the settlement made a</p>

<p>2014 and 2015. Sierra Club’s requested rate of \$175 is at the low end of this range and is fully justified given Mr. Binz’s extensive experience and active participation in this proceeding.</p> <p>Sierra Club was very conservative in recording hours in this case. Sierra Club is only requesting recovery of costs for one attorney and one expert, even though a second attorney ultimately participated in the proceedings. Sierra Club also is not requesting recovery of any expenses associated with this proceeding, including the travel expenses for Mr. Binz, whose offices are located in Denver, Colorado. Finally, Sierra Club is not requesting compensation for the hours devoted to preparation of this request for compensation.</p> <p>Given the intensive six weeks of settlement negotiations, which occurred after the filing of several rounds of testimony, the several settlement filings, a day of hearing, an All Parties Meeting, and the subsequent work on the modification request, Sierra Club’s request for reimbursement for its attorney and expert expenses is reasonable.</p>	<p>substantial contribution to D.15-02-007 and D.14-12-024.</p> <p>We note, however, that Sierra Club spent approximately 209 hours on settlement-related issues, which costs California ratepayers approximately \$68,000.</p>
<p><b>c. Allocation of hours by issue:</b></p> <p>The Settlement Proposal involved negotiations on five different issues simultaneously. Agreement on these issues was ultimately incorporated into one comprehensive agreement. It is difficult for Sierra Club to distinguish between the settling issues, except to note that Sierra Club concentrated its efforts on demand response goals and the demand response auction mechanism.</p> <p>Sierra Club has allocated its time entries by the following categories:</p> <p>General Preparation – work that generally does not vary with the number of issues Sierra Club addresses in the case and hearings related work that is not issue specific, including Commission workshops.</p> <p>DR Research</p> <p>Foundational Questions – includes preparation of comments and review of other parties comments</p> <p>DR Goals/DRAM – includes preparation of testimony and review of other parties testimony</p> <p>Settlement – related work including time spent discussing and coordinating settlement schedules, discussing substantive settlement issues with individual parties and Sierra Club witnesses.</p> <p>Coordination – with other parties other than for settlement</p>	<p>Verified.</p> <p>As discussed, above, hours claimed related to Back-Up Generators and Bifurcation were duplicative. Hours claimed in these areas are reduced by 30%.</p>

Based on the hours recorded and included in the attached timesheets, the allocation by activity code is approximately:	
<b>Category</b>	<b>%</b>
General Preparation	13%
DR Research	5%
Foundational Questions	20%
Goals/DRAM	22%
Settlement	33%
Coordination	7%
Under the circumstances, this information should suffice to address the allocation requirement under the Commission’s rules. If the Commission needs additional or different information, Sierra Club requests that it be provided a reasonable opportunity to supplement this showing.	

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Mr. John Nimmons, attorney	2013	114	\$375	ALJ-308 (Over 30 years experience)	42,750	97.71 [A]	\$375.00	\$36,641.25
Mr. John Nimmons, attorney	2014	642	\$375	ALJ-308 (Over 30 years experience)	240,575	570.94 [B]	\$385.00 (2014 cost-of-living adjustment)	\$219,811.90
Mr. Ronald Binz, expert	2013	22.25	\$175	ALJ-308 (Over 30 years experience)	\$3,893	22.5	\$175.00	\$3,937.50

Mr. Ronald Binz , expert	2014	113	\$175	ALJ-308 (Over 30 years experience)	\$19,775	95 [C]	\$180.00 (2014 cost-of-living adjustment)	\$17,460.00
						<b>Subtotal: \$ 277,850</b>		

TRAVEL EXPENSES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Mr. Ronald Binz	2014					2	\$90.0	\$180.00
						<b>Subtotal: \$180.00</b>		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Mr. John Nimmons	2013					1	187.50	187.50
						<b>Subtotal: \$</b>		<b>Subtotal: \$187.50</b>
<b>TOTAL REQUEST: \$306,900.00</b>						<b>TOTAL AWARD: \$278,218.15</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			
Attorney	Date Admitted to CA BAR <sup>3</sup>	Member Number	Actions Affecting Eligibility
John Nimmons	Feb. 18, 1970	46349	No.

<sup>3</sup> This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

**C. CPUC Disallowances and Adjustments:**

Item	Reason
[A]	<p>The Commission compensates at half-rate for work related to intervenor compensation. We have removed these hours from Nimmon’s timesheet and added them to “Intervenor Compensation Claim Preparation” heading. Because of the grouping of Nimmon’s hours, some hours were rounded.</p> <p>The Commission does not compensate the work of attorneys that is clerical in nature, as compensation for such work has been factored into the established rate. The Commission removes 4.4 clerical hours from Nimmon’s 2013 claim (12/13/13 – preparing service list, certificate of service, etc . . .; 12/31/13 – preparing certificate of service; incorporating revisions; filing and serving documents).</p> <p>In addition, the Commission may only compensate for work that contributes to the Commission’s decisionmaking process. Nimmon’s creating an e-mail filter for the proceeding did not assist the Commission. As such, we remove 0.17 hour.</p> <p>Lastly, we disallow 30% of the hours claimed regarding back-up generators and bifurcation issues, as such work was duplicative. Once the above disallowances are made, this reduction for duplication results in the removal of 10.72 hours.</p>
	<p>The Commission does not compensate the work of attorneys that is clerical in nature, as compensation for such work has been factored into the established rate. The Commission removes 8.25 hours for such work related to preparing documents for filing.</p> <p>In addition, the Commission may only compensate for work that contributes to the Commission’s decisionmaking process. The Commission will not compensate for work detailing Earth Justice’s budgeting for the proceeding. The Commission disallows 9.45 hours for such activity. Similarly Nimmon’s conducted research on FERC decisions and other areas that did not contribute to the Commission’s decisionmaking process. The Commission removes 4.98 hours for such activity.</p> <p>Lastly, we disallow 30% of the hours claimed regarding back-up generators and bifurcation, as such work was duplicative. Once the above disallowances are made, this reduction for duplication results in the removal of 12.83 hours.</p> <p>Nimmons’ timesheet reflects 59.5 hours related to responding to the Proposed Decision and Alternate Proposed Decision. Sierra Club’s filing contains 3 pages of substantive material and, additionally, was signed by Susan Stevens Miller. We find Nimmon’s hours related to this matter to be excessive. The Commission disallows 45 hours in 2014.</p>
[C]	<p>Binz’s travel to and meetings with the California ISO are not compensable. The Commission disallows 16 hours.</p> <p>The Commission removed 2 hours of travel to time to the Commission and created a new heading for this travel, as allowable travel time is compensated at ½ the approved rate.</p>

**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>	Yes.

**FINDINGS OF FACT**

1. Sierra Club has made a substantial contribution to D.15-02-007, D.14-12-024, and D.14-03-026.
2. The requested hourly rates for Sierra Club'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 \$278,218.15.

**CONCLUSION OF LAW**

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

**ORDER**

1. Sierra Club is awarded: \$278,218.15.
2. Within 30 days of the effective date of this decision, Pacifica Gas and Electric Company, San Diego Gas & Electric, and Southern California Edison Company shall pay Sierra Club 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 June 27, 2015 the 75<sup>th</sup> day after the filing of Sierra Club'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 \_\_\_\_\_, 2015, at San Francisco, California.

## APPENDIX

## Compensation Decision Summary Information

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D1502007, D1412024, D1403026		
<b>Proceeding(s):</b>	R.1309011		
<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

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Sierra Club	04/13/15	\$306,993.00	\$278,218.15	No	See CPUC Disallowances and Adjustments, above.

## Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
John	Nimmons	Attorney	Sierra Club	\$375.00	2013	\$375.00
John	Nimmons	Attorney	Sierra Club	\$375.00	2014	\$385.00
Ronald	Binz	Expert	Sierra Club	\$175.00	2013	\$175.00
Ronald	Binz	Expert	Sierra Club	\$175.00	2014	\$180.00

(END OF APPENDIX)