

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902E) for Authority to Partially Fill the Local Capacity Requirement Need Identified in D.14-03-004 and Enter into a Purchase Power Tolling Agreement with Carlsbad Energy Center, LLC.

Application 14-07-009
(Filed July 21, 2014)

**DECISION GRANTING COMPENSATION TO THE PROTECT OUR COMMUNITIES
FOUNDATION FOR SUBSTANTIAL CONTRIBUTION TO DECISION 15-15-051**

Intervenor: The Protect Our Communities Foundation (POC)	For contribution to Decision 15-05-051
Claimed: \$27,878.82	Awarded: \$22,837.45 (~18.08% reduction)
Assigned Commissioner: Michel Peter Florio	Assigned ALJ: Hallie Yacknin

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	Approves the application of San Diego Gas & Electric Company (SDG&E) to enter into a contract for energy services with Carlsbad Energy Center (CEC)
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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):	September 3, 2014	Verified.
2. Other specified date for NOI:	NA	
3. Date NOI filed:	October 2, 2014	Verified.
4. Was the NOI timely filed?		Yes, the Protect Our Communities Foundation (POC) timely filed the notice

		of intent to claim intervenor compensation.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.13-12-010	Verified.
6. Date of ALJ ruling:	Aug. 6, 2014	Verified.
7. Based on another CPUC determination (specify):	NA	
8. Has the Intervenor demonstrated customer or customer-related status?		Yes, POC demonstrated appropriate status.
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.13-12-010	Verified.
10. Date of ALJ ruling:	Aug. 6, 2014	The Ruling related to significant financial hardship issued on September 26, 2014.
11. Based on another CPUC determination (specify):	NA	
12. Has the Intervenor demonstrated significant financial hardship?		Verified.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.15-15-051	D.15-05-051
14. Date of issuance of Final Order or Decision:	May 29,2015	Verified.
15. File date of compensation request:	July 25, 2015	July 14, 2015. October 23, 2015
16. Was the request for compensation timely?		Yes, POC timely filed the request for compensation. The Commission requested that POC file an amended claim for intervenor compensation offering further support for POC’s contribution to the proceeding. POC

	filed the amended claim on October 23, 2015.
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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
1. The proposed decision (PD) and the final decision referred to POC's testimony and brief regarding the impact of four transmission upgrades. While neither decision adopts POC's conclusion that CEC is not needed, both recognize that the assumptions about transmission upgrades reduce the amount of capacity required by SDG&E. Although the decisions do not refer to POC's testimony directly, they refer to CARE's description of POC's testimony on this issue. POC was the only party to present record evidence on certain aspects of this issue.	Page 9, PD; Page 9, final decision See Bill Powers Reply Testimony, pp. 6-8	Verified.
2. The PD and the final decision refer to POC's testimony and brief on the issue of extending Encina's operating life. Only POC presented record evidence on certain aspects of this issue.	Page 16, PD; Page 17, final decision See Bill Powers Reply Testimony pp. 6-8	Verified.
3. The PD refers to POC's testimony with regard to the value of storage for improved system flexibility. Only POC presented record evidence on this issue.	Page 18, PD See Bill Powers Reply Testimony pp. 11	Verified.
4. The PD rejects SDG&E's request for approval of the CEC PPA. The final decision approves the CEC PPA subject to a 100 MW reduction in plant capacity, which would be made up with renewables and storage. POC argued that the SDG&E did not require 600 MW of capacity given transmission upgrades and the availability of renewable resources	Page 31, PD; Page 31, final decision See Bill Powers Reply Testimony pp. 1-2, 11-13	Verified.

and storage.		
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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	Yes.
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Yes.
c. If so, provide name of other parties: Sierra Club/CA Environmental Justice Alliance, CARE, ORA		Verified.
d. Intervenor’s claim of non-duplication: POC provided testimony on certain issues that complemented but differed from the testimony and briefs of other parties. Specifically, POC submitted non- duplicative testimony on the applicant's (1) erroneous assumptions regarding the retirement of the Encina Plant, (2) failure to comply with R.12-03-014 with regard to the impacts of transmission projects on capacity requirements, (3) erroneous assumption that flexible capacity is required in San Diego, and (4) failure to consider storage technologies to meet system flexibility needs. Parties with similar positions relied in part on POC reply testimony to support their positions. Please see Bill Powers Reply Testimony pp. 6-8 for (1) 4; See Bill Powers Reply Testimony pp. 1-2 for (2); See Bill Powers Reply Testimony p. 11 for (3); See Bill Powers Reply Testimony pp. 12-13 for (4)		The Commission agrees with POC’s claim of non-duplication.

C. Additional Comments on Part II:

#	Intervenor’s Comment	CPUC Discussion
	Although the Commission's decision did not rely explicitly on POC's testimony or briefs, it does incorporate POC's analysis directly or indirectly as part of its deliberations. POC's witness, Bill Powers, is recognized by California energy experts for his expertise in the area of California's engineered energy infrastructure, energy planning assumptions, and system integration of renewable technologies. Mr. Powers is particularly knowledgeable about the way the state's energy	POC’s analysis and participation contributed to the Commission’s deliberations.

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.

	infrastructure relates to SDG&E's service territory.	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>a. Intervenor’s claim of cost reasonableness: POC's contributions with regard to the assumptions about transmission system upgrades, Encina plant retirement and the value of storage for system flexibility were important to the Commission's' understanding of the value of the Carlsbad contract. POC's claim of total compensation is small compared to the information provided to support the record of the proceeding. POC is claiming less than the budget it estimated in its NOI for this proceeding.</p>	<p style="text-align: center;">CPUC Discussion</p> <hr/> <p>Verified.</p>
<p>b. Reasonableness of hours claimed: POC's expert witness, Bill Powers, has extensive experience in the energy industry and issues relevant to the application. Accordingly, he was very efficient in his development of testimony and review of related portions of the record. in its request, POC has reduced by one third the actual hours of its attorney, David Peffer, to assure the time billed to the issues POC addressed in the proceeding is reasonable and to acknowledge that POC cannot bill for work on pleadings the Commission did not accept for filing. POC is not asking for travel time reimbursement.</p>	<p><i>See CPUC Disallowances & Adjustments, below.</i></p>
<p>c. Allocation of hours by issue: POC estimates that it spent about 30% of its hours on issues relating to the Encina plant retirement, 40% on transmission line assumptions, and 30% on storage and system flexibility.</p>	<p>Verified.</p>

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	[1] Hours	Rate \$	Total \$
David Peffer	2014	114	200	D.13-11-016	22,800.	85.00	210.00	17,850.00
	2015	2.5	200			00.00 [2]	210.00	00.00
Bill Powers	2014	12	250	D.14-07-026	3,000.	12.00	260.00 [3]	3,120.00
Subtotal: \$25,800						Subtotal: \$20,970.00		

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Bill Powers	2015	2	125.00	D.14.07.026	250.00	2	130.00	260.00
David Peffer	2014	6.0				5.0	105.00	525.00
Subtotal: \$26,050						Subtotal: \$785.00		
COSTS								
#	Item	Detail		Amount		Amount		
	Airfare	San Diego to SF and return		494.20		492.20		
	Hotel	Best Western, 6 nights		1,325.92		581.55 [4]		
	Local Transp	BART		8.70		8.70		
				Subtotal: \$1,828.82		Subtotal: \$1,082.45		
TOTAL REQUEST: \$27,878.82						TOTAL AWARD: \$22,837.45		
<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 ½ of preparer's normal hourly rate</p>								
ATTORNEY INFORMATION								
Attorney		Date Admitted to CA BAR ²		Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation		
David Peffer		6/2/2010		270479		No		

² 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
[1]	<p>POC was instructed by the Icomp program to file an amended claim in August 2015. POC had difficulty complying with the Commission's request and was not able to file an amended claim until late October. POC demonstrated a lack of familiarity and understanding of the Commission's Rules of Practice Procedure and the Intervenor Compensation Program. We note that "[f]ailure[] to comply with the intervenor compensation program requirements indicate[s] a shaky grasp of the subject matter or an inattention to providing the Commission with a reasoned and articulate Request for Compensation. Therefore, such failures in compliance will weigh against parties in our consideration of appropriate hourly rates." <i>See</i> D.00-02-044.</p> <p>If complications continue to arise with POC's intervenor compensation requests, the Commission will make necessary reductions to POC's claimed hourly rates.</p>
[2]	<p>Peffer's timesheets list 147.5 hours for this proceeding (not the 114 indicated). From the 147.5 hours, we disallow the following hours:</p> <p>14.0 hours for excessive time spent drafting the opening brief;</p> <p>40.0 hours for excessive time spent drafting the reply brief;</p> <p>2.5 hours (01/05/2015) for organizing case files, which did not contribute to the decision.</p> <p>In addition, 6.0 hours are listed (9/30/2014 and 10/02/2014) relating to preparation of the notice of intent. Such work should be claimed at a half-rate under the intervenor compensation heading. The Commission disallowed 1.0 hour from the NOI work as clerical. The Commission does not compensate attorneys for work that is clerical in nature, as such work has already been factored into the approved rate. The excessive time disallowed above contained claimed clerical hours, which are disallowed by the Commission in this award.</p>
[3]	<p>The Commission applied the cost-of-living adjustments set in Resolution ALJ-287 and Resolution ALJ-303 to determine the appropriate 2014 rates. The Commission approves a 2014 rate for Peffer of \$210 and for Powers of \$260. The Commission did not increase the cost-of-living adjustment for 2015. The rates of Peffer and Powers remain unchanged for 2015.</p>
[4]	<p>The Commission held hearings on the November 12, 2014, and November 13, 2014. POC seeks reimbursement for the hotel from November 11, 2014 through November 17, 2014. The Commission will not reimburse POC for the hotel for the nights of November 14, November 15, and November 16, as POC did not require the room to participate in the instant proceeding.</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))

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

FINDINGS OF FACT

1. The POC Foundation has made a substantial contribution to D.15-05-051.
2. The requested hourly rates for The POC Foundation'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 \$22,837.45.

CONCLUSION OF LAW

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

ORDER

1. The Protect Our Communities Foundation shall be awarded \$22,837.45.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company shall pay The Protect Our Communities Foundation 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 January 6, 2016 the 75th day after the filing of The Protect Our Communities Foundation's amended request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, 2015, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1505051		
Proceeding(s):	A1407009		
Author:	ALJ Yacknin		
Payer(s):	San Diego Gas & Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Protect Our Communities Foundation (POC)	07/14/2015 (amended, 10/23/2015)	\$27,878.82	\$22,837.45	N/A	See Disallowances & Adjustments, above.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
David	Peffer	Attorney	POC	\$200.00	2014	\$210.00
David	Peffer	Attorney	POC	N/A	2015	\$210.00
Bill	Powers	Expert	POC	\$250.00	2014	\$260.00
Bill	Powers	Expert	POC	\$250.00	2014	\$260.00

(END OF APPENDIX)