

Decision 16-05-049 May 26, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering.

Rulemaking 14-07-002
(Filed July 10, 2014)

**DECISION GRANTING COMPENSATION TO CLEAN COALITION
FOR CONTRIBUTION TO D.16-01-044**

Intervenor: Clean Coalition	For contribution to Decision (D.) 16-01-044
Claimed: \$53,074.50	Awarded: \$42,403.75 (reduced 20.1%)
Assigned Commissioner: Michael Picker	Assigned ALJ: Anne Simon

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	D.16-01-044 implements some of the provisions of Assembly Bill (AB) 327 (Perea), Stats. 2013, ch. 611. AB 327, among other things, adds Section 2827.1 to the Public Utilities Code, requiring the Commission to develop “a standard contract or tariff, which may include net energy metering (NEM), for eligible customer-generators with a renewable electrical generation facility that is a customer of a large electrical corporation.”
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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):	10/30/14	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	11/26/14	Verified
4. Was the NOI timely filed?		
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.10-05-006	Verified
6. Date of ALJ ruling:	7/19/11	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:	R.10-05-006	N/A
10. Date of ALJ ruling:	7/19/11	N/A
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes, <i>See Below</i>
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.16-01-044	Verified
14. Date of issuance of Final Order or Decision:	2/5/16	Verified
15. File date of compensation request:	4/5/16	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	CPUC Discussion
12	Clean Coalition submitted information in its amended NOI filed on March 19, 2015 in this proceeding. Based on the information provided, we find Clean Coalition has demonstrated significant financial hardship.

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>1. Public Tool Development</p> <p>The Clean Coalition contributed to the Commission’s development of the Public Tool. For example, the organization lent its expertise related to modeling solar resources combined with different types of distributed energy resources, advanced inverter functionalities, and state goals like procurement targets and the Renewable Portfolio Standard. The Public Tool then allowed parties to submit proposals and enabled the Commission and all stakeholders to understand the ramifications of different proposals.</p>	<ul style="list-style-type: none"> • D.16-01-044 at 6–8, 48–50. • <i>Clean Coalition Post-Workshop Comments</i> at 2–10 (Oct. 1, 2014). • <i>Clean Coalition Post-Workshop Reply Comments</i> at 1–8 (Oct. 20, 2014). • <i>Clean Coalition Comments on Draft Version of Public Tool</i> at 1–6 (Apr. 28, 2015). 	<p>Verified</p>
<p>2. Interconnecting Systems Larger than 1 MW</p> <p>The Clean Coalition contributed to the Commission’s decision to extend eligibility for the NEM successor tariff to customer-sited facilities larger than one megawatt in size. The Clean Coalition argued that if customers pay for all fees and system upgrades under Rule 21, then the facilities would meet the statutory requirement of having “no significant impact on the distribution grid.” The Commission adopted this position in the final decision.</p>	<ul style="list-style-type: none"> • D.16-01-044 at 95–96. • <i>Clean Coalition Comments on Administrative Law Judge’s Ruling on Policy Issues Associated with Development of Net Energy Metering Successor Standard Contract or Tariff</i> at 6–8 (Mar. 16, 2015). • <i>Clean Coalition Reply Comments on Administrative Law Judge’s Ruling on Policy Issues Associated with Development of Net Energy Metering Successor Standard Contract or Tariff</i> at 5–8 (Mar. 30, 2015). • <i>Clean Coalition Comments on Proposed Decision Adopting Successor to Net Energy Metering Tariff</i> at 4–5 (Jan. 7, 2016). • <i>Clean Coalition Reply Comments on Proposed Decision Adopting Successor to Net Energy Metering Tariff</i> at 2–4 (Jan. 15, 2016). 	<p>Verified</p>

<p>3. Oppose Imposition of Demand Charges and Fixed Charges</p> <p>The Clean Coalition contributed to the Commission’s decision to reject all proposed fixed fees and demand charges. The Clean Coalition argued that such charges are inappropriate because they are rare and the utilities failed to present compelling evidence to prove that the charges are needed or are based on actual costs and benefits of NEM customers. The Commission recognized these arguments in reaching its decision.</p>	<ul style="list-style-type: none"> • D.16-01-044 at 68–70, 75–78, 94, 107–108, 114. • <i>Clean Coalition Comments on Administrative Law Judge’s Ruling on Policy Issues Associated with Development of Net Energy Metering Successor Standard Contract or Tariff</i> at 3–4 (Mar. 16, 2015). • <i>Clean Coalition Reply Comments on Administrative Law Judge’s Ruling on Policy Issues Associated with Development of Net Energy Metering Successor Standard Contract or Tariff</i> at 8–9 (Mar. 30, 2015). • <i>Clean Coalition Comments on Party Proposals</i> at 2–4 (Sept. 1, 2015). • <i>Clean Coalition Comments on Proposed Decision Adopting Successor to Net Energy Metering Tariff</i> at 1 (Jan. 7, 2016). 	<p>Verified</p>
<p>4. Require time-of-use (“TOU”) rates for all NEM participants</p> <p>The Clean Coalition contributed to the Commission’s decision to make TOU rates mandatory for all NEM customers. The Clean Coalition also advocated for extending the legacy provision to allow subscribers to remain on their TOU tariff. Although the Commission did not adopt Clean Coalition’s recommended 10- to 20-year legacy provision, it did give NEM participants the option of maintaining their TOU rates for a period of up to five years.</p>	<ul style="list-style-type: none"> • D.16-01-044 at 75, 92, 111. • <i>Clean Coalition Comments on Party Proposals</i> at 2–4 (Sept. 1, 2015). • <i>Clean Coalition Comments on Proposed Decision Adopting Successor to Net Energy Metering Tariff</i> at 2–4 (Jan. 7, 2016). • <i>Clean Coalition Reply Comments on Proposed Decision Adopting Successor to Net Energy Metering Tariff</i> at 2–4 (Jan. 15, 2016). 	<p>Verified, however some of the documents noted by Clean Coalition here do not mention TOU rates.</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?	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified

<p>c. If so, provide name of other parties: California Solar Energy Industries Association (“CalSEIA”), Solar Energy Industries Association (“SEIA”), The Alliance for Solar Choice (“TASC”), the Interstate Renewable Energy Counsel (“IREC”), Natural Resources Defense Council (“NRDC”), Sierra Club, TURN, and ORA</p>	<p>Verified</p>
<p>d. Intervenor’s claim of non-duplication: The Clean Coalition’s involvement in the proceeding was unique and focused on a limited set of issues. Our positions paralleled other parties on certain positions, but this did not duplicate efforts because of the reasoning behind our positions differed. The Clean Coalition brought a unique perspective from our organization’s experience with distribution system planning and related benefit-cost analyses for various distributed energy resources. We also brought expertise related to interconnection that had been developed in the Rule 21 proceeding. The parties listed above mainly overlapped in our broad support to ensure that the successor NEM tariff continued to support robust growth of the solar market in California. The specifics of our contributions varied significantly within that overall goal.</p>	<p>Verified</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>a. Intervenor’s claim of cost reasonableness: The Clean Coalition independently developed our unique policy positions based on our organization’s expertise in distribution system planning, valuing distributed energy resources, and streamlining interconnection practices. The Clean Coalition has devoted extensive staff hours and resources to advance this work, including creating policy proposals that informed our efforts. While this related work informs our present contributions, only those hours directly associated with this proceeding are requested for compensation. The Clean Coalition’s involvement helped result in a successor NEM tariff that supports continued growth of the solar market in California. Our efforts will also result in environmental benefits from decreasing California’s reliance on traditional energy resources, which emit greenhouse gases, ozone, particulate matter, and hazardous air pollutants.</p>	<p>CPUC Discussion <hr/> Verified</p>
<p>b. Reasonableness of hours claimed: Clean Coalition staff worked on four discreet issues in this proceeding that we have developed significant expertise around. We ensured that only personnel essential to these matters worked on the issues. The claimed hours are reasonable in light of the significance of this proceeding and the ratepayer benefits described above. The hours devoted to this proceeding reflect work on written filings, research, and coordination time. Although we have spent a significant amount of time developing expertise in this policy area, only those staff hours spent specifically developing our policy position and commenting in this proceeding are part of this compensation request. Director of Economics and Policy Analysis Kenneth Sahn White reviewed</p>	<p>Verified</p>

<p>comments, developed policy positions, and participated in workshops. Mr. White's established rate of \$295 reflects the significant level expertise he has developed working on energy issues over more than 15 years, including 5 years practicing in front of the CPUC.</p> <p>Staff Attorney Brian Korpics drafted comments, developed policy positions, and participated in workshops. He graduated from New York University School of Law in 2012 and has over 3 years of experience working on energy issues. We are requesting a rate increase of \$30 in 2016 for Mr. Korpics to reflect an increase in his experience level from his 2015 hourly rate.</p>	
<p>c. Allocation of hours by issue: Hours are allocated in the attached timesheets for this request for compensation, which covers four issues: 1) public tool development (50%); 2) interconnecting systems larger than 1 MW (18%); 3) opposing imposition of fixed charges and demand charges (21%); and 4) requiring TOU rates for all NEM participants (11%).</p>	<p>Verified</p>

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Brian Korpics	2014	67.5	\$200	D.15-10-014	\$13,500	67.5	\$100.00 ¹	\$6,750.00
Brian Korpics	2015	62	\$200	D.15-10-014	\$12,400	62	\$165.00 ²	\$10,230.00
Brian Korpics	2016	20.25	\$230	Resolution ALJ-308	\$4,657.5	20.25	\$170.00	\$3,442.50
K. Sahn White	2014	26.25	\$295	D.15-10-044	\$7,743.75	26.25	\$295.00	\$7,743.75
K. Sahn White	2015	41.5	\$295	D.15-10-044	\$12,242.5	41.5	\$295.00	\$12,242.50
K. Sahn White	2016	2.5	\$295	D.15-10-044	\$737.5	2.5	\$300.00	\$750.00
Subtotal: \$51,281.25						Subtotal: \$41,158.75		

¹ See D.15-10-014. As Korpics was not yet an attorney in 2014, he was granted the paralegal rate of \$100 per hour.

² See D.15-10-007.

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Brian Korpics	2016	12	\$115	½ Full Rate	1,380	12	\$85.00	\$1,020.00
K. Sahn White	2016	1.5	\$147.5	½ Full Rate	\$221.25	1.5	\$150.00	\$225.00
Subtotal: \$1,601.25						Subtotal: \$1,245.00		
TOTAL REQUEST: \$53,074.5						TOTAL AWARD: \$42,403.75		

*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 BAR³	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
Brian Korpics	June 2, 2015	303480	No

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

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Clean Coalition Hours
3	Clean Coalition Staff Resumes

D. CPUC Disallowances and Adjustments:

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

A	The hourly rate requested for Korpics is higher than is currently approved for him. Clean Coalition does not justify their requested rate is higher than the rate (range) for attorneys with Korpics' years of experience. We apply the rate authorized for Korpics in D.15-10-007.
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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 (<i>see</i> Rule 14.6(c)(6))?	Yes
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FINDINGS OF FACT

1. Clean Coalition has made a substantial contribution to D.16-01-044.
2. The requested hourly rates for Clean Coalition'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 \$42,403.75.

CONCLUSION OF LAW

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

ORDER

1. Clean Coalition shall be awarded \$42,403.75.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay Clean Coalition their respective shares of the award, based on their California-jurisdictional electric revenues for the 2015 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 19, 2016, the 75th day after the filing of Clean Coalition's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.

This decision is effective today.

Dated May 26, 2016, at San Francisco, California.

MICHAEL PICKER

President

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

CARLA J. PETERMAN

LIANE M. RANDOLPH

Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D1605049	Modifies Decision?	No
Contribution Decision(s):	D1601044		
Proceeding(s):	R1407002		
Author:	ALJ Simon		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas and Electric Company, and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Clean Coalition	April 05, 2016	\$53,074.50	\$42,403.75	N/A	Lower Hourly Rates

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Brian	Korpics	Paralegal	Clean Coalition	\$200	2014	\$100
Brian	Korpics	Attorney	Clean Coalition	\$200	2015	\$165
Brian	Korpics	Attorney	Clean Coalition	\$200	2016	\$170
Kenneth	Sahm-White	Expert	Clean Coalition	\$295	2014	\$295
Kenneth	Sahm-White	Expert	Clean Coalition	\$295	2015	\$295
Kenneth	Sahm-White	Expert	Clean Coalition	\$295	2016	\$300

(END OF APPENDIX)