Decision **PROPOSED DECISION OF ALJ BUSHEY** (Mailed May 3, 2016)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Rates, Operations, Practices, Services and Facilities of Southern California Edison Company and San Diego Gas and Electric Company Associated with the San Onofre Nuclear Generating Station Units 2 and 3.	Investigation 12-10-013 (Filed October 25, 2012)
And Related Matters.	Application 13-01-016 Application 13-03-005 Application 13-03-013 Application 13-03-014

DECISION DENYING INTERVENOR COMPENSATION TO ALLIANCE FOR NUCLEAR RESPONSIBILITY

Intervenor: Alliance for Nuclear Responsibility (A4NR)	**For contribution to Decisions (D.)15-12-016**
Claimed: $ 121,305.93	**Awarded: $00.00**
Assigned Commissioner: Catherine J.K. Sandoval	**Assigned ALJ: Maribeth A. Bushey**

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	**Decision Affirming Violations of Rule 8.4 and Rule 1.1 and Imposing Sanctions on Southern California Edison Company.**

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):	01/08/13	Verified.
2. Other specified date for NOI:		

3. Date NOI filed:	02/06/13	Verified.
4. Was the NOI timely filed?		Yes, Alliance for Nuclear Responsibility (A4NR), 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:	A.14-12-007	Verified.
6. Date of ALJ ruling:	08/04/15	Verified.
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes, A4NR demonstrated appropriate status.
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.14-12-007	Verified.
10. Date of ALJ ruling:	08/04/15	Verified.
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes, A4NR demonstrated a rebuttable presumption of significant financial hardship.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.15-12-016 (corrected by D.15-12-058)	Verified, D.15-12-016.
14. Date of issuance of Final Order or Decision:	12/31/15.	December 8, 2015.
15. File date of compensation request:	02/19/16	Verified.
16. Was the request for compensation timely?		A4NR did not timely file the request for compensation within 60 days of

	D.15-12-016. The claim refers to D.15-12-058 as the Final Decision, but claims contribution to D.15-12-016. D.15-12-058 is an order correcting error, and does not constitute a Final Order or Decision, as required by the California Public Utilities Code. An Order Correcting Error is an order of the Executive Director, under his limited delegated authority, and is not "final order or decision of the Commission." California Public Utilities Code § 1804(c). In addition, §1802 requires "substantial contribution" of intervenors, defined as "substantially assist[ing] the commission in the making of its order or decision." Here, Intervenor did not contribute to the Commission's Order Correcting Error and this Order may not be used to extend the statutory deadline for filing a claim for compensation. The proceeding remains

	open. Intervenor's claim, however, is denied without prejudice and intervenor may refile for the claimed hours within 60 days of a Commission Order or Decision in this proceeding. (Rule 17.3)

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

#	Intervenor's Comment(s)	CPUC Discussion
15	**A4NR had planned to file its compensation claim for its sanctions motion after the Commission's final decision on A4NR's still pending Petition for Modification, but D.15-12-058 clarified that D.15-12-016 has resolved the proceeding except for pending petitions for modification and an application for rehearing. A4NR has severed all PFM-related costs, and will defer seeking their reimbursement pending a final Commission decision on that matter.**	Verified. A4NR may file a claim for intervenor compensation within 60 days of a decision or order of the Commission.

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. One day after SCE late-filed a Notice of Ex Parte Communication describing a meeting nearly two years earlier between its Exec. VP Steven Pickett and CPUC President Michael Peevey, A4NR filed a Motion requesting that the Commission investigate the extent of appropriate sanctions for violations of Rule 1.1 and its predicate, Rule 8.4.	A4NR 02/10/15 Motion. ALJs' 04/14/15 Ruling noted A4NR Motion, p. 3, and agreed that SCE's Notice "offered little information about the content of the meeting," p. 5. ALJs' 04/14/15 Ruling also agreed that the Commission has the authority to seek additional information regarding a late-filed or undisclosed ex parte communication for purposes of evaluating possible sanctions, including whether the breach of Rule 8.4, under the totality of circumstances, is also a breach of Rule 1.1, pp. 4-5.	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's claimed contribution.
2. A4NR's 02/10/15 Motion sought disclosure of SONGS-related communications between SCE and the Commission, as well as internal SCE communications discussing such communications.	A4NR 02/10/15 Motion, p. 9. ALJs' 04/14/15 Ruling ordered SCE to produce additional information and documents, including internal SCE communications, pp. 5-6.	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's claimed contribution.
3. A4NR's 02/10/15 Motion requested the opportunity to respond to any SCE submittal.	A4NR 02/10/15 Motion, pp. 9-10. ALJs' 04/14/15 Ruling authorized any party to use SCE's submittal in support of any otherwise compliant Petition for Modification, p. 6, and specifically authorized A4NR to file an Amended Motion for Sanctions within 5 business days of SCE's submittal, p. 6 ¶2,	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's claimed contribution.
4. A4NR's 05/06/15 Amended Motion identified informational deficiencies in SCE's response to the ALJs' 04/14/15 Ruling.	A4NR 05/06/15 Amended Motion, pp. 10-16. ALJ's 06/26/15 email Ruling directed SCE to submit additional information to supplement its earlier submittal, p. 8.	Intervenor did not timely file the request for intervenor compensation. The

		Commission has not verified Intervenor's claimed contribution.
5. A4NR's 05/06/15 Amended Motion alleged multiple violations of Rule 8.4 and two violations of Rule 1.1, including false testimony by SCE President Ron Litzinger.	A4NR 05/06/15 Amended Motion, pp. 25-26. ALJ's 08/05/15 Order to Show Cause Ruling found 10 violations of Rule 8.4, p. 35, and two "possible Rule 1.1 violations," p. 43, including Litzinger's "incorrect statements which misled the Commission," p. 46. D.15-12-016 determined "SCE violated Rule 1.1 as a result of the false statement made by Mr. Litzinger under oath," COL 8. D.15-12-016 imposed financial penalties for "eight Rule 8.4 violations and two Rule 1.1 violations," COL 11.	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's claimed contribution.
6. A4NR's 05/06/15 Amended Motion argued that SCE's failure to properly disclose the Pickett/Peevey communications in Poland should be treated as a continuing violation.	A4NR 05/06/15 Amended Motion, pp. 24-25. D.15-12-016 characterized "SCE's grossly negligent acts and omissions" as "a continuing violation" (COL 7) and applied penalty against SCE for "826 days of the continuing violation arising from SCE's acts and omissions related to Mr. Pickett's meeting with Commissioner Peevey," COL 14.	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's claimed contribution.

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.	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's statements regarding duplication of effort.
b. Were there other parties to the proceeding with positions similar to yours?	Yes, although these parties focused upon reopening the D.14-11-040 settlement rather than formal sanctions against SCE.	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's statements regarding duplication of effort..
c. If so, provide name of other parties: ORA, TURN, Ruth Hendricks, CDSO, and WEM.		Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's statements regarding duplication of effort..

[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.

d. Intervenor's claim of non-duplication: A4NR was the sole "Moving Party" (ALJs' 04/14/15 Ruling) in seeking formal sanctions against SCE. None of the parties identified above joined A4NR's sanctions effort or made responsive filings, although both ORA and Ruth Hendricks submitted comments on the ALJ's 08/05/15 Order to Show Cause Ruling which were aimed at reopening the D.14-11-040 settlement.	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's statements regarding duplication of effort..

C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Intervenor's Comment	CPUC Discussion
II: d.	Because it is a separate matter still pending, A4NR does not address herein the much greater commonality among the parties identified in II: c. above regarding the question of reopening the D.14-11-040 settlement.	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's statements regarding duplication of effort.

PART III: REASONABLENESS OF REQUESTED COMPENSATION
A. General Claim of Reasonableness (§ 1801 and § 1806):

a. Intervenor's claim of cost reasonableness:	**CPUC Discussion**
The question of appropriate sanctions, and proper construction of multiple statutes and Commission Rules, was litigated with considerable intensity between A4NR and SCE. The resulting outcome was a $16,740,000 payment to the General Fund by SCE, some sixteen times larger than the highest previous Commission sanction for ex parte communication disclosure-related violations. By that measure, the A4NR's litigation efforts were extremely cost-effective, and establish a significant Commission precedent**.**	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's statements regarding cost reasonableness.
b. Reasonableness of hours claimed: Because of A4NR's requests, SCE was required to turn over extensive documentation of its communications. Interpretation of that evidence, as well as painstaking efforts to properly construct multiple statutes and	Intervenor did not timely file the request for

Commission Rules, were intensively litigated between SCE and A4NR. A4NR's sanctions-related filings included (1) the 02/10/15 Motion Seeking Investigation of the Extent of Sanctions to be Ordered against Southern California Edison Company for Violation of Commission Rules 1.1 and 8.4; (2) the 03/09/15 Reply to SCE's Response to A4NR's Motion Seeking Investigation of the Extent of Sanctions to be Ordered; (3) the 05/06/15 Amended Motion for Sanctions; (4) the 06/01/15 Reply to SCE's Response to A4NR's Amended Motion for Sanctions; (5) A4NR's 08/10/15 Response to the ALJ's Order to Show Cause Ruling; (6) A4NR's Opening Comments on the Proposed Decision Affirming Violations of Rule 8.4 and Rule 1.1 and Imposing Sanctions on SCE; and (7) A4NR's Reply Comments on the Proposed Decision. A4NR's ability to prevail required a careful marshalling of evidence as well as significant legal research, and the hours expended were reasonable.	intervenor compensation. The Commission has not verified Intervenor's statements regarding reasonableness of hours claimed.
c. Allocation of hours by issue: This compensation claim is supplementary to the one filed by A4NR for its contribution to D.14-11-040, and consequently the allocation of hours in Part III: A.c. of that earlier claim should be modified as follows: Phase 1 issues: 44% Phase 2 issues: 26% Phase 3-4 issues: 18% Motion for Sanctions: 10% General: 2%	Intervenor did not timely file the request for intervenor compensation. The Commission has not verified Intervenor's statements regarding allocation of hours by issue.

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours [1]**	**Rate $**	**Total $**
John Geesman	**2015**	**205.33**	**570**	**ALJ-308**	**117,038.10**	N/A	N/A	N/A
Rochelle Becker	**2015**	**18.7**	**140**	**ALJ-308**	**2,618.00**	N/A	N/A	N/A
					***Subtotal:* $ 119,656.10**			**Subtotal:** N/A

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate $**	**Total $**
John Geesman	**2016**	**5.5**	**285**	**50% of 2015 rate pending COLA for 2016**	**1,567.50**	N/A	N/A	N/A
				***Subtotal:* $ 1,567.50**		***Subtotal:* $** N/A		

COSTS				
#	**Item**	**Detail**	**Amount**	**Amount**
	copying costs	**provided in Appendix 4**	**1.75**	N/A
	postage costs	**provided in Appendix 5**	**80.58**	N/A
			TOTAL REQUEST: $ 121,305.93	**TOTAL AWARD:** N/A

**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[2]**	**Member Number**	**Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation**
John Geesman	**June 1977**	**74448**	**No**

C. CPUC Disallowances and Adjustments:

Item	Reason
[1]	Intervenor did not timely file the request for intervenor compensation within 60 days of an order or decision of the Commission. Intervenor's request is denied as untimely. Because the proceeding remains open, Intervenor may properly resubmit the request for intervenor compensation. This claim is denied without prejudice.

[2] This information may be obtained through the State Bar of California's website at http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch .

PART IV: OPPOSITIONS AND COMMENTS

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))?	No.

If not:

Party	Comment	CPUC Discussion

FINDINGS OF FACT

1. Pub. Util. Code § 1804(c) requires intervenors to file requests for awards within 60 days following issuance of a final order or decision.
2. This proceeding is active and future decisions may be issued by the Commission.
3. Alliance for Nuclear Responsibility filed its request for compensation more than 60 days after the issuance of D.15-12-016.
4. No hourly rates are set in today's decision.

CONCLUSION OF LAW

1. Alliance for Nuclear Responsibility's request for intervenor compensation is untimely under Public Utilities Code Section 1804(c), which requires a customer who has been found eligible for an award of compensation to file for such award within 60 days of the issuance of a final order or decision by the commission in the proceeding.
2. Alliance for Nuclear Responsibility's claim for intervenor compensation shall be denied without prejudice. Intervenor may refile its claim, provided it meets the requirements of Public Utilities Code Section 1804(c), after the Commission issues a subsequent decision in I.12-10-013.

ORDER

1. The claim of Alliance for Nuclear Responsibility, filed February 19, 2016, is denied without prejudice.

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

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX
Compensation Decision Summary Information

Compensation Decision:		**Modifies Decision?**	No
Contribution Decision(s):	D1512016		
Proceeding(s):	I1210013		
Author:	ALJ Bushey		
Payer(s):	San Diego Gas & Electric Company and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Alliance for Nuclear Responsibility	02/19/2016	$121,305.93	$00.00	No.	*Untimely filed claim for intervenor compensation.*

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
John	Geesman	Attorney	Alliance for Nuclear Responsibility	$570.00	2015	N/A
John	Geesman	Attorney	Alliance for Nuclear Responsibility	$570.00	2016	N/A
Rochelle	Becker	Advocate	Alliance for Nuclear Responsibility	$140.00	2015	N/A

(END OF APPENDIX)