

Decision 16-08-016 August 18, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.	Rulemaking 12-11-005 (Filed November 8, 2012)
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**DECISION GRANTING COMPENSATION TO VOTE SOLAR
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 14-03-041**

Intervenor: Vote Solar	For contribution to Decision (D.) 14-03-041
Claimed: \$11,552.00	Awarded: \$11,540.00
Assigned Commissioner: Michael Picker	Assigned Administrative Law Judges (ALJs): Michele Cooke and Regina M. DeAngelis

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	Establishes a transition period of 20 years during which customers taking service under a Net Energy Metering (NEM) tariff or contract prior to July 1, 2017, or the date that a large electrical corporation reaches its statutorily required NEM program limit, whichever comes first, may remain on the previously applicable NEM tariff, consistent with the provisions of Assembly Bill 327.
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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):	March 13, 2013	Verified.
2. Other specified date for NOI:		
3. Date NOI filed:	March 22, 2013	Verified.
4. Was the NOI timely filed?		Yes, Vote Solar 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.14-07-002	Verified.
6. Date of ALJ ruling:	December 12, 2014	Verified.
7. Based on another CPUC determination (specify):	D.16-05-047; D.16-05-017; D.16-06-026	Verified.
8. Has the Intervenor demonstrated customer or customer-related status?		Yes, Vote Solar has demonstrated appropriate status.
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.14-07-002	Verified.
10. Date of ALJ ruling:	December 12, 2014	Verified.
11. Based on another CPUC determination (specify):	D.16-05-047; D.16-05-017; D.16-06-026.	Verified.

12. Has the Intervenor demonstrated significant financial hardship?	Yes, Vote Solar has demonstrated significant financial hardship.	
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-03-041	Verified.
14. Date of issuance of Final Order or Decision:	August 14, 2014	Verified.
15. File date of compensation request:	May 6, 2016	June 17, 2016
16. Was the request for compensation timely?	Yes, Vote Solar timely filed the request for intervenor compensation.	

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>Issue A. Whether a solar array’s expected system life should be used as a key metric for setting the NEM transition period</p> <p>Vote Solar argued that a solar array’s expected system life should be used as the key metric for setting the NEM transition period; D.14-03-031 found that expected system life should be a</p>	<p>D.14-03-041, pdf p.20: “Given both the limitations of existing estimates of the reasonable payback period, as well as the desirability of ensuring that customers have an opportunity to receive a return somewhat consistent with their expectations, it is reasonable to adopt a transition period that is based on a conservative estimate of the equipment’s expected life, and that ensures reasonable payback</p>	<p>Verified.</p>

<p>primary basis for the determination of the transition period.</p> <p>Comments Of The Solar Energy Industries Association And The Vote Solar Initiative Regarding The Establishment Of A Net Energy Metering Transition Period ("SEIA/Vote Solar Comments"), filed Dec 13 2013, pp. 2-3: "The transition period during which a customer who takes service under a NEM tariff prior to the earlier of July 1, 2017, or the attainment of their respective utility's NEM cap is eligible to continue service under that NEM tariff should be determined by the expected life of the system installed by that customer. ... Allowing a customer to continue service under its current NEM tariff for the expected life of its system appropriately captures the value of the investment made by the customer."</p> <p>SEIA/Vote Solar</p>	<p>that includes some return on the customer's initial investment."</p> <p>D.14-03-041, pdf p. 22: "...we find that it is reasonable to adopt a conservative, 20-year transition period consistent with record evidence on the minimum expected life of such systems."</p> <p>D.14-03-041, pdf p. 36, Finding of Fact 6: "6. A 20-year transition period is consistent with the expected useful life of NEM PV systems as reflected in several contexts, including PPAs and financing agreements."</p>	
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<p>Comments p. 4: “The language of AB 327, coupled with the Governor’s signing message, strongly indicate intent that the transition period rules fashioned by the Commission should extend applicability of the current NEM construct in a manner that protects the customer’s investment including the expected return on that investment (i.e., the expected net savings over the life of the project).”</p> <p>SEIA/Vote Solar Comments p.5: “...solar systems are often installed through third party financing agreements, including solar leases and power purchase agreements, which, in recognition of the long-term value proposition of the system, typically last twenty years or more.”</p>		
<p>Issue B. Whether one consistent NEM transition period should be used for all solar customer classes and vintages enrolling in NEM before the</p>	<p>D.14-03-041, pdf pp. 24-25: “We decline to adopt a shorter transition period for customers that enroll in NEM between January 1, 2016 and the</p>	<p>Verified.</p>

<p>successor tariff goes into effect</p> <p>Vote Solar argued that one consistent NEM transition period should be used for all solar customer classes and vintages enrolling in NEM before the successor tariff goes into effect, to allow market certainty. D.14-03-031 agreed.</p> <p>SEIA/Vote Solar Comments p.6: "...the Commission should adopt simple, consistent rules which apply equally across all customer classes and sectors in order to minimize confusion among potential customers and the market generally as to which sets of rules is applicable to a particular situation."</p> <p>Reply Comments Of The Solar Energy Industries Association And The Vote Solar Initiative Regarding The Establishment Of A Net Energy Metering Transition Period, ("SEIA/Vote Solar Reply Comments") filed Dec 23 2013, p. 12: "Proposals</p>	<p>implementation of a successor tariff. Though these customers will be aware that a new tariff will be implemented in 2017, and can use this information in their decision-making, we find that it will be administratively simpler and more transparent to treat all customers enrolling in NEM before the implementation of a successor tariff in a consistent way."</p>	
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<p>such as PG&E’s and SDG&E’s, which have varying transition periods depending on when the project is installed (i.e., before April 1, 2014; between April 1, 2014 and December 31, 2015; and between January 1, 2016 and June 30, 2017), will generate significant market uncertainty. Given the potential delays in a solar installation process, it is difficult for a customer to accurately predict when his or her system will be installed and therefore what NEM transition period will apply to them under this proposal.”</p>		
<p>Issue C. Whether the NEM transition period should apply to the distributed generation (DG) system regardless of transfer of ownership.</p> <p>Vote Solar argued that the transition period should apply in full to DG systems that are transferred to new owners, because the original owner reasonably expected that the system’s value would not be</p>	<p>D.14-03-041, pdf p. 29: “We are persuaded that it is reasonable for the full transition period to apply to generation systems installed prior to July 1, 2017 or the attainment of the trigger level, whether or not those systems are transferred to new owners. This treatment preserves the value of these systems, and ensures that the cost of system installation may be recovered on the terms expected when the system is purchased.”</p> <p>D.14-03-041, pdf p. 40, Ordering</p>	<p>Verified.</p>

<p>diminished via the loss of NEM if the home or business with solar was sold.</p> <p>SEIA/Vote Solar Comments p.8: “The right to continue under the current NEM construct should be tied to the physical system rather than the customer. In other words, the right should convey upon transfer of the system...”</p> <p>SEIA/Vote Solar Reply Comments p. 10: “The IOUs take the position that grandfathering rights should end with a change in ownership or customer account; the stated rationale being it would not be reasonable to continue to expect a payback on a solar system that is no longer owned by the customer that made the initial solar investment, and/or a new buyer has no expectation of benefiting under a program that will no longer exist. Such rationale misses the point. The flexibility to transfer the lease/PPA or purchased system to a</p>	<p>Paragraph 5: “5. Renewable generation systems eligible for the 20-year transition period adopted in this decision shall not lose eligibility if transferred to a new owner, operator, or utility account at the original location.”</p>	
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<p>new owner... without diminishing the value of the system is a key component of a customer's decision to install solar -- a decision which was premised on the cost-effectiveness of solar installations under the current NEM construct."</p>		
<p>Issue D. What precise milestone should be used to mark a customer's eligibility for the NEM transition period</p> <p>Vote Solar proposed that the PD be altered to state that eligibility is not based on when the utility issues the Permission to Operate letter, but rather when the customer submits the documentation needed to complete the application process. The final Decision adopted this change.</p> <p>Comments Of The Vote Solar Initiative On Proposed Decision Establishing A Transition Period Pursuant To Assembly Bill 327 For Customers Enrolled In Net Energy Metering Tariffs, filed March 12, 2014, pp. 6-7: "The Proposed Decision currently leaves open uncertainty about whether IOU</p>	<p>D.14-03-041, pdf p. 22-23: "The 20-year transition will be measured from the year the individual system was interconnected, indicated by the date on which the customer completes and submits all information required to receive permission to operate the system.⁴⁹"</p> <p>D.14-03-041, pdf p. 23, Footnote 49: "Eligibility for the transition period is based on the date of submission of the documentation needed to complete a NEM interconnection application, including the final building inspection. Customers that complete their application prior to reaching the date that the successor tariff is implemented will be eligible for the transition period once they receive their Permission to Operate letter. The date of that letter indicates the year in which a system was interconnected for the purposes</p>	<p>Verified.</p>

<p>lag times in issuing Permission to Operate letters could prevent customers from being eligible under the current NEM program. The Proposed Decision states that the start of the transition period “will be measured from the year the individual system was interconnected, indicated by the date on which the system received permission to operate,” <i>i.e.</i>, the date of the Permission to Operate Letter... The Commission can resolve this problem by modifying the Proposed Decision to provide that if a customer submits a completed NEM application by June 1, 2017 or at least 30 calendar days before the date that the IOU’s megawatt NEM cap is reached, whichever is earlier, then that customer will be eligible under the current NEM program for the applicable transition period.”</p>	<p>of the transition.”</p>	
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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?	Yes	Verified.
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified.
c. If so, provide name of other parties: Solar Energy Industries Association (SEIA), California Solar Industries Association (CALSEIA), Interstate Renewable Energy Council (IREC), and The Alliance for Solar Choice (TASC).		Verified.
d. Intervenor’s claim of non-duplication:		

<p>In a proceeding addressing solar compensation with many participants who advocate for the continued growth of solar, it is nearly impossible to avoid some duplication of positions with other parties. However, Vote Solar worked diligently to avoid unnecessary duplication of effort and analysis with other parties with similar positions who advocated for solar in the proceeding. For example, Vote Solar and SEIA jointly submitted two sets of comments in this case. In addition, we coordinated frequently with CALSEIA, SEIA, and TASC throughout the proceeding to coordinate our efforts.</p>	<p>The Commission agrees that Vote Solar did not engage in duplicative efforts with other parties.</p>
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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: Vote Solar’s participation in this proceeding was directed at policy and environmental matters, and therefore ascertaining direct benefits, in terms of actual dollars, to ratepayers is difficult. However, setting an appropriate transition period for customers who went solar under the NEM construct sends a critical signal to future solar customers that state government will not alter regulatory rules retroactively and will thereby honor reasonable expectations regarding utility bill savings from solar. The categories of benefits of renewable distributed generation (DG) that accrue to all ratepayers include: grid benefits (including avoided energy, capacity and transmission costs, locational benefits and market price mitigation benefits) and non-grid benefits (including public health benefits, land use benefits, jobs, local economic benefits, and water savings).</p> <p>Therefore, Vote Solar’s participation is fully consistent with D.88-04-066, mimeo, p.3, which states: “With respect to environmental groups, [the Commission has] concluded they were eligible in the past with the understanding that they represent customers whose environmental interests include the concern that, e.g., regulatory policies encourage the adoption of all cost-effective conservation measures and discourage unnecessary new generating resources that are expensive and environmentally</p>	<p style="text-align: center;">CPUC Discussion</p> <hr/> <p style="text-align: center;">Verified.</p>
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<p>damaging. They represent customers who have a concern for the environment which distinguishes their interests from the interests represented by Commission staff, for example.”</p> <p>Ultimately, ratepayers have directly benefitted by the above described advocacy by Vote Solar and its focus on environmental concerns and developing the full potential of solar and other preferred resources.</p>	
<p>b. Reasonableness of hours claimed:</p> <p>Vote Solar is a small, tightly staffed and budgeted organization. We continuously strive to bring a unique perspective or contribution to our advocacy at the Commission, and where we have similar positions to allies, we make every effort to divide labor efficiently. Vote Solar worked diligently to avoid unnecessary duplication of effort and analysis with other parties with similar positions who advocated for solar in this proceeding. However, this decision had major impacts on rooftop solar compensation and involved many intervenors with a wide variety of positions on the key issues, so a number of hours were required to simply to review other parties’ pleadings.</p> <p>Vote Solar seeks intervenor compensation for hours claimed by Susannah Churchill, Vote Solar’s West Coast Regional Director. Ms. Churchill has significant experience at the CPUC as a result of her experience as a Renewable Energy Policy Analyst and Regulatory Analyst within the CPUC’s Energy Division, and has participated in many CPUC proceedings on Vote Solar’s behalf. In particular, Ms. Churchill has advocated on the part of residential solar customers in Rulemaking (R.) 14-07-002, which addressed the net metering successor tariff, and R.12-06-013, which addressed residential rate redesign. (See attached request for first time hourly rate for Ms. Churchill; this hourly rate request was also submitted in R.12-06-013 and R.14-07-002, but no ruling has yet been issued in either proceeding by the Commission.)</p>	<p>Verified.</p>

<p>c. Allocation of hours by issue:</p> <p>Issue A. Whether a solar array’s expected system life should be used as a key metric for setting the NEM transition period 17.7 hours (32.8%)</p> <p>Issue B. Whether one consistent NEM transition period should be used for all solar customer classes and vintages enrolling in NEM before the successor tariff goes into effect 9.7 hours (18.1%)</p> <p>Issue C. Whether the NEM transition period should apply to the distributed generation (DG) system regardless of transfer of ownership 8.5 hours (15.7%)</p> <p>Issue D. What precise milestone should be used to mark a customer’s eligibility for the NEM transition period 5 hours (9.3%)</p> <p>Issue E. General and Procedural 13 hours (24.2%)</p>	<p>Verified.</p>
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B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Susannah Churchill	2013	22	240	D.16-05-047	5280	22.00	240.00	5,280.00
Susannah Churchill	2014	20.3	240	D.16-05-047	4872	20.25 <i>(rounding error by Vote Solar)</i>	240.00	4,860.00
Subtotal: \$ 10,152.00						Subtotal: \$ 10,140.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Susannah	2013	3.5	120	D.16-05-047	420	3.50	120.00	420.00

Churchill								
Susannah Churchill	2016	8	122.5	D.16-05-047	980	8	122.50	980.00
Subtotal: \$1,400.00						Subtotal: \$1,400.00		
TOTAL REQUEST: \$ 11,552.00						TOTAL AWARD: \$11,540.00		

****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**

D. 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))?	Yes.

FINDINGS OF FACT

1. Vote Solar has made a substantial contribution to D.14-03-041.
2. The requested hourly rates for Vote Solar’s representatives 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 are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$11,540.00.

CONCLUSION OF LAW

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

ORDER

1. Vote Solar shall be awarded \$11,540.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay Vote Solar their respective shares of the award, based on their California-jurisdictional electric revenues for the 2013 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 August 31, 2016, the 75th day after the filing of Intervenor'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 August 18, 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:	D1608016	Modifies Decision?	
Contribution Decision(s):	D1403041		
Proceeding(s):	R1211005		
Author:	ALJs Cooke, DeAngelis		
Payer(s):	Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas & Electric Company, and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Vote Solar	06/17/16	\$11,552.00	\$11,540.00	N/A	<i>Inappropriate rounding of hours claimed</i>

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Susannah	Churchill	Expert	Vote Solar	\$240.00	2011	\$240.00
Susannah	Churchill	Expert	Vote Solar	\$240.00	2011	\$240.00
Susannah	Churchill	Expert	Vote Solar	\$245.00	2012	\$245.00

(END OF APPENDIX)