

Decision 16-09-053 September 29, 2016

**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)
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**DECISION DENYING INTERVENOR COMPENSATION CLAIM OF THE WORLD BUSINESS ACADEMY**

<b>Intervenor: The World Business Academy</b>	<b>For contribution to Decision (D.) 15-05-051</b>
<b>Claimed: \$62,392.00</b>	<b>Awarded: \$0.00</b>
<b>Assigned Commissioner: Michel Peter Florio</b>	<b>Assigned ALJ: Hallie Yacknin</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief description of Decision:</b>	Approves the application of SDG&E to enter into a contract for energy services with Carlsbad Energy Center (CEC) for 100 fewer megawatts than proposed in the original application.
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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):	Sep. 3, 2014	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	Oct. 3, 2014	Verified
4. Was the NOI timely filed?	Yes	

<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	I.12-10-013	Ineligible for use
6. Date of ALJ ruling:	July 12, 2013	Ineligible for use
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		No, See Below
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	I.12-10-013	Ineligible for use
10. Date of ALJ ruling:	July 12, 2013	Ineligible for use
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		No, See Below
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.15-05-051	Verified
14. Date of issuance of Final Order or Decision:	May 29, 2015	Verified
15. File date of compensation request:	July 28, 2015.	Verified
16. Was the request for compensation timely?		Yes, but ineligible

**C. Additional Comments on Part I:**

<b>#</b>	<b>CPUC Discussion</b>
8, 12	World Business Academy (WBA) is ineligible to seek intervenor compensation. The ruling in I.12-10-013 that WBA attempts to utilize to show customer status and significant financial hardship was issued on July 12, 2013, more than a year before the start of this proceeding. Under P.U.C. Code (Code) Section 1804(b)(1) this means the rebuttable presumption for significant financial hardship has expired. Additionally, based on WBA’s NOI filing in this proceeding and in I.12-10-013, WBA is not a “customer” as defined by Code Section 1802(b). WBA is not a Category 1 customer, as it has not shown that it represents the interests of residential or small business customers. WBA is also not a Category 3 customer, as its submitted bylaws do not meet the requirements. It has also not shown “significant financial hardship” as defined by Code Section 1802(g) as it has not submitted the required financial documents. ( <i>See</i> also D.16-05-059.) WBA is therefore ineligible to seek 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>1. The substance of the ALJ's proposed decision was generally consistent with the position that the Academy took throughout the proceeding, namely, that the proposed PPA as submitted in SDG&amp;E's Application should not be approved.</p> <p>The Academy's position in this regard was strongly supported by the extensive testimony of Robert Perry and Rinaldo Brutoco, which the Academy submitted in the evidentiary hearings in this proceeding, and was accepted into the record of the proceeding.</p>	<p>Protest of the World Business Academy, filed August 21, 2014, at pp. 4-5.</p> <p>Proposed Decision (PD) of ALJ Yacknin, mailed on March 6, 2015, which proposed to deny without prejudice SDG&amp;E's application for authority to enter into a PPTA with Carlsbad Energy Center, LLC, at pp. 2, 11.</p> <p><i>See</i>, in particular, the ALJ's language at p. 11 of the PD, which states: "We therefore find it unreasonable to approve the Carlsbad PPTA at this juncture pending a determination that the results of SDG&amp;E's RFO demonstrate the lack of feasibly available and cost-effective preferred resources or energy storage to meet some or all of SDG&amp;E's LCR need beyond the 200 MW minimum that must be met by preferred resources or energy storage." This proposed finding is entirely consistent with the positions taken by the Academy both in its protest and in its testimony.</p>	<p>N/A</p>
<p>2. The PD specifically refers to the Academy's contentions.</p>	<p><i>See</i>, the ALJ's PD, at p. 20.</p>	<p>N/A</p>

<p>3. By amending the capacity of the proposed Carlsbad facility downwards from 600 to 500 MW, President Picker’s alternate PD, which was ultimately adopted as D.15-05-051.</p>	<p><i>See</i>, D.15-05-051, at p.11-12, where it states: “That said, we do not find that the full 600 MW capacity of the proposed Carlsbad Project is needed by 2018. A 500 MW project would address our reliability concerns, while supporting the goal of meeting the state’s OTC policies and satisfying a significant portion of the need identified in D.14-03-004 from preferred resources and energy storage. Therefore, based on: (1) the fit to the identified need, (2) the additional benefits provided by the PPTA, (3) the reasonableness of the price per MWh, terms and conditions of the PPTA, and (4) the safety and reliability concerns addressed by the PPTA, we find it reasonable to approve the Carlsbad PPTA conditioned on the reduction of the capacity of the proposed facility from 600 MW to 500 MW subject to the same per-unit price and other terms and conditions. The 100 MW in residual procurement authority resulting from the reduction of the Carlsbad PPTA must consist of preferred resources or energy storage.”</p> <p>The 100 MW reduction in the plant’s capacity that is reflected in D.15-05-051 is entirely consistent with the positions taken by the Academy both in its protest and in its testimony.</p>	
<p>4. D.15-05-051 specifically refers to the Academy’s contentions.</p>	<p><i>See</i> D.15-05-051, at pp. 20-21.</p>	<p>N/A</p>

<p>5. The findings and argument set forth in Commissioner Sandoval's dissent to D.15-05-051 were entirely consistent with the position that the Academy took throughout the proceeding, namely, that the Carlsbad PPTA was not a reasonable means to meet the identified LCR need.</p>	<p><i>See Cmmr. Sandoval dissent to D.15-05-051.</i></p>	
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**B. Duplication of Effort (§ 1801.3(f) and § 1802.5):**

	<b>Intervenor's Assertion</b>	<b>CPUC Discussion</b>
<p><b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?</b></p>	<p>Yes.</p>	<p>Yes.</p>
<p><b>b. Were there other parties to the proceeding with positions similar to yours?</b></p>	<p>Yes.</p>	<p>Yes.</p>
<p><b>c. If so, provide name of other parties:</b> Sierra Club/CA Environmental Justice Alliance, CARE, ORA, Shell Energy North America</p>		<p>Yes.</p>
<p><b>d. Intervenor's claim of non-duplication:</b></p> <p>The Academy provided detailed testimony that complemented, but did not duplicate, the testimony of other parties.</p> <p>Specifically, the Academy provided non-duplicative testimony that compared the environmental and economic costs of the gas turbine fuel cycle versus that of fuel cells, in particular, fuel cells running on hydrogen, and based on this analysis, to demonstrate that the overall costs of energy from fuel cells, taking environmental externalities into account, will be lower than the cost of energy from traditional gas turbines.</p> <p>The Academy's testimony also explained why, given California's policy to achieve dramatic reductions in greenhouse gas emissions over the next 30 years, it would be irresponsible, ill-considered and unwise, as well as directly contrary to state policy, for this Commission to approve yet another conventional gas-fired generating facility to meet system reliability needs when there are other promising technologies already available on the market that will have fewer environmental externalities than gas-fired peakers, that will actually move the state forward toward meeting its ambitious clean energy goals (which gas-fired peakers will not do) and that will not, in the long term, put ratepayers at risk of market price spikes due to the intrinsic volatility of natural gas prices.</p>		<p>N/A</p>

<p>Finally, in the Application for Rehearing that the Academy submitted on June 29, 2015, it essentially deferred to, and accepted the arguments submitted by Sierra Club and CARE, without spending time or effort to reiterate those arguments.</p>	
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**C. Additional Comments on Part II:**

#	Intervenor's Comment	CPUC Discussion
	<p>Although D.15-05-051 did not adopt the fullness of the positions espoused by the Academy in this proceeding, the fact that that Decision did reduce the size of the facility subject to the proposed PPTA by 100 MW moved SDG&amp;E substantially in the direction of relying on clean, alternative resources, as advocated by the Academy throughout the proceeding.</p>	

**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 Academy is claiming \$30,000 less than the budget it estimated in its NOI for this proceeding. The Academy's contributions with respect to the environmental and economic cost of gas turbines, as opposed to other, cleaner technologies, undoubtedly contributed to the Commission's ultimate decision to reduce the scope of the proposed project. The Academy's claim of total compensation is small compared to the information provided to support the record of the proceeding.</p>	<p><b>CPUC Discussion</b></p> <p>N/A</p>
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<p><b>b. Reasonableness of hours claimed:</b></p> <p>With respect to this proceeding, the following people represented the Academy: Rinaldo S. Brutoco, JD, Expert Witness in the areas of finance and economics; Robert Perry, Expert Witness in the areas of environmental and cost comparisons between gas turbines and cleaner, more advanced energy technologies, such as advanced fuel cells; Jerry B. Brown, Ph.D., Project Advocate; and Laurence Chaset, Attorney at Law.</p> <p>Internally, the Academy utilized the team approach in order to allocate time and work efficiently by drawing on the respective expertise of each of the Academy’s representatives (Perry, Brutoco, Brown and Chaset). Brown also drew on his project and organizational management experience to coordinate the flow of information internally at the Academy, as well as between the Academy and its attorney, Chaset.</p> <p>By streamlining the internal review of documents and draft Testimony, and due to the fact that Brutoco is a lawyer by training, the Academy was also able to efficiently utilize Chaset's time and to insure that he was the only attorney participating in this procedure on behalf of the Academy and the only attorney involved, as necessary in phone calls and conferences with Perry, Brown and Brutoco.</p> <p>Lastly, by reading the filings of the other parties, and by communicating with and in some cases submitting filings in support of other Parties (specifically, Sierra Club and CARE), the Academy was able to reduce duplication and contribute to the overall efficiency of the proceeding.</p>	<p>N/A</p>
<p><b>c. Allocation of hours by issue:</b></p> <p>All of the Academy’s time devoted to this proceeding fell within the scope of Issue 3, as identified in the Sept. 17, 2014 Scoping Memo and Ruling issued by the Assigned Commissioner. The main text of that Issue was as follows: “Is the Carlsbad PPTA a reasonable means to meet the 600 MW of identified LCR need that D.14-03-004 determined may be met by conventional resources?”</p> <p>The Academy devoted no time to any other issue that was raised in the proceeding and seeks no intervener compensation in connection with any other issue.</p>	<p>N/A</p>

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Laurence Chaset	2014 - 2015	92.7	\$370/hr	D.14-10-022 (R.12-03-014)	\$34,299	0.0	\$0.00	\$0.00

Rinaldo Brutoco	2014 - 2015	18.3	\$400/hr	Mr. Brutoco has no prior adopted rate. This rate complies with the law. See Resolution ALJ- 287, P.U.C. Section 1806 and D.08-04- 010. See also attachment 3 for more information supporting the basis for Mr. Brutoco's requested rate.	\$7,320	0.0	\$0.00	\$0.00
Jerry Brown, Ph.D.	2014 - 2015	7.3	\$320/hr	Dr. Brown has no prior adopted rate. This rate complies with the law. See Resolution ALJ- 287, P.U.C. Section 1806 and D08-04- 010. See also attachment 3 for more information supporting the basis for Mr. Brown's requested rate.	\$2,336	0.0	\$0.00	\$0.00
Robert Perry	2014 - 2015	53.8	\$320/hr	Mr. Perry has no prior adopted rate. This rate complies with the law. See Resolution ALJ- 287, P.U.C. Section 1806 and D08-04- 010.	\$17,216	0.0	\$0.00	\$0.00

				See also attachment 3 for more information supporting the basis for Mr. Perry's requested rate.				
<b>Subtotal: \$61,171.00</b>						<b>Subtotal: \$0.00</b>		
<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Laurence Chaset	2014 - 2015	7.4	\$185 (1/2 of normal rate)	D.14-10-022 (R.12-03-014)	\$1,369	0.0	\$0.00	\$0.00
<b>Subtotal: \$1,369</b>						<b>Subtotal: \$0.00</b>		
<b>TOTAL REQUEST: \$62,392.00</b>						<b>TOTAL AWARD: \$0.00</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 1/2 of preparer's normal hourly rate

<b>ATTORNEY INFORMATION</b>			
Attorney	Date Admitted to CA BAR <sup>1</sup>	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Laurence Chaset	1976	68750	No

**C. CPUC Disallowances and Adjustments:**

Item	Reason
A	No award due to ineligibility to claim intervenor compensation. See discussion in Part B.

<sup>1</sup> 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**

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

<b>Party</b>	<b>Comment</b>	<b>CPUC Discussion</b>
	No comments were filed.	

**FINDINGS OF FACT**

1. World Business Academy is ineligible to seek intervenor compensation for contribution to Decision 15-05-051.
2. The total of reasonable compensation is \$0.00.

**CONCLUSION OF LAW**

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

**ORDER**

1. Intervenor is awarded \$0.00.
2. The comment period for today's decision is not waived.
3. This decision is effective today.

Dated September 29, 2016, at San Francisco, California.

MICHAEL PICKER  
President  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
LIANE M. RANDOLPH  
Commissioners

Commissioner Carla J. Peterman, being necessarily absent, did not participate.

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>	D1609053	<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D1505051		
<b>Proceeding(s):</b>	A1407009		
<b>Author:</b>	ALJ Yacknin		
<b>Payer(s):</b>	N/A		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
World Business Academy	July 28, 2015	\$62,392.00	\$0.00	N/A	Ineligibility to claim intervenor compensation

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Laurence	Chaset	Attorney	World Business Academy	\$370.00	2014	\$0.00
Laurence	Chaset	Attorney	World Business Academy	\$370.00	2015	\$0.00
Rinaldo	Brutoco	Advocate	World Business Academy	\$400.00	2014	\$0.00
Rinaldo	Brutoco	Advocate	World Business Academy	\$400.00	2015	\$0.00
Jerry	Brown	Advocate	World Business Academy	\$320.00	2014	\$0.00
Jerry	Brown	Advocate	World Business Academy	\$320.00	2015	\$0.00
Robert	Perry	Advocate	World Business Academy	\$320.00	2014	\$0.00
Robert	Perry	Advocate	World Business Academy	\$320.00	2015	\$0.00

**(END OF APPENDIX)**