Decision 16-10-016 October 13, 2016

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans.	Rulemaking 13-12-010 (Filed December 19, 2013)

DECISION GRANTING INTERVENOR COMPENSATION TO CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE FOR SUBSTANTIAL CONTRIBUTION TO DECISIONS 15-06-028, 15-10-031, AND 16-06-042

Intervenor: California Environmental Justice Alliance	**For contribution to Decisions (D.) D.15-06-028 (June 11, 2015); D.15-10-031 (Oct. 22, 2015); D.16-06-042 (June 23, 2016); March 25, 2015 ALJ Ruling Discontinuing Phase 1a and Setting Forth Issues for Phase 1b (Mar. 25, 2015)**
Claimed: $135,102.32	**Awarded: $134,582.57**
Assigned Commissioner: Michael Picker	**Assigned ALJ: Julie A. Fitch**

PART I: PROCEDURAL ISSUES

A. Brief description of Decisions:	"March 25, 2015 ALJ Ruling Discontinuing Phase 1a and Setting Forth Issues for Phase 1b" terminates Phase 1a of the proceeding, which had as its primary task to determine whether the evidence established a need for the investor-owned utilities (IOUs) to procure flexible generation for 2024. D.15-06-028 establishes procurement targets for Combined Heat and Power (CHP) Program's Second Program Period. The Decision also creates a schedule for four competitive solicitations for CHP facilities between 2015 and 2020. In addition, the Decision modifies the CHP greenhouse gas (GHG) emissions accounting methodology and requires IOUs to submit a Tier 2 Advice letter in the event that CHP GHG reduction targets are not achieved. D.15-10-031 approves with modifications the IOUs' 2014 bundled procurement plans (BPPs). Issues within the scope of the BPP proceeding included: (1) the maximum and

	minimum limits on forward purchasing of energy, capacity, fuel and hedges, (2) specification of the products the IOUs can purchase, (3) specification of rules that would exempt the IOUs from reasonableness review, and (4) an integrated plan to comply with state policies, including the loading order. D.16-06-042 closes the 2014 Long Term Procurement Plan (LTPP) proceeding (R.13-12-010) and transfers one remaining issue to the 2016 LTPP proceeding (R.16-02-007). The remaining issue is Energy Division Staff's proposed modeling methodologies.

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):	2/25/14	Verified.
2. Other specified date for NOI:		
3. Date NOI filed:	3/25/14	Verified.
4. Was the NOI timely filed?		Yes, California Environmental Justice Alliance (CEJA) 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.14-11-016	Verified.
6. Date of ALJ ruling:	March 24, 2015	Verified.
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer or customer-related status?		Yes, CEJA demonstrated appropriate status.
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.14-11-016	Verified.
10. Date of ALJ ruling:	March 24, 2015	Verified.
11. Based on another CPUC determination (specify):		

12. Has the Intervenor demonstrated significant financial hardship?		Yes, CEJA demonstrated significant financial hardship.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.16-06-042	Verified.
14. Date of issuance of Final Order or Decision:	June 24, 2016	Verified.
15. File date of compensation request:	August 22, 2016	Verified.
16. Was the request for compensation timely?		Yes, CEJA timely filed the request for intervenor compensation.

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

#	Intervenor's Comment(s)	CPUC Discussion
1	The California Environmental Justice Alliance (CEJA) is an alliance of nonprofit, public interest, and grassroots environmental justice organizations working to achieve environmental justice for low-income communities and communities of color throughout the state of California. CEJA is an unincorporated organization that is fiscally sponsored by the Environmental Health Coalition. CEJA's organizations represent utility customers throughout California that are concerned about their health and the environment. In particular, CEJA is advocating for policies at the federal, state, regional and local levels that protect public health and the environment. CEJA is also working to ensure that California enacts statewide climate change policies that protect low-income communities and communities of color.	Verified.

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. <u>Phase 2, CHP – Warranted changes to GHG emissions reduction accounting methodology.</u> CEJA advocated for special targets or rules to promote more efficient natural gas CHP and CHP powered by renewable fuels. CEJA also recommended that low carbon and zero carbon CHP	CEJA/Sierra Club Opening Comments on CHP Issues, pp. 6, 10-11 (Sept. 17, 2014). *See* CEJA/Sierra Club Reply Comments on CHP Issues, p. 3 (Oct. 8, 2014) ("Incentivizing more efficient, diverse, and renewable CHP may be an ideal solution to overcome the low achievement of GHG reductions to date."); *see also id.* at pp. 7-8 (identifying that not all CHP is created equal and therefore the "Commission	Verified.

plants should be counted toward the CHP GHG reduction target. The Commission agreed with CEJA that change was warranted for the GHG accounting methodology of renewable-fueled and bottom-cycle CHP facilities.	should recognize the additional benefits of renewably-fueled CHP and prioritize eliminating barriers that renewably-fueled CHP resources face"). D.15-06-028, pp. 38-39 (June 11, 2015) (discussing the inadvertently created disincentive for both renewable-fueled and bottom-cycling CHP, and agreeing with CEJA/Sierra Club that "these facilities with large GHG emissions reductions potential be treated as a GHG Credit" to ensure proper consideration for solicitations). D.15-06-028, p. 54, Finding of Fact #32, Conclusion of Law #18 at p. 57, Order #12 at p. 61 (June 11, 2015).	
2. <u>Phase 2, CHP – Number of competitive solicitations.</u> CEJA recommended that the Commission conduct at least one or two request for offers (RFOs) per year to insure progress on program goals, and allow monitoring, intervention and/or correction in a timely matter to keep CHP goals on track. The Commission relied on CEJA's persuasive arguments and elected to hold up to four CHP GHG RFOs, anticipating that the RFOs will likely occur on a near-annual basis.	CEJA/Sierra Club Opening Comments on CHP Issues, p. 8 (Sept. 17, 2014). CEJA/Sierra Club Reply Comments on CHP Issues, pp. 4-5 (Oct. 8, 2014) (arguing that the Commission should establish RFO targets and schedules now and reject arguments to delay). D.15-06-028, pp. 32-33 (June 11, 2015) (acknowledging value of "programmatic and market information from holding solicitations on a regular and predictable basis," and determining that the IOUs may hold up to four CHP GHG RFOs on a likely "near-annual basis"); *see id.* at p. 22, Finding of Fact #24, p. 57, Conclusion of Law #14, p. 59, Order #7.	Verified.
3. <u>Phase 2, CHP – Procedural showings demonstrating inability to meet second program period targets.</u> CEJA urged the Commission to require a stakeholder process when a utility does not meet its CHP megawatt (MW) and/or GHG reduction target. CEJA provided its own recommendation and supported ORA's recommendation that was founded on the sample principles of robust public participation and IOU accountability.	CEJA/Sierra Club Opening Comments on CHP Issues, p. 10 (Sept. 17, 2014) (advocating for stakeholder involvement when the IOUs fail to meet their CHP targets and recommending a public forum for this review such as the LTPP). CEJA/Sierra Club Reply Comments on CHP Issues, pp. 2, 6 (Oct. 8, 2014) (supporting ORA's recommendation for a robust public process when the IOUs do not meet their CHP targets that "allows stakeholder to view and comment upon the IOU's justification for failure to meet CHP and/or GHG emission reduction targets"); *see id.* at p. 2 (citing to a progress report demonstrating the IOUs' significant failure	Verified.

The Commission adopted ORA's recommendation, but favored a Tier 3 Advice Letter for the purpose of effectuating a justification pending Commission approval.	to achieve GHG reduction goals despite their substantial progress toward meeting their CHP MW goals). *See* D.15-06-028, pp. 41-42 (June 11, 2015) (adopting ORA's recommendation of using an Advice Letter to report failure to meet CHP targets, and requiring the Advice Letter to include the "efficiency of the CHP facilities and associated GHG emissions reduction potential, offer prices, and need or portfolio fit"). D.15-06-028, p. 58, Conclusion of Law #20 and p. 61, Order #13 (June 11, 2015).	
4. <u>Phase 2, CHP – CHP procurement processes and strategies.</u> CEJA supported the use of diverse procurement processes and strategies to provide opportunity for CHP of different sizes and technologies, including feed-in tariffs. The Commission maintained an RFO process, which allows for a variety of different CHP procurement options.	*See* CEJA/Sierra Club Opening Comments on CHP Issues, pp. 5-6, 8 (Sept. 17, 2014). D.15-06-028, pp. 22-23 (June 11, 2015) (maintaining an approach that allows AB 1613's feed-in tariff to count toward CHP procurement); *id.* at p. 25 ("[A]ny future uptake or participation from CHP facilities of the AB 1613 Feed-in Tariff should continue to be an active procurement strategy and count towards the utilities' targets."); *id.* at pp. 23-24 (citing CEJA's recommendations for diverse procurement processes and strategies to count towards CHP GHG MW targets). D.15-06-028, p. 56, Conclusion of Law #9 (June 11, 2015) ("Any future uptake or participation from CHP facilities of the AB 1613 Feed-in Tariff should continue to be an active procurement strategy and count towards the utilities' targets."); *id.* at Conclusion of Law #10, p. 56 ("It is reasonable to maintain the existing multiple CHP procurement options established in D.10-12-035.").	Verified.
5. <u>Phase 2, CHP – Counting emissions reductions from existing CHP facilities.</u> CEJA explained the ability of existing CHP facilities to greatly reduce GHG emissions through increased efficiency and conversion to lower or zero carbon fuels.	CEJA/Sierra Club Opening Comments on CHP Issues, pp. 6-8 (Sept. 17, 2014) (advocating for emissions reductions from existing CHP facilities to count toward CHP GHG emission reductions targets). D.15-06-028, p. 30 (June 11, 2015) (agreeing that emissions reductions associated with existing CHP facilities should be recognized); *see id.* at p. 22 ("[W]e envision that many of the GHG	Verified.

The Commission determined that existing efficient CHP facilities should count toward the IOUs CHP GHG targets.	benefits will come from the fleet of existing CHP. Optimization of existing CHP facility operations can result in significant GHG emissions reductions.”). D.15-06-028, p. 53, Finding of Fact #19 (June 11, 2015) (“Much of the GHG benefits will come from the fleet of existing CHP facilities. Optimization of existing CHP facility operations can result in significant GHG emissions reductions.”); *id.* at p. 57, Conclusion of Law #13 (“The emission reductions associated with existing efficient CHP facilities should be recognized.”).	
6. <u>Phase 2, CHP – Consideration of CHP’s role in reducing GHG emissions.</u> CEJA consistently emphasized the importance of GHG reductions from CHP for meeting the targets of the Scoping Plan and AB 32. The Commission acknowledged CEJA’s arguments and took them into account during its decision-making process.	*See generally* CEJA/Sierra Club Opening Comments on CHP Issues (Sept. 17, 2014); *see id.* at 4 (discussing CHP’s large role in reducing GHG emissions in the electricity sector). CEJA/Sierra Club Reply Comments on CHP Issues, pp. 4-5 (Oct. 8, 2014). D.15-06-028, p. 16 (June 11, 2015) (analyzing CEJA’s arguments on the importance of California’s GHG emission reduction targets in establishing a CHP GHG reduction target, but determining that the Cap-and-Trade program would ensure GHGs did not increase). D.15-06-028, p. 52, Finding of Fact #15 (June 11, 2015) (“A significant portion of GHG emissions reductions in the 2008 CARB Scoping Plan are devoted to CHP.”).	Verified.
7. <u>Phase 2, BPP – Consistent redaction of confidential information.</u> CEJA explained that the IOUs redacted information differently, impairing parties’ ability to compare the Bundled Procurement Plans (BPPs). CEJA requested that the Commission require consistent redaction of information, thereby ensuring public disclosure of similar information. The Commission agreed with	CEJA/Sierra Club Opening Comments on the ALJ’s Ruling Seeking Comments on BPP Issues, pp. 18-19 (Nov. 4, 2014). *See* CEJA Opening Comments on the BPP Proposed Decision, p. 5 (Oct. 12, 2015) (supporting the PD’s determination that inconsistent redaction of confidential information should be reviewed in the next refinement of the procurement rules). D.15-10-031, pp. 41-42 (Oct. 22, 2015).	Verified.

CEJA that the IOUs should be consistent in redacting market-sensitive information and decided that this issue would be considered in the next refinement of the procurement rules.		
8.Phase 2, BPP – The Commission had to evaluate whether the loading order should be considered in each transaction and had to interpret the meaning of previous Commission decisions on BPPs and the loading order. CEJA analyzed the Commission's previous BPP decisions and highlighted the utilities' prior incorrect interpretation of and noncompliance with their responsibilities under the loading order. CEJA argued that, based on previous BBP decisions, the utilities must consider the loading order in each transaction. CEJA also identified that utilities' BPPs did not meet this requirement and recommended a new standard for determining loading order compliance. Although the Commission did not adopt CEJA's interpretation of how previous Commission decisions should guide BPP loading order requirements or CEJA's recommendation for a procedure to secure loading order compliance, the Commission had to determine the scope of the utilities' obligation and whether new reporting standards should be implemented. Thus, CEJA's arguments helped the Commission evaluate and clarify previous Commission decisions and the utilities' loading order obligations.	CEJA/Sierra Club Opening Comments on the ALJ's Ruling Seeking Comments on BPP Issues, pp. 2- 6 (Nov. 4, 2014). CEJA/Sierra Club Reply Comments on the ALJ's Ruling Seeking Comments on BPP Issues, pp. 1, 6-7 (Nov. 20, 2014). CEJA Opening Comments on the BPP Proposed Decision, pp. 1-5 (Oct. 12, 2015). *See* D.15-10-031, pp. 38-39 (Oct. 22, 2015).	Verified.
9. Phase 2, BPP – The Commission considered new proposals for increased public	CEJA/Sierra Club Opening Comments on the ALJ's Ruling Seeking Comments on BPP Issues, pp. 15-18, 20-24 (Nov. 4,	Verified.

participation and transparency. To increase public participation and transparency, CEJA argued that (1) the IOUs should file a motion for new products and fossil fuel facilities, (2) the Quarterly Compliance Reports must be reviewed, (3) the Commission should require formal notice and comment on proposed procurement plans, and (4) the IOUs should report transactions that do not comply with their BPPs. While the Commission did not adopt CEJA's specific recommendations, it had to evaluate concerns regarding transparency and weigh those against the utilities' concerns of having too much process. CEJA provided the Commission with key information to evaluate the appropriate level of public participation and transparency.	2014). *See* CEJA/Sierra Club Reply Comments on the ALJ's Ruling Seeking Comments on BPP Issues, pp. 1-3 (Nov. 20, 2014) (supporting ORA's recommendation). *See* D.15-10-031, pp. 41-44, 49-51 (Oct. 22, 2015).	
10. Phase 2, BPP – Confirmation of current GHG offset limits. CEJA highlighted the risks of GHG offsets to ratepayers and climate change. CEJA recommended that the utilities should be required to evaluate methods to reduce GHGs before purchasing GHG products, specifically recommending the use of a marginal abatement cost curve to compare GHG reductions costs to potential costs of continued emissions. CEJA also analyzed each BPP and identified that the BPPs did not include an affirmative evaluation of the potential to reduce GHGs. Although the Commission did not adopt CEJA recommendations, it evaluated the adequacy of other limits on the use of offsets to conclude that no further	CEJA/Sierra Club Opening Comments on the ALJ's Ruling Seeking Comments on BPP Issues, pp. 6-10 (Nov. 4, 2014). CEJA Opening Comments on the BPP Proposed Decision, pp. 6-9 (Oct. 12, 2015). *See* D.15-10-031, p. 44, 52-53 (Oct. 22, 2015).	Verified.

limitations were necessary at this time, thereby clarifying the IOUs' offset obligations.		
11, Phase 2, BPPs – Consideration of Environmental Justice and Scope of BPPs. CEJA argued that environmental justice should be included as a consideration of energy procurement in the BPPs. The Commission decided that procurement of preferred resources and siting of conventional resources are outside the scope of the BPPs. Although the Commission did not require environmental justice considerations in the BPPs, the Commission analyzed CEJA's arguments to further define the scope of BPPs, clarifying the IOUs' BPP obligations.	CEJA/Sierra Club Opening Comments on the ALJ's Ruling Seeking Comments on BPP Issues, pp. 11-15 (Nov. 4, 2014). CEJA Opening Comments on the BPP Proposed Decision, pp. 10-14 (Oct. 12, 2015). *See* D.15-10-031, pp. 53-54 (Oct. 22, 2015).	Verified.
12. Phase 1B - Transparent public process for the modeling refinement process. CEJA requested that the modeling refinement process in Phase 1B include a record instead of only an Energy Division-led stakeholder process. CEJA recommended that the Energy Division develop a staff report and then allow stakeholders to file formal comments. CEJA also recommended that the Commission either issue a ruling or decision at the end of the process to determine what refinements should be made. The Commission decided that the Energy Division would produce some of its work related to proposed revisions to LTPP modeling methodology for formal party comment. The Commission also anticipated that the comments would form the basis	CEJA/Sierra Club Opening Comments on ALJ's Ruling Seeking Comment on December 9, 2014 Proposal, pp. 5-6 (Jan. 12, 2015). *Compare* ALJ Ruling Seeking Comment on December 9, 2014 Proposal, p. 2 (Dec. 16, 2014) (recommending a stakeholder process for modeling efforts and refinement to be led by the Energy Division) *with* ALJ Ruling Discontinuing Phase 1A and Setting Forth Issues for Phase 1B, pp. 5, 11-12 (Mar. 25, 2015) (allowing for party comment and anticipating using comments for the basis of a proposed decision). *See* ALJ Ruling Requesting Comments on Modeling Methodology Staff Proposal (Nov. 11, 2015) (seeking formal party comment on the attached staff proposal).	Verified.

for a proposed decision.		
13. Phase 1B – Energy storage assumptions for the 2014 LTPP and CAISO Transmission Planning Process (TPP). CEJA commented that the original energy storage assumptions (of no capacity for distribution-connected or customer-side storage) in the Energy Division's December 11, 2013 proposed Joint Planning Assumptions and Scenarios were not reasonable. CEJA recommended that all storage procurement options (transmission, distribution, and customer-side) should be counted for their maximum capacity value and be dispatchable. CEJA also explained that storage provides capacity that can be used to meet peak capacity need and should therefore be modeled to better address reliability issues. The Commission increased the amount of projected capacity and flexibility from distribution-connected energy storage, but did not increase customer-side storage because it is likely non-dispatchable. The Commission further determined that, although storage has limits on capacity and flexibility capabilities, all storage can provide energy services and will be modeled as such. In addition, CEJA highlighted that since the storage procurement process includes a cost-effectiveness finding, there should be a basic assumption that it will be deployed in high-value locations – i.e., local capacity requirement areas. The Commission adopted this assumption.	CEJA Comments on the Proposed Standardized Planning Assumptions for the 2014 LTPP, p. 6, 8 (Jan. 8, 2014); CEJA, Sierra Club, and Union of Concerned Scientists Comments Key Technical Questions for Parties in Response to Dec. 18, 2013 Workshop on Planning Assumption and Scenarios for Use in the 2014 LTPP and CAISO 2014-2015 TPP, pp. 6-7 (Jan. 15, 2014). *Compare* Energy Division Joint Planning Assumptions and Scenarios, pp. 11, 13 (served on the R.12-03-014 service list, the interim service list for R.13-12-010, on Dec. 11, 2013) (assuming only the 700 MW of transmission-connected energy storage) *with* ALJ Ruling on Assumptions, Scenarios, and RPS Portfolios for use in 2014 LTPP and 2014-2015 CAISO TPP, pp. 20-21 (Feb. 27, 2014) (increasing distribution-connected storage from zero to 50% capacity). CEJA Comments on the Proposed Standardized Planning Assumptions for the 2014 LTPP, pp. 7-8 (Jan. 8, 2014). ALJ Ruling on Assumptions, Scenarios, and RPS Portfolios for use in 2014 LTPP and 2014-2015 CAISO TPP, p. 22 (Feb. 27, 2014) ("It is reasonable to assume that cost-effectiveness requirements for new storage will lead to siting at the most effective locations to contribute to local area reliability.").	Verified.
14. Phase 1B – Renewable	CEJA Comments on the Proposed	Verified.

Portfolio Standard (RPS) assumptions for the 2014 LTPP and CAISO TPP. CEJA urged the Commission to include a scenario with a realistic RPS - one that is not set at 40% by 2030 because higher targets are feasible and necessary to meet California's greenhouse gas (GHG) goals. CEJA recommended a 50% RPS scenario for 2030. The Commission adjusted the RPS assumption to 40% by 2024 because the "legislature is exploring the establishment of a higher RPS target and trends in RPS procurement indicate a possibility of overshooting 33% by 2020."	Standardized Planning Assumptions for the 2014 LTPP, pp. 1, 4-6 (Jan. 8, 2014). *Compare* Energy Division Joint Planning Assumptions and Scenarios, p. 22 (served on the R.12-03-014 service list, the interim service list for R.13-12-010, on Dec. 11, 2013) (setting the RPS scenario at 40% in 2030) *with* ALJ Ruling on Assumptions, Scenarios, and RPS Portfolios for use in 2014 LTPP and 2014-2015 CAISO TPP, p. 39 (Feb. 27, 2014) (adjusting the RPS to 40% by 2024 because the "legislature is exploring the establishment of a higher RPS target and trends in RPS procurement indicate a possibility of overshooting 33% by 2020").	
15. Phase 1a – Long-term system need for additional flexible capacity CEJA engaged legal and technical resources to address the Phase 1a question of whether a need existed for the IOUs to procure flexible generation. CEJA participated in the PUC workshop on operation flexibility, propounded and responded to discovery regarding flexible need; and submitted expert testimony and comments providing significant support for terminating Phase 1a. The Commission's "March 25, 2015 ALJ Ruling Discontinuing Phase 1a and Setting Forth Issues for Phase 1b" terminates Phase 1a of the proceeding, which had as its primary task to determine whether the evidence established a need for the investor-owned utilities (IOUs) to procure flexible generation for 2024. Upon review of the evidence, the Commission	May testimony, September 24, 2014 Ex. CEJA 1, pp. 18-29 (identifying record evidence that does not support finding need for flexible procurement). May reply testimony, October 22, 2014 Ex. CEJA 4, pp. 1-10 (identifying record evidence that does not support finding need for flexible procurement; highlighting flaws in modeling and assumptions that undermine suggestions of need). *See* March 25, 2015 ALJ Ruling Discontinuing Phase 1a and Setting Forth Issues for Phase 1b, p.4 ("With that, Phase 1a of this proceeding is discontinued. There is not sufficient evidence at this time to authorize additional flexible or system capacity procurement through 2024 in this proceeding. There is both sufficient time and a critical need to further develop modeling efforts to inform the 2016 LTPP proceeding regarding the need for flexible capacity through 2026.") March 25, 2015 ALJ Ruling Discontinuing Phase 1a and Setting Forth Issues for Phase 1b, p. 12.	Verified.

agreed with parties like CEJA that argued no need existed, ruling that: 1. No evidentiary hearings are needed for Phase 1a of this proceeding. 2. Phase 1a of this proceeding is discontinued. There is not sufficient evidence at this time to determine whether or not there is a need for additional flexible or system capacity through 2024."		

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: <u>Phase 2: CHP matters</u> The Sierra Club was the primary intervenor taking positions similar to CEJA regarding CHP matters. Other parties that took some similar positions to CEJA on CHP matters were Energy Producers and User Coalition and the Cogeneration Association of California ("EPUC/CAC"), and California Cogeneration Council ("CCC"). CEJA also took a similar position to ORA regarding procedural requirements for demonstrating inability to meet second program period targets. <u>Phase 2: BPP matters</u> The Sierra Club was the primary intervenor taking similar positions to CEJA regarding BPP matters. <u>Phase 1B matters</u> The Sierra Club and Union of Concerned Scientists were the primary intervenors taking similar positions to CEJA regarding Phase IB matters. <u>Phase 1A matters:</u> The Sierra Club was the primary party taking a position similar to CEJA's in Phase 1a.		Agreed.
d. Intervenor's claim of non-duplication: <u>Phase 2: CHP matters</u> Throughout the comments periods for CHP matters, CEJA and Sierra Club California ("CEJA/Sierra Club") coordinated their efforts to avoid duplication. CEJA/Sierra Club drafted and filed joint comments on all CHP matters when their positions were aligned. The only filing related to CHP that CEJA/Sierra Club did not draft and file		Verified.

jointly was CEJA's Response to EPUC/CAC's Application for Rehearing (July 29, 2015). Sierra Club did not file a response to the application for rehearing. CEJA/Sierra Club communicated extensively to coordinate strategy, share resources, and complete filings related to CHP. Collaborating significantly on the CHP issues minimized time spent drafting, researching, and analyzing issues. The coordinated efforts of CEJA and Sierra Club also avoided the potential for duplication. Although CEJA did not directly coordinate with EPUC/CAC, CCC and ORA, CEJA/Sierra Club's joint comments presented a unique perspective on CHP issues. CEJA/Sierra provided analysis, studies, and expert options which highlighted their own arguments from the perspectives of an alliance of environmental justice organizations and an environmental protection organization. These varying perspectives avoided duplication by creating complementary and supplemental positions and approaches to the issues that helped the Commission more thoroughly evaluate the issues. <u>Phase 2, BPP matters</u> CEJA avoided duplication between itself and Sierra Club on BPP matters by coordinating with Sierra Club and filing joint comments. CEJA/Sierra Club were in regular contact during BPP comment periods and shared resources to reduce drafting time and ensure efforts were not duplicated. <u>Phase 1B</u> CEJA avoided duplication with Sierra Club and Union of Concerned Scientist (UCS) on Phase 1B matters by coordinating with both parties and filing joint comments on the Key Technical Questions for Parties in Response to Dec. 18, 2013 Workshop on Planning Assumption and Scenarios for Use in the 2014 LTPP and CAISO 2014-2015 TPP, pp. 6-7 (Jan. 15, 2014). CEJA was in regular contact with the Sierra Club and UCS for early planning assumption comment periods and shared resources to reduce drafting time and ensure efforts were not duplicated. <u>Phase 1A matters:</u> CEJA collaborated very closely with Sierra Club, including by having meetings and conference calls to discuss expert testimony, strategy, and legal research. CEJA also communicated with ORA and carefully crafted data requests to address the data concerns of the intervenors.	

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

a. Intervenor's claim of cost reasonableness:	**CPUC Discussion**
CEJA and the Environmental Law and Justice Clinic (ELJC) participated in all major aspects of the proceeding, including filing multiple comments related to the procurement need determination, bundled procurement plans, combined heat and power issues, planning assumptions and scenarios, and modeling methodology. CEJA's filings are reflected in hundreds of pages of detailed substantive analysis. The comments CEJA submitted in this proceeding included significant legal,	Verified.

policy, and technical research on the many topics raised by the Commission's rulings, workshops, and decisions. CEJA's extensive participation and detailed filings and testimony ensured the Commission had sufficient information to make a determination from the record. CEJA's request for fees and costs is likely to be a very small portion of the benefits that utility customers are likely to ultimately realize due to the elimination of unnecessary procurement, increased public participation and transparency, and rule changes regarding CHP, BPPs, and RFO bidding. In addition, CEJA is seeking $91.57 in costs. These costs include $55.77 in postage fees for mailing filings to the CPUC and $35.80 for copies necessary to send hard copies of filings to the CPUC, CEJA was actively involved in the vast majority of filings and considers standard postage and copy costs to submit such filings reasonable.	
b. Reasonableness of hours claimed: As mentioned above, CEJA and the ELJC participated in all major aspects of the proceeding, including filing multiple comments in all phases, attending hearings, submitting extensive testimony, and conducting substantial discovery. CEJA's total filings are reflected in hundreds of pages of detailed substantive analysis. The amount of time CEJA spent on the proceeding is reasonable considering CEJA's extensive participation in and contribution to a wide range of outcomes in Phase 1a, 1b, and 2. CEJA's submitted significant legal, policy, and technical research on the many topics raised by the Commission's rulings, workshops, and decisions. CEJA and ELJC were conscious of using staff with appropriate work experience for the tasks they performed. Deborah Behles, an experienced attorney and CPUC practitioner, took on the lead role in the 2014 LTPP. She coordinated with co-counsel, Shana Lazerow, to assure that internal duplication was avoided. All duplication is avoided in their timesheets. When Ms. Behles was not lead, Ms. Lazerow, another experienced attorney and CPUC practitioner, assumed the role of lead attorney. Ms. Behles' and Ms. Lazerow's extensive CPUC experience and leadership reduced the number of hours required to develop testimony, briefs, and comments for their own work product as well as the work product for junior attorneys and student clinicians working under their direct supervision. When possible, ELJC law students contributed significantly in preparing particular sections of comments and in drafting the notice of intent (NOI) to claim intervenor compensation. Due to the transition from spring to fall semester, Tovah Trimming, a junior attorney, took the lead role in preparing the intervenor compensation claim request. The work of student clinicians and junior attorneys, both at a significantly lower rate than senior attorneys, saved senior attorney time, and significantly contributed to CEJA's filings. In addition, the hours claimed do not include any time spent teaching or assisting students or completing tasks that were clerical in nature. CEJA and ELJC used best efforts to keep detailed track of their time so that issues identified for intervenor compensation could be linked to Commission rulings and decisions. The rates requested for these tasks are at the low end of the ranges authorized by	Verified, but see CPUC Disallowances and Adjustments, below.

the CPUC for attorneys, experts, and law students. CEJA and ELJC are not requesting hours that they found to be duplicative or excessive, and they performed a thorough and detailed review of hours to ensure there is no unnecessary duplication or excessiveness. For example, in an abundance of caution, the vast majority of all time spent coordinating between co-counsel has been omitted. In addition, substantial student hours are cut to adequately take into account student experience and proficiency levels. The same is true of junior attorney hours.	
c. Allocation of hours by issue: CEJA divided its work according the division of the proceeding: Phase 1a, Phase 1b and general LTPP work, Phase 2 BPPs, and Phase 2 CHP matters. For Phase 1b, CHP, and BPP matters, CEJA further subdivided the issues. The detailed breakdown for each phase by issue is provided in the timesheets, which are attached to this request as Attachment 3. The summary of the detailed breakdown is provided below. **Phase 1a:** Issue 1, Flexible Generation Procurement Needs: 100% **Phase 1b:** Issue 1: 31% Issue 2: 15% Issue 3: 17% Issue 4: 37% **Phase 2 BPP:** Issue 1: 8% Issue 2: 28% Issue 3: 5% Issue 4: 14% Issue 5: 23% Issue 6: 21% **Phase 2 CHP** Issue 1: 18% Issue 2: 11% Issue 3: 5% Issue 4: 16% Issue 5: 12% Issue 6: 19% Issue 7: 19% **General LTPP work not associated with hours claimed for Phase 1a, Phase 1b, CHP, and BPP matters:** 13.5% of the total hours claimed	Verified.

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate $**	**Total $**
Attorney - Deborah Behles	2014	91.6	340.00	Resolution ALJ-287, Table 1; D.15-06-020; Comment 1.	31,144	91.60	340.00	31,144.00
Deborah Behles	2015	35.7	375.00	Resolution ALJ-308, Table 2; D. D.15-06-020; Comment 1	13,387.50	35.70	340.00 [1]	12,138.00
Attorney - Shana Lazerow	2013	0.4	335.00	D.14-07-026; D,15-01-015; D.15-06-020; Comment 2	134.00	0.40	335.00	134.00
Shana Lazerow	2014	14.9	345.00	D.15-10-042; Comment 2.	5,140.50	14.90	345.00	5,140.50
Shana Lazerow	2015	19.9	345.00	D.15-10-042; Comment 2.	6,865.50	19.90	345.00	6,865.50
Shana Lazerow	2016	21.1	345.00	Resolution ALJ-308, Table 2; D.15-10-042; Comment 2.	7,279.50	21.10	350.00 *See* Res. ALJ-329.	7,385.00
Attorney - Nina Robertson	2015	9	300.00	Resolution ALJ-308, Table 2; Comment 3; Attachment 2	2,700	9.00	300.00	2,700.00
Attorney - Tovah Trimming	2015	35.1	165.00	D.16-05-048; Comment 4	5,791.50	35.10	165.00	5,791.50
Tovah Trimming	2016	3.6	165.00	Resolution ALJ-308, Table 2; D.16-05-048; Comment 4	594	3.60	165.00 *See* Res. ALJ-329.	594.00
Attorney - David Zizmor	2013	5	210.00	D.15-06-020; Comment 5	1,050	5.00	210.00	1,050.00
David Zizmor	2014	83.4	215.00	D.15-06-020; Comment 5	17,931	83.40	215.00	17,931.00
Julia May	2014	118.1	160.00	Resolution ALJ-287, Table 1; D1501015; D1506020;	18,896	118.10	165.00 *See* Res. ALJ-303.	19,486.50

				Comment 6				
					***Subtotal:* $ 110,914**			***Subtotal:* $ 110,360.00**
OTHER FEES **Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):**								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**
Clinical Law Students	2014	168.6	100.00	D.11-03-025; D.04-04-12; Comment 7.	16,860	168.60	100.00	16,860.00
Clinical Law Students	2015	26	100.00	D.11-03-025; D.04-04-12; Comment 7.	2,600	26.00	100.00	2,600.00
					***Subtotal:* $ 19,460**			***Subtotal:* $19,460.00**
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**
David Zizmor	2014	2.5	107.50	D.04-04-012; Comment 5; Comment 8	268.75	2.50	107.50	268.75
Tovah Trimming	2016	19.7	82.50	D.04-04-012; Comment 8	1,625.25	19.70	82.50	1,625.25
Shana Lazerow	2014	2.2	172.50	D.15-10-042; Comment 9	379.50	2.20	172.50	379.50
Shana Lazerow	2016	13.7	172.50	D.04-04-012; Comment 9	2,363.25	13.70	175.00	2397.50
					***Subtotal:* $ 4,636.75**			***Subtotal:* $4,671.00**

COSTS				
#	**Item**	**Detail**	**Amount**	**Amount**
1	Postage	Costs to send all CEJA filings to the CPUC. (See Attachment 4).	55.77	55.77
2	Copies	358 copies at $0.10 each; necessary copies to send hard copies of filings to the ALJ. (See Attachment 4).	35.80	35.80
		Total:	91.57	91.57
			TOTAL REQUEST: $ 135,102.32	**TOTAL AWARD: $134,582.57**

**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[1]**	**Member Number**	**Actions Affecting Eligibility (Yes/No?)**
Deborah Behles	218281	December 21, 2001	No.
Shana Lazerow	195491	June 4, 1998	No.
Nina C. Robertson	276079	May 24, 2011	No.
Tovah Trimming	300163	December 9, 2014	No.
David Zizmor	255863	June 2, 2008	No.

C. Intervenor's Comments on Part III:

Comment #	Intervenor's Comments
Comment 1	Deborah Behles has been practicing environmental law since 2001. Mrs. Behles received a B.S. in civil engineering with an environmental and structural emphasis from Purdue University and her J.D. from the University of Minnesota. She has served as a trial attorney for the U.S. Department of Justice and as staff attorney with the Environmental Law and Justice Clinic. Mrs. Behles has represented parties in several Commission proceedings since 2008. In D.15-06-020, the Commission approved a rate of $340 per hour for her work in 2014. We ask for that same rate in 2014 and request modest $35/hour increase for 2015 pursuant to ALJ-308 (which authorizes practitioners with 13+ years of experience to claim $320-570/hour) in 2015 since the COLA is unavailable. Even with the requested increase, these rates reflect the lowest rates for her experience with the previously authorized step adjustment. The requested increase for 2015 will reflect Mrs. Behles' increasing experience and efficacy as a CPUC practitioner.
Comment 2	Shana Lazerow is Chief Litigation Attorney at CBE. She graduated from law school at the University of California, Los Angeles in 1997. She has practiced environmental and administrative law for more than 15 years, and has held the position of Chief of Litigation at CBE since 2005. Ms. Lazerow received a rate of $345 for her 2014 and 2015 work in Decision D.15-10-042, October 22, 2015. D.16-05-048 awarded an intervenor compensation half-time rate of $172.50 for work performed in 2016.
Comment 3	Nina Robertson is an attorney at Environmental Law and Justice Clinic. She graduated from Stanford University Law School in June of 2010. Ms. Robertson has practiced law for over five years, serving as a law clerk in the United States District Court for the District of Columbia and an appellate attorney of the U.S. Department of Justice, Environment and Natural Resources Division. She brings years of experience in environmental law to her work at the Clinic and as a CPUC practitioner. Her resume detailing her experience is attached to this request. (*See* Attachment 2). Pursuant to ALJ-308, Ms. Robertson's requested rate is $300 for 2015, which is the lowest rate for an attorney with her experience.
Comment 4	Tovah Trimming is a Graduate Fellow at the Environmental Law and Justice Clinic. She

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

	graduated from law school at Golden Gate University School of Law in 2014 with a specialization in environmental law. She was admitted into the California Bar in December 2014. Pursuant to D.16-05-048, awarding Tovah $165/hours, her requested rate is $165 for 2015, which is the lowest rate for an attorney with her experience. CEJA requests the same $165 for work done in 2016 since no new resolution for 2016 has been released at the time of this intervenor compensation award request.
Comment 5	David Zizmor was a Graduate Fellow at the Environmental Law and Justice Clinic. He graduated from law school at Golden Gate University School of Law in 2007, and was admitted into the California Bar in June 2008. Pursuant to D.15-06-020, CEJA requests $210/hours for David's hours in 2013 and $215/hour for 2014.
Comment 6	Julia May is Senior Staff Scientist at Communities for a Better Environment. For more than twenty years, Ms. May has been providing technical advice to community members concerning environmental and energy-related matters. Ms. May holds a BS in Electrical Engineering from University of Michigan, Ann Arbor (1981). Ms. May provided invaluable testimony concerning many of the technical questions presented in Track IV, which enabled CEJA to make its significant contribution.
Comment 7	A rate of $100 per hour for law student work was approved in D.13-12-022, D.13-10-014, and D.11-03-025. D.04-04-012 also approved ELJC law students for a rate of $90 per hour for work done in 2003. The rate took into account that the ELJC law students received academic credits for the work they did. D.07-04-032 approved $100 per hour for work a law student did in 2006. CEJA requests the same $100 per hour rate for law students that was previously approved in D.11-03-025, D.13-10-014, D.13-12-022, and D.15-06-020.
Comment 8	D.04-04-012 cites the usual method of cutting in half the approved rate of an attorney for work done on applications for intervenor compensation because the task does not need the expertise of an attorney. Tovah Trimming was awarded $165/hour in D.16-05-048 and CEJA therefore $82.50, half of this rate. David Zizmor was awarded $215/hour in D.15-06-020 and CEJA therefore $107.50, half of this rate.
Comment 9	D.04-04-012 cites the usual method of cutting in half the approved rate of an attorney for work done on applications for intervenor compensation because the task does not need the expertise of an attorney. Shana Lazerow received a rate of $345 per hour in 2014 (*see* D.1506020; D1510042) and 2015 (*see* D.1510042). CEJA therefore seeks half of this rate, $172.50/hour, for Shana's work performed on the intervenor compensation request.

D. CPUC Disallowances and Adjustments:

Item	Reason
[1]	Behles' rate is within the range approved for attorneys with 13+ years of legal experience. We decline to raise the rate, as requested. If Behles is eligible to request a 5% step-increase, as approved the Commission, she may do so in future intervenor compensation requests.

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. CEJA has made a substantial contribution to D.15-06-028, D.15-10-031 and D.16-06-042.

2. The requested hourly rates for CEJAs representative, 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 are reasonable and commensurate with the work performed.

4. The total of reasonable compensation is $134,582.57.

CONCLUSION OF LAW

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

ORDER

1. California Environmental Justice Alliance shall be awarded $134,582.57.

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 California Environmental Justice Alliance 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 November 5, 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 October 13, 2016, at Long Beach, 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

Compensation Decision:	D1610016	**Modifies Decision?**	No
Contribution Decision(s):	Decisions (D.) 15-06-028, D.15-10-031 and D.16-06-042		
Proceeding(s):	R1312010		
Author:	ALJ Fitch		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
California Environmental Justice Alliance (CEJA)	08/22/106	$135,102.32	$134,582.57	N/A	*Change in annual rates*

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Deborah	Behles	Attorney	CEJA	$340.00	2014	$340.00
Deborah	Behles	Attorney	CEJA	$375.00	2015	$340.00
Shana	Lazerow	Attorney	CEJA	$335.00	2013	$335.00
Shana	Lazerow	Attorney	CEJA	$345.00	2014	$345.00
Shana	Lazerow	Attorney	CEJA	$345.00	2015	$345.00
Shana	Lazerow	Attorney	CEJA	$345.00	2016	$350.00
Nina	Robertson	Attorney	CEJA	$300.00	2015	$300.00
Tovah	Trimming	Attorney	CEJA	$165.00	2015	$165.00
Tovah	Trimming	Attorney	CEJA	$165.00	2016	$165.00
David	Zizmor	Attorney	CEJA	$210.00	2013	$210.00
David	Zizmor	Attorney	CEJA	$215.00	2014	$215.00
Julia	May	Expert	CEJA	$160.00	2014	$165.00
N/A	N/A	Clinical Law Student	CEJA	$100.00	2014	$100.00
N/A	N/A	Clinical Law Student	CEJA	$100.00	2015	$100.00

(END OF APPENDIX)