



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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02-28-11  
11:14 AM

Application of Southern California Edison Company (U338E) for Approval of Agreements to Sell Its Interests in Four Corners Generation Station

Proceeding A.10-11-010 (Filed November 15, 2010)

NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION AND, IF REQUESTED (and [X] checked), ALJ RULING ON SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

Customer (party intending to claim intervenor compensation): Sierra Club
Assigned Commissioner: Michael Peevey Assigned ALJ: Hallie Yacknin
I hereby certify that the information I have set forth in Parts I, II, III and IV of this Notice of Intent (NOI) is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this NOI and has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).
Signature: /s/ Suma Peesapati
Date: 02/28/2011 Printed Name: Suma Peesapati

PART I: PROCEDURAL ISSUES

(To be completed by the party ("customer") intending to claim intervenor compensation)

A. Status as "customer" (see Pub. Util. Code § 1802(b)): The party claims "customer" status because it (check one):
1. Category 1: Represents consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the Commission (§ 1802(b)(1)(A))
2. Category 2: Is a representative who has been authorized by a "customer" (§ 1802(b)(1)(B)).
3. Category 3: Represents a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, to represent "small commercial customers" (§ 1802(h)) who receive bundled electric service from an electrical corporation (§ 1802(b)(1)(C)), or to represent another eligible group.
4. The party's explanation of its customer status, economic interest (if any), with any documentation (such as articles of incorporation or bylaws) that supports the party's "customer" status. Any attached documents should be identified in Part IV.
Sierra Club meets the third definition of "customer" provided in Public Utilities Code section 1802(b)(1)(C). Sierra Club is a "representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of

residential customers . . . .”

Sierra Club is a non-profit, member-based, “public benefit” California corporation. Over 187,000 of Sierra Club’s members live and purchase utility services in California, and many of these members are residential customers of Southern California Edison, the regulated utility in this proceeding. Sierra Club’s mission and corporate purpose include “promot[ing] the responsible use of the earth’s ecosystems and resources; educat[ing] and enlist[ing] humanity to protect and restore the quality of the natural and human environment; and us[ing] all lawful means to carry out these objectives.” *See, e.g.*, Sierra Club Articles of Incorporation at III.<sup>1</sup>

Sierra Club’s Articles, Bylaws, Standing Rules, and policies authorize and require it to represent the environmental interests of its members – including California IOU (investor-owned utilities) customers. Sierra Club’s Board of Directors is democratically elected by its members. *See* Sierra Club Standing Rule (“S.R.”) 4.8.1.<sup>2</sup> Sierra Club is expressly authorized to participate in environmental legal actions to advance its mission, including lawsuits and administrative proceedings. *See* S.R. 5.15.1 and 9.1.2. For decades, Sierra Club has participated in environmental lawsuits and administrative proceedings, and has appeared many times before the California Public Utilities Commission.

Sierra Club’s environmental concerns encompass a broad range of energy and pollution issues. Specifically, Sierra Club has become a leader in the effort to reduce California’s and the nation’s dependence on fossil fuels. The highest current priority of the Sierra Club’s work is eliminating the need for fossil fuel-fired power plants through the development of affordable renewable energy. A robust renewable energy portfolio will help meet the Governor’s goal that California generate 33% of its energy from renewable sources by 2020. The Sierra Club has been active in the legislature and its committees as well as in the Governor’s office to bring renewable energy on line and to reform the state’s renewable portfolio standard.

Encouraging renewable energy options remains a high priority for Sierra Club. Sierra Club California will devote significant resources to these and other renewable energy issues for the next five to ten years in its national and state level “Clean Energy Solutions” campaign. A centerpiece is to secure solutions to global warming, using existing and upcoming technology to “curb global warming, while at the same time building a clean, sustainable economy that lowers energy bills and creates thousands of new jobs.” *See* Sierra Club, “Clean Energy Solution,” available at <http://www.sierraclub.org/energy/>.

To advance these energy-related concerns, Sierra Club has employed litigation (including participation in administrative proceedings), public education and organizing, electoral and lobbying efforts, and communications and media work. Sierra

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<sup>1</sup> All Sierra Club Articles, Bylaws, Standing Rules and Policies are publicly retrievable at <http://www.sierraclub.org/policy/>.

<sup>2</sup> A copy of the Sierra Club’s Bylaws and Standing Rules are attached.

Club has brought legal actions numerous times to address pollution from coal-fired power plants, while simultaneously affirmatively supporting renewable energy projects involving wind and solar. Sierra Club lobbyists and volunteer members actively worked in favor of passage of California’s landmark laws and implementing regulations to address global warming, including A.B. 32 (“Global Warming Solutions Act of 2006”) and A.B. 1493 (the “Pavley bill,” imposing greenhouse gas emission limits on motor vehicles).

The interests of the customers represented by Sierra Club are unique and well-suited to this case and are not adequately represented by other parties that have intervened in this case.<sup>3</sup> As the Commission has recognized: “With respect to environmental groups, we have 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 damaging. (D.88-04-066, mimeo at 3). They represent customers who have a concern for the environment which distinguishes their interests from the interests represented by Commission staff, for example.” D.98-04-059, at 29 n. 14. Sierra Club California brings to this proceeding its members’ unique perspective and experience advancing innovative technical and regulatory solutions to increase renewable energy sources and drastically reduce California’s carbon footprint. The Commission has accordingly approved Sierra Club California’s intervention with entitlement to compensation on several occasions. *See, e.g.*, D.06-06-056; D.09-10-054.

Sierra Club, consistent with its governing documents, appropriately represents the environmental and ratemaking interests of its members who are California IOU customers. Sierra Club California therefore qualifies as a “customer” as defined in section 1802(b)(1)(C) of the Public Utilities Code and the Commission’s decisions applying this section to environmental organizations.

<b>B. Timely Filing of NOI (§ 1804(a)(1)):</b>	<b>Check</b>
1. Is the party’s NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: February 1, 2011	Yes <u>X</u> No __
2. Is the party’s NOI filed at another time (for example, because no Prehearing Conference was held, the proceeding will take less than 30 days, the schedule did not reasonably allow parties to identify issues within the timeframe normally permitted, or new issues have emerged)?	Yes __ No <u>X</u>
2a. The party’s description of the reasons for filing its NOI at this other time:	

<sup>3</sup> “Section 1801.3(f) requires an intervenor to avoid unnecessary participation that duplicates that of similar interests otherwise adequately represented by another party, or unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation if its participation materially supplements, complements, or contributes to that of another party if that participation makes a substantial contribution to the commission order.” D.07-03-011 at 7.

2b. The party's information on the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, or ALJ ruling, or other document authorizing the filing of its NOI at that other time:

## **PART II: SCOPE OF ANTICIPATED PARTICIPATION**

(To be completed by the party ("customer") intending to claim intervenor compensation)

### **A. Planned Participation (§ 1804(a)(2)(A)(i)):**

- The party's description of the nature and extent of the party's planned participation in this proceeding (as far as it is possible to describe on the date this NOI is filed).

Sierra Club plans to participate in key aspects of the proceeding. This proceeding involves evaluation of the sale agreement for Southern California Edison's ("Edison") share of the Four Corners Power Plant, evaluation of Edison's request to make certain capital investments in 2012, and environmental review under the California Environmental Quality Act ("CEQA"). These issues go to the heart of Sierra Club's work on energy issues and environmental protection. To augment its ability to fully address the issues raised by this proceeding, Sierra Club is represented by Earthjustice, a non-profit environmental law firm.

Sierra Club California intends to actively participate in the proceeding including:

- Attending hearings, conferences, and workshops;
- Meeting with other parties;
- Preparing written and oral testimony on matters of law and evidence pertinent to this proceeding;
- Preparing expert research and testimony pertinent to this proceeding;
- Participating in public hearings and evidentiary hearings;
- Serving and reviewing discovery;
- Filing comments, motions, and/or briefs as necessary;
- Ensuring compliance with SB 1368 and the Commission's Emissions Performance Standard ("EPS"); and
- Ensuring compliance with CEQA.

Sierra Club has been coordinating with other parties and will continue to coordinate its participation with other parties (to the extent possible), to avoid duplication of efforts.

Sierra Club plans to work on issues that fall within the purview of Sierra Club's interests identified above, including but not limited to, moving California, and the nation, towards a low-carbon future and ensuring compliance with the State's environmental laws including SB 1368 and CEQA. To this end, Sierra Club California plans to work on the topics identified by the Commissioner Peevey's "Scoping Memo and Ruling," issued on

February 8, 2011, including, but not limited to, issues related to:

- the reasonableness of the sale agreement between Edison and Arizona Public Service;
- the reasonableness of Edison's proposed 2012 capital expenditures (including whether these expenditures comply with the Commission's EPS as well as the EPS for Edison); and
- CEQA compliance

Sierra Club California's estimates may change in response to changing circumstances and needs as the proceeding evolves, because at this point, the full scope and duration of the proceeding is uncertain, especially with respect to CEQA review. Sierra Club may augment and/or amend its NOI as needed. Below is a preliminary estimate of hours based on current assumptions about the scope and duration of the proceeding.

<b>B. The party's itemized estimate of the compensation that the party expects to request, based on the anticipated duration of the proceeding (§ 1804(a)(2)(A)(ii)):</b>				
<b>Item</b>	<b>Hours</b>	<b>Rate \$</b>	<b>Total \$</b>	<b>#</b>
<b>ATTORNEY FEES</b>				
Suma Peesapati	300	330	99,000	1
Abigail Dillen	50	330	16,500	2
[Additional Attorney] up to \$535/hour	50	Up to \$535/hour	26,750	3
Law Clerks	100	100	10,000	4
		<b>Subtotal:</b>	152,250	
<b>EXPERT FEES</b>				
Phyllis Fox	100	300	30,000	5
Other experts, as needed	100	200	20,000	6
		<b>Subtotal:</b>	50,000	
<b>OTHER FEES</b>				
Research Associate	100	125	12,500	7
		<b>Subtotal:</b>	12,500	
<b>COSTS</b>				
Estimated Miscellaneous Expenses (e.g. telephone, photocopying)			500	
		<b>Subtotal:</b>	500	
<b>TOTAL ESTIMATE \$:</b>			215,250	
<p>Comments/Elaboration (use reference # from above):</p> <p>[References 1-7] The amount of any future claim to compensation is dependent upon the actual scope of the case and the final decision(s) in this proceeding. Sierra Club has not included claim preparation time in this estimate. Sierra Club will further address the reasonableness of the hourly rates requested in any request for compensation filed. However, Sierra Club provides the following initial information about the rates to be requested.</p> <p>[References 1,2] Suma Peesapati and Abigail Dillen, the Earthjustice attorneys, are 1999 and 2000 law school graduates (respectively) and thus, fall within the range for attorneys for 8-12 years of experience. Both are experienced environmental attorneys, who have practiced in the federal and state courts and administrative proceedings on a wide variety of issues, including energy-related matters.</p> <p>[References 5] Phyllis Fox, whose CEQA and power plant work spans more than two decades, is an expert in her field. She has served as a testifying witness in many administrative and judicial proceedings in California and throughout the country.</p>				
When entering items, type over bracketed text; add additional rows to table as necessary.				

Estimate may (but does not need to) include estimated claim preparation time. Claim preparation is typically compensated at ½ of preparer’s normal hourly rate.

**PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

(To be completed by party (“customer”) intending to claim intervenor compensation; see Instructions for options for providing this information)

<b>A. The party claims “significant financial hardship” for its claim for intervenor compensation in this proceeding on the following basis:</b>	<b>Applies (check)</b>
1. “[T]he customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation” (§ 1802(g)); or	
2. “[I]n the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding” (§ 1802(g)).	X
3. A § 1802(g) finding of significant financial hardship in another proceeding, made within one year prior to the commencement of this proceeding, created a rebuttable presumption of eligibility for compensation in this proceeding (§ 1804(b)(1)).	

**B. The party’s explanation of the factual basis for its claim of “significant financial hardship” (§ 1802(g)) (necessary documentation, if warranted, is attached to the NOD):**

The average utility bill of Sierra Club’s members and the customers it represents is small compared to the costs of effective participation in this proceeding (which is currently estimated to be over \$200,000). Sierra Club is representing the economic and environmental interests of its members in California who are customers of Edison, the regulated utility in this proceeding. While some of these California-resident members (whose annual electricity costs are likely less than \$1000) may eventually experience lower and/or more stable electricity bills because of Sierra Club’s contribution in this proceeding, the economic interest represented by such savings is very small in comparison to the expenses incurred by the organization to present its views in this proceeding. It is unlikely that Sierra Club's members will see financial benefits that exceed Sierra Club's costs of intervention.

**PART IV: THE PARTY’S ATTACHMENTS DOCUMENTING SPECIFIC ASSERTIONS MADE IN THIS NOTICE**

(The party (“customer”) intending to claim intervenor compensation identifies and attaches documents (add rows as necessary.) Documents are not attached to final ALJ ruling.)

<b>Attachment No.</b>	<b>Description</b>
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1	Certificate of Service
2	Sierra Club Bylaws and Standing Rules

**ADMINISTRATIVE LAW JUDGE RULING<sup>4</sup>**  
(ALJ completes)

	Check all that apply
<b>1. The Notice of Intent (NOI) is rejected for the following reasons:</b>	
a. The NOI has not demonstrated status as a “customer” for the following reason(s):	
b. The NOI has not demonstrated that the NOI was timely filed (Part I(B)) for the following reason(s):	
c. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s):	
<b>2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above).</b>	
<b>3. The NOI has not demonstrated significant financial hardship for the following reason(s):</b>	
<b>4. The ALJ provides the following additional guidance (see § 1804(b)(2)):</b>	

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<sup>4</sup> An ALJ Ruling will not be issued unless: (a) the NOI is deficient; (b) the ALJ desires to address specific issues raised by the NOI (to point out similar positions, areas of potential duplication in showings, unrealistic expectations for compensation, or other matters that may affect the customer’s claim for compensation); or (c) the NOI has included a claim of “significant financial hardship” that requires a finding under § 1802(g).

**IT IS RULED that:**

	<b>Check all that apply</b>
1. The Notice of Intent is rejected.	
2. Additional guidance is provided to the customer as set forth above.	
3. The customer has satisfied the eligibility requirements of Pub. Util. Code § 1804(a).	
4. The customer has shown significant financial hardship.	
5. The customer is preliminarily determined to be eligible for intervenor compensation in this proceeding. However, a finding of significant financial hardship in no way ensures compensation.	

Dated \_\_\_\_\_, at San Francisco, California.

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ADMINISTRATIVE LAW JUDGE

**Attachment 1:  
Certificate of Service by Customer**

I hereby certify that I have this day served a copy of the foregoing **NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION** by (check as appropriate):

- hand delivery;
- first-class mail; and/or
- electronic mail

to the following persons appearing on the official Service List:

(See below.)

Executed this 28th day of February, 2011, at Oakland,  
California.

/s/ Suma Peesapati

Signature

SUMA PEESAPATI  
Earthjustice  
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Oakland, CA 94612  
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