



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of SAN DIEGO GAS & ELECTRIC COMPANY (U902 E) for a Permit to Construct Electrical Facilities with Voltages between 50 kV and 200 kV and New Substations with High Side Voltages Exceeding 50 kV: The East County Substation Project

Application 09-08-003

**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): Backcountry Against Dumps (“BAD”)

Assigned Commissioner: Michael R. 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/ Stephan C. Volker

Date: 3-21-2011 Printed Name: Stephan C. Volker

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): | Applies (check) |
|---|------------------------|
| 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)). | X |
| 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. | |
| <p>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.</p> <p>A Category 2 customer is a representative who has been authorized to represent an actual customer or customers. Category 2 involves a more formal arrangement where a customer selects a more skilled person to represent the customer’s views in a proceeding. Here James A. Shaw, a member of BAD and customer of SDG&E, has authorized BAD to represent his interests in the present proceeding. See attachment #2 Declaration of James A. Shaw in Support of Notice of Intent to Claim Compensation. Therefore, BAD qualifies as a Category 2 customer under section 1802(b)(1)(B).</p> | |

| B. Timely Filing of NOI (§ 1804(a)(1)): | Check |
|---|--|
| 1. Is the party’s NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: February 18, 2011 | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> |
| 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 <input type="checkbox"/> No <input type="checkbox"/> |
| 2a. The party’s description of the reasons for filing its NOI at this other time: | |
| 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)): |
|---|
| <p>Backcountry Against Dumps (BAD) filed a 16-page protest in this matter on September 14, 2009. Additionally, BAD filed a 19-page scoping comment letter. More recently, BAD participated in the prehearing conference held on February 18, 2011, and has submitted two briefs on the question raised therein of whether the present project requires a CPCN. BAD also submitted extensive comments on the Draft EIR for this project on March 4, 2011. Further, to the extent permitted by the Commission, intervenor plans to:</p> <ul style="list-style-type: none"> • serve written testimony; • cross-examine witnesses (if necessary); |

- review testimony served by other parties;
- attend all other conferences or hearings related to the present application;
- file briefs, comments, and other pleadings, including the filing of comments on any future CEQA documents produced by the Commission;
- participate, if invited, in settlement negotiations.

Intervenor will concentrate its participation on the issues highlighted in its protest and comment letters, which are hereby incorporated by reference. In general, intervenor urges a full CEQA review of the project, including analysis and mitigation of all indirect, growth-inducing, and cumulative impacts. Intervenor does not expect to duplicate the efforts of any other parties as no other parties protested SDG&E's application, made an appearance at the prehearing conference, or submitted briefing on the CPCN question. If other environmental groups intervene, intervenor will coordinate, to the extent practicable, with any such groups' participation.

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)):

| Item | Hours | Rate \$ | Total \$ | # |
|----------------------|-------|------------------|-----------|---|
| ATTORNEY FEES | | | | |
| Stephan C. Volker | 150 | \$650 | \$97,500 | 1 |
| Joshua A.H. Harris | 200 | \$300 | \$60,000 | 2 |
| | | Subtotal: | \$157,500 | |
| EXPERT FEES | | | | |
| Michael S. McCann | 50 | \$390 | \$19,500 | 3 |
| David Colling | 50 | \$185 | \$9,250 | 4 |
| Bill Powers | 50 | \$225 | \$11,250 | 5 |
| Unknown Experts | 100 | \$200 | \$20,000 | 6 |
| | | Subtotal: | \$60,000 | |
| OTHER FEES | | | | |
| Paralegal/Law Clerk | 150 | \$150 | \$22,500 | 7 |

| | | | |
|---------------------------|------------------|-----------|----|
| | Subtotal: | \$22,500 | |
| COSTS | | | |
| Photocopying | | \$500 | 8 |
| Postage | | \$200 | 9 |
| Travel | | \$2,000 | 10 |
| | Subtotal: | \$2,700 | |
| TOTAL ESTIMATE \$: | | \$242,700 | |

Comments/Elaboration (use reference # from above):

#1 Mr. Volker has 36 years of specialized experience in environmental litigation and has participated in over one dozen CPUC proceedings. His market rate is \$650-750 per hour. The rate most recently assigned to Mr. Volker by the Commission in D.09-05-011 was \$330 per hour for work completed in 2008. BAD challenges the rate this Commission has assigned to Mr. Volker as an anomalous understatement of Mr. Volker's market rate.

#2 Mr. Harris's rate is based on the Commission's most recent rate range determination, ALJ-247, wherein the Commission identified a rate range of \$280-300 for attorneys with 5-7 years of experience. Mr. Harris began working as an attorney in October 2003 and thus has over seven years experience, qualifying him for the top rate in the Commission's range.

#3 Mr. McCann's rate is based on the Commission's most recent rate range determination, ALJ-247, wherein the Commission identified a rate range of \$155-390 for experts with 13+ years of experience. Mr. McCann began working as an appraiser in 1980 and thus has approximately thirty-one years of experience, qualifying him for the top rate in the Commission's 13+ range.

#4 Mr. Colling's rate is based on the Commission's most recent rate range determination, ALJ-247, wherein the Commission identified a rate range of \$125-185 for experts with 0-6 years of experience. Mr. Colling began working as an electrical pollution assessor in 2005 and thus has approximately six years experience, qualifying him for the top rate in the Commission's range.

#5 Mr. Powers's rate is based on the Commission's recent decision in proceeding A-09-09-021 wherein the Commission awarded him a rate of \$225 per hour. The Commission had previously awarded Mr. Powers a rate of \$200 per hour in its decisions in proceedings A-08-07-017, A-06-11-007 and A-02-09-043.

**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)**

| A. The party claims “significant financial hardship” for its claim for intervenor compensation in this proceeding on the following basis: | Applies (check) |
|--|------------------------|
| 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 | X |
| 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)). | |
| 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)). | |
| ALJ ruling (or CPUC decision) issued in proceeding number: Date of ALJ ruling (or CPUC decision): | |

| 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 NOI): |
|--|
| <p>According to D.98-04-059, the standard “cannot afford, without undue hardship,” as set forth in Section 1802(g) of the Public Utilities Code, applies to Category 1 and 2 customers. As a Category 2 customer, BAD must demonstrate that James A. Shaw, the authorizing customer, cannot “without undue hardship” afford to pay the costs of effective participation and provide financial information demonstrating this undue hardship.</p> <p>According to the attached declaration of James A. Shaw, it would not be feasible for him to support participation in this proceeding. His monthly gross and net income, which is derived primarily from his family’s receipt of food stamps (under his wife’s name), and his monthly expenses, cash, and assets demonstrate that participation here presents a significant financial hardship. Based on the estimate of the cost of effective participation (approximately \$242,700) as compared to Mr. Shaw’s income, expenses, and assets, he</p> |

does not have the resources to pay for the costs of effective participation.

If the Commission desires further information regarding either the customer status or financial hardship component of this notice of intent, BAD hereby requests an opportunity to provide such information to the Commission.

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.)

| Attachment No. | Description |
|-----------------------|---|
| 1 | Certificate of Service |
| 2 | Declaration of James A. Shaw in Support of Notice of Intent to Claim Compensation |

ADMINISTRATIVE LAW JUDGE RULING¹
(ALJ completes)

| | Check all that apply |
|--|-----------------------------|
| 1. The Notice of Intent (NOI) is rejected for the following reasons: | |
| 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): | |
| 2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above). | |
| 3. The NOI has not demonstrated significant financial hardship for the following reason(s): | |

¹ 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).

| | |
|--|--|
| | |
| 4. The ALJ provides the following additional guidance (see § 1804(b)(2)): | |

IT IS RULED that:

| | Check all that apply |
|---|---|
| 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.

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 AND REQUEST FOR ALJ RULING ON SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

by (check as appropriate):

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

to the following persons appearing on the official Service List:

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Executed this 21st day of March, 2011, at Oakland, California.

/s/ Jamey M.B. Volker

Jamey M.B. Volker
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