FILED
02-25-11
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Agenda ID #____

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Energy Efficiency Risk/Reward Incentive Mechanism.	R0901019

WEM AMENDED CLAIM AND DECISION ON REQUEST FOR INTERVENOR COMPENSATION

Claimant: Women's Energy Matters			**For contribution to D**1012049
Claimed ($): $6,234.38			**Awarded ($):**
Assigned Commissioner: Bohn			**Assigned ALJ: Thomas R. Pulsifer**
I hereby certify that the information I have set forth in Parts I, II, and III of this Claim is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this Claim has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).			
		Signature:	**/s/ Barbara George**
Date:	**2/25/10**	**Printed Name:**	**Barbara George**

PART I: PROCEDURAL ISSUES (to be completed by Claimant except where indicated)

A. Brief Description of Decision: Decision awarded $68 million additional profits to utilities for the final true-up for 2006-08 energy efficiency. The proceeding was marked by controversy all the way to the final decision. There were three proposed decisions, one by the ALJ and alternates by two Commissioners. Two other Commissioners issued emphatic dissents.

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		

1. Date of Prehearing Conference:	4/7/09	
2. Other Specified Date for NOI:		
3. Date NOI Filed:	5/7/09	
4. Was the notice of intent timely filed?		
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:		
6. Date of ALJ ruling:		
7. Based on another CPUC determination (specify):	D1009015.	
8. Has the claimant demonstrated customer or customer-related status?		
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:		
10. Date of ALJ ruling:		
11. Based on another CPUC determination (specify):	D1009015; see also, our NOI	
12. Has the claimant demonstrated significant financial hardship?		
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D1012049	
14. Date of Issuance of Final Decision:	12/27/10	
15. File date of compensation request:	2/25/10	
16. Was the request for compensation timely?		

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

#	Claimant	CPUC	Comment

PART II: SUBSTANTIAL CONTRIBUTION (to be completed by Claimant except where indicated)

A. In the fields below, describe in a concise manner Claimant's contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059) (For each contribution, support with specific

reference to final or record.)

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
Overall, WEM sought to reduce costs to ratepayers by eliminating undeserved awards of EE profits. We upheld the veracity and definitiveness of the Energy Division True-Up Report. 7/23/10, pp. 2-3. WEM has warned throughout this proceeding that rewarding poor performance and bad behavior was a perverse incentive for utilities to continue to fail to meet their goals in the future. For example, 10/18/10 pp. 2-3. While we expressed a preference for the ALJ's PD over the Bohn Alternate (and Revised Alternate), we noted that the PD, too, wrongly engaged in revisions of parameters that utilities had been told would govern the RRIM decision and should not have been changed, especially in a cynical attempt to avoid imposing penalties and attempt to further justify previous undeserved awards to the utilities. 11/8/10, pp. 2-4. WEM made it clear to the Commission that we were disappointed that it would even consider overriding the independent EM&V overseen by its own staff, and therefore we refused to participate in second-guessing the ED report through a prolonged analysis of various scenarios that altered different parameters in order to achieve better outcomes for utilities. 7/23/10 WEM pp. 3-4. (Similarly we indicated our dismay with Pres. Peevey's alternate by refraining from commenting on it.) We praised the PD's rejection of ex ante values from the 2005 DEER.	The majority decision rejected the conclusions of ED's final report and awarded $68 million additional profits to the utilities (for a total of $211 m profits for the three year cycle). The decision was based on modified "Scenarios" that reverted to ex ante assumptions, rather than relying on ex post evaluations that recommended no additional profits. The decision claimed that utilities could not have known their portfolios would fail their evaluations. D1012049, pp.6-7. However, two Commissioners (Grueneich and Ryan) filed emphatic dissents. In particular, Comm. Grueneich's dissent contested the claims that utilities could not have known they would fail, and could not have adapted if they had known. She pointed out that the utilities were warned prior to filing program plans and early in the cycle (i.e. in 2005 and 2006) that their ex ante assumptions lacked credibility and their portfolios should be modified. Grueneich Dissent, pp. 2-3. As Comm. Grueneich pointed out, the ALJ's PD rejected the use of the 2005 DEER (which is the source of many of the ex ante assumptions that were overturned by the ex post evaluations). ALJ PD, p. 21. This point was buttressed by WEM's long-time position that the 2005 DEER contained outdated values and was marred by the utilities controlling it. 10/18/10 WEM, p. 4. (see column on left for more discussion). Grueneich noted that PG&E failed more fully because they performed no	

10/18/10 WEM, p. 4. In earlier phases of this and other proceedings WEM explained why the Commission should not rely on values from the 2005 DEER because they were based on long-outdated data. Our early objections at the time the 2005 DEER was released were consistent with the Commission's warnings at the time the 2006-08 portfolios were created that the IOUs should expect these values to changes and should modify their portfolios accordingly. WEM refused to settle with PG&E because of its exceptionally poor performance as well as its extensive misuse of funds. 7/23/10, p. 9; 10/18/10, p. 3-4. We urged the Commission to apply penalties for IOUs failure to meet goals as the RRIM mechanism promised. 10/18/10 pp. 3-4. WEM provided information about the impunity with which PG&E misuses EE funds, which displays disrespect for the Commission and its oversight processes. WEM 7/23/10, pp. 7-9.	modifications; other utilities' modifications were inadequate. The dissent reflect WEM's position throughout this part of the proceeding that the Commission should not have engaged in second-guessing ED's report through "scenario" analysis. 7/23/10 WEM, p. 3 It also reflected WEM's concerns about PG&E's exceptionally poor performance, even worse than other utilities. See, WEM 11-8-10 WEM Comment on Rev. Alt., p. 4. Comm. Grueneich's dissent concluded that the Commission should consider independent administration if the utilities desire for profits prevented them from adapting to market conditions. Grueneich Dissent p. 4. This statement reflected WEM's position throughout this proceeding that the RRIM "simply doesn't work" — it does not sufficiently incentivize the utilities to do a good job and may provide perverse incentives for them to game the system, and therefore the Commission should take away utilities' monopoly on EE administration. See extensive discussion 7/23/10, pp. 4-7. WEM 11-8-10 WEM, p. 4.	
Conclusion: WEM's participation clearly resulted in a substantial contribution and should be compensated in full.		

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was DRA a party to the proceeding? (Y)		
b. Were there other parties to the proceeding? (Y)		
c. If so, provide name of other parties: TURN, NRDC, NAESCO, CLECA, IOUs		

d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: **WEM has discussed with DRA and TURN generally which issues we are following, to reduce duplication.** **Where there was duplication, WEM supplemented and complemented others' comments. In particular, we urged the Commission to uphold ED's report and use ex post measurements as the original RRIM promised, and to refrain from pursuing modifications pursuant to different scenarios, e.g. 7/23/10 pp. 3-4. We also discussed why the underlying concept of the RRIM was unsuccessful at incentivizing strong EE programs but instead rewarded lowering standards and utility gaming. 7/23/10 pp. 5-8. (We also provided unique information on PG&E's EE misuse. 7/23/10 pp. 7-8). Comm. Grueneich's dissent echoed many of WEM's positions.** **Regarding the other parties: NRDC and WEM seldom overlap. NAESCO and CLECA were not very active in this phase.**	

C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Claimant	CPUC	Comment

PART III: REASONABLENESS OF REQUESTED COMPENSATION (to be completed by Claimant except where indicated)

A. General Claim of Reasonableness (§§ 1801 & 1806):

Concise explanation as to how the cost of claimant's participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)	CPUC Verified
The Decision rejected the Proposed Settlement, in part because of WEM and others' strong objections to it. Settlement talks failed because WEM, DRA and TURN refused to settle with utilities. The final decision awarded less than the proposed settlement; therefore WEM's opposition saved money for ratepayers. Strongly worded dissents by two Commissioners demonstrated that WEM had made a substantial contribution, at least to their thinking, even though the majority decided to provide awards to the utilities. Commissioner Grueneich's dissent (cited above) stated that Commissioner Peevey's alternate wrongly claimed that the utilities could not have foreseen that their exaggerated ex ante assumptions would be drastically reduced by honest ex-post evaluation; she pointed out that they were	

clearly informed of that in advance. She also warned that undeserved rewards sent the wrong signal to utilities – that they could ignore their goals with impunity - and that was a bad precedent. The dissents echoed many of WEM's positions.

WEM's participation saved ratepayers from potentially paying millions more in undeserved claims; it also added to a record that could result in rehearing or modification at a later date, potentially saving even more. WEM's participation overall was very efficient, thanks to our many years' experience in CPUC proceedings addressing RRIM and EM&V issues, which allowed us to digest complex information quickly in this proceeding. We also saved money for ratepayers by declining to participate in the time-consuming scenario analysis, which we considered unnecessary and wasteful.

(Finally, this proceeding will continue in its final phase to consider whether or not to extend the RRIM. While it is speculative what might happen in the future, it is possible that the dissents to this decision might result in changes to the future RRIM (or elimination of it). As the dissents were influenced by WEM's consistently upholding independent evaluations and higher standards to protect ratepayers from overpayments, as well as our advocacy for ending the RRIM and pursuing other, non-utility administrative options, it is possible that our participation will provide even more substantial savings in the future.)

In this Amended Request, WEM provides an approximate time-allocation by issue pursuant to Rule 17.4(b)(3) and (4) and D98-04-059 (at 47-48). We provide an Issue Allocation Chart, below, and also in the Issues allocation with our time sheets. We also provide a detailed description of the issues and sub-issues (see next box). (Note: it would be nearly impossible to determine exactly how much time was spent on each major issue or sub-issue.)

Issue allocation
ED process (evaluations)
EM&V
EE resource
GP
Procedural
RRIM
Scenarios
Settlement
Total

We provide the following key to major issues, sub-issues, and abbreviations:

Issues	**Sub-issues**	**Issue description**
ED Process (evaluations)		Energy Division process & timing for EM&V studies & reports
	TRUE	Final True-Up (final comprehensive EM&V report for a whole cycle)

	VR	Verification Report (interim limited EM&V report for part of a cycle)
EM&V		Evaluation, Measurement, and Verification
	CS	Cumulative Savings
	DEER	DEER values & updates (e.g. for Estimated Useful Life (EULs); Net to Gross (NTG), interactive effects, CFLs (compact fluorescent lights))
	Ex Ante, Ex Post	Predictions in program planning documents (Ex ante); Completed & measured savings (ex post)
EE Resource		EE as a reliable resource for the grid
GP		General Practice (generic responsibilities of any party in a proceeding)
Misuse		Improper use of EE funds
Procedural		Resolving questions re access to documents and timing of comments
RRIM		Underlying concepts about incentivizing utilities
Scenarios		Analysis of multiple scenarios altering the values and assumptions in the final report and reverting to ex ante assumptions & values
Settlement		Pertaining to proposed settlement(s)
	GS	General – re Settlement
	IOU Reports	Utility-reported savings claims

Discussion of Issues WEM focused on in this phase

As the Scoping Memo stated:

> [E]valuation, measurement and verification EM&V of RRIM earnings claims, have proved to be highly controversial, quite complex, and not as easily or as timely resolved as had been hoped. Scoping Memo, p 2.

The proceeding remained controversial up to and including the final decision.

The Commission chose to rely on scenarios that accepted IOUs' ex ante assumptions (with further modifications) instead of ED ex post evaluations, claiming that utilities could not have known how badly their portfolios would fail, or how they could have modified the portfolios to succeed.

WEM continued to uphold the strong EM&V in the ED reports, and advocated for keeping the rules of the game as they were originally envisioned in the RRIM – which required ex post evaluations and updating key assumptions.

We felt that the effort to revise the ED reports through "scenarios" was a fundamental betrayal of ratepayers; changing the rules of the game to benefit utility shareholders. We chose not to engage in scenario analysis, as evidence of our disapproval. We continued to discuss why the Commission

should look at the bigger picture to understand that the RRIM was not working to incentivize utilities to do better programs, and even if it did, there were things that needed to be addressed to make EE perform as a real resource, which were being completely ignored in the RRIM. We also advocated for penalties for PG&E, since it failed ED evaluations even worse than the other IOUs, and we pointed out that PG&E's misuse of funds for political ends should have led to deeper questioning about whether PG&E should get profits on these programs.	

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
Barbara George	2010	30	$175	D1009015	$5250				
				Subtotal:	***$5250***			***Subtotal:***	
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
Barbara George	2010		$87.50	D1009015	$984.38				
				Subtotal:	$984.38			***Subtotal:***	
				TOTAL REQUEST $:	**$6234.38**			**TOTAL AWARD $:**	

When entering items, type over bracketed text; add additional rows as necessary.
*If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale.
**Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.

C. Attachments or Comments Documenting Specific Claim (Claimant completes; attachments not attached to final Decision):

Attachment or Comment #	Description/Comment
1	**Certificate of Service**
2	**Time Sheets and Time-Allocation by Issue**

D. CPUC Disallowances & Adjustments (CPUC completes):

#	Reason

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))

(CPUC completes the remainder of this form)

A. Opposition: Did any party oppose the claim (Y/N)?

If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (*see* Rule 14.6(c)(6)) (Y/N)?

If not:

Party	Comment	CPUC Disposition

FINDINGS OF FACT

1. Claimant [has/has not] made a substantial contribution to Decision (D.) _____.
2. The claimed fees and costs [, as adjusted herein,] are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total of reasonable contribution is $_____.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, [satisfies/fails to satisfy] all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded $_____.
2. Within 30 days of the effective date of this decision, _____ shall pay claimant the total award. Payment of the award shall include interest at the rate earned on prime,

three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning _____, 200__, the 75th day after the filing of claimant's request, and continuing until full payment is made.

3. The comment period for today's decision [is/is not] waived.

4. [This/these] proceeding[s] [is/are] closed.

5. This decision is effective today.

Dated _____, at San Francisco, California.

Attachment 1:
Certificate of Service by Customer

I hereby certify that I have this day served a copy of the foregoing **REQUEST FOR INTERVENOR COMPENSATION** by (check as appropriate):

[ ] hand delivery;
[ ] first-class mail; and/or
[x] electronic mail

to the following persons appearing on the official Service List:

donaldgilligan@comcast.net,spatrick@sempra.com,larry.cope@sce.com,dil@cpuc.ca.gov,achang@nrdc.org,bfinkelstein@turn.org,lhj2@pge.com,M1ke@pge.com,wbooth@booth-law.com,wem@igc.org,gandhi.nikhil@verizon.net,jerickson@summitblue.com,fstern@summitblue.com,Scott.Dimetrosky@cadmusgroup.com,ckmitchell@sbcglobal.net,david@nemtzow.com,darren.hanway@sce.com,don.arambula@sce.com,kathleen.a.qumbleton@sce.com,tory.weber@sce.com,case.admin@sce.com,jennifer.shigekawa@sce.com,monica.ghattas@sce.com,liddell@energyattorney.com,ygross@sempra.com,CentralFiles@semprautilities.com,jyamagata@semprautilities.com,sephra.ninow@energycenter.org,bob.ramirez@itron.com,Jeff.Hirsch@DOE2.com,ddavis@cecmail.org,tam.hunt@gmail.com,ABesa@semprautilities.com,john.stoops@rlw.com,pvillegas@semprautilities.com,jeanne.sole@sfgov.org,FSmith@sfwater.org,mramirez@sfwater.org,tburke@sfwater.org,jchou@nrdc.org,lettenson@nrdc.org,marcel@turn.org,nlong@nrdc.org,pmiller@nrdc.org,cjn3@pge.com,efm2@pge.com,yxg4@pge.com,filings@a-klaw.com,ldri@pge.com,nes@a-klaw.com,sls@a-klaw.com,SRRd@pge.com,SRH1@pge.com,cassandra.sweet@dowjones.com,sdhilton@stoel.com,cem@newsdata.com,RegRelCPUCCases@pge.com,slda@pge.com,rsridge@comcast.net,cadickerson@cadconsulting.biz,Michael.Rufo@itron.com,rmurray@us.kema.com,stevek@kromer.com,dwang@nrdc.org,sberlin@mccarthylaw.com,brbarkovich@earthlink.net,bill@jbsenergy.com,erik@erikpage.com,mjaske@energy.state.ca.us,rliebert@cfbf.com,grover@portland.econw.com,Allen.Lee@cadmusgroup.com,ppl@cpuc.ca.gov,aeo@cpuc.ca.gov,cbe@cpuc.ca.gov,cf1@cpuc.ca.gov,cxc@cpuc.ca.gov,css@cpuc.ca.gov,jbf@cpuc.ca.gov,jl2@cpuc.ca.gov,cln@cpuc.ca.gov,jst@cpuc.ca.gov,jnc@cpuc.ca.gov,kwz@cpuc.ca.gov,keh@cpuc.ca.gov,lp1@cpuc.ca.gov,mmw@cpuc.ca.gov,mkh@cpuc.ca.gov,pw1@cpuc.ca.gov,pcf@cpuc.ca.gov,rhh@cpuc.ca.gov,srm@cpuc.ca.gov,tcx@cpuc.ca.gov,trp@cpuc.ca.gov,tcr@cpuc.ca.gov,zap@cpuc.ca.gov,ztc@cpuc.ca.gov,awp@cpuc.ca.gov

Executed this [25th] day of [February], 2011, at [Fairfax], California.

/s/ Barbara George

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