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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Nevada Hydro Company for a Certificate of Public Convenience and Necessity for the Talega-Escondido/Valley-Serrano 500 kV Interconnect Project.

Application 10-07-001
(Filed July 6, 2010)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

| | |
|---|--------------------------------|
| Customer (party intending to claim intervenor compensation): CENTER FOR BIOLOGICAL DIVERSITY | |
| Assigned Commissioner: Nancy Ryan | Assigned ALJ: Angela K. Minkin |

PART I: PROCEDURAL ISSUES

| 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)). | |
| 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. | X |

4. The party's explanation of its customers 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.

The Center for Biological Diversity ("Center") meets the third definition-a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential customer. The Center is a non-profit membership organization whose Articles of Incorporation specifically authorize it "to advance conservation efforts." Attachment No. 2 Articles of Incorporation. As part of that mission, the Center strives to reduce the environmental impacts of energy development, including the impacts of imperiled plants and wildlife. The Center advocates for and educates the public about energy efficiency, alternatives, and siting of power plants and transmission lines, in order to reduce impacts to imperiled species and habitats, improve air quality, and reduce greenhouse emissions. In this capacity the Center represents its members, many of whom are residential ratepayers, who seek to protect the environment. The Center's staff include attorneys, scientists, and policymakers who have considerable expertise regarding environmental impacts of energy development.

Approximately 9,500 Center members live in California and purchase utility services. Many of these members live in areas serviced by Southern California Edison. The interests of the members/customers represented by the Center are unique and are not fully represented by other parties involved with this case. Center members highly prioritize the need to reduce the environmental footprint of energy development, and to adhere to environmental laws. If not for the Center's Intervention, these concerns would not be adequately represented.

In Decision (D.) 98-04-059, page 49, footnote 14, the Commission stated its "previously articulated interpretation that compensation be proffered only to customers whose participation arises directly from their interests as customers." The Commission explained that "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 interest from the interests represented by Commission staff, for example.” Id. The Center is such an environmental group because it represents customers with a concern for the environment that is different from the interests represented by other groups in this proceeding.

| 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: December 2, 2009 | 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: | |
| 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

| A. Planned Participation (§ 1804(a)(2)(A)(i)): |
|---|
| <ul style="list-style-type: none"> <li data-bbox="240 1310 1386 1430">• 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). <p data-bbox="188 1455 1422 1871">Because the Talega-Escondido/Valley-Serrano 500 kV Interconnect Project could lead to significant environmental impacts in Western Riverside, the Santa Ana Mountains, and the Cleveland National Forest, the Center plans to be involved throughout this proceeding including environmental analysis under CEQA and compliance with the California Public Utilities Code. The Center has been an active participant in the proceedings to date and intends to remain actively involved in order to assure that the environmental interests of its member ratepayers are protected. The Center plans to continue to submit briefs and comments as required, prepare and serve testimony, and participate in evidentiary hearings as needed to represents the interests of its members. Such</p> |

action will require the use of legal counsel and any necessary expert involvement.

- The party’s statement of the issues on which it plans to participate.

The Center notes that because of the shifting nature of the scope of this Project, its level of involvement could vary. At this time, the Center plans to participate in a range of issues during the proceeding including review and comments of the environmental analysis under CEQA and the submission of testimony during hearings. The Center’s participation will include issues related to, but not limited to, the following: alternatives to the transmission line, route-specific habitat and community impacts, cumulative and indirect environmental impacts, project description and accurate description of the project area, cultural resources, air quality, hydrology and water quality, and cost benefit analysis.

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 | | | | |
| Jonathan Evans | 275 | \$250 | \$68,750 | |
| John Buse | 50 | \$475 | \$23,750 | 1 |
| <i>Subtotal:</i> | | | \$92,500 | |
| EXPERT FEES | | | | |
| Ileene Anderson | 30 | \$150 | \$ 4,500 | |
| Electrical Engineers (TBD) | 25 | \$250 | \$ 6,250 | 2 |
| <i>Subtotal:</i> | | | \$10,750 | |
| OTHER ATTORNEY FEES | | | | |
| Adam Keats | 40 | \$450 | \$18,000 | |
| <i>Subtotal:</i> | | | \$18,000 | |

| Item | Hours | Rate \$ | Total \$ | # |
|---|-------|---------|-----------|---|
| COSTS | | | | |
| Travel | | | \$ 3,500 | |
| Map productions | | | \$ 1,000 | |
| Photocopies | | | \$ 1,000 | |
| <i>Subtotal:</i> | | | \$5,500 | 1 |
| TOTAL ESTIMATE \$: | | | \$126,750 | |
| <p>Comments/Elaboration (use reference # from above):</p> <ol style="list-style-type: none"> 1. I have corrected the arithmetic calculations. 2. The Center has not yet entered into a formal contract with an engineering expert and states that this amount is a conservative estimate for these costs. | | | | |
| <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.</p> | | | | |

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 | |
| 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)). | X |

| | |
|--|--|
| ALJ ruling (or CPUC decision) issued in proceeding number: A.09-05-027, Administrative Law Judge's Ruling on Showing of Significant Financial Hardship Date of ALJ ruling (or CPUC decision): January 27, 2010 | |
|--|--|

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):

The cost of the Center's involvement in this proceeding will substantially outweigh the benefit to the individual members it represents. Typical member electric bills are small in comparison to the Center's expected costs of participation. As the Commission has stated in D.85-06-028,

It is obviously impractical for individual residential ratepayers to do much other than to send us letters or make brief statements at our public hearings, and while we appreciate such input it does not develop evidence of record upon which we can make findings of fact as required by law in connection with determining revenue requirement or rate changes. Realistically, then, there must be organized groups which participate on behalf of residential ratepayers on an ongoing basis with a reserve of experience and resources to that they can follow the continuing chain of ratemaking proceedings and participate effectively. We agree with TURN that it would simply not be cost effective for individual and residential ratepayers . . . to mount these expenditures [TURN's estimated budget for participation] separately on their own behalf.

The Center respectfully requests that compensation be granted to represent the environmental interests of its members since it would not be cost effective for individual members to incur such expenses to intervene. The average residential monthly bill for Southern California Edison is \$85.¹ A residential electric bill of approximately \$1,000 per year is much less than Centers' estimated cost of participation in this proceeding of approximately \$127,000.

As a non-profit organization, the Center does not accept fees from its clients and receives no government funding. The Center relies upon awards of attorneys' fees in litigation where the Center represents the prevailing party, as well as donations from private individuals, private foundations and corporate contributions as its sources of

¹ M. Lifsher, LA Times, California regulators OK Edison rate hike, March 13, 2009.

income. Absent eligibility for intervenor compensation, the Center would not have adequate resource to advocate for conservation before the PUC.

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

| Attachment No. | Description |
|----------------|---------------------------|
| 1 | Certificate of Service |
| 2 | Articles of Incorporation |

ADMINISTRATIVE LAW JUDGE’S RULING

| | 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). | X |
| 3. The NOI has not demonstrated significant financial hardship for the following reason(s): | |
| The ALJ provides the following additional guidance (see § 1804(b)(2)): The Center intends to coordinate this participation in the proceeding with other parties in order to avoid duplication of effort. By electronic mail, dated October 19, 2010, in order to allow parties the opportunity to review The Nevada Hydro Company’s updated testimony, I established December 17, 2010 as the date by which all Notices of Intent (NOI) to claim intervenor compensation must be filed. This Ruling affirms that intervenors must file their NOIs by December 17, 2010. Because the Center filed its NOI well before that | X |

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|---|--|
| <p>date, the Center may amend its NOI, if necessary. I urge all intervenors to coordinate with other parties in order to avoid duplication of effort.</p> | |
|---|--|

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). | X |
| 4. The customer has shown significant financial hardship. | X |
| 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. | X |

Dated November 23, 2010, at San Francisco, California.

 /s/ ANGELA K. MINKIN
 Angela K. Minkin
 Administrative Law Judge

