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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U338E) for a Permit to Construct Electrical Facilities: Colorado River Substation Expansion Project.

Application 10-11-005
(Filed November 3, 2010)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
FILED BY CALIFORNIANS FOR RENEWABLE ENERGY**

1. Summary

Californians for Renewable Energy is eligible to submit a claim for intervenor compensation in this proceeding pursuant to Public Utilities Code Sections 1801-1812.¹

2. Timeliness

An intervenor who intends to seek compensation for participation in a Commission proceeding must file a notice of intent to claim intervenor compensation (NOI) no later than 30 days after the prehearing conference (PHC), or a date otherwise set by the Commission.² The PHC in this proceeding was held on April 6, 2011. Californians for Renewable Energy's (CARE) NOI was timely filed on May 6, 2011. No party has filed in opposition to this notice.

¹ All statutory references herein are to the Public Utilities Code unless noted otherwise.

² § 1804(a)(1) and Rule 17.1 of the Commission's Rules of Practice and Procedure (Rules.)

CARE's unopposed NOI is timely.

3. Customer

Article 5 of the Public Utilities Code requires the Commission to compensate any "customer" who fulfills certain criteria for participating in Commission proceedings. Section 1802(b) defines "customer" in three ways: Category 1 applies to a participant representing consumers; Category 2 applies to a representative authorized by a customer; and Category 3 applies to a "representative of a group or organization that is authorized pursuant to its articles or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation."

In its NOI, CARE states that it a category 3 customer as a non-profit consumer advocacy organization whose articles of incorporation authorize it to represent the interests of residential customers. CARE has attached to its NOI the relevant portions of its by-laws. Article 1, Section 2, of these bylaws state that CARE is organized exclusively for charitable, scientific and education purposes. The specific purposes of the corporation are:

- To supply a nonprofit basis both non-professional and professional legal assistance to planning, conservation groups, small business customers, residential customers, small business and residential renewable energy self suppliers, and neighborhood groups, in regards to new energy projects in the state of California.
- To engage on a nonprofit basis in research and information dissemination with respect to legal rights in a healthy environment by giving legal advise, appearing before administrative bodies, and enforcing environmental laws through court action.

- To employ legal counsel, technical experts, and associated staffing on a professional or contractual basis to carry out these purposes.

In this proceeding CARE states that its primary interest is to represent Southern California Edison ratepayers who will be directly impacted by the proposed project and would not otherwise be able to participate meaningfully so as to inform the Commission’s decision-making processes.

CARE has previously been found to be a Category 3 customer and most recently received an award in D.11-01-024 for its 2009-2010 work in A.09-10-022. No information is presented or known which would lead to a different conclusion today. CARE reasonably shows that it continues to represent a group or organization that is authorized pursuant to its articles or bylaws to represent the interests of residential and small commercial customers.

CARE is a Category 3 customer.

4. Itemized Estimate of Expected Compensation

Section 1804(a)(2)(A)(ii) and Rule 17.1 (c) require an NOI to provide an estimate of the total compensation the intervenor expects. CARE’s NOI satisfied this requirement by providing the following table:

Item	Total \$
Cory Briggs (Attorney) 150 hrs @ \$450 per hour	67,500
Bill Powers (P.E.) 150 hrs @ \$220 per hour	33,000
Robert Sarvey (Expert) 75 hrs @ \$200 per hour	15,000
Michael Boyd (Advocate) 150 hrs @ 150 per hour	21,750
Westlaw/Lexis Research	3,000
Travel, Postage, Photocopies, and Telephone	2,500
Total Estimate	\$142,750

Rule 17.1(c) requires an NOI to itemize the estimated compensation by issue. A portion of the estimate compensation may also be designated as general costs that are not allocable to any particular issue. CARE fails to satisfy this requirement here, but must furnish the Commission with this information if it submits a request for compensation at a later date. We note that CARE's estimate of costs reference hourly rates for its participants which exceed the hourly rates currently established by the Commission for Briggs, Sarvey and Boyd.³ In Decision (D.) 07-12-007 and D.10-10-030 we warned CARE that we considered this practice to be deceptive and we outlined a "sanction" formula for penalties that would be imposed on claims should it continue. We issue no further warning. In addition, Resolutions ALJ-235, ALJ-247 and ALJ-267 disallow cost-of-living increases for intervenor work in the years 2009-2011. CARE's estimated number of hours appears to be excessive and we remind CARE that the Commission in D.10-05-046, D.09-09-023 and D.09-08-021 disallowed work which was found to be excessive and also where the efforts of CARE's participants were found to be unnecessarily duplicative.

With the reservations listed above, and based on the assumption that CARE will take corrective measures if it files a claim for compensation in this proceeding to address these concerns, we find that CARE reasonably presents its estimated costs of participation.

³ Briggs 2008 hourly rate in 2008 was \$325, Powers 2010 hourly rate in D.11-03-025 was \$225, Sarvey's 2010 hourly rate in D.11-01-024 was 155, and Boyd's hourly rate in D.11-01-024 was \$135.

5. Planned Participation

CARE states that this proceeding raises several issues concerning the environmental impacts of mitigation measures for, alternatives to, and overriding considerations for the proposed construction project. CARE's participation intends to address whether the environmental impact report adequately analyzes all environmental impacts, fully mitigates all potential significant impacts, considers a reasonable range of feasible alternatives, properly identifies the environmentally superior alternative; and whether the Commission makes all required findings to support the project's approval and supports all conclusions with substantial evidence.

CARE states that it will retain the services of expert to review and assess the potential impacts of this proceeding and in order to allow for development of all issues, CARE will participate in discovery, prepare testimony, participate in hearings if required, and participate in any potential settlement negotiations among the parties. CARE will also prepare comments on the environmental impact report and the proposed decision(s).

An Assigned Commissioner's Scoping Memo and Ruling was issued on April 11, 2011. The ruling outlined the issues to be determined in this proceeding and the issues on which further evidence and hearings were needed. Administrative Law Judge Yacknin cautioned CARE in this ruling that "the issue of whether [the bureau of land management (BLM)] should grant any necessary permitting under its authority is for the BLM to decide. It is beyond the scope of this proceeding."

CARE reasonably states its planned participation.

6. Significant Financial Hardship

Significant financial hardship means:

...either that the 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, or that, in 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 this proceeding.⁴

CARE seeks a finding on significant financial hardship and states that the economic interests of its individual members are small in comparison to the costs of effective participation.

The comparison test for significant financial hardship, in which the cost of participation is compared to the economic interest of the individual members of the organization applies to CARE.

CARE is presumed to be eligible for compensation in this proceeding.

7. Other

CARE is found eligible to receive an award for intervenor compensation, but this ruling does not guarantee an award will be made.

IT IS RULED, after consultation with the assigned Commissioner, that:

1. Californians for Renewable Energy filed a timely notice of intent to claim intervenor compensation (NOI). The NOI meets the requirements of Public Utilities Code Section 1804(a) and Rule 17.1 of the Commission's Rules of Practice and Procedure.

⁴ § 1802(g).

2. CALifornians for Renewable Energy is a customer (Category 3) as defined by Public Utilities Code Section 1802(b)(1)(C).

3. It would be a significant financial hardship for the CALifornians for Renewable Energy to participate in this proceeding without an award of fees or costs.

4. CALifornians for Renewable Energy (CARE) is eligible to request intervenor compensation in this proceeding. This finding of eligibility does not ensure that CARE will receive compensation. As is the case with each intervenor, CARE shall, to the fullest extent reasonable, reduce duplication of effort with other parties in its participation in this proceeding.

Dated June 9, 2011, at San Francisco, California.

/s/ HALLIE S. YACKNIN

Hallie S. Yacknin
Administrative Law Judge