



BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U39E) for Approval of Amendments to Qualifying Facility Power Purchase Agreement With Thermal Energy Development Partnership, L.P.

Application 11-12-003
(Filed December 8, 2011)

ADMINISTRATIVE LAW JUDGE’S RULING ON ELIGIBILITY TO CLAIM INTERVENOR COMPENSATION AND ON SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

Customer (party intending to claim intervenor compensation): Robert Sarvey	
Assigned Commissioner: Michel Peter Florio	Assigned ALJ: Melissa K. Semcer

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 the party (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)).	X
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.	
<p>4. The party's explanation of its customer status, 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>Robert Sarvey (Sarvey) is a customer of PG&E receiving service at 501 W. Grantline Rd, Tracy, CA where his business is located. Sarvey is a customer under Section 1802(b) Category 1, a participant representing consumers. In this proceeding Sarvey will represent himself, PG&E ratepayers, especially PG&E ratepayers near the Tracy biomass who lack representation but are impacted in both rates from the Thermal Energy Development Partnership amended contract and emissions from the Tracy Biomass. Mr. Sarvey have been granted intervenor compensation and hardship status previously and awarded compensation in Decision 09-01-035, dated January 29, 2009.</p> <ul style="list-style-type: none"> Describe if you have any direct economic interest in outcomes of the proceeding. <p>None</p>	

B. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)):	Check
<p>1. Is the party's NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: <u>2-1-12</u></p>	<p>Yes <u>X</u> No <u> </u></p>
<p>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)?</p>	<p>Yes <u> </u> No <u>X</u></p>
<p>2a. The party's description of the reasons for filing its NOI at this other time:</p>	
<p>2b. The party's information on the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, ALJ ruling, or other document authorizing the filing of NOI at that other time:</p>	

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 statement of the issues on which it plans to participate.
- 1) Are the Amendments in the best interest of Pacific Gas and Electric Company's (PG&E's) ratepayers?
 - 2) Are the Amendments cost-effective?
 - 3) Are the Amendments necessary to enable Thermal Energy to continue to generate and sell to PG&E Renewable Portfolio Standard (RPS)-eligible power from its biomass facility?
 - 4) Is the Thermal Energy Facility needed to meet PG&E's RPS portfolio requirements and are the Amendments consistent with the RPS resource needs identified in PG&E's 2011 RPS Procurement Plan?
 - 5) Were the Amendments presented to PG&E's Procurement Review Group (PRG) as required by D.02-08-071?
 - 6) If approved should the Amendments be effective September 1, 2011, or should the Amendments become effective upon final Commission approval?
 - 7) Is the DTS adequate-Viability of continued operation of the Tracy Biomass Plant and its affect on DTS?
 - 8) Does PG&E's renewable portfolio comply with Executive Order S-06-06?

- The party's explanation as to how it plans to avoid duplication of effort with other parties and intervenors.

Sarvey is the only party in the proceeding.

- 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).
- Review all PG&E filings.
- Research relevant issues.
- Provide testimony given the opportunity.
- File briefs.
- File comments on proposed decision.
- Attend evidentiary hearing.

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, EXPERT, AND ADVOCATE FEES				
[Attorney 1]				
[Attorney 2]				
[Expert 1] Robert Sarvey	50	\$155.00 / hr ¹	\$7,750.00	
[Expert 2]				
[Advocate 1]				
[Advocate 2]				
	Subtotal:			
OTHER FEES				
[Person 1]				
[Person 2]				
	Subtotal:			
COSTS				
[Item 1]				
[Item 2]				
	Subtotal:			
TOTAL ESTIMATE \$:			\$7,750.00	
Estimated Budget by Issues:				
1) Are the Amendments in the best interest of PG&E's ratepayers?			10%	
2) Are the Amendments cost-effective?			30%	
3) Are the Amendments necessary to enable Thermal Energy to continue to generate and sell to PG&E RPS-eligible power from its biomass facility?			20%	
4) Is the Thermal Energy Facility needed to meet PG&E's RPS portfolio requirements and are the Amendments consistent with the RPS resource needs identified in PG&E's 2011 RPS Procurement Plan?			10%	
5) Were the Amendments presented to PG&E's Procurement Review Group (PRG) as required by D.02-08-071?			4%	
6) If approved should the Amendments be effective September 1, 2011, or should				

¹ Basis for rate D.10-05-046.

the Amendments become effective upon final Commission approval?	1%
7) Is the DTS adequate- Viability of continued operation of the Tracy Biomass Plant and its affect on DTS.	15%
8) Does PG&E's renewable portfolio comply with Executive Order S-06-06	10%
Comments/Elaboration (use reference # from above):	

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 Intervenor Compensation Claim 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: I received a finding of financial hardship status and compensation in Decision 09-01-035, Dated January 29, 2009. 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):

I am a self employed individual and I repair and sell shoes. My participation in this proceeding requires me to attend meetings, do research and write briefs and comments. Of course during my participation in this proceeding I sacrifice income at my business which I can ill afford to loose as my income is limited as a Small Businessman.

PART IV: ATTACHMENTS DOCUMENTING SPECIFIC ASSERTIONS MADE IN THIS NOTICE

(The party (“customer”) intending to claim intervenor compensation identifies and attaches documents; add rows as necessary)

Attachment No.	Description
1	Certificate of Service

ADMINISTRATIVE LAW JUDGE RULING²
(ALJ completes)

	Check all that apply
1. The Notice of Intent (NOI) is rejected for the following reasons:	
a. The NOI has not demonstrated the party’s 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):	

² An ALJ Ruling need 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 Intervenor Compensation Claim); or (c) the NOI has included a claim of “significant financial hardship” that requires a finding under § 1802(g).

<p>c. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s):</p>	
<p>2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above).</p>	
<p>3. The NOI has not demonstrated significant financial hardship for the following reason(s): Sarvey references a previous finding of financial hardship in Decision 09-01-035, dated January 29, 2009; however, pursuant to § 1802(g), a finding of significant financial hardship in another proceeding must be made within one year prior to the commencement of this proceeding in order to create a rebuttable presumption of eligibility for compensation in this proceeding (§ 1804(b)(1)).</p>	<p>X</p>
<p>4. The ALJ provides the following additional guidance (see § 1804(b)(2)): Sarvey may amend the NOI and submit appropriate documentation supporting the request for a finding of significant financial hardship in this proceeding. Alternatively, pursuant to § 1804(a)(2)(B), Sarvey may submit such documentation and make a request for a showing of financial hardship concurrent with the submission of his Request for Intervenor Compensation.</p>	<p>X</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.	X
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 April 6, 2012, at San Francisco, California.

/s/ MELISSA K. SEMCER

Melissa K. Semcer
Administrative Law Judge