

INTERVENOR COMPENSATION

PROGRAM GUIDE



Intervenor Compensation *Program Guide*

In 2002, the Public Advisor's Office and the Administrative Law Judges Division undertook a survey to determine, among other things, how people decide to participate in proceedings before the California Public Utilities Commission (CPUC), and to identify the kinds of tools that would assist them in becoming more effective participants in CPUC proceedings. This guide is one of the results of that effort.

This guide is meant to explain the Intervenor Compensation Program and help guide your participation in the program. Specific guidelines take you step by step through the intervenor compensation process, focusing first on the Notice of Intent to Claim Compensation and second on the Request for Award of Compensation. The templates for these two filings provide a framework for the basic structure and outline of these filings. However, simply filling in the blanks is not enough. It is strongly recommended that you use the templates in conjunction with the guidelines, intervenor statutes, Rules of Practice and Procedure, **Guide to Public Participation**, and examples provided by the Public Advisor's Office.

The CPUC is responsible for assuring California utility customers have safe, reliable utility service at reasonable rates, protecting utility customers from fraud, and promoting the health of California's economy. As a public entity, the CPUC often depends on public input, questioning, feedback and interaction. By extension, this guide encourages formal intervention and participation in CPUC proceedings with financial support through the Intervenor Compensation Program.

Public Advisor's Office

One of the roles of the Public Advisor's Office is to help the public participate in formal CPUC proceedings. In addition to the information provided in this guide, the Public Advisor's Office and their **Guide to Public Participation** should be used as a resource. The Public Advisor can share information and advice regarding the Intervenor Compensation Program, as well as provide sample filings and a bibliography of past intervenor compensation decisions. Please direct questions and feedback to the following offices:

San Francisco:

505 Van Ness Avenue, Room 2103
San Francisco, CA 94102
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415.703.2411 (fax)
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The Intervenor Compensation Program

Any individual or group that participates in a CPUC proceeding (other than Commission staff or utility representatives) is considered to be a *party*. California's Public Utilities Code allows certain parties in Commission proceedings to request compensation for their work before the Commission. Compensation is granted after the proceeding is concluded. This program is commonly called the "Intervenor Compensation Program." When a party meets the requirements to request compensation, the party is considered an *intervenor* for purposes of this guide. The requirements for eligibility to request compensation are described in California's Public Utilities Code (PU Code) Sections 1801 through 1812 (see Appendix G, beginning on page 25).

The intervenor compensation program is intended to ensure that the CPUC is aware of concerns and interests of a broad spectrum of interests. By hearing from these different perspectives, the CPUC is able to make well-informed decisions that fairly consider the impact of utility cost and service on all people of the State of California.

The program began in 1981 and became part of the California Public Utilities Code January 1, 1985. The majority of current laws governing the program were effective January 1, 1993, with small changes made effective January 1, 2004.

The CPUC's intervenor compensation program provides compensation for the reasonable costs incurred by intervenors as a result of their participation in CPUC proceedings. Awards of compensation are paid by the public utility (or utilities) that were the subject of the proceeding in which the intervenor participated. If the proceeding applies to an entire industry, then the awards of compensation are paid by the CPUC out of fees it collects from utilities. Ultimately, utility ratepayers pay for awards of compensation because the California Public Utilities Code allows rates to be adjusted to collect the amount of compensation awarded.

This guide is intended to help you understand the requirements for eligibility, to identify filings that you must make to establish eligibility and ultimately claim compensation, and to provide guidance and templates to make your work products related to intervenor compensation as effective as possible. A glossary (beginning on page 31) is included to describe some specialized terms used in this guide and in CPUC proceedings.

Are you eligible to request intervenor compensation?

Is the proceeding you want to participate in related to electricity, natural gas, telecommunications, or water? If so, then move to the next set of questions. If not, then you are not eligible to request intervenor compensation funding for your participation.

Are you:

- 1) a participant representing consumers,
- 2) a representative authorized by a customer, or
- 3) a representative of a group or organization authorized by its bylaws or articles of incorporation to represent the interests of residential customers or small commercial electric customers?

If so, under Public Utilities Code Section 1802(b), you may be eligible for intervenor compensation. The first step you must take is to establish your eligibility by filing a “Notice of Intent to Claim Intervenor Compensation” in the proceeding you are interested in. We call this document the NOI.

Checklist: Completing a Notice of Intent (NOI)

An NOI *must* include the following:

- ✓ Summary information
- ✓ Statement of Timely Filing
- ✓ Statement of Customer Status
- ✓ Explanation of Significant Financial Hardship¹
- ✓ Description of the Nature and Extent of Planned Participation
- ✓ Itemized Estimate of Costs of Participation
- ✓ Conclusion

This checklist is explained in the following guidelines and a template for an NOI can be found in Appendix A, page 14.

Guidelines for Completing an NOI

1) Summary Information

Under this section you should briefly describe the relevant Commission proceeding(s) for which you seek a determination of eligibility and your anticipated role in the proceeding (e.g., participation in workshops, discovery, evidentiary hearings, briefing).

2) Statement of Timely Filing

The Public Utilities Code requires that an NOI must be filed within 30 days of a prehearing conference (PHC) in a proceeding. Sometimes, more than one prehearing conference can be held, if, for example, a proceeding is divided into several parts. Your NOI does not necessarily have to be filed after the first prehearing conference, but it does need to be filed within 30 days of the prehearing conference that begins the portion of the proceeding in which you are interested. In proceedings with multiple PHCs, an NOI may be filed if the scope is changed or if new issues are identified by the Administrative Law Judge (ALJ).

If your NOI is not filed within 30 days of the PHC, you may request the opportunity to file the NOI late. Filing a “Motion to Accept Late-Filed NOI” can do this. In the motion, explain why the schedule did not reasonably allow you to identify issues within the 30 day timeframe set forth in Section 1804(a)(1), or whether new issues emerged subsequent to the time set for filing of the NOI. The Public Advisor’s Office can assist you with preparing a motion. Filing a motion does not ensure the NOI will be accepted.

¹ Intervenor may defer their Explanation of Financial Hardship. If a showing of hardship is not included in the NOI, then it must be included in the intervenor’s request for award, which follows the issuance of the decision in the proceeding.

3) **Statement of Customer Status**

Decision D.98-04-059 addresses intervenor compensation and provides that, “When filing its Notice of Intent, a participant should state how it meets the definition of customer” (D.98-04-059, mimeo., at 28-29). The different types of customers are known as Category 1, Category 2, and Category 3. The information that you must provide in your NOI differs depending on the type of customer you are.

A **Category 1** customer is an actual customer who represents more than his or her own self-interest; a self-appointed representative of at least some other consumers, customers, or subscribers of the utility. If you are a Category 1 customer, you must describe how your participation goes beyond just your self-interest and benefits other customers generally.

A **Category 2** customer is a representative who has been authorized by actual customers to represent them. Category 2 is a more formal arrangement where a customer, or a group of customers, selects a more skilled person to represent the customers' views in a proceeding. A customer or group of customers may also form or authorize a group to represent them, and the group in turn may authorize a representative such as an attorney to represent the group. For Category 2, you must provide evidence of authorization from at least one customer.

A **Category 3** customer is a formally organized group authorized, pursuant to its articles of incorporation or bylaws, to represent the interests of residential customers or small commercial electric customers. If you are a Category 3 customer, you must describe the organization you represent and quote relevant portions of its bylaws or articles of incorporation that show authorization to represent interests of residential or small commercial electric customers. You should submit copies of the bylaws or articles, noting where in the document the organization is authorized to represent the interest of residential or small commercial electric customers. If you furnished copies of the bylaws or articles within the previous year and they have not changed, cite the proceeding in which they were furnished. If another party in the proceeding represents a similar group of ratepayers, you should explain how the two groups differ and why those you represent will not otherwise be adequately represented in the proceeding.

4) **Explanation of Significant Financial Hardship**

You may make your showing of significant financial hardship in your NOI or you may defer it to your Request for Award of Compensation by PU Code § 1804(a)(2)(B). If you choose to make your showing now, you must describe which test of significant financial hardship you meet. Section 1802(g) defines “significant financial hardship” as follows:

- 1) the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or

- 2) 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 the proceeding.

The relevant test depends on the type of customer you are and whether you have previously been found eligible for compensation in another proceeding.

4.1 Category 1 or 2 Customers – Undue Hardship

According to D.98-04-059, the “cannot afford, without undue hardship, to pay” standard applies only to Category 1 and 2 customers.

If you are in one of these categories and cannot without undue hardship afford to pay the costs of effective participation, you must provide financial information demonstrating this hardship. As described in D.98-04-059, this means that Category 1 and 2 customers must disclose their gross and net monthly income, monthly expenses, cash and assets, including equity in real estate. Subsequent rulings have determined that it is reasonable to exclude the equity of a participant’s personal residence from this disclosure.²

For a Category 1 customer, you must provide your own financial information. For a Category 2 customer, you must provide the financial information of the customer who authorized you to serve in a representative capacity. You should summarize the financial information and explain how it demonstrates undue hardship. For example:

The listing of my monthly gross and net income, monthly expenses, cash, and assets is shown in the attachment. Based on my estimate of the cost of effective participation as compared to my income, expenses, and assets, I do not have the resources to pay for the costs of effective participation.

4.2 Category 3 Customers – Comparison Test

If you are a **Category 3** customer (a group or organization authorized by its bylaws to represent customers), you must meet the “comparison test” standard. The comparison test requires that the economic interest of the individual members of the group or organization be small in comparison to the costs of effective participation in the proceeding. You should make the comparison and demonstrate hardship. For example:

[INTERVENOR] makes a showing of significant financial hardship in this proceeding. The cost of [INTERVENOR]’s participation in Commission proceedings substantially outweighs the benefit to the individual members it represents. [INTERVENOR]’s members are [DESCRIBE CUSTOMERS; e.g., RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS] whose individual interests in this proceeding are small relative to the costs of participation. It is unlikely that [INTERVENOR]’s members will see financial benefits

² You may seek an order maintaining the confidentiality of your financial information by filing a motion using the form attached as Appendix C.

that exceed [INTERVENOR]'s costs of intervention. [PROVIDE EVIDENCE].

An example of evidence:

[INTERVENOR] estimates typical residential electric bills are on the order of \$1,200 annually, which is much less than [INTERVENOR]'s estimated costs of participation [EXPLAIN AND SUPPORT].

If you choose to defer your showing of significant financial hardship to the Request for Award of Compensation, you should use the language as follows.

"Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the customer may make the required showing in the Request for Award of Compensation. [INTERVENOR] opts to defer its showing of significant financial hardship at this time."

If you defer your showing of significant financial hardship, you must still complete the remainder of the NOI. If you have any concern about whether you will meet the significant financial hardship test, you are strongly encouraged to make your showing in your NOI.

Intervenors who were ruled eligible for compensation in another proceeding less than one year before this proceeding began, and who choose to rely on that finding in this proceeding, should use the following language:

"A rebuttable presumption of eligibility exists for [INTERVENOR]. On [DATE], ALJ [NAME] issued a written ruling in [PROCEEDING NUMBER], finding that [INTERVENOR] had made a showing of significant financial hardship, had met the requirements of Section 1804(a), and was eligible for compensation in that proceeding. Because this proceeding commenced on [DATE], within one year of ALJ [NAME]'s [DATE] ruling, a rebuttable presumption exists that [INTERVENOR] is eligible for compensation in this proceeding.

5) Nature and Extent of Planned Participation

Describe how you plan to participate in this case. For example, will you serve written testimony; cross-examine witnesses; review the application, the scoping ruling and testimony served by other parties; attend prehearing conferences; file briefs, comments and other necessary pleadings; participate, if invited, in settlement negotiations, etc. In this section, you should list the issues you intend to address in the proceeding, and briefly explain how you will address them. Doing this will help all parties to see whether others are planning to address the same issues. You should discuss how you intend to avoid duplication of effort with other parties and intervenors as required by the Public Utilities Code.

6) **Itemized Estimate of Costs of Participation**

Here you should provide an estimate of the costs you will incur to participate in the proceeding. If you plan to hire attorneys or experts (or rely on in house staff), identify how many hours you expect will be required and the hourly rate charged. In addition to written explanation, a table itemizing costs should be included (refer to NOI template, Appendix A, page 14). Travel time and time associated with preparing compensation related materials should be charged at half the hourly rate.

7) **Conclusion**

Summarize the findings that you want the Commission to make about your NOI.

Filing and Serving a Notice of Intent

In addition to completing your NOI you must also submit a form of **Verification** (Appendix E, page 23), a **Certificate of Service** (Appendix F, page 24), and include a list of those served. In order for your materials to be part of the record, they must then be formally filed. To formally file your information you must send the original (with a copy of the service list attached³) *and* four identical copies of each of the following:

- Notice of Intent to Claim Compensation
- **OPTIONAL: Motion for Protective Order (FOR CATEGORY 1 or 2 CUSTOMERS ONLY)**
- Verification
- Certificate of Service

Send to:

Docket Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

You must also serve your NOI on the Service List. You can access the service list on the Commission's website at www.cpuc.ca.gov/published/service_lists/sl_index.htm under the proceeding number. If you are unable to obtain the Service List from our website, you can request one from the CPUC Process Office at (415) 703-2021. You are not required to serve your NOI on those listed as "Information Only" on the service list.⁴

³ A copy of the Service List only needs to be attached to the original document, not the copies.

⁴ These filing and service requirements are the same for any type of document, not just NOIs. Be sure to follow any proceeding-specific service requirements established by the presiding ALJ in your case (for example, requirements for electronic service).

Checklist: Completing a Request for Award of Compensation

If you have filed your NOI and have been approved for eligibility to request compensation, you may then file a Request for Award of Compensation after the Commission issues a decision in the proceeding. As stated in Public Utilities Code Section 1804(c), a Request for Award should be filed within 60 days after the issuance of a decision. You may file a Request for Award of Compensation for a single decision or a group of decisions during the course of a proceeding. If an application for rehearing is filed you may choose to wait and file your Request for Award of Compensation until after the decision becomes final (i.e., after the application for rehearing is resolved).

A Request for Award of Compensation *must* address the following:

- ✓ Summary Information
- ✓ Statement of Timely Filing
- ✓ Customer Status
- ✓ Significant Financial Hardship
- ✓ Substantial Contribution to Resolution of Issues
- ✓ Overall Benefits of Participation
- ✓ Duplication
- ✓ Reasonableness of Requested Compensation
- ✓ Conclusion

In addition you should include:

- ✓ Timesheets
- ✓ Documentation of Expenses

This checklist is explained in the following guidelines and a template for A Request for Award of Compensation can be found in Appendix B, see page 17.

Guidelines for Completing a Request for Award of Compensation

1) Summary

You should briefly describe the proceeding(s), the relevant Commission decision(s) for which compensation is sought, and the process of resolving issues (e.g., workshops, evidentiary hearings, settlement). Summarize the key issues in the proceeding.

2) Timely Filing

Intervenors who seek compensation for their contributions in Commission proceedings make their requests for compensation pursuant to Public Utilities Code Sections 1801-1812.

At the minimum, an intervenor should include the decision number and date that the decision was issued or mailed, so that the Commission can determine whether your filing was made within 60 days of the issuance of the decision for which you seek compensation. If the sixtieth day falls on a Saturday or Sunday, your filing will be timely if it is filed the following Monday.

3) Customer Status

If a ruling has been made on your NOI and you have been found eligible then you should now summarize your customer status and state the date upon which you were found eligible.

If you deferred your showing of Significant Financial Hardship and if there has not yet been a ruling on your eligibility then you must describe your customer status.

A **Category 1** customer is an actual customer who represents more than his own narrow self-interest; a self-appointed representative of at least some other consumers, customers, or subscribers of the utility. If you are a Category 1 customer, you must describe how your participation goes beyond just your self-interest and benefits other customers generally.

A **Category 2** customer is a representative who has been authorized by actual customers to represent them. Category 2 connotes a more formal arrangement where a customer, or a group of customers, selects a more skilled person to represent the customers' views in a proceeding. The Commission has noted that the statute permits a series of authorizations. For example, a customer or group of customers forms or authorizes a group to represent them, and the group in turn authorizes a representative such as an attorney to represent the group. For Category 2, you must provide evidence of authorization from at least one customer.

A **Category 3** customer is a formally organized group authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small commercial electric customers. If you are a Category 3 customer, you must describe the organization you represent and quote relevant portions of its bylaws or articles of incorporation showing authorization to represent interests of residential or small commercial electric customers. You should submit copies of the bylaws or articles, noting where in the document the organization is authorized to represent the interest of residential or small commercial electric customers. If you furnished copies of the bylaws or articles within the previous year and they have not changed, cite the proceeding in which they were furnished. If another party in the proceeding represents a similar group of ratepayers, you should explain how the two groups differ and why those you represent were not otherwise adequately represented in the proceeding.

4) Significant Financial Hardship

If you previously received a finding of significant financial hardship in your NOI, then you need only to cite Public Utilities Code Section 1804(b) and make reference to the date of the ruling of your eligibility. If you chose to defer the showing of significant financial

hardship in your NOI, you must now demonstrate, as Section 1804(a)(2)(B) permits, how you meet one or both of the Section 1802(g) definitions of significant financial hardship. The instructions for demonstrating significant financial hardship are described in Section 4 of the Guidelines for Completing an NOI above.

5) **Substantial Contribution to Resolution of Issues**

Public Utilities Code Section 1802 (h) requires an intervenor to make a substantial contribution to the Commission's decision in order to receive intervenor compensation. The Commission has elaborated on this statutory standard as follows:

A party may make a substantial contribution to a decision in various ways. It may offer a factual or legal contention upon which the Commission relied in making a decision. Or it may advance a specific policy or procedural recommendation that the ALJ or Commission adopted. A substantial contribution includes evidence or argument that supports part of the decision, even if the Commission does not adopt a party's position in total. The Commission has provided compensation even when the position advanced by the intervenor is rejected. (D.99-08-006, 1999 Cal. PUC LEXIS 497, *3-4).

You should demonstrate, with specific references to the decision text, findings, conclusions of law or ordering paragraphs, how your participation in the proceeding made a substantial contribution to the Commission's decision. You might begin,

[**INTERVENOR**]'s participation in this proceeding met the requirements for establishing a substantial contribution to the Commission's final decision. As will be described in the following discussion, [**INTERVENOR**] made a substantial contribution by [**BRIEFLY EXPLAIN INTERVEOR'S ROLE IN DECISIONS**].

Be sure to clarify how your recommendations influenced the Commission's decision or if the Commission did not adopt your position, how your participation influenced the development of the record or improved the information available to the Commission for its decision.⁵

6) **Overall Benefits of Participation**

Discuss how your participation was "productive," in conformance with Section 1801.3 and D.98-04-059, by weighing the *costs* of your participation against the *benefits* of that participation. Where possible, assess the dollar value of your participation in terms of its benefits to ratepayers (see D.98-04-059, mimeo. at 31-33, and Finding of Fact 42).

⁵ Examples of how past intervenors have demonstrated substantial contribution can be found in the sample Requests for Award of Compensation that are available from the Public Advisor's Office.

7) Duplication

Recognizing the directives of Sections 1801.3(f) and 1802.5, discuss how you avoided duplication of the efforts of other parties whose positions were similarly aligned. If some duplication did occur, discuss how the amount of your compensation request has been adjusted to reflect the duplication. You may need to discuss how some duplication was unavoidable or how your participation materially supplemented or complemented the positions of other parties in the case. For example, you may have taken the same position as another party (i.e., a particular cost should not be approved) but performed a very different analysis to support your position. In this example, there is duplication of the position but your participation supplemented the work of others in the case.

8) Reasonableness of Requested Compensation

In this section, discuss the efficiency of the work you accomplished. This means explaining the appropriateness of the amounts of time spent on various tasks and why the advocates you relied on were of the appropriate skill/experience level for specific tasks.

8.1 Hours Claimed

Include a summary table of hours claimed and expenditures (refer to Appendix B, page 17) and provide an explanation of the reasonableness of the hours claimed. This should include: explanation of timekeeping methods, delegation of attorney(s)/expert(s) to specific tasks, the appropriateness of the time spent on those tasks, and how the individual apportioned time among the issues, e.g. 40% on issue A. In addition to the summary table, an itemized list of hours claimed and expenditures should be included as an appendix. The amount of time spent traveling or on intervenor compensation related matters should also be separated from time spent on the issues in the proceeding.

8.2 Hourly Rates

The hourly rates you request should take into consideration:

- market rates of people performing the same type of work
- experience
- education/degrees (including year(s) attained)
- specialization and number of years in this field (if relevant)
- past work with the CPUC (if applicable)
- whether the work performed warrants the requested rate.

In addition, you are advised to take into account the rates of those who consistently work with the CPUC and who have comparable backgrounds to the advocates for whom you are claiming compensation. If an intervenor seeks to establish a new hourly rate, either because the individual has not appeared in CPUC proceedings previously or because the intervenor believes a higher hourly rate should be awarded, the intervenor must justify the

request, in accordance with § 1806. It may also be appropriate to consult surveyed hourly rates. Attach supporting documents as necessary.

Time spent by advocates traveling and working on intervenor compensation related matters are compensated at one half of the advocates approved hourly rate. Your request should separate your time spent on travel and intervenor compensation matters so that this reduced rate can be applied to travel and intervenor compensation time.

8.3 Direct Expenses

The request should be supported by a detailed itemization (included as an appendix) of all expenses for which you seek reimbursement. Direct expenses may include: photocopying, postage costs, delivery costs, phone costs, fax charges and Lexis charges. Where appropriate, invoices should be attached to the request as part of Documentation of Expenses (see Section 11, below). If specific costs are particularly large, you should provide additional documentation to justify these costs. Put elements of the request in list or table format (refer to Appendix B, page 17).

9) Conclusion

Summarize the findings that you want the Commission to make about your Request for Award of Compensation. To simplify the review of your request, it is strongly suggested that you attach an Intervenor Compensation Claim Summary to your Request for Award of Compensation (Appendix D, page 22).

10) Timesheets

Attorney/expert time should consist of a list of hours claimed and include: dates, task descriptions and identify the attorney or expert who completed each task. The request should be supported by a daily breakdown documenting the hours each individual claims and a brief description of how the hours were spent.

11) Documentation of Expenses

Include any necessary documentation of additional costs. This *may* include: receipts, copies of flight tickets, etc.

Filing and Serving a Request for Award of Compensation

In addition to completing your Request for Award of Compensation you must also submit a form of **Verification** (Appendix E, page 23), a **Certificate of Service** (Appendix F, page 24), and include a list of those served. In order for your materials to be part of the record, they must then be formally filed. To formally file your information you must send the original (and attach a copy of the Service List) *and* four identical copies of each of the following:

- Request for Award of Compensation
- OPTIONAL: Motion for Protective Order (FOR CATEGORY 1 or 2 CUSTOMERS WHO DEFERRED SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP ONLY)
- Verification
- Certificate of Service

Send to:

Docket Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

You must also serve your Request for Award of Compensation on the Service List. You can access the service list on the Commission's website at http://www.cpuc.ca.gov/published/service_lists/sl_index.htm under the proceeding number. If you are unable to obtain the Service List from our website, you can request one from the CPUC Process Office at (415) 703-2021. You are not required to serve your Request for Award of Compensation on those listed as "Information Only" on the service list.⁶

⁶ These filing and service requirements are the same for any type of document. Be sure to follow any proceeding-specific service requirements established by the presiding ALJ in your case (for example, requirements for electronic service).

(In this template, bracketed sections identify where an intervenor must input its own information)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

(PROCEEDING TITLE – EXAMPLE)

In the Matter of the Application of San Diego Gas & Electric Company (U 902-E) for a Certificate Of Public Convenience & Necessity Valley-Rainbow 500kV Inter-Connect Project

(PROCEEDING NUMBER -- EXAMPLE)

Application 01-03-036

(Filed March 23, 2001)

**[INTERVENOR]’S NOTICE OF INTENT TO CLAIM
INTERVENOR COMPENSATION**

1. Summary

Pursuant to Public Utilities Code (PU Code)Section 1804(a) [INTERVENOR] submits its Notice of Intent to Claim Intervenor Compensation (NOI) and seeks a determination of its eligibility for such compensation in connection with its work on [IDENTIFY PROCEEDING]. [BACKGROUND INFORMATION]

2. Timely Filing

This request is timely under PU Code Section 1804(a)(1) because it is being filed “within 30 days after the prehearing conference is held. . . .” The relevant prehearing conference (PHC) in this proceeding occurred on [DATE]. The deadline for an NOI was 30 days hence, or [DATE]. This NOI is being filed on [DATE], within that 30-day period. Thus, the NOI is timely.

3. Customer Status

[INTERVENOR] meets the requirement of Decision (D.) 98-04-059 by demonstrating that it is a “customer” within the meaning of PU Code Section 1802(b). That section defines a “customer” in three ways:

- Category 1)** a participant representing consumers,
- Category 2)** a representative authorized by a customer, or
- Category 3)** a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential customers or small commercial electric customers.

[INTERVENOR] meets the [FIRST, SECOND OR THIRD] definition of customer [AS DESCRIBED].

(In this template, bracketed sections identify where an intervenor must input its own information)

4. Significant Financial Hardship

Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the customer may make the required showing in the Request for Award of Compensation. [INTERVENOR] opts to make its showing of significant financial hardship at this time.

[INTERVENOR] is eligible for intervenor compensation because participation or intervention in this proceeding will cause it significant financial hardship. Section 1802(g) defines “significant financial hardship” as follows:

- 1) the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation or
- 2) 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 the proceeding.

[DESCRIBE HOW INTERVENOR MEETS ONE OF THE DEFINITIONS FOR SIGNIFICANT FINANACIAL HARDSHIP.]

5. Nature and Extent of Planned Participation

[INTERVENOR] meets the requirement of PU Code Section 1804(a)(2)(A)(i) that NOIs include a statement of the nature and extent of the customer’s planned participation in the proceeding to the extent this can be predicted. [DESCRIBE HOW INTERVENOR PLANS TO PARTICIPATE.]

6. Itemized Estimate of Costs of Participation

PU Code Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to request. [INTERVENOR] estimates a total projected budget

(In this template, bracketed sections identify where an intervenor must input its own information)

of \$ [AMOUNT] for this case, based on proposed hourly rates that [INTERVENOR] will address in its request for compensation. The estimate breaks down as follows:

- \$ [AMOUNT] [x] hrs @ [RATE]/hr
- \$ [AMOUNT] [x] hrs travel time @ [1/2 CORRESPONDING RATE]/hr
- \$ [AMOUNT] [x] hrs compensation time @ [1/2 CORRESPONDING RATE]/hr
- \$ [AMOUNT] Subtotal, Compensable time (provide separate subtotals for attorney/professional and expert time, where appropriate).
- \$ [AMOUNT] other costs (itemize individual cost categories, e.g. photocopying, postage, FAX, telephone, parking, compensable travel expenditures; use unit rates where possible, e.g., per page copy costs, mileage rates, etc.)

- _____
- \$ [AMOUNT] Subtotal, Compensable other costs
- =====
- \$ [AMOUNT] TOTAL ESTIMATED COST OF PARTICIPATION

7. Conclusion

[INTERVENOR] respectfully requests that the Commission rule that [INTERVENOR] is eligible for compensation in this proceeding. Specifically, [INTERVENOR] requests that the Commission issue a preliminary ruling in which it finds that: (1) [INTERVENOR] is a customer as defined in Public Utilities Code Section 1802(b); (2) [INTERVENOR] has made an adequate showing of significant financial hardship as defined in Public Utilities Code Section 1802(g); and (3) [INTERVENOR] has met the requirements of Public Utilities Code Section 1804(a) for eligibility for compensation.

Dated: _____

Respectfully submitted,

[INTERVENOR]

By: _____ (signature)
[NAME]

[CONTACT INFORMATION:
NAME, ADDRESS, PHONE, EMAIL AND
NAME OF PARTY BEING REPRESENTED]

APPENDIX B Request for Award of Compensation Template
(In this template, bracketed sections identify where an intervenor must input its own information)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

(PROCEEDING TITLE – EXAMPLE)

In the Matter of the Application of San Diego Gas & Electric Company (U 902-E) for a Certificate Of Public Convenience & Necessity Valley-Rainbow 500kV Inter-Connect Project.

(PROCEEDING NUMBER-EXAMPLE)

Application 01-03-036
(Filed March 23, 2001)

REQUEST OF [INTERVENOR] FOR AWARD OF COMPENSATION

1. Summary

Pursuant to Public Utilities Code §1804(c), [INTERVENOR] requests an award of compensation in [AMOUNT REQUESTED] for substantial contribution to Decision (D.) [DECISION NUMBER]. [SUMMARY OF KEY ISSUES IN THE PROCEEDING].

2. Timely Filing of Request for Award of Compensation

This request is timely under §1804(c) because it is being filed within 60 days of the issuance of [DECISION NUMBER] on [DATE DECISION ISSUED OR MAILED]. Also, [INTERVENOR] timely filed an NOI on [DATE].

3. Customer Status

(IF A SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP WAS MADE IN THE NOI THEN USE THE FOLLOWING LANGUAGE:)

On [DATE OF NOI RULING], assigned ALJ [NAME] ruled that [INTERVENOR] is a Category [1, 2 OR 3] customer as defined in PU Code §1802 (b), has fulfilled the eligibility requirements of PU Code §1804 (a), has made the requisite showing of significant financial hardship, and is eligible for compensation.

(IF NO SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP WAS MADE, BUT A RULING FOUND INTERVENOR WAS A CUSTOMER, THEN USE THE FOLLOWING LANGUAGE:)

On [DATE OF NOI RULING], assigned ALJ [NAME] ruled that [INTERVENOR] is a Category [1, 2 OR 3] customer as defined in PU Code §1802 (b).

APPENDIX B Request for Award of Compensation Template
(In this template, bracketed sections identify where an intervenor must input its own information)

(IF A SHOWING OF SIGNIFICANT HARDSHIP WAS NOT MADE IN THE NOI AND NO RULING WAS MADE ON CUSTOMER STATUS, THEN USE THE FOLLOWING LANGUAGE:)

[INTERVENOR] meets the requirement of Decision (D.) 98-04-059 by demonstrating that it is a “customer” within the meaning of PU code §1802 (b). That section defines a “customer” in three ways:

- Category 1) a participant representing consumers
- Category 2) a representative authorized by a customer, or
- Category 3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential customers or small commercial electric customers.

[INTERVENOR] meets the [FIRST, SECOND OR THIRD] definition of customer [AS DESCRIBED].

4. Significant Financial Hardship

(IF A SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP WAS MADE IN THE NOI, USE THE FOLLOWING LANGUAGE:)

[INTERVENOR] meets the requirement of PU Code § 1802 and was declared eligible by ALJ [NAME] on [DATE] in [PROCEEDING NUMBER].

(IF A SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP WAS NOT MADE IN THE NOI, USE THE FOLLOWING LANGUAGE:)

Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the customer may make the required showing in the Request for Award of Compensation. [INTERVENOR] makes its showing of significant financial hardship at this time. [EXPLANATION OF FINANCIAL HARDSHIP].

5. Substantial Contribution to Resolution of Issues

As defined in PU Code § 1802(h), the participation of [INTERVENOR] in proceeding [PROCEEDING NUMBER] has made a “substantial contribution” to the Commission’s decision [EXPLANATION OF SUBSTANTIAL CONTRIBUTION].

6. Overall Benefits of Participation

[INTERVENOR] contributed to the proceeding in a manner that was productive and resulted in benefits to ratepayers in comparison to the costs of participation [DISCUSS AND QUANTIFY WHERE POSSIBLE THE BENEFITS OF PARTICIPATION TO RATEPAYERS].

7. Duplication

[INTERVENOR] contributed to the proceeding in a manner that did not duplicate contributions made by other intervenors [DISCUSSION OF AVOIDANCE OF DUPLICATION].

APPENDIX B Request for Award of Compensation Template
(In this template, bracketed sections identify where an intervenor must input its own information)

8. Reasonableness of Requested Compensation

In this filing [INTERVENOR] is requesting compensation in the total amount of [DOLLAR AMOUNT REQUESTED] for the time reasonably devoted to this proceeding, as well as for the expenses we incurred for our participation. Following is a summary table and explanation of hours claimed, hourly rates, and direct expenses. A more detailed breakdown of the time devoted to this proceeding by [INTERVENOR]'s representatives is provided in [APPENDIX NAME] to this filing.

In addition, our work was performed efficiently [DISCUSSION OF EFFICIENCY].

Attorney/Expert	Year	(Hours)	x	(Rate) or ½(Rate) ⁷	=	\$ (Total)

Subtotal: \$

Direct Expenses	\$ Total
<i>(examples: photocopying,</i>	
<i>postage costs, delivery costs,</i>	
<i>phone costs, fax charges,</i>	
<i>Lexis charges etc.)</i>	

Subtotal: \$

TOTAL: \$ _____

8.1 Hours Claimed

A daily listing of the specific tasks performed by [ATTORNEY(S), EXPERT(S)] in connection with this proceeding is available in [APPENDIX NAME]. [INTERVENOR]'s advocates shared responsibility for [EXPLAIN TASKS AND HOURS CLAIMED]. Other responsibilities were divided [EXPLAIN INDIVIDUAL TASKS]. The work done by our advocates, as a group and as individuals, demonstrates that the hours claimed are reasonable given the scope and timeframe of this proceeding [EXPLAIN].

⁷Advocate travel time and time related to intervenor compensation matters are compensated at ½ of the professional's usual rate.

APPENDIX B Request for Award of Compensation Template
(In this template, bracketed sections identify where an intervenor must input its own information)

8.2 Hourly Rates

The reasonableness of the proposed hourly rate is supported by [DISCUSS SUPPORTING FACTORS ie. MARKET RATE SURVEYS, EXPERIENCE, SPECIALIZATION, PAST WORK WITH CPUC, ETC.]

The available evidence of [SUPPORTING FACTORS] demonstrates that the hourly rates asked for by [INTERVENOR] are reasonable.

8.3 Direct Expenses

The reasonable expenses of [TOTAL DIRECT EXPENSES] listed in the above summary table are reasonable and were necessary for [INTERVENOR]'s substantial contribution to this case. [EXPLANATION OF SPECIFIC DIRECT COSTS].

9. Conclusion

[INTERVENOR] has satisfied the requirements of timely filing an NOI, customer status, and demonstration of financial hardship. [INTERVENOR] has made a substantial contribution in a productive and efficient manner and has avoided duplication where possible. Additionally, [INTERVENOR] has provided a detailed itemization of the costs of participation and has demonstrated the reasonableness of the requested hourly rates. [INTERVENOR] has met all the requirements of Section 1801 et. Seq. of the Public Utilities Code, and therefore requests an award of compensation in the amount of [DOLLAR AMOUNT REQUESTED].

Dated: _____

Respectfully submitted,

[INTERVENOR]

By: _____ (signature)
[NAME]

[CONTACT INFORMATION:
NAME, ADDRESS, PHONE, EMAIL AND
NAME OF PARTY BEING REPRESENTED]

APPENDIX C Motion for Protective Order Template
(In this template, bracketed sections identify where an intervenor must input its own information)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

(PROCEEDING TITLE)

(PROCEEDING NUMBER)

Motion for Protective Order of [NAME OF INDIVIDUAL INTERVENOR]
Regarding Personal Financial Information

I have filed separately today a Notice of Intent to Claim Compensation (or Request for Compensation) with attached personal financial information supporting my eligibility to claim compensation. I have filed it under seal. I submit this motion pursuant to General Order (GO) 66-C and request a limited protective order directing that my personal financial information be withheld from public inspection.

GO 66-C § 2.2 excludes from public inspection “[r]ecords or information of a confidential nature furnished to, or obtained by the Commission.” My personal financial information is confidential in nature. Making it generally available for public inspection would unnecessarily intrude on my privacy. Commission staff should be permitted to review this information because it provides facts pertinent to my showing of significant financial hardship, which is a component of my eligibility request. I recognize that parties of record may also wish to review and comment on this information, to discover facts that might support pleadings before the Commission. To accommodate such a review, I consent to the use of an appropriate nondisclosure agreement.

Dated _____ at _____ (location).

(signature)

[NAME]
[ADDRESS]
[TELEPHONE NUMBER]

VERIFICATION

I, [NAME], am a representative of [INTERVENOR] and am authorized to make this verification on the organization's (individual's) behalf. The statements in the foregoing document are true to the best of my knowledge, except for those matters that are stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this __ th day of ____, ____, at [CITY], [STATE].

(signature) _____

[NAME]
[ADDRESS]
[TELEPHONE NUMBER]

CERTIFICATE OF SERVICE

I hereby certify that on [DATE], I served a true copy of the original attached [EXACT TITLE OF DOCUMENT SERVED] in [DOCKET NUMBER AND NAME] on all parties in the attached service list via [MANNER OF SERVICE].

Dated _____, at [CITY], [STATE].

(signature) _____

[NAME]

California Public Utilities Code
Intervenor Compensation Statutes

SECTION 1801-1812

1801. The purpose of this article is to provide compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers of participation or intervention in any proceeding of the commission.

1801.3. It is the intent of the Legislature that:

(a) The provisions of this article shall apply to all formal proceedings of the commission involving electric, gas, water, and telephone utilities.

(b) The provisions of this article shall be administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process.

(c) The process for finding eligibility for intervenor compensation be streamlined, by simplifying the preliminary showing by an intervenor of issues, budget, and costs.

(d) Intervenors be compensated for making a substantial contribution to proceedings of the commission, as determined by the commission in its orders and decisions.

(e) Intervenor compensation be awarded to eligible intervenors in a timely manner, within a reasonable period after the intervenor has made the substantial contribution to a proceeding that is the basis for the compensation award.

(f) This article shall be administered in a manner that avoids unproductive or unnecessary participation that duplicates the participation of similar interests otherwise adequately represented or participation that is not necessary for a fair determination of the proceeding.

1802. As used in this article:

(a) "Compensation" means payment for all or part, as determined by the commission, of reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs of preparation for and participation in a proceeding, and includes the fees and costs of obtaining an award under this article and of obtaining judicial review, if any.

(b) (1) "Customer" means any of the following:

(A) A participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the commission.

(B) A representative who has been authorized by a customer.

(C) A representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation.

(2) "Customer" does not include any state, federal, or local government agency, any publicly owned public utility, or any entity that, in the commission's opinion, was established or formed by a local government entity for the purpose of participating in a commission proceeding.

(c) "Expert witness fees" means recorded or billed costs incurred by a customer for an expert witness.

(d) "Other reasonable costs" means reasonable out-of-pocket expenses directly incurred by a customer that are directly related to the contentions or recommendations made by the customer that resulted in a substantial contribution.

(e) "Party" means any interested party, respondent public utility, or commission staff in a hearing or proceeding.

(f) "Proceeding" means an application, complaint, or investigation, rulemaking, alternative dispute resolution procedures in lieu of formal proceedings as may be sponsored or endorsed by the commission, or other formal proceeding before the commission.

(g) "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 the proceeding.

(h) "Small commercial customer" means any nonresidential customer with a maximum peak demand of less than 50 kilowatts. The commission may establish rules to modify or change the definition of "small commercial customer," including use of criteria other than a peak demand threshold, if the commission determines that the modification or change will promote participation in proceedings at the commission by organizations representing small businesses, without incorporating large commercial and industrial customers.

(i) "Substantial contribution" means that, in the judgment of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation.

1802.3. A representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation shall not be eligible for an award of compensation pursuant to this article if the representative has a conflict arising from prior representation before the commission. This conflict may not be waived

1802.5. Participation by a customer that materially supplements, complements, or contributes to the presentation of another party, including the commission staff, may be fully eligible for compensation if the participation makes a substantial contribution to a commission order or decision, consistent with Section 1801.3.

1803. The commission shall award reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs of preparation for and participation in a hearing or proceeding to any customer who complies with Section 1804 and satisfies both of the following requirements:

(a) The customer's presentation makes a substantial contribution to the adoption, in whole or in part, of the commission's order or decision.

(b) Participation or intervention without an award of fees or costs imposes a significant financial hardship.

1804. (a) (1) A customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation. In cases where no prehearing conference is scheduled or where the commission anticipates that the proceeding will take less than 30 days, the commission may determine the procedure to be used in filing these requests. In cases where the schedule would not reasonably allow parties to identify issues within the timeframe set forth above, or where new issues emerge subsequent to the time set for filing, the commission may determine an appropriate procedure for accepting new or revised notices of intent.

(2) (A) The notice of intent to claim compensation shall include both of the following:

(i) A statement of the nature and extent of the customer's planned participation in the proceeding as far as it is possible to set it out when the notice of intent is filed.

(ii) An itemized estimate of the compensation that the customer expects to request, given the likely duration of the proceeding as it appears at the time.

(B) The notice of intent may also include a showing by the customer that participation in the hearing or proceeding would pose a significant financial hardship. Alternatively, such a showing shall be included in the request submitted pursuant to subdivision (c).

(C) Within 15 days after service of the notice of intent to claim compensation, the administrative law judge may direct the staff, and may permit any other interested party, to file a statement responding to the notice.

(b) (1) If the customer's showing of significant financial hardship was included in the notice filed pursuant to subdivision (a), the administrative law judge, in consultation with the assigned commissioner, shall issue within 30 days thereafter a preliminary ruling addressing whether the customer will be eligible for an award of compensation. The ruling shall address whether a showing of significant financial hardship has been made. A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other commission proceedings commencing within one year of the date of that finding.

(2) The administrative law judge may, in any event, issue a ruling addressing issues raised by the notice of intent to claim compensation. The ruling may point out similar positions, areas of potential duplication in showings, unrealistic expectation for compensation, and any other matter that may affect the customer's ultimate claim for compensation. Failure of the ruling to point out similar positions or potential duplication or any other potential impact on the ultimate claim for compensation shall not imply approval of any claim for compensation. A finding of significant financial hardship in no way ensures compensation. Similarly, the failure of the customer to identify a specific issue in the notice of intent or to precisely estimate potential compensation shall not preclude an award of reasonable compensation if a substantial contribution is made.

(c) Following issuance of a final order or decision by the commission in the hearing or proceeding, a customer who has been found, pursuant to subdivision (b), to be eligible for an award of compensation may file within 60 days a request for an award. The request shall include at a minimum a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding. Within 30 days after service of the request, the commission staff may file, and any other party may file, a response to the request.

(d) The commission may audit the records and books of the customer to the extent necessary to verify the basis for the award. The commission shall preserve the confidentiality of the customer's records in making its audit. Within 20 days after completion of the audit, if any, the

commission shall direct that an audit report shall be prepared and filed. Any other party may file a response to the audit report within 20 days thereafter.

(e) Within 75 days after the filing of a request for compensation pursuant to subdivision (c), or within 50 days after the filing of an audit report, whichever occurs later, the commission shall issue a decision that determines whether or not the customer has made a substantial contribution to the final order or decision in the hearing or proceeding. If the commission finds that the customer requesting compensation has made a substantial contribution, the commission shall describe this substantial contribution and shall determine the amount of compensation to be paid pursuant to Section 1806.

1806. The computation of compensation awarded pursuant to Section 1804 shall take into consideration the market rates paid to persons of comparable training and experience who offer similar services. The compensation awarded may not, in any case, exceed the comparable market rate for services paid by the commission or the public utility, whichever is greater, to persons of comparable training and experience who are offering similar services.

1807. Any award made under this article shall be paid by the public utility which is the subject of the hearing, investigation, or proceeding, as determined by the commission, within 30 days. Notwithstanding any other provision of law, any award paid by a public utility pursuant to this article shall be allowed by the commission as an expense for the purpose of establishing rates of the public utility by way of a dollar-for-dollar adjustment to rates imposed by the commission immediately on the determination of the amount of the award, so that the amount of the award shall be fully recovered within one year from the date of the award.

1808. The commission shall deny any award to any customer who attempts to delay or obstruct the orderly and timely fulfillment of the commission's responsibilities.

1812. A group or association that represents the interests of small agricultural customers in a proceeding and that would otherwise be eligible for an award of compensation pursuant to Section 1804 without the presence of large agricultural customers, as determined by the commission, shall not be deemed ineligible solely because that group or organization also has members who are large agricultural customers.

California Public Utilities Commission
Rules of Practice and Procedure
Compensation of Intervenors

ARTICLE 18.8.

76.71. (Rule 76.71) In General.

Compensation for participation or intervention in Commission proceedings is governed by the provisions of Division 1, Part 1, Chapter 9, Article 5 (beginning with Section 1801) of the Public Utilities Code.

Note: Authority cited: Sections 1701 and 1801-1812, Public Utilities Code.

76.72. (Rule 76.72) Final Order or Decision.

For purposes of this article, "final order or decision" means an order or decision that resolves an issue on which the customer believes it made a substantial contribution or the order or decision closing the proceeding. If an application for rehearing challenges a decision on an issue on which the customer believes it made a substantial contribution, the "final order or decision" on that issue means the order or decision denying rehearing on that issue, the order or decision that resolves that issue after rehearing, or the order or decision closing the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1804, Public Utilities Code.

76.73. (Rule 76.73) Costs on Rehearing.

The customer may include, in its request for an award of compensation, reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs incurred as a result of an application for rehearing.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1804, Public Utilities Code.

76.74. (Rule 76.74) Filing a Notice of Intent in Certain Cases; Revised Notices of Intent.

(a) In cases where no prehearing conference is scheduled or where the Commission anticipates that the proceeding will take less than 30 days, the administrative law judge may establish a deadline for the filing of notices of intent.

(b) In cases where parties cannot reasonably identify issues within the time set by statute or by the administrative law judge's ruling under subsection (a) for the filing of the notice of intent, or where new issues emerge after the time set for filing, the administrative law judge may specify an appropriate procedure for accepting new or revised notices of intent.

Note: Authority cited: Sections 1701 and 1804, Public Utilities Code.

76.75. (Rule 76.75) Replies to Responses to Requests for an Award of Compensation.

If the Commission staff or any other party files a response to a customer's request for an award of compensation, the customer may file a reply within 15 days after service of the response.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1804, Public Utilities Code.

76.76. (Rule 76.76) Eligibility in Phased Proceedings.

A customer found eligible for an award of compensation in one phase of a proceeding remains eligible in later phases, including any rehearing, in the same proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1804, Public Utilities Code.

Glossary

- A -

Adjudicatory proceedings are--(1) enforcement investigations into possible violations of any provision of statutory law, order or rule of the Commission; and (2) complaints against regulated entities, including complaints that challenge the accuracy of a bill, but excluding complaints that challenge the reasonableness of rates or charges, past, present, or future.

Administrative Law Judge (ALJ)--A Commission staff member who serves as a hearing officer at formal CPUC proceedings. An ALJ conducts public hearings, issues rulings, questions witnesses, and prepares draft decisions and orders for the Commission's consideration.

Advice Letter--A filing by letter to make minor changes in rates and services which, unless ordered by the Commission, do not require formal public hearings.

Agenda--The notice of business to be considered and voted upon at the CPUC's formal decision-making meeting.

Annual Energy Rate (AER)--An electricity rate set once a year in energy cost offset proceedings which recovers a portion of the utility's forecasted fuel and purchased power expenses; it is set a year in advance and cannot be adjusted. The AER is intended to encourage electric utilities to manage prudently their energy expenses.

Appearance--A person, group or corporation, which has become a party to a formal proceeding by submitting an appearance form at the hearing. Such a party may present evidence, cross-examine witnesses, sponsor witnesses, file briefs, and appeal the results of the proceeding.

Applicant--A person, group or utility filing a formal application with the CPUC seeking authority to do something.

Application--A formal, written request by a utility to establish or change rates, terms or conditions of service.

Attrition Rate Adjustment (ARA)--Raising or lowering a utility's rates to compensate for the effects of inflation.

Attrition Year—part of a General Rate Case, usually rates are set for three years and in a fourth year, changes in rates may take place due to forecasts for attrition.

- B, C, D -

Balancing Account--An account used to match the collection of actual revenues against actual costs after an adjustment for unanticipated changes in expenditures; fuel costs or major plant additions are often put into balancing accounts.

Benchmark Rate of Return - The percentage of rate of return that the Commission has set as the maximum earnings under the alternate Regulatory Framework that the carriers may retain without returning a portion of earnings to customers. Between the benchmark return and the earnings cap, 50% of earnings are to be returned to customers; above the earnings cap, all earnings are to be returned to customers.

Brief--A document citing all facts and points of law relied on by a party in a formal proceeding. It is usually filed at the conclusion of the proceeding.

CAB--An acronym for the CPUC's Consumer Affairs Branch which assists consumers in resolving complaints against utilities.

Complainant--A person or group which files a complaint charging a utility violated a law, order, tariff, or rule of the CPUC.

Complaint--A charge by any person or group that a utility or transportation company under CPUC jurisdiction has violated the Public Utilities Code or an order or regulation of the Commission. Complaints may be either formal or informal.

Daily Calendar--A listing of new filings, Commission meetings, Commission decisions, and the date, time and location of all hearings and workshops. The public may subscribe to the Daily Calendar on a daily or weekly basis or access it from the website.

Defendant--The entity, usually a utility, charged in a complaint proceeding with violating a law, order, tariff or rule of the Commission.

- E -

Energy Cost Adjustment Billing Factor (ECABF)--The positive or negative surcharge on customers' bills used to recover energy costs in rates.

Environmental Impact Report (EIR)--A study and report, required by the California Environmental Quality Act (CEQA), on environmental impacts and mitigation measures, if any, of a proposed project.

Evidence--Oral testimony, written documents, or physical materials included in the record of a formal proceeding.

Exhibit--A physical object, usually in writing, offered as evidence in a hearing.

Ex Parte-- Contact between a party to a proceeding and a decisionmaker outside the presence of other parties. In some proceedings, ex parte contacts are banned; in others, specific rules have been established to ensure other parties and decisionmakers are notified of the contact and what transpired. See the ex parte section in this guide and the Rules of Practice and Procedure for details.

Expedited Complaint Procedure (ECP)--A procedure for handling quickly formal complaint cases involving less than \$5,000, the limit of the Small Claims Court. The ECP ensures a hearing, without a court reporter, within 30 days after an answer to a complaint is filed. Only the complaint and the answer are heard; the parties represent themselves.

- F - L -

Federal Communications Commission (FCC)--The federal agency that has jurisdiction over the rates and services of interstate telecommunications.

Federal Energy Regulatory Commission (FERC)--An independent regulatory body within the federal Department of Energy which regulates interstate gas and electric rates and facilities, as well as hydroelectric plant licenses.

Filings—see **Pleadings**

Formal Complaint--A formal charge that a utility, motor carrier or person (the defendant) has violated the Public Utilities Code or some order or regulation of the Commission. The complaint must be in writing, be in accordance with the Commission's Rules of Practice and Procedure and be made under oath.

Formal Decision--The final action taken on a pending application or other proceeding and signed by a majority of the commissioners. Note: a proceeding which has many issues to consider may yield many interim decisions as each phase of the proceeding is decided. These are still formal decisions and carry the same weight.

Full Panel Hearing--The commissioners sitting as a group in formal session, usually to hear oral argument in a major proceeding. These have also been called “En Banc” hearings.

General Order--A Commission order which sets standards, procedures or guidelines applicable to a class of utilities, as distinguished from a decision affecting only a single utility.

General Rate Case (GRC)--A proceeding in which the Commission takes a broad, in-depth look at a utility's revenues, expenses and financial outlook and considers quality of service

and other factors to arrive at just and reasonable rates. Traditionally, these have been the major regulatory proceedings that come before the Commission.

Impound--Money deposited with the Commission by customers who dispute their bill, but who wish to continue utility service. Also called deposits.

Informal Complaint--In response to a customer complaint that has not been resolved between the customer and the utility, CPUC staff seek to resolve a problem through informal contact with the utility and without a public hearing or commission order. Informal complaint files are not available for public inspection.

Interested Party--An individual or group appearing in a formal proceeding without declaring, in advance, a position for or against a proposal in question (see also, "Party").

Intervenor—A party that meets requirements to request compensation.

Intevnor Compensation Program—Provides after-the-fact funding to groups or individuals who have a financial hardship and have made contributions to a Commission decision. The program doesn't apply to transportation matters or compensate complainants in their own cases.

Lawful Rate--A just, reasonable, and nondiscriminatory rate approved by the Commission.

- M - Q -

Major Additions Adjustment Clause (MAAC)--A procedure to enable utilities to recover the cost of owning, operating and maintaining certain designated major plant additions that are placed in service between General Rate Cases (e.g. San Onofre Nuclear Generating Station). A MAAC proceeding is often divided into two phases: the first phase covers ratemaking features for recovery of costs of operating and maintaining the new facility, and capital costs; the second phase deals with the reasonableness of the new plant's construction.

New Regulatory Framework (NRF)--New Regulatory Framework adopted in D.89-10-031. It is an incentive-based form of regulation using a price cap indexing mechanism.

Notice of Intent (NOI)—The formal notice filed by a party to claim compensation. Notice of Intent is also used to refer to the preliminary notice of a utility's intent to file for a general rate case application.

Order Instituting Investigation (OII)--A Commission-initiated proceeding to examine specific issues that may lead to a new or changed legislation, programs, enforcement, policies or rates.

Order Instituting Rulemaking (OIR)--A Commission-initiated proceeding that may examine current rules and develop new ones.

Overcharge--Any rate charged by a public utility or carrier in excess of its authorized tariff rates.

Party--An individual or group appearing in a formal proceeding without declaring, in advance, a position for or against a proposal in question (see also, Interested Party).

Petitioner--Any party who files a petition in a CPUC proceeding, such as a petition to modify a Commission decision, or a petition to intervene in a proceeding.

Pleading--A general term that refers to a document filed with the Commission, including applications, complaints, petitions, motions and usually requesting some action from the Commission.

Prehearing Conference--A formal hearing that determines the parties in the proceeding, the issues and a preliminary schedule.

Presiding Officer's Decision (POD)—Used in formal complaint proceedings where a hearing was held. The POD is served on the parties and filed with the Commission. Parties have 30 days to file for an appeal, and Commissioners have 30 days to ask for a review. If neither is done, the decision automatically becomes the final Commission decision.

Proceeding—The process the CPUC uses to gather evidence in formal complaints, utility requests, or Commission investigations for the purpose of developing a record upon which the Commission bases its decision.

Protestant--A party who files a protest to an application or other filing by another party.

Quasi-legislative proceedings--Proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.

- R -

Rate Base--The total original cost of a utility's investment in operative property presently devoted to public service, minus the accrued depreciation on such property, plus an allowance for working capital, plus or minus certain other items. This investment base is the amount to which the rate of return is applied.

Rate Design--The process of setting rates to recover the allocated amount of revenue from each customer class.

Rate of Return--Percentage allowed by the Commission as a fair and reasonable return on rate base. This may vary with types and sizes of utilities or other circumstances. The utility may or may not actually earn this, depending upon conditions and its management decisions.

Ratesetting proceedings--Proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates.

Record—Information or data that is collected in writing on a specified subject and used as the basis of Commission decisions.

Return on Equity--The profits distributed to common shareholders after all expenses, interest costs and preferred stock dividends have been paid. In ratemaking, it represents the level of revenue needed that will permit equity stockholders the opportunity to earn a fair return on their investment in the utility.

Revenue Requirement--The total amount of revenue needed to pay all operating and capital costs of doing business.

Rules of Practice and Procedure--The rules in Title 20, California Code of Regulations, that govern the conduct of utilities, transportation companies, and the public in proceedings before the CPUC.

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Serve--To deliver by mail, in person or by electronic means.

Service List—A list of organizations, individuals and utility representatives interested in a given proceeding. The service list is usually broken into three categories: Appearances, those who will appear (participate) in the proceeding and receive copies of everything filed in the proceeding; Information Only, those who usually receive CPUC rulings and decisions and not parties' filings, and State Service which includes state employees who receive copies of everything filed.

Statement--Unsworn view or opinion offered at a public hearing, made part of the file but not subject to cross-examination (also see Testimony).

Tariff--A document filed by a utility with the CPUC which specifies lawful rates, charges, rules and conditions under which it will provide services to the public.

Test Year--A 12-month operating period used to evaluate the cost of service and adequacy of present or proposed rates. Generally used as the basis for general rate case calculations.

Testimony--A declaration, oral or written, which is given under oath at a public hearing and subject to cross-examination (see Statement).