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Agenda ID # _____
08-06-10
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Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Refinements to and Further Development of the Commission's Resource Adequacy Requirements Program.

Rulemaking 05-12-013
(Filed December 15, 2005)

CLAIM AND DECISION ON REQUEST FOR INTERVENOR COMPENSATION

Claimant: James Weil, for Aglet Consumer Alliance (Aglet)	For contributions to D.10-06-018
Claimed (\$): \$60,547.86	Awarded (\$):
Assigned Commissioner: Michael Peevey	Assigned ALJ: Mark Wetzell
I hereby certify that the information I have set forth in Parts I, II, and III of this Claim is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this Claim has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).	
Signature: /s/ James Weil	
Date: August 6, 2010	Printed Name: James Weil

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

A. Brief Description of Decision:

The decision evaluated whether the resource adequacy program is achieving the following objectives: ensuring reliability at least cost, equitably allocating the costs of reliability, supporting California's renewable energy goals, and promoting competitive markets. The decision also considered whether alternatives to the current Resource Adequacy (RA) program structure could better satisfy program objectives.

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

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	2/3/06	
2. Other Specified Date for NOI:		
3. Date NOI Filed:	2/23/06	
4. Was the notice of intent timely filed? See D.07-03-011, slip op. at 3.		
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.05-12-013	
6. Date of ALJ ruling:	4/10/06	
7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status?		
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R.05-12-013	
10. Date of ALJ ruling:	4/10/06	
11. Based on another CPUC determination (specify):		
12. Has the claimant demonstrated significant financial hardship? Yes		
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.10-06-018	
14. Date of Issuance of Final Decision:	6/7/10	
15. File date of compensation request:	8/6/10	
16. Was the request for compensation timely?		

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

#	Claimant	CPUC	Comment
	X		The Commission has previously awarded Aglet compensation in this proceeding, in D.07-03-011 and D.08-04-034. The hours and expenses included in the instant compensation request do not duplicate hours and expenses in the Aglet requests that led to the two previous decisions.

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

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

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
<p>1. <u>Opt-Out</u>. Aglet argued, “If an LSE [load serving entity] is allowed to opt out of the RA program for a given year and the Commission decides to increase the RA procurement goal during that year, then the cost of any incremental procurement will be borne by the customers of LSEs and IOUs who have not opted out. In this case, LSE’s who have opted out of the program in a given year will receive the incremental benefits of additional procurement, but will not be required to pay the incremental costs.” (Aglet Consumer Alliance Pre-Workshop Reply Comments on Track 2 Proposals, July 13, 2007, p. 1.)</p> <p>The Commission found, “Once a resource has been committed under the CAM [capacity auction mechanism], the reliability need that gave rise to CAM procurement in the first place has been filled, and any future opt-outs would lead to over-procurement for the system and stranded costs for the IOUs and their customers.” (D.10-06-018, slip op. at 79, Finding of Fact 18.)</p>	<p>D.10-06-018, slip op. at 79, Finding of Fact 18.</p>	

<p>2. <u>Centralized Capacity Market</u>. Aglet proposed the establishment of a voluntary, physical call option market (PCOM) as an alternative to a centralized capacity market. (D.10-06-018, slip op. at 42.) Since Aglet’s PCOM proposal combines exchange-executed trades with bilateral contract settlement, it is similar to the Commission’s preference for bilateral trading combined with a bulletin board and appropriate public disclosure.</p> <p>The Commission stated that “maintaining the current bilateral contracting approach best meets the [RA] program objectives at this time.” (D.10-06-018, slip op. at 3.)</p> <p>The Commission found, “An electronic bulletin board or equivalent mechanism with appropriate public disclosure of price and trading information would facilitate trading and promote greater liquidity.” (D.10-06-018, slip op. at 77, Finding of Fact 5.)</p>	<p>D.10-06-018, slip op. at 3; D.10-06-018, slip op. at 42; D.10-06-018, slip op. at 77, Finding of Fact 5.</p>	
<p>3. <u>Multi-Year Forward Commitment</u>. Aglet recommended, “The Commission should require all LSEs to meet a three-year forward RA requirement.” (Aglet Consumer Alliance Proposal on Track 2 Issues, p. 2, March 30, 2007.)</p> <p>The Commission stated, “These parties argue that it is necessary to modify the program by providing for a multi-year forward commitment of capacity resources. While their concerns have merit, we conclude that a multi-year forward procurement obligation should not be adopted at this time. We direct our staff to review this issue and report its findings to us as the basis for possible future action.” (D.10-06-018, slip op. at 2.)</p>	<p>D.10-06-018, slip op. at 2.</p>	

<p>4. <u>Backstop Mechanism</u>. Aglet recommended a backstop mechanism in its proposal on Track 1 issues. (See Aglet Consumer Alliance Proposal on Track 1 Issues, pp. 12-16, January 26, 2007.)</p> <p>The Commission stated, “As we determined in Section 3.4.6.5, a weakness of the short-term bilateral resource adequacy program is the lack of a clearly defined permanent backstop procurement mechanism. We note that the CAISO anticipates updating the ICPM [Interim Capacity Procurement Mechanism] in order to address some of its weaknesses. We believe it would be beneficial for our staff to collaborate with the CAISO in the development of the next generation of ICPM.” (D.10-06-018, slip op. at 69-70.)</p>	<p>D.10-06-018, slip op. at 69-70.</p>	
<p>5. <u>Direct Access Metric</u>. The Commission noted that “Aglet takes issue with the metric of enabling direct access because the role of direct access is being evaluated in R.07-05-025.” (D.10-06-018, slip op. at 57.)</p> <p>Although the Commission did not eliminate the direct access metric, it stated that “certain other metrics, particularly reliability and least cost, should be given greater weight.” (D.10-06-018, slip op. at 58.)</p>	<p>D.10-06-018, slip op. at 57; D.10-06-018, slip op. at 58.</p>	

<p>6. <u>Regulatory Authority</u>. Aglet argued, “The Commission has an obligation to ensure that rates and charges paid by IOU ratepayers are just and reasonable. The Commission must not cede its regulatory authority to a market that is not subject to some degree of Commission control.” (Aglet Consumer Alliance Proposal on Track 2 Issues, p. 18, March 30, 2007).</p> <p>The Commission effectively agreed with Aglet when it found, “Maintaining the current scope of Commission jurisdiction over the RA program would enable the Commission to make changes to the program going forward, both for routine program refinement and for responding to any market breakdown or other unforeseen consequences.” (D.10-06-018, slip op. at 78, Finding of Fact 13.)</p>	<p>D.10-06-018, slip op. at 78, Finding of Fact 13.</p>	
<p>7. <u>The Hybrid Market</u>. In its reply to the arguments of Constellation, Aglet argued, “Constellation’s comments on the hybrid market are beyond the scope of the proceeding. The Commission should give no weight in this proceeding to Constellation’s request that the Commission accelerate further reforms to the hybrid market approach.” (Supplemental Reply Comments of Aglet Consumer Alliance on Modified Centralized Market Proposal, p. 2, October 8, 2008.)</p> <p>The Commission effectively agreed with Aglet when it stated, “Moreover, a decision to rescind the hybrid market policy is not within the scope of this proceeding.” (D.10-06-018, slip op. at 15.)</p>	<p>D.10-06-018, slip op. at 15.</p>	

<p>8. <u>Errors</u>. Aglet filed comments to a proposed decision issued November 3, 2009. In its comments, Aglet sought to correct an error in the proposed decision related to the administration of the Aglet PCOM proposal. (See Comments of Aglet Consumer Alliance on Proposed Decision Of ALJ Wetzell, pp. 1-2, December 2, 2009.)</p> <p>The Commission adopted the change recommended by Aglet. (D.10-06-018, slip op. at 42.)</p>	<p>D.10-06-018, slip op. at 42.</p>	
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
<p>a. Was DRA a party to the proceeding? (Y/N)</p>	<p>Yes</p>	
<p>b. Were there other parties to the proceeding? (Y/N)</p>	<p>Yes</p>	
<p>c. If so, provide name of other parties: Bilateral Trading Group (BTG), California Large Energy Consumers Association (CLECA), Division of Ratepayer Advocates (DRA), Pacific Gas and Electric Company (PG&E), The Utility Reform Network (TURN) and others</p>		

<p>d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p> <p>Aglet contributed to the proceeding in a manner that did not repeat the work of other parties. Aglet represents customer interests that would otherwise be underrepresented in this proceeding. As ALJ Angela Minkin noted in her eligibility ruling for Aglet in A.98-09-003 <i>et al.</i>:</p> <p style="padding-left: 40px;">"Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation." (Ruling dated July 7, 1999, p. 3.)</p> <p>As a matter of policy, Aglet does not participate in Commission proceedings where its showing is likely to be the same as showings of other consumer representatives such as TURN or DRA. For example, Aglet did not serve testimony in Phase 3 of the long term plan proceeding, R.06-02-013, because Aglet's showing would likely have duplicated the showings of TURN and DRA.</p> <p>Aglet and TURN have been the sole active parties that represent only residential and small commercial customers. DRA was an active party, but by its charter DRA must represent the interests of all customers, not only residential and small commercial customers. Aglet made conscious efforts to avoid duplication of DRA's and TURN's work in its showing.</p>	
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<p>Aglet had a number of meetings with other parties concerning capacity markets and alternative proposals. Aglet conferred with TURN on August 16, 2007. Aglet conferred with DRA on January 25, 2007, July 16, 2007, October 9, 2007, November 5, 2007, and November 6, 2007. Aglet conferred with CLECA on February 16, 2007, August 13, 2007, August 16, 2007, August 28, 2007, and November 9, 2007. Aglet conferred with PG&E on August 7, 2007.</p> <p>Aglet consultant Jan Reid met with DRA and TURN on numerous occasions throughout the course of the proceeding.</p>	
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C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Claimant	CPUC	Comment
B.d	X		A summary of the time spent by consultant Jan Reid on each major issue is given in Attachment 2, at the bottom of the spreadsheet. Aglet Director James Weil allocated his time to individual issues based on Reid's time because most of Weil's work was editing Aglet pleadings that Reid drafted. See Attachment 3, at the bottom of the spreadsheet.
B.d	X		Aglet participated in the BTG from October 5, 2006 to March 23, 2007.

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

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

Concise explanation as to how the cost of claimant's participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)	CPUC Verified
<p>Aglet contributed to the proceeding in a manner that was productive and will result in benefits to ratepayers that exceed the costs of participation.</p> <p>In consolidated R.97-01-009 and Investigation 97-01-010, the Commission required intervenors seeking compensation to show that they represent interests that would otherwise be underrepresented and to present information sufficient to justify a finding that the overall benefits of a customer's participation will exceed the customer's costs. (D.98-04-059, Finding of Fact 13, slip op. at 83, discussion at 31 33, as modified by D.99-02-039.) The Commission noted that assigning a dollar value to intangible benefits may be difficult.</p> <p>Aglet opposed the centralized capacity market proposals submitted by the California Forward Capacity Market Advocates (CFCMA) and other parties. Aglet estimates that ratepayers would pay \$73/kilowatt-year (kw-yr) in a centralized capacity market versus the current penalty amount of \$40/kw-yr, a difference of \$33/kw-yr. Thus, a single 5 megawatt plant would cost ratepayers approximately \$165,000 per year, or more than twice the requested award.</p>	

The Commission can safely find that the participation of Aglet in this proceeding was productive. Overall, the benefits of Aglet's contributions to D.10-06-018 justify compensation in the amount requested.

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
James Weil	2007	14.1	\$280	D.07-05-037, slip op. at 11	3,948.00				
James Weil	2008	1.4	\$300	D.08-05-033, Conclusion of Law 6	420.00				
James Weil	2009	1.2	\$300	D.08-05-033, Conclusion of Law 6	360.00				
Subtotal:					4,728.00	Subtotal:			
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Jan Reid	2006	20.1	\$155	D.07-05-037, slip op. at 11-12	3,115.50				
Jan Reid	2007	210.4	\$170	D.07-05-037, slip op. at 11-12	35,768.00				
Jan Reid	2008	65.0	\$185	D.08-11-054, slip op. at 8	12,025.00				
Jan Reid	2009	8.3	\$185	D.08-11-054, slip op. at 8	1,535.50				
Jan Reid	2010	1.6	\$185	D.08-11-054, slip op. at 8	296.00				
Subtotal:					52,740.00	Subtotal:			

OTHER FEES

Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.): Travel time at one-half the authorized hourly rate.

Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Jan Reid, travel time	2006	8.0	\$77.50	D.07-05-037, slip op. at 11-12	620.00				
Jan Reid, travel time	2007	5.3	\$85	D.07-05-037, slip op. at 11-12	450.50				
Subtotal:					1,070.50	Subtotal:			

INTERVENOR COMPENSATION CLAIM PREPARATION **

Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Jan Reid	2010	10.1	\$92.50	D.08-11-054, slip op. at 8	934.25				
James Weil	2010	4.4	\$150	D.08-05-033, Conclusion of Law 6	660.00				
Subtotal:					1,594.25	Subtotal:			

COSTS					
#	Item	Detail	Amount	Amount	
1	Jan Reid Travel Expense	October 5, 2006, travel from Santa Cruz to San Francisco, 166 miles at 44.5 cents/mile. Attended a BTG meeting.	73.88		
2	Jan Reid Travel Expense	October 5, 2006, parking, San Francisco. Attended a BTG meeting.	10.00		
3	Jan Reid Travel Expense	October 19, 2006, travel from Santa Cruz to San Francisco, 166 miles at 44.5 cents/mile. Attended a BTG meeting.	73.88		
4	Jan Reid Travel Expense	October 19, 2006, parking, San Francisco. Attended a BTG meeting.	10.00		
5	Jan Reid Travel Expense	March 22, 2007, travel from Santa Cruz to San Francisco, 83 miles at 44.5 cents/mile. Attended a BTG meeting.	36.94		
6	Jan Reid Travel Expense	March 22, 2007, half of parking, San Francisco. Attended a BTG meeting.	5.00		
7	Jan Reid Travel Expense	April 25, 2007, travel from Santa Cruz to San Francisco, 166 miles at 44.5 cents/mile. Attended the ED Stakeholder meeting.	73.88		
8	Jan Reid Travel Expense	April 25, 2007, parking, San Francisco. Attended the ED Stakeholder meeting.	16.00		
9	Copies	See Attachment 3	65.85		
10	Postage	See Attachment 3	49.68		
Subtotal:			415.11	Subtotal:	
TOTAL REQUEST \$:			60,547.86	TOTAL AWARD \$:	
<p>When entering items, type over bracketed text; add additional rows as necessary. *If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale. **Reasonable claim preparation time typically compensated at 1/2 of preparer's normal hourly rate.</p>					

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

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Attachment 2 Jan Reid Costs
3	Attachment 3 James Weil Costs
4	Attachment 4 E-mail Service List

D. CPUC Disallowances & Adjustments (CPUC completes):

#	Reason

PART IV: OPPOSITIONS AND COMMENTS
 Within 30 days after service of this claim, Commission Staff
 or any other party may file a response to the claim (see § 1804(c))

(CPUC completes the remainder of this form)

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

If so:

Party	Reason for Opposition	CPUC Disposition

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

If not:

Party	Comment	CPUC Disposition

FINDINGS OF FACT

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

CONCLUSION OF LAW

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

ORDER

1. Claimant is awarded \$_____.
2. Within 30 days of the effective date of this decision, _____ shall pay claimant the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning _____, 200__, the 75th day after the filing of claimant's request, and continuing until full payment is made.
3. The comment period for today's decision [is/is not] waived.
4. [This/these] proceeding[s] [is/are] closed.
5. This decision is effective today.

Dated _____, at San Francisco, California.

**Attachment 1:
Certificate of Service by Customer**

I hereby certify that I have this day served a copy of the foregoing **CLAIM AND DECISION ON REQUEST FOR INTERVENOR COMPENSATION** by:

- hand delivery;
- first-class mail; and/or
- electronic mail

to the following persons appearing on the official Service List:

[See Attachment 4, E-mail Service List]

I will serve paper copies of the pleading on Assigned Commissioner Michael Peevey, Administrative Law Judge Mark Wetzell, and Intervenor Compensation Coordinator Susan Rosenson.

Executed this 6th day of August, 2010, at Sebastopol, California.

/s/ James Weil

James Weil
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