

Decision 09-07-017 July 9, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of the 2009-2011 Low Income Energy Efficiency and California Alternate Rates for Energy Programs and Budgets (U39M).

Application 08-05-022
(Filed May 15, 2008)

And Related Matters.

Application 08-05-024
Application 08-05-025
Application 08-05-026

CLAIM AND DECISION ON REQUEST FOR INTERVENOR COMPENSATION

Claimant: Disability Rights Advocates **For contribution to Decision (D.) 08-11-031**

Claimed (\$): 30,009.26¹ **Awarded (\$): \$26,318 (reduced 12%)**

Assigned Commissioner: Dian Grueneich **Assigned ALJ: Kimberly Kim**

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: Decision on Large Investor-Owned Utilities' 2009-11 Low Income Energy Efficiency (LIEE) and California Alternate Rates for Energy (CARE) Applications.

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:	6/24/08	Yes
2. Other Specified Date for NOI:	7/24/08	Yes
3. Date NOI Filed:	7/24/08	Yes

¹ We round DisabRA's fees and expenses and derive at an amount of \$30,010 for consideration in this award.

4. Was the notice of intent timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	See comment below	R.07-04-015
6. Date of ALJ ruling:	See comment below	6/14/07
7. Based on another CPUC determination (specify):	See comment below	
8. Has the claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	See comment below	R.07-04-015
10. Date of ALJ ruling:	See comment below	6/14/07
11. Based on another CPUC determination (specify):	See comment below	
12. Has the claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.08-11-031	Yes
14. Date of Issuance of Final Decision:	11/10/08	Yes
15. File date of compensation request:	01/09/09	Yes
16. Was the request for compensation timely?		Yes

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

#	Claimant	CPUC	Comment
5-12	DisabRA		At the time of filing this Request for Compensation, there has been no ruling on DisabRA’s Notice of Intent to Claim Compensation. However, Disability Rights Advocates (DisabRA) has routinely in the past been granted both a showing of customer-related status and of significant financial hardship. Recent proceedings in which DisabRA was found eligible for compensation include R.07-04-015 and A.07-12-006.

PART II: SUBSTANTIAL CONTRIBUTION (completed by Claimant)

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. In its comments on the utilities’ applications, DisabRA urged the Commission to require that the utilities conduct targeted outreach to persons with disabilities for CARE/LIEE. DisabRA relied on the results of the KEMA report to demonstrate the obvious need for this outreach.</p>	<p>The Commission responded favorably to DisabRA’s proposals and the final decision (hereafter “the decision”) devotes an entire section to this issue. (D.08-11-031 at pp. 72–75.) The decision cites the findings of the KEMA report which indicate that persons with disabilities are disproportionately low-income. Based on these findings, the decision requires the utilities to conduct targeted outreach to enroll persons with disabilities in the LIEE program and further requires that those “efforts be measurable.” (D.08-11-031 at pp. 73-74; 208-9 (Findings of Fact Nos.39, 41, 42).) The decision sets a goal that “for the 2009-11 program years approximately 15% of the total households enrolled in LIEE should have at least one disabled member.” (D.08-11-031 at p. 74; 225 (Order No. 29).) The Commission also mandates annual reports from the utilities which will require the utilities to identify the level to which their efforts reach the 15% penetration goal, to describe their efforts to target outreach to persons with disabilities and to ensure that ME&O for CARE/LIEE are accessible to persons with disabilities. (D.08-11-031 at p. 74; 226 (Order No. 33).)</p>	<p>Yes</p>
<p>2. In its comments on the utilities’ applications, DisabRA outlined specific strategies for targeted outreach to persons with disabilities which included: (1) working with disability-related community based organizations; (2) using enrollment in the Medical Baseline Program to identify persons with disabilities who may qualify for</p>	<p>The decision adopts three of DisabRA’s proposed strategies for targeted outreach. The decision repeatedly encourages the utilities to work with “CBOs serving the disabled in California.” (D.08-11-031 at pp. 73, 74, 75; 208 (Finding of Fact No. 39).) The decision also notes that the utilities may enroll customers with disabilities based on the Medical Baseline</p>	<p>Yes</p>

<p>CARE/LIEE; (3) partnering with the DDTP program to identify persons with disabilities who may qualify for CARE/LIEE; and(4) targeting customers who receive shut-off notices since persons with disabilities may be more likely to receive shut-off notices given their high energy burden.</p>	<p>Program. (D.08-11-031 at p. 75; 225 (Order No. 31).) The decision further requires that the utilities leverage their outreach efforts with the Commission’s Deaf and Disabled Telecommunications Program (DDTP). (D.08-11-031 at p. 75, 225 (Order No. 25).)</p>	
<p>3. In its comments on the utilities’ applications, DisabRA requested that the Commission require all ME&O for CARE to be accessible to persons with disabilities. DisabRA explained that D.06-12-038 had already specified the ways in which such accessibility should be achieved (e.g., TTY service, large print formats) and asked the Commission to explicitly adopt again the determinations made in D.06-12-038.</p>	<p>The Commission agreed with DisabRA and the decision explicitly references D.06-12-038 and the requirements it sets forth. (D.08-11-031 at p. 72; 208 (Finding of Fact No. 40).) The decision also specifies that the “utilities shall ensure accessible ME&O for CARE and LIEE by providing alternate formats for communications.” (D.08-11-031 at p. 74.)</p>	<p>Yes</p>
<p>4. In its comments on the Proposed Decision (hereafter “PD”), DisabRA noted that the PD permitted the utilities to “count customers who self-identify as disabled” toward their 15% penetration goal. DisabRA requested that the phrase “self-identify” be carefully defined such that, during the enrollment process for CARE/LIEE, the utilities cannot directly inquire as to whether a person has a disability. DisabRA outlined the three ways in which a person with a disability could “self-identify”: (1) voluntarily describing themselves as having a disability; (2) having an observed disability such as a mobility, vision or hearing disability; and (3) using TTY/TTD or requesting alternate formats for written materials.</p>	<p>In the decision, the Commission notes DisabRA’s concerns and the decision adopts the three ways that DisabRA had proposed for a person with a disability to self-identify. (D.08-11-031 at p. 201; 75; 225 (Order No. 31).)</p>	<p>Yes</p>
<p>5. In its comments on the Proposed Decision, DisabRA proposed that the Commission require the utilities to ensure that every customer with a disability enrolled in LIEE be similarly enrolled, if not already, in CARE.</p>	<p>The Commission agreed with DisabRA and the decision orders the utilities to “enroll in CARE all eligible customers with disabilities.” (D.08-11-031 at p. 75; 201; 225 (Order No. 32).)</p>	<p>Yes</p>

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was DRA a party to the proceeding? (Y/N)	Y	Yes
b. Were there other parties to the proceeding? (Y/N)	Y	Yes
<p>c. If so, provide name of other parties:</p> <p>Southwest Gas Corporation, Sierra Pacific Power Company, Maraville Foundation, Telacu, The Energy Efficiency Council, Bear Valley Electric Service, Pacific Energy Policy Center, Golden State Water/Bear Valley Electric, Rancho Valley Builders, Inc., The San Diego Community Energy Advisory Committee (SDCEAC), Richard Heath and Associates, Inc., Nonprofit Housing Association of Northern California, Richard Heath & Associates, Gregory Redican, Community Action Agency of San Mateo, TURN, Division of Ratepayer Advocates, Latino Issues Forum, Western Manufactured Housing Communities Association, Mountain Utilities, The Greenlining Institute, A World Institute for Sustainable Humanity, Alpine Natural Gas Operating Company, Bill Julian, The Association of California Community & Energy Services, Sierra Pacific Power Company, Community Resource Project, Inc., West Coast Gas Company, Residential Wall Insulation, Pacificcorp.</p>		Yes
<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>DisabRA coordinated with DRA on issues such as increasing enrollment of persons with disabilities in CARE/LIEE and requiring accessible ME&O. Ms. Kimber and DisabRA’s outreach coordinator discussed these issues with Mr. Lehman of the Division of Ratepayer Advocates.</p> <p>DisabRA was the only party in this proceeding representing the unique and important needs of persons with disabilities and thus, took the lead on addressing issues in the proceeding as they related to DisabRA’s constituents. As the only intervenor representing persons with disabilities, DisabRA did not duplicate the work of other parties. DisabRA limited its comments to issues specific to persons with disabilities such as targeted outreach for persons with disabilities to increase enrollment in CARE/LIEE and accessible ME&O.</p> <p>DisabRA also supplemented issues raised by other parties by explaining the impact of these issues on persons with disabilities, where appropriate. For example, DisabRA did advocate along with others that enrollment efforts for LIEE should not to be limited only to high energy users. DisabRA supported this position because some persons with disabilities, such as those with vision disabilities, may not be high energy users but as low income customers would still benefit from LIEE measures.</p>		Yes

C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Claimant	CPUC	Comment
Gen.	DisabRA		<p>DisabRA has been an active participant in low income energy proceedings since 2005. The decision in this proceeding represents a culmination of DisabRA’s work in this area.</p> <p>DisabRA has always recognized the importance of low-income energy assistance programs for persons with disabilities. As DisabRA has often explained, persons with disabilities are disproportionately low-income and also have a greater energy burden because of their dependence on energy for assistive technology. The KEMA Report has effectively documented and validated DisabRA’s position.</p> <p>DisabRA began its involvement in proceedings addressing low income energy assistance programs in 2005 in the context of increasing natural gas prices (R.04-01-006). Since then, DisabRA has participated in three additional proceedings addressing these low income energy assistance programs (A.06-06-032, R.07-01-042 and A.08-05-022). In each of these proceedings, DisabRA has advocated for targeted outreach to increase enrollment of persons with disabilities in low income energy assistance programs and for accessible communications which ensure that persons with disabilities can take full advantage of these programs. DisabRA has also welcomed the opportunity to work with and advise the utilities on ways in which to better serve people with disabilities and in so doing created a guide for the utilities explaining how to effectively communicate with persons who have disabilities. DisabRA is pleased that Commission recognizes the need for targeted outreach to persons with disabilities and that it also recognizes the need for actual results from that outreach.</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION (completed by Claimant)

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>The costs of DisabRA’s participation in this proceeding are minimal in comparison with the obvious and significant benefits to customers with disabilities. DisabRA’s participation in this proceeding yielded numerous substantial contributions, most notably, a landmark requirement that customers with disabilities comprise 15% of new enrollment in LIEE. A mandate such as this will have a significant impact on the disabled community. Given that the utilities must treat a total of 1,055,096 households over the next budget cycle, approximately 150,000 households with a disabled member will have the benefits of the LIEE and CARE programs. If each such household saves, on average, \$36 over the next budget cycle due to these programs (i.e. \$1 per month), the savings to customers with disabilities will amount to approximately \$5,400,000. While</p>	<p>Excluding the disallowance and adjustments we have made to DisabRA’s claim, the remainder of the hours and costs reasonably support DisabRA’s request for compensation.</p>

this hypothetical is merely an illustration of the benefits, it demonstrates that there will be substantial benefits realized by the disability community particularly as compared with the very modest amount of compensation sought by DisabRA.

Additionally, while it is not possible to fully quantify the benefits to the disabled community of DisabRA's other contributions in this proceeding, there is little doubt that ensuring the accessibility of the CARE/LIEE programs through alternate formats, TTY, accessible websites and other efforts will help advance the 15% penetration goal and provide valuable assistance to customers with disabilities.

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
Melissa Kasnitz	2008	22.6	\$420	D0903018	9,492	2008	22.4	\$420	9,408
Mary-Lee Kimber	2008	49.9	\$215	Attachment #5	10,729	2008	48.50	\$215	10,427.50
<i>Subtotal:</i>					\$20,221	<i>Subtotal:</i> \$19,835.50			
OTHER FEES									
Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.):									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
Paralegal	2008	36.8	\$110	D0903018	4,048	2008	34.7	\$110	3,817
Outreach Coordinator	2008	9.3	\$110	D0903018	1,023	2008	9.3	\$110	1,023
<i>Subtotal:</i>					\$ 5,071	<i>Subtotal:</i> \$ 4,840			
INTERVENOR COMPENSATION CLAIM PREPARATION ** (1/2 RATE)									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
Melissa Kasnitz	2008	2.4	\$210	50% of 2008 approved rate	504	2008	2.4	\$210	504
Melissa Kasnitz	2009	1.4	\$210	50% of 2008 approved rate, no increase for 2009	294	2009	1.4	\$210	294
Mary-Lee Kimber	2008	13.5	\$107.50	50% of 2008 adopted rate	1,451	2008	1.4	\$107.50	150.50

Mary-Lee Kimber	2009	12.3	\$107.50	50% of 2008 adopted rate, increase for 2009	1,322	2009	1.4	\$107.50	150.50
Paralegal	2008	3.3	\$55	50% of 2008 approved rate	182	2008	2.80	\$ 55	154
Paralegal	2009	5.1	\$55	50% of 2008 approved rate, no increase for 2009.	281	2009	5.1	\$ 55	280.50
Subtotal:					\$ 4,034	Subtotal: \$ 1,533.50			
COSTS									
#	Item	Detail			Amount \$	Amount \$			
1.	Postage and Delivery	Attachment #6			8.38	8.38			
2.	Photocopies	Attachment #6			675.25	100.00			
3.	Telephone	Attachment #6			.63	.63			
Subtotal:					\$ 684	\$109			
TOTAL REQUEST:					\$30,010	TOTAL AWARD \$:		\$26,318.00²	
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 ½ of preparer's normal hourly rate.									

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

Attachment or Comment #	Description/Comment
1	Certificate of Service
2.	General Comment and Request Regarding Standardized Intervener Compensation Form
3.	Explanation of Pre-Proceeding Costs
4.	Reasonableness of Staffing and Number of Hours
5.	Justification of Rates for Attorney Mary-Lee Kimber and Paralegals
6.	Reasonableness of Costs
7.	Detailed Records for Work on the Merits in 2008
8.	Detailed Records for Work on the Fees in 2008 and 2009

² Subtotals were rounded to nearest dollar amount.

D. CPUC Adoptions, Adjustments and Disallowances:

Participant	Reason
2008-Kimber's rate request	Kimber is a 2005 graduate of Boalt Hall School of Law in Berkley, who was admitted into the California Bar Association in December 2005. She has worked on several Commission proceedings since 2005. Kimber moved from the 0-2 year experience level to the 3-4 year experience level during her work on this proceeding. Disability Rights Advocates requests \$215 for her hourly compensation because of her previous experience before the Commission. This is a reasonable amount given the range of \$200-\$235 for attorney with 3-4 years of experience as adopted in R.06-08-019, and we adopt this rate here.
2008-Paralegals	<p>We disallow 2 hrs. for tasks performed by paralegals which are "clerical" in nature. The excluded tasks in this instance are for: "routing documents to physical files," "calendar events," "updating physical files," "mailing copies to ALJ," "pulling, printing and emailing of documents," and "creating binder." Such tasks are included in the compensation for administrative costs.</p> <p>Jul 16- Time logged for meeting with Kimber regarding preparation for attending PUC workshop is reduced by .10 hrs. to reflect the same time logged for this same task by Kimber.</p>
2008-Kimber 2008 Kasnitz	<p>Mar 25-Kimber's time logged for receiving and reviewing comments by other parties regarding ME&O workshop reduced by .30 hrs. to equal the same time logged for the same task by Kasnitz.</p> <p>May 19-Both Kimber and Kasnitz each log .10 hrs. for receiving and reviewing the order setting the pre-hearing conference. We find this time duplicative of each others efforts and unproductive. As such, we reduce each participant's time by 50%.</p> <p>Jul 24-Both Kimber and Kasnitz log .30 hrs. for a conference with TURN regarding low income applications and outreach efforts. We find this time to be duplicative of each others efforts and unproductive. As such, we reduce each participant's time by 50%.</p> <p>Aug 4-Kimber's time for reviewing other parties' comments and discussing them with Kasnitz is reduced by .30 hrs. to equal the same time logged by Kasnitz for the same task.</p> <p>Oct 13-Kimber's time logged for receiving and reviewing other parties' comments is reduced by .50 hrs. to equal the same time logged for the same task by Kasnitz.</p>
NOI and Intervenor Compensation Preparation	DisabRA requests a total of 38 hrs. of compensation for preparation of its NOI (10.5 hrs.) and Intervenor Compensation Claim (27.50 hrs.) This amount is excessive given the scope of the claim related to one Commission decision, the use of the expedited form and the experience of DisabRA in the completion of such claims. We approve a total of 15 hrs. for all participants. To achieve this allocation, we reduce Kimber's 2008 compensation request by 12.1 hrs. and Kimber's 2009 compensation request by 10.9 hrs. These adjusted hours more closely reflect our standards on reasonableness of hours. We also remove .5 hrs. of paralegal and time spent on 7/24/08 on clerical tasks.
Photocopying expenses	DisabRA request \$675.25 for photocopying expenses. DisabRA states that these costs were incurred in printing documents that were electronically filed and served by the utilities and various parties in the proceeding, as well as rulings and decisions of the Commission. We

	disallow \$575.25 of these costs as being excessive, and approve the remaining \$100. This amount is more consistent with a similar amount of (\$83.94) requested for compensation by another intervenor for the same task in this proceeding.
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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))

(completed by CPUC)

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

No

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

Yes

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision 08-11-031.
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 \$26,318.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$26,318.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric Company (SDG&E), Southern California Gas Company (SoCalGas), and Southern California Edison Company (SCE) 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 March 25, 2009, 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 waived.
4. This proceeding remains open to address other related matters.
5. This decision is effective today.

Dated July 9, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D0907017	Modifies Decision? No
Contribution Decision(s):	D0811031	
Proceeding(s):	A0805022, A0805024, A0805025 and A0805026	
Author:	Kimberly Kim	
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company.	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Disability Rights Advocates	01-09-09	\$30,010	\$26,318	No	inefficiencies; duplication of efforts; excessive hours given the scope of the work; excessive costs.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Melissa	Kasnitz	Attorney	Disability Rights Advocates	\$420	2008	\$420
Melissa	Kasnitz	Attorney	Disability Rights Advocates	\$420	2009	\$420
Mary-Lee	Kimber	Attorney	Disability Rights Advocates	\$215	2008	\$215
Mary-Lee	Kimber	Attorney	Disability Rights Advocates	\$215	2009	\$215
	Paralegals		Disability Rights Advocates	\$110	2008	\$110
	Paralegals		Disability Rights Advocates	\$110	2009	\$110
	Outreach Coordinator		Disability Rights Advocates	\$110	2008	\$110

(END OF APPENDIX)