 Date of Issuance 3/15/2011

Decision 11-03-019 March 10, 2011

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans.	Rulemaking 10-05-006 (Filed May 6, 2010)

DECISION GRANTING INTERVENOR COMPENSATION TO L. JAN REID FOR SUBSTANTIAL CONTRIBUTION TO THE PROCUREMENT REVIEW AND COST ALLOCATION MECHANISM GROUPS OF PACIFIC GAS AND ELECTRIC COMPANY

This decision awards L. Jan Reid (Reid) $36,797 in compensation for substantial contributions to the procurement review group and cost allocation mechanism group of Pacific Gas and Electric Company from October 7, 2008 to June 30, 2010.

This proceeding remains open to consider other pending issues.

1. Background

This long-term procurement proceeding (LTPP) is the successor to Rulemaking (R.) 08-02-007, R.06-02-013, R.04-04-003, and R.01-10-024.

In R.01-10-024, we established the procurement review groups (PRGs) to facilitate the investor owned utilities (IOU)'s ability to meet their service obligation to customers immediately after the electricity crisis. The expectation was that the PRG process, although strictly advisory, would allow parties in upcoming utility filings to identify potentially contentious issues in advance and to work on a solution before the utilities filed their applications. In the continuing procurement process, the PRG members serve as peer reviewers

working with the IOUs on an on-going basis as the utilities design and implement their procurement plans. Members consist of staff from the Commission's Energy Division and the Division of Ratepayer Advocates (DRA), as well as other consumer and ratepayer groups, including Reid.

The LTPP proceedings generally operate on a two-year cycle with the IOUs responsible for submitting procurement plans that project their need, and their action plans for meeting that need, over a ten-year horizon.

The Commission in its previous decisions has found that intervenor's participation in the PRGs is compensable if all necessary conditions are met. The Commission has granted compensation to intervenors for their participation to Peer Review Groups and Program Advisory Groups in several decisions. Decision (D.) 02-10-062 in R.01-10-024 states:

> The regulatory framework we adopt in this decision requires…the active involvement and expertise of nonmarket participants, through continuing the PRG process adopted in D.02-08-071 and providing intervenor compensation to those parties eligible to receive the awards for their work in this process and in the on-going review of procurement advice letters and expedited applications {footnote omitted]. We make the finding here that participation in the procurement review process discussed above by nonmarket participants who are eligible to request intervenor compensation should be fully compensated because their active participation makes a significant contribution to this proceeding.[1]

[1] D.02-10-062 at 3-4.

We confirm that Reid's continuing work in PRGs is compensable under the intervenor compensation statute (California Public Utilities Code,[2] §§ 1801-1812).

With respect to the intervenors' continuing participation in the PRGs, we have found that this rulemaking is a reasonable forum for them to seek further PRG-related compensation. The Commission has already recognized Reid's continuing contributions to PRGs in the past.[3]

2. Requirements for Awards of Compensation

The intervenor compensation program, set forth in Pub. Util. Code §§ 1801-1812,[4] requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if that party makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (PHC), pursuant to Rule 17.1 of the Commission's Rules of

[2] All subsequent statutory references are California Public Utilities Code, unless otherwise indicated.

[3] Reid served as Aglet's representative on the PRG's of all three investor-owned utilities from July 22, 2005 to March 10, 2008.

[4] All subsequent statutory references are to the Public Utilities Code unless otherwise indicated.

Practice and Procedure (Rules), or at another appropriate time that we specify. (§ 1804(a).)

2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor must file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g) and 1804(b)(1).)
5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision or as otherwise found by the Commission. (§§ 1802(i) and 1803(a).)
6. The claimed fees and costs must be reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§ 1806), and productive (D.98-04-059).

In the discussion below, the procedural issues in Items 1-4 above are combined and a separate discussion of Items 5-6 follows.

2.1. Preliminary Procedural Issues

Under § 1804(a)(1) and Rule 17.1(a)(1), a customer who intends to seek an award of intervenor compensation must file a Notice of Intent (NOI) before certain dates. In a proceeding in which a PHC is held, the intervenor must file and serve its NOI between the dates the proceeding was initiated until 30 days after the PHC is held. (Rule 17.1(a)(1). The PHC in this matter was held on June 14, 2010. Reid timely filed his NOI on August 9, 2010.

Section 1802(b)(1) defines a "customer" as: (A) a participant representing consumers, customer or subscribers of a utility; (B) a representative who has been authorized by a customer; or (C) a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small business customers. (§ 1802(b)(1)(A)–(C).)

In his NOI, asserts he is a is a Category 1 customer as defined in § 1802(b)(a)(A). Reid states he receives electric and gas services from Pacific Gas and Electric Company (PG&E) at his residence in Northern California and, although he represents himself in this proceeding his participation will benefit all residential customers of PG&E. The NOI describes Reid's own economic interests in the proceeding and the issues on which he plans to participate to the benefits of other PG&E customers. Reid states that he will be the only intervenor that will act specifically on behalf of all PG&E residential customers. Reid argues that although DRA will be participating in this proceeding, that DRA acts on behalf of all customers (large and small) but does not represent the specific interest of residential customers.

With Reid's interest in the proceeding arising primarily from his role as a customer of the utility and also from the broader interests of other customers, Reid's status falls within the characteristics of § 1802(b)(1)(A). We reaffirm Reid's customer status as a category 1 customer.

Pub. Util. Code § 1804(b)(1) states:

> 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.

In his NOI, Reid asserts his financial hardship status based on the rebuttable presumption principle, pursuant to § 1804(b)(1). The decision Reid references however, D.10-05-017, relied on an Administrative Law Judge Ruling date April 15, 2008. Since that finding was not made within a year of the commencement of this proceeding, we do not apply that finding to this proceeding. Instead, we make our own independent finding of Reid's significant financial hardship here.

Section 1802(g) defines "significant financial hardship" as follows:

> "significant financial hardship" means that the customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate 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.

We evaluate Reid's claim of significant financial hardship based on information submitted in his amended NOI filed on January 4, 2011.

Reid states that because he is an individual, he cannot afford to participate without undue hardship because his only guaranteed income is his monthly pension from the State of California. Reid demonstrated that his participation would impose a significant financial hardship by filing, under seal, a summary of his annual gross income, net income, annual expenses, cash, and other assets.

Reid filed his request for compensation on September 16, 2010. Considering that PRG and cost allocation mechanism group (CAMG) activities are ongoing and we have not established timelines for requesting intervenor compensation for this work, we find this request timely. No party opposed the request.

3. Substantial Contribution

As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

> In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.[5]

Reid requests compensation for his participation in the utilities' PRGs. Details of these groups' activities are protected by confidentiality agreements. The Commission requires the intervenors to include in their requests enough non-confidential information for the Commission's findings under §§ 1801-1812.

D.07-11-024 clarifies what information intervenors need to provide when they request compensation for participation in PRGs. That decision directed intervenors to explain the types of programs, policies, practices or documents reviewed in connection with its PRG work and how that work contributed to an outcome that benefited ratepayers. The intervenors should address how their work added value to the review or advisory process because of the intervenor's unique analysis, perspective or work product or because of specific expertise or skills of the intervenor. The intervenor should also demonstrate reasonable collaboration with other group members to minimize the duplication of effort.[6]

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[5] D.98-04-059, 79 CPUC2d 628 at 653.

[6] D.07-11-024 at 5-6.

Information provided in the subject request meets these requirements and allows us to assess whether Reid made contributions to the PRG process.

According to Reid, he actively and productively participated in the PRG and CAMG groups for PG&E. A list of Reid's activities supports that statement: Reid reviewed, analyzed and prepared comments on the following types of information, all of which were discussed in PG&E's PRG: advice letters and expedited applications; bids submitted in utility request for offer (RFO) solicitations; bilateral procurement contracts; compliance filings; convergence bidding; electric and natural gas positions; electricity spot price models; energy auction plans; financing of Renewable Portfolio Standards (RPS); firm transmission rights and congestion revenue rights auction strategies; fuel cell partnership and hydrogen energy projects; hedging plans and contracts' interviews of independent evaluator candidates and review of his or her activities; load forecasts; market redesign and technology upgrade (MRTU) market; PG&E's contract selection methods; natural gas pipeline capacity contracts, physical gas need, gas supply plans, gas storage bids, and speculation in the natural gas market; pumped storage; qualifying facilities (QF) contracts; recession's effect on regulated utilities; RPS plans; renewable and fossil fuel contracts; resource adequacy procurement; risk management issues; risk reports; renewable energy credits (RECs); tax equity investments; utility hedging plans and strategies; and minutes of PRG meetings and corrections. Reid also developed models to evaluate capacity contracts, gas options, hedging targets and renewable contracts. Based on the model results, Reid formulated the related recommendations at the PRG meeting.

Reid's participation allowed him to identify issues in advance of an application and to focus on disputed cases that Reid believed were the highest priority for ratepayers. As a result of Reid's participation, the utilities have withdrawn or modified numerous proposals. Reid's contract analysis in the PRG process allowed his to determine whether or he would protest subsequent applications and advise letters. Reid stated that based on his analysis, he has determined not to protest PG&E advice letters 3014-G; 3015-G, 3031-G, 3452-E, 3456E, 3457E, 3458-E, 3459-E, 3463-E, 3474-E, 3477-E, 3488-E, 3492-E, 3514-E, 3542-E, 3546-E, 3547-E, 3678-E, 3687-E, and 3705-E. Reid submits that in this area alone, his participation saved ratepayers the cost of participation in the procedural process for those advice letters.

We find that Reid substantially contributed to the PRG process during the period reflected in the request through unique analysis, perspective or work product, and through specific expertise or skills.

4. Contributions of Other Parties

Section 1801.3(f) requires an intervenor to avoid participation that duplicates that of similar interests otherwise adequately represented by another party, or participation unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation where its participation materially supplements, complements, or contributes to the presentation of another party if that participation makes a substantial contribution to the Commission order.

D.07-11-024 uses the following approach to a duplication of efforts problem as far as it concerns participation in the PRG activities:

> Some intervenor participation in these groups may overlap with other group members by necessity. We understand that

> many parties may attend the same meetings or review the same documents. Those activities would qualify for compensation as long as the intervenor's contributions are adequately described and distinguished from those of other members, consistent with § 1802.5. The intervenor should also demonstrate reasonable collaboration with other group members to minimize duplication of effort.[7]

We use the recommended approach in our evaluation of Reid's participation in PRGs. We note among other things, that Reid was the only PRG member to perform independent modeling of the cost effectiveness of electric utility contracts. Reid used the Black Model to evaluate gas options, non-renewable capacity contracts, RPS contracts, bilateral contracts, and bids received in RFO solicitations.

The same Black Model was used by Reid in PG&E Application (A.) 06-04-012 when he was a consultant for Aglet. The Commission resolved A.06-04-012 in D.06-11-048, recognizing the reliance on Reid's Black Model analysis when finding that the PG&E contracts were cost effective.[8] Reid's work focused on the underlying economics of the various utility proposals, his particular area of expertise as an economist.[9]

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[7] D.07-11-024 at 6.

[8] D.06-11-048 at 12.

[9] Reid is an active participant in regulatory proceedings at the Commission. Reid holds B.A. and M.S. degrees from the University of California, Santa Cruz in Applied Economics and Finance. He has testified before the Commission, and has conducted numerous workshops and seminars on cost of capital and risk management. In addition, he has completed courses in risk management, regulation negotiation and project management given by the National Regulatory Research Institute, the Commission, and Karrass Inc.

In an attempt to avoid duplication, Reid coordinated efforts with other PRG members. Reid's claim mentions contacts with representatives from The Utility Reform Network, DRA, Coalition of California Utility Employees, and Energy Division.

As the Commission requires, Reid's request contains information concerning the date, duration and location of the PRG meetings for which compensation is requested and also whether his attendance was in-person or by telephone.

Finally, Reid states that PRG and CAMG processes do not involve any tasks that might be considered staff work where a disallowance would be appropriate.

After we have determined the scope of a customer's substantial contribution, we then look at whether the amount of the compensation request is reasonable.

5. Reasonableness of Requested Compensation

Reid requests $36,797[10] for his participation in this proceeding, as follows:

Work on Proceeding				
Expert	**Year**	**Hours**	**Hourly Rate**	**Total $**
L. Jan Reid	2008	10.1	$185	1,869
L. Jan Reid	2009	162.8	$185	30,118
L. Jan Reid	2010	21.2	$185	3,922
Subtotal Hourly Compensation:				**$35,909**
Preparation of NOI and Compensation Request (1/2 rate)				
Participant	**Year**	**Hours**	**Hourly Rate**	**Total $**

[10] Rounded to nearest dollar amount.

L. Jan Reid	2010	9.6	$185	888
Subtotal Compensation Request:				**$888**
Total Requested Compensation				**$36,797**

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are discussed below:

5.1. Hours and Costs Related to and Necessary for Substantial Contribution

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

Reid documented his claim by presenting his timesheets which reflects an hourly breakdown of Reid's work accompanied by a brief description of each activity and the related utility PRG. Reid's hourly breakdown reasonably supports the claim of total hours.

In D.07-11-024, we explained that in order to effectively evaluate duplication and overall reasonableness of the requested award, we are interested in knowing the date, duration, and location of the PRG or CAMG meeting for which compensation is requested and we are also interested in knowing whether the intervenor attended in person or participated telephonically. Reid's claim supplies the needed information.

5.2. Intervenor Hourly Rates

We next take into consideration whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.

Reid seeks an hourly rate of $185 for his work performed in 2008-2010. We have previously adopted this rate for Reid's 2008 work in D.08-11-053 and have applied this same rate to Reid's 2009 work in D.09-11-027 and also to his 2010 work in D.10-10-015.

5.3. Direct Expenses

Reid seeks no reimbursement for travel or direct expenses.

6. Productivity

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers.[11] The costs of a customer's participation should bear a reasonable relationship to the benefits realized through its participation. This showing assists us in determining the overall reasonableness of the request.

In his participation in PG&E's PRG, Reid submits that he was able to identify issues in advance of an application and focus on disputed cases that he believed were the highest priority for ratepayers allowing resolution to take place in the PRG process, thus avoiding protracted and expensive litigation.

In addition, Reid argues that the discovery in the PRG setting is more efficient than discovery conducted in a formal proceeding. He states that in the PRG process, the utilities typically provide requested data within 48 hours and

[11] D.98-04-059 at 34-35.

that there have been no instances where the utility has refused to furnish information to Reid. He submits that, in formal applications, this is not always the case. Reid states that utilities typically take up to two weeks to respond to discovery requests and can object, refuse to answer, or provide incomplete answers to discovery questions. Reid believes that because discovery in the PRG process is more efficient than discovery in a formal proceeding, that participation in the PRG process by individuals such as himself ultimately reduces the costs ratepayers bear in formal proceeding.

Reid, without engaging costly resources, developed models to evaluate capacity contracts, gas options, load forecasts, resource adequacy procurement and renewable and fossil fuel contracts. Finally, Reid effectively collaborated with PRG members and avoided unnecessary duplication of efforts. Although Reid did not identify precise monetary benefits to ratepayers, he has demonstrated that through unquantifiable benefits, his participation in the PRG process was productive.

7. Award

As set forth in the table below, we award Reid $36,797.

Work on Proceeding				
Expert	**Year**	**Hours**	**Hourly Rate**	**Total $**
L. Jan Reid	2008	10.1	$185	1,869
L. Jan Reid	2009	162.8	$185	30,118
L. Jan Reid	2010	21.2	$185	3,922
Work on Proceeding Total:				**$35,909**
Preparation of NOI and Compensation Request				
Participant	**Year**	**Hours**	**Hourly Rate**	**Total $**
L. Jan Reid	2010	9.6	$185	888
Subtotal Compensation Request:				**$888**
CALCULATION OF FINAL AWARD				
Work on Proceeding				$36,797

NOI and Compensation Request Preparation	$ 888
TOTAL AWARD	**$36,797**

Pursuant to § 1807, we order PG&E to pay this award. We order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on November 30, 2010, the 75th day after Reid filed his compensation request, and continuing until full payment of the award is made.

We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Reid's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants, and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

8. Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 14.6(c)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

9. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner, and Peter V. Allen is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. Reid has satisfied all the procedural requirements necessary to claim compensation in this proceeding. Reid made a substantial contribution to PG&E's PRG and CAMG groups as described herein.

2. Reid requests hourly rates for himself that are reasonable when compared to the market rates for persons with similar training and experience.

3. The total of the reasonable compensation is $36,797.

4. The appendix to this decision summarizes today's award.

Conclusions of Law

1. Reid has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for his claimed expenses incurred in making substantial contributions to PG&E's PRG and CAMG groups.

2. Reid should be awarded $36,797 for his contribution to PG&E's PRG and CAMG.

3. This order should be effective today so that Reid may be compensated without further delay.

O R D E R

IT IS ORDERED that:

1. Reid is awarded $36,797 as compensation for his substantial contributions to Pacific Gas and Electric Company's Procurement Review Group and Cost Allocation Mechanism Group.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay Reid 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 November 30, 2010, the 75th day after the filing date of Reid's request for compensation, and continuing until full payment is made.

This order is effective today.

Dated March 10, 2011, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
CATHERINE J.K. SANDOVAL
Commissioners

I abstain.

/s/ MICHEL PETER FLORIO
Commissioner

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	D1103019	**Modifies Decision?**	No
Contribution Decision(s):	Procurement Review and Cost Allocation Mechanism Groups		
Proceeding:	R1005006		
Author:	ALJ Peter V. Allen		
Payer:	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
L. Jan Reid	09-16-10	$36,797	$36,797	No	None

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
L. Jan	Reid	Expert	L. Jan Reid	$185	2008	$185
L. Jan	Reid	Expert	L. Jan Reid	$185	2009	$185
L. Jan	Reid	Expert	L. Jan Reid	$185	2010	$185

(END OF APPENDIX)