Decision 12-01-028 January 12, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Applying the Market Index Formula and As-Available Capacity Prices adopted in D.07-09-040 to Calculate Short-Run Avoided Cost for Payments to Qualifying Facilities beginning July 2003 and Associated Relief.	Application 08-11-001 (Filed November 4, 2008)
And related matters.	Rulemaking 06-02-013 Rulemaking 04-04-003 Rulemaking 04-04-025 Rulemaking 99-11-022

DECISION GRANTING, IN PART, AND DENYING, IN PART, INTERVENOR COMPENSATION CLAIM OF CALIFORNIANS FOR RENEWABLE ENERGY FOR SUBSTANTIAL CONTRIBUTIONS TO MULTIPLE DECISIONS

Claimant: CAlifornians for Renewable Energy, Inc. (CARE)	**For contribution to Decision (D.) 07-04-020, D.07-09-040; denying compensation claim related to D.05-12-021, D.06-02-007, D.06-07-032, D.07-03-015, and D.10-12-035**
Claimed ($): 14,049.55[1]	**Awarded ($): $1,405.75**
Assigned Commissioner: Mark J. Ferron	**Assigned ALJs:** Amy C. Yip-Kikugawa, Mark S. Wetzell
Claim Filed:	**May 23, 2011**

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	**Decision (D.) 05-12-021.** This decision confirms the allocation of the Department of Water Resources' (DWR) Kings River Conservation District (Kings River) contract for operational purposes to Pacific Gas and Electric Company (PG&E), and the allocation of the DWR's City and County of San Francisco (CCSF) contract to PG&E, subject to the terms and conditions of the contract becoming final. The Williams Product D units

[1] Claimant made several calculation or typographical errors in the requested amount. The correct amount, based on the time records and calculations should be $15,082.05. In the Specific Claim in Part III(B), the requested amount is corrected, accordingly.

	(Williams) contract is allocated to Southern California Edison Company (SCE) as of January 1, 2007. We preserve the status quo with the two other DWR contracts at issue in this proceeding. The Sempra Energy (Sempra) contract will remain with SCE and the Sunrise Power Company (Sunrise) contract will stay with San Diego Gas & Electric Company (SDG&E). While we are not reallocating these contracts, the Investor-Owned Utilities (IOUs) are free to negotiate mutually agreeable allocations that allow each IOU to maintain grid reliability. **Draft Decision of January 3, 2006, authorizing PG&E to purchase and deliver gas, etc.** Proposed Decision (PD) to authorize PG&E to purchase and deliver gas, if needed for electric and gas system reliability purposes, to supply generating units under the California Independent System Operator (CAISO) reliability must- run (RMR) contracts with Calpine Company (Calpine) and its affiliates,1 and authorizes PG&E to recover from its ratepayers the costs associated with these activities. **D.06-02-007.** The decision ordered implementation of the Commission's resource adequacy requirements (RAR) policy framework and, among other things, adopted a proposed prohibition on reselling and re-trading import capacity. This decision lifts that prohibition so that load-serving entities (LSEs) are authorized to engage in such transactions, which may lead to more effective use of import capacity. **D.06-07-032.** This Decision grants the Joint Motion of PG&E and The Independent Energy Producers Association (IEP) for Commission adoption of the Settlement Agreement and Associated Amendments entered into by some of the owners and/or operators of Qualifying Facilities (QFs) that have current purchase power agreements (PPA) with PG&E. **D.07-03-015.** In this Order the Commission disposed of the application for rehearing of D.06-12-037 filed by CARE. Since the enactment of legislation, the Commission has issued a series of decisions establishing Resource Adequacy (RA) policies and regulations to ensure that there is adequate, cost-effective investment in electric generation capacity for California and that such capacity is made available to the CAISO when and where it is needed for reliable transmission grid operations. The RA decisions set policies and regulations applicable to California's three largest IOUs: PG&E, SDG&E and SCE, as well as the electric service providers (ESPs) and community choice aggregators (CCAs) that serve retail customers within the service territory of the IOUs. **D.07-04-020.** This opinion grants in part and denies in part the Petition by SCE and PG&E to Modify D.04-12-048. SCE and PG&E requested two changes related to periodic report filings by utilities on their Energy Resource Recovery Accounts (ERRA): changing the filing requirement from monthly to quarterly and reducing the amount of required supporting documentation. This decision denies the request to change the monthly filing to quarterly filings, but grants the request that the utilities only supply a breakdown of costs with their ERRA monthly filings and make all supporting documentation available to Commission Staff and interested parties upon request. **D.07-09-040.** In this order, we adopt specific policies and pricing mechanisms applicable to the electric utilities' purchase of energy and capacity from QFs pursuant to the Public Utilities Regulatory Policy Act of 1978 (PURPA). Specifically, we adopt: • The Market Index Formula (MIF), which is an updated short-run avoided cost

	(SRAC) formula for pricing SRAC energy. The MIF is based on the D.01-03-067 Modified Transition Formula but contains both a market-based heat rate component, and an administratively determined heat rate component to calculate the incremental energy rate (IER); • Two Standard Contract Options for Expiring or Expired QF Contracts and New QFs: One- to Five-Year As-Available Power Contract. One- to Ten-Year Firm, Unit-Contingent Power Contract. Subject to the special provisions described below for small QFs, IOU may only deny a prospective contract if it will result in over-subscription and after it meets and confers with its Procurement Review Group (PRG). IOUs will not be required to purchase QF capacity if the utility can demonstrate that it does not need the capacity. Notwithstanding the above, IOUs may not deny either of the 2 contract options to small QFs for any reason related to oversubscription unless the total capacity of QF power would, with the proposed contract, exceed 110% of the utilities QF capacity as of the date of this decision. Small QFs are defined as QFs under 20 megawatt (MW) or that offer equivalent annual energy deliveries of 131,400 MWh and that consume at least 25% of the power internally and sell 100% of the surplus to the utilities. **D.10-12-035.** CARE was not a settling Party choosing instead to pursue relief from the Settlement's violations of PURPA at the FERC or in the federal courts. After more than a year and a half of intensive negotiations, three investor-owned utilities, four representatives of (QFs, and two purported ratepayer advocacy groups developed without notice to participated to other stakeholders like CARE, proposing, their purported "Qualifying Facility and Combined Heat and Power Program Settlement Agreement" (Proposed Settlement). In this decision the Commission purports to review the Settlement, expediting the rubber stamping that it meets established criteria for approval of settlements, and therefore approved it. The Proposed Settlement is extensive in its dismantling of PURPA requirements. It purports to resolve numerous outstanding QF issues involving disputes in several Commission, proceeding and purports to provide for an orderly transition from the existing QF program (waiving QF's rights to interconnect under a standard offer contracts for capacity and energy) to a new QF/Combined Heat and Power (CHP) program purportedly based on competition to bypass the requirements for a standard offer contracts for QFs greater than 20 MW under PURPA. This new program is designed to preserve the IOU's monopoly over resource diversity, fuel efficiency, greenhouse gas (GHG) emissions reductions, and other benefits and contributions of CHP. The Settlement fails to resolve issues in numerous Commission proceedings implementing recent statutory requirements that pertain to QFs of 20 MW or less, such as new CHP systems under Assembly Bill (AB) 1613 (codified as Pub. Util. Code sections 2840-2845), except to acknowledge that the MW and GHG reductions will count toward the investor-owned utilities' MW and GHG reduction targets.

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

	As Stated by Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing	April 26, 2005	The following PHCs were held within the time

Conference (PHC):		period covered in this claim: Rulemaking (R.) 04-04-025: on April 27, 2005; R.04-04-003: on April 30, 2005. In the consolidated docket R.04-04-003, R.04-04-025: on August 9, 2005
2. Other Specified Date for Notice of Intent (NOI):		
3. Date NOI Filed:	August 9, 2005	March 14, 2005, and August 9, 2005. (See, Part I.C, Comment 1.)
4. Was the notice of intent timely filed?		Yes, with regard to the August 9, 2005 PHC.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on Administrative Law judge (ALJ) ruling issued in proceeding number:	R04-04-003[2]	Correct.
6. Date of ALJ ruling:	September 21, 2005	Correct
7. Based on another Commission determination (specify):		
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:	R.04-04-003	Correct.
10. Date of ALJ ruling:	September 21, 2005	Correct.
11. Based on another Commission determination (specify):		
12. Has the claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.11-03-051	Correct
14. Date of Issuance of Final Decision:	March 24, 2011	March 25, 2011
15. File date of compensation request:	May 23, 2011	Correct
16. Was the request for compensation timely?		Yes.[3]

[2] http://docs.cpuc.ca.gov/PUBLISHED/RULINGS/49726.htm.

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1		**X**	CARE's first NOI was filed in R.04-04-003 on March 14, 2005. A ruling of March 28, 2005, denied the NOI as untimely. That ruling also denied CARE's motion to intervene out of time filed on March 7, 2005. On August 9, 2005, a PHC was conducted in the consolidated docket R.04-04-003/R.04-04-025. CARE filed its second NOI on that day. ALJ Ruling of September 21, 2005, granted that NOI. Until August 9th, 2005, CARE had not acquired an intervenor status and, accordingly, eligibility to claim compensation.

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant's description of its contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059)

Contribution	Citation to Decision or Record (Provided by Claimant)	Showing Accepted by CPUC
1. CARE's participation sought to protect ratepayers from unjust and unreasonable DWR contracts. Since after CARE filed its Motion the Commission granted rehearing of D.04-06-011 CARE's Motion was made in good faith. Like wise regarding CARE's Motion regarding the allocation of the CCSF DWR contract CARE's Motion was made in good faith. On March 28, 2005 CARE filed its Motion for leave to file out of time	**Decision 05-12-021 December 15, 2005 CARE's Motion on Otay Mesa Generating Plant (OMGP) Contract** On March 28, 2005, CARE filed a motion for leave to file out-of-time comments on the allocation of power purchase agreements (PPA) with the DWR. CARE's concern was that the 10-year PPA agreement the Commission approved between SDG&E, and Calpine for the OMGP in D.04 06 011 was burdensome to SDG&E's ratepayers. Since CARE filed its motion, the Commission granted rehearing of D.04-06-011 specifically in regard to the	See, Part II(C), Comment 1; and Part III(C), Comment 3

[3] We disagree with SCE's argument that CARE's claim related to D.05-12-021 through D.07-09-040, was untimely (SCE's response to CARE's Intervenor Compensation Claim filed on June 22, 2011, at 3-4). D.07-09-040 closed the proceeding, but applications for rehearing of that decision were filed thereafter, and re-opened the proceeding. D.08-07-048 addressed requests for rehearing of D.07-09-040, but did not re-close the proceeding. On February 24, 2009, a new scoping memo and ruling issued setting a schedule for review of some of the issues addressed in D.07-09-040, to which CARE believes it made substantial contributions. By the time when D.10-03-051 was adopted, consideration of substantive issues of the proceeding was still pending. The proceeding remains active. Pursuant to Rule 17.3, the intervenor's claim can be filed within 60 days after the issuance of the decision closing the proceeding.

[4] CARE's comments were accompanied by a Motion to File Comments One Day Out of Time. Motion granted.

comments on the allocation of PPA with the DWR; comments included. [Exhibit 1.] On April 4, 2005 CARE filed its Motion for leave to file comments out of time; public comments on the limited extension of the Commission's intervenor compensation program to participate in certain proceedings of the California Energy Commission [per the March 14, 2005 ruling] included. [Exhibit 2.] On April 22, 2005 CARE filed its response to the motion of IEPA for clarification of the application of D.04-12-048 to utility RFOs. [Exhibit 3.] On May 3, 2005 CARE filed its comments on the procurement incentive framework workshop held on March 7th and 8th as prepared by the Commission workshop staff, March 29, 2005. [No compensation claimed.] On May 23, 2005 CARE filed its reply; on the procurement incentive framework workshop held on March 7th and 8th 2005. [No compensation claimed.] On June 13, 2005 CARE filed its Motion for clarification on the allocation of PPA of the CCSF within the DWR. [Exhibit 4.] On September 1, 2005 CARE filed its Opening Testimony. [Exhibit 5] On October 17, 2005 CARE filed its Rebuttal Testimony. [Exhibit 6.] On November 15, 2005 CARE filed its Motion to strike reference to the California Energy Commission's Draft 2005 Integrated Energy Policy Report in the Prepared Rebuttal Testimony of R. Thomas Beach on Behalf of the California Cogeneration Council, the Prepared Rebuttal Testimony of James A. Ross and Donald W. Schoenbeck on Behalf of the Cogeneration Association of California and the Energy Producers and Users Coalition, and other parties. [Exhibit 7.] On November 21, 2005 CARE filed its	approval of OMGP. While rehearing of OMPG is underway, there is no longer an approved PPA, so CARE's motion is moot. CARE should follow the rehearing phase for OMGP and voice its concerns in that forum. [Decision at 8.] **CARE's Motion for Clarification of the CCSF Contract** On June 13, 2005, CARE filed a motion seeking clarification on the allocation of the CCSF DWR contract. Since the terms and conditions are not yet finalized, we are unable to provide further clarification at this time, and on that basis deny CARE's motion without prejudice. [Decision at 8.] Comments were received from CARE,[4] [Decision at 9.] CARE raised concerns about the cost of the CCSF contract to PG&E ratepayers. Any motions not already ruled on or discussed below are deemed denied. SCE's motion to strike is denied as moot; PG&E's motion for confirmation that it could assume the Kings River contract is granted and we confirm the agreement between DWR and PG&E concerning the allocation of this contract; CARE motion to file comments on the allocation of the OMGP PPA is denied as moot; and CARE's motion for clarification of the allocation of the CCSF DWR contract is denied as premature. [Ordering Paragraph 6 at 12-13.] **Conclusions of Law** 2. It is reasonable to the DWR CCSF contract to PG&E after (1) approval of CCSF Board of Supervisors to proceed with a sale of Initial Bonds to finance the facilities covered by the DWR contract with CCSF; and (2) expiration of DWR's rights to termination without recourse under sections 4.02 (1)(b) and (c) of the DWR/CCSF contract. 3. It is reasonable to allocate the DWR CCSF contract to PG&E, subject to the terms and conditions of the contract becoming final. **IT IS ORDERED** that: 2. The DWR contract with the CCSF of San Francisco is allocated to PG&E, after (1) approval of the CCSF Board of Supervisors to proceed with a sale of Initial Bonds to finance the facilities covered by the DWR contract with CCSF; and (2) expiration of DWR's rights to termination without recourse under Sections 4.02(1)(b) and (c) of the DWR/CCSF contract. 6. Any motions not already ruled on or discussed below are deemed denied. SCE's motion to strike is denied as moot; PG&E's motion for confirmation that it could assume the Kings River contract is	

Motion to file comments on draft decisions of the ALJ one day out of time; [comments included]. [Exhibit 8.] On December 12, 2005 CARE filed its comments to the December 2, 2005 ruling regarding next steps in procurement proceeding. [Exhibit 9.]	granted and we confirm the agreement between DWR and PG&E concerning the allocation of this contract; CARE motion to file comments on the allocation of the Otay Mesa Generating Plant PPA is denied as moot; and CARE's motion for clarification of the allocation of the CCSF DWR contract is denied as premature.	
2. On December 20, 2005 CARE filed its response and objections to the December 15, 2005 motion of PG&E to shorten time for responses to PG&E motion for a ruling authorizing PG&E to purchase and deliver gas, etc. [Exhibit 10]. The Commission withdrew the Decision on March 2, 2006. On January 9, 2006 CARE filed its comments opposing the January 3, 2006 Draft Decision. [Exhibit 12.]	**January 3, 2006 Draft Decision authorizing PG&E to purchase and deliver gas, etc.** PD to authorize PG&E to purchase and deliver gas, if needed for electric and gas system reliability purposes, to supply generating units under the CAISO RMR contracts with Calpine and its affiliates,1 and authorizes PG&E to recover from its ratepayers the costs associated with these activities.	See, Part II(C), Comment 1
3. CARE opposed the Petition "that the restriction on reselling and re-trading import capacity be eliminated" without "a mitigation mechanism" in light that "CARE points to the high wholesale energy prices of 2000-2001 as support for its position." On January 12, 2006 CARE filed its opening testimony. [Exhibit 11.][5] On January 20, 2006 CARE filed its comments and objections to the draft decision on Petition of PG&E for Modification of D.05-10-042. [Exhibit 15.]	**Decision 06-02-007 February 16, 2006** PG&E filed its petition seeking modification of D.05-10-042 on December 19, 2005, following a December 9 Energy Division workshop on RAR compliance during which problems with the reselling/re-trading restriction were discussed. PG&E requests that the restriction on reselling and re-trading import capacity be eliminated. PG&E believes that there is no reason to restrict resale or re-trading, and that permitting LSEs to resell and re-trade their allocations will optimize use of available import capacity and therefore further RAR goals. AReM, CARE, the Division of Ratepayer Advocates (DRA), Powerex Corp., SDG&E, SCE, the Utility Reform Network (TURN), and the Western Power Trading Forum (WPTF) filed timely responses to PG&E's petition.[6] Each of these	See, Part II(C), Comment 1

[5] Exhibit 11 to CARE's claim is a copy of CARE's Response and Objections to the CAISO and PG&E Petitions for Modification of D.05-10-042, filed on January 5, 2006. CARE does not provide a copy of its January 12, 2006 filing. CARE does provide, however, a copy of its motion to file opening testimony one day out of time filed on September 1, 2005.

[6] By ruling dated December 23, 2005, the ALJ granted PG&E's request to shorten time for responses to the petition to January 5, 2006.

On February 7, 2006 CARE filed its comments on the draft decision on petition of PG&E for modification of D05-10-042. [Exhibit 17.]	parties except CARE supports PG&E's petition. [Decision at 3.] CARE contends that good cause and sound reasons exist to restrict the resale or re-trading of import capacity by IOUs. Based on its allegation that PG&E received excess profits for short-term energy sales in 2000 and 2001, CARE asserts that "there exists no evidence that there is any reason not to restrict resale or re-trading of import allocations by PG&E, at this time." (Response and Objections of CARE, at 7.) [Decision at 3-4.] PG&E's petition and the responses to it reveal that the concerns about market power that led SCE to include the prohibition on reselling and re-trading import capacity in its straw proposal have been resolved. SCE states in its response to the petition that "[i]n light of the other measures instituted by the Commission in [D.05-10-042], there is no need for the restriction." (SCE's response, at 7.) However, CARE (which has not heretofore participated in the RAR portion of this proceeding) believes that we should either preserve the prohibition for IOUs or adopt an as-yet undefined mitigation mechanism.[7] Although CARE points to the high wholesale energy prices of 2000-2001 as support for its position, we do not find a nexus between those high prices and the contention that IOUs in general or PG&E in particular will have and exploit market power if they are permitted to resell or re-trade import capacity allotments. On the	

[7] CARE apparently limits the applicability of its proposal for preserving the prohibition on reselling/re-trading import capacity to IOUs, *i.e.,* it does not propose that the prohibition be continued as to ESPs and CCAs.

[8] In its response, Powerex discussed the concept of a price cap on import capacity. Powerex proposed as "a starting point for discussion" a cap set at the average of the maximum tariff rates for long-term transmission filed by transmission providers in the WECC, excluding CAISO. We do not consider such a "starting point" proposal to have been sufficiently vetted to be ready for adoption. That being said, we concur with the underlying policy concern of Powerex that the authority given to LSEs to resell and re-trade import capacity allocations is intended to promote efficient use of such capacity and not to confer upon LSEs an opportunity for mere economic gain.

[9] An earlier version of the draft decision was issued for comment on January 12, 2006. The draft decision was reissued with revisions to acknowledge that CARE filed a response to PG&E's petition and to address the issues raised by CARE. CARE is hereby reminded and admonished that the procedural rules governing this proceeding require that the assigned ALJ be served with a hard copy (as well as e-mail) of all filings (Order Instituting Rulemaking, April 1, 2004, Appendix A, at 1.)

	contrary, we are persuaded that the restriction is not necessary, and that it may lead to suboptimal use of import capacity. We will therefore remove it. Also, at this time we do not see a need for a mitigation mechanism as CARE proposes, and in any event we are presented with no specific proposal for such a mechanism.[8] [Decision at 4-5.] The draft decision was issued for comment on January 27, 2006.[9] Pursuant to direction in the ALJ's December 23, 2005 ruling shortening the time for responses to the petition, PG&E filed a motion for a determination that "public necessity" exists within the meaning of Rule 77.7(f)(9) of the Rules of Practice and Procedure and justifies shortening the public comment period on the draft decision. PG&E explains that LSEs need to know whether they are permitted to trade some or all of their allotted Intertie Load Share to another LSE prior to making their RAR compliance filings. In the absence of a timely decision, available intertie capacity may not be used efficiently. Although the actual dates referenced in PG&E's motion are no longer applicable due to the approved extension of time, the underlying principle remains. We therefore determine that public necessity requires a waiver of the 30-day public review and comment period. Comments on the draft decision were filed by CARE but not properly served. No other comments were filed. **Findings of Fact** 1. There is no need to continue the restriction on reselling and re-trading import capacity, and the restriction could lead to suboptimal use of import capacity. 2. LSEs have a need to know whether they are permitted to trade some or all of their allotted Intertie Load Share to another LSE prior to making their RAR compliance filings. **Conclusions of Law** 1. The prohibition on reselling and re-trading import capacity should be eliminated. 2. D.05-10-042 should be modified to the extent provided herein. The public interest in the issuance of this decision before the expiration of the full 30-day public review and comment period clearly outweighs the public interest in having the full 30-day period, and PG&E's motion for determination of public	

	necessity should therefore be granted. [Decision at 6-7.]	
4. On May 18, 2006 CARE commented and objected to the proposed Settlement Agreement to the degree it institutionalizes the exercise of market power in the forward market by entities such as the Independent Energy Producers Association through joint action by its members as is being proposed as opposed to negotiating individual agreements with the energy seller operating under existing PPAs operating as exempt wholesale generators and qualifying facility projects. It is generally public ally available information that CARE raised this issue before the Federal Energy Regulatory Commission under the FERC "refund Proceedings." [Exhibit 19.]	**Decision 06-07-032 July 20, 2006** This decision grants the Joint Motion of PG&E and IEP for Commission adoption of the Settlement Agreement and Associated Amendments entered into by some of the owners and/or operators of QFs that have current PPA with PG&E.	See, Part II(C), Comment 1
5. Decision 07-03-015 considers CARE's application for rehearing was filed by CARE, challenging D.06-12-037 in light of two recent 9th Circuit decisions. On January 2, 2007 CARE filed its application for rehearing. [Exhibit 21.]	**Decision 07-03-015 March 1, 2007** A timely application for rehearing was filed by CARE, challenging D.06-12-037 in light of two recent 9th Circuit decisions (Public Utility District No. 1 of Snohomish County Washington v. FERC ("PUD v. FERC") No. 03-72511 et al. (9th Cir. 2006) __ F.3d __, and Public Utilities Commission of the State of California v. FERC ("PUC v. FERC") No. 03-74207 et al. (9th Cir. 2006) __ F.3d__.) (collectively, "the 9th Circuit Decisions").). According to CARE, the 9th Circuit Decisions: (1) effectively terminate the Federal Energy Regulatory Commission's (FERC's) market-based pricing program for wholesale power sales; and (2) render all market based wholesale contracts null and void, thereby making D.06-12-037 unlawful. CARE requests that the Commission grant rehearing on the matters decided in D.06-12-037, and otherwise hold in abeyance any proceedings that might be impacted by the 9th Circuit Decisions pending appeal and further judicial review. No responses to CARE's application for rehearing were filed. We have carefully reviewed the arguments raised by CARE and are of the opinion that good cause has not been established to grant rehearing. Accordingly, the application for rehearing of D.06-12-037 is denied.	See, Part II(C), Comment 1

	II. DISCUSSION As a threshold matter, we note that CARE may have failed to meet its statutory burden of presenting adequate specificity to warrant consideration of its application for rehearing. Pub. Util. Code § 1732 provides in pertinent part: "[T]he application for rehearing shall set forth specifically the ground or grounds on which the applicant considers the decision or order to be unlawful…" (Pub. Util. Code, § 1732.). CARE's application for rehearing centers on discussion of FERC's market-based pricing program, and CARE's interpretation of how the two 9th Circuit Decisions will impact FERC's ratemaking approach and duties under the Federal Power Act (FPA). Yet nowhere does CARE establish a linkage between the 9th Circuit Decisions and this Commission's RA procurement program and/or the modifications adopted in D.06-12-037. CARE does not specify or analyze how D.06-12-037 is unlawful based on those decisions. Despite this failing, we will nevertheless discuss CARE's particular arguments and briefly explain why they are without merit. A. FERC Market-Based Pricing Program CARE argues that the 9th Circuit Decisions, if not reversed, will effectively terminate FERC's decade-old approach of fostering bulk power markets which allows wholesale power transactions at market-based prices. (CARE Rhg. App., at 1-4.) While it is not entirely clear, this argument appears to be the basis for CARE's request that we hold in abeyance this proceeding as well as any others that may be impacted by the 9th Circuit Decisions. CARE's argument has no merit because CARE fails to establish any connection between the 9th Circuit Decisions and the lawfulness of the modifications to the RA program adopted in D.06-12-037. In particular, both 9th Circuit cases involve complaints made to FERC regarding allegedly excessive rates charged in connection with specific wholesale power contracts. However, our decision does not make any determination dependent upon or related to the specific contracts at issue in the 9th Circuit Decisions. Nor does it involve rate issues related to FERC's market-based pricing regime. To the extent D.06-12-037 contemplates issues regarding wholesale power contracts, it is solely from the perspective of determining, generally, whether and how to count those contracts for purposes of meeting the RA procurement requirements.	

	CARE also asserts that the 9th Circuit Decisions have altered FERC's duties under section 206(a) of the FPA, by now requiring that all wholesale contracts be approved by FERC in advance of becoming effective. (CARE Rhg. App., at 3-4.) We disagree. We recently addressed a similar, if not the same, argument in D.07-02-033, our order disposing of the application for rehearing of Resolution E-4055, also filed by CARE. In D.07-02-033, we considered the merits of this issue concerning the impact of the 9th Circuit Decisions on FERC's duties. Specifically, we noted that Section 205 of the Federal Power Act, in conjunction with FERC's implementing regulations, set forth requirements regarding certain rates and charges for sale of power at wholesale (including contracts) which must be placed on file with FERC. However, the implementing regulations provide that even with respect to wholesale rates, charges, and contracts which must be placed on file, FERC approval is not necessary for the rates, charges, and contracts to be deemed effective. Review under section 206(a) is triggered only when there is a complaint, or if otherwise deemed warranted by FERC at its own discretion. (Order Denying Rehearing of Resolution E-4055[D.07-02-033] (2007) __Cal.PUC.3d__, at 5-6 (slip op.).) Accordingly, we determined in D.07-02-033 that CARE's claim regarding the impact of the 9th Circuit Decisions on FERC's duties under the FPA had no merit. The same reasoning applies here to reject CARE's argument in its application for rehearing of D.06-12-037. B. Market-Based Contracts and Modifications Under D.06-12-037. CARE contends that the 9th Circuit Decisions render all market-based wholesale contracts null and void, which in turn make D.06-12-037 unlawful. As a result, CARE withdraws its prior support for the modifications adopted in D.06-12-037 and requests rehearing on these matters. (CARE Rhg. App., at 3-6.) The Decision adopts three primary modifications to D.05-10-042 and the RA program. These modifications are: • Firm liquidated damages import contracts must now specify a firm delivery point at an interconnection with the CAISO control area or a CAISO scheduling point to qualify as RA resources. • Certain import contracts are exempted from the general requirement that RA resources make	

	themselves available to the CAISO in real time. • Minor wording changes to clarify the intent of the Commission on certain matters. (D.06-12-037, at 1, 4, 7, 21-22.) CARE is wrong that these modifications are now unlawful by virtue of the 9th Circuit Decisions. First, as noted above, there is no relationship between the determination in 9th Circuit Decisions and the action taken in D.06-12-037. Second, if CARE was correct that the 9th Circuit Decisions deemed all wholesale contracts, or even those specifically at issue in those cases, "null and void," there would be nothing to remand back to FERC for further consideration. However, that is not the case. The 9th Circuit Decisions merely require FERC to reevaluate the rates under the specified contracts using the proper statutory standard of review, as directed. The contracts in question (as well as other existing wholesale contracts) remain in effect. Finally, while CARE's withdrawal of support for the modifications adopted by D.06-12-037 is unfortunate, it is not relevant for purposes of determining whether the Decision is lawful. We therefore find no basis to merit rehearing of the issues determined in D.06-12-037. III. CONCLUSION For the reasons specified above, the application for rehearing of D.06-12-037 is denied. Therefore IT IS ORDERED that: 1. The application for rehearing of D.06-12-037 is denied. This order is effective today. [Decision at 3-7.]	
6. CARE made ERRA supporting documents available to the Parties subject to a determination, as it would upon receipt of a data request, whether it is appropriate to release confidential information. [Exhibit 22.]	**Decision 07-04-020 April 12, 2007** Comments were received on March 29, 2007 from CARE. In response to a concern raised by CARE in its comments about access by other parties to the back-up materials, appropriate modifications to the decision were made. In the proposed decision, the utilities were directed to make all supporting documentation for their monthly ERRA filings available to Commission Staff upon request. At CARE's suggestion, the utilities shall make all supporting documentation available to any interested party. Upon receiving a request to review the supporting documentation, the utility will make a determination, as it would upon receipt of a data request, whether it is appropriate to release confidential information, and if so, under what protections. [Decision at 5.] **Findings of Fact** 1. It is reasonable to reduce the amount of	Yes, see, Part II(C), Comment 3

	supporting documentation that each utility is required to supply to the Commission each month when it files its ERRA report as long as each utility provides a monthly summary report as currently filed with the Commission and all interested parties and makes the supporting documentation available for review by Commission Staff and *interested parties upon request*. **Conclusions of Law** 1. Ordering Paragraph 25 of D.04-12-048 is changed to read as follows: We continue the required Monthly ERRA Report and Monthly Portfolio Report. Utilities may submit each month a detailed summary report as currently filed showing the activity in the ERRA balancing account and *make available for* the Commission's Staff and *interested parties all monthly invoices and backup supporting documentation in conjunction with the reports at the request of the* Commission or *interested party*.	
7. CARE proposed specific policies and pricing mechanisms applicable to the electric utilities' purchase of energy and capacity from qualifying facilities (QFs) pursuant to the PURPA 1978. CARE recommended the MIF, which included renewable energy credits. On August 8, 2005 Mr. Brown of CARE provided a prehearing conference statement. [Exhibit 13.] On September 1, 2005 CARE served its Opening Testimony. [Exhibit 14.] On October 28, 2005 CARE served its Reply Testimony. [Exhibit 16.] On March 6, 2006 CARE filed its Opening Brief. [Exhibit 18.] On December 4, 2006 CARE filed its Comments on the Opinion on Petitions for Modification of D.05-10-042. [Exhibit 20]. On March 29, 2007 CARE filed Opinion on Petitions for Modification of Decision 04-12-048 [Exhibit 22.] On May 14, 2007 CARE filed comments on the opinion on future policy and pricing for qualifying facilities. [Exhibit 23.] On June 15, 2007 the ALJ ordered Final Oral Argument Before the Commission for July 10, 2007. On July 10, 2007 Mr. Brown gave oral arguments.	**Decision 07-09-040 September 20, 2007** Concurrent opening and reply briefs were filed on March 3, 2006, and March 17, 2006. Opening Briefs were filed by Davis Hydro, CAISO, PG&E, TURN, SDG&E, Californians for Renewable Energy (CARE), and SDG&E. Finally, at the request of CCC, final oral argument was held on July 10, 2007 before a quorum of the Commissioners. [Decision at 12.] RCM Biothane, Davis Hydro, CARE, and TURN each expressed concern regarding the one MW minimum bid requirement for participation in utility RPS procurement RFOs and request that the Commission adopt a standard offer contract for small generators. [Decision at 127.] The alternate proposed decision of Commissioner Dian Grueneich in this matter was served on the parties in accordance with Pub. Util. Code § 311 and Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on September 10, 2007 by PG&E, SCE, SDG&E, TURN, CCC, CARE, CalWEA, IEP, CAC/EPUC and the County of Los Angeles… The final decision adopted by the Commission has been revised, as appropriate, to reflect these comments and reply comments. [Decision at 140.]	See, Part II(C), Comments 1 and 2.

[Exhibit 24.] On September 14, 2007 CARE filed reply comments on Alternative Opinion on Future Policy and Pricing For Qualifying Facilities. [Exhibit 25.]		
8. CARE opposed the settlement as a violation of PURPA. On October 19, 2010 CARE filed an Ex Parte. [Exhibit 26.] On October 20, 2010 CARE filed an Ex Parte. [Exhibit 27.] On October 25, 2010 CARE filed Opening comments on the proposed settlement and consolidating proceedings. [Exhibit 28.] On December 29, 2010 CARE filed an Ex Parte. [Exhibit 29.]	**Decision 10-12-035 December 16, 2010** Comments on the Proposed Settlement were filed by six parties or party groups: the CAISO, CARE; CCSF; California Municipal Utilities Association; Shell Energy North America, LP; and jointly by the Marin Energy Authority, the Alliance for Retail Energy Markets, and the Direct Access Consumer Coalition (CCA/Direct Access Parties). The CAISO supports the Proposed Settlement. CARE opposes it on the grounds that it is preempted by federal law and FERC orders. CARE also raises concerns regarding the expedited consideration of the Proposed Settlement and other procedural matters. . [Decision at 11.] Noting that hearings in R.06-02-013 were held in 2007, CARE argues that, at least with respect to R.06-02-013, the Joint Parties' filing of the Proposed Settlement on October 8, 2010 violates the Rule 12.1(a) provision that settlements may be proposed within 30 days after the last day of hearing. We find this to be an unreasonable, overly restrictive application of Rule 12.1(a). R.06-02-013 was litigated and largely resolved by 2007. It remains open for consideration of a petition for modification, for which a proposed decision is pending. There is no connection between the evidentiary hearings held in 2007 and the petition for modification that would warrant the strict application of Rule 12.1(a) that CARE suggests. If we were to apply the rule as literally as CARE proposes in all circumstances, we would render the Commission's settlement process unavailable in many proceedings, including those where petitions for modification are involved as well as proceedings where no evidentiary hearings are held. No purpose is served by such an outcome, and it would be contrary to our preference that parties have the opportunity to pursue settlements and other forms of alternative dispute resolution. We therefore reject CARE's argument that the motion is untimely. [Decision pp. 28-29] CARE contends that its due process rights were violated, "because an October 25, 2010 (12 days) comments due date and a November, 1, 2010	See, Part II(C), Comment 1

	(7 days) reply comments due date is unreasonable and unjustified…"[10] [Decision at 29.] CARE also argues that the settlement rules do not specify that the time for filing comments on proposed settlements and replies to such comments may be shortened from 30 and 15 days, respectively, and, therefore, that the expedited schedule shortening time for comments and replies violates its due process rights. This argument is without merit. While Rule 12.2 itself does not explicitly provide for such a reduction, it is subject to the application of Rule 1.2, which provides that: > These rules shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented. In special cases and for good cause shown, the Commission may permit deviations from the rules. Based on the foregoing discussion, we affirm the October 11 Ruling's provision for shortening time for comments and replies on the Proposed Settlement. [Decision at 30.] CARE claims that the Proposed Settlement is not allowed within the scope of R.06-02-013 in light of a 2006 scoping ruling providing that that proceeding will not be the place to re-litigate procurement targets already established elsewhere. However, CARE fails to explain how approval of the Proposed Settlement would constitute relitigation of earlier proceedings. CARE's claim is therefore without merit. [Decision at 33.] The joint motion for approval of the Proposed Settlement notes that Commission staff representatives were involved in the framing of settlement discussions in May 2009. In their reply comments, Joint Parties also note that during the actual settlement negotiations, staff representatives were involved in some but not all of the meetings. CARE states the following regarding staff participation: > CARE objects to [Commission] staff exercising undue influence on the settlement as specific evidence of constructive retaliatory	

[10] CARE comments at 6. CARE misstates the date of the ALJ ruling that adopted the expedited schedule as October 13, 2010. The ruling was issued on October 11. Thus, there were 14 days from the date of the ruling to the date that comments were due, not 12 days as stated by CARE. Moreover, under Rule 12.2 the time for filing comments is calculated from the date the motion for adoption of the settlement was served, not the date of an ALJ's ruling. The comments were due 17 days after the motion was filed.

	action against CARE and its members. We believe this is because we represent low-income, people of color and native people ratepayers in our complaints and pleadings before the FERC and CPUC which is a protected activity under both the Federal and State Constitutions and civil rights statutes. The [Commission] continues to seek to deny us our constitutional right to petition the government for grievances. CARE offers no evidence, argument, or other legal basis to support any allegation that staff involvement in the settlement discussions was in any way improper. In particular, CARE provides no evidence that staff exercised "undue influence," has or had any intent to retaliate against CARE, or actually retaliated against CARE. Likewise, CARE offers no evidence, argument, or other legal basis to support the allegation that the Commission seeks or has sought to deny CARE's right to petition government. CARE is admonished that making such groundless and frivolous claims is wholly inappropriate and may constitute a failure to maintain the respect that is due the Commission. Therefore, we dismiss as baseless CARE's claims regarding staff participation in the settlement process and the alleged denial of its rights. [Decision pp. 34-35] Only CARE urges rejection of the Proposed Settlement as a whole. [Decision at 46.] CARE reargues portions of a complaint that it recently filed at the FERC, asserting that the Commission does not have authority to approve the Proposed Settlement or any of the underlying pro forma PPAs or amendments. We find the arguments proffered by CARE unpersuasive and therefore reject them. The Proposed Settlement is intended to resolve disputes that are currently pending at the Commission, and CARE fails to explain why Commission review of a settlement to resolve these pending disputes is improper. Also, the Proposed Settlement establishes a QF/CHP Program for the State, consistent with California statutory law and policy, yet CARE provides no explanation as to why the Commission does not have jurisdiction to approve a settlement that establishes a QF/CHP Program pursuant to California statutes and policy. CARE also claims that approval of the Proposed Settlement would constitute approval of a PPA without FERC approval and thus not be lawful.	

	However, approval of the pro forma PPAs and amendments is clearly distinguishable from mandating that a contract's rate be set at a specific price. Moreover, the prices included in the Proposed Settlement were negotiated between the Joint Parties and were not mandated by the Commission. In addition, the Commission's preapproval of a PPA, which will be set at market rates, is pursuant to Pub. Util. Code sections 380 and 454.4(d), ensuring that the utilities' resource adequacy needs are met and determining that the IOU will not later be subject to a reasonable review proceeding. Finally, CARE asserts that the Proposed Settlement violates a recent FERC order, which granted the Commission's request for clarification of the FERC's declaratory order involving the AB 1613 feed-in tariffs. In particular, the FERC's clarification order has recognized that states are allowed a "wide degree of latitude" in setting avoided cost rates. However, in terms of the SRAC terms of the Proposed Settlement, CARE fails to explain how the Proposed Settlement would violate the FERC's regulations concerning avoided cost rates. [Decision at 53-54.] CARE asserts that FERC should review the Proposed Settlement before it is considered by the Commission. We reject this argument. The Proposed Settlement resolves certain state law disputes that are outstanding at the Commission and establishes a California QF/CHP Program, and is therefore appropriately subject to review by the Commission at this time. Also, the Joint Parties' proposal to seek Commission approval of the Proposed Settlement first, before filing the PURPA termination application at FERC, is entirely appropriate. As a part of their PURPA termination application, the IOUs will reference the Proposed Settlement among other facts to demonstrate that the statutory requirements of Section 210(m) are satisfied. This Commission first needs an opportunity to review and approve the Proposed Settlement before it can be referenced in any PURPA application filed at FERC. Finally, CARE asserts that its federal due process rights will be violated as a result of the Commission reviewing the Proposed Settlement before the PURPA application is filed at FERC. However, as we have discussed earlier in this decision, CARE has been provided due process in this proceeding to challenge the Proposed Settlement. If the Proposed	

	Settlement is approved and the IOUs file their PURPA application at FERC, CARE will have an opportunity to challenge that application at FERC consistent with FERC's rules and regulations. We find no basis for CARE's assertion that its federal due process rights will be violated. [Decision at 54-55.]	

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

	Claimant	CPUC Verified
a. Was Division of Ratepayer Advocates (DRA) a party to the proceeding?	**Yes**	**Correct**
b. Were there other parties to the proceeding?	**Yes**	**Correct**
c. If so, provide name of other parties: DRA, TURN, CCGS, AREM, IEPA, CEERT, UCS, CalWEA, PG&E, SCE, and SDG&E		**Yes**
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: CARE, DRA [aka ORA], TURN, WEM and CCSF communicated with each other throughout the proceeding comparing evidence, positions and, conclusions. We had numerous emails, phone calls and conversation with the parties.		In general, since the majority of CARE's arguments were not connected to the contexts of the proceeding,[11] no duplication of effort could possibly occur.

C. Additional Comments on Part II:

#	Claimant	CPUC	Comment
1	1-5, 7-8	X	Showing of Substantial Contribution. Except for contributions to D.07-04-020 (no. 6), CARE's showing of substantial contributions does not comply with § 1804(c) and Rule 17.4(a), requiring that intervenors identify proceeding's issues on which they believe they made substantial contributions, and describe their substantial contributions. Instead, CARE provides a list of its documents and extensive quotes from the Commission's decisions. None of these materials, however, shows how CARE may have made a substantial contribution. On the contrary, CARE's references to the decisions demonstrate that it failed to prevail on almost any of the various procedural and substantive issues that it raised. Moreover, CARE does not even purport to demonstrate that it provided information or analysis relied upon by the ALJ or the Commission in its deliberations or development of the record.
2	1-5, 7-8	X	CARE's contributions to D.07-09-040. Since the Claimant made no satisfactory showing of substantial contributions, we have performed our own analysis of CARE's participation, based on CARE's documents, proceeding information, and the record. It appears that CARE's presentations for the most part did not provide an input that would constitute substantial contributions. However, to the extent that

[11] See, for example, analysis in D.06-02-007 at 4-5; D.07-03-015 at 4; D.10-12-035 at 28.

			CARE had the interest in having the Commission think about the impact its decisions would have on the low-income ratepayers of color that CARE represents, CARE's participation was a reminder that the Commission needed to consider the interests of those people whenever serious financial decisions were made. Therefore, we award compensation to CARE for the contribution to D.07-09-040, but reduce the claim significantly, to eliminate hours that were spent on CARE's irrelevant and unnecessary effort. We put CARE on notice that if, in its future claim, this intervenor fails to make the required § 1804(c) and Rule 17.4(a) showing, the claim may be denied in its entirety.
3	6	X	CARE's Contributions to D.07-04-020. We find that CARE, through its comments on the proposed decision leading to D.07-04-020, provided substantial contributions to this decision.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

Explanation by Claimant of how the cost of Claimant's participation bore a reasonable relationship with benefits realized through participation	CPUC Verified
The cost of claimant's participation bears a reasonable relationship with benefits realized through participation as demonstrated by contributions 1 to 9 listed I Part II.	With the adjustments and disallowances set forth herein, the subject claim is reasonable (we note that there is no number 9 listed in Part II).

B. Specific Claim*:

CLAIMED						CPUC AWARD			
ADVOCATE[12] FEES									
Item	Year	Hours	Rate	Basis for Rate	Total $	Year	Hours	Rate	Total $
Mike Boyd	2005	37.33	$135	D10-05-046	$5,039.55	2005	0.0		0.00
Mike Boyd	2006	21.75	$135	D10-05-046	$2,936.25	2006	0.0		0.00
Mike Boyd	2007	11.5	$135	D10-05-046	$1,552.50	2007	2.75	$125	$343.75
Mike Boyd	2010	8.00[13]	$135	D10-05-046	$1,080.00	2010	0.0		0.00

[12] CARE included all these fees in the "Other Fees (Paralegal, Travel, etc.)" category. Upon our request, CARE provided additional information, via e-mail of October 25, 2011 (placed in the "Correspondence" file for this proceeding), clarifying that the requested fees should, more appropriately, be placed in the "Advocate Fees" category, similar to what we considered in D.11-01-024 and D.09-05-011.

[13] CARE indicated 3.5 hours here. We correct this entry based on Boyd's timesheet, and re-calculate the total.

Lynne Brown	2005	17.17	$125	D07-04-022	$2,146.25	2005	1.50	$100	$150.00
Lynne Brown	2006	12.42	$125	D07-04-022	$1,552.50	2006	6.67	$100	$667.00
Lynne Brown	2007	3.5	$125	D07-04-022	$437.50	2007	0.50	$110	$55.00
				Subtotal:	$14,744.55			***Subtotal:***	***$1,215.75***
INTERVENOR COMPENSATION CLAIM PREPARATION**									
Item	**Year**	**Hours**	**Rate**	**Basis for Rate**	**Total $**	**Year**	**Hours**	**Rate**	**Total $**
Mike Boyd	2005	2	$67.50	D10-05-046	$135.00	2005	1.0	$55.0	$55.00
Mike Boyd	2010	3	$67.50	D10-05-046	$202.50	2010	2.0	$67.50	$135.00
				Subtotal:	$337.50			***Subtotal:***	***$190.00***
				TOTAL REQUEST $:	**$15,082.05**			**TOTAL AWARD $:**	**$1,405.75**

* 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. Claimant'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.
** Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.

C. CPUC Comments, Disallowances & Adjustments:

#	Reason
1	<u>Compensable Hours (Substantial Contributions)</u> We find that CARE made the following contributions to the Commission decisions: 1. Through its March 29, 2007 comments on the proposed decision, CARE provided substantial contributions to D.07-04-020. CARE spent the total of 3.25 hours (Boyd: 2.75 hours; and Brown: 0.50 hour) to prepare the comments. We allow all of these hours, without reduction. 2. To the extent that CARE had the interest in having the Commission think about the impact its decisions would have on the low-income ratepayers of color that CARE represents, CARE's participation was a reminder that the Commission needed to consider the interests of those people whenever serious financial decisions were made. The most effective way CARE used to make this contribution was through CARE's participation in the hearings. CARE's concerns and message were stated by Mr. Brown at the January 24, 2006 hearing (Reporter's Transcript 3366:5 – 3368:3). We compensate in full CARE's hours related to the hearing and also to CARE's participation in the August 9, 2005 PHC.[14] These hours were

[14] Brown's time sheet reflects his attendance at the August 8, 2005 prehearing conference. Since the prehearing conference was held on August 9, 2005, we consider the time sheet entry has a clerical error, and the correct date should be August 9, 2005. Brown's time record of December 2, 2005, also reflects his attendance at a prehearing conference; however, we could not find a reference to this prehearing conference or an

	necessary to contribute to D.07-09-040's analysis of parties' testimony and presentations at the hearings. We find that in this respect, CARE made substantial contributions to D.07-09-040.
2	Non-Compensable Hours (Lack of Substantial Contribution) As we explain in Part II(C) Comment 1, CARE fails to demonstrate substantial contributions to D.05-12-021, D.06-02-007, D.06-07-032, D.07-03-015, D.07-09-040, and D.10-12-035. As indicated in Part II(C) Comment 2, our own analysis of the proceeding information and record showed no substantial contributions to these decision. CARE's claim related to these decisions should be denied, accordingly. Additional reasons for the disallowances are discussed below.
3	Non-compensable work prior to August 9, 2005 (Lack of Eligibility and of Substantial Contributions) CARE's March 14, 2005 NOI and March 7, 2005 motion to intervene out of time were both denied in ALJ's Ruling of March 28, 2005, as untimely. CARE's second NOI was filed on August 9, 2005, and granted in ALJ's ruling of September 21, 2005. Between March 7th and August 9th, 2005, CARE did not have an intervenor status and, therefore, was not eligible to receive a compensation for its work done at that time.[15] In addition, CARE's documents did not contribute to D.05-12-021.[16] We remove from the request these non-compensable hours: Boyd: 17.83, and Brown: 10.00.
4	Costs Inconsistent with the Record. Brown's timesheet of December 2, 2005, reflects his attendance at the PHC; however, we could not find a reference to this PHC or to a similar event held on or about, that date, in the proceeding's records. We disallow 1.00 hour claimed for this task.
5	Clerical Tasks. CARE requests compensation for clerical tasks, such as document submittal, serving or filing.[17] We noticed that in the timesheets these tasks are combined with substantive work on the documents, in violation of the provisions of Rule 17.4. We also remind CARE of the Commission's practice not to compensate clerical tasks. Since we disallow CARE's hours spent on the subject documents, we do not make separate disallowances for these costs.
6	Hours Spent on Intervenor Compensation Matters. To reflect a more reasonable relation between the hours CARE spent preparing intervenor compensation documents (unproductive work) and the compensable hours relevant and necessary to make substantial contributions to the proceeding (productive work), we reduce Boyd's hours spent on the intervenor compensation work, as follows: 2005 – 1.00; 2010 – 1.00. These reductions are also warranted because the intervenor compensation claim failed to provide necessary information on substantial contributions. In addition, allocation of hours by issue provided by CARE is deficient (issues are not clearly defined).

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event close in time to the date of December 2, 2005, in the proceeding's records. (See, comment 4, below.)

[15] See, for example, a discussion of an untimely NOI in D.04-05-004 at 3 – 6.

[16] See, our comment 1 and 2 in Part II(C); and comment 1, above. D.05-12-021 found that CARE's March 28, 2005 motion to file comments on the allocation of PPA was moot and that issues relevant to the motion were under review in another proceeding (D.05-12-021 at 8). CARE's June 13, 2005 motion for clarification on the allocation of PPA was denied without prejudice, as premature (D.05-12-021 at 8; Ordering Paragraph 6 at 12-13). The motion was never re-filed afterwards.

[17] See Boyd's time records: 6/13/05, 10/19/10, 10/20/10, 12/28/10; and Brown's: 4/22/05, 11/15/05.

Hourly Rates

Absent CARE's justification for the requested hourly rates, we adopt rates, based on the previously adopted rates, as follows[18]:

Name	Year	Rate	Basis
Boyd	2005	$110	D.07-04-022 and D.07-12-007
Boyd	2007	$125	D.08-12-015
Boyd	2010	$135	D.11-01-024
Brown	2005	$100	D.07-04-022 and D.07-12-007
Brown	2006	$100	D.07-12-007
Brown	2007	$110	D.08-12-015

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim?	Yes.

If so:

Party	Reason for Opposition	CPUC Disposition
SCE	1. Request is untimely 2. No substantial contributions were made. 3. Hourly rates are incorrect	1. See, Part I(B)(16). 2. See, Part II(C) and Part III(C). 3. See, Part III(B) and Part III(C).

B. Comment Period: Was the 30-day comment period waived (*see* Rule 14.6(c)(6))?	No.

If not:

Party	Comment	CPUC Disposition
	No comments were filed.	

[18] This decision does not discuss rates related to the years with no allowable hours.

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision (D.)07-04-020 and D.07-09-040.
2. Claimant has not made a substantial contribution to D.05-12-021, D.06-02-007, D.06-07-032, D.07-03-015, and D.10-12-035.
3. 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.
4. The total of reasonable contribution is $ 1,405.75.

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 $ 1,405.75.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay claimant the total award. We direct Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company to allocate payment responsibility among themselves, based on their California-jurisdictional electric revenues for the 2007 calendar year, to reflect the year in which the proceeding was primarily litigated. 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 August 6, 2011, 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 not waived.

This decision is effective today.

Dated January 12, 2012, at San Francisco, California.

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

I abstain.

/s/ MICHEL PETER FLORIO
Commissioner

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	D1201028	**Modifies Decision?**	**No**
Contribution Decision(s):	D0704020, D0709040.		
Proceeding(s):	R0404003, R0404025		
Author:	ALJ Wetzell		
Payers:	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Californians for Renewable Energy	5/23/11	$14,049.55	1,405.75	No	Lack of substantial contribution; lack of eligibility (1st NOI denied); costs inconsistent with the proceeding's record; adjusted hourly rates

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Mike	Boyd	Advocate	Californians for Renewable Energy	$135	2005	$110
Mike	Boyd	Advocate	Californians for Renewable Energy	$135	2006	0.00
Mike	Boyd	Advocate	Californians for Renewable Energy	$135	2007	$125
Mike	Boyd	Advocate	Californians for Renewable Energy	$135	2010	$135
Lynne	Brown	Advocate	Californians for Renewable Energy	$125	2005	$100
Lynne	Brown	Advocate	Californians for Renewable Energy	$125	2006	$100
Lynne	Brown	Advocate	Californians for Renewable Energy	$125	2007	$110

(END OF APPENDIX)