

Decision 12-08-015 August 2, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's own motion to consider alternative-fueled vehicle tariffs, infrastructure and policies to support California's greenhouse gas emissions reduction goals.

Rulemaking 09-08-009
(Filed August 20, 2009)

DECISION AWARDING COMPENSATION TO CONSUMER FEDERATION OF CALIFORNIA FOR SUBSTANTIAL CONTRIBUTION TO DECISION 11-07-029

Claimant: Consumer Federation of California (CFC)	For contribution to Decision (D.) 11-07-029
Claimed: \$17,841.25¹	Awarded: \$8,977.50 (reduced 50%)
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Regina DeAngelis

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: Decision 11-07-029 in Phase 2 of this Rulemaking further established Commission policies intended to overcome barriers to electric vehicle deployment, in compliance with § 740.2.

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

Claimant	CPUC Verified	
Timely filing of notice (NOI) of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	11/18/2009	Correct
2. Other Specified Date for NOI:	Email ruling from ALJ dated September 8, 2011 specifying that NOI to claim	Correct

¹ CFC listed its hours for compensation under the hours which are compensated at full professional rate. Time on these matters is compensated at ½ hourly rate. We move these hours and reallocate them in the correct area of the claim and re-calculate CFC's total.

	compensation is due 30 days from the ruling.	
3. Date NOI Filed:	10/14/11	Correct
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:	R.09-08-009	Correct
6. Date of ALJ ruling:	11/02/10	Correct
7. Based on another CPUC 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.09-08-009	Correct
10. Date of ALJ ruling:	11/02/10	Correct
11. Based on another CPUC determination (specify):		
12. Has the claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.11-07-029	Correct
14. Date of Issuance of Final Decision:	07/25/11	Correct
15. File date of compensation request:	09/16/11 ²	Correct
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant’s claimed contribution to the final decision:

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
1. Utility Notification system: CFC successfully demonstrated in comments that there are privacy issues related to sharing of customer specific data. CFC advocated that there should be some form of Commission scrutiny of data- related privacy concerns with	“Parties raised concerns about privacy implications associated with the creation of a notification system. Any data made available via a notification system must be consistent with all applicable	Accepted.

² We provide the date which was missing from CFC’s request for an award.

<p>regards to the utility notification system.³ For example, in opening comments to the proposed decision CFC advocated that the utilities should at a minimum explain how they are going to handle privacy concerns in their assessment reports:</p> <p>“The PD states that the utilities will file a joint report in this proceeding within 120 days of the effective date of the decision. At a minimum, CFC requests that the PD be modified to include in the report how the utilities will handle customer information, and how they intend to address privacy concerns. The Commission in turn should assess ways to follow-up with utilities to make sure that utilities are complying.”⁴</p> <p>Because of CFC’s advocacy, the Commission requested that utilities explain how they intend to handle privacy concerns in their assessment report.</p>	<p>privacy laws. Due to privacy and customer consent concerns, we do not necessarily envision this system to be employed as a marketing and promotional tool for Electric Vehicles. The goal of this notification remains safe, reliable, and efficient management of Electric Vehicle integration into the electric grid. The assessment report to be filed in this proceeding must address how utilities will handle privacy concerns.” D.11-07-029 at 13.</p>	
<p>2. Customer outreach and education</p> <p>In response to the ALJ’s ruling, CFC argued that utilities have a role of educating existing customers about electric vehicles as an inherent function of their customer service requirements and existing funds. CFC also argued that as a function of utilities customer service, the utilities should answer common questions such as: 1) questions regarding impacts to the grid</p>	<p>1. “Regarding the utilities’ role in education and outreach, we agree with those parties that suggest that utilities have an important role to play in customer education and outreach. As the Electric Vehicle market develops, utilities in collaboration with other stakeholders will need to provide proactive and targeted</p>	<p>Accepted.</p>

³ CFC Reply Comments to ALJ ruling requesting additional information at 4. Found at <http://docs.cpuc.ca.gov/efile/CM/127608.pdf>.

⁴ CFC Opening Comments to proposed decision at 1-3. Found at <http://docs.cpuc.ca.gov/efile/CM/133143.pdf>.

<p>with the additional load from PEV 2) if the utility is supplying a meter to the customer, what metering options are available and the costs associated with each option, 3) information on meter reading 4) information on other PEV technologies.⁵</p> <p>CFC also argued that for broader outreach and education, because of potentially conflicting interests, a neutral third party would be more appropriate in handling the task of education and outreach. CFC argued that outreach and education sometimes disguised advertising and Commission should put safeguards in place, such as directing a third party to handle outreach and education.⁶</p>	<p>customer education on certain charging equipment issues, including load management and Electric Vehicle rate options. We also direct the utilities to pursue a targeted outreach policy, meaning we do not support mass marketing efforts but, to control costs, expect the utilities to target customers with an interest in Electric Vehicles.” D.11-07-029 at 65.</p> <p>2. “CFC acknowledged the utility’s role in conducting Electric Vehicle education and outreach but suggested that an independent entity free from potentially conflicting business interests such as the Commission would be more appropriate.” D.11-07-029 at 64.</p> <p>3. “...In contrast, the EVSP Coalition raised concerns that the utilities’ education and outreach programs may result in an unfair competitive advantage over Electric Vehicle service providers...Similarly, as mentioned above, CFC raised concerns that the utilities work in this area may result in conflict of interests D.11-07-029 at 66.</p> <p>4. Guiding Principles-Utility Education & Outreach</p> <p>a. “Each utility has an</p>	
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⁵ Opening Comments to ALJ ruling requesting additional information at 12. Found at <http://docs.cpuc.ca.gov/efile/CM/126416.pdf>

⁶ Opening Comments to ALJ ruling requesting additional information at 11 & 12. Found at <http://docs.cpuc.ca.gov/efile/CM/126416.pdf>.

	<p>obligation to use funds to provide its customers with information regarding choices available for metering arrangements, rates, demand response programs, Electric vehicle service equipment, equipment, installation, safety, reliability, and off-peak charging.”</p> <p>c. “Due to the potential for conflicts of interest, the types of information described in (a) and (b) must be communicated in a competitively neutral manner without value judgments or recommendation.” D.11-07-029 at 68; Order #8 at 87.</p>	
<p>3. Submetering Protocol</p> <p>CFC advocated in comments for an immediate adoption of a submeter protocol “so that customers faced with a choice between different metering options, will be able to choose meters with minimum standards in place to ensure safety, quality and accuracy of such meters.”⁷</p> <p>CFC also advocated that submetering protocol comply with national standards: “Agencies who offer guidance and oversight should be involved in the process of developing a protocol. For example, in OIR 94-04-031, the Commission developed standards in connection with American National Standards Institute standards to develop a workable meter protocol. In addition, while developing</p>	<p>“Parties generally agreed that a need for an Electric Vehicle submeter protocol to determine rules for customer – owned meters. Parties suggested that some of the goals in establishing an Electric Vehicle submeter protocol should be to establish minimum functionality and communications requirements for any submeter used to measure Electric Vehicle load. Such a requirement would enable manufacturers and customers to be sure that the meters, whether purchased separately or included in the vehicle or as electric vehicle service equipment, are compatible with the utility</p>	<p>Accepted.</p>

⁷ CFC reply comments to ALJ Ruling seeking additional comments at 3, found at <http://docs.cpuc.ca.gov/efile/CM/127608.pdf>

<p>a protocol the Commission should bear in mind applicable federal regulations.⁸</p>	<p>billing and communication system.” D.11-07-029 at 42.</p> <p>Finally, parties suggested that a protocol be developed quickly. We agree and direct the utilities to cooperate with stakeholders to form a working group to develop an Electric Vehicle submeter protocol that could be adopted by the Commission as revisions to PG&E and SCE tariff Electric Rule 18 and SDG&E Tariff Electric Rule 19. D.11-07-029 at 44.</p> <p>On or before July 31, 2012, the utilities are directed to jointly file a Tier 2 advice letter proposed a submetering protocol. The filed protocol must achieve, at a minimum, the following: 1) support the use of submeters located in electric vehicle service equipment or on a vehicle, including mobile detachable meters, as described SDG&E’s comments on the Utility Role staff paper 2) determine the technical performance requirements for any submeters;3) identify the minimum communication functionality and standards; 4)describe how submeter data management will support and protect the security and privacy of Electric Vehicle user data collected by utilities and third party entities; 5) provide a methodology for settling disputes; 6) identify and adhere to all existing and</p>	
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⁸ CFC opening comments to ALJ ruling at 6 found at: <http://docs.cpuc.ca.gov/efile/CM/126416.pdf>

	applicable national standards for measurement and communication functions; and 7) develop rules for incorporating subtractive billing into submetering tariffs. D.11-07-029 at 44-45.	
<p>4. Electric Vehicle Metering</p> <p>CFC argued in comments, along with DRA and TURN, that if a customer chooses to buy a separate meter for an electric vehicle then that customer should bear the cost of the meter instead of the general body of ratepayers. CFC also questioned the feasibility of on bill financing as a viable option to pay for separate meters and advocated for the use of upfront charges with metering charges being the next best option. Opening Comments to ALJ ruling at 2-3.</p>	<p>“Accordingly, we agree that if the individual utility customer chooses a separate metering option to obtain a particular electric vehicle rate, the customer (rather than all ratepayers) should bear the cost of the separate meter. We further support the use of monthly recurring charges to spread separate costs over time. In this manner cost will not unduly discourage separate metering and potential on-bill financing program restrictions are avoided” D.11-07-029 at 48.</p>	Accepted.

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
<p>c. If so, provide name of other parties:</p> <p>Clean Energy Fuels Corporation/Wal-Mart Stores, Inc./Sam’s West, Inc.; Natural Resources Defense Council; The Environmental Coalition; California Center for Sustainable Energy; EV-Charge America; California Air Resources Board; Electric Power Research Institute; Fisker Automotive, Inc.; Center for Carbon-Free Power Integration-University of Delaware; Nissan North America, Inc.; Plug Smart; Toyota Motor Engineering & Manufacturing North America., Inc.; Ecotality, Inc.; Los Angeles Department of Water and Power; San Diego Gas & Electric Company/ Southern California Gas Company; Southern California Public Power Authority; Mitsubishi Motors R&D of America Inc.; AeroVironment, Inc.; Southern California Edison Company; BP America/Western States Petroleum</p>		Correct

<p>Association; International Council on Clean Transportation; Plug In America; Center for Energy Efficiency and Renewable Technologies; Pacific Gas and Electric Company; Better Place; Tesla Motor Corporation; Interstate Renewable Energy Council; North Coast Rivers Alliance; Californians for Renewable Energy and Northern Coast Rivers Alliance; Green Power Institute; Coulomb Technologies, Inc.; Silicon Valley Leadership Group; General Motors; Consumer Federation of California; Environmental Defense Fund, Sacramento Municipal Utilities District; California Department of Food and Agriculture.</p>	
<p>d. Claimant’s description of how it coordinated with DRA and other parties to avoid duplication or how claimant’s participation supplemented, complemented, or contributed to that of another party:</p> <p>CFC did not duplicate arguments of DRA or other parties. There is always some confluence of opinion when more than one consumer group participates, but each group seems to have a particular take on the subject and makes an original contribution.</p> <p>Particularly, CFC was the only party to argue data-related privacy concerns with regards to a utility notification system. In addition, CFC was the only party to argue a utility’s potentially conflicting interest when it comes to utility outreach and education.</p>	<p>We make no reductions to CFC’s claims for unnecessary duplication of effort.</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>Claimant’s explanation as to how the cost of claimant’s participation bore a reasonable relationship with benefits realized through claimant’s participation</p>	<p>CPUC Verified</p>
<p>There will be monetary benefits for ratepayers based on CFC’s participation, although it is difficult to estimate a specific amount of monetary benefits. Some of CFC’s contributions accepted by the final decision will likely save utility customers money such as advocating for a utility customer’s ability to choose the type of meter he or she wants as well as advocating that outreach and education fund should not be used inappropriately.</p> <p>Advocating for Commission scrutiny over the utilities notification system as it related sharing of customer-specific data will ensure that a customer’s privacy will not be violated. This is an important contribution to which customers will benefit.</p> <p>CFC’s contribution assisted in developing Guiding Principles for Utility Outreach and Education. The resulting guidelines will make sure utilities</p>	<p>After the disallowances we make in this decision, the remainder of CFC’s hours is reasonable and will likely result in benefits to customers, although difficult to quantify, which will outweigh the cost of CFC’s participation.</p>

<p>are using funds for targeted education and outreach instead of mass marketing and that because of a potential for conflicts of interest outreach and education should be communicated in a competitively neutral manner without recommendation. Consequently, CFC’s contribution in making sure that utilities are not using inappropriately using outreach and education funds will likely save ratepayers money.</p> <p>These contributions as well as others informed the record and the Commission’s decision making process and will benefit ratepayers by saving them money in the future.</p>	
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B. Specific Claim*:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Rate Rationale	Total \$	Year	Hours	Rate \$	Total \$
N. Blake	2010-2011 ⁹	93.7 ¹⁰	175	2010-adopted here 2011-D.12-02-013	16,397.50	2010-2011	47.7	175	8,347.50
Subtotal: \$16,397.50						Subtotal: \$8,347.50			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
N. Blake	2010-2011	16.5	87.50	½ D.12-02-013 rate	1,443.75	2010-2011	7.2	87.50	630.00
Subtotal: \$1,443.74						Subtotal: \$630.00			
TOTAL REQUEST: \$17,841.25						TOTAL AWARD: \$8,977.50			

* 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 seeks 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.

⁹ We direct CFC to lists its hours broken down by individual years in any future claims it may file, rather than lump them together as they have here.

¹⁰ We have removed 7.2 hours for compensation matters which were incorrectly recorded in this area and have moved them to the appropriate area in the claim allocated for this task, and have re-calculated CFC’s request for compensation.

D. CPUC Adoptions, Adjustments and Disallowances:

Adoptions	
2010-hourly rate for Blake	D.12-02-013 adopted an hourly rate of \$175 for Nicole Blake's 2011 work in A.09-12-020. Blake is a graduate of University of California Hastings and was admitted to the California BAR in January 2010. The application of the same hourly rate to her 2010 work is reasonable and within the rate range of (\$150-\$205) established by the Commission in D.08-04-010 for attorneys with 0-2 years of experience. We adopt the hourly rate of \$175 for Blake's 2010 work.
Adjustments/Disallowances	
2010-Blake hours	CFC requests a total of 12 hours for "researching proceeding issues", nearly twice the amount of time compensated to other intervenors for similar work. We reduce this time by 50% and approve the more reasonable amount of time of 6 hours. This adjustment in hours more closely reflects our standards on the reasonableness of hours.
	CFC requests 6 hours for Blake spent "drafting CFC's Motion for Party Status", including some time spent filing the pleading, a non-compensable clerical task. The motion was very brief, less than 1.5 pages, and not complex. We approve 1.5 hours to complete this work and disallow the remaining 4.5 hours.
	CFC requests 45.7 hours undertaking research for and preparing CFC's Opening Comments on the ALJ Ruling Requesting Information. This time is excessive given the scope of the work and CFC's document produced, which was 14 pages in length. We approve 18 hours of this time and disallow the remaining 27.7 hours for excessiveness. This adjustment in hours more closely reflects our standards on the reasonableness of hours.
	CFC requests 5 hours for Blake to review the Opening Comments of other parties. We approve 3 hours for this task, similar to the amount of time required by other intervenors to complete this same task.
	CFC requests 10.8 hours of Blake's time for research and preparation of CFC's Reply Comments. Given the scope of the work, the four page document is relatively straight forward and summarized the comments of other parties and requests some modification to the PD (Proposed Decision). We approve 5 hours for this task, similar to the amount of time approved for other intervenors and disallow the remaining 5.8 hours for excessiveness.
2011-Blake hours spent on compensation matters	As we have previously noted, CFC incorrectly recorded 7.2 hours of Blake's time in the area designated for reimbursement at full professional hourly rate. Compensation matters are compensated at 1/2 professional rate. We have added these hours to CFC's hours for compensation preparation which were recorded correctly, resulting in a total of 16.5 hours for this work. When compared to CFC's timesheets however, the timesheets provide justification only for the 7.2 hours. This is the amount we approve.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim?

No

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

No

This is an intervenor compensation matter. As provided in Rule 14.6(c)(6) of our Rules of Practice and Procedure, we normally waive the otherwise applicable 30-day comment period for this proposed decision. Because the Commission is sizably reducing the amount requested in this award we allowed comments on this proposed decision. Comments were filed by CFC on June 13, 2012. Based on CFC's explanation, we have resstored the hours for CFC's attendance at a workshop on 9-27-10.

FINDINGS OF FACT

1. Consumer Federation of California has made a substantial contribution to Decision (D.) 11-07-029.
2. The claimed fees, 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 \$8,977.50

CONCLUSION OF LAW

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

ORDER

1. Consumer Federation of California is awarded \$8,977.50.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company, shall pay Consumer Federation of California the total award. Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company shall allocate payment responsibility among themselves based on their 2010 California-jurisdictional gas and electric revenues, reflecting 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 November 30, 2011, the 75th day after

the filing of Consumer Federation of California's request, and continuing until full payment is made.

The comment period for today's decision was not waived.

This decision is effective today.

Dated August 2, 2012, at San Francisco, California.

MICHAEL R. PEEVEY

President

TIMOTHY ALAN SIMON

MICHEL PETER FLORIO

CATHERINE J.K. SANDOVAL

MARK J. FERRON

Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D1208015	Modifies Decision? No
Contribution Decision:	D1107029	
Proceeding:	R0908009	
Author:	Commissioner Michael R. Peevey	
Payees:	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
Consumer Federation of California	9-16-11	\$17,841.25	\$8,977.50	No	excessive hours; reallocation of hours improperly recorded

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Nicole	Blake	Attorney	Consumer Federation of California	\$175	2010-2011	\$175

(END OF APPENDIX)