

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of San Diego Gas & Electric Company (U 902 E) for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project.

Application 05-12-014  
(Filed December 14, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING REGARDING  
NOTICES OF INTENT TO CLAIM COMPENSATION**

**Summary**

This ruling responds to the notices of intent to claim compensation (NOIs) filed in this docket by the Sierra Club, Center for Biological Diversity (CBD), Utility Consumers Action Network (UCAN), Community Alliance for Sensible Energy (CASE), Ramona Alliance Against Sunrise Powerlink (RAASP) and Rancho Pensaquitos Concerned Citizens (RPCC).

**Statutory Requirements Relevant to Notices of Intent**

Under Pub. Util. Code § 804(a)(1): “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference (PHC) is held, file and serve on all parties to the proceeding a notice of intent (NOI) to claim compensation,” or according to the date set by the assigned Administrative Law Judge (ALJ). It also permits the California Public Utilities Commission (Commission) to accept a late filing where a party could not have reasonably identified issues within 30 days of the PHC. All six parties who are the subject of this ruling filed their respective NOIs within 30 days of the PHC held on January 31, 2006. Their NOIs are therefore timely.

Pub. Util. Code § 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in Pub. Util. Code § 1802(b), and identify whether the intervenor is a participant representing consumers, or a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. If the customer category identified is “a representative authorized by a customer,” the NOI should identify “the residential customer or customers that authorized him to represent that customer.” That identification is needed because this category of customer “connotes a more formal arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in a proceeding.” (D.98-04-059, pp. 28-30.) Participation in Commission proceedings by parties representing the full range of affected interests is important. Such participation assists the Commission in ensuring that the record is fully developed and that each customer group receives adequate representation.

Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied. Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Pub. Util. Code § 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. Pub. Util. Code § 1802(g) defines “significant financial hardship.”

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s 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.

**Sierra Club’s NOI**

Sierra Club is a well-established and large international nonprofit organization with several thousand members located in the San Diego area. As the Commission has found in several instances, Sierra Club meets the definition of customer, as set forth in Pub. Util. Code § 1802(b), because it is an organization whose official mission is to represent the interests of the public, including those who are identified residential and small commercial utility customers.

Pub. Util. Code § 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer’s planned participation in the proceeding to the extent this can be predicted. Sierra Club states it expects to be an active party in this proceeding and to address issues related to the environmental impacts of the proposed line and alternatives to it. Sierra Club states its intent to coordinate its work in this proceeding with other parties in order to avoid duplication of effort.

Pub. Util. Code § 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. Sierra Club estimates a total projected budget of \$110,000 for attorneys and experts that will work on this application.

Sierra Club seeks a finding of significant financial hardship. It states the financial interests of its members and the customers it represents are small

compared to the costs of effective participation in this proceeding, which entitles Sierra Club to a finding of significant financial hardship pursuant to Pub. Util. Code § 1802(g).

Like all intervenors, Sierra Club must ultimately demonstrate that its participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the ALJ or the Commission in resolving this proceeding.

### **UCAN's NOI**

Utility Consumers' Action Network (UCAN) is an organization whose mission is to represent San Diego area residential and small business utility consumers. It has been determined by the Commission to be a "customer" for purposes of Section 1802(b) and has intervened in many Commission proceedings over the years.

Pub. Util. Code § 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. UCAN states it expects to be an active party in this proceeding and to address issues related to the economic need for the proposed line.

Pub. Util. Code § 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. UCAN estimates a total projected budget of \$530,500 for attorneys and experts that will work on this application.

UCAN received a finding of significant financial hardship by ruling dated June 28, 2005 and issued in A.05-02-019. Because this ruling was issued within a year of the commencement of this application, UCAN is entitled to a rebuttable

presumption regarding financial hardship consistent with Pub. Util. Code § 1802(g).

Like all intervenors, UCAN must ultimately demonstrate that its participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the ALJ or the Commission in resolving this proceeding.

**CBD's NOI**

CBD is a nonprofit advocacy organization addressing concerns related to the environment and energy resources. CBD meets the definition of customer, as set forth in Pub. Util. Code § 1802(b), because, like Sierra Club, its official mission is to represent the interests of the public, including those who are identified residential and small commercial utility customers, some of whom live in the San Diego area.

CBD states its intent to be an active party in this proceeding and to address issues related to the environmental impacts of the proposed line and alternatives to it. It states its intent to coordinate its work in this proceeding with other parties in order to avoid duplication of effort.

CBD estimates a total projected budget of \$63,750 for this case, based on proposed hourly rates for attorneys and consultants.

CBD seeks a finding of significant financial hardship. It states the economic interests of its members and the customers it represents are small compared to the costs of effective participation in this proceeding, which entitles CBD to a finding of significant financial hardship pursuant to Pub. Util. Code § 1802(g).

Like all intervenors, CBD must ultimately demonstrate that its participation resulted in a substantial contribution to the proceeding by the

unique presentation of facts or arguments that were relied upon by the ALJ or Commission in resolving this proceeding.

**RAASP's NOI**

RAASP is an ad hoc grass roots organization created to represent the interests of electricity customers and the community in and around Ramona, which lies in the potential path of the proposed project. RAASP is organized specifically to address the proposed Sunrise Powerlink project. As of the date of its filing, it states it has 300 members and is likely to have more who have a direct interest in the proposed project. RAASP meets the definition of customer, as set forth in Pub. Util. Code § 1802(b), because it is an organization whose official mission is to represent the interests of utility customers.

RAASP states it expects to be an active party in this proceeding addressing the proposed power line, emphasizing issues relating to the health and quality of life of the local community. It states it represents the interests of small and medium-sized customers and that it intends to coordinate its work in this proceeding with other parties in order to avoid duplication of effort.

RAASP estimates a total projected budget of \$470,000 for this case, based on proposed hourly rates for its attorneys and experts. It estimates overhead expenses in the amount of \$10,000. Like all intervenors, RAASP must ultimately demonstrate that its participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the ALJ or Commission in resolving this proceeding.

RAASP states it will seek a finding of significant financial hardship at a later date when it should have more information about its membership and its official organizational status. RAASP does not present its articles of incorporation or other official information about its legal status, information the

Commission has the discretion to require as a condition of compensating an intervenor.

**RPCC's NOI**

RPCC is an ad hoc grass roots organization created to represent the interests of electricity customers and several communities that could be affected by the proposed project. RPCC is organized specifically to address the proposed Sunrise Powerlink project. RPCC meets the definition of customer, as set forth in Pub. Util. Code § 1802(b), because it is an organization whose official mission is to represent the interests of utility customers.

RPCC states it expects to be an active party in this proceeding addressing the proposed power line, emphasizing issues relating to the health, property values and scenic quality of the local community. It states it represents the interests of residential customers and that it intends to coordinate its work in this proceeding with other parties in order to avoid duplication of effort.

RPCC estimates a total projected budget of \$250,000 for this case, based on proposed hourly rates for its attorneys and experts. As with all intervenors, RAASP has the burden to understand the types of activities the Commission may compensate and to assure its participation is effective and not duplicative.

RPCC seeks a finding of significant financial hardship. It states the economic interests of its members and the customers it represents are small compared to the costs of effective participation in this proceeding, which entitles RPCC to a finding of significant financial hardship pursuant to Pub. Util. Code § 1802(g).

Like all intervenors, RPCC must ultimately demonstrate that its participation resulted in a substantial contribution to the proceeding by the

unique presentation of facts or arguments that were relied upon by the ALJ or Commission in resolving this proceeding.

### **CASE's NOI**

CASE is a nonprofit organization created to represent the interests of electricity customers in several communities that could be affected by the proposed project. CASE meets the definition of customer, as set forth in Pub. Util. Code § 1802(b), because it is an organization whose official mission is to represent the interests of utility customers.

CASE states it expects to be an active party in this proceeding addressing the proposed power line, emphasizing issues relating to the health, property values and scenic quality of the local community. It states it represents the interests of residential customers and that it intends to coordinate its work in this proceeding with other parties in order to avoid duplication of effort.

CASE estimates a total projected budget of \$405,000 for this case, based on proposed hourly rates for its attorneys and experts. It estimates overhead expenses in the amount of \$50,000. CASE must ultimately demonstrate that its participation resulted in a substantial contribution to the proceeding by the unique presentation of facts or arguments that were relied upon by the ALJ or Commission in resolving this proceeding.

CASE states it will seek a finding of significant financial hardship at a later date. CASE does not present its articles of incorporation or other official information about its legal status, information the Commission has the discretion to require as a condition of compensating an intervenor.

### **INTERVENOR COST ESTIMATES AND DUPLICATION OF EFFORT**

Six intervenors have filed NOIs seeking eligibility for intervenor compensation in this case, all but one stating an intent to address issues relating

to the environment, public health and community values. (UCAN states its interest to be in the economic need for the proposed line.) The combined estimated cost of their invention is more than \$1.8 million. This is a large sum for a case such as this, especially considering the obvious overlap in interests of the five parties planning to address environmental concerns. CASE and RAASP's estimates of labor costs and general expenses are particularly high considering the relatively small group of customers they represent. This ruling does not judge any intervenor's cost estimate and is not intended to discourage any party's intervention in this case. However, this ruling serves as notice that each intervenor will have the burden to demonstrate the reasonableness of the costs it may ultimately claim for compensation and to demonstrate that its efforts were not duplicative of the work of other parties. Each intervenor is responsible to understand the types of activities that are eligible for compensation and other policies regarding intervenor compensation, and to coordinate with other parties to minimize duplication of effort. Having said that, the Commission welcomes the work of these customer groups and will facilitate their effective participation wherever doing so would promote the efficient and fair conduct of the proceeding.

**IT IS RULED that:**

1. Sierra Club is a customer as that term is defined in Pub. Util. Code § 1802(b) and has met the eligibility requirements of Pub. Util. Code § 1804(a). Sierra Club would experience significant financial hardship if it were to participate in this proceeding without intervenor compensation.
2. UCAN is a customer as that term is defined in Pub. Util. Code § 1802(b) and has met the eligibility requirements of Pub. Util. Code § 1804(a). UCAN



**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding Notices of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated March 16, 2006, at San Francisco, California.

/s/ Antonina V. Swansen  
Antonina V. Swansen

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.