

**FILED**

07/09/20

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Oversee the
Resource Adequacy Program, Consider
Program Refinements, and Establish Forward
Resource Adequacy Procurement Obligations.

Rulemaking 19-11-009

**ADMINISTRATIVE LAW JUDGE'S RULING
ON CENTER FOR COMMUNITY ENERGY'S SHOWING
OF SIGNIFICANT FINANCIAL HARDSHIP**

Customer (party intending to claim intervenor compensation): Center for Community Energy	
Assigned Commissioner: Liane Randolph	Administrative Law Judge: Debbie Chiv

PART I: PROCEDURAL ISSUES
(Completed by the party intending to claim intervenor compensation)

A. Status as "customer" (see Pub. Util. Code § 1802(b))¹ The party claims "customer" status because the party is (check one):	Applies (check)
1. A Category 1 customer is an actual customer whose self-interest in the proceeding arises primarily from his/her role as a customer of the utility and, at the same time, the customer must represent the broader interests of at least some other customers. See, for example, D.08-07-019 at 5-10).	<input type="checkbox"/>
2. A Category 2 customer is a representative who has been authorized by actual customers to represent them. Category 2 involves a more formal arrangement where a customer or a group of customers selects a more skilled person to represent the customer's views in a proceeding. A customer or group of customers may also form or authorize a group to represent them, and the group, in turn, may authorize a representative such as an attorney to represent the group.	<input type="checkbox"/>
3. A Category 3 customer is a formally organized group authorized, by its articles of incorporation or bylaws to represent the interests of residential customers or small commercial customers receiving bundled electric service from an electrical corporation (§1802(b)(1)(C)). Certain environmental groups that represent residential customers with concerns for the environment may also qualify as Category 3 customers, even if the above requirement is not specifically met in the articles or bylaws. See D.98-04-059, footnote at 30.	<input checked="" type="checkbox"/>

¹ All statutory references are to California Public Utilities Code unless indicated otherwise.

4. The party's detailed explanation of the selected customer category.

The party's explanation of its status as a Category 3 customer.

The Center for Community Energy is a non-profit, public-purpose environmental research and educational organization (IRS code 501(c)(3)). It is the successor to the San Diego Energy District Foundation, founded in 2011, which has been an advocate for the ratepayers of San Diego County and the formation of Community Choice Aggregation. Its bylaws are attached; the relevant section is quoted here:

Section 1.03: Non-Profit Purpose

The Corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code.

The purposes of the organization shall be to:

1. Advance and accelerate efforts to decarbonize the economy.
2. Educate, advise and consult the public, government bodies and private entities on the adoption of energy systems including community energy, private and public cooperatives, municipal systems and other forms of energy that advance the adoption of clean and safe electricity and other energy systems.
3. Advocate for ratepayers of Community Choice Energy organizations and other Load Serving Entities before government agencies and other venues.
4. Conduct research on the development of energy sources and policies in support of the above purposes.

100% of the members of the Center for Community Energy in San Diego County are residential or small business customers of regulated electric utility companies. Among other efforts, the Center for Community Energy conducts research on the efforts to use local energy generation and storage to contribute to decarbonization in a cost effective manner, and represents the interests of customers with behind-the-meter storage.

The Center for Community Energy claims Category 3 status as an environmental group representing residential customers with concerns for the environment as described in footnote 14 page 30 of D.98-04-059

Do you have any direct economic interest in outcomes of the proceeding? ²	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If “Yes”, explain:	
B. Conflict of Interest (§ 1802.3)	Check
1. Is the customer a representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. If the answer to the above question is “Yes”, does the customer have a conflict arising from prior representation before the Commission?	<input type="checkbox"/> Yes <input type="checkbox"/> No
C. Timely Filing of Notice of Intent to Claim Intervenor Compensation (NOI) (§ 1804(a)(1)):	
1. Is the party’s NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: 12/16/2019	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2. Is the party’s NOI filed at another time (for example, because no Prehearing Conference was held, the proceeding will take less than 30 days, the schedule did not reasonably allow parties to identify issues within the timeframe normally permitted, or new issues have emerged)?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2a. The party’s description of the reasons for filing its NOI at this other time:	
2b. The party’s information on the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, Administrative Law Judge’s ruling, or other document authorizing the filing of NOI at that other time:	

PART II: SCOPE OF ANTICIPATED PARTICIPATION
(Completed by the party intending to claim intervenor compensation)

A. Planned Participation (§ 1804(a)(2)(A)):
<p>The party’s statement of the issues on which it plans to participate: The Center for Community Energy expects to participate in the consideration of:</p> <ol style="list-style-type: none"> 1) Structural changes 2) Refinements to the RA program. <p>Potential changes such as multi-year requirements, counting conventions for renewable resources, central procurement and market power mitigation measures will all have financial impact on the new CCAs forming in San Diego County. We note that the RA issue is particularly acute in San Diego County; last year the local utility was forced to request local RA waivers.</p> <p>The party’s explanation of how it plans to avoid duplication of effort with other parties: The Center for Community Energy will consult with other participating consumer and environmental organizations as well as with renewable energy organizations. With respect to duplication, we note that the new CCAs forming in San Diego County are currently lightly represented at this Proceeding.</p> <p>The party’s description of the nature and extent of the party’s planned participation in this proceeding (to the extent that it is possible to describe on the date this NOI is filed). The Center for Community Energy will actively participate in hearings, workshops and working</p>

² See Rule 17.1(e).

groups; prepare comments and testimony; and submit motions and briefs as appropriate as the Proceeding advances.				
B. The party's itemized estimate of the compensation that the party expects to request, based on the anticipated duration of the proceeding (§ 1804(a)(2)(A)):				
Item	Hours	Rate \$	Total \$	#
ATTORNEY, EXPERT, AND ADVOCATE FEES				
Jose Torre-Bueno (Expert)	250	\$200	\$50,000	
<i>Subtotal: \$50,000</i>				
OTHER FEES				
Clerical Support for filing	30	\$45	\$1,350	
<i>Subtotal: \$51,350</i>				
COSTS				
<i>Subtotal: \$0</i>				
TOTAL ESTIMATE: \$51,350				
Estimated Budget by Issues:				
Structural Changes 50%				
Refinements to RA program 50%				

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP
(Completed by party intending to claim intervenor compensation)

A. The party claims that participation or intervention in this proceeding without an award of fees or costs imposes a significant financial hardship, on the following basis:	Applies (check)
1. The customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation. (§ 1802(h))	<input checked="" type="checkbox"/>
2. 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. (§ 1802(h))	<input checked="" type="checkbox"/>
3. The eligible local government entities' participation or intervention without an award of fees or costs imposes a significant financial hardship. (§ 1803.1(b).)	<input type="checkbox"/>
4. A § 1802(h) or § 1803.1(b) finding of significant financial hardship in another proceeding, made within one year prior to the commencement of this proceeding, created a rebuttable presumption in this proceeding (§ 1804(b)(1)). Commission's finding of significant financial hardship made in proceeding number: Date of Administrative Law Judge's Ruling (or CPUC Decision) in which the finding of significant financial hardship was made:	<input type="checkbox"/>

B. The party’s explanation of the factual basis for its claim of “significant financial hardship” (§ 1802(h) or § 1803.1(b)) (necessary documentation, if warranted, is attached to the NOI:

“Significant financial hardship” means, 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. The Commission has held that organizations with individual members who have annual utility bills of less than \$50,000 possess economic interests that are small in comparison to the costs required to participate in the proceeding. (D.95-02-093, at 4). According to the Commission, an “individual member” means individual members, not the collective membership. The Centre for Community Energy meets this test for significant financial hardship. Although there is no survey of the electricity bills of its membership, it can be stated with confidence that the average annual residential utility bill does not exceed \$50,000. Because the Center for Community Energy represents individual ratepayers, the economic interests of its membership are small compared to cost of participation in this proceeding.

**PART IV: ATTACHMENTS DOCUMENTING SPECIFIC
ASSERTIONS MADE IN THIS NOTICE**

(The party intending to claim intervenor compensation identifies and attaches documents)

Attachment No.	Description
1	Certificate of Service
2	Center for Community Energy bylaws

ADMINISTRATIVE LAW JUDGE RULING

<p>1. The Notice of Intent to Claim Intervenor Compensation (NOI) filed by Center for Community Energy has demonstrated the party is authorized to represent eligible utility customers. Additional information is required to substantiate the selected customer category.</p> <p>This is the first time the Commission considers an NOI filed by Center for Community Energy (CCE). CCE claims that it is eligible pursuant to Section 1802(b)(1)(C) as an “organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electric corporation.” (Section 1802(b)(1)(C).)</p> <p>Section 1.03 of CCE’s bylaws state the following purposes of this organization:</p> <p>1.1. Advance and accelerate efforts to decarbonize the economy.</p> <p>1.2. Educate, advise and consult the public, government bodies and private entities on cooperatives, municipal systems and other forms of energy that advance the adoption of clean and safe electricity and other energy systems.</p>	<input checked="" type="checkbox"/>

<p>1.3. Advocate for ratepayers of Community Choice Energy organizations and other Load Serving Entities before government agencies and other venues.</p> <p>1.4. Conduct research on the development of energy sources and policies in support of the above purposes.</p> <p>According to these provisions, CCE is authorized to, among other things, represent the interests of residential ratepayers and of small commercial ratepayers. To inform the Commission about how the above purposes translate into CCE's activities, it is required to <u>describe concrete activities, in which CCE has been engaged since December of 2019</u> (see Subsection 3, below, for instructions on how to submit additional information).</p>	
<p>2. The NOI has not demonstrated significant financial hardship for the following reason(s):</p> <p>Pursuant to Section 1802(h), an organization must prove significant financial hardship by showing that “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.”</p> <p>Although the NOI refers to CCE's “members,” there is no information on this intervenor's membership and sources of support. To document the NOI's assertions of significant financial hardship, the following information must be provided:</p> <ol style="list-style-type: none"> 1. Information about CCE membership: who CCE considers as its constituents, how they are joined, and conditions and terms of the membership or affiliation with CCE. 2. A balance sheet and income and expense statement covering the period of CCE existence. 3. Active grants and contributions from any entity operating in or entering into, the energy-related industries or markets, including individuals and commercial, non-for-profit and governmental entities: names of the donors, sponsors, and grantors, amounts of the grants and contributions, and terms and conditions of the funding. 4. If CCE has been involved in a project or contract related to the energy industries or markets, a description and purpose of the project, CCE's role in the project or under the contract, and whether CCE receives remuneration. 	<input type="checkbox"/>
<p>3. The Administrative Law Judge provides the following additional guidance (see § 1804(b)(2)):</p> <p>Information requested in Sections 1 and 2, above, of this Ruling may be provided within 30</p>	<input type="checkbox"/>

days of the issuance of the Ruling. Information CCE considers confidential may be submitted under seal.³ Questions regarding compliance with the Ruling may be directed to the Intervenor Compensation Program coordinator at Icompcoordinator@cpuc.ca.gov.

A preliminary finding on CCE's eligibility will be made upon a receipt of information requested in Sections 1 and 2, above, of this Ruling.

IT IS RULED that:

1. Center for Community Energy has satisfied the eligibility requirements of Public Utilities Code § 1804(a).	<input checked="" type="checkbox"/>
2. Information required to supplement the Notice of Intent to Claim Intervenor Compensation must be provided within 30 days of the date of the issuance of this Ruling, as set forth above.	<input checked="" type="checkbox"/>
3. Additional guidance is provided to Center for Community Energy as set forth above.	<input checked="" type="checkbox"/>

Dated July 9, 2020, at San Francisco, California.

/s/ DEBBIE CHIV

Debbie Chiv
Administrative Law Judge

³ Guidelines on filing motions to file under seal and confidential information are provided in Rules 11.1 and 11.4 of the Commission Rules of Practice and Procedure (www.cpuc.ca.gov > Proceedings > Codes, Laws, Rules) and in the filing FAQs on the CPUC's website (www.cpuc.ca.gov > Proceedings > Filing a Document > FAQs (right margin) at 11-13).