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

Order Instituting Rulemaking to Review, Revise,  
and Consider Alternatives to the Power Charge  
Indifference Adjustment.

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R.17-06-026  
(Filed June 29, 2017)

**COMMENTS OF THE PROTECT OUR COMMUNITIES FOUNDATION  
ON THE PROPOSED DECISION REGARDING INTERVENOR COMPENSATION**

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DATED: April 19, 2021

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**I. Introduction**

Pursuant to the California Public Utilities Commission's (Commission's) Rule 14.3, the Protect Our Communities Foundation (PCF) respectfully submits the following comments on the Proposed Decision Granting Intervenor Compensation to Protect Our Communities Foundation for Substantial Contribution to Decision 19-10-001.<sup>1</sup>

The Proposed Decision errs by setting rates for PCF's experts and attorney that are lower than previously established for those individuals.<sup>2</sup> PCF has not identified any cases where the Commission ignored previously established rates for a representative and instead set significantly reduced rates, as the Proposed Decision does. An examination of the statutes governing the intervenor compensation program, the Commission's formal rules, and the Commission's decisions providing the rules by which it set rates show that the Commission has not contemplated decreasing an individual's rates. Moreover, PCF's experts and attorney are qualified and eligible to receive the rates previously established for them.

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<sup>1</sup> R.17-06-026, Proposed Decision of ALJ Atamturk Granting Intervenor Compensation to Protect Our Communities Foundation for Substantial Contribution to Decision 19-10-001 (March 29, 2021) (Proposed Decision).

<sup>2</sup> See Table 1, *infra* at 6.

This Proposed Decision arbitrarily deviates from the Commission's practice of using the rates it previously established for PCF's experts and attorney. For the reasons described below, PCF respectfully requests that the Commission modify the Proposed Decision to use the market rates previously established for these individuals.

## **II. Background**

On December 12, 2019, PCF submitted a timely request for compensation for contributions to Decision 19-10-001.<sup>3</sup> On March 29, 2021 the Commission issued a Proposed Decision finding that PCF met all the requirements of Public Utilities Code § 1801 *et seq* and thus is entitled to an award of intervenor compensation for its work. The Proposed Decision finds that PCF is an eligible customer, demonstrated significant financial hardship, timely submitted all required filings, and made a substantial contribution to D.19-10-001.<sup>4</sup> The Proposed Decision also sets hourly rates for Bill Powers, Tyson Siegele, and Yochanan Zakai, among others. However, the rates set by the Proposed Decision are lower than the hourly rates previously established by the Commission for these three individuals. The Proposed Decision sets rates for Mr. Siegele and Mr. Zakai that are significantly less than the rates the Commission previously established for those representatives; the rates for Mr. Powers in 2019 are slightly less than those previously adopted for him.<sup>5</sup> It is possible that the Proposed Decision was written with incomplete information, namely without knowledge of the Commission's previously established rates for these individuals.

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<sup>3</sup> Intervenor Compensation Claim of Protect Our Communities Foundation for Contribution to D. 19-10-001, at 13 (Dec. 12, 2019) (PCF Compensation Claim).

<sup>4</sup> Proposed Decision at 2-3; *id.* at 18.

<sup>5</sup> See Table 1, *infra* at 6.

### **III. The Public Utilities Code requires the Commission to award PCF compensation based on reasonable market rates.**

Public Utilities Code § 1803 requires the Commission to “award reasonable advocate’s fees . . . to any customer who . . . makes a substantial contribution” to the commission’s decision and whose “[p]articipation or intervention without an award of fees or costs imposes a significant financial hardship.” As explained above, the Proposed Decision finds that PCF meets this statutory standard and is entitled to an award of reasonable fees and costs.<sup>6</sup>

Public Utilities Code § 1806 requires the Commission to compute compensation awards taking “into consideration the market rates paid to persons of comparable training and experience who offer similar services.” When the Commission has previously established a rate for an individual, it adopts that rate without revision.<sup>7</sup> For example, the Commission regularly states “we apply the same rates here without further discussion”<sup>8</sup> or “we apply the same rates here”<sup>9</sup> when using a previously established rate.

In 2008, the Commission set its practice for updating an individual’s rates in D.08-04-010. This practice allows updates to a previously established rate to reflect generally applicable increases in hourly rates, or, less commonly, to increase previously established rates “beyond those generally adopted.”<sup>10</sup> D.08-04-010 provides that generally applicable increases include:

1) Annual [Cost of Living Adjustment (COLA)]: includes any other type of annual increase adopted by the Commission generally applicable to all representatives;

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<sup>6</sup> Proposed Decision at 3, *id.* at 18.

<sup>7</sup> D.08-10-012 at 17-19 (adopting previously established rates for 6 individuals); D.10-05-010 (adopting higher rates than previously approved, although “[n]ormally, we would use a representative’s already adopted rates”).

<sup>8</sup> *See, e.g.*, D.12-08-043 at 14; D.11-09-013 at 8; D.09-12-041 at 10; D.09-09-023 at 15.

<sup>9</sup> *See, e.g.*, D.09-12-043 at 20; D.09-06-017 at 13.

<sup>10</sup> D.08-04-010 at 9-10.

2) Step increases: limited to two annual increases of no more than 5% each year within any given level of experience for each individual;

3) Moving to a higher experience level: where additional experience since the last authorized rate moves a representative to a higher level of experience (e.g., an attorney with 12 years experience, in the 8-12 year experience level, would be eligible for an increase the following year, apart from any COLA or step increase, by virtue of moving up to the 13-plus year level)<sup>11</sup>

More recently, the Commission has adopted annual COLA increases, including for 2018 and 2019, the years during which PCF's work in this proceeding was performed.<sup>12</sup>

Neither the statutes governing the intervenor compensation program, the Commission's formal rules, nor the Commission's decisions providing the rules by which it sets rates contemplate decreasing rates from those previously established by the Commission. In fact, PCF has not identified any cases where the Commission ignored previously established rates for a representative and instead set significantly reduced rates. In the few cases PCF found where the Commission reduced previously established rates, the decision clearly identified the previously established rate and corrected a technical error.<sup>13</sup>

**IV. The Proposed Decision arbitrarily decreases the rates previously established for Mr. Powers, Mr. Siegele, and Mr. Zakai.**

**A. The Commission has already established market rates for PCF's experts and attorney.**

Pursuant to Public Utilities Code § 1806 and D.08-04-010, the Commission previously established rates for Mr. Powers and Mr. Siegele when it issued D.21-03-039, and for Mr. Zakai

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<sup>11</sup> D.08-04-010 at 8.

<sup>12</sup> Most recently, on December 17, 2020 the Commission issued Resolution ALJ-393 changing the methodology for setting the hourly rates of intervenors for work performed beginning January 1, 2021. Because the Proposed Decision addresses work performed in 2018 and 2019, the new methodology established in Resolution ALJ-393 does not apply.

<sup>13</sup> See, e.g., D.07-12-007 (correcting a mathematical error made when the Commission previously established a rate).

when it issued D.20-02-066. These decisions are attached for ease of reference. Table 1 provides the rates the Commission previously established for these individuals, as well as the rates set in the Proposed Decision.

**Table 1**

	Year Work Performed	Decision Adopting Hourly Rate	Hourly Rate Previously Adopted	Hourly Rate in Proposed Decision
Bill Powers	2019	D.21-03-039	\$290	\$280
Bill Powers	2018	D.21-03-039	\$270	\$270
Tyson Siegele	2019	D.21-03-039	\$270	\$175
Yochanan Zakai	2019	D.20-02-066	\$330	\$220
Yochanan Zakai	2018	n/a	n/a	\$215

The Proposed Decision does not identify the Commission’s previously established rates, or provide any justification for deviating from its earlier conclusion regarding the appropriate rates for these representatives. No facts regarding the status of PCF’s experts and attorney has changed since the Commission issued those decisions.

The Proposed Decision arbitrarily and capriciously deviates from the Commission’s established practice of awarding the same or increased rate for a representative with a previously established rate. Thus, to avoid legal error the Commission should revise the Proposed Decision to use the rates it previously adopted for Mr. Powers and Mr. Siegele in D.21-03-039, and for Mr. Zakai in D.20-02-066. Moreover, to calculate the rate for work Mr. Zakai performed in 2018, the Commission should subtract its 2019 COLA<sup>14</sup> from the rate the Commission previously established for Mr. Zakai’s work in 2019. Rounded to the nearest \$5 increment, this results in a rate of \$320 for Mr. Zakai’s work in 2018.

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<sup>14</sup> Resolution ALJ-357 (April 8, 2019) (adopting a COLA of 2.35% for 2019).

**B. The Commission must use a rate for Mr. Siegele that is commensurate with his experience as an expert and aligns with the rate previously established for him.**

The Proposed Decision's description of Mr. Siegele's experience and work in the energy field is incorrect. The Proposed Decision states that "According to Mr. Siegele's resume, his experience as a professional energy analyst begins in 2019 when he joined POC. Before that, his experience - at least as it can relate to the issues of this proceeding - can be described as 'advocate' at the best."<sup>15</sup>

Mr. Siegele has worked analyzing energy codes and laws in highly demanding technical fields for decades. After earning his degree in architecture in 2002, Mr. Siegele worked for seven years in the prominent New York City architecture firm, Mitchell Giurgola Architects. There he designed research laboratories for elite universities including Cornell University, Columbia University, and New York University. Some of his relevant responsibilities included: (1) preparing feasibility studies that analyzed building codes, laws, and energy needs; (2) researching, reviewing, and specifying laboratory and building systems equipment to minimize energy use; (3) directing design and engineering teams that included architects, electrical engineers, mechanical engineers, plumbing engineers, structural engineers and other consultants; and (4) reviewing and editing documents from electrical engineers, mechanical engineers, and energy consultants, to balance the design needs and energy needs within each project. Several of the projects Mr. Siegele led also included construction management, which required his practical experience with the implementation of energy systems.

In 2009, Mr. Siegele went on to establish a midwestern design-build firm, Skyworks Designs LLC, which specialized in maximizing energy efficiency in residential construction.

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<sup>15</sup> Proposed Decision at 17.

One example of Mr. Siegele's demonstrated mastery of energy systems in residential work at Skyworks Designs includes the design and construction of an ultra-energy-efficient Energy Star certified home. That building achieved an extremely high Energy Star efficiency rating and uses just one-third the annual energy consumption of a standard Energy Star qualifying home.

In addition to the design-build portion of the firm's business, Mr. Siegele also provided energy consultation services focused on cost-saving and energy-saving options for residential owners. These services required Mr. Siegele's mastery of research and data analysis on residential energy systems, energy efficiency measures, and building codes.

Mr. Siegele's work at the New York and the midwestern firms required: the ability to research energy codes and laws; a knowledge of how to conduct feasibility studies regarding energy efficiency and energy systems; expertise and mastery of construction; and synthesizing said work into proposals for a wide array of audiences and clients. Further, these endeavors required Mr. Siegele to understand energy systems at different scales and needs: small residential projects to large campus-wide projects; eastern climate zones to central climate zones; fossil fuel powered systems to all electric systems.

After Mr. Siegele's first decade in energy related activities, he redirected his expertise toward analysis of energy systems on a larger scale and with a focus on policy change. Since 2014 Mr. Siegele has used his research skills and technical abilities to analyze energy systems as small as microgrids and as large as multistate interconnections. Mr. Siegele used these skills to advise individuals and organizations on solar power, wind power, batteries, grid regionalization, hydrogen, fuel cells, fuel cell vehicles, electric vehicles, hybrid systems, heat pumps (both air source and ground source), heat exchangers, energy efficiency, community choice aggregation, utility franchise agreements, utility municipalization, power purchase agreements,

competitiveness of fossil fuels, competitiveness of nuclear, time of use rates, the role of hydropower, and net energy metering. In 2016 Mr. Siegele established the website ButItJustMightWork.com to promote clean energy, provide educational materials on energy efficiency, and provide potential clients a source of sample energy consulting information.

Mr. Siegele's expertise with electric vehicles lead him to leadership positions at the Electric Vehicle Association of San Diego where he eventually served as President. Because of his stellar work in the field of clean transportation a national electric vehicle organization, the Electric Auto Association, presented Mr. Siegele the 2019 award "MVP of the Western United States."

In 2018, PCF contracted with Mr. Siegele to provide analysis and consulting on a variety of projects, including evaluation of grid regionalization as well as energy analysis within the IRP proceeding. After only a handful of months as a contractor for PCF, it became clear to PCF that Mr. Siegele's level of knowledge and breadth of experience could not be easily replicated or replaced. As a result of PCF's evaluation, it successfully negotiated to hire Mr. Siegele full time, with the understanding that he would transition away from his other consulting work. Thus, Mr. Siegele now devotes his expertise to full-time work for PCF. More importantly, as energy technologies and policies change and evolve, PCF believes Mr. Siegele will continue to excel at researching and incorporating the knowledge of those evolutions into his work for PCF. Put simply, in 2018 Mr. Siegele left the expert consulting field to become an in-house expert for PCF.

Finally, as noted in Table 1, the Commission reviewed Mr. Siegele's qualifications in a claim filed in the Integrated Resource Plan ("IRP") proceeding. Mr. Siegele has been working as an expert in the IRP proceeding on behalf of PCF since 2018. In that time, Mr. Siegele has filed

comments on behalf of PCF at each opportunity where comments from an environmental advocacy organization have been appropriate. As a result, Mr. Siegele has spent more time on IRP analysis, and filed more comments in the IRP proceeding, than in any other Commission proceeding on which he has worked. The Commission based its rate for Mr. Siegele's work in that proceeding on an evaluation of his expert analysis, the numerous filings he authored, and his qualifications. The Commission determined that a rate of \$270/hour was appropriate for his work in 2019. The Commission in D.21-03-039 concluded that Mr. Siegele's rate was "comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services."<sup>16</sup>

In sum, Mr. Siegele has "comparable training and experience" to representatives that the Commission awards expert rates to, and he charges and is entitled to the same "market rates paid to" those representatives.<sup>17</sup> Therefore, consistent with its prior decision in D.21-03-039, the Commission should award Mr. Siegle a hourly rate of \$270 for work performed in 2019. To do otherwise would be an arbitrary departure from the Commission's practice.

**C. Nothing prohibits an attorney licensed in another state from representing a client before the California Public Utilities Commission or qualifying for attorney compensation rates.**

In addition to ignoring Commission decisions that have already established the market rates for PCF's experts and attorney, the Proposed Decision improperly discounts compensation for Mr. Zakai because he is a member of the Oregon State Bar and not the State Bar of California. Nothing in the Public Utilities Code or the Commission's Rules of Practice and Procedure require an attorney to be licensed in California to represent a client before it.

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<sup>16</sup> D. 21-03-039 at 24.

<sup>17</sup> Pub. Util. Code § 1806.

Moreover, nothing in the Public Utilities Code § 1801 *et seq* or the Commission’s Rules of Practice and Procedure requires an attorney to be a member of the State Bar of California to be compensated at the attorney rate.

Indeed, the Commission previously awarded attorney rates to lawyers licensed in states outside of California. For example, in D.09-06-017 the Commission awarded attorney rates Ms. Weed, a member of the Michigan State Bar, and in D.15-09-016 the Commission awarded attorney rates to Mr. Panfil, a member of the New York State Bar.<sup>18</sup>

The Commission’s approach in D.09-06-017 and D.15-09-016 is consistent with that of courts applying the private Attorney General statute, California Code of Civil Procedure § 1021.5. Unlike the Commission’s intervenor compensation program, Code of Civil Procedure section 1021.5 authorizes fee awards *only* for attorney services.<sup>19</sup> And, generally, a person must be licensed by the State Bar of California in order to perform attorney services in this state.<sup>20</sup> Yet courts regularly award fees under Code of Civil Procedure § 1021.5 to attorneys licensed outside of California. For example, in *Wahl v. Yahoo!, Inc.*, the Northern District of California awarded attorneys’ fees for work performed by two attorneys from Missouri.<sup>21</sup> Likewise, in *Yue v.*

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<sup>18</sup> D.09-06-017 at 11-13; *id.* at Appendix; D.15-09-016 at 7-8; *id.* at Appendix.

<sup>19</sup> *Compare Consumers Lobby Against Monopolies v. CPUC*, 25 Cal.3d 891, 913-14 (1979) (disapproved on other grounds in *Kowis v. Howard*, 3 Cal.4th 888 (1992)) (non-attorneys who appear before the Commission in a representative capacity may be awarded fees for their services) *with* Code Civ. Proc. § 1021.5 (fees for attorney representation only); *but see Guinn v. Dotson*, 23 Cal.App.4th 262, 268-69 (1994) (attorney fees may include time billed for paralegal services in order to fully compensate the attorney).

<sup>20</sup> *Consumers Lobby*, 25 Cal.3d at 913 (“Nonattorneys are generally not permitted to participate in judicial proceedings; rather, with a few limited exceptions, a person must be licensed as an attorney before he can appear in court.”)

<sup>21</sup> *See Wahl v. Yahoo!, Inc.*, 2018 WL 6002323, at \*6 (noting “Class Counsel’s rates . . . are consistent with prevailing rates in both Kansas City, Missouri and this district.”); *id.* at \*1 (counsel admitted pro hac vice).

*Conesco Life Insurance Company*, the Central District of California awarded fees to plaintiffs represented by attorneys from Arizona.<sup>22</sup> There is no reason why out-of-state attorneys should be eligible for fees at attorney rates under the private Attorney General statute but not be equally eligible under the Commission's less restrictive intervenor compensation framework.

The Commission has only denied attorney rates to party representatives who have not been admitted to the bar or have not performed the work of an attorney in the proceeding. Neither situation applies to Mr. Zakai's work in this proceeding. For example, in D.14-07-024, the Commission did not allow attorney rates for Ms. Hartfield because although she graduated law school, she had not passed any state bar or did not perform work typically associated with that of an attorney.<sup>23</sup> In D.10-05-010, the Commission did not allow attorney rates for Ms. Chen because during the proceeding she held a non-attorney title. However, the Commission also found that, because the nature of her work was consistent with that of an attorney and she was recently appointed to a position as Legal Counsel, Ms. Chen would be entitled to an appropriate attorney rate in future proceedings.<sup>24</sup>

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<sup>22</sup> *Yue v. Conesco Life Insurance Company*, 2011 WL 13176748, at \*1.

<sup>23</sup> D.14-07-024 ("CEC did not justify or explain Hartfield's rate in the compensation request. Although Hartfield is an attorney, she is not a member of the California Bar and will not, in this proceeding, be granted an attorney rate by the Commission. Her experience with the Commission started in 2011. According to the time sheets filed in conjunction with the request for compensation, most of Hartfield's work consisted of document review, general review, and editing of documents – not the work normally associated with either attorneys or experts. As such, Hartfield will be granted a rate similar to that of a Research Associate. Hartfield's 2011 rate is set at \$75.00.").

<sup>24</sup> D.10-05-010 ("In D.09-11-031 we adopted an hourly rate of \$115 for the Stephanie Chen's work as a Legal Associate in 2008 and 2009 (D.09-11-031 at 20-21). Greenlining requests now the rate of \$190, and explains that in September of 2009, Chen became a legal counsel. We note that during the subject period of time Chen was not a legal counsel, and therefore her attorney rate is not justified. Normally, we would use a representative's already adopted rates. However, in this proceeding, Chen shouldered most of Greenlining's work: prepared all formal documents; handled discovery and witness cross-examination; and represented Greenlining at the evidentiary

**D. Mr. Zakai qualifies for compensation at attorney rates because he has been admitted to the bar, holds the title of attorney, performs work expected of an attorney, works at a law firm, and charges market rates for an attorney practicing law.**

Mr. Zakai was admitted to the Oregon State Bar in 2013.<sup>25</sup> He is not a member of the State Bar of California, and in every filing he submits to this Commission, a note accompanying his signature block indicates this.<sup>26</sup> He has repeatedly and consistently stated his bar membership status to this Commission. With full knowledge of Mr. Zakai's status as a member of the Oregon State Bar, the Commission in D.20-02-066 awarded him a rate of \$330 for work performed in 2019.

The work that Mr. Zakai performs in this proceeding, as well as in other matters in which he is retained to represent clients, is that of an attorney.<sup>27</sup> For example, in this proceeding Mr. Zakai authored filings including a pre-hearing conference statement, comments on the working group proceedings, comments on proposed decisions, and motions.<sup>28</sup> He represented his client PCF at a pre-hearing conference, consulted with attorneys from aligned parties in this proceeding, attended workshops and asked questions advancing his client's positions, represented his client at meet and confer conferences, and prepared summaries of legal issues for

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hearings, final oral argument and in ex parte communications. We believe the level of her responsibilities and work range entitles her to an advocate rate, higher than her previously adopted rate. We adopt a new hourly rate of \$125 for her advocacy in 2008 and 2009, which is within the rate range the Commission adopted for the advocate work. In future claims we will consider the appropriate rate for Chen after she became Legal Counsel.”).

<sup>25</sup> PCF Compensation Claim, at 13; *id.* Attachment 2.

<sup>26</sup> *See, e.g., infra* at 14.

<sup>27</sup> Mr. Zakai is not a cat. Charles Northrup, *No, I Am Not A Cat*, 109 Ill. B.J. 50 (2021).

<sup>28</sup> PCF Compensation Claim, Attachment 3.

his client's review.<sup>29</sup> Mr. Zakai does not perform or bill time for clerical tasks such as serving documents.

Mr. Zakai has a national practice of administrative law focused on utility regulation. He has appeared representing clients before the Bonneville Power Administration, California Independent System Operator, California Public Utilities Commission, Colorado Public Utilities Commission, Massachusetts Department of Public Utilities, Michigan Public Service Commission, Minnesota Public Utilities Commission, and Washington State Utilities and Transportation Commission.<sup>30</sup>

Mr. Zakai works at a law firm and charges market rates for his work. Mr. Zakai works as an associate attorney in the law offices of Shute, Mihaly & Weinberger LLP. His rates are similar to other attorneys at the firm who became a member of the bar in 2013.

In sum, Mr. Zakai has "comparable training and experience" to representatives that the Commission awards attorney rates to, and he charges and is entitled to the same "market rates paid to" those representatives.<sup>31</sup> Therefore, consistent with its prior decision in D.20-02-066, the Commission should award Mr. Zakai a hourly rate of \$330 for work performed in 2019. To do otherwise would be an arbitrary departure from the Commission's practice.

## **V. Conclusion**

For the foregoing reasons, the Commission should revise the Proposed Decision to use the rates it previously established for work performed in 2019: \$290 for Mr. Powers (reflecting a

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<sup>29</sup> PCF Compensation Claim, Attachment 3.

<sup>30</sup> *See, e.g.*, PCF Compensation Claim, Attachment 2.

<sup>31</sup> Pub. Util. Code § 1806.

“COLA plus 5% step increase”),<sup>32</sup> \$270 for Mr. Siegele<sup>33</sup>, and \$330 for Mr. Zakai;<sup>34</sup> the Commission should use the rate of \$320 for Mr. Zakai’s work in 2018.

DATED: April 19, 2021

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<sup>32</sup> D.21-03-039 at 23.

<sup>33</sup> D.21-03-039 at 24.

<sup>34</sup> D.20-02-066.

\* Mr. Zakai is a member of the Oregon State Bar; he is not a member of the State Bar of California.

## Appendix of Changes

### B. Specific Claim:\*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Ellison Folk	2018	5.1	\$600	D.19-10-012 and COLA.	\$3,060	5 [1]	\$600	\$3,000.00
Ellison Folk	2019	1.1	\$615	D.19-10-012 and COLA.	\$667	1 [1]	\$615	\$615.00
Bill Powers	2018	7	\$271	D.19-04-031 established a rate of \$258 for 2018, and 5% step increase per D.07-01-009	\$1,897	7	\$270 <sup>4</sup> [2]	\$1,890.00
Bill Powers	2019	2.5	\$291	2018 rate per line above, and 5% step increase per D.07-01-009, and COLA.	\$728	2.5	<del>\$290</del> <del>280</del> <sup>5</sup> [2]	<del>\$725.00</del> <del>700.00</del>
Yochanan Zakai	2018	29.5	\$332	ALJ-357	\$9,794	22.5 [5]	<del>\$320</del> <del>215</del> [4]	<del>\$7,200.00</del> <del>4,837.50</del>
Yochanan Zakai	2019	92.8	\$340	ALJ-357	\$31,552	79.5 [6]	<del>\$330</del> <del>220</del> [4]	<del>\$26,235.00</del> <del>17,490.00</del>
CLAIMED						CPUC AWARD		
Tyson Siegele	2019	30.6	\$266	ALJ-357	\$8,140	30.6	<del>\$270</del> <del>175</del> [8]	<del>\$8,262.00</del> <del>5,355.00</del>
Subtotal: \$55,838						Subtotal: <del>\$47,927.00</del> 33,887.50		
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Bill Powers Travel	2019	2	\$145	half compensation for \$291 rate	\$290	0 [3]	N/A	\$0
Subtotal: \$290						Subtotal: \$0		

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Yochanan Zakai	2019	23.3	\$170	half compensation for \$340 rate	\$3,961	20 [7]	<del>\$110.00</del> <sup>6</sup> \$165.00	<del>\$2,200.00</del> \$3,300.00
Subtotal: \$3,961						Subtotal: <del>\$2,200</del> \$3,300		
COSTS								
#	Item	Detail			Amount	Amount		
1.	Photocopies				\$52.00	\$52.00		
2.	LexisNexis Research	Legal research			\$43.36	\$43.36		
Subtotal: \$95.36						Subtotal: \$95.36		
TOTAL REQUEST: \$60,184.63						TOTAL AWARD: <del>\$36,182.86</del> \$51,322.36		

<sup>4</sup>The approved rate corrects the arithmetic: a 5% increase from \$258 = \$270.90, which the CPUC rounds to \$270.

<sup>5</sup>~~The approved rate corrects the arithmetic: A 5% increase from the previously approved \$258 rate is \$270.90; \$270.90 increased by the 2019 COLA is \$280.~~

<sup>6</sup>The approved rate reflects ½ of the authorized 2019 hourly rate for Mr. Zakai.

\* \* \*

#### D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
[1] Ellison Folk 2018 and 2019 Hours	To account for the miscalculation in Part III(A)(c) above, Ms. Folk's hours were rounded down to 5 in 2018 and 1 in 2019.
[2] Bill Powers 2018 and 2019 Rate	<del>We use the rates previously established for Mr. Powers in D.21-03-039. Arithmetic errors, D.18-01-021, D.17-01-024. Claimant miscalculated the 5% step up increase for the 2018 rate, and requested a rate higher than what would be calculated using the 5% step up plus COLA for the 2019 rate.</del>
[3] Bill Powers Travel Rate	The travel time and rate filed by Claimant is disallowed because POC was already represented by Yochanan Zakai at the Pre-Hearing Conference. And POC did not specify any reason why an additional representative would be necessary at the PHC, let alone one that had to travel to participate.
[4] Yochanan Zakai Hourly Rate	<p><del>We use the rates previously established for Mr. Zakai's work in 2019 in D.20-02-066, and subtract the 2019 COLA set in ALJ-357 from his previously established rate to reach a rate of \$320 for Mr. Zakai's work in 2018. POC requests a new hourly rate for the work of Yochanan Zakai, an associate attorney at Shute, Mihaly &amp; Weinberger, LLP. POC refers to the Resolution ALJ-357 adopting intervenor compensation rates for 2019.</del></p> <p><del>However, the requested hourly rate of \$332 for Mr. Zakai's work in 2018 is not supported. The claim does not indicate in what capacity Mr. Zakai participates in this proceeding, as we require.<sup>8</sup> Resolution ALJ-352 adopting intervenor compensation rates for 2018 adopts rate ranges for attorneys and experts. Mr. Zakai's resume attached to the claim states that Mr. Zakai has been an associate attorney since October of 2018. However, there is no information regarding Mr. Zakai's membership in the State Bar of California. Also, according to Resolution ALJ-352, attorneys with 0-1 year of experience would be within the rate range of \$175-\$235 for the work in 2018. If Mr. Zakai is an expert, this would consider, approximately, 6 years of his experience, based on his resume. For experts with 0-6 years of experience, Resolution ALJ-352 sets the rate range of \$150-\$215.</del></p> <p><del>We adopt an hourly rate of \$215 for Mr. Zakai's work in 2018 as corresponding to the hourly rates established in Resolution ALJ-352. We adopt an hourly rate of \$220 for Mr. Zakai's work in 2019, corresponding to the COLA for that year.</del></p>
[5] Yochanan Zakai hours claimed in 2018	The number of hours spent preparing for Pre-Hearing Conference (PHC) and PHC Statement preparation reduced to 22.5, as more reasonable given the nature of the PHC and the substance of the PHC statement.

[6] Yochanan Zakai hours claimed in 2019	The number of hours spent preparing motion for and reviewing documents regarding POC's request for evidentiary hearings (9.4 hours) were subtracted because the motion was denied in full. The number of hours spent reviewing SDG&E's ERRRA filing were subtracted (3.9 hours) because POC did not explain how that time spent contributed to D.19-10-001. The number of hours spent learning CPUC processes were deducted.
[7] Yochanan Zakai ICOMP Claim Compensation	The hours compensated for Attorney Zakai's ICOMP Claim preparation time were reduced to 20 hours to account for the errors noted above.
[8] Tyson Siegele Hourly Rate	<p><del>We use the rates previously established for Mr. Siegele in D.21-03-039. POC requests an hourly rate of \$266 for POC's energy analyst Tyson Siegele. According to Mr. Siegele's resume, his experience as a professional energy analyst begins in 2019 when he joined POC. Before that, his experience—at least as it can relate to the issues of this proceeding—can be described as “advocate” at the best. Rates for experts with 0-6 years of experience are between \$155 and \$220 (Res. ALJ 357).</del></p> <p><del>Based on Mr. Siegele's limited experience as an expert, his hourly approved rate is \$175.</del></p>

\* \* \*

## APPENDIX

### Compensation Decision Summary Information

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D1910001		
<b>Proceeding(s):</b>	R1706026		
<b>Author:</b>	ALJ Nilgun Atamturk		
<b>Payer(s):</b>	Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company		

### Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Protect Our Communities Foundation	12/12/19	\$60,193	<del>\$51,322.36</del> <del>36,182.86</del>	N/A	Arithmetic errors; <u>use of previously established rates for representatives misrepresentation of attorney and expert compensation rates</u> ; miscalculation <u>and misrepresentation</u> of hours spent on contribution to D.19-10-001; duplicative compensation request leading to disallowed travel compensation.

### Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Ellison	Folk	Attorney	\$615	2019	\$615
Ellison	Folk	Attorney	\$600	2018	\$600
Bill	Powers	Expert	\$291	2019	<del>\$290</del> <del>280</del>
Bill	Powers	Expert	\$271	2018	\$270
Tyson	Siegele	Expert	\$266	2019	<del>\$270</del> <del>175</del>
Yochanan	Zakai	Attorney	\$340	2019	<del>\$330</del> <del>220</del>
Yochanan	Zakai	Attorney	\$332	2018	<del>\$320</del> <del>215</del>

(END OF APPENDIX)