

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**

09/06/23

12:50 PM

A2007008

September 6, 2023

Agenda ID #21856
Ratesetting

TO PARTIES OF RECORD IN APPLICATION 20-07-008:

This is the proposed decision of Administrative Law Judge Jungreis. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's October 12, 2023 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties to the proceeding may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

Comments must be filed, pursuant to Rule 1.13, either electronically or in hard copy. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ **Jungreis** at jsj@cpuc.ca.gov and to the Intervenor Compensation Program at Icompcoordinator@cpuc.ca.gov. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ MICHELLE COOKE

Michelle Cooke

Acting Chief Administrative Law Judge

MLC:mph

Attachment

Decision **PROPOSED DECISION OF ALJ JUNGREIS (Mailed 9/6/2023)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Authority to Securitize Certain Costs and Expenses Pursuant to Public Utilities Code Section 850 et seq.

Application 20-07-008

**DECISION GRANTING COMPENSATION TO WILD TREE FOUNDATION
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 20-11-007**

Intervenor: Wild Tree Foundation	For contribution to Decision 20-11-007
Claimed: \$198,210.50	Awarded: \$39,748.00
Assigned Commissioner: Alice Reynolds	Assigned ALJ: Jason Jungreis

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	In Decision (D.) 20-11-007, the Commission issued a Financing Order to Southern California Edison Company (SCE) for authority under Assembly Bill (AB) 1054 and Public Utilities Code § 850.1 to issue a Recovery Bond for approximately \$337,141,000.
--	---

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812¹:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	9/4/2020	Verified
2. Other specified date for NOI:	n/a	
3. Date NOI filed:	9/30/2020	Verified
4. Was the NOI timely filed?		Yes
Showing of eligible customer status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.19-07-017, D.20-11-010	Verified
6. Date of ALJ ruling:	11/6/2020	Verified
7. Based on another CPUC determination (specify):	n/a	
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes
Showing of “significant financial hardship” (§1802(h) or §1803.1(b)):		
9. Based on ALJ ruling issued in proceeding number:	R.19-07-017, D.20-11-010	Verified
10. Date of ALJ ruling:	11/6/2020	Verified
11. Based on another CPUC determination (specify):	n/a	
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		

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

13. Identify Final Decision:	D.20-11-007	Verified
14. Date of issuance of Final Order or Decision:	11/10/2020	Verified
15. File date of compensation request:	1/11/2021	Verified
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059):

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>Wild Tree² provided substantial testimony and legal argument that the financing order proposed in the application was contrary to law, precedent, and best practices and that a financing order could be issued in compliance with the law, precedent, and best practices only if the Commission utilized a pre-issuance finance team review process to determine the structure, marketing and pricing of the bond.</p> <p>See Direct Testimony of Aaron Rothschild on Behalf of Wild Tree Foundation at pp. 1-31.</p> <p>See Supplemental Testimony of Steven Heller on Behalf of Wild</p>	<p>“The task of ensuring the sale of a Recovery Bond issued pursuant to this Financing Order so as to reduce rates on a present value basis to the maximum extent possible compared to the use of traditional utility financing mechanisms therefore entails a process that is optimized for transparency and in line with best practices. Wild Tree provides a process solution, which most parties support.</p> <p>We acknowledge party criticisms that SCE’s underwriter does not have a vested interest in maximally reducing the Recovery Bond’s interest rate, that the Commission would only be provided notice of the details of the process but not engaged in the process, and that SCE is proposing a process that would not be in keeping with Commission past practice (here, we expressly note D.04-11-015, our past Financing Order decision for a similar utility bond securitization). Also, we are mindful of the requirement for a solution that does not offend the underlying purpose of the legislature’s intentions of AB 1054 and is in line with the statutory mandate to reduce Consumer rates on a present value basis to the maximum extent possible.</p> <p>For these reasons, we will adopt Wild Tree’s proposal for the creation of a Finance Team. Wild Tree writes as follows:</p> <p>This can be accomplished by including language in the financing order that sets-up a financing team</p>	<p>Verified</p>

² Wild Tree Foundation is referred to throughout this decision as “Wild Tree” or “WTF.”

<p>Tree Foundation at pp. 2-13.</p> <p>See Wild Tree Foundation Motion for Party Status at pp. 2-7.</p> <p>See Wild Tree Foundation Opening Brief at pp. 6-37.</p> <p>See Wild Tree Foundation Reply Brief at pp. 2-15.</p>	<p>composed of the utility, Commission and its staff, and any necessary outside financial and legal experts that will provide approvals of the material terms of the bond in a pre-issuance review process to create a bond with material terms that can meet the statutory requirements, in particular, minimization of ratepayer cost. (Wild Tree Opening Brief at 27 and drafted in its proposed Financing Order.)</p> <p>The Finance Team can review and address details regarding the Recovery Bond’s structuring, credit rating agency review, and underwriter marketing.</p> <p>It would review all fees and costs associated with all aspects of the Recovery Bond. It would help reduce rates on a present value basis to the maximum extent possible pursuant to AB 1054’s directives. The cost of the team would not be expected to meaningfully differ from the costs that SCE has assigned for the work it would do to marshal the oversight of the Recovery Bond. Given that this Financing Order addresses SCE’s initial AB 1054 CapEx Recovery Bond, we are persuaded to adopt the approach now, with the option of finding it to be unnecessary and changing course later, rather than waiting and adding a Finance Team review later if concerns develop.</p> <p>Commission precedent for such a Finance Team exists in D.04-11-015. Not coincidentally, that Decision was the last time the Commission authorized a Financing Order for the issuance of securitized bonds.</p> <p>Additionally, we note that, as per the testimony of Wild Tree’s expert, of the 16 similar utility securitized bonds issued nationally over the past 10 years, 14 have employed a financing team supported by independent financial advisors, with a pre-issuance review process to help ensure minimization of both the upfront bond costs and the ongoing bond costs (primarily, the interest rates on the bonds). (Wild Tree expert Rothschild at Exhibit WTF-1 14:18 – 15:5.)” (Decision at pp. 45-46.)</p>	
---	---	--

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

	Intervenor’s Assertion	CPUC Discussion
a. Was the Public Advocate’s Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding? ³	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: TURN, CLECA, EPUC ⁴		Verified
d. Intervenor’s claim of non-duplication: Wild Tree communicated with other parties who were likely to take similar positions to avoid duplication of efforts throughout the proceeding. There was a natural division of issues among parties who generally opposed aspects of the application and there was insufficient time in the highly compressed schedule for parties to coordinate further than they did. For example, Wild Tree was the only party to provide testimony and substantial argument regarding the need for the use of a pre-issuance Finance Team review process, although TURN and CLECA ultimately endorsed Wild Tree’s recommendations on this issue.		Noted

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
a. Intervenor’s claim of cost reasonableness: The resources Wild Tree expended in its advocacy are minimal relative to the resulting impacts and amount of the rates involved in this proceeding of approximately \$337,141,000. Wild Tree’s costs are reasonable in light of the amount of time, resources, and effort Wild Tree put into the proceeding as a party.	See our comments in Part III (D) (IV-V) on the claim reasonableness.
b. Reasonableness of hours claimed: Wild Tree spent a reasonable and prudent amount of time on this matter, working diligently addressing highly complex and complicated issue in an efficient and expedient manner. A single in-house attorney, experienced in practice before the Commission, drafted all filings for Wild Tree assisted by experienced experts, thereby leveraged many years of experience and expertise while limiting its costs. Due to the multi-faceted nature of this	See our comments in Part III (D) (IV-V) on the claim reasonableness.

³ The Office of Ratepayer Advocates was renamed the Public Advocate’s Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

⁴ The Utility Reform Network; California Large Energy Consumer Association; Energy Producers and Users Coalition.

proceeding, a typical law firm would have expended significantly more resources than that spent by Wild Tree.	
<p>c. Allocation of hours by issue:</p> <p>A. The financing order proposed in the application is contrary to law, precedent, and best practices and a financing order could be issued in compliance with the law, precedent, and best practices only if the Commission utilized a pre-issuance finance team review process to determine the structure, marketing and pricing of the bond. (100%)</p>	Noted

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total	Hours	Rate	Total \$
April Maurath Sommer	2020	173.84	\$400	D.20-11-010 rate of \$370 for 2019. \$370 + (5% step increase as authorized in D.07-01-009) + (2.55% COLA increase for 2020 per Res.ALJ-387) = \$398.40 rounded to the nearest \$5 increment of \$400 per D.08-04-010.	\$69,536.00	57.00 [1]	\$400 [2]	\$22,800.00
Aaron Rothschild	2020	196.50	\$465	Res.ALJ-387, Table 2 Hourly Rates.	\$91,372.50	39.25 [1]	\$340.00 [3]	\$13,345.00
James Rothschild	2020	34.00	\$465	Res.ALJ-387, Table 2 Hourly Rates.	\$15,810.00	0.00 [1]	\$0.00 [5]	\$0.00
Steven Heller	2020	10.00	\$465	Res.ALJ-387, Table 2 Hourly Rates.	\$4650.00	1.75 [1]	\$330.00 [6]	\$577.50

Harvey Reiter	2020	22.90	\$630	Res.ALJ-387, Table 2 Hourly Rates.	\$14,427.00	1.98 [1]	\$600.00 [4]	\$1,188.00
Subtotal: \$195,795.50					Subtotal: \$37,910.50			
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total	Hours	Rate	Total
April Maurath Sommer	2021	7	\$345	½ (\$695 per Res. ALJ-393 Hourly Rate Chart for Legal Director, Level IV -0-15 years of experience).	\$2415.00	7.00	\$262.50 [2]	\$1,837.50
Subtotal: \$2,415.00					Subtotal: \$1,837.50			
TOTAL REQUEST: \$198,210.50					TOTAL AWARD: \$39,748.00			

*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors’ 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.

**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer’s normal hourly rate

ATTORNEY INFORMATION

Attorney	Date Admitted to CA BAR ⁵	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes,” attach explanation
April Maurath Sommer	2008	257967	No
Harvey Reiter	MI 1975 DC 1976	n/a	No

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service

⁵ This information may be obtained through the State Bar of California’s website at: members.calbar.ca.gov.

2	Timesheets
3	Bios

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
<p>Procedural History</p>	<p>I. Procedural History</p> <p>Wild Tree Foundation (Wild Tree) timely filed this intervenor compensation claim. A proposed decision on the claim was mailed to the parties, and comments were filed,⁶ after which the proposed decision was withdrawn. This decision discusses Wild Tree’s contribution and the reasonableness of the requested award, makes the appropriate disallowances, and adopts hourly rates.</p>
<p>Analysis of Wild Tree’s substantial contribution</p>	<p>II. Analysis of WTF’s substantial contribution</p> <p>The intervenor has actively participated in this proceeding and made a substantial contribution, defined by the intervenor, as follows:</p> <p style="padding-left: 40px;">... a financing order could be issued in compliance with the law, precedent, and best practices only if the Commission utilized a pre-issuance finance team review process⁷</p> <p>Wild Tree’s advice to the Commission was to</p> <p style="padding-left: 40px;">... follow its own precedent of relying upon a financing team with decision-making powers to retain oversight over the structure, marketing, and pricing of the bond to ensure maximum ratepayer savings...⁸</p> <p>The Commission adopted this recommendation. However, Wild Tree’s proposal was not unique nor a novel one: the final decision emphasized that the finance team solution had been adopted in D.04-11-015,⁹ and Wild Tree also based its recommendation on D.04-11-015 and D.20-03-008, to state that</p> <p style="padding-left: 40px;">[t]he Commission need look no further than its own precedent in approving utility securitizations for justification for the establishment of a financing team and pre-issuance review process. In the Commission’s most recent decision on an application for a securitized bond, the Commission relied upon a financing team in the same</p>

⁶ The Utility Reform Network and Wild Tree filed the comments separately on the same date of June 15, 2023.

⁷ Wild Tree’s claim at 3.

⁸ Ibid. at 5.

⁹ D.20-11-007, at 46-48.

	<p>manner as suggested here. Earlier this year, the Commission also established a financing team to review PG&E’s interest rate hedges.¹⁰ [<i>Footnotes omitted.</i>]</p>
<p>Statutory standards of efficiency and reasonableness</p>	<p>III. Statutory standards of efficiency and reasonableness.</p> <p>Sections 1801, 1801.3 and 1802(a) mandate the Commission to administer the Intervenor Compensation Program in a manner that encourages effective and efficient participation and to reimburse only reasonable costs. Pursuant to these provisions, the Commission has reduced compensation awards, to account for the intervenor’s reasonable efforts that contributed to the decisions, and to discourage inefficient participation.</p> <p>For example, in D.11-01-021 we determined that the intervenor contributed, but the request did “not measure up to the actual ... contributions.”¹¹ Noting that the intervenor’s work was inefficient and the request excessive, the decision made the appropriate reductions.¹² More recently, we disallowed 50% of the claimed hours because Wild Tree’s work on all but one issue did not contribute.¹³ Similarly, D.22-11-036 (in A.20-04-023 and A.21-01-004) reduced Wild Tree’s award for a lack of substantial contribution.¹⁴</p> <p>In another proceeding, we again noted that</p> <p style="padding-left: 40px;">Most of Wild Tree’s claimed contributions did not rise to the level required to meet the standard of “substantial contribution” of Section 1802(j) nor to the level of material contributions to other parties’ valuable presentations. Wild Tree’s future claims may be subject to larger reductions because of the lack of substantial contribution.¹⁵</p> <p>The issues before us are whether Wild Tree’s participation in this proceeding was efficient and commensurate with Wild Tree’s contribution, and what would be a reasonable amount of compensation for making the contribution.</p>
<p>Analysis of the reasonableness of hours based on Wild Tree’s contribution, documents</p>	<p>IV. Analysis of the reasonableness of hours based on Wild Tree’s contribution, documents produced, and activity type.</p> <p>Summary. To analyze the claim’s reasonableness, we reviewed documents produced and work performed by the intervenor. Our analysis shows that incurring 437 hours of work and \$198,210.50 in costs for Wild Tree’s single citable contribution was unreasonable, and that Wild Tree’s participation was not efficient. (As a comparison: The Utility Reform Network (TURN)</p>

¹⁰ WTF’s opening brief at 5.

¹¹ D.11-01-021 (A.08-05-039) at 12-14.

¹² *Ibid.*

¹³ D.23-05-059.

¹⁴ WTF claimed contributions to D.21-04-030 and D.21-05-015.

¹⁵ D.20-06-051 at 22.

<p>produced, and activity type</p>	<p>requested reimbursement for 90 hours and \$50,220 in costs for the contribution to D.20-11-007.¹⁶) These findings cause significant reductions to the claim.</p> <p>General work at the initial stage of Wild Tree’s participation. We agree with Wild Tree’s comment¹⁷ that work of the general type (reviewing major documents, researching the law, etc.) occurring, normally, in the beginning of the intervenor’s participation, must take place for the intervenor to participate effectively. However, once the issues are determined and incorporated in the intervenor’s strategy, the intervenor must be able to allocate tasks, roles, and substantive issues amongst its representatives. It is reasonable to expect that at the next stages of the intervenor’s participation general work, as well as the accompanying cross-communications, reviewing the same materials, and engaging in the same activities would be reduced significantly if not avoided completely. Therefore, we allow Wild Tree’s activities in the beginning of its participation that were reasonably required for narrowing down issues, developing strategy and logistics, including assigning roles and issues among Wild Tree’s representatives.</p> <p>Prehearing Conference (PHC). Two of Wild Tree’s representatives – managing attorney April Sommer and expert Aaron Rothschild – were present at the PHC. Given that the purpose of the PHC was discussing the scope and schedule of the proceeding,¹⁸ the presence there of Wild Tree’s managing attorney who completed the bulk of Wild Tree’s work¹⁹ was sufficient.²⁰</p> <p>Discovery. Three representatives – April Sommer, Harvey Reiter, and Aaron Rothschild devoted a total of 31.51 hours to discovery requests (A. Sommer – 13.56; H. Reiter – 4.20; A. Rothschild – 13.75). From Wild Tree’s pleadings²¹ it appears that Wild Tree’s discovery requests concerned, predominantly, matters outside the focus of Wild Tree’s participation as stated by the intervenor, and Wild Tree’s discovery-related hours are reduced, accordingly.</p> <p>Direct Testimony of Aaron Rothschild of September 18, 2020. A review of direct testimony indicates that only a part of it was within the scope and constituted a part of Wild Tree’s contribution. We consider that the effort of four people devoted to the testimony was excessive given that the recommendation by Wild Tree was to follow the Commission’s own</p>
---	--

¹⁶ Intervenor Compensation Claim filed by The Utility Reform Network on December 18, 2020. *See also* D.05-04-010 (Opinion Granting Intervenor Compensation to The Utility Reform Network for Its Substantial Contribution to Decision 04-11-015) issued in the proceeding that adopted the finance team approach, A.04-07-032. D.05-04-010 approved 74 hours requested by TURN for its contribution.

¹⁷ Wild Tree’s comments on Proposed Decision filed on June 15, 2023, at 9-10.

¹⁸ *See, for example,* Reporter’s Transcript for the Prehearing Conference on September 4, 2020, filed on September 11, 2020, at 3:16-18.

¹⁹ Wild Tree’s comments on Proposed Decision filed on June 15, 2023, at 7.

²⁰ There was a telephone communication between A. Sommer and A. Rothschild prior to the PHC, which we find reasonable and compensable.

²¹ *See, references in* Wild Tree’s direct testimony, attachment A to the direct testimony, and in Wild Tree’s opening and reply briefs.

	<p>precedent, updated to the circumstances underlying this proceeding. We also note that the relevant law and precedent had been researched by A. Sommer for 8 hours at the initial stage of the intervenor’s participation. We will award the appropriate percentage of the requested compensation for the testimony work.</p> <p>As the time records show, four people – April Sommer, Harvey Reiter, Aaron Rothschild, and Steven Heller – were involved in preparing direct testimony, spending the total of 141.19 hours (Sommer – 17.79, Reiter – 3.40, Rothschild – 115.00, and Heller – 5.00).</p> <p>[Wild Tree states that Mr. Heller worked on his supplemental testimony, only,²² but his timesheet reflects work on testimony on September 11, 13, 14, and 16, 2020. This was prior to the date of September 18, 2020 when the Wild Tree’s motion to allow supplemental testimony in response to Southern California Edison Company’s (SCE) supplemental testimony was granted; prior to the date of September 17, 2020 when the motion was filed; and even prior to the date of September 14, 2020 when SCE served its supplemental testimony. Because Heller’s timesheet does not specify which testimony he worked on – direct or supplemental – an educated guess could be that Mr. Heller’s worked on both direct and supplemental testimony.</p> <p>Wild Tree denies that A. Sommer drafted testimony,²³ but she, according to her time records, worked on testimony with experts prior to the date of September 17, 2020 when her motion to allow supplemental testimony was filed. Based on these records we conclude that A. Sommer was involved in preparing direct testimony.]</p> <p>Supplemental testimony of Steven Heller of September 22, 2020. Wild Tree’s motion to file supplemental testimony was granted by the Judge “solely for purposes of addressing the subject of phased securitization versus a single securitization”, as presented in SCE’s supplemental testimony.²⁴ Wild Tree’s supplemental testimony went beyond this limit while providing no opinion on the permitted subject matter. As a result, the testimony did not contribute to the Commission’s decision-making.²⁵</p> <p>According to the time records, Steven Heller and April Sommer spent on the testimony 14.67 hours (Heller – 4.50 hours, Sommer – 10.17²⁶). Wild Tree states that A. Sommer did not draft testimony,²⁷ but she worked with experts on supplemental testimony, according to her time records of September 20 and</p>
--	---

²² Wild Tree’s comments on proposed decision, filed on June 15, 2023, at 6.

²³ Wild Tree’s comments on proposed decision filed on June 15, 2023, at 6.

²⁴ Administrative Law Judge’s Ruling of September 18, 2020, at 3.

²⁵ See, for example, references to Heller’s testimony in Wild Tree’s opening brief filed on September 25, 2020, at 8, 9, etc.

²⁶ This does not include Sommer’s hours spent preparing Wild Tree’s motion to allow supplemental testimony.

²⁷ Wild Tree’s comments on proposed decision filed on June 15, 2023, at 6.

	<p>21, 2020. This leads to the conclusion that A. Sommer was involved in preparing supplemental testimony.</p> <p>Opening brief of September 25, 2020. Wild Tree devoted 87.78 hours to the brief (Sommer – 41.58, Reiter – 2.95, and A. Rothschild – 43.25). Participation on the finance team issue should not call for such time-consuming effort. (Compare to 18.75 hours allocated by TURN to its brief.) We reduce Wild Tree’s hours spent on the brief, to reflect the time that would be sufficient to effectively advocate Wild Tree’s position.</p> <p>[Although Wild Tree denies that H. Reiter and A. Rothschild participated in preparing the brief,²⁸ their time records establish that they, too, worked on it: H. Reiter’s time records of September 14, 2020 show that he drafted financing order²⁹ and on September 22 and 24, 2020 reviewed and advised on the brief; and A. Rothschild’s records of September 21 – 25, 2020 reflect preparing the brief.]</p> <p>Reply brief of October 2, 2020. As in our analysis of the opening brief, we find that working on the reply brief was unnecessarily time-consuming, and we make reductions, accordingly. Wild Tree spent 41.47 hours preparing this document (Sommer – 26.27, Reiter 1.70, and A. Rothschild – 13.50). (Note that TURN allocated 11.50 hours to the brief.)</p> <p>[Wild Tree denies that H. Reiter and A. Rothschild participated in preparing the reply brief,³⁰ but according to their time records, they did: on September 26, 2020, H. Reiter commented on “finalizing brief” and on September 29th offered comments on SCE’s [opening] brief; and A. Rothschild’s time records entries of September 27 – 30, 2020 reflect him preparing “Draft Reply Brief.”]</p> <p>Comments on Proposed Decision of October 23, 2020. Pursuant to Rule 14.3 of the Commission Rules of Practice and Procedure, comments on proposed decision (PD) shall focus on factual, legal or technical errors in the PD. D.20-11-007 states that Wild Tree’s comments “suggested edits for reading consistency,” but in all other respects “repeated arguments it had previously presented.”³¹</p> <p>Wild Tree spent 21 hours preparing the comments (Sommer – 15.41, A. Rothschild – 6.0). (Compare to the total of 7.75 hours allocated to TURN’s comments.) Given Wild Tree’s input, we find Wild Tree’s effort inefficient, and hours devoted to preparing the comments excessive. Therefore, we compensate hours reasonably required to review and propose the changes to the PD.</p>
--	--

²⁸ Wild Tree’s comments on proposed decision filed on June 15, 2023, at 6.

²⁹ Wild Tree’s proposed financing order was attached to the opening brief as Appendix A.

³⁰ *Ibid.*

³¹ D.20-11-007 at 86.

Wild Tree denies A. Rothschild’s involvement in working on the comments,³² but his time records establish that he, too, was involved: his timesheet of October 16 – 23, 2020 reflects reviewing the proposed decision and preparing comments.

Cost Savings Model. According to the claim, James Rothschild worked on the “Cost Savings Model,” however, Wild Tree does not explain how this work added value to Wild Tree’s contribution and the final decision. We carefully reviewed Wild Tree’s pleadings and testimony but found no references to James Rothschild’s work, nor does the final decision mention it. We have no choice but to disallow the hours spent on this project as not supported by the proceeding’s record.

Engaging an Advising Attorney. Harvey Reiter was engaged by Wild Tree as an advising attorney.³³ However, the need for engaging Mr. Harvey, an attorney with high hourly rate, is not clear. According to the claim, A. Sommer is an attorney “experienced in practice before the Commission,” and Aaron Rothschild is an expert with many years of experience at the Commission.

Our review of the record and his resume has not revealed a need to involve H. Reiter, given that A. Sommer and A. Rothschild do not seem to be lacking the necessary skills to litigate before the CPUC. Unlike A. Sommer and A. Rothschild, H. Reiter appears to have no experience litigating before this agency.³⁴ His time records show that he reviewed the same documents and worked on the same matters as A. Sommer and A. Rothschild, thus duplicating unnecessarily their participation.³⁵ Given the nature of Wild Tree’s participation and contribution, we are not convinced that Mr. Reiter was instrumental to Wild Tree’s advocacy in this proceeding.

Communications between April Sommer and experts. A. Sommer, Wild Tree’s managing attorney, recorded multiple communications with Wild Tree’s experts, which we find excessive. In the comments of June 15, 2023, Wild Tree argues that intervenors cannot work without communicating,³⁶ and relies on the decisions D.23.05-023 (A.19-03-002 and A.10-07-009) and D.22-04-026 that compensated all communications. We do not question that a reasonable amount of the attorney-expert communications is needed for an intervenor’s effective participation. However, the volume of communications

³² Wild Tree’s comments on proposed decision filed on June 15, 2023, at 6.

³³ Wild Tree’s comments on the proposed decision filed on June 15, 2023, at 7.

³⁴ See Attachment 3 to the Claim.

³⁵ We note that, among other things, Reiter spent almost an hour to “comment on finalizing brief” on September 26, 2020, a day after the brief was formally filed.

³⁶ Wild Tree’s comments on proposed decision filed on June 15, 2023, at 10.

	<p>between Wild Tree’s attorney and experts was not commensurate with Wild Tree’s contribution, and we disallow excessive contacts, accordingly.³⁷</p> <p>Facts before the Commission in the decisions referenced by Wild Tree to argue that all its communications were reasonable, differ significantly from the facts at hand. D.23-05-023 approved 24 attorney-expert communications during three years of the intervenor’s participation, including settlement negotiations;³⁸ and D.22-04-026 compensates 13 such communications in 10 weeks. In both cases intervenors contributed to multiple issues, and the claimed hours overall were reasonable. These decisions do not support granting in full 17 hours and 36 instances of Wild Tree’s communications during this 6-week time period.</p>
<p>Compensable Hours</p>	<p>V. Compensable hours.</p> <p>Following our analysis in Sec. IV, above, we have made the most liberal estimates of the time reasonably required to make contribution comparable to the one made by Wild Tree. As indicated below, we allow the following reasonable compensation, commensurate with Wild Tree’s actual contribution and the amount of work required to make the contribution.</p> <p>a. General work at the initial stage of Wild Tree’s participation. We allow compensation, as follows:</p> <p>Sommer – 20.11 hours (excessive communications are non-compensable);³⁹ A. Rothschild – 3.75 hours (attendance at the PHC is non-compensable).</p> <p>b. Discovery. To the extent that Wild Tree’s discovery requests were relevant to the finance team issue as discussed in the direct testimony and opening brief, we allow 15% of the discovery work by A. Sommer – 2.03 hours, and A. Rothschild – 2.06 hours.</p> <p>c. Direct testimony. We allow 15% of Wild Tree’s work on direct testimony:</p> <p>A. Sommer – 2.67 hours; A. Rothschild – 17.25 hours; S. Heller – 0.75 hours.</p> <p>d. Supplemental testimony. We allow the following hours devoted to the supplemental testimony: Sommer – 2.0 hours as sufficient to review SCE’s supplemental testimony and prepare the motion to allow Wild Tree’s supplemental testimony, and Heller – 1.0 hour as the time sufficient to review</p>

³⁷ We also note discrepancies between the time records of the individuals involved in the communications: for example, A. Sommer records 1.60 hour for a phone call with A. Rothschild on September 6th, while he records 1.50 hour for the same communication; or she records a few calls “with expert” however, they are not reflected in any expert’s timesheet.

³⁸ UCAN’s claim filed on September 14, 2021 (A.19-03-002/A.10-07-009), attachment.

³⁹ The following communications are allowed: a call with expert (0.51) on September 4th, prior to the PHC; and a call with expert (1.60) on September 6th.

	<p>SCE’s supplemental testimony and determine the scope of Wild Tree’s response.</p> <p>e. Opening brief. By the most liberal estimates, given the contents of the brief, approximately one-fourth of the time spent preparing them is compensable. We allow A. Sommer – 10.40 hours; A. Rothschild – 10.81 hours.</p> <p>f. Reply brief. Similarly, given the contents of the reply brief, no more than one-fourth of the hours could be allowed, to reflect the volume of work required to review and reply to opening briefs, on the finance team matter. The following is compensable: A. Sommer – 6.57 hours; A. Rothschild – 3.38 hours.</p> <p>g. Comments on PD. We allow half of A. Sommer’s hours and one third of A. Rothschild’s hours, as reasonably required for the lead attorney and expert to review the proposed decision and offer the wording changes, as follows: A. Sommer – 7.71 hours; A. Rothschild – 2.0 hours.</p> <p>h. Advising attorney’s work. As noted in Section IV, above, Wild Tree does not explain a need to engage Harvey Reiter to advise on this case. However, to the extent that Mr. Reiter worked directly on the documents produced by Wild Tree, we allow some of his hours.</p> <p>Harvey Reiter drafted discovery requests (September 8, 2020 – 1.10 hours,⁴⁰ September 9, 2020 – 3.10), and we allow 0.63 hours for his work, consistent with the reductions applied in subsection (b), above.</p> <p>Reiter’s time records reflect his drafting direct testimony (preparing testimony outline and preparing testimony): September 8, 2020 – 1.10 hours; September 11th – 2.30 hours. We allow 0.51 hour, consistent with the reductions applied in subsection (c), above.</p> <p>Reiter’s time records reflect his work on the opening brief (September 14, 2020 drafting a financing order – 1.95 hours; September 22, 2020 working on edits – 1.00 hour). We allow 0.74 hours, consistent with the reductions in subsection (e).</p> <p>Attorney – expert communications. Based on the most generous assumption, we find that out of 36 attorney-expert contacts, engaging in nine – on September 4, 6, 8, 10, 11, 14, and 21, and October 19, 2020 for the total duration of 5.51 hours (April Sommer) – may be reasonable.</p>
<p>[1] Summary of</p>	<p>VI. Summary of Compensable Hours.</p> <p>Based on the analysis performed in Sections II, IV and IV, above, we approve compensation for the following hours of Wild Tree’s representatives:</p>

⁴⁰ Where the subject time record entry combines several activities (for example, “draft discovery requests, review and draft testimony outline – 2.20 hours”), to determine how much time was spent on a separate activity, we divide the hours (2.20) by the number of activities (2). We follow this practice here and everywhere in this decision.

<p>Compensable Hours</p>	<p>April Sommer – 57.00 hours; Aaron Rothschild – 39.25 hours; James Rothschild – 0.00 hour; Steven Heller – 1.75 hours; Harvey Reiter – 1.98 hours.</p>
<p>Hourly rates [2] A. Sommer 2020 and 2021 Rate</p>	<p>VII. Hourly Rates. <u>April Sommer, attorney.</u> According to D.22-08-014, the adopted 2020 hourly rate for Sommer is \$400. D.22-11-036 adopted the hourly rate of \$525 for Sommer’s professional work in 2021. Accordingly, her 2021 hours spent on Intervenor Compensation Claim Preparation are compensated at half the 2021 rate, or \$262.50.</p>
<p>[3] A. Rothschild 2020 Rate</p>	<p><u>Aaron Rothschild, expert.</u> Wild Tree requests a 2020 hourly rate of \$465 for Aaron Rothschild. D.22-11-036 has adopted the rate of \$340 for his work in 2020.⁴¹ We use here the adopted rate.</p>
<p>[4] H. Reiter 2020 Rate</p>	<p><u>Harvey Reiter, attorney.</u> Wild Tree requests a 2020 hourly rate of \$630 for Reiter. We note that Wild Tree provides no supporting information on the “market rates paid to persons of comparable training and experience who offer similar services” (§ 1806), and his biography information is incomplete. No prior rate has been established. Mr. Reiter was admitted to practice law in Michigan in 1975, and in District of Columbia in 1976. He is licensed to practice before U.S. Court of Appeals in several districts, and U.S. Supreme Court. He authored or co-authored more than a dozen publications, between 2014 and 2018. During the same period, he also had eight speaking engagements. His professional activities at various law schools include education as adjunct law professor or instructor. Otherwise, his experience is described in more general terms. He has “deep experience” before the Federal Energy Regulatory Commission, the Federal Communication Commission, and the federal appellate courts. He offers “regulatory and trial insights” with a “strong focus on antitrust and competition issues,” and focuses on the “competitive restructuring of the natural gas and electric utilities industries.”⁴² Resolution ALJ-387 has established the hourly rate range in 2020 of \$360-630 for attorneys with 13+ years of experience. Based on information provided by the intervenor, we adopt the hourly rate of \$600; however, we require that Wild Tree in the future provide specific information required to establish rates.⁴³</p>

⁴¹ D.22-11-036, Appendices A and B.

⁴² Attachment 3 to the claim.

⁴³ See the Intervenor Compensation Guide Part III (B) Section 5(c) at 24, on the Commission’s website at www.cpuc.ca.gov, [updated-icomp-program-guide-april-2017.pdf](http://www.cpuc.ca.gov/updated-icomp-program-guide-april-2017.pdf) (ca.gov).

<p>[5] J. Rothschild 2020 Rate</p>	<p><u>James Rothschild, expert.</u> Since this decision disallows compensation requested for James Rothschild, we do not adopt an hourly rate for his work.</p>
<p>[6] S. Heller 2020 Rate</p>	<p>The Commission has not established hourly rates for Steven Heller’s work. Wild Tree requests for his work an hourly rate of \$465. We note that Wild Tree provides no supporting information on the “market rates paid to persons of comparable training and experience who offer similar services” (§ 1806), and his biographical information appears incomplete.</p> <p>The claim presents Mr. Heller as a structuring agent in six specific investor-owned utility transactions similar to the utility securitization bonds proposed by SCE, covering the period between 2006 and 2016.</p> <p>Otherwise, his experience is described in more general terms as structuring and analyzing real estate and non-real estate asset backed securities (ABS). Steven Heller’s real estate ABS experience includes over 100 residential mortgage, commercial mortgage and PACE⁴⁴ financings. His non-real estate ABS includes several dozen Student Loan, Auto, and Pharmaceutical Royalty transactions.</p> <p>Based on his experience relevant to the work of the Commission, we adopt a rate of \$330, based on Resolution ALJ-387 establishing 2020 hourly rate range of \$190 – \$465 for experts with 13 + years of experience.</p>
<p>Review of Wild Tree’s comments of June 15, 2023, on the previously proposed intervenor compensation award</p>	<p>VII. Review of Wild Tree’s comments of June 15, 2023, on the previously proposed intervenor compensation award.</p> <p>Wild Tree recommended employing a finance team, in line with our past decisions, and the Commission adopted this recommendation. In asserting its entitlement to the full compensation, Wild Tree did not demonstrate that the claim is reasonable, in that excessive efforts are not compensable.</p> <p>Wild Tree attempts to justify its hours by defining its contribution as “exceptional results”⁴⁵; pointing at its extreme complexity and novelty⁴⁶; and explaining that “a typical law firm would have expended significantly more resources that that spent by Wild Tree.”⁴⁷ Our analysis of the record shows that while Wild Tree’s contribution was substantial, it was not “exceptional” as the finance team had been a typical solution in the prior financing proceedings; and that the matter on which Wild Tree contributed was not “extremely” complex and novel. Wild Tree’s “typical law firm” argument is speculative, not supported by facts, and irrelevant – Wild Tree does not</p>

⁴⁴ Property Assessed Cleaned Energy.

⁴⁵ WTF’s comments on proposed decision filed on June 16, 2023, at 6.

⁴⁶ WTF’s comments on proposed decision filed on June 16, 2023, at 4.

⁴⁷ WTF’s intervenor compensation claim at 6.

	<p>operate nor describe itself as a “typical law firm,”⁴⁸ and Wild Tree has not been hired by a client to participate before the CPUC.</p> <p>Pursuant to §1807(a), intervenor compensation awards are not paid by a typical client of a typical law firm – they are recovered from the ratepayers through the utility’s rates. It is up to the Commission to make sure that ratepayers are not overcharged for the work of the intervenor who claims to represent them before the Commission, and that the intervenor receives a fair reimbursement for the reasonable effort required to make a specific contribution to the final decision.</p>
--	---

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
Party	Comment	CPUC Discussion

FINDINGS OF FACT

1. Wild Tree Foundation has made a substantial contribution to D.20-11-007.
2. The requested hourly rates for Wild Tree Foundation’s representatives as adjusted herein are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses as adjusted herein are reasonable and commensurate with the work performed.
4. The total reasonable compensation is \$39,748.00.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above satisfies all requirements of Pub. Util. Code §§ 1801-1812.

⁴⁸ See WTF’s bylaws submitted on March 21, 2019 as Attachment 2 to the NOI filed in R,19-01-006, Articles 3 and 4.

ORDER

1. Wild Tree Foundation is awarded \$39,748.00.
2. Within 30 days of the effective date of this decision, Southern California Edison Company shall pay Wild Tree Foundation the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning November 10, 2020, the 75th day after the filing of Wild Tree Foundation's request, and continuing until full payment is made.
3. The comment period for today's decision is not waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D2011007		
Proceeding(s):	A2007008		
Author:	ALJ Jason Jungreis		
Payer(s):	Southern California Edison Company		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Wild Tree Foundation	01/11/2021	\$198,210.50	\$39,748.00	N/A	Excessive hours; inefficient effort; adjusted hourly rates.

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
April	Maurath Sommer	Attorney/Legal Director	\$400	2020	\$400.00
April	Maurath Sommer	Attorney/Legal Director	\$695	2021	\$525.00
Aaron	Rothschild	Expert	\$465	2020	\$340.00
James	Rothschild	Expert	\$465	2020	\$0.00
Steven	Heller	Expert	\$465	2020	\$330.00
Harvey	Reiter	Attorney	\$630	2020	\$600.00

(END OF APPENDIX)