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

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

Rulemaking 23-10-011
(Filed October 12, 2023)

**THE PROTECT OUR COMMUNITIES FOUNDATION
APPLICATION FOR REHEARING OF D.26-07-050**

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APPLICATION FOR REHEARING OF D.26-07-050**

Pursuant to California Public Utilities Code¹ section 1731(b)(1)² and Rule 16.1(a)³ of the California Public Utilities Commission (Commission) Rules of Practice and Procedure (Rules), The Protect Our Communities Foundation (PCF) timely submits this application for rehearing of Commission Decision 26-07-050, *Decision Granting Compensation to The Protect Our Communities Foundation for Substantial Contribution to Decision (D.) 24-12-003 and D.25-06-048* (Decision). This application is timely filed within 30 days of July 22, 2026, when the Commission issued the Decision.⁴

¹ All statutory references are to the Public Utilities Code unless otherwise specified.

² Pub. Util. Code, § 1731, subd. (b).

³ Cal. Code Regs., tit. 20, § 16.1, subd. (a).

⁴ Pub. Util. Code, § 1731, subd. (b); *see also* Cal. Code Regs., tit. 20, § 16.1, subd. (a).

I. INTRODUCTION

The Decision correctly concludes that PCF substantially contributed to D.24-12-003 and D.25-06-048 but erroneously fails to find that PCF substantially contributed to D.24-06-004. PCF was an active participant in R.23-10-011, submitted detailed comments, participated in workshops, and reviewed and analyzed extensive material submitted by the Commission's Energy Division (ED) and by the Utilities. Instead of granting PCF appropriate compensation for its detailed technical analyses and proposals, the Decision erroneously cuts 77% of PCF's \$126,160 request. For the reasons detailed below, the Decision should be revised to award PCF the full compensation requested. The Decision's severe 77% disallowance of PCF's claim is not only unwarranted but violates the Commission's mandates under the intervenor compensation statutes and contravenes the Legislature's intent to encourage participation by diverse parties, including those for whom participation would otherwise be a financial hardship.⁵

The Decision commits legal error in cutting PCF's time for its local capacity requirements (LCR) advocacy based on the rationale that PCF did not first participate in the CAISO stakeholder process. The Commission included LCR issues within the scope of this Commission proceeding and specifically requested comments.⁶ No statute or law allows the Commission to predicate an intervenor's eligibility for intervenor compensation in a Commission proceeding on first participating in a nongovernmental private corporation's stakeholder process.

The Decision also incorrectly reduced PCF's award for "duplication" even though the Decision failed to conduct the requisite legal analysis for ascertaining duplication. The Decision erroneously asserts that PCF's PRM position was duplicative because PCF was not the only party

⁵ Pub. Util. Code, § 1801.3, subd. (b).

⁶ R.23-10-011, Assigned Commissioner's Scoping Memo and Ruling (December 18, 2023), p. 3-4, 8.

to urge rejection of the Energy Division’s proposed PRMs, which is not a valid basis for any duplication conclusions. Nor does the Decision acknowledge that, in fact, PCF was the only party to argue that a 17% PRM should be adopted without an effective PRM.

The Decision invalidly reduced PCF’s hours for its comments on the Loss of Load Expectation (LOLE) Study, erroneously concluding that PCF failed to make a substantial contribution.⁷ PCF, however, provided useful feedback on the LOLE Study and provided detailed analysis criticizing the Energy Division’s approach of constraining imports below historical levels in its inputs—which created a cushion in the final PRM and resulted in an excessively high PRM. PCF’s comments on the import constraint successfully highlighted a problem in the LOLE Study, contributing to the skepticism about the LOLE Study which led the Commission to adopt a PRM lower than what the LOLE Study recommended.

The Decision further errs in dismissing PCF’s contributions with respect to the UCAP proposal because the Commission adopted several of PCF’s positions related to the UCAP proposal, including reviewing individual plant data as much as possible and defining forced outages.⁸

Finally, PCF uniquely advocated for the inclusion of distributed solar plus storage (SPS), an under-considered topic in the RA proceeding, enriching the record and providing a unique and critical perspective on reducing ratepayer costs while enhancing reliability.

⁷ Decision, p. 28.

⁸ D.25-06-048 (“The Commission authorizes Energy Division, in coordination with the CAISO, to further develop a final UCAP framework to address the following areas: (1) establish a definition(s) for the types of “forced outage” that will be applicable to the UCAP calculation); D.24-12-003, p. 23 (“We encourage Energy Division to coordinate with CAISO to develop data acquisition and analysis procedures using alternative public sources, to the extent possible, for a UCAP methodology and to develop a protocol with CAISO to account for missing or outlier data.”).

To render the Decision consistent with statutory mandates, past Commission decisions, principles of due process, and the record, PCF requests that the Decision be corrected to award PCF its full time spent participating in this proceeding. The Decision provides no justification for departing from the plain meaning of the intervenor compensation statutes and the Commission's interpretation of the intervenor compensation statutes that has been developed over decades.

II. GROUNDS FOR APPLICATION FOR REHEARING

Rule 16.1(c) requires an application for rehearing (AfR) to “set forth specifically the grounds on which the applicant considers the order or decision of the Commission to be unlawful or erroneous.”⁹ The purpose of an AfR “is to alert the Commission to a legal error, so that the Commission may correct it expeditiously.”¹⁰

Review of D.26-07-050, a ratemaking decision addressed to particular parties,¹¹ is governed by section 1757.¹² PCF submits this application on the grounds that (1) the Commission failed to proceed in the manner required by law, (2) that Findings of Fact Nos. 1, 2, 3 and 4 and Conclusion of Law No. 1 are not supported by substantial evidence in light of the whole record; (3) the Decision is not supported by the findings, (4) was an abuse of discretion, and (5) violated PCF's first amendment rights under the United States and California Constitutions.¹³ All of those grounds, except the substantial evidence ground, apply to review under section 1757.1 as well.¹⁴ The Commission fails to proceed in the manner required by law

⁹ Cal. Code Regs., tit. 20, § 16.1, subd. (c).

¹⁰ Cal. Code Regs., tit. 20, § 16.1, subd. (c).

¹¹ D.26-07-050, p. 31; see, also, R.23-10-011, Assigned Commissioner's Scoping Memo and Ruling (December 18, 2023), p. 9 (categorizing the proceeding as ratesetting).

¹² See *Center for Biological Diversity, Inc. v. Public Utilities Com.* (2025) 18 Cal.5th 293, 303.

¹³ Pub. Util. Code, §§ 1757, subds. (a)(1), (2), (3), (6), 1705 (“the decision shall contain, separately stated, findings of fact and conclusions of law by the Commission on all issues material to the order or decision”); U.S. Const. Amends. I, XIV; Cal. Const. Art. 1, §§ 3, 7.

¹⁴ *Center for Biological Diversity, Inc. v. Public Utilities Com.* (2025) 18 Cal.5th 293, 303-304.

when it contradicts Legislative directives, applies an erroneous legal standard, or otherwise bases its decision on erroneous legal conclusions.¹⁵ No showing of prejudice is required.¹⁶

Findings are required by Public Utilities Code¹⁷ sections 1705¹⁸ and 1757¹⁹ and must be supported by substantial evidence in the record.²⁰ Evidence may not be considered “substantial” unless it constitutes “evidence that a rational trier of fact could find to be reasonable, credible, and of solid value.”²¹ Evidence “based upon conclusions or assumptions not supported by evidence in the record” does not constitute substantial evidence.²²

The application of the above-referenced legal requirements requires that the Decision be vacated and a new award entered to award PCF its full compensation.

III. THE DECISION VIOLATES THE INTERVENOR COMPENSATION STATUTES.

The Commission failed to proceed in the manner required by law by failing to conform to sections 1803, subdivisions (b) and (f) of 1801.3, 1802.5, 1804, and 1806, as well as the

¹⁵ *Southern California Gas Co. v. Public Utilities Com.* (1979) 24 Cal.3d 653, 659 (Commission lacks authority to contradict or disregard specific legislative directives); cf. *City of San Diego v. Bd. of Trustees of Cal. State Univ.* (2015) 61 Cal.4th 945, 956 (“use of an erroneous legal standard constitutes a failure to proceed in a manner required by law”); *Family Health Centers of San Diego v. State Dept. of Health Care Services* (2023) 15 Cal.5th 1, 10 (decision based on erroneous conclusions of law “must be reversed”).

¹⁶ When the Legislature rewrote section 1757 in Senate Bill No. 779, the Legislature borrowed from California Code of Civil Procedure section 1094.5. *Center for Biological Diversity, Inc. v. Public Utilities Com.* (2025) 18 Cal.5th 293, 304; Stats. 1998, ch. 886 (1997-1998 Reg. Sess.). In contrast to Code of Civil Procedure section 1094.5, however, the Legislature in section 1757 declined to require the showing of prejudice that Code of Civil Procedure section 1094.5 requires and it separated the phrase “abuse of discretion” from the phrase “has not proceeded in the manner required by law” by placing them in two distinct subdivisions—(a)(5) and (a)(2). Pub. Util. Code, §1757; compare Code Civ. Pro., § 1094.5.

¹⁷ All references to section are to the Public Utilities Code unless stated otherwise.

¹⁸ Pub. Util. Code, § 1705 (“decision shall contain, separately stated, findings of fact and conclusions of law...on all issues material to the order or decision”).

¹⁹ Pub. Util. Code, § 1757, subd. (a)(3).

²⁰ Pub. Util. Code, § 1757, subd. (a)(4).

²¹ *Pedro v. City of Los Angeles* (2014) 229 Cal.App.4th 87, 99.

²² *Hongsathavij v. Queen of Angels/Hollywood Presbyterian Medical Center* (1998) 62 Cal.App.4th 1123, 1137.

Commission's own past decisions interpreting those code sections. Section 1803 mandates that the Commission award all reasonable time spent preparing for and participating in a proceeding to intervenors who (1) comply with Section 1804, (2) make a substantial contribution, and (3) meet the financial hardship standard:

The commission shall award reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs of preparation for and participation in a hearing or proceeding to any customer who complies with Section 1804 and satisfies both of the following requirements:
(a) The customer's presentation makes a substantial contribution to the adoption, in whole or in part, of the commission's order or decision;
(b) Participation or intervention without an award of fees or costs imposes a significant financial hardship.²³

As the Commission has explained, the mandatory nature of the award was the result of the 1992 revisions to the intervenor compensation statutes by the California Legislature:

By making the award mandatory for any customer who makes a substantial contribution and meets the financial hardship requirement, the Legislature eliminated any other obstacles to participation, and to compensation for the costs of participation. There is no qualification of a complying customer's right to be compensated on the face of this statute, or in any other substantive provision of the statutes governing participant compensation.²⁴

The 1992 revisions also added section 1801.3 which instructs that "The provisions of this article shall be administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process."²⁵ Thus, the Commission recognized that the 1992 revisions include additional language that spells out both the spirit and letter of the law to which the Commission must adhere.

²³ Pub. Util. Code, § 1803; *see also* Pub. Util. Code, § 1804.

²⁴ D.03-03-031, p. 13-14.

²⁵ D.03-03-031, p. 11 (emphasis in original), citing to Pub. Util. Code, § 1801.3, subd. (b).

The Commission has long interpreted “substantial contribution” as not being dependent upon the Commission’s adoption of a party’s contention entirely, or at all.²⁶ Rather, the Commission has repeatedly held that intervenors benefit the Commission when they provide a full discussion of the issues up for consideration so as to allow the Commission “to fully consider the consequences of adopting or rejecting” the parties’ proposals.²⁷

The Commission’s past decisions are consistent with Section 1802 (j), which explains that the Commission need not adopt an intervenor’s contention in full.²⁸ The Commission’s pattern and practice of awarding compensation even when the Commission does not ultimately agree with a party’s contention allows for intervenor compensation to be administered in a manner that is consistent with the First Amendment and the purpose of intervenor compensation.²⁹

That is, if parties were only awarded for contributions with which the Commission agreed, parties with minority viewpoints would not be encouraged to participate and the Commission would not only discourage the effective and efficient participation of groups with minority viewpoints that have a stake in the public utility regulation process in violation of the

²⁶ Pub. Util. Code, § 1802(j); D.08-04-004, p. 5-6; D.03-03-031, p. 13-14; D.10-12-061, p. 4-5; D.19-10-019, p. 4-6.

²⁷ D.08-04-004, p. 5-6; D.19-10-019, p. 4-6.

²⁸ Pub. Util. Code, § 1802, subd. (j) (“Substantial contribution” means that, in the judgment of the commission, the customer’s presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer’s participation has resulted in a substantial contribution, even if the decision adopts that customer’s contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate’s fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention”).

²⁹ See e.g. *Iancu v. Brunetti* (2019) 139 S.Ct. 2294, 2299 (“The government may not discriminate against speech based on the ideas or opinions it conveys.”); Pub. Util. Code, § 1801.3, subd. (b) (“The provisions of this article shall be administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process.”).

Legislature's express intent in section 1801.3(b), but also could well run afoul of First Amendment jurisprudence.³⁰ In short, the intervenor compensation statutes enable the Commission to award all reasonable costs of an eligible customer's participation even where the Commission only partially adopts a customer's contention.

In this case, the Decision finds that PCF complied with Section 1804 and that PCF meets the financial hardship requirements.³¹ The Decision finds that PCF partially contributed to D.24-12-003 and D.25-06-048, and not to D.24-06-004.³² The statute requires a mandatory award when the statutory requirements are satisfied, and the Commission does not have the discretion to deny compensation based on additional criteria not contained in the statute.

Further, the Decision applies a substantial-contribution standard inconsistent with Section 1802, subdivision (j).³³ Section 1802(j) does not require an intervenor to demonstrate that its advocacy was the exclusive or predominant cause of the Commission's action. It expressly provides that substantial contribution exists where the Commission adopts a customer's factual or legal contention or specific policy or procedural recommendation "in whole or in part."³⁴ Yet the Decision repeatedly evaluates PCF's work based on whether it had sufficient "influence" on the Commission's decision-making process or whether PCF could identify a specific citation demonstrating that its work caused a particular outcome.³⁵ The Decision effectively imposes a

³⁰ See e.g. *Forsyth County v. Nationalist Movement* (1992) 505 U.S.123, 130 ("A government regulation that allows arbitrary application is 'inherently inconsistent with a valid time, place, and manner regulation because such discretion as the potential for becoming a means of suppressing a particular point of view."); *id.* at 133 (Invalidating an ordinance where "[n]othing in the law or its application prevents the official from encouraging some views and discouraging others through the arbitrary application of fees.").

³¹ Decision, p. 2.

³² Decision, p. 31.

³³ Pub. Util. Code, § 1802, subd. (j)

³⁴ Pub. Util. Code, § 1802, subd. (j)

³⁵ Decision, p. 27, 28.

causation requirement that is not contained in Section 1802(j), and accordingly, the Decision should be revised to award PCF its full compensation.

IV. THE DECISION ERRED IN CUTTING PCF'S LCR TIME, CREATING AN UNJUSTIFIABLE PREREQUISITE TO PARTICIPATE FIRST AT THE CAISO.

The Decision denies PCF's LCR request for not participating in the CAISO process.³⁶ In doing so, the Decision injects a new and unwarranted requirement that PCF must first participate in the CAISO stakeholder processes as a prerequisite to eligibility for intervenor compensation in this proceeding. The Decision's untenable new requirement can be found nowhere in statute and constitutes legal error. PCF cannot lawfully be penalized for submitting comments that were included in the scope of and specifically requested in this proceeding.

The Decision argues that D.24-06-004 faults PCF for not participating in the CAISO's process.³⁷ However, the language the Decision cites to form that conclusion from D.24-06-004 is merely the CAISO's argument, which has no authority to implement the intervenor compensation statutes. The full quote from D.24-06-004 is that "CAISO also states that PCF did not participate in in CAISO's stakeholder process to develop the local capacity requirements in the Final Report, which is the appropriate forum to discuss changes to CAISO's LCR study."³⁸ This statement fails to provide any legal basis for cutting PCF's time to participate in *the Commission's* proceeding.

As PCF previously commented, imposing new obstacles to compensation as the Decision does, by conditioning compensation for work at the Commission on participation in uncompensated private stakeholder processes at the CAISO, conflicts with the spirit and letter of

³⁶ Decision, p. 29.

³⁷ Decision, p. 29.

³⁸ D.24-06-004, p. 7.

the law to which the Commission must adhere. The CAISO private stakeholder process lacks all of the procedural and legally mandated requirements that a government entity, like the Commission, must follow. The ability to submit comments on CAISO's reports in Commission proceedings is essential to the Commission's fulfillment of its duties to independently evaluate the relevancy and strength of CAISO's studies, as it would with any other party.

Moreover, the CAISO in fact responded to PCF's comments in the Commission proceeding, clarifying CAISO's reliability standards and the San Diego-Imperial Valley net peak load growth methodology,³⁹ further demonstrating the importance of the Commission's established public processes. The Decision inappropriately relies on an out-of-context statement by the CAISO, an entity which has no authority or jurisdiction to implement the intervenor compensation statutes, to deny PCF the intervenor compensation to which PCF is entitled under the law. The Decision should be revised to award PCF its full compensation.

V. THE DECISION APPLIES THE SUBSTANTIAL CONTRIBUTION STANDARD TOO NARROWLY AND ERRONEOUSLY CUTS PCF FOR DUPLICATION.

Section 1801.3(f) makes clear the narrow circumstances under which the Commission can reduce an award for duplication. The Commission can reduce an otherwise valid amount requested only when a party claims reimbursement for "unproductive or unnecessary participation that duplicates the participation of similar interests otherwise adequately represented" or for "participation that is not necessary for a fair determination of the proceeding," neither of which occurred here.⁴⁰ The Commission requires a specific analysis before determining that an intervenor's contribution amounts to duplication that cannot be compensated through the IC process, an analysis which involves three parts: (1) duplication, (2)

³⁹ Decision, p. 15-16.

⁴⁰ Pub. Util. Code, § 1801.3

similar interests, and (3) adequate representation.⁴¹ Moreover, the purpose of section 1801.3 is to “to ‘encourage’ participation by groups that might be broadly aligned around common positions and proposals, but who have distinct constituencies or distinct abilities to contribute to the conduct of a proceeding at the commission.”⁴²

The Decision does not, and cannot on this record, establish that PCF possessed similar interests with the other parties who made similar arguments. Almost all of the other parties were directly financially interested in the outcome of the decisions made in this proceeding, thus necessarily representing their own financial interests in their comments and positions. Private parties representing their own financial interests could not adequately represent the interests of Southern California, and specifically San Diego ratepayers, as PCF does. Thus, PCF’s contributions could not have been duplicative because PCF did not have similar interests to the other private parties, CCAs, and utilities.

For example, the Decision erroneously finds that PCF duplicated other parties because PCF agreed with the majority of the other parties that the Energy Division’s proposed PRMs should be rejected.⁴³ In fact, as acknowledged in D.25-06-048, rather than just agreeing with other parties, PCF was the only party to argue that the 17% PRM should be adopted without the effective PRM.⁴⁴ And when the Commission considered the 17% PRM, it took the position argued in PCF comments that the 17% PRM has already been in place and there had been no

⁴¹ D.03-03-031, Opinion Modifying Decision 01-09-045 to Include Response to Comments (March 18, 2003), p. 18; Pub. Util. Code, § 1801.3, subd. (f).

⁴² D.03-03-031, p. 14.

⁴³ Decision, p. 27.

⁴⁴ In D.25-06-048, on p. 25, the Commission incorrectly cites Shell Energy as also supporting a 17% PRM, but Shell Energy actually supported an 18% PRM (Reply Comments of Shell Energy North America on the May 22, 2025 PD of ALJ Chiv (June 16, 2025), p. 1); *see* Decision, p. 8 (PCF citing D.25-06-048, p. 107 [“PCF recommends the status quo 17% PRM alone.”]).

issues with the grid.⁴⁵ As a ratepayer advocate, PCF was uniquely situated to advocate for ratepayer reductions by explaining that the Commission should not increase the PRM and should eliminate the effective PRM. PCF presented a unique proposal and perspective, which the Commission adopted in part by adopting a PRM on the lower range of the suggested values in order to minimize ratepayer costs.⁴⁶ Pursuant to the intervenor compensation statutes, PCF was entitled to compensation for all of its time spent participating in the proceeding and particularly on the PRM-related issues.

VI. THE DECISION ERRONEOUSLY DENIES PCF COMPENSATION BY MISCHARACTERIZING THE LOLE STUDY AND IMPORT CONSTRAINT ISSUE IN A MANNER THAT CONFLICTS WITH THE RECORD AND THE INTERVENOR COMPENSATION STATUTES.

The Decision asserts that PCF’s comments on the import constraint reflected “misunderstandings about the LOLE study and process.”⁴⁷ Yet the Decision offers no explanation whatsoever of PCF’s “misunderstandings,” much less any specifics as to what was incorrect or misunderstood in PCF’s arguments or positions. Nor does the Decision cite any evidence from the decisions for which PCF is seeking compensation stating that PCF misunderstood the LOLE study process. A conclusory assertion that an intervenor misunderstood the Commission’s technical process, without identifying the alleged error or providing any citation in the record, does not constitute evidence supporting a finding that the intervenor’s work did not contribute to the proceeding.

⁴⁵ See Decision, p. 8 (citing to D.25-06-048, p. 34 (“The current 17% PRM with the effective PRM has been in place since the 2024 RA year and we concur with parties’ assertions that it has been successful thus far.”); see PCF Comments on PD Adopting Local Capacity Obligations for 2026-2028, Flexible Capacity Obligations for 2026, and Program Refinements (June 11, 2025), p. 6

⁴⁶ Decision, p. 6-7.

⁴⁷ Decision, p. 28.

What the record in fact reveals is that PCF was not operating under a “misunderstanding.” To the contrary, the record of this proceeding demonstrates that PCF offered specific criticisms of the LOLE study process—namely that when establishing the inputs for the LOLE Study, the Energy Division should not have lowered imports below historical levels.⁴⁸ And the record reveals that the Energy Division admitted, by creating an import constraint, the LOLE Study created a “cushion” within the PRM.⁴⁹ PCF provided the Commission with detailed analysis showing that because the Energy Division’s proposed PRM included a “cushion,” the procurement requirement was set too high and led to unnecessary and excessive ratepayer costs for little to no added reliability.⁵⁰

PCF’s analyses and criticisms contributed to the presentations of other parties, who subsequently raised concerns about the import constraint in their comments.⁵¹ The Commission ultimately rejected the PRM recommended by the LOLE Study, citing to “stakeholders’ uncertainty and lack of confidence in Energy Division’s LOLE study results and revisions.”⁵²

⁴⁸ Decision, p. 5-7.

⁴⁹ See, PCF Comments on Track 2 Proposals and LOLE Study (August 9, 2024), p. 5 (citing Administrative Law Judge’s Ruling on Energy Division’s Loss of Load Expectation Study: Appendix A (2026 LOLE Report Study)(July 22, 2024), p. 5 (“Specifically, a 1,500 MW surplus/cushion is implied by the decrease to the evening CAISO simultaneous import constraint from 4,000 MW to 2,500 MW in tuning the study to achieve a 0.1 LOLE target.”).

⁵⁰ See PCF Comments on Track 2 Proposals and LOLE Study (August 9, 2024), p. 5 (citing Administrative Law Judge’s Ruling on Energy Division’s Loss of Load Expectation Study: Appendix A (2026 LOLE Report Study)(July 22, 2024), p. 5 (“Specifically, a 1,500 MW surplus/cushion is implied by the decrease to the evening CAISO simultaneous import constraint from 4,000 MW to 2,500 MW in tuning the study to achieve a 0.1 LOLE target.”).

⁵¹ See Reply Comments of Microsoft Corporation on Resource Adequacy “Track Two”: Revised Slice-of-Day Tool Analysis (September 16, 2024), p. 8 (“[A]s highlighted by the Protect Our Communities Foundation ... parties should have a chance to discuss the treatment of imports in more depth.”); see also CEJA and Sierra Club Reply Comments on Appendix A to the LOLE Study (September 9, 2024), p. 1-2 (Reiterating PCF’s comments from August 9, 2024 about how the PRM should not have a surplus caused by decreasing the import constraints); D.24-12-003, p. 9; SCE’s Opening Comments On All Proposals Filed (March 3, 2025), p. 8 (SCE reiterates PCF’s September 9, 2024 criticism that a higher PRM cannot be justified based on the reliability standards of non-CPUC jurisdictional LSEs).

⁵² D.25-06-048, p. 109 .

PCF's criticisms of the import constraint, as well as PCF's other criticisms of the LOLE Study, highlighted the problems with the LOLE Study, substantially assisting the Commission in ultimately rejecting the LOLE Study's conclusions, and adopting a lower PRM than the LOLE Study recommended. PCF's time is thus fully compensable under the express provisions of section 1802.5, which provides for full compensation where a parties' participation "materially supplements, complements, or contributes to the presentation of another party."⁵³ Thus, the Decision should be revised to award the full amount requested for PCF's work related to the LOLE and PRM issues.

VII. THE DECISION'S CUTS FOR PCF'S WORK ON UCAP ISSUES CONTRADICT THE RECORD AND CONFLICT WITH THE COMMISSION'S STATUTORY OBLIGATIONS.

The Decision cuts 70% of PCF's UCAP hours on the erroneous rationale that PCF "does not provide any citation or explanation as to how its efforts substantially contributed to the outcome."⁵⁴ However, PCF provided numerous examples where its comments contributed to the outcome of the proceeding.⁵⁵ The substantial contribution statutes do not require that a Commission decision must cite an intervenor by name in order for the intervenor to receive compensation.⁵⁶ Instead, the intervenor compensation statutes require compensation where, as here, the Commission adopted several of PCF's positions regarding the UCAP proposal. For example, the Commission adopted PCF's recommendation that the Energy Division publish a

⁵³ Pub. Util. Code, § 1802.5.

⁵⁴ Decision, p. 28.

⁵⁵ See Decision, p. 9-10.

⁵⁶ D.10-09-040, Decision Awarding Intervenor Compensation To The Utility Reform Network For Substantial Contribution To Decision 10-05-019 (September 27, 2010), p. 5 ("Although the Scoping Memo and the Final Decision do not mention this additional information entered into the record, this information did supplement the record...").

definition for the type of forced outages that will apply to the UCAP.⁵⁷ The Commission also acknowledged PCF's position⁵⁸ that individual plant level data be used⁵⁹ and the Commission held that it would consider a procedure to correct anomalous or missing plant data,⁶⁰ thereby recognizing and agreeing with PCF's critiques that group level data can obscure individual plant conduct.⁶¹ The Commission considered and acknowledged PCF's analysis and recommendations for improvement as important for future work and several were partially adopted by the Commission, as detailed above. Thus, the Decision should be revised to award the full amount requested for PCF's work on UCAP issues.

VIII. THE DECISION INCORRECTLY DISCOUNTS PCF'S ADVOCACY TO INCLUDE DISTRIBUTED SPS IN COMMISSION MODELING.

The Decision reduces PCF's compensation based on the fact the PCF supported CEJA and Sierra Club's proposal to prioritize DER procurement, and the fact that the Commission did not adopt CEJA and Sierra Club's proposal.⁶² But the Decision fails to acknowledge that PCF

⁵⁷ The Commission adopted PCF's request that the UCAP proposal define outages without mentioning that PCF raised the issue of the type of forced outages and recommended that any UCAP proposal assess the type of outages to avoid blackouts from plants being offline in high energy usage periods. PCF Opening Comments on PD on Track 2 Issues (November 18, 2024), p. 10; PCF Comments on Party Proposals (March 3, 2025), p. 12 ("Thus, any UCAP proposal must assess and evaluate the circumstances of each outage as part of the Commission's responsibilities under Public Utilities Code section 761.3 and G.O. 167.") (citations omitted); D.25-06-048 ("The Commission authorizes Energy Division, in coordination with the CAISO, to further develop a final UCAP framework to address the following areas: (1) establish a definition(s) for the types of "forced outage" that will be applicable to the UCAP calculation).

⁵⁸ D.25-06-048, p. 10.

⁵⁹ PCF Opening Comments on PD on Track 2 Issues (November 18, 2024), p. 10; PCF Comments on Party Proposals (March 3, 2025), p. 10-13 ("...it remains imperative that the Commission assess each generation facility's conduct individually as group level data can obscure individual plant inappropriate conduct.").

⁶⁰ D.24-12-003, p. 23 ("We encourage Energy Division to coordinate with CAISO to develop data acquisition and analysis procedures using alternative public sources, to the extent possible, for a UCAP methodology and to develop a protocol with CAISO to account for missing or outlier data." D.24-12-003, p. 23).

⁶¹ PCF Comments On Proposed Decision Adopting Local Capacity Obligations For 2026-2028, Flexible Capacity Obligations For 2026, And Program Refinements (June 11, 2025), p. 11.

⁶² Decision, p. 12

was the only party to advocate for optimizing BTM SPS in the RESOLVE and SERVUM models.⁶³ PCF presented detailed legal analysis on how the Commission’s RESOLVE model undervalues BTM SPS by treating it solely as a demand modifier and not capturing any transmission and distribution benefits.⁶⁴ As an intervenor that consistently advocates for *both* affordability and environmental protection, PCF was uniquely positioned to detail the obstacles that continue to prevent the Commission from implementing the most affordable climate solutions.

Past Commission decisions instruct that intervenors substantially contribute when they have “provided a unique perspective that enriched the Commission’s deliberations and the record,”⁶⁵ and the record reflects that PCF’s contributions were substantial. PCF enriched the record by discussing distributed SPS as a resource that provides measurable reliability benefits and which the Commission has overlooked as part of its RA analyses.⁶⁶

Further, pursuant to section 1802.5, in addition to presenting a unique analysis, PCF’s participation also “materially supplement[ed], complement[ed], or contribute[d] to the presentation of another party.”⁶⁷ PCF’s arguments related to how the Commission has overlooked BTM SPS as an available resource supplemented CEJA and Sierra Club’s position pursuant to section 1802.5. Although D.25-06-048 did not adopt CEJA and Sierra Club’s

⁶³ PCF Reply Comments on Track 2 Proposals and LOLE Study (August 23, 2024), p. 7-8.

⁶⁴ PCF Reply Comments on Track 2 Proposals and LOLE Study (August 23, 2024), p. 7-8.

⁶⁵ D.05-06-027, Opinion Granting Intervenor Compensation to Natural Resources Defense Council for Substantial Contributions to Decisions 03-12-060, 04-02-059, 04-09-060, 04-12-019, and 05-01-055 (June 17, 2005), p. 5.

⁶⁶ PCF Reply Comments on Track 2 Proposals and LOLE Study (August 23, 2024), p. 7-8.

⁶⁷ Pub. Util. Code, § 1802.5.

proposal, the Commission does not have to adopt a position in order for an intervenor to receive full compensation, and PCF's comments enriched the record.⁶⁸

IX. THE EXTRAORDINARY REDUCTIONS IN PCF'S HOURS ARE DISPROPORTIONATE AND ARBITRARY AND CONFLICT WITH THE INTERVENOR COMPENSATION STATUTES.

The Decision's cut of PCF's time requested by approximately 77% sets a troubling precedent for intervenors who wish to participate in complex, multi-track proceedings and conflicts with the Legislature's clear instruction to encourage the participation of diverse perspectives.⁶⁹ Although the Decision authorizes large categorical reductions--100% reductions for LCR and BTM SPS issues, a 70% reduction for the PRM, and a 70% reduction for the UCAP issue—it includes no explanation for why these particular reductions were reasonable.⁷⁰ The Decision does not explain why these arbitrary and unlawful reductions constitute the number of hours reasonably necessary to accomplish PCF's substantial contribution.

PCF utilized three attorneys and a technical expert to analyze highly technical LOLE modeling, many rounds of comments, and issues with direct financial and reliability consequences for California ratepayers. The Legislature specifically enacted the intervenor compensation statutes to ensure that ratepayer interests are represented at the Commission.⁷¹ In

⁶⁸ D.19-10-019, Decision Granting Intervenor Compensation to The Utility Reform Network for Substantial Contribution to Decision 18-09-032 (October 11, 2019), p. 5-6 ("Although the Commission did not adopt TURN's position on this issue, the evidence presented by TURN highlighted factual and legal disputes the Commission's decision addressed... This valid input assisted the Commission in reaching its decision.").

⁶⁹ Pub. Util. Code, § 1801.3, subd. (b) ("The provisions of this article shall be administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process.").

⁷⁰ Decision, p. 27-28.

⁷¹ Pub. Util. Code, § 1801 ("The purpose of this article is to provide compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers of participation or intervention in any proceeding of the commission."); Pub. Util. Code, § 1801.3, subd. (b) ("The provisions of this article shall be administered in a manner that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process.").

this proceeding, although five parties filed a notice of intent to seek intervenor compensation, only three nonprofits who filed NOIs actually participated.⁷²

The vast majority of other parties participating in this proceeding had a direct financial stake in its outcome, unlike PCF, which represents the interests of Southern California ratepayers and the environment.⁷³ The intervenor compensation statutes are designed to ensure that a variety of parties, including nonprofit intervenors without direct financial stakes in the outcome of the Commission's decisions, can participate in Commission proceedings.⁷⁴ A 77% reduction defeats the statutory purpose by rendering participation economically infeasible for intervenors. And the Decision's unjustified imposition of a new and unsupported pre-requisite of initial participation in the CAISO's stakeholder processes renders meaningless any opportunity for a small intervenor to participate in Commission proceedings which consider CAISO reports or materials.

⁷² After initial filings by the Sierra Club, the Sierra Club joined with CEJA to file comments and briefs jointly in this proceeding.

⁷³ R.23-10-011, Notice Of Intent To Claim Intervenor Compensation And, If Requested (And [X]1 Checked), Administrative Law Judge's Ruling On The Protect Our Communities Foundation's Showing Of Significant Financial Hardship (December 21, 2023), p. 3; PCF notes that it was the only intervenor without a financial stake in the proceeding to file comments on September 16, 2024, for example.

⁷⁴ Pub. Util. Code, § 1801.3; Pub. Util. Code, § 1802, subd. (b)(1)(C); D.03-03-031, p. 15 ("Section 1801.3 is a codified intent section that instructs the Commission to administer the statutory program so as to "encourage the effective and efficient participation of all groups that have a stake in the...process....");

X. CONCLUSION

PCF requests that the Commission grant this application for rehearing and correct the legal errors identified above.

Respectfully submitted,

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