ALJ/MLC/avs **PROPOSED DECISION** **Agenda ID#16810 (REV. 1)**

 **Ratesetting**

**10/11/18 Item 31**

Decision **PROPOSED DECISION OF ALJ COOKE (Mailed 9/4/2018)**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

|  |  |
| --- | --- |
| Application of SAN DIEGO GAS & ELECTRIC COMPANY (U 902 E) For Authority to Update Marginal Costs, Cost Allocation, and Electric Rate Design. | Application 15-04-012 |

**DECISION ON INTERVENOR COMPENSATION CLAIM OF
CENTER FOR ACCESSIBLE TECHNOLOGY**

|  |  |
| --- | --- |
| Intervenor: Center for Accessible Technology (CforAT) | For contribution to Decision (D.) 17-08-030 |
| Claimed: $16,571.50 [B]  | Awarded: $0.00  |
| Assigned Commissioner: Michael Picker | Assigned ALJ: Michelle Cooke |

**PART I: PROCEDURAL ISSUES:**

|  |  |
| --- | --- |
| A. Brief description of Decision:  | This decision addresses the application of San Diego Gas & Electric Company (SDG&E) to establish marginal costs, allocate revenues, and design rates for service provided to its customers. The decision approves an uncontested Revenue Allocation Settlement Agreement; it does not approve a contested Schools Settlement Agreement. |

1. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:[[1]](#footnote-1)

|  |  |  |
| --- | --- | --- |
|  | Intervenor | CPUC Verified |
| Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)): |
|  1. Date of Prehearing Conference: | 3/21/16 (2nd PHC) | Verified |
|  2. Other specified date for NOI: | N/A |  |
|  3. Date NOI filed: | 4/20/16 | CforAT did not file an NOI in this proceeding. |
|  4. Was the NOI timely filed? | CforAT did not file an NOI in this proceeding. |
| Showing of eligible customer status (§ 1802(b): |
|  5. Based on ALJ ruling issued in proceeding number: | No ruling was issued in this proceeding on CforAT’s status. CforAT has routinely been found to have eligible customer status, most recently in D.17-05-009, issued on 5/12/17 in A.14-11-007. | The applicable finding regarding CforAT’s customer status and significant financial hardship was made in the Ruling of August 26, 2014 in A.14-04-013. However, since CforAT did not file an NOI in this proceeding, CforAT is not eligible for intervenor compensation. See CPUC Discussion in Part I(C). |
|  6. Date of ALJ ruling: | See above. | See above. |
|  7. Based on another CPUC determination (specify): | See above. | n/a |
|  8. Has the Intervenor demonstrated customer status? | Since CforAT did not file an NOI, CforAT is not eligible for compensation in this proceeding. See CPUC Discussion in Part I(C). |
| Showing of “significant financial hardship” (§1802(h) or §1803.1(b)) |
| 9. Based on ALJ ruling issued in proceeding number: | No ruling was issued on CforAT’s showing of significant financial hardship in this proceeding. CforAT has routinely been found to demonstrate significant financial hardship, most recently in D.17-05-009, issued on 5/12/17 in A.14-11-007. | The applicable finding regarding CforAT’s customer status and significant financial hardship was made in the Ruling of August 26, 2014 in A.14-04-013. However, since CforAT did not file an NOI in this proceeding, CforAT is not eligible for intervenor compensation. See CPUC Discussion in Part I(C). |
| 10. Date of ALJ ruling: | See above. | See above. |
| 11. Based on another CPUC determination (specify): | See above. | n/a |
| 12. 12. Has the Intervenor demonstrated significant financial hardship? | Since CforAT did not file an NOI, CforAT is not eligible to claim intervenor compensation in this proceeding. See CPUC Discussion in Part I(C). |
| Timely request for compensation (§ 1804(c)): |
| 13. Identify Final Decision: | D. 17-08-030 | Verified |
| 14. Date of issuance of Final Order or Decision:  | 8/25/17 | Verified |
| 15. File date of compensation request: | 10/24/17 | Verified |
| 16. Was the request for compensation timely? | Yes. However, since CforAT did not file an NOI, CforAT is not eligible to claim intervenor compensation in this proceeding. See CPUC Discussion in Part I(C). |

1. Additional Comments on Part I:

|  |  |
| --- | --- |
| # | CPUC Discussion |
| 3-12 | Section 1804(a)(1) states that a customer who intends to seek an intervenor compensation award “shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” Filing of the notice of intent is mandatory and cannot be waived. CforAT failed to file an NOI and therefore did not follow the process of requesting intervenor compensation set in the statute. Absent an NOI, this claim cannot be granted. Shortly after CforAT filed this claim on October 24, 2017, CforAT was contacted by the Intervenor Compensation Program coordinator to inquire about a filing of the NOI. In its response of October 26, 2017, CforAT acknowledged that it had no records of filing an NOI in this proceeding.[[2]](#footnote-2) Since the fact of CforAT’s failure to file an NOI precludes the Commission from granting this intervenor compensation claim, this decision does not assess a validity of CforAT’s statements of substantial contribution to the final decision (Part II) and reasonableness of the claim (Part III). |

**PART II: SUBSTANTIAL CONTRIBUTION:**

1. 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 |
| 1. CforAT participated on issues of rate design, including TOU modeling, and in settlement discussions that resulted in the allocation settlement, which was adopted in the final decision. *See* CforAT Time Records.
 | While CforAT’s participation on these issues is not directly referenced in the Final Decision, it benefits the public interest to have representation for vulnerable customers as part of the process in the rate design process to ensure that these customers are not disadvantaged by policies adopted by the Commission.  | Not evaluated since CforAT did not file an NOI, CforAT is not eligible to claim intervenor compensation in this proceeding. See CPUC Discussion in Part I(C). |
| 1. CforAT opposed adoption of the school settlement, which was rejected. *See* CforAT Reply Brief, filed on 2/17/17.
 | The Final Decision declines to adopt the school settlement which contained a disputed discount to electricity bills. The revenue shortfall that would have resulted from the proposed settlement would have been collected from all customer classes. The settlement and arguments are discussed in the Final Decision at pp. 54-60. While CforAT’s contribution is not directly discussed, CforAT was one of multiple parties arguing against adoption of the settlement.  | Not evaluated since CforAT did not file an NOI, CforAT is not eligible to claim intervenor compensation in this proceeding. See CPUC Discussion in Part I(C). |

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

|  |  |  |
| --- | --- | --- |
|  | Intervenor’s Assertion | CPUC Discussion |
| a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding? | Yes |  |
| b. Were there other parties to the proceeding with positions similar to yours?  | Yes |  |
| c. If so, provide name of other parties:ORA, UCAN. TURN was nominally a party, but did not actively participate.  |  |
| d. Intervenor’s claim of non-duplication:CforAT engaged in limited participation in this proceeding to ensure that issues of rate design expressly give consideration to the interests of vulnerable customers. CforAT’s limited work complemented or supplemented the broad interests of other consumer representatives who represent the interests of all residential customers. | Not evaluated. |

**PART III: REASONABLENESS OF REQUESTED COMPENSATION:**

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

|  |  |
| --- | --- |
| a. Intervenor’s claim of cost reasonableness:In our limited participation in this proceeding, CforAT sought to ensure that vulnerable residential customers would not be disadvantaged through the rate design adopted for SDG&E. For example, CforAT opposed the school settlement because the proposed subsidy for schools was not supported and would have been paid through higher rates for other customers, including vulnerable residential customers. While the savings obtained for these customers through CforAT’s participation cannot be directly calculated, CforAT’s expenses are modest and reasonable. Overall, CforAT provides a benefit to vulnerable customers by serving as their advocate, while requesting a modest amount for work on the merits of this proceeding.  | CPUC DiscussionNot evaluated. |
| b. Reasonableness of hours claimed:CforAT’s limited participation in this proceeding was well below our estimates submitted with our NOI; in our NOI we estimated that we would expend 150 hours of attorney time, as well as expert time, to protect the interests of customers with disabilities and vulnerable residential customers. In fact, CforAT requests compensation for approximately 33 hours of time, which was appropriately spent to ensure that issues of revenue allocation, rate design, and TOU periods are appropriate for our constituency.  | Not evaluated. |
| c. Allocation of hours by issue:CforAT’s time was allocated among the following issues:General Participation: 12.3 hours of 33.2 total (37.0%)The issue area designated “General Participation” includes time spent on procedural matters as well as time that could not easily be allocated to other issues, such as reviews of party submissions, briefs and comments on the PD. While the percentage allocation is large, the overall number of hours reflected in this category is reasonable. Settlement: 9.6 hours of 33.2 total (28.9 %)This issue area includes time spent in discussions and review of the eventual allocation settlement and the schools settlement.Rate Design: 11.3 hours of 33.2 total (34.1%)This issue area includes participation at workshops, efforts to address TOU periods,  | Not evaluated. |

1. Specific Claim:\*

|  |  |
| --- | --- |
| Claimed | CPUC Award |
| ATTORNEY, EXPERT, AND ADVOCATE FEES |
| Item | Year | Hours | Rate $ | Basis for Rate\* | Total $ | Hours | Rate $ | Total $ |
| Melissa W. Kasnitz  | 2016 | 27.2 | $455 | D.16-09-033 | $12,376.00 | 0.00 [A] | $455.00 | $0.00 |
| Melissa W. Kasnitz  | 2017 | 6.0 | $465 | Applying Res. ALJ-345 to 2016 rate | $ 2,790.00  | 0.00 [A] | $465.00 | $0.00 |
| ***Subtotal:* $15,136.00 [B]**  | ***Subtotal:* $0.00**  |
| INTERVENOR COMPENSATION CLAIM PREPARATION \*\* |
| Item | Year | Hours | Rate $  | Basis for Rate\* | Total $ | Hours | Rate  | Total $ |
| Melissa W. Kasnitz  | 2016 | 1.0 | $227.50 | ½ standard rate | $227.50 | 0.00 [A] | $227.50 | $0.00 |
| Melissa W. Kasnitz  | 2017 | 5.0 | $232.50 | ½ requested rate | $1,162.50 | 0.00 [A] | $232.50 | $0.00 |
| ***Subtotal:* $1,435.50 [B]**  | ***Subtotal: $0.00*** |
| ***TOTAL REQUEST:* $16,571.50 [B]**  | ***TOTAL AWARD: $0.00*** |
|  \*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. Intervenor’s 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[[3]](#footnote-3) | Member Number | Actions Affecting Eligibility (Yes/No?)If “Yes”, attach explanation |
| Melissa W. Kasnitz | December, 1992 | 162679 | No, but includes periods of inactive status prior to 1997 |

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

|  |  |
| --- | --- |
| Attachment or Comment # | Description/Comment |
| 1 | Certificate of Service |
| 2 | Time Records (including merits time and time spent on compensation) |

D. CPUC Disallowances and Adjustments:

|  |  |
| --- | --- |
| Item | Reason |
| [A] | The intervenor compensation claim is rejected for CforAT’s failure to file an NOI. |
| [B] | Mathematical error listing the total compensation being requested as $16,571.50 when it should be $16,556.00. |

**PART IV: OPPOSITIONS AND COMMENTS:**

(Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (*see* § 1804(c)))

|  |  |
| --- | --- |
| 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 |
|  |  | No comments received. |

**FINDING OF FACT**

1. Center for Accessible Technology did not file a notice of intent to claim intervenor compensation in this proceeding.

**CONCLUSION OF LAW**

1. Center for Accessible Technology fails to satisfy the eligibility requirements of Public Utilities Code Section 1804(a).

**ORDER**

1. The intervenor compensation claim filed by Center for Accessible Technology is denied for failure to file a Notice of Intent to Claim Compensation.

This decision is effective today.

Dated \_\_\_\_\_\_\_\_\_\_\_\_\_, at San Francisco, California.

**APPENDIX**

Compensation Decision Summary Information

|  |  |  |  |
| --- | --- | --- | --- |
| Compensation Decision: |  | Modifies Decision?  | No |
| Contribution Decision: | D.17-08-030 |
| Proceeding: | A.15-04-012 |
| Author: | ALJ Cooke |
| Payer: | N/A |

Intervenor Information

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Intervenor | Claim Date | Amount Requested | Amount Awarded | Multiplier? | Reason Change/Disallowance |
| Center for Accessible Technology | 10/24/17 | $16,571.50 [B]  | $0 | N | Claim rejected for the intervenor’s failure to file a Notice of Intent to Claim Intervenor Compensation |

**Advocate Information**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **First Name** | **Last Name** | **Type** | **Intervenor** | **Hourly Fee Requested** | **Year Hourly Fee Requested** | **Hourly Fee Adopted** |
| Melissa W. | Kasnitz | Attorney | Center for Accessible Technology | $455 | 2016 | $0 |
| Melissa W. | Kasnitz | Attorney | Center for Accessible Technology | $465 | 2017 | $0 |

**(END OF APPENDIX)**

1. All statutory references are to California Public Utilities Code unless indicated otherwise. [↑](#footnote-ref-1)
2. Copies of the correspondence can be found in the “Correspondence” file for this proceeding. [↑](#footnote-ref-2)
3. This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch> . [↑](#footnote-ref-3)