Decision 18-12-011 December 13, 2018

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Approval of the Retirement of Diablo Canyon Power Plant, Implementation of the Joint Proposal, And Recovery of Associated Costs Through Proposed Ratemaking Mechanisms (U39E).	Application 16-08-006

DECISION GRANTING COMPENSATION TO FRIENDS OF THE EARTH FOR SUBSTANTIAL CONTRIBUTION TO DECISION 18-01-022

Intervenor: Friends of the Earth	For contribution to Decision (D.) 18-01-022
Claimed: $277,438.61	Awarded: $243,398.61
Assigned Commissioner: Michael Picker	Assigned ALJ: Peter Allen

PART I: PROCEDURAL ISSUES:

A. Brief description of Decision:	Decision 18-01-022 approved an Application by Pacific Gas and Electric Company ("PG&E") to retire the two generating units at the Diablo Canyon Power Plant ("Diablo Canyon") at the end of their current operating licenses in 2024-2025. PG&E filed this Application to carry out the terms of a June 2016 agreement, known as the "Joint Proposal," among PG&E and several arms-length parties, including FOE and several others. This agreement was negotiated in advance of PG&E's Application in this proceeding. FOE played a lead role in the settlement negotiations with PG&E leading up to the execution of the Joint Proposal. Decision 18-01-022 authorized the retirement of the two generating units at Diablo Canyon at the end of their current operating licenses in 2024-2025, as proposed in the Joint Proposal. D.18-01-022 also articulated a commitment by the Commission, as urged by FOE and others, that no increase in greenhouse gas ("GHG") emissions be allowed to occur as a consequence of retiring the Diablo Canyon plant. Again, this was consistent with the Joint Proposal. Decision 18-01-022 modified several other provisions of the Joint Proposal, as follows: (i) it denied a proposed early procurement of energy efficiency resources to partially replace the output at Diablo Canyon (the "Tranche 1" procurement proposal); (ii) it approved in part, but not in its entirety, a ratepayer-funded employee retention program at Diablo Canyon; and (iii) it declined to approve the proposed ratepayer funding of a Community Impacts Mitigation Program settlement.

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	October 6, 2016	Verified

2. Other specified date for NOI:	N/A	
3. Date NOI filed:	November 4, 2016	Verified
4. Was the NOI timely filed?		Yes
Showing of eligible customer status (§ 1802(b) or eligible local government entity status (§§ 1802(d), 1802.4):		
5. Based on ALJ ruling issued in proceeding number:	A.15-09-001	Verified
6. Date of ALJ ruling:	July 11, 2016	Verified
7. Based on another CPUC determination (specify):		
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:	A.15-09-001	Verified
10. Date of ALJ ruling:	July 11, 2016	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.18-01-022	Verified
14. Date of issuance of Final Order or Decision:	January 16, 2018	Verified
15. File date of compensation request:	March 15, 2018	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
1	FOE was an active participant on matters affecting Diablo Canyon for several years. FOE played a lead role in the settlement negotiations with PG&E leading up to execution of the Joint Proposal in June 2016. FOE also commissioned an expert study (the "Plan B" study), in conjunction	Friends of the Earth seeks compensation for time it spent negotiating the "Joint Proposal" prior to the filing of PG&E's application in this proceeding. The Joint Proposal supporting PG&E's application

	with settlement negotiations, which concluded that retiring the generating units at Diablo Canyon and replacing them with greenhouse gas ("GHG")-free resources was the most cost-effective solution for PG&E's ratepayers. The Joint Proposal set forth a proposed plan for the orderly retirement of the generating units at Diablo Canyon at the end of their current operating licenses in 2024-2025, and replacing their output with GHG-free resources, to prevent an increase in GHG emissions. The Joint Proposal helped to shape and narrow the issues for Commission decision in this case. The Scoping Issues identified by the Assigned Commissioner and Assigned ALJ in the Scoping Ruling loosely tracked the major provisions of the Joint Proposal. (See "Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge," issued Nov. 18, 2016, pp. 2-7.) FOE also played an active and constructive role in the proceedings before the Commission.	contained multiple elements, only some of which made a substantial contribution to this proceeding. The elements of the Joint Proposal, and their relationship to D.18-01-022, are as follows: 1) Retirement of Diablo Canyon. D.18-01-022 approved the retirement of Diablo Canyon. The Joint Proposal made a substantial contribution on this issue. 2) Replacement Procurement Tranche 1. D.18-01-022 rejected this proposal, and also determined that replacement procurement issues were more properly addressed in the Integrated Resource Plan (IRP) proceeding. The Joint Proposal did not make a substantial contribution on this issue. 3) Replacement Procurement Tranches 2 and 3. PG&E withdrew its proposed Tranche 2 and Tranche 3 proposals, as they would be more properly addressed in the IRP proceeding. D.18-01-022 concurred that they would be more properly addressed in the IRP proceeding. The Joint Proposal did not make a substantial contribution on this issue. 4) Employee Retraining – D.18-

		01-022 approved PG&E's request for rate recovery for an employee retraining program. The Joint Proposal made a substantial contribution on this issue. 5) Employee Severance – D.18-01-022 approved PG&E's request that the cost and ratemaking for the employee severance program continue to be addressed in the Nuclear Decommissioning Cost Triennial Proceeding. The Joint Proposal made a substantial contribution on this *de minimis* issue. 6) Employee Retention – D.18-01-022 adopted a modified employee retention program. The Joint Proposal made a substantial contribution on this issue. 7) Community Program – The Joint Proposal included a request for $49.5 million for a Community Impacts Mitigation Program (CIMP). The local government entities that were the intended beneficiaries of the CIMP were highly critical of both the amount of the CIMP and the process by which it was developed in the Joint Proposal. Later in the proceeding, PG&E entered

		into a separate proposed settlement with multiple parties for a new $85 million CIMP. D.18-01-022 rejected the proposed CIMP in its entirety. The Joint Proposal did not make a substantial contribution on this issue. 8) License Renewal Costs – PG&E requested approximately $53 million in rate recovery for costs related to its efforts to renew the Nuclear Regulatory Commission operating licenses for Diablo Canyon. Later in the proceeding, PG&E entered into a settlement with multiple parties to recover $18.6 million in relicensing costs. The Joint Proposal made a substantial contribution on this issue. The compensation request does not break down the time spent on the Joint Proposal by issue, but instead lumps all of the issues addressed by the Joint Proposal together, making it impossible to accurately determine how many hours were spent on aspects that made a substantial contribution to D.18-01-022. It is clear, however, that significant portions of the Joint Proposal did not make a substantial contribution to D.18-01-022, and asking ratepayers to fund those portions via intervenor

		compensation would not be appropriate. In addition, precedents addressing compensation for settlement negotiations are of limited value here, as the Joint Proposal is not a settlement, and it is not clear that the parties negotiating the Joint Proposal were actually adverse on the issues addressed by the Joint Proposal. Accordingly, Friends of the Earth is awarded compensation for 50% of the hours it spent negotiating the Joint Proposal. Friends of the Earth also requested $60,000 in compensation for the cost of the "Plan B Study," which it paid to CEERT. The Plan B Study was entered into the record of the proceeding as a CEERT exhibit, and made a substantial contribution to D.18-01-022. At the same time, however, we are concerned that FOE would be receiving compensation for a payment made to another party (CEERT) that is not eligible to receive compensation in this proceeding, and for an exhibit that CEERT entered into the record. In short, CEERT is indirectly receiving intervenor compensation for a portion of its work in this proceeding, as ratepayers would be paying for its work on the Plan B Study. We do not want to encourage "compensation laundering," where a party not eligible for compensation

		receives ratepayer funding for its participation through another party's compensation request. Here, however, we acknowledge that FOE appears to have incurred an otherwise legitimate expense. Because the Plan B Study did provide a substantial contribution to D.18-01-022, because its cost to ratepayers is relatively small, and because FOE did not have notice that this type of payment to another party is potentially problematic, FOE is granted full compensation for the $60,000 of the costs it incurred for the Plan B Study. Parties are now on notice that similar payments in the future may be disallowed in full or in part.

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). (For each contribution, support with specific reference to the record.)

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
FOE was a leading participant in settlement negotiations between PG&E and a group of arms-length parties that resulted in the June 2016 "Joint Proposal" to retire the two generating units at Diablo Canyon Power Plant and replace their output with GHG-free resources. In connection with the negotiations, FOE	Rebuttal Testimony of FOE witness S. David Freeman (Ex. FOE-1), p. 5, line 4, to p. 6, line 13. FOE Opening Brief, pp. 4-6. FOE Comments on Administrative Law Judge's Proposed Decision, pp. 14-15. Joint Notice of *Ex Parte* Communication (filed Dec. 7, 2017) (describing meetings between FOE and other Joint Parties with advisors to	Verified

also commissioned an expert study ("Plan B study") that concluded that this was the most cost-effective solution for PG&E's customers. The FOE study report and its analysis played a pivotal role in the negotiations with PG&E, and also featured prominently in the evidentiary record in this case, as described more fully below. FOE was a signatory to the Joint Proposal. FOE also participated actively as a party in the proceedings before the Commission in A.16-08-006, in which PG&E sought Commission authorization to carry out the terms of the Joint Proposal. In this docket, FOE (1) participated in settlement negotiations, both prior to and after the filing of PG&E's Application, (2) submitted testimony, (3) presented a witness and otherwise participated at the evidentiary hearing, (4) filed a post-hearing brief, (5) addressed the Commission at oral argument, and (6) filed comments on the ALJ's Proposed Decision. What follows is an issue-by-issue description of FOE's participation.	Commission President Picker and Commissioner Rechtschaffen). Testimony of CEERT witness James Caldwell (Ex. CEERT-1), Appendix (copy of the FOE study report). Testimony of TURN witness William Marcus (Ex. TURN-1) (update to the cost-benefit analysis Mr. Marcus provided in the FOE study report). TURN Opening Brief, pp. 2-7 (discussing the Marcus cost-benefit analysis). D.18-01-022, at p. 11 (finding that it would not be cost-effective to continue operating Diablo Canyon after expiration of its current operating licenses in 2024-2025); pp. 8-15 (finding that Diablo Canyon should be retired as proposed in 2024-2025); p. 57, Finding of Fact 1; p. 58, Conclusion of Law 1; and p. 59, Ordering Paragraph 1.	

1. RETIREMENT OF DIABLO CANYON POWER PLANT (Scoping Issue 2.1) An expert study report commissioned by FOE in 2015, entitled "A Cost Effective and Reliable Zero Carbon Replacement Strategy for Diablo Canyon Power Plant," also known informally as the "Plan B Study Report," concluded that closing Diablo Canyon was the most cost-effective solution for PG&E's customers. This study was commissioned by FOE in advance of the negotiations among FOE, PG&E and other parties that resulted in the June 2016 Joint Proposal. In turn, the Joint Proposal was the basis for PG&E's Application in this case to retire the generating units at Diablo Canyon in 2024-2025. Thus, FOE report played a pivotal role in this case. FOE witness S. David Freeman explained in his testimony that the FOE study showed that closing Diablo Canyon was the most cost-effective solution for ratepayers. The FOE study report was admitted into the record. The study report was sponsored as an evidentiary hearing exhibit by CEERT		

witness James Caldwell. Further, an undated version of the report's cost-benefit analysis was sponsored by TURN witness William Marcus, one of the study authors who performed the original cost-benefit analysis, in his testimony. Consistent with the FOE study report, D.18-01-022, at p. 11, found that it would not be cost-effective to continue operating Diablo Canyon after expiration of its current operating licenses in 2024-2025. Accordingly, D.18-01-022 authorized the retirement of the Diablo Canyon generating units in 2024-2025, as proposed in the Joint Proposal and by PG&E in its Application. In this Compensation Claim, FOE seeks reimbursement for (1) the cost of the Plan B Study Report, (2) the negotiations with PG&E and other parties leading up to execution of the Joint Proposal in June 2016, and (3) FOE's advocacy before the Commission on this issue. The Plan B study commissioned by FOE was very important in this case, not only in the negotiations with PG&E that resulted in the June 2016 Joint Proposal, but also in the evidentiary hearing record, on Scoping Issue 2.1.		

Inasmuch as the study was introduced into the evidentiary record and discussed by other, aligned parties in their testimony (i.e., CEERT and TURN), FOE does not seek any compensation related to the Plan B study beyond the original cost of the study. FOE seeks no compensation in connection with the advocacy of CEERT and TURN based on the Plan B study.		
2. PROPOSED REPLACEMENT PROCUREMENT (Scoping Issue 2.2) As a signatory to the Joint Proposal, FOE supported the proposition that action must be taken to ensure that the retirement of the Diablo Canyon generating units in 2024-2025 does not trigger any increase in greenhouse gas ("GHG") emissions. FOE's advocacy in this proceeding, including the testimony of its witness Mr. Freeman, while broadly supportive of the Joint Proposal in all respects, was focused particularly on the importance of replacing Diablo Canyon with new, GHG-free resources so as to achieve the goal of preventing an increase in GHG emissions. In D.18-01-022 (pp. 21-22),	Rebuttal Testimony of FOE witness S. David Freeman (Ex. FOE-1), p. 3, line 1, to p. 4, line 22, and p. 6, line 14, to p. 8, line 3. Hearing transcript, Vol. 3 (April 20, 2017) (cross-examination of FOE witness S. David Freeman), p. 441, line 4, to p. 442, line 8; and p. 449, line 3, to p. 456, line 5. FOE Opening Brief, pp. 4-6. Ex Parte Letter from Joint Parties to Commissioners, dated Aug. 18, 2017. Oral Argument transcript, Vol. 10 (Nov. 28, 2017), Argument of S. David Freeman on Behalf of FOE, p. 1565, line 17, to p. 1569, line 18. FOE Comments on Administrative Law Judge's Proposed Decision, pp. 14-15. Joint Notice of *Ex Parte* Communication (filed Dec. 7, 2017) (describing meetings between FOE and other Joint Parties with advisors to	Verified

the Commission adopted this goal, finding in language the Commission itself chose to underscore: "It is the intent of the Commission to avoid any increase in greenhouse gas emissions resulting from the closure of Diablo Canyon." (Emphasis in original.) The foregoing underscored language was not included in the original version of the ALJ's Proposed Decision. It was added by the Commission just two days before D.18-01-022 was adopted, after Oral Argument before the Commission and after Comments on the ALJ's Proposed Decision were filed. At both the Oral Argument and in its Comments, FOE urged the Commission to adopt language of this type. Thus, it is reasonable to infer that the Commission was attentive to and persuaded by the advocacy of FOE and aligned parties on this issue. D.18-01-022 (p. 22) further found that the specifics of the Diablo Canyon replacement procurement effort should be resolved in the Integrated Resource Plan ("IRP") proceeding (R.16-02-007). This was consistent with the Joint	Commission President Picker and Commissioner Rechtschaffen). D.18-01-022, pp. 21-22 ("It is the intent of the Commission to avoid any increase in greenhouse gas emissions resulting from the closure of Diablo Canyon." (Emphasis in original.). D.18-01-022, p. 57, Findings of Fact 3 and 4; p. 58, Conclusions of Law 2 and 3; p. 59, Ordering Paragraphs 2 and 3; and p. 60, Ordering Paragraphs 4, 5 and 6.	

Proposal, as amended, and with FOE's testimony and advocacy in this docket. Both the original Joint Proposal (June 2016) and the First Amendment to the Joint Proposal (March 2017) proposed that the bulk of the Diablo Canyon replacement procurement issues be referred to the IRP. FOE was a signatory to both agreements. D.18-01-022 (p. 22) declined to authorize a "Tranche 1" energy efficiency procurement agreed to in the Joint Proposal and supported by FOE and the other Joint Parties. It was only in this one respect that the Decision did not adopt FOE's position with respect to Scoping Issue 2.2.		
3. PROPOSED EMPLOYEE PROGRAM (Scoping Issue 2.3) The Joint Proposal, to which FOE was a signatory, proposed a three-part program for employees at Diablo Canyon: (1) employee retention, (2) employee severance, and (3) employee retraining. FOE in its advocacy before the Commission supported all three aspects of the employee program. To	As noted, with respect to the proposed employee program, FOE in an effort to avoid duplication largely deferred to the testimony and arguments of other signatories to the Joint Proposal. Nevertheless, FOE was vocal on this issue, especially at the Oral Argument. Citations in the record to FOE's advocacy on the employee program are as follows: • Oral Argument transcript, Vol. 10 (Nov. 28, 2017), Argument of S. David Freeman	Verified

avoid duplication of effort, however, FOE largely deferred to the testimony and arguments of other signatories to the Joint Proposal. Nevertheless, particularly at the Oral Argument, FOE emphasized that the employee program was designed to ensure continued *safe operations* at Diablo Canyon and that *safety* of utility operations is a high priority for the Commission. D.18-01-022 approved in part the proposed employee program, as follows: • Employee Retention: $211.3 million in ratepayer funding, split between Tier 1 ($115 million) and Tier 2 ($96.3 million), with costs to be recovered as an operating expense rather than via the Nuclear Decommissioning Non-Bypassable Charge as proposed in the Joint Proposal. Although this was a reduction from the $352.1 million in funding for employee retention proposed in the Joint Proposal (which proposed to fund Tier 1 at	on Behalf of FOE, p. 1567, lines 12-15, and p. 1569, line 19, to p. 1570, line 25. • FOE Comments on Administrative Law Judge's Proposed Decision, p. 2 and p. 5. Joint Notice of Ex Parte Communication (filed Dec. 7, 2017) (describing meetings between FOE and other Joint Parties with advisors to Commission President Picker and Commissioner Rechtschaffen). D.18-01-022: • Employee Retention: D.18-01-022, pp. 25-30; p. 58, Findings of Fact 6 and 7; p. 59, Conclusions of Law 5 and 6; and p. 60, Ordering Paragraphs 8 and 9. *Please note*: The lower level of funding for employee retention proposed in the ALJ Proposed Decision, which was increased by the Commission in D.18-01-022, appeared on pp. 24-30 and pp. 50-52 of the ALJ Proposed Decision. • Employee Severance: D.18-01-022, p. 24. • Employee Retraining: D.18-01-022, p. 24; p. 58, Finding of Fact 5; p. 58, Conclusion of Law 4; and p. 60, Ordering Paragraph 7.	

$191.6 million and Tier 2 at $160.5 million), the funding authorized in D.18-01-022 was substantially higher than the amount proposed in the ALJ's Proposed Decision, which was $160.5 million. Thus, the Commission upon further consideration approved a substantial increase in the ratepayer funding for employee retention, above the level the Proposed Decision would have authorized. Although the Commission did not authorize the full funding level proposed in the Joint Proposal, it is clear the Commission was influenced by the advocacy of FOE and the other signatories to the Joint Proposal. • Employee Severance: Both D.18-01-022 and the ALJ Proposed Decision authorized this aspect of the employee program as proposed in the Joint Proposal (i.e., approved in concept,		

with costs and rate recovery to be determined in the Nuclear Decommissioning Cost Triennial Proceeding). • Employee Retraining: Both D.18-01-022 and the ALJ Proposed Decision approved this aspect of the employee program in full, as proposed in the Joint Proposal (i.e., $11.3 million in ratepayer-funded costs, to be recovered in rates via the Nuclear Decommissioning Non-Bypassable Charge).		
4. PROPOSED COMMUNITY IMPACTS MITIGATION PROGRAM (Scoping Issue 2.4) FOE participated in the multi-party negotiations leading up to the June 2016 Joint Proposal, which included a Community Impacts Mitigation Program ("CIMP"). FOE was a signatory to the Joint Proposal. FOE also was a signatory to a subsequent settlement with San Luis Obisbo ("SLO") governmental entities that increased the proposed funding for the CIMP from $49.5 million to a total of	Joint Proposal (June 2016), Part 4 (pp. 10-11). Joint Motion for Approval of Settlement Agreement between Joint Parties and SLO governmental entities (filed Dec. 28, 2016). D.18-01-022, pp. 30-41 (discussing the CIMP settlement), p. 58, Finding of Fact 8; p. 59, Conclusion of Law 7; p. 60, Ordering Paragraph 10. *Please note*: Although the Commission in D.18-01-022 declined to approve the CIMP settlement, several of the Commissioners publicly expressed their sympathy for the affected communities in SLO County. This occurred both at the Oral Argument on	Verified

$85 million ($75 million for an Essential Services Mitigation Fund, and $10 million for an Economic Development Fund). See D.18-01-022, pp. 31-32. In D.18-01-022, the Commission declined to authorize the CIMP "in the absence of legislative authorization" for such a program. (D.18-01-022, p. 33.) Although FOE supported the CIMP from its inception, including the settlement with SLO governmental entities that increased the proposed funding level, in order to avoid duplication of effort, FOE in this proceeding largely deferred to the advocacy of other supporting parties with respect to the CIMP.	Nov. 28, 2017, and especially at the Commission Voting Meeting on Jan. 11, 2018. (See, e.g., Oral Argument transcript, p. 1547, lines 12-20, and p. 1549, lines 10-27 (questions of Commissioner Rechtschaffen).) This confirms that the advocacy of parties who supported the CIMP Program settlement had a positive and influential impact on the decisional process, even though the settlement ultimately was not approved due to concerns on the Commission's part regarding the legal authority for such a program.	

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

	Intervenor's Assertion	CPUC Discussion
a. Was the Public Advocate's Office at the California Public Utilities Commission (Cal Advocates) a party to the proceeding?[1]	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified

[1] The Office of Ratepayer Advocates (ORA) was renamed the Public Advocate's Office at the California Public Utilities Commission (Cal Advocates), pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

c. If so, provide name of other parties: The following parties had positions in this case that were aligned, at least in part, with the position of FOE: Natural Resources Defense Council ("NRDC") Alliance for Nuclear Responsibility ("A4NR") Center for Energy Efficiency and Renewable Technologies ("CEERT") Green Power Institute Sierra Club Environmental Defense Fund ("EDF") The Utility Reform Network ("TURN")	Verified
d. Intervenor's claim of non-duplication: FOE achieved a high degree of economy by coordinating with aligned parties on issues of common concern. FOE made a conscientious effort to avoid duplication. First, with respect to the potentially contentious issues associated with the retirement of the Diablo Canyon Power Plant, FOE along with other parties succeeded in achieving an agreed-upon solution through arms-length negotiations with PG&E, the plant owner. An important factor contributing to the success of these negotiations was the Plan B study report commissioned by FOE, which concluded that the most cost-effective solution for PG&E's customers would be to retire the generating units at Diablo Canyon and replace their output with GHG-free resources. In the June 2016 Joint Proposal, the parties agreed on a planned retirement of the generating units at Diablo Canyon in 2024-2025, at the end of their current operating licenses. Prior to these successful settlement negotiations, FOE and PG&E were adverse to one another concerning continued operation of Diablo Canyon. See, *e.g.*, D.15-04-019 (Commission decision on a petition by FOE to examine whether continued operation of Diablo Canyon was "uneconomic" and the cost of doing so "unreasonable"). The Joint Proposal was a significant breakthrough. By proposing an agreed-upon, planned retirement of Diablo Canyon in 2024-2025, in advance of PG&E's application in this proceeding, the Joint Proposal greatly reduced the	Noted

scope of contested issues in this case, simplified the hearings, and allowed for a much more focused and streamlined proceeding. ORA and TURN both took positions consistent with the conclusions of the Plan B study report. As noted in D.18-01-022 at p. 10 and fn. 4, ORA either did not oppose or supported the proposal to retire the generating units at Diablo Canyon at the end of their operating licenses in 2024-2025. TURN was even more explicit in its support for this outcome. (See D.18-01-022, p. 9 (quoting from TURN's opening brief).) It is fair to infer that ORA's position was influenced by the detailed cost-benefit analysis in the Plan B study commissioned by FOE, and thus FOE reasonably can be credited for helping ORA to conserve its resources on this issue. In the case of TURN, it is clear that the Plan B study commissioned by FOE expressly informed TURN's position,, since TURN actually sponsored testimony by William Marcus, one of the study's authors. Again, FOE deserves credit for helping TURN to develop its position and for conserving TURN's resources. Compensation for FOE's efforts in the pre-Application settlement negotiations with PG&E is consistent with Commission Decision No. D.08-03-010, which awarded compensation to TURN for its participation in a very similar context. In that case, PG&E reached an all-party settlement prior to filing its Application, and the Application submitted by PG&E consisted of the settlement itself ("Gas Accord IV Settlement"). TURN was a party to the pre-Application settlement negotiations and a signatory to the settlement agreement. TURN claimed and was awarded compensation for its participation in the pre-filing settlement negotiations. (See D.08-03-010, p. 5 (noting that TURN's role in that case was "somewhat unusual" in that it consisted entirely of participating in settlement negotiations prior to the filing of PG&E's Application, and thus "TURN and the other intervening parties did not submit testimony or file pleadings regarding their positions before PG&E filed its application and settlement").) FOE in this case likewise should be compensated for having initiated and participated in the settlement negotiations with PG&E that led up to execution of the	

Joint Proposal in June 2016, which in turn formed the basis for PG&E's Application in this docket. Similarly, compensation to FOE for the cost of the Plan B study is consistent with Commission Decision 10-12-061, which awarded Utility Consumers Action Network ("UCAN") over $200,000 in compensation for a third-party study commissioned in advance of the Commission proceeding. Second, during the pendency of the proceedings before the Commission, FOE made a consistent good-faith effort to coordinate its efforts with aligned parties and avoid duplication. For example, FOE took the lead in preparing several joint written submissions on behalf of FOE and other signatories to the Joint Proposal. FOE also focused its advocacy on a subset of the issues, in particular Scoping Issue 2.2 (Proposed Replacement Procurement), while deferring to the advocacy of aligned parties on other issues in which FOE had an interest, so as to not duplicate the efforts of aligned parties. This resulted in a highly efficient and cost-effective use of resources. Third, FOE's efforts did not duplicate those of ORA. In its testimony and briefs, ORA opposed certain aspects of the Joint Proposal, contrary to the position taken by FOE and other signatories. In these respects, of course, there was no duplication of effort as between FOE and ORA, as their positions were averse to one another. The bulk of FOE's efforts before the Commission was focused on Scoping Issue 2.1 (Retirement of Diablo Canyon), where ORA appears to have largely deferred to the analysis in the Plan B study commissioned by FOE, and Scoping Issue 2.2 (Proposed Replacement Procurement), where the Commission in its Decision adopted language consistent with FOE's testimony and advocacy, namely, that no increase in GHG emissions be allowed to occur in connection with the retirement of Diablo Canyon, which was not something ORA sought. Thus, in no respect can FOE's efforts be said to have been duplicative of those of ORA. In sum, FOE made a diligent effort to avoid duplication and minimize cost to ratepayers in its participation in this case.	

C. Additional Comments on Part II:

#	Intervenor's Comment	CPUC Discussion
1	Cost of Plan B Study and Related Consulting During Negotiations with PG&E FOE seeks compensation for the cost of the Plan B study described above, and for consulting services the study's authors provided during the negotiations with PG&E leading up to execution of the Joint Proposal in June 2016. The cost of the Plan B study should be reimbursed because of the key role it played in the Commission's decision to authorize the retirement of the Diablo Canyon generating units at the end of their current operating licenses in 2024-2025. As recited above, the Plan B study played a prominent role in the negotiations leading up to the June 2016 Joint Proposal, in which PG&E agreed to retire the generating units at Diablo Canyon at the end of their operating licenses. The Plan B study also played a prominent role in the proceedings before the Commission, as demonstrated by the testimony of several of its co-authors for CEERT and TURN, respectively. Finally, the conclusion of the Plan B study – namely, that retiring the Diablo Canyon facility in 2024-2015 represents the most cost-effective solution for PG&E's customers – was the same conclusion the Commission reached with respect to Scoping Issue 2.1. Further, granting FOE's request for compensation for the cost of the Plan B study is consistent with Commission Decision 10-12-061. In that case, the Commission awarded intervenor Utility Consumers Action Network ("UCAN") compensation for the full cost of a study that UCAN commissioned in advance of the Commission proceeding, which contributed to the decision in that proceeding. It should be noted, moreover, that the cost of the UCAN study approved in D.10-12-061 was in excess of $200,000, whereas the cost of the Plan B study	Noted

	commissioned by FOE in this case is only $60,000. Thus, FOE should be reimbursed for the cost of the Plan B study, consistent with D.10-12-061 in the UCAN matter.	

PART III: REASONABLENESS OF REQUESTED COMPENSATION:

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

a. Intervenor's claim of cost reasonableness:	CPUC Discussion
The costs for which FOE seeks compensation are reasonable in light of FOE's substantial contribution to the Commission's decision in this case as well as the quality and efficiency of FOE's participation as advocate. FOE's participation was "productive, necessary, and needed for a fair determination of the proceeding." (Pub. Util. Code § 1801.3(f).) The Plan B study commissioned by FOE demonstrated that retiring the generating units at Diablo Canyon at the end of their operating licenses in 2024-2025, and replacing the output with GHG-free resources, was the most cost-effective solution for PG&E's customers. This is what the Commission decided in D.18-01-022. Three aspects of FOE's participation deserve to be highlighted to illustrate the overall reasonableness of FOE's compensation claim. First, by engaging PG&E, in advance, in serious settlement negotiations regarding future operation of the Diablo Canyon facility, FOE was able to achieve a breakthrough in the June 2016 "Joint Proposal," to which a number of arms-length parties were signatories. A study commissioned by FOE, the "Plan B" study, played a key role in the negotiations. It demonstrated through expert analysis that retiring the generating units at Diablo Canyon and replacing them with GHG-free resources was the most cost-effective solution for PG&E's customers. The Plan B study report was introduced into the record of this case as an evidentiary hearing exhibit (Ex. CEERT-1, Appendix), and two of the study's authors submitted expert testimony (James Caldwell as witness for CEERT, and William Marcus as witness for TURN). The landmark Joint Proposal agreement helped immeasurably to shape and narrow the issues for consideration by the Commission in this docket. In its final Decision (D.18-01-022), the Commission approved two key components of the Joint Proposal, namely, retirement of the two generating units at Diablo Canyon at the end of their current operating licenses in 2024-2025, and a requirement that no increase in greenhouse gas emissions be allowed to occur in connection with this action. In	Noted

light of these facts, it is reasonable to compensate FOE for the costs it incurred in commissioning the Plan B study, and for FOE's leadership in the settlement negotiations with PG&E leading up to the Joint Proposal. Compensation to FOE for these pre-application efforts (i.e., participation in pre-application settlement negotiations with PG&E, and the cost of the Plan B study) is strongly supported by prior Commission decisions. See D.08-03-010 (awarding TURN compensation for participation in settlement negotiations conducted and completed prior to the filing of PG&E's application in that case) and D.10-12-061 (awarding UCAN compensation for the cost of a study commissioned by UCAN in advance of the Commission proceedings). Second, FOE was diligent in focusing its advocacy in this case on a subset of issues, especially the proposition that no increase in GHG emissions be allowed as a consequence of retiring the generating units at Diablo Canyon – a proposition the Commission clearly endorsed in its final Decision. FOE largely deferred to the advocacy of other aligned parties with respect to most of the other issues in this case. FOE also took the lead in coordinating joint submissions with aligned parties throughout these proceedings. Thus, FOE was able to participate effectively in the Commission proceedings without duplicating the efforts of other, aligned parties. Third, it is particularly noteworthy that FOE's principal consultant and witness, S. David Freeman, donated 100% of his time and efforts on this entire matter *pro bono*, and so FOE does not seek compensation for any of Mr. Freeman's work. Especially given Mr. Freeman's national prominence – among other things, he is the former chief executive of the Tennessee Valley Authority, the Los Angeles Department of Water and Power, and the Sacramento Municipal Utility District, and he once served as an advisor to this Commission – this is a significant cost-free contribution that Mr. Freeman has provided to FOE and to ratepayers in this case. It is a major factor contributing to the reasonableness of FOE's compensation claim in this case.	
b. Reasonableness of hours claimed: FOE made diligent efforts to ensure that its participation at all stages of this case was efficient, professional and cost-effective, consistent with the requirements of the Intervenor Compensation Program. The hours claimed by FOE are fully in compliance with these objectives and requirements. First, with respect to the hours claimed, FOE seeks hourly compensation for the professional services of only two individuals, its attorney Frank Lindh and staff member Damon Moglen. As reflected in their time	Noted

sheets, both Mr. Lindh and Mr. Moglen worked diligently and efficiently in settlement negotiations and advocacy on behalf of FOE. Mr. Moglen participated in the settlement negotiations with PG&E that resulted in the June 2016 Joint Proposal agreement. The Joint Proposal was the basis for PG&E's Application in this case. Consistent with Commission Decision 08-03-010, which awarded TURN compensation for settlement negotiations conducted in advance of a rate case application, which resulted in a settlement agreement that was submitted to the Commission for review and approval in the application, FOE here likewise should be compensated for its participation in the settlement negotiations with PG&E that resulted in execution of the Joint Proposal. The amount of time FOE claims for Mr. Moglen's participation in the negotiations is reasonable, given the complexity and importance of the issues concerning retirement of the generating units at Diablo Canyon. and replacing them with clean, GHG-free resources. Again, moreover, FOE seeks no compensation for the efforts of Mr. Freeman, its principal negotiator in those negotiations, who donated his time free-of-charge, which is an extremely pertinent factor in evaluating the reasonableness of FOE's compensation claim. FOE's attorney, Mr. Lindh, was retained by FOE *after* execution of the Joint Proposal, to represent FOE in the proceedings before the Commission in A.16-08-016. Thus, no hours are claimed for Mr. Lindh in connection with the negotiations leading up to execution of the Joint Proposal in June 2016. In their time sheets, moreover, Mr. Lindh and Mr. Moglen have charged only for their professional time, not for any ministerial or administrative activities. Second, it was extremely beneficial for FOE to initiate settlement negotiations with PG&E regarding Diablo Canyon. Prior to this case, FOE and PG&E had a highly adverse relationship vis-à-vis Diablo Canyon. (See, e.g., D.15-04-019 (Commission decision on an earlier petition by FOE to examine whether continued operation of Diablo Canyon was "uneconomic" and the cost of doing so "unreasonable"). By engaging PG&E in settlement negotiations, and by commissioning the Plan B study, which demonstrated that retiring Diablo Canyon and replacing its output with GHG-free resources was the most cost-effective option for PG&E's customers, FOE helped short-circuit what could have been a much more extended and adversarial Commission proceeding on the future of the Diablo Canyon facility. Intervenors should be encouraged to engage the utility companies in pre-filing settlement negotiations of this kind. That is exactly what the Commission did in Decision 08-03-010, which awarded TURN compensation for its participation in pre-filing settlement negotiations that resulted in a settlement agreement ("Gas Accord IV Settlement"), which PG&E in that case then submitted to the Commission as the basis for its application.	

Third, as explained more fully elsewhere in this claim, the professional services of Dave Freeman, FOE's principal consultant, negotiator, expert witness and advocate at the Oral Argument before the Commission, were donated by Mr. Freeman at no charge to FOE or to ratepayers, beyond his travel expenses. Especially considering Mr. Freeman's prominence as a nationally recognized figure in the electric utility industry, this is an extraordinary benefit for ratepayers.	
c. Allocation of hours by issue: FOE has allocated the hours devoted to this case by its attorney, Mr. Lindh, and its in-house professional staff member, Mr. Moglen, according to activity codes, and according to the issues as listed in the Scoping Ruling. The activity codes and issues are described below. The allocation of hours to these activity codes and issues is reflected in the time sheet detail included as Attachment 2 to this Compensation Claim. <u>Activity Codes and Issues List for This Proceeding</u> Sett – 251.42 hours – 36% of total Preparation for and participation in settlement discussions and review of settlement documents, whether a settlement is achieved or not. GP – 135.57 hours – 19% of total General Participation work essential to participation that typically spans multiple issues and/or would not vary with the number of issues that FOE addresses. This includes reviewing case documents, Commission rulings, pleadings of other parties. It also includes time spent coordinating with other parties. EH – 108.58 hours – 16% of total Evidentiary hearing work. Includes preparing for and participating in the Prehearing Conference, evidentiary hearings, and oral argument before the Commission, and review of transcripts. PD – 40.96 hours – 6% of total Work related to ALJ Allen's Proposed Decision. COMP – 27.25 hours – 4% of total	Noted

Time spent preparing FOE's notice of intent to claim intervenor compensation and the instant request for compensation. TRAVEL – 32.00 hours – 5% of total Time spent traveling from FOE's offices in Washington DC to San Francisco, to attend settlement meetings and participate in proceedings before the Commission. Scoping Issue 2.1 – Retirement of DCCP – 5.33 hours – 1% of total This issue is set forth in the Scoping Ruling on p. 2. Scoping Issue 2.2 – Replacement Procurement – 96.66 hours – 14% of total This issue is set forth in the Scoping Ruling on pp. 2-3. * * * * * FOE submits that this information should suffice to address the allocation requirement under the Commission's rules. Should the Commission wish to see additional or different information concerning allocation, FOE respectfully requests that the Commission so inform FOE and provide a reasonable opportunity for FOE to supplement this showing accordingly.	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate $**	**Total $**
Frank Lindh, Attorney	2016	110.59	$575	See Comment #2 below	$63,589.25	110.59	$575.00	$63,589.25
Frank Lindh	2017	109.60	$585	Res. ALJ-345	$64,116.00	109.60	$585.00	$64,116.00
Frank Lindh	2018	5.57	$585	Res. ALJ-345	$3,258.45	5.57	$585.00	$3,258.45
Damon Moglen, Expert	2015	15.50	$160	D.14-11-040 Res. ALJ-	$2,480.00	1.75 [B]	$160.00	$280.00

				308				
Damon Moglen	2016	247.00	$160	D.14-11-040 Res. ALJ-329	$39,520.00	48.00 [C]	$160.00	$7,680.00
Damon Moglen	2017	150.25	$165	D.14-11-040 Res. ALJ-345	$24,791.25	150.25	$165.00 [A]	$24,791.25
					Subtotal: $197,754.95			**Subtotal: $163,714.95**
OTHER FEES Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate $	Basis for Rate*	Total $	Hours	Rate	Total $
Damon Moglen, Expert	2015	3.00	$80	Travel @ 50% of above 2015 rate	$240.00	3.00	$80.00	$240.00
Damon Moglen	2016	21.50	$80	Travel @ 50% of above 2016 rate	$1,720.00	21.50	$80.00	$1,720.00
Damon Moglen	2017	7.50	$82.50	Travel @ 50% of above 2017 rate	$618.75	7.50	$82.50	$618.75
					Subtotal: $2,578.75			**Subtotal: $2,578.75**
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate $	Basis for Rate*	Total $	Hours	Rate	Total $
Frank Lindh, Atty.	2016	6.50	287.50	Comment #2 @50% of $575	$1,868.75	6.50	$287.50	$1,868.75
Frank Lindh	2017	1.50	292.50	Res. ALJ-329 Res. ALJ-345 @ 50%	$438.75	1.50	$292.50	$438.75

				of $585				
Frank Lindh	2018	16.50	292.50	Res. ALJ-329 Res. ALJ-345 @ 50% of $585	$4,826.25	16.50	$292.50	$4,826.25
Damon Moglen	2016	2.75	80.00	D.14-11-040 Res. ALJ-329 @ 50% of $160	$220.00	2.75	$80.00	$220.00
					Subtotal: $7,353.75			**Subtotal: $7,353.75**
COSTS								
#	Item	Detail			Amount	Amount		
1	Plan B Study	FOE seeks compensation for the out-of-pocket cost FOE incurred in commissioning this study from the expert consultants at the Center for Energy Efficiency and Renewable Technologies ("CEERT"). As explained in Part II above (in the Additional Comments section) and Part III above, the Plan B study played a pivotal role, both in negotiations with PG&E leading up to execution of the Joint Proposal in June 2016, and in the proceedings before the Commission. Compensation to FOE for this cost is consistent with Commission Decision 10-12-061, which granted UCAN a much larger award (over $200,000) for a study UCAN commissioned in advance of the Commission proceedings, in			$60,000.00	$60,000.00		

		a case involving San Diego Gas & Electric Company.		
2	Travel	Travel expenses related to settlement meetings and participation in CPUC events. Details are provided in Attachment 3.	$9,751.16	$9,751.16
			Subtotal: $69,751.16	**Subtotal: $69,751.16**
			TOTAL REQUEST: $277,438.61	**TOTAL AWARD: $243,398.61**

*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[2]	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Frank R. Lindh	June 1992	157986	No

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

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	Daily Time Records for Attorneys and Experts
Attachment 3	Cost/Expense details and relevant receipts
Attachment 4	Plan B Contract and Invoices
Attachment 5	Frank Lindh Resume
Attachment 6	Dave Freeman Biographical Statement

FOE Additional Comments on Part III:

[2] This information may be obtained through the State Bar of California's website at http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch.

#	Comments
Comment #1	Reasonableness of FOE's Hours and Costs: The hours by FOE's attorney and in-house professional staff member, as well as the cost of the "Plan B Study Report" that FOE commissioned from a group of seasoned expert consultants concerning the cost-effectiveness of retiring the generating units at Diablo Canyon, are reasonable. In fact, the hours and costs for which FOE seeks compensation properly can be characterized as modest, when understood in the context of the enormous complexity and magnitude of the major policy decision the Commission faced in this case, namely, whether to retire California's last major operating nuclear power plant (Diablo Canyon) and replace its output with 100% clean, GHG-free resources. <u>Key Role of the "Joint Proposal" in Narrowing the Scope of Issues</u> The scope of the contested issues presented to the Commission for decision was greatly narrowed, thanks to the efforts of FOE and the other signatories to the June 2016 Joint Proposal. This was a landmark, arms-length agreement among a group of parties with adverse interests, including PG&E, that created a proposed plan for the orderly retirement of the generating units at Diablo Canyon and their replacement with GHG-free resources. Absent such an agreement, the Commission would have faced a far more daunting, complex and resource-intensive set of inquiries regarding the future operation, if any, of the Diablo Canyon facility. The Joint Proposal allowed for a much more focused scope of inquiry in the Commission proceedings than might otherwise have been the case. FOE played a leading role in the negotiations with PG&E that led to the execution of the Joint Proposal in June 2016. Thus, the time and effort FOE expended in advocating before the Commission in this proceeding, not to mention the time and efforts of all the other parties and the Commission's decisional staff, was greatly reduced, and the scope of these proceedings narrowed, because of the work accomplished in advance through good-faith, arms-length negotiations by FOE and the other signatories to the Joint Proposal. Significantly, FOE seeks only a modest amount of compensation for its participation in the settlement negotiations that resulted in execution of the Joint Proposal in June 2016. FOE's claim in connection with the settlement negotiations is limited to the hours of one of its professional staff, Damon Moglen. Of importance in terms of the reasonableness of FOE's Compensation Claim, it must be emphasized that FOE employed no attorney in the settlement negotiations leading up to execution of the Joint Proposal in 2016. Even more significantly, the services of FOE's principal negotiator, S. David Freeman, were donated by Mr. Freeman on a *pro bono* basis, free-of-charge to FOE, at a zero cost to ratepayers.

	Compensating FOE for its role in the pre-filing settlement negotiations with PG&E that resulted in the execution of the June 2016 Joint Proposal is supported by the Commission's decision awarding TURN compensation for similar pre-filing settlement participation in D.08-03-010. In that case, TURN was party to negotiations that resulted in an all-party settlement ("Gas Accord IV Settlement"), which PG&E then presented to the Commission for approval in its application. Similarly, in this case, PG&E negotiated the terms of the Joint Proposal with FOE and other parties before any application was filed, and PG&E then presented the executed agreement to the Commission for approval. Although the Joint Proposal was not an all-party settlement, for purposes of intervenor compensation FOE deserves an award for the same reasons TURN was awarded compensation in D.08-03-010. Intervenors should be encouraged to engage the utilities in good-faith, arms-length negotiations, not only *after* an application is filed, but also *beforehand*, when doing so yields a reasonable outcome for ratepayers. Good-Faith Efforts by FOE to Avoid Duplication This proceeding was initiated by PG&E to seek Commission approval of the Joint Proposal that PG&E negotiated with FOE and the other members of the Joint Parties group. Throughout this proceeding, FOE made a concerted effort to coordinate its activities before the Commission with other, aligned parties. This prevented wasteful duplication of efforts and minimized the cost to ratepayers under the Intervenor Compensation Program. Thus, FOE took the lead in preparing joint pleadings on behalf of itself and other aligned parties. See, e.g., "Response of Friends of the Earth, Natural Resources Defense Council and Environment California in Support of PG&E's Application" (filed September 15, 2016). FOE also focused its time and attention before the Commission on a subset of issues, primarily Replacement Procurement (Scoping Issue 2.2), while deferring to the efforts of other members of the Joint Parties group with respect to the other issues presented for decision. Thus, FOE devoted relatively little of its own resources to the Proposed Employee Program (Scoping Issue 2.3) or the Proposed Community Impacts Mitigation Program (Scoping Issue 2.4). Even with respect to one aspect of the Replacement Procurement issue, namely, a proposed procurement of "Tranche 1" Energy Efficiency Resources, FOE largely deferred to the advocacy of the Natural Resources Defense Council ("NRDC"), another signatory to Joint Proposal. Thus, while FOE supported all aspects of the Joint Proposal, FOE assiduously avoided duplicating the advocacy of other parties on certain issues. The Invaluable Role of the "Plan B Study" Report Commissioned by FOE

	FOE deserves substantial credit for having commissioned the "Plan B" study report," prior to the settlement negotiations that led to the June 2016 Joint Proposal. This report demonstrated, based on expert analysis, that the lowest-cost solution for PG&E's customers was to retire the generating units at Diablo Canyon at the end of their operating licenses in 2024-2025, and replace the output with GHG-free resources. This is precisely the solution the Commission reached in its final decision in this case (D.18-01-022), and the reasoning embraced by the Commission tracks closely with the analysis in the Plan B Study Report. This pivotal report was produced at a reasonable cost of $60,000, but its contribution to this case was enormous. The report had the salutary effect of simplifying and shortening to a major degree the issues presented to the Commission for decision. Awarding FOE compensation for the cost FOE incurred in commissioning the Plan B study is supported by the Commission's 2010 decision awarding UCAN compensation for the cost of a study UCAN commissioned in advance of the Commission proceedings in that case. D.10-12-061. It should be emphasized, moreover, that the $60,000 cost FOE incurred for the Plan B study is substantially less than the more than $200,000 in cost UCAN was awarded for the study in D.10-12-061. A complete copy of the Plan B study report was introduced as an evidentiary hearing exhibit by the Center for Energy Efficiency and Renewable Technologies ("CEERT") (Ex. CEERT-1, Appendix), and the report was discussed on the record in this case in testimony by two of its principal authors, James Caldwell and William Marcus, who appeared as witnesses for CEERT and for The Utility Reform Network ("TURN"), respectively. Thus, the Plan B study is part of the evidentiary hearing record, as is the testimony by several of its authors. FOE, of course, seeks no compensation for itself in connection with the testimony and advocacy by CEERT or TURN based on the report. Rather, FOE seeks only the out-of-pocket cost FOE incurred in commissioning the study in the first place. <u>*Pro Bono* Contributions of FOE Consultant and Witness S. David Freeman</u> An important factor contributing to the overall reasonableness of FOE's compensation claim is the fact that its principal consultant, settlement negotiator, expert witness and advocate, S. David Freeman, donated 100% of his time and efforts on this project *pro bono* – that is, without compensation for his professional services. This included Mr. Freeman's time and expertise in the settlement negotiations leading up to the execution of the Joint Proposal in June 2016, as well as Mr. Freeman's expert testimony and advocacy before the Commission in this case. Mr. Freeman is a nationally renowned figure. His credentials are

	described in the following section of these comments, below. It is truly remarkable for a person of Mr. Freeman's stature and experience to donate his time and efforts free-of-charge, without cost to FOE or to ratepayers, as he did here. This is certainly an important factor for the Commission to consider in evaluating the reasonableness of FOE's compensation claim.
Comment #2	Hourly Rate for Frank Lindh FOE was represented in the proceedings before the Commission in this case by the Commission's retired General Counsel, Frank Lindh. Based on Mr. Lindh's extensive experience, unusually strong credentials and particular expertise as a lawyer and educator in the field of energy and public utilities regulation, FOE submits that he should qualify for the highest end of the range of hourly compensation rates established by the Commission in Resolution ALJ-329. It should be noted, moreover, that Mr. Lindh's market rates for his other clients in the private, for-profit sector far exceeds the highest hourly rates set by Resolution ALJ-329. During the time this case was pending, for example, Mr. Lindh provided legal services to a private-sector client at a rate of $790/hour, which itself was a substantial, negotiated discount below his full market rate. This helps confirm that it is reasonable for the Commission to compensate Mr. Lindh at the top end of the hourly rate scale established in Resolution ALJ-329. Mr. Lindh was appointed as the Commission's General Counsel in June 2008 and served with distinction in that capacity for almost six years until January 2014, when he retired from state service. It has now been more than five years since Mr. Lindh retired from his position as General Counsel, and his appearance in this case on behalf of FOE was entirely appropriate under California's laws and policies governing the activities of ex-government officials before their former agencies. As Commission General Counsel, Mr. Lindh supervised a staff of approximately 65 attorneys in the Legal Division. He and the attorneys he supervised were responsible for providing legal advice to the Commission on all aspects of the Commission's agenda, and for representing the Commission in the courts and before other regulatory agencies, including the Federal Energy Regulatory Commission. Mr. Lindh has been a practicing lawyer since 1985, a period of almost 33 years, specializing throughout that time in energy and public utilities law. From 1987 to 1989, Mr. Lindh served as an appellate attorney in the Office of the Solicitor of the Federal Energy Regulatory Commission in Washington, D.C. In that capacity, he routinely represented the federal government in cases before the United States Courts of Appeals

	and the Supreme Court, and he personally argued energy cases in the federal courts of appeals around the United States. In the 1990s, Mr. Lindh served as General Counsel of a major interstate natural gas pipeline that provides a substantial portion of California's gas supply. Mr. Lindh has appeared before this Commission as an attorney in numerous cases since the early 1990s, and before the Federal Energy Regulatory Commission beginning in 1985. Mr. Lindh is the author or co-author of several feature articles published in the Energy Law Journal, a professional legal review. He has been an adjunct professor of law at the University of California Hastings College of the Law and the University of San Francisco School of Law, where he developed and taught a 3-unit course on Energy Law. Mr. Lindh is a past elected member of the national Board of Directors of the Energy Bar Association, past president of the Western Chapter of the Energy Bar Association, and past elected member of the Board of Directors of the Conference of California Public Utilities Counsel. Mr. Lindh is a 1985 honors graduate of the Georgetown University Law Center in Washington, D.C. Mr. Lindh also had the distinction of being the first person in the history of the U.S. government to serve as Law Clerk to the Solicitor General of the United States in the U.S. Department of Justice, during the Supreme Court's 1984-1985 Term. The Solicitor General is the federal government's advocate before the United States Supreme Court. In sum, Mr. Lindh should be compensated at the highest level set by Resolution ALJ 329, given his exceptionally strong credentials and experience, and in light of the fact that the market rates he charges for his legal services in the for-profit private sector are substantially higher than the maximum hourly rates in Resolution ALJ 329. A copy of Mr. Lindh's resume is included herewith as Attachment #5.
Comment #3	Dave Freeman – FOE Consultant, Negotiator, Expert Witness and Advocate Mr. Freeman served as principal consultant to FOE, as well as its negotiator in settlement discussions with PG&E and FOE's expert witness at the evidentiary hearing. Mr. Freeman also appeared as FOE's advocate at the Oral Argument before the Commission. Mr. Freeman is a nationally prominent figure in the utility sector. As noted elsewhere in this Compensation Claim, Mr. Freeman donated 100% of his professional time and efforts in this matter pro bono, i.e., at no cost to FOE or to ratepayers, and so FOE does not seek any compensation for Mr. Freeman's services beyond his travel expenses. This was an extraordinary gesture by Mr. Freeman, and an extraordinary

	bargain for the ratepayers of California under the Intervenor Compensation program. Even though FOE does not seek any reimbursement for Mr. Freeman's professional services through the Intervenor Compensation Program, it is appropriate to include the foregoing brief description of his credentials in this Compensation Claim. It helps to demonstrate the sizable benefits ratepayers have received from Mr. Freeman's participation in this case as negotiator, expert witness and advocate on behalf of FOE. Mr. Freeman, according to his biographical statement, is "an engineer, attorney, author, utility manager, and eco-pioneer." He served as chief executive of several of the nation's major governmentally-owned and -operated electric utilities. Ranked in order of size, they are: Tennessee Valley Authority, Los Angeles Department of Water and Power, New York Power Authority, Sacramento Municipal Utility District, and the Lower Colorado River Authority. He played a major role under then-Governor Pete Wilson in the restructuring of California's electric utility industry, and in developing California's response to the Energy Crisis of 2000-2001. He served as an expert advisor to this Commission under then-President Daniel Wm. Fessler in the late 1990s. A copy of Mr. Freeman's biographical statement is included herewith as Attachment #6.
Comment #4	2017 Hourly Rate for Damon Moglen Mr. Moglen's Intervenor Compensation hourly rate in 2014 was $160 (approved in D.14-11-040). There was no COLA authorized by the Commission for 2015, therefore his 2015 rate remains at $160. The COLA approved by the Commission for 2016 was 1.28% (Resolution ALJ-329). Rounding to the nearest $5, his rate for 2016 would still remain at $160. For Mr. Moglen's work in 2017, FOE seeks an hourly rate of $165, an increase of 3.13% from the $160 rate previously approved for his work in 2014 (in D.14-11-040). This total 3.13% increase between 2014 and 2017 is below the cumulative increases permitted through the cost of living adjustments awarded for 2016 (1.28% in Resolution ALJ-329), and 2017 (2.14% in Resolution ALJ-345).

D. CPUC Disallowances and Adjustments:

Item	Reason
[A]	Commission finds reasonable a rate of $165.00 per hour for Moglen for work performed in 2017.

[B]	Time claimed prior to the release of the Joint Proposal (June 2016) is reimbursable at 50%. Only parts of the Joint Proposal made a substantial contribution to the decision on this proceeding. The Commission reduces the time claimed by 13.75 hours for Moglen in 2015.
[C]	Time claimed prior to the release of the Joint Proposal (June 2016) is reimbursable at 50%. Only parts of the Joint Proposal made a substantial contribution to the decision on this proceeding. The Commission reduces the time claimed by 199.00 hours for Moglen in 2016.

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))?	Yes

FINDINGS OF FACT

1. Friends of the Earth has made a substantial contribution to D.18-01-022.

2. The requested hourly rates for Friends of the Earth'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 of reasonable compensation is $243,398.61

CONCLUSION OF LAW

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

ORDER

1. Friends of the Earth shall be awarded $243,398.61.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company ratepayers shall pay Friends of the Earth 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 May 30, 2018, the 75th day after the filing of Friends of the Earth's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.

This decision is effective today.

Dated December 13, 2018, at Sacramento, California.

MICHAEL PICKER
President
CARLA J. PETERMAN
LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
Commissioners

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	D1812011	Modifies Decision?	No
Contribution Decision(s):	D1801022		
Proceeding(s):	A1608006		
Author:	ALJ Peter Allen		
Payer(s):	Pacific Gas and Electric Company ratepayers		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Friends of the Earth	March 15, 2018	$277,438.61	$243,398.61	N/A	50% reduction of hours spent negotiating the Joint Proposal.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Frank	Lindh	Attorney	FOE	$575.00	2016	$575.00
Frank	Lindh	Attorney	FOE	$585.00	2017	$585.00
Frank	Lindh	Attorney	FOE	$585.00	2018	$585.00
Damon	Moglen	Expert	FOE	$160.00	2015	$160.00
Damon	Moglen	Expert	FOE	$160.00	2016	$160.00
Damon	Moglen	Expert	FOE	$165.00	2017	$165.00

(END OF APPENDIX)