

Decision 21-04-011 April 15, 2021

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California
Environmental Justice Alliance for
Award of Intervenor Compensation
for Substantial Contribution to
Resolutions WSD-002, WSD-003,
WSD-004, WSD-005.

Application 20-07-023

**DECISION GRANTING INTERVENOR COMPENSATION TO THE
CALIFORNIA ENVIRONMENTAL JUSTICE ALLIANCE FOR CONTRIBUTION
TO RESOLUTIONS WSD-002, WSD-003, WSD-004, and WSD-005**

Summary

The California Environmental Justice Alliance is seeking \$41,854.80 in intervenor compensation for its contribution to the public process leading to the Commission's adoption of multiple Resolutions issued by the Wildfire Safety Division in 2020 related to the regulated utilities' Wildfire Management Plans. We award the Alliance \$30,890, plus interest, based on its contribution to the referenced resolutions. This proceeding is closed.

1. Background

Public Utilities Code Section 8386(b) requires each regulated electrical utility to annually prepare and submit a Wildfire Mitigation Plan (WMP) to the Commission's Wildfire Safety Division (WSD) for review and approval.¹

¹ All code references herein refer to the Public Utilities Code unless otherwise specified.

Section 8386.3(a) requires WSD to review and approve or deny each WMP within three months of submittal and for the Commission to ratify the WSD's actions. In rendering its approval, denial, or modification of the WMPs, the WSD is required to consider public comments submitted pursuant to subdivision (d) of Section 8386.

On May 7, 2020, WSD issued Draft Resolution WSD-002 proposing the Division's guidance on the evaluation of the electrical corporations' 2020 WMPs. That same day, WSD issued separate resolutions proposing their action on Pacific Gas and Electric Company (PG&E), Southern California Edison (SCE), and San Diego Gas & Electric Company (SDG&E)'s WMPs in Resolutions WSD-003, WSD-004, and WSD-005, respectively. Comments on Draft Resolution WSD-002, WSD-003, WSD-004, and WSD-005 were due on May 27, 2020. The California Environmental Justice Alliance (CEJA) was among several parties that provided comments on the draft resolutions, which were considered by WSD in developing the final Resolutions WSD-002, WSD-003, WSD-004, and WSD-005, as adopted by the Commission on June 11, 2020.

Sections 1801-1812 define the requirements for compensation provided to intervenors that significantly contribute to decisions or other formal actions that are ratified by the full Commission. On July 8, 2020, CEJA filed Application (A.) 20-07-023 seeking intervenor compensation (ICOMP) for its contribution to Resolutions WSD-002, WSD-003, WSD-004, and WSD-005. CEJA also requests compensation for hours spent providing comments on SCE and SDG&E's executive compensation structures, which, while approved by the WSD on June 30, 2020, were never considered or ratified by the Commission.²

² A.20-07-023 at 24.

A prehearing conference (PHC) was held on January 21, 2021, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary.

President Batjer issued a Scoping Memo and Ruling (scoping memo) defining the scope of the proceeding on February 10, 2021.

2. Issues Before the Commission

The issues to be determined, as set forth in the February 10, 2020, scoping memo are:

1. Does A.20-07-023 satisfy all the requirements of Sections 1801-1812?
2. Did CEJA make a significant contribution to Resolutions WSD-002, WSD-003, WSD-004, and WSD-005, as adopted by the Commission?
3. Is CEJA's time spent providing comments on the WSD's evaluation of executive compensation structures for SCE and SDG&E, which were not formally ratified by the full Commission, eligible for intervenor compensation?
4. Are CEJA's claimed costs and expenses reasonable and comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services?

3. Eligibility for ICOMP Related to Resolutions and Other WSD Actions

3.1. Notice of Intent and Claim of Significant Hardship

As part of A.20-07-023, CEJA filed a notice of intent to claim ICOMP, and documentation to support its claim as a Category 3 customer, an organized group that represents the interest of residential investor-owned utility

customers.³ CEJA further claims that each of its core and partner members could also qualify as Category 3 customers as defined in Section 1802(b). CEJA also provides documentation claiming significant financial hardship related to its contribution to the specified WSD resolutions, referencing a finding made in Rulemaking (R.) 19-11-009.⁴ Although CEJA claims that it and its members do not have any economic interest in this proceeding,⁵ because this proceeding is solely focused on a claim for ICOMP related to its prior alleged contributions to Commission decisions, we believe it and its members are economically invested in the current proceeding, A.20-07-023.

Because the WSD resolutions CEJA is seeking compensation for contributing to were not separate formal proceedings, no PHC was held and there was no deadline for filing a notice of intent to seek ICOMP. Therefore, we find that CEJA's notice of intent and claim of significant financial hardship, which were filed jointly with its ICOMP claim in A.20-07-023, meet the requirements for ICOMP established in Sections 1801-1812.

As stated in the scoping memo, we will not accept requests for ICOMP related to the instant proceeding.⁶

3.2. CEJA contribution to Resolutions WSD-002, WSD-003, WSD-004, and WSD-005

CEJA states that its comments on the draft resolutions issued by WSD led to modifications that improved the final language adopted by the Commission. Specifically, CEJA implies that its comments led WSD to:

³ A.20-07-023 at 4.

⁴ ALJ Chiv's March 13, 2020 ruling finding that CEJA has shown significant financial hardship in R.19-11-009 was based on the same information CEJA provided in A.20-07-023.

⁵ A.20-07-023 at 13.

⁶ Scoping Memo at 4.

1. Limit its review of the utilities' WMPs to only evaluate whether the proposals meet current requirements, rather than authorizing any costs associated with the proposed mitigation efforts.
2. Require the utilities to identify more strategic plans to prioritize grid hardening activities.
3. Require the utilities to conduct additional analyses to determine the effectiveness of their routine wildfire maintenance inspections.
4. Require the utilities to better coordinate with local communities when developing best practices for public safety power shutoff events (PSPS).

We find that CEJA did significantly contribute to the final resolutions, but modify the time claimed and amount awarded based on Tables 1 and 2 below.

3.3. CEJA Contribution to WSD Letter Evaluating SCE's Request for a Safety Certification

Additionally, CEJA claims that its comments on SCE and SDG&E's executive compensation structure proposals substantially contributed to the final letters issued by WSD director Caroline Thomas Jacobs on June 30, 2020.⁷ CEJA states that "although there has not been an official Commission action, CEJA believes that work related to the executive compensation structures should be compensated because WSD is reviewing the compensation structures pursuant to the Public Utilities Code."⁸

We find that the time CEJA spent providing comment on the safety certification is not eligible for ICOMP based on Sections 1801-1812, and

⁷ On June 30, 2020, WSD issued letters signed by Director Thomas Jacobs stating that parties' criticisms of the utility filings "have merit," but that the executive compensation filings ultimately met the statutory requirements established in Sections 8389(e)(4) and 8389(e)(6), albeit "minimally and conditionally."

⁸ A.20-07-023 at 24.

specifically Section 1802(g). Specifically, it has not shown that its work related to the executive compensation structures constitutes a “substantial contribution” within the meaning of Section 1802(j) or that it contributed to a proceeding within the meaning of Section 1802(g). The safety certifications, which include the executive compensation structures CEJA claims to have contributed to, were approved by WSD division staff but were not related to any orders or decision that were considered by or approved by the full Commission. While CEJA’s contributions may have aided the WSD staff-led process to review SCE and SDG&E’s initial executive compensation structure filings, we must reject CEJA’s request for compensation related to WSD’s staff process, because the letters were issued by WSD, without any order(s) or decision(s) adopted by the full Commission.⁹

3.4. Reasonableness of CEJA’s Claimed Costs Relative to Market Rates

We find that the rates sought for CEJA’s two attorneys and one expert align with the market rates appropriate for intervenors. As described in Tables 1 and 2 below, we increase the proposed 2020 rates based on the COLA approved in Resolution ALJ-387.

⁹ See Section 1802 (g).

3.5. Table 1: Claimed vs. Awarded ICOMP

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate	Total	Hours	Rate \$	Total \$
Attorney – Deborah Behles	2020	59.6	\$405	D.18-10-051, D.20-02-065	\$ 24,138	33.5 [1]	\$415 [2]	\$13,902.50
Attorney – Shana Lazerow	2020	31.2	\$395	D.18-10-051, D.20-02-065	\$ 12,324	30.8 [3]	\$405 [2]	\$12,474.00
Expert – Dan Sakaguchi	2020	14.9	\$163	Comment 4, Resolution ALJ-357	\$ 2,429	14.9	\$165 [2]	\$2,458.50
Subtotal: \$ 38,891						Subtotal: \$28,835		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Deborah Behles	2020	10.7	\$203	D.04-04- 012	\$2,172.10	6[4]	\$207.50[5]	\$1,245.00
Shana Lazerow	2020	4	\$198	D.04-04- 012	\$ 792.00	4	\$202.50[5]	\$810.00
Subtotal: \$ 2,964.10						Subtotal: \$2,055.00		
TOTAL REQUEST: \$ 41,854.80						TOTAL AWARD: \$30,890.00		

3.6. Table 2: Commission Comments, Disallowances, and Adjustments

[1] Behles hours claimed	Attorney Behles' hours claimed are reduced by 22.1 hours to better reflect CEJA's contribution to the WSD resolutions. Many of Behles' timesheet entries were for "continue to review" different documents, some of which were deducted given the number of pages CEJA filed in response to the four resolutions. Another 4 hours were deducted to reflect the time spent on SCE and SDG&E's executive compensation letters, which is ineligible for compensation under Section 1802(g).
[2] Approved 2020 rates	The rates approved in Table 1 above reflect the 2020 COLA adopted in Resolution ALJ-387.
[3] Lazerow hours claimed	0.4 of Attorney Lazerow's hours claimed were deducted to reflect the time spent on SCE's executive compensation letter, which is ineligible for compensation under Section 1802(g).
[4] Behles ICOMP preparation hours claimed	The bulk of CEJA's application was included as documentation for other ICOMP claims referenced in its application; as such we consider Behles' claim for more than 10 hours to complete the ICOMP claim documentation, on top of Lazerow's 4 hours, to be indefensible. We reduce Behles' claimed time to prepare the ICOMP claim by 4.7 hours, and award 6 hours of ICOMP preparation time, totaling 10 hours for both attorneys in this case.
[5] Approved 2020 ICOMP preparation rates	The rates approved in Table 1 above related to ICOMP preparation reflect the 50 percent of the rate adjusted to reflect the 2020 COLA adopted in Resolution ALJ-387.

4. Conclusion

Upon review of the final WSD resolutions and CEJA's comments, we find the appropriate compensation for CEJA's contribution to be \$30,890.00, plus interest, recoverable from PG&E, SCE, and SDG&E's ratepayers.

5. Waiver of Comment Period

Pursuant to Rule 14.6(c)(6), the standard public review and comment period is waived.

6. Assignment of Proceeding

Marybel Batjer is the assigned Commissioner and Carolyn M. Sisto is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. WSD received comments from CEJA related to Resolutions WSD-002, WSD-003, WSD-004, and WSD-005 that resulted in modifications in the final resolution language as adopted by the Commission on June 11, 2020.

2. CEJA's attorneys and expert comments significantly contributed to the final resolution language.

3. The hours claimed in A.20-07-023 for Attorney Behles do not reflect the contribution CEJA offered to WSD's resolution process and are reduced, as described in Section 3.6 above, to align with CEJA's contribution to the four resolutions.

4. WSD's letters approving SCE and SDG&E's executive compensation structures were not considered or approved by the full Commission.

5. Resolution ALJ-387, adopted by the Commission on October 8, 2020, grants a cost-of-living adjustment for work conducted in 2020 of 2.55% above the rates authorized in 2019.

6. The rates claimed by CEJA's attorneys and expert align with market rates paid to experts and advocates with comparable expertise conducting similar work and should be adjusted to reflect the 2020 cost of living adjustment adopted in Resolution ALJ-387.

7. The reasonable amount of compensation for CEJA's contribution to Resolutions WSD-002, WSD-003, WSD-004, and WSD-005 is \$30,890.00.

Conclusions of Law

1. CEJA's claim, with the adjustments established in Section 3 above, satisfies the requirements of Sections 1801-1812.

2. Section 1802(g) sets the definition of "proceeding" for ICOMP claims as "an application, complaint, or investigation, rulemaking, alternative dispute

resolution procedures in lieu of formal proceedings as may be sponsored or endorsed by the commission, or other formal proceeding before the commission.”

3. Staff issuance of letters accepting the executive compensation structures proposed by SCE and SDG&E, absent being sponsored or endorsed by the full commission, does not constitute a “proceeding” meeting the statutory requirements for intervenor compensation.

4. Section 1802(j) defines “substantial contribution” as: 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.

5. Work done by intervenors to support staff issuance of letters accepting the executive compensation structures proposed by SCE and SDG&E, absent any order or decision by the full Commission, does not constitute a “substantial contribution” meeting the statutory requirements for intervenor compensation.

6. CEJA’s contribution to WSD’s letters evaluating SCE and SDG&E’s executive compensation structures is ineligible for intervenor compensation under the requirements set forth in Sections 1801-1812 because the letters were not part of a formal Commission proceeding.

O R D E R

IT IS ORDERED that:

1. The California Environmental Justice Alliance shall be awarded \$30,890.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas &

Electric Company shall pay the California Environmental Justice Alliance their respective shares of the award, based on their California-jurisdictional electric revenues for the 2020 calendar year, to reflect the year in which the proceedings were primarily litigated. 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 September 21, 2020, the 75th day after the filing of Application 20-07-023, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. Application 20-07-023 is closed.

This order is effective today.

Dated April 15, 2021, at San Francisco, California.

MARYBEL BATJER
President
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
DARCIE HOUCK
Commissioners