

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

~~July 30, 2021~~~~**Agenda ID #19728**
Ratesetting~~~~TO PARTIES OF RECORD IN APPLICATION 21-03-007:~~

~~This is the proposed decision of Administrative Law Judge (ALJ) Hallie Yacknin. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's September 9, 2021 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.~~

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

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

~~/s/ ANNE E. SIMON~~
Anne E. Simon
Chief Administrative Law Judge

AES:nd3
Attachment

A. ~~14-04-013 et al. 21-03-007~~ ALJ/~~KJB~~HSY/nd3/gp2
~~[4/22/20] Internal Review Draft; Subject to ALJ Division Review~~
CONFIDENTIAL; Deliberative Process Privilege

HSY/nd3

PROPOSED DECISION

Agenda ID #19728 (Rev.1)

Ratesetting

9/23/2021 Item #21

Decision PROPOSED DECISION OF ALJ YACKNIN (Mailed 7/30/2021)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Small Business Utility Advocates
 for Award of Intervenor Compensation for
 Substantial Contribution to Resolution E-5073.

Application 21-03-007

**DECISION ON INTERVENOR COMPENSATION
 CLAIM OF SMALL BUSINESS UTILITY ADVOCATES**

Intervenor: Small Business Utility Advocates	For contributions to Resolution (Res.) E-5073
Claimed: \$10,374.25	Awarded: \$4,215.75 <u>\$6,303.75</u>
Assigned Commissioner: Martha Guzman Aceves	Assigned ALJ: Hallie Yacknin

BACKGROUND

Sections 1801-1812 of the Public Utilities Code 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 March 15, 2021, Small Business Utility Advocates filed Application 21-03-006 seeking intervenor compensation for its contribution to Resolution E-5073.

A prehearing conference to discuss the issues of law and fact, determine the need for hearing, and set the schedule for resolving the matter was held on May 3, 2021. The May 26, 2021, Assigned Commissioner’s Scoping Memo and Ruling identified the issues to be determined or otherwise considered pursuant to Sections 1801-1812 as follows, upon which the matter was submitted:

1. Has the Intervenor demonstrated customer status?
2. Has the Intervenor demonstrated significant financial hardship?
3. Was the request for compensation timely?
4. Did the applicant substantially contribute to Resolution E-5073?

5. Was the applicant’s effort duplicative of other participants in the matter?
6. What amount of compensation is appropriate to reflect the applicant’s contribution to the resolution?

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	Resolution E-5073 approves, with modification, the Tier 3 Advice Letter (AL) 5731-E and Supplemental Advice Letter 5731-E-A filed by Pacific Gas and Electric Company (PG&E) requesting up to \$6,400,000 to create a new electric water heating thermal energy storage program called WatterSaver.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812¹:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	No Prehearing Conference was held for this matter.	Verified
2. Other specified date for NOI:	N/A	Verified
3. Date NOI filed:	N/A	Verified
4. Was the NOI timely filed? See comment below.		Because Since Resolution (Res.) E-5073 resolves an advice letter, no prehearing conference was held in that matter and there was no deadline for filing a notice of intent to seek intervenor compensation for contribution to the resolution. Therefore, we find that SBUA’s notice of intent and claim of significant financial hardship, which were filed jointly with Application (A.) A.21-03-007, meet

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

	Intervenor	CPUC Verification
		the is not a “formal proceeding,” in which <u>intervenor compensation claims can be filed (see Section 1801.3(a)),</u> SBUA, in accordance with our guideline, ² has initiated the subject application ³ so that the claim pertaining to Res. E-5073 can be resolved. The NOI was filed timely as an attachment to the application, consistent with our requirements established in Sections 1801-1812.
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:	R.20-08-020	Verified
6. Date of ALJ ruling:	December 23, 2020	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:	R.20-08-020	Verified
10. Date of ALJ ruling:	December 23, 2020	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes

² See the Intervenor Compensation Program Guide published at www.cpuc.ca.gov, at page 27.

³ See examples of the applications for intervenor compensation for contributions to resolutions (A.18-02-005, A.20-03-018, A.20-08-004, etc.).

A.14-04-013 ~~et al.~~ 21-03-007 ALJ/KJBHSY/nd3/gp2
~~[4/22/20] Internal Review Draft; Subject to ALJ Division Review~~
CONFIDENTIAL; ~~Deliberative Process Privilege~~

	Intervenor	CPUC Verification
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	Resolution E-5073	Verified
14. Date of issuance of Final Order or Decision:	January 15, 2021	Verified
15. File date of compensation request:	March 15, 2021	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I: (use line reference # as appropriate)

#	Intervenor’s Comment(s)	CPUC Discussion
B.1-4	<p>In matters where no prehearing conference is held, the Commission may determine the procedure to be used to evaluate compensation requests. <i>See</i> Pub. Util. Code § 1804(a)(1).</p> <p>For compensation requests involving Advice Letters and Resolutions, the Commission has approved of intervenors incorporating NOIs in a timely-filed Request for Compensation—or in the case of Resolutions, within 60 days of the issuance of the Resolutions. <i>See, e.g.,</i> D.98-11-049 (“Neither the Code nor our rules provide when an NOI must be filed in advice letter proceedings. [Intervenor] Weil filed a joint NOI and compensation request within 60 days (adjusting for a weekend) after the issuance of Resolution E-3516. We conclude that this was reasonable and find that the NOI was filed on a timely basis.”).</p> <p>Following this approach, SBUA attaches to this Application and compensation request our NOI for this proceeding.</p>	Noted See Part I(B)(4)
B.9-10	<p>SBUA also received a ruling on its customer status and showing of significant financial hardship in A.18-11-005 on June 24, 2019, within one year prior to SBUA commencing activities related to Resolution E-5073. <i>See</i> Pub. Util. Code § 1804(b)(1).</p>	Verified

PART II: SUBSTANTIAL CONTRIBUTION

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

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>1. Program details: Clarification of the program budget</p> <p>In its protest, SBUA pointed out that there was a lack of detail in AL 5731-E with respect to the budget to effectively evaluate the program. (SBUA Protest to AL 5731-E at p. 3.)</p> <p>The Energy Division agreed that the level of program details provided in the... initial AL were lacking in substantive detail and issued a Supplemental AL Request for AL 5731-E requesting PG&E to provide a program budget that, at a minimum, shows program incentive costs, outreach and education costs, and program administration costs. (Energy Division Supplemental AL Request, dated June 9, 2020, at p. 2.)</p>	<p>The Commission found that the additional details provided in the supplemental AL clarified many of the concerns raised by SBUA, including the program’s budget. (Resolution E-5073 at pp. 29.)</p> <p>The Commission also directed PG&E to file a Tier 2 AL to Energy Division by December 31, 2021, including a revised program budget, including budget categories, and cost-effectiveness analysis in alignment with Resolution E-5073. (Resolution E-5073 at pp. 51.)</p> <p>Ordering paragraph #8: “Pacific Gas and Electric Company shall submit no later than December 31, 2021, a Tier 2 Advice Letter to Energy Division, which includes the first WatterSaver program annual program report, a revised program budget, budget categories, and cost-effectiveness analysis.” (Resolution E-5073 at Ordering paragraph 8.)</p>	<p>SBUA’s comment on the general issue of the program budget consists of the following statements:</p> <p>“PG&E has not proposed a budget for this program [...] It is not clear whether PG&E will have sufficient resources to fund residential and small-business participation. More detail is necessary.” (SBUA protest, p.3.)</p> <p>Energy Division requested further details on PG&E’s budget, and Res. E-5073 orders PG&E to file an advice letter including a revised program budget including budget categories. SBUA’s comment contributed to Energy Division’s request for this further information.</p> <p>Nothing in Energy Division’s request or</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
		<p>Res. E-5073 addresses or endorses the concern that PG&E’s budget might be insufficient to fund participation.</p> <p>SBUA’s comment did not contribute to Res. E-5073 with respect to consideration of the sufficiency of PG&E’s program budget.</p>
<p>2. Program details: Appropriately designed control approach with a closer look at the cost-effectiveness of a TOU rate</p> <p>In its protest, SBUA highlighted the lack of detail in AL 5731-E with respect to control strategies for small business participants. (SBUA Protest to AL 5731-E at p. 3-4.)</p> <p>The Energy Division agreed that the level of program details provided in the... initial AL were lacking in substantive detail and issued a Supplemental AL Request for AL 5731-E requesting PG&E to explain whether the WatterSaver program would utilize any additional control strategies besides the daily TOU shifting strategy</p>	<p>The Commission found that the additional details provided in the supplemental AL clarified many of the concerns raised by SBUA, including the program’s energy storage control strategies. (Resolution E-5073 at pp. 29.)</p> <p>“Pacific Gas and Electric Company, in its December 31, 2021 Tier 2 Advice Letter filing shall determine and propose how the WatterSaver program, including but not limited to... program control strategies... could be modified to improve cost-effectiveness, maximize ratepayer benefits, and lessons learned in relation to other related programs adopted.” (Resolution E-5073 at Ordering paragraph 9.)</p> <p>The Commission further stated, “It is reasonable to allow PG&E the opportunity to determine and propose in its December 31, 2021 Tier 2 AL, how the WatterSaver program, including but not limited to...</p>	<p>SBUA’s comment on this issue consists of (1) listing PG&E’s 4 control strategies, (2) asserting that event-based and arbitrage-based dispatch provides the greatest benefit to the system, and (3) identifying the existing TOU rates as the least desirable option for not providing sufficient incentive for participants to shift load. The comment does not highlight lack of detail with respect to control strategies either generally or for small business participants. (SBUA protest, pp.</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>identified in the advice letter. (Energy Division Supplemental AL Request at p. 2.)</p>	<p>program control strategies, ...could be modified to improve cost-effectiveness in relation to other CPUC programs.” (Resolution E-5073 at Finding 54.)</p>	<p>3-4.)</p> <p>In contrast, the Public Advocates Office (Cal Advocates) identified specific details needed to assess the program’s cost-effectiveness and reasonableness including (1) the program’s incentive levels, (2) the TOU rates in which customers would be required to enroll, (3) estimated bill savings and (4) demonstration of greenhouse gas emission reductions. In addition, Cal Advocates provided a detailed explanation of the shortcomings of using PG&E’s default TOU rates. (Cal Advocates, pp. 4-6.)</p> <p>To the extent that SBUA’s comment contributed to Energy Division’s solicitation of supplemental information from PG&E and to the Commission’s determination to direct PG&E to</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
		<p>report on how its program control strategies could be improved, its contribution on this issue is duplicative of that of Cal Advocates on this issue, as discussed in Section II.B below.</p> <p><u>Verified.</u></p>
<p>3. Program details: Greater detail on program incentives for small business ratepayers</p> <p>In its protest, SBUA argued that there was a lack of detail in AL 5731-E on the issue of incentives for small business participants. (SBUA Protest to AL 5731-E at p. 4-5.)</p> <p>The Energy Division agreed that the level of program details provided in the... initial AL were lacking in substantive detail and issued a Supplemental AL Request for AL 5731-E requesting that PG&E explain how small commercial participant incentives were to be calculated. (Energy Division Supplemental AL Request at p. 1.)</p>	<p>The Commission found that the additional details provided in the supplemental AL clarified many of the concerns raised by SBUA, including the incentive amounts provided to commercial customers. (Resolution E-5073 at p. 29.)</p> <p>It is reasonable to allow PG&E the opportunity to determine and propose in its December 31, 2021 Tier 2 AL, how the WatterSaver program, including but not limited to, program incentive values..., could be modified to improve cost-effectiveness in relation to other CPUC programs. (Resolution E-5073 at Finding 54.)</p> <p>Pacific Gas and Electric Company, in its December 31, 2021 Tier 2 Advice Letter filing shall determine and propose how the WatterSaver program, including but not limited to program incentive structures [and] program incentive values..., could be modified to improve cost-effectiveness, maximize ratepayer benefits, and lessons learned in relation to other related programs adopted. (Resolution E-5073 at</p>	<p>SBUA’s comment on this issue notes that PG&E did not provide detail on how incentive checks would be computed or what “participation” means to allow determination of whether the program is useful or cost-effective. (SBUA, pp. 4-5.)</p> <p>In contrast, as discussed in Section II.A.2, above, Cal Advocates provided much more substantive and detailed comment on the need for more detailed information regarding customer incentives and program cost-effectiveness. To the extent that</p>

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	Ordering paragraph 9.)	<p>SBUA's comment contributed to Energy Division's solicitation of supplemental information from PG&E and to the Commission's determination with regard to this issue; its contribution on this issue is duplicative of that of Cal Advocates, as discussed in Section II.B below.</p> <p>Verified.</p>
<p>4. Plan to ensure adequate small business participation in WatterSaver</p> <p>In its protest to PG&E's advice letter (AL 5731-E), SBUA stated its concerned that the program was not set up to ensure adequate small business participation in the program. (SBUA Protest to AL 5731-E, dated Jan. 21, 2020, at p. 2-3.)</p>	<p>On January 28, 2020, PG&E responded to SBUA's concerns and agreed to work with SBUA and other stakeholders to discuss these ideas on an appropriate program implementation that deploys energy storage projects for small businesses. (PG&E's Reply to the Protest in AL 5731-E, dated Jan. 28, 2020, p. 3.) PG&E also clarified that small business customers in all areas are eligible for the WatterSaver program. (<i>Id.</i>)</p> <p>In the final Resolution, the Commission found that PG&E's program appropriately serves small business customers. (Resolution E-5073 at pp. 29-30.)</p>	<p>Res. E-5073 rejects SBUA's claim that the program is not set up to ensure adequate small business participation stating, "We find this claim to be untrue. In D.19-06-032, we made it clear that the approved program was not required to adopt a carve-out for small business, noting that 'AB 2868 did not call out specific requirements for small businesses to receive a portion of capacity authorized in this statute.' ... We find that PG&E, through</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
		<p>proposed inclusion of approximately 100 HPWHs and ERWHs from the small business sector in the WatterSaver program, is in compliance with the guidance provided in D.19-06-032.</p> <p>Additionally, we are confident that this small deployment size will help verify the ability of commercial electric water heaters to meet the goals of AB 2868 and inform the record for future smart control-enabled commercial water heating programs that the CPUC may have to consider.</p> <p>With respect to PG&E’s expressed willingness to work with SBUA and other stakeholders, Res. E-5073 notes that D.19-06-032 previously stated that “PG&E, and the other IOUs, are welcome to work with SBUA and other stakeholders to develop programs that deploy energy storage projects for small business</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
		<p>provided the programs meet the requirements of law and Commission Decision.” SBUA’s statements of concerns in its protest to the advice letter did not contribute to this pre-existing Commission direction to PG&E and SBUA or to the resolution in this regard.</p>
<p>5. Other Issues (efforts to consolidate matters with A.20-03-002)</p> <p>In its protest letter to PG&E AL 5731-E-A: Supplemental, SBUA argued for the Energy Division to recommend and request that this matter be assigned to A.20-03-002 <i>et al.</i> for full consideration and briefing by interested parties in those hearings. (SBUA Protest to AL 5731-E-A at p. 1-2.)</p>	<p>Although the Commission did not agree with SBUA on this point, SBUA spent a very reasonable amount of time on this issue. Furthermore, this was valuable advocacy in an attempt to save the Commission and parties resources.</p>	<p>Res. E-5073 is silent on and does not entertain SBUA’s recommendation. SBUA’s advocacy on this issue did not contribute to the resolution.</p>

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

	Intervenor's Assertion	CPUC Discussion
a. Was the Public Advocate's Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding? ²⁴	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	No	Verified
c. If so, provide name of other parties: N/A		Noted
d. Intervenor's claim of non-duplication: All of the hours claimed by SBUA are non-duplicative and should be fully compensated. While Cal Advocates may have had positions that were similar to SBUA's in some instances, SBUA focused exclusively on the interests of small businesses. As a result, SBUA presented unique perspectives on the concerns of small business ratepayers as a group as opposed to other customer classes. Therefore, SBUA's perspectives and goals were necessarily different from those of Cal Advocates' and supplemented—not duplicated—any of Cal Advocates' efforts on common issues.		<p>Apart from SBUA's identification of the lack of program budget details (Section II.A.1, above), SBUA's participation duplicated and did not materially supplement, complement or contribute to Cal Advocates' presentation.</p> <p>That SBUA's interests and goals are different from those of Cal Advocates does not alter this fact.</p> <p><u>Cal Advocates' and SBUA's protest letters were submitted on the same date.</u></p> <p><u>While SBUA's protest regarding Issues 2 and 3 was duplicative of Cal Advocates' on those issues, we do not disallow SBUA's claim for duplication because Cal Advocates and SBUA did not present duplicative positions in the underlying proceeding, Application (A.) 18-02-016 and related</u></p>

²⁴ The Office of Ratepayer Advocates was renamed the Public Advocate's Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

	Intervenor's Assertion	CPUC Discussion
		matters such that SBUA reasonably would have been placed on notice of the potential for duplication in their respective protest letters.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
<p>a. Intervenor's claim of cost reasonableness:</p> <p>SBUA participated in this matter to continue our advocacy in energy storage proceedings on behalf of small business ratepayers. Small businesses are an important customer class to consider in the development of energy storage programs, and SBUA has been active in several energy storage dockets, including in A.18-03-001 where SBUA generally supported PG&E's behind-the-meter (BTM) program as set forth in Decision 19-06-032. SBUA responded to PG&E' WatterSaver Advice Letters to further encourage BTM and cost-effective energy storage programs that incentivize small businesses to participate.</p> <p>SBUA's compensation request seeks an award of \$10,374.25 for work performed related to AL 5731-E, Supplemental AL 5731-E-A and Resolution E-5073. The Commission should find that this is a reasonable request for fees because of SBUA's unique and valuable contribution to the resolution of this matter, the Commission cited to and considered SBUA's positions in the final Resolution, and SBUA's advocacy was to the benefit of small business and other ratepayers. In addition, SBUA's advocacy and request are reasonable considering the size and cost of PG&E's WatterSaver program up to \$6,400,000 dollars.</p>	<p>SBUA's interest and participation in this matter is noted.</p> <p>SBUA's cost of participation in this matter relative to the cost of PG&E's program is noted.</p> <p>SBUA's contribution to Resolution E-5073 is as discussed above.</p>
<p>b. Reasonableness of hours claimed:</p> <p>SBUA relied on two attorneys and one expert for its advocacy related to this compensation request. SBUA devoted less than 18 hours of professional time to this matter, which is reasonable considering the importance of energy storage to ratepayers and the WatterSaver program specifically (along with its \$6.4 million-dollar budget). SBUA energies were focused on ensuring small business participation in the program</p>	<p>Noted</p>

	CPUC Discussion
<p>and important program details as they related to the cost-effective participation of small businesses.</p> <p>SBUA’s President and General Counsel, James Birkelund, acted as lead attorney on this matter related to SBUA’s protest to AL-5731-E, and he previously represented SBUA in A.18-03-001, which led to the approval of PG&E’s BTM program in Decision 19-06-032. SBUA seeks compensation for approximately 9.6 hours.</p> <p>Beginning in June 2020, Itzel Berrio Hayward took the lead on this matter. Ms. Berrio Hayward, a senior attorney, was responsible for research, drafting SBUA’s protest to the Supplemental AL 5731-E-A, reviewing filings, and coordinating with SBUA’s expert. Ms. Berrio Hayward spent 2.5 hours on this matter.</p> <p>SBUA’s outside consultant Paul Chernick at Resource Insight, Inc. served as SBUA’s lead consultant and utility expert in this proceeding. He played a critical role in analyzing issues and developing and promoting SBUA’s positions. In this capacity, he dedicated 5.5 hours to this matter.</p> <p>As discussed above, SBUA submits that it made significant contributions to the proceeding and all of the recorded hours claimed were reasonably and efficiently expended.</p>	
<p><u>Topics related to Resolution E-5073</u></p> <p><u>Issue 1</u>: Program details: Program budget</p> <p><u>Issue 2</u>: Program details: Control approach</p> <p><u>Issue 3</u>: Program details: Program incentives for small business ratepayers</p> <p><u>Issue 4</u>: Small business participation in WatterSaver</p> <p><u>Issue 5</u>: Other Issues (consolidating the matter with A.20-03-002)</p> <p><u>Issue 6</u>: General Participation</p>	<p>The hours claimed related to Issue 1 (program budget), Issue 2 (control approach), Issue 3 (program incentives) and Issue 6 (general participation) are reasonable.</p>

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
James Birkelund	2020	9.6	\$510	D.20-06-015 escalated by a 2.55% COLA increase per Res. ALJ-387	\$4,896.00	3.86.9 [1]	\$510[2]	\$1,938.00 <u>\$3,519.00</u>
Itzel Berrio Hayward	2020	2.5	\$495	Res. ALJ-387; see Comment 1	\$1,237.50	0 [1]	\$495[3]	\$0.00
Paul Chernick	2019	1	\$400	D.20-06-015.	\$400.00	0.50.8 [1]	\$400	\$200.00 <u>\$320.00</u>
Paul Chernick	2020	4.5	\$430	D.20-06-015, increased by a 5% step increase and escalated by a 2.55% COLA increase per Res. ALJ-387; see Comment 2.	\$1,935.00	0.41.3 [1]	\$430 [4]	\$172.00 <u>\$559.00</u>
Subtotal: \$8,468.50						Subtotal: \$2,310.00<u>4,398.00</u>		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Itzel Berrio Hayward	2021	7.7	\$247.5	50% of 2020 rate, see Comment 3.	\$1,905.75	7.7	\$247.50	\$1,905.75
Subtotal: \$1,905.75						Subtotal: \$1,905.75		
TOTAL REQUEST: \$10,374.25						TOTAL AWARD: \$4,215.75<u>6,303.75</u>		
<p>*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§ 1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors' records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer's normal hourly rate</p>								
ATTORNEY INFORMATION								
Attorney			Date Admitted					

CLAIMED			CPUC AWARD
	to CA BAR ³⁵	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
James M. Birkelund	March 2000	206328	No
Itzel Berrio Hayward	December 1997	192385	No

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

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	Timesheets with Allocation of Hours by Issue
Attachment 3	Resumé / Professional Qualifications of Itzel Berrio Hayward
Attachment 4	Notice of Intent to Claim Compensation
Attachment 5	PG&E AL 5731-E
Attachment 6	SBUA Protest to AL 5731-E
Attachment 7	PG&E Reply to Protest to AL 5731-E
Attachment 8	Energy Division Supplemental AL Request
Attachment 9	PG&E Supp AL 5731-E-A
Attachment 10	SBUA Protest to AL 5731-E-A
Attachment 11	Resolution E-5075
Comment 1	<p><u>2020 Hourly Rate for Itzel Berrio Hayward</u></p> <p>SBUA seeks an hourly rate for the work of attorney Itzel Berrio Hayward of \$495 for her work in 2020.</p> <p>The requested rate reflects Ms. Berrio Hayward's 23 years of experience as an attorney, including experience before this and other states' public utilities commissions.</p>

³⁵ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

Attachment or Comment #	Description/Comment
	<p>Ms. Berrio Hayward first appeared before the California Public Utilities Commission in 1997 after receiving a fellowship from the Greenlining Institute. She served as Law and Policy Fellow at Greenlining Institute from 1997 to 1998. After that, she worked at a major San Francisco law firm where she served as outside counsel for an Incumbent Local Exchange Carrier. Then in 1999 she took a position as a Government and Industry Affairs Attorney for NorthPoint Communications, a Competitive Local Exchange Carrier. While there, she appeared at different state public utilities commissions across the country. After NorthPoint dissolved in 2000, Ms. Berrio Hayward returned to Greenlining and served as its Deputy General Counsel for five years. In D.04-10-033, the Commission approved an hourly rate of \$300 for Ms. Berrio Hayward for work performed in 2004.</p> <p>From 2005 to 2010, Ms. Berrio Hayward served as an executive staff member in the State Bar of California—a highly complex, open, and transparent public setting tasked with protecting consumers, enhancing justice, and balancing the needs of multiple constituencies. While there, she assisted in matters before the State Bar Court all the way up to appeals before the California Supreme Court.</p> <p>In 2010, Ms. Berrio Hayward started her own business and continued working with attorneys in a variety of ways, including by becoming a certified as a Minimum Continuing Legal Education (MCLE) Provider by the State Bar of California.</p> <p>In 2017, Ms. Berrio Hayward opened her own legal practice with a focus on advising electric and telecommunications utilities on a broad range of commercial, regulatory, and policy issues. She also served as a subcontractor for a law firm doing contract work for an Investor-Owned Utility.</p> <p>Ms. Berrio Hayward’s requested rate of \$495 falls in the middle of the approved range of rates for her experience level set forth in Resolution ALJ-387. For these reasons, the Commission should find Ms. Berrio Hayward’s requested rate for her work in 2020 to be reasonable.</p>
Comment 2	<p><u>2020 Hourly Rate for Expert Paul L. Chernick</u></p> <p>The Commission set Mr. Chernick’s 2019 rate at \$400 in D.20-06-015. For 2020, SBUA requests a step increase and COLA adjustment with the resultant rate for Mr. Chernick of \$430 per hour (400*1.05*1.0255, rounded to the nearest five, per D.13-05-009). Resolution ALJ-387 states that “It is reasonable to allow individuals an annual “step increase” of five percent,</p>

Attachment or Comment #	Description/Comment
	twice within each experience level and capped at the maximum rate for that level, as authorized by D.07-01-009.” Mr. Chernick has not received a step increase for his experience level. In addition, Resolution ALJ-387 proposes a Cost-of-Living Adjustment (COLA) of 2.55% for 2020.
Comment 3	<p>Because all merit work related to these decisions was completed by calendar year 2020, SBUA is seeking compensation for time spent in 2021 on this request at ½ our standard hourly rates for 2020.</p> <p>SBUA plans to and reserves its right to request updated rates for 2021 in accordance with the market study and formulas adopted by the Commission in Resolution ALJ-393, issued on December 22, 2020, in our future requests for compensation that include work in 2021.</p>

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
[1] Disallowance of hours claimed	<p>The hours claimed related to Issue 2 (program control approach), Issue 3 (program incentives for small business ratepayers), Issue 4 (small business participation in WatterSaver) and Issue 5 (consolidating the matter with A.20-03-002) are disallowed for SBUA’s failure to substantially contribute to Res. E-5073 on these issues.</p> <p>With respect to Issue 1 (program budget), although Res. E-5073 ignores SBUA’s contention regarding the sufficiency of the program budget, Energy Division acted consistent with SBUA’s contention regarding the lack of budget detail by requesting additional information.</p> <p>Pub. Util. Code § 1802(j) allows an award of compensation for all reasonable fees and costs even if the decision adopts the intervenor’s contentions and recommendations only in part. <u>We</u> <u>For this reason, we</u> allow compensation of all reasonable fees and costs related to Issue 1. However, it is unreasonable to allow an award of compensation for costs related to Issues 2 through 5 as the proportion of the costs related to the issue upon which SBUA substantially contributed is small relative to the costs related to the other issues.</p>
[2]	We have applied the 2.55% 2020 COLA to James Birklund’s 2019 rate, per Res. ALJ-387, bringing the 2020 Rate to \$510.00 after rounding to the nearest \$5 per D.08-04-010.

Item	Reason
[3]	Upon verification of Ms. Berrio Hayward’s experience, we find the requested 2020 rate of \$495.00 to be reasonable.
[4]	We find the requested 2020 rate of \$430.00 to be reasonable for Paul Chernick. We apply the requested first 5% step increase and 2.55% 2020 COLA to the 2019 rate of \$400, bringing the 2020 rate of \$430.00 after rounding to the nearest \$5, per D.08-04-010.

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

PART ~~IV~~V: COMMENTS ON AND REVISIONS TO PROPOSED DECISION

SBUA filed comments on the proposed decision on August 19, 2021, objecting to the proposed disallowances for duplication of Cal Advocates’ participation on issues 2 and 3. The proposed decision is revised to allow compensation for SBUA’s participation on those issues as discussed above.

PART VI: ASSIGNMENT OF PROCEEDING

Martha Guzman Aceves is the assigned Commissioner and Hallie Yacknin is the assigned Administrative Law Judge in this proceeding.

FINDINGS OF FACT

1. Small Business Utility Advocates has made a substantial contribution to Resolution E-5073 as described herein.
2. The requested hourly rates for Small Business Utility Advocates’ representatives 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, are reasonable and commensurate with the work performed and contribution made to Resolution E-5073.
4. The total of reasonable compensation is \$~~4,215.75~~6,303.75.

CONCLUSION OF LAW

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

ORDER

1. Small Business Utility Advocates shall be awarded \$~~4,215.75~~6,303.75.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay Small Business Utility Advocates 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 29, 2021, the 75th day after the filing of Small Business Utility Advocates' request, and continuing until full payment is made.
3. The comment period for today's decision is not waived.
4. ~~Application 21-03-007 is closed.~~

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	Resolution E-5073		
Proceeding(s):	A2103007		
Author:	ALJ Yacknin		
Payer(s):	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Small Business Utility Advocates	March 15, 2021	\$10,374.25	\$4,215.75 \$6,303.75	N/A	See CPUC Comments, Disallowances, and Adjustments above.

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Itzel	Berrio Hayward	Attorney	\$495	2020	\$495
Paul	Chernick	Expert	\$400	2019	\$400
Paul	Chernick	Expert	\$430	2020	\$430
James	Birkelund	Attorney	\$510	2020	\$510

(END OF APPENDIX)

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