

Decision 22-01-007 January 13, 2022

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements.

Rulemaking 16-02-007

**DECISION GRANTING COMPENSATION TO
ENVIRONMENTAL DEFENSE FUND
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 20-03-028**

Intervenor: Environmental Defense Fund	For contribution to Decision (D.) 20-03-028
Claimed: \$31,117.80	Awarded: \$31,275.50
Assigned Commissioner: Clifford Rechtschaffen ¹	Assigned ALJ: Julie Fitch

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	<p>This decision adopts an optimal portfolio, known as the Reference System Portfolio, to be used by all load-serving entities required to file individual integrated resource plans in 2020. The Decision orders the load serving entities to file individual integrated resource plans considering two different greenhouse gas emissions reductions targets, one at 46 MMT and one at 38 MMT. The load serving entities are required to demonstrate how they will accomplish their proportional share of both targets.</p> <p>In addition, the decision addresses a petition of modification of Decision 19-04-040 and two petitions for modification of Decision 19-11-016. The decision</p>
--	--

¹ This claim was reassigned to Commissioner Clifford Rechtschaffen on February 12, 2021.

	granted in part and denied in part the two pending petitions for modification, making clarifications for the role of fossil and hybrid resources.
--	---

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812²:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	April 26, 2016	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	May 19, 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:	R.12-06-013	R.20-01-007
6. Date of ALJ ruling:	February 25, 2013	May 29, 2020
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.20-01-007	Verified
10. Date of ALJ ruling:	May 29, 2020	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.20-03-028	Verified
14. Date of issuance of Final Order or Decision:	04/06/2020	Verified

² All statutory references are to California Public Utilities Code unless indicated otherwise.

	Intervenor	CPUC Verification
15. File date of compensation request:	06/03/2020	Verified
16. Was the request for compensation timely?		Yes

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. On January 4, 2019 EDF filed Comments on Inputs and Assumptions for Development of the 2019-2020 Reference System Plan in response to the November 29, 2018 ALJ Ruling.</p> <p>EDF comments are not listed in the Decision but were timely filed. Due to a re-service issue, EDF suspects this was inadvertently given the wrong date by docket office as 1/14/2019, which is a date that other comments were due in the same docket. At any rate, the Comments were timely submitted and included in the record.</p>	<p>“Comments in response to the November 29, 2018 inputs and assumptions ruling were timely filed no later than January 4, 2019 by the following parties...”</p>	Verified
<p>2. On January 15, 2019 EDF filed Reply Comments on Inputs and Assumptions in response to the Opening Comments on the November 29, 2018 ALJ Ruling.</p>	<p>“Reply comments in response to the November 29, 2018 inputs and assumptions ruling were timely filed no later than January 16, 2019, by the following parties... Environmental Defense Fund (EDF)” page 7</p>	Verified
<p>2. EDF filed Comments jointly with California Environmental Justice Alliance and Sierra Club on March 5, 2019 in response to the February</p>	<p>“Comments in response to the February 11, 2019 scenarios ruling were timely filed no later than March 7, 2019 by the following parties... CEJA and Sierra Club” (page 7)</p>	Verified

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
11, 2019 ALJ Ruling, though EDF is not listed among the Joint Parties.		
3. EDF submitted Reply Comments jointly with California Environmental Justice Alliance, Sierra Club and Natural Resources Defense Council on March 15, 2019 in response to the February 11, 2019 ALJ Ruling.	“Reply comments in response to the February 11, 2019 scenarios ruling were timely filed no later than March 15, 2019 by the following parties:... Sierra Club, EDF, CEJA, and NRDC, jointly” (page 7-8)	Verified
4. EDF submitted comments on December 17, 2019 in response to the November 6, 2019 ALJ Ruling. Comments from EDF include commentary on the GHG emissions reduction target for the reference system plan, cost increases for natural gas fired generation and changes to the wholesale day ahead market.	“Comments were timely filed no later than December 17, 2019 by the following parties...EDF” (page 9)	Verified
5. EDF jointly with Union of Concerned Scientists and Natural Resources Defense Council submitted a Response to the Application for Rehearing of Decision 19-11-016. The same topic was also addressed as a Petition for Modification of D.19-11-016 by the same parties. Since Decision 20-03-028 addressed the Petition for Modification, the Application for Rehearing was rendered moot. At the conclusion of the Response, we state: “While the Environmental Parties recognize that this Application for Rehearing may not	The Commission states “For all of these reasons, we grant the Joint PFM of CEJA, Sierra Club, DOW and Cal Advocates, and include the above clarifications of the Commission’s intent.” EDF Response was directly on point to the issues raised in the PFM as addressed in the Decision. “CEJA, Sierra Club, DOW, and Cal Advocates continue to ask that the Commission approve their PFM of D.19-11-016. GPI and several other parties agree.” (page 93)	Verified

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>be the most expeditious procedural vehicle to address this vague language, it is clear that the Commission needs to take swift and decisive action. As such the Environmental Parties urge the Commission to take up the Application, or, in the alternative, the Joint Parties’ Petition for Modification or an Order Correcting Error, in order to remove inconsistencies between the language in the Decision and Findings of Fact and statutory requirements. Regardless of the procedural vehicle, the Environmental Parties encourage the Commission to make the needed clarifications promptly.” (page 3).</p>		
<p>6. EDF submitted Opening Comments on Proposed Decision on March 12, 2020.</p> <p>EDF’s Opening Comments focused on the need for a lower GHG emissions reduction target, the need to change the terminology on pumped hydro storage to long duration storage, changes to the language on the resolution for the Petition for Modification. Additional detail given on these topics below.</p>	<p>“Comments were filed on March 12, 2020 by the following parties...EDF...” (page 85)</p>	<p>Verified</p>
<p>7. EDF filed Reply Comments on the Proposed Decision March 17, 2020</p>	<p>“Reply comments were filed on March 17, 2020 by the following parties:...EDF” (page 85)</p>	
<p>8. In both Opening/Reply Comments on the Reference System Plan Staff Proposal and in Comments on the Proposed Decision, EDF argued for</p>	<p>“In general, the most important topic addressed by a large majority of the parties in this proceeding was with respect to the selection of the GHG</p>	<p>Verified</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>the critical nature for the selection of GHG Emissions Reduction Target of not picking the “high case” (46MMT), but either the “low case” (30MMT) or the “mid case” (38 MMT). EDF’s arguments was to prevent a backloading of procurement between 2030-2045 in order to reach the carbon neutrality goals established by SB 100 by 2045.</p>	<p>target for the electric sector by 2030 of 46 MMT. Numerous parties voiced their disagreement and concern that the Commission should plan for a lower GHG target for the electric sector in 2030, including... EDF... Many of the above parties would prefer that the Commission adopt a target of 30 MMT for 2030, though some would be comfortable with a 38 MMT target as well.” (page 86)</p> <p>“We have addressed both of the above issues by modifying this decision to require all LSEs filing individual IRPs to include at least two portfolios: one conforming to the 46 MMT GHG target in 2030, and a second conforming to a 38 MMT GHG target.” (page 86-7)</p>	
<p>9. EDF argued in Opening Comments that the embedded assumption of GHG emissions reductions were incorrect in the CPUC’s modelling efforts which would in turn suggest selecting a lower GHG target to compensate for this model error.</p>	<p>“Also closely related to the issue of the selection of the GHG target for the electric sector in 2030 were several party comments related to the recommendation to “ground-truth” the modeled GHG emissions shown in the Commission staff analysis of the various portfolios with the actual GHG emissions from the CAISO area in the most recent reported year. Parties concerned that there could be a systematic under-reporting of GHG emissions in the modeling included...EDF....” (page 88)</p> <p>“We have modified the discussion of the selection of the 46 MMT target to explain how the actual CAISO-reported emissions from electricity relate to the modeled emissions from RESOLVE and SERV. In addition, Commission staff will repeat an analysis conducted in the</p>	<p>Verified</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
	previous IRP cycle, to compare actual CAISO-reported emissions with modeled emissions, in a continuing effort to ensure alignment between models and reality.” (page 88)	
<p>10. EDF made consistent arguments on the need to consider long duration storage as a generic technology instead of specifically identifying pumped hydro storage. EDF argued that a more technology neutral standard of long duration storage is more appropriate, starting with our December 17, 2019 Comments and re-iterated in comments on the Proposed Decision.</p> <p>The final decision ultimately made with this change, but it does not mention EDF by name.</p>	<p>“Several other parties, including AReM, AWEA, GPI, and Hydrostor, filed comments asking that the Commission be more general with respect to the specific resources identified in the optimal portfolio associated with the RSP, and maintain technology neutrality. Language has been added to address this request.” (page 87)</p>	Verified

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

	Intervenor’s Assertion	CPUC Discussion
<p>a. Was the Public Advocate’s Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?³</p>	Yes	Verified
<p>b. Were there other parties to the proceeding with positions similar to yours?</p>	Yes	Verified
<p>c. If so, provide name of other parties: California Environmental Justice Alliance, Sierra Club, Union of Concerned Scientists and Natural Resources Defense Council.</p>		Verified

³ The Office of Ratepayer Advocates was renamed the Public Advocate’s Office of the Public Utilities Commission pursuant to Senate Bill 854, which the Governor approved on June 27, 2018.

	Intervenor’s Assertion	CPUC Discussion
d. Intervenor’s claim of non-duplication: EDF coordinated with (and in several instances, to reduce duplication, jointly filed with) CEJA, Sierra Club, UCS, and NRDC. When EDF could not come to full agreement with these coordinating parties, EDF separately filed responsive documents. EDF focused on the market structure of the various aspects of the reference system plans, including the GHG emissions reduction scenario, concerns about the GHG modelling assumptions, the need to evenly space procurement over the 2020-2030 timeframe, and the need for long duration storage as a generic technology asset. Other parties focused on transmission planning coordination and other aspects of the Decision.		Noted

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
a. Intervenor’s claim of cost reasonableness: EDF’s costs were reasonable for the scope and complexity of the issues presented in the Rulemaking’s Reference System Plans.	Noted
b. Reasonableness of hours claimed: EDF worked diligently throughout the process to only spend a reasonable and prudent amount of time. EDF had one point person for legal arguments and one point person for policy arguments to ensure efficient disposition of our advocacy.	Noted
c. Allocation of hours by issue: All issues included in this claim are limited to the development of the Reference System Plan as identified in Issue 2.3 of the May 2018 Scoping Memo.	Noted

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Larissa Koehler	2018	5	\$245.00	D.18-10-047	\$1,225	5	\$235.00 [1]	\$1,175.00

CLAIMED						CPUC AWARD		
Timothy O'Connor	2018	2	\$330.00	D.18-03-033	\$660	2	\$330.00 [2]	\$660.00
Michael Colvin	2019	13	\$300.00	D.20-02-066	\$3,900	12.5 [3]	\$300.00	\$3,750.00
Larissa Koehler	2019	30	\$330.00	D.20-02-066	\$9,900	30	\$340.00 [4]	\$10,200.00
Timothy O'Connor	2019	3	\$330.00	D.18-03-033	\$990	3	\$340.00 [5]	\$1,020.00
Michael Colvin	2020	17	\$300.00	D.20-02-066	\$5,100	16.5 [6]	\$305.00 [7]	\$5,032.50
Ellison Folk	2020	0.6	\$615.00	D.19-10-012 plus COLA for 2019; please add COLA for 2020.	\$369	0.6	\$600.00 [8]	\$360.00
Yochanan Zakai	2020	21.2	\$347.00	D.20-02-066, 5% step increase per D.07-01-009; please add COLA.	\$7,356	21 [9]	\$355.00 [10]	\$7,455.00
Subtotal: \$29,500						Subtotal: \$29,652.50		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Michael Colvin	2020	9	\$150.00	D.20-02-066 (half rate)	\$1,350	9	\$150.00	\$1,350.00
Yochanan Zakai	2020	1.4	\$173.50	D.20-02-066 (half rate)	\$242.90	1.4	\$177.50 [10]	\$248.50
Subtotal: \$1,592.90						Subtotal: \$1,598.50		
COSTS								
#	Item	Detail			Amount	Amount		
1.	Photocopies and Mailing	Providing hard copies and mailing to ALJs of comments			\$24.50	\$24.50		
Subtotal: \$24.50						Subtotal: \$24.50		
TOTAL REQUEST: \$31,117.80						TOTAL AWARD: \$31,275.50		
*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								

CLAIMED			CPUC AWARD
<p>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 to CA BAR ⁴	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
Larissa Koehler	June 2013	589281	No

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

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Resume of Michael Colvin
3	Resume of Larissa Koehler
4.	Resume of Timothy O’Connor
5	Biographies of Y. Zakai and E. Folk
6	Time Records for M. Colvin, L. Koehler T. O’Connor and Y. Zakai
7.	Due to a re-organization within EDF, the case transferred from primarily being handled by Ms. Koehler and supervised by Mr. O’Connor to Mr. Colvin. Mr. Colvin assumed an active role in the proceeding starting with the November 2019 Ruling. Mr. Zakai provided legal services.
8.	Mr. Zakai is a member of the Oregon State Bar

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
[1] 2018 Rate for Koehler	EDF requests a rate of \$245 for Koehler citing D.18-10-047. D.18-10-047 authorized a 2018 rate of \$235 for Koehler. We apply the previously authorized rate of \$235 for Koehler in 2018.

⁴ This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

Item	Reason
[2] 2018 Rate for O'Connor	We apply the 2018 COLA of 2.30% (Resolution ALJ-352) to O'Connor's 2017 rate of \$330, and we set the 2018 rate at \$335 when rounded to the nearest \$5.
[3] 2019 Hours Reduction for Colvin	We reduce Colvin's requested hours by 0.5 as "File and Serve Opening Comments" is a clerical task and is therefore disallowed.
[4] 2019 Rate for Koehler	D.20-02-066 approved a 2019 rate of \$340 for Koehler. We apply the approved 2019 rate here.
[5] 2019 Rate for O'Connor	We apply the 2019 COLA of 2.35% (Resolution ALJ-357) to the 2018 hourly rate of \$335 we established earlier in this claim. Therefore, we set the 2019 rate for O'Connor at \$340.
[6] 2020 Hours Reduction for Colvin	We reduce Colvin's requested hours by 0.5 because "File and serve reply comments" is a clerical task and is therefore disallowed.
[7] 2020 Rate for Colvin	We apply the 2020 COLA of 2.55% (Resolution ALJ-387) to Colvin's 2019 rate of \$300 for a 2020 rate of \$305.
[8] 2020 Rate for Folk	D.20-02-066 approved a 2019 rate of \$585 for Folk. We apply the 2020 COLA of 2.55% (Resolution ALJ-387) to Folk's 2019 rate, for a 2020 rate of \$600 when rounded to the nearest \$5.
[9] Zakai 2020 Hours Reduction	Zakai claims 0.2 hours for "Calendar proposed decision deadlines, schedule meeting with client." This is a clerical task and is therefore disallowed.
[10] Zakai 2020 Rate	We apply the 2020 COLA of 2.55% (Resolution ALJ-387) and the requested 5% step increase to Zakai's rate of \$330, established in D.20-02-066, for an approved rate of \$355.

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. Environmental Defense Fund has made a substantial contribution to D.20-03-028.
2. The requested hourly rates for Environmental Defense Fund'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 \$31,275.50.

CONCLUSION OF LAW

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

ORDER

1. Environmental Defense Fund shall be awarded \$31,275.50.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay Environmental Defense Fund their respective shares of the award, based on their California-jurisdictional electric revenues for the 2019 calendar years, to reflect the year in which the proceeding was primarily litigated. If such data is unavailable, the most recent electric revenue data shall be used. 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 August 17, 2020, the 75th day after the filing of Environmental Defense Fund'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 January 13, 2022, at San Francisco, California.

ALICE REYNOLDS
President
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
DARCIE HOUCK
Commissioners

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	D2201007	Modifies Decision?	No
Contribution Decision(s):	D2003028		
Proceeding(s):	R1602007		
Author:	ALJ Fitch		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/ Disallowance
Environmental Defense Fund	6/3/2020	\$31,117.80	\$31,275.50	N/A	See CPUC Comments, Disallowances, and Adjustments section above.

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Larissa	Koehler	Attorney	\$245	2018	\$235
Timothy	O'Connor	Attorney	\$330	2019	\$330
Michael	Colvin	Expert	\$300	2019	\$300
Larissa	Koehler	Attorney	\$330	2019	\$340
Timothy	O'Connor	Attorney	\$330	2019	\$340
Michael	Colvin	Expert	\$300	2020	\$305
Ellison	Folk	Attorney	\$615	2020	\$600
Yochanan	Zakai	Attorney	\$347	2020	\$355

(END OF APPENDIX)