

Decision 24-01-048 January 25, 2024

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 WOMEN’S ENERGY MATTERS FOR CONTRIBUTIONS TO DECISION 22-12-005

Intervenor: Women’s Energy Matters	For contribution to Decision (D.) 22-12-005
Claimed: \$ 25,523.75	Awarded: \$25,401.75
Assigned Commissioner: Alice Reynolds	Assigned ALJ: Ehren Seybert

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	D.22-12-005 implements SB 846 and closes the proceeding.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:¹

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	10-6-2016	Verified.
2. Other specified date for NOI:		
3. Date NOI filed:	11-4-2016	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.21-12-007	Verified.
6. Date of ALJ ruling:	June 13, 2022	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.21-12-007	Verified.
10. Date of ALJ ruling:	June 13, 2022	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.22-12-005	Verified.
14. Date of issuance of Final Order or Decision:	12/6/2022	Verified.
15. File date of compensation request:	1/31/2023	Verified.
16. Was the request for compensation timely?		Yes

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

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
	<p>The Amended Scoping Memo and Ruling dated 9/23/2022, states at 5-6 that parties already found eligible in A1608006 do not need to file notices of intent, unless there have been material changes to their customer status and/or showing of significant financial hardship. WEM has already been found eligible in this proceeding, and there have been no material changes to WEM’s customer status or significant financial hardship.</p>	<p>Noted.</p>

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><i>General:</i> Women’s Energy Matters (WEM) has been active in this proceeding since it opened in 2016. In this new phase, WEM filed Reply Comments pursuant to the Amended Scoping Ruling and commented on the Proposed Decision. To meaningfully participate WEM’s representatives thoroughly reviewed Senate Bill (SB) 846, the proposed and final decisions, and other party filings. WEM’s analysis and recommendations are reflected in D2212005.</p>		<p>Noted.</p>
<p>1. <i>Ratepayer Protections and Importance of CPUC Oversight:</i> WEM warned that funding streams must be halted in the event extended operations do not materialize and</p>	<p>From D2212005: “WEM, FOE [Friends of the Earth] and SLOMFP [San Luis Obispo Mothers for Peace] highlight the Commission’s statutory obligation</p>	<p>Noted.</p>

<p>emphasized the CPUC’s duty to assure that rates remain just and reasonable. “[T]he source of SB846 monies is not a never-ending stream. The source is federal taxpayers, California taxpayers, and California ratepayers, including non-PG&E ratepayers all over the state. It’s important to remember ... that SB846 identifies multiple contingencies where the CPUC can call a halt to extended operations. ... CPUC oversight must guaranty that the ratepayer/taxpayer money streams run dry as soon as any of these contingencies come to pass.” Reply Comments of Women’s Energy Matters re: Amended Scoping Memo and Ruling (“WEM Reply Comments”) at 2.</p> <p>“SB846 has not stripped the CPUC of its oversight related to reasonable manager standards. The CPUC must remain alert to poor management practices because the CPUC has a greater duty to assure that rates are just and reasonable. WEM recommends that the amended scope of this proceeding include a strong and detailed public process to help maintain the CPUC’s legal oversight responsibilities. This process should address how the CPUC will most expediently and effectively exercise its oversight responsibilities regarding Diablo Canyon in a post-SB846 world.” WEM Reply Comments at 3.</p>	<p>to monitor the costs associated with potential extended operations at Diablo Canyon, and to ensure funding streams are halted in the event any conflicts arise associated with the associated requirements set forth in SB846.” D.22-12-005 at 23.</p> <p>Consistent with WEM’s recommendations, D2212005 affirms the CPUC’s PUC §451 oversight responsibilities in the context of implementing SB846.</p> <p>“[I]n authorizing PG&E to take all actions that would be necessary the Commission is not indicating that the resultant costs are reasonable, which is to be evaluated through a separate review process.” D.22-12-005 at 8-9.</p> <p>Conclusion of Law 8: “By directing and authorizing PG&E to take all actions that would be necessary to preserve the option of extended operations at Diablo Canyon, the Commission is not indicating that the resultant costs are reasonable.” D.22-12-005 at 30.</p> <p>Conclusion of Law 16: “Pub. Util. Code Section 451 requires that all charges demanded or received by any public utility shall be just and reasonable.” D.22-12-005 at 31.</p>	
<p>2. <u>Transparency</u>: WEM recommended that PG&E provide parties with access to AB180, SB846, and Department of Energy</p>	<p>D.22-12-005 adopts WEM’s recommendation that parties have access to Assembly Bill (AB) 180, SB846 and DOE documents.</p>	<p>Noted.</p>

<p>(DOE) Civil Nuclear Credit Program documents.</p> <p>“In the interest of transparency, PG&E’s DOE application, the DOE’s response, and the AB180 and SB846 DWR loan agreements should be part of the reopened record of A1608006.” WEM Reply Comments at 2.</p>	<p>“Lastly, A4NR and WEM recommend PGE be directed to share, either through the appropriate protective orders / non-disclosure agreements or as part of the record of this proceeding, the executed AB 180 agreement between PGE and DWR [Department of Water Resources]; any executed DWR loan agreements enter[ed] into pursuant to SB846; PG&E’s September 2, 2022 Certification Application to DOE’s Civil Nuclear Credit program; and any post-application written responses made by PG&E to DOE requests for additional information.” D.22-12-005 at 23.</p> <p>“Pacific Gas and Electric Company (PG&E) is directed to share copies of the following documents with any party to this proceeding that has or obtains the appropriate non-disclosure agreement, if such documents are requested by the party and the document(s) exist: the executed Assembly Bill 180 agreement between PG&E and the Department of Water Resources; any executed agreements signed by PG&E pursuant to Senate Bill 846; and the United States Department of Energy’s final decision regarding PG&E’s September 2, 2022 Certification Application to the Civil Nuclear Credit program.” D.22-12-005 at 34.</p> <p>See also, D.22-12-005 at 24-25 (“Lastly, to the extent PG&E has executed agreements with DWR ...”) and D.22-12-005 at 33 (“PG&E should be directed to</p>	
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	<p>share copies of the following documents with any party in this proceeding...”).)</p>	
<p>3. <i>Recommendations re: closing the proceeding, the status of the record, and the scope of a follow-up rulemaking:</i> WEM supported the CPUC’s authority to close A1608006, but strongly recommended that the record be retained as a framework for renewed discussions regarding Diablo Canyon retirement.</p> <p>The Proposed Decision stated that the Commission was unsure of “the extent to which the record in this proceeding needs to be updated.” (Proposed Decision at 23). In its Comments on the Proposed Decision, WEM made a strong case that the record of A1608006 does need to be updated. Women’s Energy Matters’ Comments on Proposed Decision of ALJ Ehren D. Seybert (“WEM Comments on PD”) at 3-4.</p> <p>“WEM acknowledges the CPUC's authority to close the proceeding by re-establishing Paragraph 14 from D1801022 as Paragraph 8 in the Proposed Decision. However, if the Commission closes A1608006, WEM strongly recommends that the record developed in A1608006 be retained and updated in whatever new proceeding the Commission opens ... to address SB846 issues. The record developed in A1608006 is core to understanding and answering complex questions regarding Diablo Canyon, and will be essential to making the key decisions laid out in SB846,</p>	<p>D.22-12-005 closes A.16-08-006 but contains assurances that a new rulemaking will be opened to consider SB 846 issues, and specifically responds to WEM’s comments with an assurance regarding the record developed in A.16-08-006.</p> <p>“While we appreciate and agree that there are several time-sensitive issues in SB 846, we are not convinced the current proceeding is well suited to address these and all of the other SB 846 issues that will need to be considered by the end of 2023, and potentially beyond. ... Further, it is not clear ... the extent to which the record in this proceeding needs to be updated, given that party testimony was served prior to May 2017 and before the enactment of SB 846. Therefore, this decision closes A.16-08-006. The Commission commits to opening a new rulemaking on an expedited schedule in accordance with the range of time-sensitive SB 846-related issues that will need to be monitored, considered, and addressed. In response to the specific issues raised by PG&E, WEM, FOE, SLOMFP, A4NR, and GPI, this new rulemaking may consider whether additional agreements and mechanisms are needed to ensure costs are recovered; whether additional processes are needed to monitor the costs associated with extended operations; as well as whether</p>	<p>Noted.</p>

<p>including whether the plant is needed going forward, and whether the 2024-2025 retirement dates should be reinstated.” WEM Comments on PD at 1.</p> <p>“WEM affirms the commission's authority to make decisions about opening or closing A1608006, but also appreciates that the PD acknowledges there are other SB 846 issues that WEM and other parties raised that will need to be ‘monitored, considered and addressed.’ WEM strongly asserts that the record of A1608006 is integral to the discussion of these other SB 846 issues. It is imperative that the record of A1608006 be transferred fully intact to any new proceeding, and updated, to shed light on whether the 2024/2025 dates should be reinstated, and what the cost implications of reinstatement would be. Recommendation: The record of A1608006 must be kept intact and updated, whether in this proceeding or in a new proceeding to be opened on an expedited schedule.” WEM Comments on PD at 2-3.</p> <p>“The prior record, including PG&E’s own work regarding declining need and Diablo Canyon’s being a poor fit for renewables integration, should be included as a framework for renewed discussions.” WEM Reply Comments at 4.</p> <p>“SB846 requires the CPUC in coordination with the CEC, to submit a joint Reliability Planning Assessment to the Legislature by December 15, 2022, and quarterly</p>	<p>additional ratepayer protections are needed in the event there are any shortfalls in government funding.” D.22-12-005 at 24.</p> <p>“Lastly, this decision closes A.16-08-006. The Commission will open a new rulemaking on an expedited schedule in accordance with the range of time-sensitive SB 846-related issues that will need to be monitored, considered, and addressed.” D.22-12-005 at 26.</p> <p>“We have carefully reviewed and considered the parties’ comments and made appropriate changes throughout this decision where warranted. In response to WEM’s comments, we note that the filings and documents received into evidence in this proceeding are already preserved as a matter of public record, and there is nothing preventing the Commission from incorporating parts or the entirety of the A.16-08-006 record into the new rulemaking once opened.” D.22-12-005 at 26-27.</p>	
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<p>thereafter. The CPUC is also required to coordinate with the CEC to determine whether extended operations are even needed to address California’s reliability and emission reduction goals. These reporting requirements are to be made well in advance of the current 2024/2025 license retirement dates. The Commission should clarify whether this, or other CPUC proceedings, will contribute towards and comment on these reports.” WEM Reply Comments at 4.</p>		
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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?</p>	Yes	Verified.
<p>b. Were there other parties to the proceeding with positions similar to yours?</p>	Yes	Noted.
<p>c. If so, provide name of other parties: Alliance for Nuclear Responsibility, San Luis Obispo Mothers for Peace, Friends of the Earth, and Green Power Institute took similar positions on various issues.</p>		Noted.
<p>d. Intervenor’s claim of non-duplication:</p> <p>WEM has worked with A4NR, SLOMFP, FOE and GPI in this and other proceedings and has a practice of coordinating efforts, but not duplicating the work of other parties. WEM communicated with A4NR and SLOMFP attorneys and representatives early on, to understand objectives, coordinate efforts, and avoid duplication. WEM's work complemented and supplemented the work of others, but did not duplicate it. WEM’s participation provided the Commission with a unique perspective that enriched the Commission’s deliberations and decision-making. Section II.A. above demonstrates that WEM’s work was unique, productive and influenced the outcome of this proceeding. To the extent duplication occurred, it was minimal, but unavoidable, given the subject matter of this proceeding.</p>		Noted.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
<p>a. Intervenor’s claim of cost reasonableness: WEM advocates on behalf of ratepayers who would be harmed without a full and fair review of issues related to possible extended operations at Diablo Canyon Nuclear Power Plant. As detailed in Section IIA above, WEM’s advocacy is reflected in D.22-12-005, and its participation was productive and necessary to the proceeding's outcome. WEM’s request is modest and the dollar value benefit to ratepayers of WEM’s contributions to D.22-12-005 far exceed the cost of our participation.</p>	Noted.
<p>b. Reasonableness of hours claimed: The hours claimed herein are reasonable. Jean Merrigan and Robert Freehling appeared for WEM in this proceeding. Jean Merrigan is an experienced advocate and policy analyst who has focused much of her regulatory work on nuclear power plant cost issues. She represented WEM in earlier phases of this proceeding and currently serves as WEM’s analyst in A2112007, PG&E’s 2021 Nuclear Decommissioning Cost Triennial Proceeding, which is considering issues related to the decommissioning of Diablo Canyon Nuclear Power Plant. Robert Freehling is a public policy analyst with more than 20 years’ experience with issues related to California’s electricity sector. He presented expert witness testimony related to Diablo Canyon retirement in an earlier phase of this proceeding.</p> <p>Both Ms. Merrigan and Mr. Freehling maintained detailed time records in this proceeding, indicating the number of hours spent on distinct issues. Jean Merrigan reviewed all of the recorded hours, and included only those that were necessary. All of the hours included should be compensated in full.</p>	Noted.
<p>c. Allocation of hours by issue: WEM has used the activity codes below to itemize daily time entries: GEN: Work related to general participation in the proceeding, such as reviewing scoping memos, rulings, and other party filings, and attending to misc. procedural matters. COORD: Work related to communications with other parties to coordinate efforts and avoid duplication. RP & O: Advocacy for strong ratepayer protections and commission oversight in the context of SB846 implementation.</p>	Noted.

	CPUC Discussion
<p>TRAN: Recommendation that in the interest of transparency, PG&E provide parties copies of documents related to the AB180 and SB846 loans, and its DOE Civil Nuclear Credit Program application. REC: Recommendations regarding closing the proceeding, the status of the record and the scope of any follow-up proceeding. COMP RQ: Time spent preparing compensation claim.</p> <p>The percentages for the above activity codes are: GEN (16%); COORD (2%); RP&O (44%); TRAN (6%); REC (21%); COMP (11%)</p>	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Jean Merrigan	2022	73.9	\$217.00	D2202019, ALJ-393 escalation	\$16,036.30	73.9	\$215.00 [1]	\$15,888.50 [2]
Robert Freehling	2022	12.1	\$672.00	See Comment 2	\$8,131.20	12.1	\$670.00 [3]	\$8,107.00 [4]
Subtotal: \$24,167.50						Subtotal: \$23,995.50		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Jean Merrigan	2023	12.5	\$108.50 plus 2023 COLA	½ of 2023 rate, see Comment 1	\$1,356.25	12.5	\$112.50 [5]	\$1,406.25
Subtotal: \$1,356.25						Subtotal: \$1,406.25		
TOTAL REQUEST: \$25,523.75						TOTAL AWARD: \$25,401.75		

*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.

**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer's normal hourly rate

CLAIMED			CPUC AWARD
ATTORNEY INFORMATION			
Attorney	Date Admitted to CA BAR ²	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation

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

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	WEM Time Records
3	Robert Freehling Resume
COMMENT 1:	WEM requests that Jean Merrigan’s 2023 rate be updated at time of award to include any 2023 COLA approved by the CPUC.
COMMENT 2:	<p>WEM requests a 2022 billing rate of \$672 for Robert Freehling. Robert Freehling's most recent rates for work with Women's Energy Matters were \$235 per hour in 2019, and \$240 per hour in 2020, awarded by the Commission in Decision 21-03-014, March 2021.</p> <p>Based on the Intervenor Compensation Market Rate Study Final Report adopted by the Commission, the appropriate category of experience for Robert Freehling is Public Policy Analyst, which is described as:</p> <p>Reviews the impact of state government policies and regulations. Analyzes proposed legislative actions and determines potential impact. Reviews policies, plans, and programs to ensure consistency with corresponding government regulations and laws.</p> <p>Mr. Freehling has many years’ experience in reviewing and analyzing legislation, regulations, programs, and plans, including in some cases proposing and helping to design key features in all of these areas, especially for California's electricity sector.</p> <p>Mr. Freehling was first awarded compensation from the CPUC in 2007, 16 years ago. His experience as a public policy analyst began several years earlier with Local Power in 2002. Thus, he has more than 20 years’</p>

² 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>experience, which puts him in Level V experience, with a Bachelor's Degree and 15+ years of experience as a public policy analyst. The range of compensation for Level V in this subject area is a low of \$491.99, median \$650.89, and high \$868.71 per hour, for 2021. For 2022, the CPUC compensation spreadsheet has a 3.31% COLA escalation of these rates, resulting in a range of low \$508.27, average \$672.43, and high \$897.46. WEM requests a 2022 billing rate of \$672 per hour, which is an average 2022 rate for a public policy analyst with 15+ years' experience. Mr. Freehling's resume is filed as an attachment to this Compensation Request.</p>

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
[1] Jean Merrigan 2022 Hourly Rate	WEM's calculation of Ms. Merrigan's hourly rate is correct, but must be rounded to the nearest \$5 increment. Accordingly, the appropriate 2022 rate for Ms. Merrigan is \$215 / hour.
[2] Jean Merrigan 2022 Total Award	After adjusting Ms. Merrigan's hourly rate, the total award amounts to \$15,888.50.
[3] Robert Freehling 2022 Hourly Rate	WEM's calculation of Mr. Freehling's hourly rate is correct, but must be rounded to the nearest \$5 increment. Accordingly, the appropriate 2022 rate for Mr. Freehling is \$670 / hour.
[4] Robert Freehling 2022 Total Award	After adjusting Mr. Freehling's hourly rate, the total award amounts to \$8,107.
[5] Jean Merrigan 2023 Hourly Rate	The escalation rate from 2022 to 2023 is 4.46%; applying this rate to Ms. Merrigan's 2022 rate of \$215 / hour yields \$224.56 / hour, which we round to \$225 / hour. We compensate claim preparation time at half of that rate, or \$112.50 / hour.

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
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B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?	Yes
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FINDINGS OF FACT

1. Women's Energy Matters has made a substantial contribution to D.22-12-005.
2. The requested hourly rates for Women's Energy Matters' 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 reasonable compensation is \$25,401.75.

CONCLUSION OF LAW

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

ORDER

1. Women's Energy Matters is awarded \$25,401.75.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay Women's Energy Matters 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 March 17, 2023, the 75th day after the filing of Women's Energy Matters' 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 25, 2024, at Sacramento, California.

ALICE REYNOLDS
President
GENEVIEVE SHIROMA
DARCIE L. HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D2401048	Modifies Decision?	No
Contribution Decision(s):	D2212005		
Proceeding(s):	A1608006		
Author:	ALJ Ehren Seybert		
Payer(s):	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Women's Energy Matters	1/31/2023	\$25,523.75	\$25,401.75	N/A	See CPUC Comments, Disallowances, & Adjustments section

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Jean	Merrigan	Advocate	\$217	2022	\$215.00
Jean	Merrigan	Advocate	\$217 (plus 2023 COLA)	2023	\$220.00
Robert	Freehling	Expert	\$672	2022	\$670.00

(END OF APPENDIX)