

Decision 02-06-047 June 27, 2002

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Sierra Pacific Power Company, for authority to establish authorized rate of return on common equity for electric distribution for Year 2001. (U 903 E)

Application 00-05-018
(Filed May 8, 2000)

(For appearances, see Decision 00-12-062.)

OPINION ON REQUESTS FOR INTERVENOR COMPENSATION

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OPINION ON REQUESTS FOR INTERVENOR COMPENSATION

I. Summary of Award

We award Aglet Consumer Alliance (Aglet) \$ 9,138,¹ its entire request, for its substantial contribution in reducing Sierra Pacific Power Company's (Sierra) annual revenue requirement by \$520,000 and also saving ratepayers \$27,000 with the adoption of an earlier effective date of the final order. We award the Advocates for Public Interest (API) \$18,273 of its \$37,251 request, because much of the time claimed in the request is unreasonable. API also did not identify any numeric benefit derived from its participation; however, we find that the amount awarded API reasonably reflects its productivity in securing benefits to ratepayers.

II. Background

Sierra filed an application for authority to increase its 2001 test year electric distribution system Return on Equity (ROE) from 11.60% to 12.00%. Sierra also requested authority to replace its annual ROE application with an automatic trigger mechanism (ATM).

In Decision (D.) 00-12-062, we authorized a 10.80% ROE for Sierra's 2001 test year electric distribution system, an eighty basis points² reduction from its previously authorized 11.60% ROE. We also adopted an ATM to replace Sierra's annual ROE application.

¹ All amounts are rounded up to the nearest dollar.

² One-basis points equal 0.01%.

Sierra, Aglet, API, and the Office of Ratepayer Advocates (ORA) actively participated in this proceeding, and Aglet and API requested compensation.

III. Requirements for Award of Compensation

An intervenor who seeks compensation for his or her contributions in Commission proceedings must file a request for compensation pursuant to §§ 1801-1812.³ Section 1804(a) requires an intervenor to file a notice of intent (NOI) to claim compensation within 30 days after the prehearing conference (PHC) or by a date established by the Commission. The NOI must present information regarding the nature and extent of the customer's⁴ planned participation and an itemized estimate of the compensation the customer expects to request. The NOI may also request a finding of eligibility.

Other code sections address requests for compensation filed after a Commission decision is issued. Section 1804(c) requires an eligible customer to file a request for an award within 60 days of issuance of a final order or decision by the Commission in the proceeding.

Under § 1804(c), an intervenor requesting compensation must provide “a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding.” Section 1802(h) states that “substantial contribution” means that,

³ All statutory references are to the Public Utilities Code unless otherwise stated.

⁴ To be eligible for compensation, an intervenor must be a customer as defined by § 1802(b). In D.98-04-059 (footnote 14), we affirmed our previously articulated interpretation that compensation be proffered only to customers whose participation arises directly from their interest as customers. (See D.88-12-034, D.92-04-051, and D.96-09-040.) Today's decision, like the statute, uses “customer” and “intervenor” interchangeably.

“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. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable expert fees, and other reasonable cost incurred by the customer in preparing or presenting that contention or recommendation."

Section 1804(e) requires the Commission to issue a decision that determines whether the customer has made a substantial contribution and what amount of compensation to award. The level of compensation must take into account the market rate paid to people with comparable training and experience who offer similar services, consistent with § 1806.

IV. NOI to Claim Compensation

Section 1804(a)(1) requires a customer who intends to seek an award of intervenor fees and expenses to file its NOI and serve a copy of its NOI on all parties to the proceeding within 30 days after the holding of a PHC. The 30-day time period after the June 29, 2000 PHC in this proceeding ended on July 30, 2000. Because the statutory time period for filing an NOI in this proceeding fell on a Sunday, the NOI filing date was extended to Monday, July 31, 2000, pursuant to Rule 3.2 of the Commission's Rules of Practice and Procedure.

A. Aglet

Aglet filed its NOI on July 24, 2000. Aglet requested eligibility to participate and claim compensation in this proceeding as a Category III

customer.⁵ There was no filed opposition to Aglet's NOI. On August 10, 2000, the assigned Administrative Law Judge (ALJ) ruled that Aglet's NOI was timely filed, that it was a customer as defined by § 1802(b), that it is eligible to claim compensation, and that a presumption of significant financial hardship existed for Aglet in this proceeding.

B. API

API filed its NOI on July 31, 2000. There was no filed opposition to API's NOI, which the ALJ ruled was timely filed. Although API requested a finding that it is eligible to claim compensation as a Category I customer⁶ and that a presumption of significant financial hardship exists, such findings could not be made because API did not provide sufficient information in its NOI. The ALJ permitted API to provide additional customer information, and required API to demonstrate its significant financial hardship as part of any subsequently filed request for compensation.

⁵ A Category III customer is a representative of a group or organization formally organized with articles of incorporation or bylaws that authorize the entity to represent the views of residential customers, membership of which includes residential ratepayers of the applicant. (See § 1802(b).)

⁶ A Category I customer is an actual customer of the applicant who represents more than his or her own narrow self-interest. (See § 1802(b).)

API submitted its additional customer information on September 13, 2000, and the ALJ ruled that although this information did not show it is a Category I customer, the information did show that API is a Category III customer. Hence, API was found to be a customer as defined by § 1802(b).

V. Requests for an Award of Compensation

The final decision in this proceeding was D.00-12-062, dated December 22, 2000. Both Aglet and API's February 20, 2001 compensation requests were timely filed, pursuant to § 1804(c). Consistent with the ALJ ruling, API requested a finding that its participation in this proceeding will pose a significant financial hardship.

API noted that the Commission had made a significant financial hardship finding on September 6, 2000, in connection with API's participation in San Jose Water Company's Application 00-05-016. That finding created a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing prior to September 6, 2001, pursuant to § 1804(b)(1). Because this proceeding commenced on May 8, 2000, the presumption of significant financial hardship exists in this proceeding for API.

VI. Substantial Contribution

Under § 1802(h), a party may make a substantial contribution to a decision in one of several ways. It may offer a factual or legal contention upon which the Commission relied in making a decision, or it may advance a specific policy or procedural recommendation that the ALJ or Commission adopted. A substantial contribution includes evidence or argument that supports part of the decision even if the Commission does not adopt a party's position in total.

A. Aglet

Aglet asserts that it made a substantial contribution to this proceeding because its 10.60% recommended ROE for Sierra contributed to the 11.40% to 10.60% range of reasonableness adopted by the Commission and because the adopted 10.80% ROE is only 20 basis points higher than Aglet's recommendation. By comparison, the authorized ROE is 120 basis points lower than Sierra's requested 12.00% ROE.

Aglet also asserts that the Commission adopted several of its positions in this proceeding. For example, Aglet opposed Sierra's 30 basis point upward ROE adjustments for risks associated with Sierra's proposed performance-based ratemaking (PBR) mechanism and for flotation costs, as discussed on pages 13-16 of D.00-12-062. The Commission agreed with Aglet and rejected Sierra's proposed adjustments.

Aglet contends that the Commission authorized an ATM for Sierra based on evidence and recommendations from Aglet and other parties. Aglet initially opposed adoption of an ATM; however, Aglet believes it contributed to resolution of this issue through its evidence that demonstrated Sierra's annual litigation costs incurred in processing annual cost of capital proceedings are material and can substantially reduce Sierra's California earnings, as discussed on page 24 of D.00-12-062. Aglet further contends that the final decision adopted its recommendation that the unbundling of the Sierra's electric distribution function should be heard in Sierra's next cost of capital proceeding, as set forth in Ordering Paragraph 4 of D.00-12-062.

B. API

Similar to Aglet, API asserts that it made a substantial contribution to this proceeding because the 10.80% ROE adopted for Sierra was close to API's

recommended 10.50% ROE. API contends that the Commission relied on its financial-model-based testimony, analytical methods, and risk factors in arriving at a reasonable ROE for Sierra as discussed on pages 17-19 of D.00-12-062.

API also asserts that it made a substantial contribution to the adoption of an ATM, as discussed on pages 22-27 of D.00-12-062, even though API opposed the establishment of an ATM for Sierra and the Commission did not adopt API's views on this matter.

C. Sierra's Opposition

Sierra opposed the compensation requests of Aglet and API on the basis that their participation in this proceeding was duplicative and did not provide necessary inputs for the issuance of a final decision on Sierra's ROE, PBR risk, flotation cost, or ATM.

With respect to the ROE, Sierra contends that the Commission determined that 10.80% was the proper ROE for Sierra based on changes in interest rates over the last 10 years with a 20 basis point deduction to reflect the current downward trend in interest rates. Sierra asserts that Aglet and API's testimony did not add to the ROE testimony of ORA. Sierra believes that Aglet simply added 10 basis points to its recommended ROE for Pacific Gas and Electric Company to arrive at its ROE recommendation, and that API's financial model testimony had no bearing on the Commission's decision in setting a fair ROE. Noting the Commission's statements to the effect that judgment, not the precision of financial models, is the key to selecting a specific ROE estimate within the range predicted by analysis, Sierra asserts that the Commission gave little weight to financial models presented by any of the parties.

With respect to PBR risk and flotation costs, Sierra acknowledges that it knew of the Commission's prior position and policy on these issues but chose to

pursue these issues in this proceeding to preserve the issues for the record. Sierra contends that ORA, not the intervenors made the arguments that prevailed on these issues by citing D.94-11-076 (diversifiable risk entitled little weight in the calculation of Sierra's ROE⁷) and D.92-11-047 (flotation costs excluded from Sierra's ROE).⁸

With respect to the ATM, Sierra contends that the Commission specifically approved the ATM proposed by ORA and agreed to by Sierra while Aglet and API opposed the adoption of an ATM in their initial testimony.

Sierra contends that the residential and small commercial customers represented by Aglet, and residential customers represented by API, are the same customers represented by ORA. Sierra contends that all customer classes benefited from ORA's participation in this proceeding, particularly since there is no rate design issue.

Sierra concludes that the Commission should not make any compensation award in this proceeding because every issue discussed and resolved against Sierra was fully supported by ORA's evidence; evidence introduced by Aglet and API merely duplicated ORA's testimony. This conclusion is based on Sierra's understanding and interpretation of § 1801.3(f) and D.98-04-059. Section 1801.3(f) instructs the Commission to administer the intervenor program "in a manner that avoids unproductive or unnecessary participation that duplicates the participation of similar interests otherwise adequately represented or participation that is not necessary for a fair

⁷ 57 CPUC2d 533 at 556 (1994).

⁸ 46 CPUC2d 319 at 362 and 406 (1992).

determination of the proceeding.” D.98-04-059 clarified that although the compensation statutes envision that some duplicative participation may still make a substantial contribution, duplicative participation which is unnecessary may not be compensable at all.

D. Replies to Sierra’s Opposition

Aglet and API filed replies to Sierra’s opposition. They also amended their compensation requests to seek recovery of their time and costs incurred to respond to Sierra’s opposition.

1. Aglet

Aglet pointed out that all testimony, briefs, and other pleadings in this proceeding were due and filed concurrently with ORA, and although Aglet communicated with ORA throughout the proceeding, it did not know ORA’s positions before serving its own testimony. Aglet concludes from a comparison of its testimony, examination, briefs and comments to the proposed decision that its entire showing contributed to D.00-12-062. For example, Aglet believes that it corrected a factual error in the proposed decision, contributed to implementation details for the adopted ROE and ATM and identified corrections and minor revisions to the proposed decision that differed from ORA.

2. API

API ‘s reply to Sierra was submitted on April 6, 2001 (one day late) with an accompanying motion explaining that API was not able to timely respond because of its participation in another proceeding. No party will be prejudiced by acceptance of its late response, so the motion is granted.

API says independent financial modeling reinforced ORA’s modeling results. Regarding the adopted ROE, API cites page 21 of D.00-12-062

to substantiate that the starting point of the non-Sierra side of the adopted ROE range was the median of the values recommended by API, Aglet, and ORA.

E. Conclusion

The ROE adopted in the final decision was based on the midpoint of Sierra's adjusted 11.40% ROE and other parties' average of 10.60%, as addressed on pages 16-21 of D.00-12-062. Hence, the testimony of Aglet and API was used to establish a reasonable ROE for Sierra.

With respect to PBR risk and flotation costs, it was Sierra that reintroduced these issues into this proceeding after unsuccessfully litigating these issues in prior proceedings. Because Sierra raised these issues, it was reasonable for Aglet and API to address any or both of these issues to protect the interest of the ratepayers that they represent.

Aglet's ratepayer focus was small commercial and residential utility customers, and API's focus was individual residential utility customers. Because ORA's participation in this proceeding was based on a balance of the interest of all customers, including residential, agricultural, small commercial, and large commercial, the active participation of Aglet and API did result in more diverse customer representation than would have occurred had ORA been the only customer representative.

The ATM adopted for Sierra was not solely dependent on the testimony of ORA or identical to the ATM proposed by ORA. To the contrary, Aglet's testimony on the impact of Sierra's litigation costs and earnings from annual cost of capital proceedings was instrumental in deciding whether to adopt an ATM for Sierra, as discussed on page 24 and throughout D.00-12-062. Aglet's testimony was also the basis to fine-tune the adopted ATM, such as the effective

date of the ATM, as shown by comparison of the proposed decision, and comments on the proposed decision, to D.00-12-062.

Although D.00-12-062 did not adopt all of Aglet and API's specific factual or legal contentions, and policy or procedural recommendations, the record does substantiate that Aglet and API substantially contributed in setting a reasonable ROE and disallowing PBR risk and flotation costs. Aglet also substantially contributed in establishing an ATM for Sierra. The participation of Aglet and API at times overlapped ORA's but not to such an extent as to be merely duplicative. Aglet and API have satisfied the substantial contribution requirement.

VII. Award Allocation

Sierra contends that if an award is granted in this proceeding, Sierra should not be required to pay the entire amount of the award. In prior consolidated cost of capital proceedings, Sierra was only required to pay an amount allocated among all of the California investor-owned gas and electric utilities under Commission jurisdiction based on the amount of California gross revenue earned by each company. This method, according to Sierra, resulted in Sierra paying no more than \$1,000 in intervenor compensation for any of its cost of capital proceedings. Sierra, seeking similar treatment in this proceeding, recommends that any compensation award be allocated to Sierra based on the ratio of Sierra's annual gross revenues in California to the total California revenues earned by all investor-owned gas and electric utilities under Commission jurisdiction.

We reject Sierra's recommended allocation. In this application, there is only one applicant, Sierra. Pub. Util. Code § 1807 requires the public utility that is the subject of a hearing to pay any compensation award approved in that

proceeding. D.00-12-062 applies only to Sierra. Consequently, Sierra must pay the entire compensation award approved in this proceeding.

VIII. Reasonableness of Requested Compensation

Aglet seeks \$9,138⁹ in compensation for its participation in this proceeding, approximately \$2,500 below its \$11,650 NOI budget. API seeks \$37,251¹⁰ in compensation for its participation in this proceeding, approximately \$250 below its \$37,500 NOI budget. The following table summarizes the compensation request of Aglet and of API.

Activity	Aglet	API
Fees	\$ 8,657	\$ 36, 576
Costs	<u>481</u>	<u>675</u>
Total Request	\$ 9,138	\$ 37,251

In D.98-04-059, the Commission adopted a requirement that a customer demonstrate his or her participation was “productive,” as that term is used in § 1801.3, where the Legislature gave the Commission guidance on program administration. In that decision, we discussed the requirement that participation must be productive in the sense that the costs of participation should bear a reasonable relationship to the benefits realized through such participation. Customers are directed to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. This exercise

⁹ Includes Aglet’s \$299 supplemental request for recovery of its cost to respond to Sierra’s opposition.

¹⁰ Includes API’s \$276 supplemental request for recovery of its cost to respond to Sierra’s opposition.

assists us in determining the reasonableness of the request and in avoiding unproductive participation.

A. Aglet

Aglet does not determine the dollar impact of its showing in this proceeding. However, because its testimony contributed to establishing the subjective ROE range from 11.40% to 10.60% and because Sierra’s authorized ROE has decreased from 11.60% to 10.80%, Aglet contends that it contributed to Sierra’s resulting \$520,000 decrease in annual revenue requirement. Aglet also contends that it saved Sierra’s ratepayers approximately \$27,000 because D.00-12-062 adopted Aglet’s recommendation to adopt an earlier effective date for Sierra’s revenue requirement. Aglet identified, but did not quantify, its contribution to the ratepayer benefits of the ATM, which streamlines Sierra’s regulatory process and reduces future litigation costs for all parties. Considering these factors, we find that Aglet’s participation was productive.

We turn to the reasonableness of Aglet’s requested time and costs. The following table summarizes the fees requested for the professional and other work (travel, preparation of compensation request) performed by Weil.

Time	Hours	x	Rate	= Amount
Professional	28.1		\$220	\$ 6,182
Other	22.5		110	<u>2,475</u>
Total Fees				\$ 8,657

Aglet maintained a detailed summary of time spent by its Director (James Weil) with hours broken down by date, major activity, and description of work. Aglet is seeking compensation for time spent by Weil during 2000 and 2001. To facilitate a detailed review of its fee request, Aglet provided a summary of the 34.6 professional hours Weil spent on major issues in this proceeding. The

major issues were identified as small utility ROE premium, PBR, ATM, implementation, corrections and minor revisions, other issues, and general work.

Aglet reduced the 34.6 professional hours by 6.5 hours (to 28.1 hours) due to the Commission’s partial rejection of Aglet’s positions on major issues. These voluntary reductions consisted of 20%, or 4.5 hours, of Weil’s time on the small utility ROE premium, ATM, and implementation, and 40%, or two hours, of Weil’s time spent on other issues. The 22.5 hours included in “other” time consist of approximately 12 hours spent traveling to hearings and meetings and 10.5 hours preparing Aglet’s compensation request and reply to Sierra’s opposition. The following table summarizes Weil’s claim for professional time by category.

Issue	Hours
ROE	4.7
PBR	2.0
ATM	10.3
Implementation	3.4
Corrections	3.5
Other Issues	2.9
General Work	<u>1.3</u>
Total Hours	28.1

Our prior discussion of Aglet’s substantial contribution and productivity substantiate that Aglet’s hours are reasonable. Aglet has adjusted its claim for issues on which it did not prevail. We will compensate Aglet for all time claimed.

Aglet is seeking a \$220 hourly rate for the professional time that Weil spent on this proceeding. Consistent with Commission precedent, Aglet seeks \$110, half the 2000 requested hourly rate, for time spent by Weil traveling between his offices and the Commission's offices, and for time he spent preparing Aglet's compensation request.

Section 1806 requires our compensation awards to consider the market rates paid to persons of comparable training and expertise offering similar services. The compensation awarded may not, in any case, exceed the comparable market rate for services paid by the Commission or by the public utility, whichever is greater, to persons of comparable training and experience who are offering similar services. The hourly rate requested by Aglet for Weil in this proceeding is the same rate found reasonable for Weil in 2000 by the Commission in D.00-07-015, D.00-07-047, and D.00-11-002, and we will use that rate here.

Aglet seeks \$481 for costs incurred as a result of its participation in this proceeding. Approximately \$313 is for copies and postage; the remaining \$168 is for bridge toll, parking, and mileage reimbursement. These costs represent approximately 5.00% of Aglet's total compensation request and below its \$650 NOI budget for such costs. Aglet has adequately substantiated its costs and should be compensated for the full \$481.

B. API

API believes that an objective dollar value for the benefits of its participation to ratepayers cannot be determined. However, API believes that its financial modeling reinforced the showing ORA and to a lesser extent Aglet in prevailing on the allowable ROE.

The record provides adequate information for us to determine that API productively participated in this proceeding. For example, API's testimony was used to establish a reasonable ROE for Sierra, and its PBR testimony was useful, given Sierra's attempt to relitigate an issue rejected in prior cost of capital proceedings.

We turn to the reasonableness of API's requested time and costs. Here, we find that much of the time is unreasonable, and should be disallowed, as we discuss later. The following table summarizes the fees requested by API for witnesses Knecht and Czahar in this proceeding.

Individual Fees	Time	Hours	x	Rate	=	Amount
Knecht	Professional	81.8		\$220		\$ 17,996
	Other	29.9		110		3,289
Czahar	Professional	69.5		220		<u>15,291</u>
Total Fees						\$ 36,576

API maintained detailed records of the time Knecht and Czahar spent in this proceeding with hours broken down by date and general description of work. API also provided an estimate of time spent on major issues consisting of ATM, modeling, risk factors, ROE, interest rates, and general work. General work included activities applicable to API's initial review, discovery requests, attendance at the PHC and hearings, and general pleadings. API first allocated its professional hours between the time it spent on general work and the substantive issues. API treated some of the substantive issues in the aggregate because it could not separate its time spent on the ROE issue from other issues, such as modeling and risk. The following table summarizes API's professional hours.

Issue	Hours		
	Knecht	Czahar	Total
ATM	2.0	0.0	2.0
Modeling	18.2	46.9	65.1
Risk Factors	18.3	10.3	28.6
ROE	18.3	10.3	28.6
Interest Rates	2.0	1.0	3.0
General Work	23.0	1.0	<u>24.0</u>
Total Hours			151.3

Under § 1802(h), the Commission may award compensation for all reasonable advocate's fees for preparing or presenting a contention or recommendation when the customer's participation results in a substantial contribution even if the decision adopts that customer's contention or recommendation only in part. Many of API's claimed hours do meet the standard set in § 1802(h).

First, API's position on ATM was not adopted in whole or in part. Thus, the time spent by API on this issue (two hours) shall be disallowed.

Second, API spent approximately 122 of its 151 hours, or 80%, on modeling, risk factors, and ROE issues. While API made a substantial contribution on these issues, much of its related testimony and the underlying model runs were cumulative and excessive. Ratepayers should not have to pay for these unreasonable hours.

Specifically, a review of API's testimony and the record shows that API ran approximately 30 variations of its ROE models. This is substantially more

than the 11 variations ran by Sierra and three by ORA. API then revised its financial models and ROE direct testimony in its September 6, 2000 rebuttal testimony. The revisions consisted of eliminating four utilities with too few historic data points from its RP and retention-ratio DCF methods, adding a net-of-tax income component in its RP, updating the results of its various financial models to reflect July 1, 2000 data for all variables except its 10 years of daily betas,¹¹ and switching its DCF initial prices from the four Thursdays in July 2000 to the first price quote in July 2000. These adjustments resulted in API recommending an increase in its recommended ROE for Sierra from 10.4% to 10.5%, which is 10 basis points lower than ORA and Aglet's recommended 10.6%.

Undoubtedly, financial modeling was a proper way to assess the reasonableness of Sierra's requested ROE.¹² But how much modeling is necessary to make API's case, or justifiable in light of Sierra's small size (just over 44,000 California customers)? We need not determine what is the minimal modeling effort in order to find that the extent of time API claims (122 hours) in preparing and presenting, correcting, updating, and testifying on its numerous financial models, risks factors and recommended ROE is excessive. The number of hours consumed is particularly surprising, given that API's experts have a

¹¹ A beta is the coefficient of variation of a stock within a market index (market risk premium).

¹² However, financial modeling is not the only basis for ROE determination, and Aglet contributed substantially on this issue without depending on financial models. The Commission itself has held repeatedly that qualitative judgment as well as quantitative factors go into ratemaking generally and ROE determinations in particular.

great deal of prior experience with precisely these issues in proceedings before this and other utility commissions.

We observe that ORA and Aglet recommended a similar ROE for Sierra but needed far less effort than API to support their recommendation. For example, Aglet, the non-modeling intervenor, spent only seven hours on this issue in comparison to API's 122 hours. Of the parties using financial modeling, ORA utilized three models, far fewer than API's multiple models. API also redid much of its modeling, ostensibly to incorporate more recent data or to correct errors, yet this additional modeling had almost no impact on API's recommendation. We find that API's modeling efforts greatly exceeded what was necessary and appropriate to support its recommendation.

In light of these considerations, we will allow API to recover 61 hours, or half, of its 122 professional time allocated to Sierra's modeling, risk, and ROE issues. API should be compensated for all remaining professional hours. In sum, API should be compensated for 88.3 professional hours (151.3 less 2 ATM hours and less 61.0 modeling, risk factors and ROE hours).

API also seeks compensation for 29.9 hours of other time spent in this proceeding. This time includes 12 hours¹³ for API's travel time to file and serve documents. The remaining 17.9 hours consist of nine hours spent traveling to hearings and meetings, and 8.9 hours on preparation of the compensation request and the reply and serving of a reply to Sierra's opposition.

¹³ Two trips at one hour each and five trips at two hours each to file and serve documents. The dates of these trips were July 31, 2000, September 6, 2000, September 11, 2000, October 16, 2000, October 26, 2000, December 18, 2000, and February 20, 2001.

The 12 hours spent in delivering documents and testimony should be excluded from any compensation award. There are more reasonable and efficient ways for API to deliver data and testimony, such as delivery services and electronic mail. However, in recognition that costs would be incurred in using the various delivery services available to API, we will allow API to recover its requested mileage included in its costs. This leaves 17.9 hours of indirect time eligible for compensation, of which 5.5 hours represent work performed in 2001

The \$220 hourly rate requested by API for Knecht and Czahar is \$45 higher than the \$175 hourly rate awarded to them in D.00-07-013 for work performed in 1998 and 1999. API explains that the \$175 rate was lower than its requested \$200 rate in that proceeding because API did not sufficiently address its productive participation in that proceeding and did not allocate its hours by issue. API has remedied those defects in its current request for compensation, so API contends that the only remaining issue is whether its hourly rate should be increased from \$200 for work performed in 1998 and 1999 to \$220 for its work performed in this proceeding in 2000 and 2001. API says its requested \$220 hourly rate is the going rate for similar professional work, as indicated by the rate awarded Aglet in D.00-07-013 for work performed by Weil in 2000.

In D.01-10-024, we addressed a request by Knecht and Czahar for hourly rates for work performed in 2000. In that decision, page 12, we found that their experience and training are comparable to that of Weil who was compensated \$220/hour in 2000. However, D.01-10-024 found that because of their specific performance in that proceeding, including procedural problems and failure to follow regulations and rulings, the rate awarded should be reduced to \$190/hour for their 2000 work.

Here we assess the specific performance of Knecht and Czahar in this proceeding, also for work performed in 2000, to determine whether they have cured the problems identified in D.01-10-024 and can be compensated at the \$220/hour level that their experience and training should warrant. We again have found procedural and substantive problems with their participation. For example, API made a defective NOI showing (see Section IV.B above) and failed to make the productivity showing required by § 1801.3(f), requiring our staff to perform additional work that should have been completed by the intervenor. For these reasons, we award compensation to Knecht and Czahar based on a \$190/hour rate for 2000.¹⁴

Consistent with our rules in D.98-04-059, API reduced its requested \$220 hourly rate by half, to \$110, for its time spent on travel and preparation of its compensation request. Because API is awarded a \$190 hourly rate for its professional time in this proceeding¹⁵ its requested \$110 hourly rate for other time should be reduced to \$95.

API seeks \$675 for associated incurred as a result of its participation in this proceeding. Approximately \$346 is for copies and postage; the remaining \$329 is for parking and mileage reimbursement. These costs represent less than 2.00% of its total compensation request and below its \$1,200 budget for such

¹⁴ For any outstanding API claims covering the same time period, we will continue to assess the specific performance of Knecht and Czahar, and will consider adopting a higher rate for 2000 if their performance warrants.

¹⁵ Some of API's "other" time, e.g., preparation of the compensation request, occurred in 2001. We will compensate this time at half the hourly rate adopted for 2000, but in doing so, we do not preclude API from seeking a higher hourly rate for its work in 2001 in other Commission proceedings.

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costs in its NOI. API has adequately substantiated its costs and should be compensated for the full \$675.

IX. Award

Aglet and API have substantially assisted the Commission in this proceeding. Consistent with § 1802(h), Aglet and API are entitled to compensation from Sierra as set forth in the following table.

Activity	Aglet	API
Professional	\$ 6,182	\$15,897
Other	2,475	1,701
Costs	<u>481</u>	<u>675</u>
Total	\$ 9,138	\$18,273

Consistent with prior decisions, we will order that interest be paid on the award amount (calculated at the three-month commercial paper rate) commencing May 7, 2001 (i.e., the 75th day after the compensation requests were filed) and continuing until the award is paid in full.

As in all intervenor compensation decisions, we put Aglet and API on notice that the Commission staff may audit their records related to this award. Thus, Aglet and API must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. These records should identify specific issues for which they requested compensation, the actual time spent by each person, the applicable hourly rate, fees paid, and any other costs for which compensation has been claimed.

Findings of Fact

1. Aglet filed a timely intervenor compensation request for its contribution to D.00-12-062.
2. API filed a timely intervenor compensation request for its contribution to D.00-12-062.

3. Aglet has satisfied the significant financial hardship requirement.
4. A rebuttal presumption of significant financial hardship exists for API.
5. Aglet has substantially contributed to D.00-12-062.
6. API has substantially contributed to D.00-12-062.
7. Aglet maintained a detailed summary of time spent by its director in this proceeding.
8. API has maintained a detailed summary of time spent by its director and consultant in this proceeding.
9. The \$220 hourly rate for work performed by Aglet's director is the same rate approved in a prior Commission proceeding for his work performed in 2000.
10. The \$190 hourly rate for work performed by API's director and consultant is the same rate approved in a prior Commission proceeding for their work in 2000.
11. Aglet's hours and rates regarding time spent in traveling to hearings and in preparing its compensation request are reasonable.
12. API has a great deal of prior experience with ROE proceedings.
13. API ran approximately 30 variations of its ROE models in comparison to Sierra's 11 and ORA's three.
14. API also revised and updated its financial models as part of its rebuttal testimony.
15. Sierra provides electric service to approximately 44,000 California customers.
16. API's hours spent in traveling to obtain data and to attend meetings and hearings, and in preparing its compensation request are reasonable. API has not demonstrated that the time it spent delivering documents and testimony was productive.

17. The costs incurred by Aglet for copies and postage and travel expenses for bridge toll, parking, and mileage reimbursement are reasonable.

18. The costs incurred by API for copies and postage and travel expenses for parking and mileage reimbursement are reasonable.

Conclusions of Law

1. Aglet has fulfilled the eligibility requirements of Pub. Util. Code § 1801 *et seq.*

2. API has fulfilled the eligibility requirements of Pub. Util. Code § 1801 *et seq.*

3. Half of the time API claimed on financial modeling, risk factors, and recommended ROE should be disallowed as excessive nonproductive time.

4. Aglet should be award \$9,138 for its substantial contribution to D.00-12-062.

5. API should be awarded \$18,273 for its substantial contribution to D.00-12-062.

6. Per Pub. Util. Code § 311(g)(3) and Rule 77.7(f) (6), the public review and comment period for this compensation decision should be waived.

7. This order should be effective today so that these intervenors may be compensated without unnecessary delay.

O R D E R

IT IS ORDERED that:

1. Aglet Consumer Alliance (Aglet) is awarded \$ 9,138 in compensation for its substantial contribution to Decision (D.) 00-12-062.

2. Sierra Pacific Power Company (Sierra) shall pay Aglet \$9,138 within 30 days of the effective date of this order. Sierra shall also pay interest on the

award at the rate earned on prime, three-month commercial paper, as reported in the Federal Reserve Statistical Release G.13, commencing May 7, 2001 and continuing until full payment is made.

3. Advocates for the Public Interest (API) is awarded \$18,273 in compensation for its substantial contribution to D.00-12-062.

4. Sierra shall pay API \$18,273 within 30 days of the effective date of this order. Sierra shall also pay interest on the award at the rate earned on prime, three-month commercial paper, as reported in the Federal Reserve Statistical Release G.13, commencing May 7, 2001 and continuing until full payment is made.

5. The public review and comment period for today's decision is waived, and this proceeding is closed.

This order is effective today.

Dated June 27, 2002, at San Francisco, California

LORETTA M. LYNCH
President
HENRY M. DUQUE
CARL W. WOOD
GEOFFREY F. BROWN
MICHAEL R. PEEVEY
Commissioners