



Decision _____

FILED05/13/19
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**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 (Filed February 11, 2016)
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**INTERVENOR COMPENSATION CLAIM OF FRIENDS OF THE EARTH
(FOE) AND DECISION ON INTERVENOR COMPENSATION CLAIM OF FOE**

NOTE: After electronically filing a PDF copy of this Intervenor Compensation Claim (Request), please email the document in an MS WORD and supporting EXCEL spreadsheet to the Intervenor Compensation Program Coordinator at lcompcoordinator@cpuc.ca.gov.

Intervenor: Friends of the Earth	For contribution to Decision (D.) 19-04-040
Claimed: \$ 89,685.68	Awarded: \$
Assigned Commissioner: Liane M. Randolph	Assigned ALJ: Julie A. Fitch
I hereby certify that the information I have set forth in Parts I, II, and III of this Claim is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this Claim has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).	
Signature:	/S/
Date: 5/13/2019	Printed Name: Frank R. Lindh

PART I: PROCEDURAL ISSUES
(to be completed by Intervenor except where indicated)

A. Brief description of Decision:	In D.19-04-040, the Commission (1) adopted a Preferred System Portfolio and Plan for the 2017-2018 resource plan cycle, (2) evaluated individual resource plans submitted by jurisdictional load-serving entities (LSEs), and (3) adopted requirements for LSEs to ensure that the retirement of the generating units at Diablo Canyon Power Plant in 2024-2025 does not result in any increase in greenhouse gas (GHG) emissions. D.19-04-040 is a major Commission decision designed to meet the goal of substantially reducing GHG
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	emissions from the electric sector as required by SB 350, SB 1090, and related legislation.
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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:	April 26, 2016	
2. Other specified date for NOI:	N/A	
3. Date NOI filed:	May 26, 2016	
4. Was the NOI timely filed?		
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.16.08.006	
6. Date of ALJ ruling:	December 11, 2018	
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer status or eligible government entity status?		
Showing of “significant financial hardship” (§1802(h) or §1803.1(b)):		
9. Based on ALJ ruling issued in proceeding number:	A.16.08.006	
10. Date of ALJ ruling:	December 11, 2018	
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.19-04-040	
14. Date of issuance of Final Order or Decision:	May 1, 2019	
15. File date of compensation request:	May 13, 2019	
16. Was the request for compensation timely?		

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

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

#	Intervenor's Comment(s)	CPUC Discussion
1	<p>Timeliness of this Compensation Claim:</p> <p>In D.19-04-040, the Commission considered and addressed on the merits a Petition for Modification of an earlier Decision in this case (D.18-02-018). The Petition for Modification was filed in February 2018 by FOE on behalf of itself and several aligned Joint Parties (<i>viz.</i>, Natural Resources Defense Council, California Unions for Reliable Energy, and Pacific Gas and Electric Company (PG&E)).</p> <p>The subject matter of the Petition for Modification was the GHG emissions impact of retiring the two generating units at Diablo Canyon, California's last remaining operating nuclear power plant, at the end of their current operating licenses in 2024-2025. The Petition for Modification asked the Commission to adopt a requirement that all load serving entities (LSEs) be required to procure sufficient new, greenhouse gas (GHG) free resources to replace the output of the Diablo Canyon generators, to ensure that there would be no increase in GHG emissions.</p> <p>The Commission in a prior decision, D.18-01-022, in Application 16-08-006 (the Diablo Canyon Closure Decision), authorized the planned retirement of the Diablo Canyon generating units in 2024-2025.</p> <p>On February 8, 2018, just a few weeks after the Diablo Canyon Closure Decision, the Commission voted to adopt D.18-02-018 in this IRP Proceeding. (The official date of issuance of D.18-02-018 was February 13, 2018.) In D.18-02-018, the Commission briefly discussed the GHG emissions impact of the Diablo Canyon retirement. The Commission in D.18-02-018, however, did not adopt any requirement for LSEs to address this topic in their procurement plans. It merely required that PG&E provide analysis of alternative scenarios involving an earlier retirement than 2024-2025.</p> <p>On February 12, 2018, Senator Monning introduced</p>	

	<p>SB 1090, a bill governing the retirement of the Diablo Canyon nuclear plant. This proposed legislation, which was jointly sponsored by Assemblymember Cunningham, addressed both the Diablo Canyon Closure Decision (D.18-01-022) and the Diablo Canyon aspects of the IRP Decision (D.18-02-018).</p> <p>With respect to the Diablo Canyon Closure Decision, the legislation approved full ratepayer funding of both an employee retention and retraining program and a Community Impact Mitigation Plan (CIMP). The legislation also required that the Commission in this IRP Proceeding take steps to ensure that there be no increase in GHG emissions as a consequence of retiring the Diablo Canyon generating units.</p> <p>On February 28, 2018, just over two weeks after the issuance of D.18-02-018 and the introduction of SB 1090, FOE on behalf of itself and its fellow Joint Parties filed the Petition for Modification of D.18-02-018, asking that the Commission explicitly address the obligation of LSEs to ensure that there be no increase in GHG emissions when the Diablo Canyon generators are retired as planned in 2024-2025.</p> <p>On September 19, 2018, while the Petition for Modification was pending, then-Governor Brown signed SB 1090.</p> <p>Among other things, SB 1090 required that the Commission in this IRP Proceeding take steps to address the GHG emissions impact of retiring the Diablo Canyon generating units. Specifically, the legislation enacted a new Section 712.7(b) of the Public Utilities Code, which states as follows: “The commission shall ensure that integrated resource plans are designed to avoid any increase in emissions of greenhouse gases as a result of the retirement of the Diablo Canyon Units 1 and 2 powerplant.”</p> <p>In D.19-04-040, the Commission addressed at length the Diablo Canyon issue raised in the Petition for Modification and in the above-quoted provisions of SB 1090. The discussion appears in a separately-denominated Part 6 of the Decision (pp. 142-150). The Commission in D.19-04-040 also discussed (at</p>	
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	<p>pps. 161-162) comments concerning Diablo Canyon that FOE filed on behalf of itself and other members of the Joint Parties group on the Proposed Decision issued on March 18, 2019. The topic of Diablo Canyon also was addressed in Findings of Fact 37-40 (pp. 170-171), Conclusions of Law 25-26 (p. 175), and Ordering Paragraph 12 (p. 179).</p> <p>FOE’s Intervenor Compensation Claim is timely filed.</p> <p>The Intervenor Compensation Program Guide provides that a Compensation Claim “must be filed within 60 days after the CPUC issues a final decision for which you claim a substantial contribution. In some proceedings, the CPUC may issue more than one decision. A Claim in this case must be filed after the issuance of a decision that resolves the issue(s) on which you believe you made a substantial contribution, but not later than 60 days after the issuance of the decision closing the proceeding.” (Intervenor Compensation Guide, Sec. III.A.1 (“When to file a claim”), p. 18 (2017).)</p> <p>In this case, it was in D.19-04-040 that the Commission finally addressed on the merits the arguments made by FOE on behalf of itself and its aligned Joint Parties concerning the GHG emissions impacts of the Diablo Canyon retirement. D.19-04-040 likewise addressed the provisions of SB 1090 on this same topic.</p> <p>FOE’s Intervenor Compensation Claim is being filed within 60 days of the issuance of D.19-04-040. Hence, the Claim is timely filed.</p>	
2	<p>FOE’s Contribution in Opposing the Judicial Review Writ Petition Filed by Californians for Green Nuclear Power:</p> <p>FOE herein also seeks compensation for its advocacy before the California Court of Appeal in a case in which Californians for Green Nuclear Power (CGNP) sought to review the Commission’s Diablo Canyon Closure Decision (D.18-01-022). <i>CGNP v. Public Utilities Commission</i>, Case No. B293420 (Court of Appeal, Second Appellate District, Division 6).</p>	

	<p>Like FOE's request for compensation for its work on D.19-04-040 and D.18-02-018, FOE's request for compensation for its advocacy before the Court of Appeal also is timely filed.</p> <p>CGNP opposed the closure of Diablo Canyon on a number of grounds, among them the allegation that this action inevitably would trigger an increase in GHG emissions. CGNP raised this allegation both in the Diablo Canyon Closure Proceeding (A.16-08-006) and in this IRP Proceeding.</p> <p>FOE, on behalf of itself and the aligned Joint Parties, opposed CGNP's arguments in both proceedings. FOE responded to CGNP by emphasizing that the Commission was required by law to prevent any increase in GHG emissions, by ensuring that Load Serving Entities acquired sufficient new, GHG-free resources to avoid any increase in GHG emissions.</p> <p>Thus, the issue of GHG impacts was raised by CGNP both in the Diablo Canyon Closure Proceeding and in this IRP Proceeding. The issue spanned both cases.</p> <p>On January 31, 2019, the Court of Appeal issued an order denying CGNP's writ petition.</p> <p>However, at that time the Commission was still considering in the IRP Proceeding the argument by CGNP concerning GHG emissions impact of the Diablo Canyon Closure Decision.</p> <p>Meanwhile, moreover, the Diablo Canyon Closure Proceeding (A16-08-006) remains an open proceeding at this time.</p> <p>Thus, this is an instance in which there was a series of decisions concerning the GHG impacts of the Diablo Canyon closure – (1) the Diablo Canyon Closure Decision (D.18-01-022) and the Court of Appeal Decision on judicial review thereof, which denied the CGNP writ petition, and (2) the Commission's more recent Decision in this IRP Proceeding (D.19-04-040).</p> <p>The Intervenor Compensation Guidelines provide that,</p>	
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	<p>when a Petition for Writ of Review of a Commission decision is filed with the appellate courts, “the [Intervenor Compensation] Claim may be filed within 60 days of the issuance of the Courts’ decision <u>or the CPUC’s decision closing the proceeding.</u>” (Intervenor Compensation Guide, Sec. III.A.1 (“When to file a claim”), p. 18 (2017) (emphasis added).)</p> <p>Here, although FOE could have filed a Claim for its advocacy before the Court of Appeal within 60 days after the Court of Appeal issued its order denying the CGNP writ petition on January 31, 2019 (<i>i.e.</i>, by May 1, 2019), it is still timely for FOE to include this work in the instant Claim, for two reasons: (1) the Diablo Canyon Proceeding (A.16-08-006), from which the CGNP writ petition emanated, remains in reopened status at this time; in other words, the Commission has not finally closed the proceeding, and so 60 days has not passed since a decision closing the proceeding; and (2) action to mitigate the GHG emissions impact of the Diablo Canyon closure was adopted by the Commission in D.19-04-004, which was issued less than 60 days ago.</p>	
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PART II: SUBSTANTIAL CONTRIBUTION
(to be completed by Intervenor except where indicated)

A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059): (For each contribution, support with specific reference to the record.)

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>In this Claim, FOE seeks compensation for four distinct categories of time:</p> <p>(1) FOE's role in the Petition for Modification of D.18-02-018, concerning the Diablo Canyon GHG emissions and replacement procurement issues replacement issue, which was</p>		

<p>addressed recently in D.19-04-040.</p> <p>(2) FOE's advocacy leading up to adoption of D.18-02-018 in the IRP Proceeding.</p> <p>(3) FOE's participation before the California Legislature in the enactment of SB 1090.</p> <p>(4) FOE's authorship of a brief of the Joint Parties in the Court of Appeal, in opposition to the Petition for Writ of Review filed by Californians for Green Nuclear Power.</p> <p style="text-align: center;">* * * *</p> <p>1. FOE's Contribution to D.19-04-040</p> <p>FOE made a substantial contribution in this case, as evidenced by the extensive discussion in D.19-04-040 concerning the Diablo Canyon issue, which FOE (on behalf of itself and the aligned Joint Parties) was instrumental in bringing to the Commission's attention.</p> <p>FOE played a leading role in preparing and submitting, on behalf of the Joint Parties group, the February 2018 Petition for Modification of D.18-02-018, which was discussed extensively by the Commission in Part 6 of D.19-04-040 (pp. 142-150).</p> <p>Likewise, FOE was the principal author of Joint Parties Comments on the Proposed</p>	<p>Both the February 2018 Petition for Modification of D.18-02-018 (which FOE authored on behalf of itself and the other members of the Joint Parties group), and the enactment of SB 1090 (in which FOE was actively involved throughout the 2018 legislative session) contributed very significantly to the Commission's consideration of the Diablo Canyon issue in D.19-04-040.</p> <p>The language of D.19-04-040 makes this very clear.</p> <p>The Commission's extensive discussion of the Diablo Canyon issue is contained in a separately denominated Part 6 of D.19-04-040, consisting of nearly eight pages of decisional text (pp. 142-150). In addition, the Commission in D.19-04-040 discussed comments filed by FOE on behalf of itself and other members of the Joint Parties group on the Diablo Canyon issue, in response to the Proposed Decision issued on March 18, 2019. (D.19-04-040, pp. 160-161.) The Diablo Canyon issue</p>	
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<p>Decision issued on March 18 2019.</p> <p>FOE’s attorney, Frank Lindh, also addressed the Commission at the All Party Meeting on April 4, 2019, concerning the Diablo Canyon issue.</p> <p>FOE’s contribution was not limited to its participation in this case as an individual party. FOE also played a pivotal role in coordinating the advocacy by the entire Joint Parties group, which helped to promote efficiency in the Commission proceedings.</p> <p>While the Commission in D.19-04-040 did not go as far as FOE advocated with respect to Diablo Canyon replacement resources (specifically, the Commission did not agree to include Diablo Canyon replacement procurement in the procurement phase of the IRP Proceeding, as FOE had urged), the Commission nevertheless adopted in substantial part FOE’s proposal.</p> <p>Specifically, the Commission required all LSEs in PG&E’s service territory to address the GHG impacts of the Diablo Canyon closure in their individual procurement plans.</p> <p>This is sufficient to qualify as a “substantial contribution” by FOE under Section 1802 of the Public Utilities Code. A contribution is deemed to be</p>	<p>also was addressed in D.19-04-040 in Findings of Fact 37-40 (pp. 170-171), Conclusions of Law 25-26 (p. 175), and Ordering Paragraph 12 (p. 179).</p>	
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<p>“substantial” under the statute if the Commission “has adopted <u>in whole or in part</u> one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer.” (Pub. Util, Code § 1802 (emphasis added).)</p> <p>FOE’s contribution in this case on the Diablo Canyon issue, specifically the requirement that there be no increase in GHG emissions, was certainly “substantial” within the meaning of the statutory definition, because FOE’s position was adopted in substantial part, albeit not fully, by the Commission.</p>		
<p>2. FOE’s Contribution to D.18-02-018</p> <p>While the Diablo Canyon issue raised by FOE was addressed by the Commission primarily in D.19-04-040, FOE also made a substantial contribution to the Commission’s earlier decision in this case, D.18-02-018.</p> <p>FOE focused the entirety of its efforts in this IRP Proceeding on the policy challenge of ensuring that the retirement of the two generating units at Diablo Canyon, California’s last remaining nuclear power plant, does not result in any increase in GHG emissions.</p>	<p>D.18-02-018 took note of two detailed written submissions by FOE, in which FOE addressed the Diablo Canyon replacement procurement effort:</p> <p>(1) FOE’s May 2017 Comments on ALJ Ruling and Staff Proposal (cited in D.18-02-018, at p. 8); and</p> <p>(2) FOE’s January 2018 Comments on Proposed Decision (cited in D.18-02-018, at p. 152 and pp. 154-155).</p> <p>FOE’s January 2018 Comments on the Proposed Decision are noted in D.18-02-018 (at p. 152), and discussed as follows:</p> <p>“A number of parties including</p>	

<p>FOE was a signatory and lead negotiator of a June 2016 multi-party agreement known as the Joint Proposal, which called for retiring the generating units at Diablo Canyon at the end of their current operating licenses in 2024-2025, and replacing their output with new, GHG-free resources, to avoid any increase in GHG emissions.</p> <p>In D.18-01-022 (the Diablo Canyon Closure Decision), the Commission approved the proposal to retire the generating units at Diablo Canyon in 2024-2025. At the urging of FOE and other parties, the Commission in D.18-01-022 (at pp. 21-22) also expressly stated that no increase in GHG emissions should be allowed to occur in connection with this action.</p> <p>The Commission in D.18-01-022 (the Diablo Canyon Closure Decision) also concluded that the specifics of the Diablo Canyon replacement procurement effort should be addressed in this IRP proceeding. (See D.18-01-022, p. 57, Finding of Fact 4; p. 58, Conclusion of Law 2; and p. 60, Ordering Paragraph 4.)</p> <p>In its May 2017 Comments on ALJ Ruling and Staff Proposal, and again in its January 2018 Comments on the Proposed Decision leading up to the adoption of D.18-02-018, FOE set forth a detailed proposal, as</p>	<p>FOE, GPI, IEP, Imperial County, and TURN) also pointed to the Commission’s then-recent Diablo Canyon closure decision (D.18-01-022), adopted after the IRP proposed decision was issued, as a further reason that the Commission should order procurement of additional GHG-free resources in this decision.</p> <p>Specifically, D.18-01-022 [the Diablo Canyon Closure Decision] required that PG&E be prepared to present scenarios assuming retirement dates for the Diablo Canyon plant prior to 2024/2025, “including ones that demonstrate no more than a de minimis increase in the GHG emissions of its electric portfolio.” [Citing D.18-01-022, Ordering Paragraph 6.] In response to this directive, and in keeping with our direction discussed above to order procurement activities only after reviewing individual LSE IRP filings, we will specifically require that PG&E present alternative portfolios for our consideration in its IRP filing, if it proposes or intends to retire Diablo Canyon at any time prior to the expected 2024/2025 retirement date”</p> <p>(D.18-02-018, pp. 154-155.).</p>	
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<p>well as a policy and legal rationale, for a focused procurement effort designed to replace the output of Diablo Canyon with new, 100% GHG-free resources, in order to prevent an increase in GHG emissions when the Diablo Canyon generators are retired in 2024-2025.</p> <p>D.18-02-018 was very broad and comprehensive in its scope, reflecting the input of literally dozens of parties on a wide range of issues.</p> <p>As such, D.18-02-018 of necessity did not discuss in detail many of the written comments and other submissions by parties in this proceeding. In some instances, the Decision made only a passing reference to certain comments.</p> <p>This is not an indication that the comments of any particular party (such as FOE) were not significant; rather, it was simply a pragmatic necessity, given the large number of comments and submissions the Commission had to take into account in its Decision.</p> <p>Thus, in the section of the Decision discussing comments on the Proposed Decision, D.18-02-018 (at p. 152) stated that, “[f]or space reasons, we do not summarize every comment made, but instead focus on major arguments where we did or did not make</p>		
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<p>revisions in response to party input.”</p> <p>FOE’s written submissions were among those that received only relatively brief acknowledgement in D.18-02-018.</p> <p>Nevertheless, the Commission should find that FOE made a significant contribution to the Commission’s consideration of the issues in D.18-02-018, and accordingly that FOE should be awarded Intervenor Compensation for its efforts leading up to the adoption of D.18-02-018.</p> <p>Compensating FOE for its contributions to D.18-02-018 is particularly warranted given the Commission’s statement in D.19-04-040, in response to the Joint Parties’ Petition for Modification authored by FOE: “We acknowledge that D.18-02-018 was not as clear as it could have been about the disposition of issues related to Diablo Canyon” (D.19-04-040, p. 147.)</p>		
<p>3. FOE’s Contribution to the Enactment of SB 1090</p> <p>FOE further contributed to the Commission’s deliberations and decision in this case in D.19-04-040 through FOE’s advocacy before the California Legislature leading up to the enactment of SB 1090.</p> <p>For purposes of Intervenor</p>	<p>D.19-04-040 makes clear that SB 1090, enacted in September 2018, made a significant contribution to the Commission’s analysis and disposition of the Diablo Canyon issue.</p> <p>Thus, the Commission in D.19-04-040 stated (at p. 146_147):</p>	

<p>Compensation, the Commission appropriately should recognize the importance, not just of the Petition for Modification of D.18-02-018 filed by FOE for the Joint Parties, but also the enactment of SB 1090, in which FOE played an important role.</p> <p>As the Commission in D.19-04-040 confirmed, this Legislation, which was specific to Diablo Canyon, played a significant role in the deliberations by the Commission concerning the GHG impacts of retiring the Diablo Canyon generating units, and the role of LSEs in procuring replacement resources to ensure that no increase in GHG emissions is allowed to occur as a consequence.</p> <p>Thus, the Commission in D.19-04-040 expressly acknowledged the substantial contribution made by SB 1090 in the Commission’s consideration and disposition of the Diablo Canyon issue.</p> <p>FOE was instrumental in the enactment of SB 1090. FOE provided testimony on the legislation in hearings before the Senate Energy, Utilities and Communications Committee (on April 17, 2018) and the Senate Environmental Quality Committee (on April 18, 2018). FOE participated in briefings of staff</p>	<p>“Before discussing the Joint [Petition for Modification], we acknowledge that in addition to the direction given by the Commission in D.18-01-022 [the Diablo Canyon Closure Decision], the Legislature subsequently passed and former Governor Brown signed SB 1090 (Monning, 2018) that contains the following requirement for the Commission: ‘The Commission shall ensure that integrated resource plans are designed to avoid any increase in emissions of greenhouse gases as a result of the retirement of the Diablo Canyon Units 1 and 2 powerplant.’ [Footnote citing Public Utilities Code Section 712.7(b)]</p> <p><u>In this decision, we confirm our approach to this legislative requirement, as well as responding to the Joint [Petition for Modification]. We acknowledge that D.18-02-018 was not as clear as it could have been about the disposition of issues related to Diablo Canyon,</u> largely because the resolution of Application 16-08-006 was being resolved in parallel with our consideration of the RSP in this proceeding.”</p> <p>(D.19-04-040, pp. 146-147 (emphasis added).)</p>	
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<p>of the leadership (both majority and minority) in both houses of the State Legislature. FOE also submitted letters of support to the bill’s sponsors, Senator Monning and Assemblymember Cunningham, and to Governor Brown when the legislation reached the Governor’s desk.</p> <p>In evaluating FOE’s request for Intervenor Compensation for FOE’s efforts before the Legislature in the enactment of SB 1090 (in addition to FOE’s efforts before the Commission), the Commission should take into account the fact that the Commission itself in D.18-01-022 (the Diablo Canyon Closure Decision) expressly encouraged the Legislature to consider a new legislative enactment addressing Diablo Canyon.</p> <p>In particular, in D.18-01-022, the Commission declined to approve a ratepayer-funded Community Impacts Mitigation Program (CIMP), finding that the Commission lacked “express legislative authorization” to do so. The Commission concluded that it should approve such a program only “[i]f legislation specifically directs this Commission to provide ratepayer funding for the CIMP (or a similar payment to the community)” (D.18-01-022, p. 44.)</p> <p>This was, in effect, an</p>		
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<p>invitation from the Commission to the Legislature to take up the question of how to manage and fund a critical aspect of the plan for retiring the generating units at Diablo Canyon in 2024-2025.</p> <p>In addition, at the Voting Meeting on January 11, 2018, in which D.18-01-022 was approved, several of the Commissioners (in particular Commissioner Rechtschaffen) voiced their interest in legislative action on the CIMP because of doubts concerning the Commission's legal authority to adopt such a program.</p> <p>The Legislature, in turn, accepted the Commission's invitation to act. With no opposition from the Commission, and with active support by FOE and other parties, the Legislature approved SB 1090 by large majorities in both houses, and then-Governor Brown signed the bill, addressing various aspects of the Diablo Canyon retirement.</p> <p>Thus, FOE's participation in the deliberations at the Legislature was made in the context of a legislative process that the Commission itself encouraged by the language in its Decision and by the comments of individual Commissioners.</p> <p>Accordingly, FOE should be</p>		
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<p>awarded Intervenor Compensation for its advocacy before the Legislature leading up to the enactment of SB 1090.</p> <p>While normally Intervenor Compensation is not awarded for legislative activity, FOE deserves to be compensated for its legislative advocacy in the unique circumstances of this case, for three reasons.</p> <p>(1) It was the Commission in the first instance that encouraged the Legislature to consider legislation addressing the Diablo Canyon retirement.</p> <p>(2) The language of D.19-04-040 confirms that SB 1090 played a central role in the Commission's consideration of the Diablo Canyon issue.</p> <p>(3) It is clear that FOE's advocacy before the Legislature was instrumental in the passage of SB 1090. As recited above, FOE offered testimony on the bill before the Senate Energy, Utilities and Communications Committee and the Senate Environmental Quality Committee. FOE briefed staff of the leadership in both houses of the</p>		
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<p>Legislature. FOE also submitted letters of support to the bill's sponsors and to the Governor when the legislation was being considered.</p>		
<p>4. FOE's Contribution to the Court of Appeal's Denial of a Writ Petition Filed by Californians for Green Nuclear Power</p> <p>FOE also seeks Compensation for its advocacy before the California Court of Appeal in a case captioned as <i>Californians for Green Nuclear Power vs. Public Utilities Commission</i>, Case No. B293420 (Court of Appeal, Second Appellate District, Division 6).</p> <p>In the foregoing case, an ad hoc advocacy group known as Californians for Green Nuclear Power (CGNP), a party to this IRP Proceeding, sought to challenge on judicial review the Commission's Diablo Canyon Closure Decision (D.18-01-022), as well as the Commission's Decision on Rehearing in that proceeding (D.18-09-052).</p> <p>In this IRP Proceeding, CGNP likewise argued that the Diablo Canyon plant should not be retired, on the ground that the retirement of the Diablo Canyon generating units inevitably would lead to an increase in GHG emissions. For this reason, among others,</p>	<p>A copy of the appellate brief authored by FOE's counsel on behalf of FOE and its aligned Joint Parties as the Real Parties in Interest, dated November 28, 2018, is appended to this Intervenor Compensation Claim as Attachment 4.</p> <p>The Commission as Respondent filed its own opposition in the Court of Appeal one day earlier, on November 27, 2018.</p> <p>The Court of Appeal by order issued January 31, 2019, summarily denied the CGNP writ petition.</p>	

<p>CGNP argued that it was erroneous for the Commission to authorize the closure of Diablo Canyon.</p> <p>FOE consistently and effectively opposed these arguments by CGNP, both in this IRP Proceeding and in the Diablo Canyon Closure Proceeding (A.16-08-006).</p> <p>FOE played a leading role in persuading both the Commission and the Court of Appeal on judicial review that the most cost-effective outcome for ratepayers was to retire the Diablo Canyon generators in 2024-2025, and that this can be accomplished without triggering any increase in GHG emissions.</p> <p>In the Court of Appeal, FOE's counsel authored an Answer of Real Parties in Interest in opposition to CGNP's writ petition, filed in the Court of Appeal on November 28, 2018. The Answer was jointly sponsored by FOE, PG&E, Natural Resources Defense Council, Coalition of California Utility Employees, and IBEW Local 1245.</p> <p>The Answer authored by FOE's counsel in the Court of Appeal complemented the Answer filed by the Commission as Respondent in that case one day earlier. In particular, the Answer authored by FOE's counsel included a mootness argument the</p>		
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<p>Commission did not raise in its own Answer. Specifically, the Joint Parties' Answer argued that, by enacting SB 1090, the Legislature by statute had affirmed the Commission's Diablo Canyon Closure Decision, thereby rendering moot the CGNP Writ Petition challenging that Decision.</p> <p>On January 31, 2019, the Court of Appeal issued an order summarily denying the writ petition filed by CGNP.</p>		
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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?²	Yes	
b. Were there other parties to the proceeding with positions similar to yours?	Yes	
c. If so, provide name of other parties: The following parties had positions in this case that were aligned, at least in part, with the position of FOE: Natural Resources Defense Council Alliance for Nuclear Responsibility Center for Energy Efficiency and Renewable Technologies Green Power Institute Sierra Club Environmental Defense Fund The Utility Reform Network Pacific Gas and Electric Company California Unions for Reliable Energy		

² 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.

<p>d. Intervenor’s claim of non-duplication:</p> <p>FOE was very diligent in avoiding duplication of effort in this case. In particular, FOE coordinated in advance of filing dates with aligned parties. Every major substantive pleading filed by FOE on the Diablo Canyon issue (for example, comments on proposed decisions, and the opposition in the Court of Appeal) was jointly sponsored by multiple members of the Joint Parties group, thus promoting efficiency. As noted above, FOE focused its advocacy on the Diablo Canyon issue. Thus, FOE achieved a high degree of success in avoiding duplication of effort.</p> <p>In addition, FOE made a separate contribution in the Court of Appeal that did not duplicate the advocacy of the Commission’s own attorneys. In particular, FOE advanced the argument that the enactment of SB 1090 had rendered moot the legal challenge mounted by CGNP. This complemented arguments advanced by the Commission’s lawyers in opposition to the writ petition.</p>	
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C. Additional Comments on Part II: (use line reference # or letter as appropriate)

#	Intervenor’s Comment	CPUC Discussion
1.	<p>The reasonableness of FOE’s compensation claim is reinforced by the fact that FOE’s principal consultant, S. David Freeman, donated 100% of his time and efforts on this entire matter <i>pro bono</i>, and so FOE does not seek compensation for any of Mr. Freeman’s work. Especially given Mr. Freeman’s national prominence – among other things, he is the former chief executive of the Tennessee Valley Authority, the Los Angeles Department of Water and Power, and the Sacramento Municipal Utility District, and he once served as an advisor to this Commission – this is a significant cost-free contribution that Mr. Freeman has provided to FOE and to ratepayers in this case. Mr. Freeman’s donation of his time and expertise, free of charge to ratepayers, is a major factor contributing to the overall reasonableness of FOE’s compensation claim in this case.</p>	
2.	<p>FOE’s lead attorney in this proceeding was Frank Lindh, who served as the Commission’s General Counsel for nearly six years (2008-2014).</p>	

	Mr. Lindh is exceptionally well qualified as an advocate before this Commission and in the appellate courts on judicial review of the Commission's decisions.	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION
(to be completed by Intervenor except where indicated)

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

	CPUC Discussion
<p>a. Intervenor's claim of cost reasonableness:</p> <p>The Commission should find that FOE's compensation claim is reasonable, for three principal reasons.</p> <p>First, as noted above, FOE narrowly focused its efforts in this case on one major issue of importance, namely, the policy challenge of ensuring that the retirement of the Diablo Canyon generating units does not result in any increase in GHG emissions. This policy goal was adopted by the Commission in the Diablo Canyon Closure Decision (D.18-01-022), at the urging of FOE and aligned Joint Parties. The extensive discussion of the Diablo Canyon issue in D.19-04-040 confirms the substantial contribution FOE made on this issue.</p> <p>Second, as also noted above, FOE was diligent in coordinating its advocacy on the Diablo Canyon replacement procurement issues with aligned Joint Parties. This is evidenced by joint pleadings FOE submitted on behalf of itself and other members of the Joint Parties group.</p> <p>Third, the reasonableness of FOE's compensation claim is reinforced by the fact that FOE's principal consultant, S. David Freeman, donated 100% of his time and efforts on this entire matter <i>pro bono</i>, and so FOE does not seek compensation for any of Mr. Freeman's work. FOE's claim for compensation is limited to the work performed by its attorney, Frank Lindh, the Commission's former General Counsel.</p>	
<p>b. Reasonableness of hours claimed:</p> <p>FOE made diligent efforts to ensure that its participation at all stages of this case was efficient, professional and cost-effective, consistent with the requirements of the Intervenor Compensation Program.</p>	

The hours claimed by FOE are fully in compliance with these objectives and requirements, for the reasons explained in Part III.A.a, immediately above.		
c. Allocation of hours by issue: FOE’s advocacy in this case was focused exclusively on the procurement by Load Serving Entities of new, GHG-free resources to replace the output of the generating units at Diablo Canyon, to prevent any increase in GHG emissions when the units are retired in 2024-2025. Accordingly, all of the professional work for which FOE seeks compensation is allocated to this one issue. In the attached time records, efforts towards this single issue have been divided into the following five categories:		
Code	Description	Allocation of Time
1.	FOE’s role in the petition for Modification of D.18-02-018, concerning the Diablo Canyon GHG emissions and replacement procurement issues, which was addressed in D.19-04-040.	36.8%
2.	FOE’s advocacy leading up to adoption of D.18-02-018.	22.2%
3.	FOE’s participation before the California Legislature in the enactment of SB 1090.	25.5%
4.	FOE’s authorship of a brief of the Joint Parties in the Court of Appeal, in opposition to the Petition for Writ of Review filed by Californians for Green Nuclear Power.	7.3%
Comp	Intervenor Compensation: Preparation of this Request for Compensation	8.2%
	Total	100.0%

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Frank Lindh Attorney	2017	23.83	585.00	D.18-12-011	13,940.55			
Frank Lindh	2018	87.01	600.00	D.18-12-011 Res. ALJ-352	52,206.00			
Frank Lindh	2019	31.90	615.00	D.18-12-011 Res. ALJ-357	19,618.50			
Subtotal: \$85,765.05						Subtotal: \$		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Frank Lindh	2019	12.75	307.50	50% of 2019 Rate	3,920.63			
Subtotal: \$3,920.63						Subtotal: \$		
TOTAL REQUEST: \$89,685.68						TOTAL AWARD: \$		
<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. Intervenor’s 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 to CA BAR ³	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
Frank R. Lindh	June 1992	157986	No

C. Attachments Documenting Specific Claim and Comments on Part III:
(Intervenor completes; attachments not attached to final Decision)

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	Daily Time Records
Attachment 3	S. David Freeman Biographical Statement
Attachment 4	Copy of Appellate Brief Authored by FOE Counsel – “Answer of Real Parties in Interest in Opposition to Petition for Writ of Review” (filed November 28, 2018)

D. CPUC Comments, Disallowances, and Adjustments (CPUC completes)

Item	Reason

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?	
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If so:

Party	Reason for Opposition	CPUC Discussion

³ This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch> .

B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?	
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If not:

Party	Comment	CPUC Discussion

(Green items to be completed by Intervenor)

FINDINGS OF FACT

1. **Friends of the Earth** [has/has not] made a substantial contribution to D.19-04-040 _____.
2. The requested hourly rates for **Friends of the Earth**'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 \$_____.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, [satisfies/fails to satisfy] all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. **Friends of the Earth** shall be awarded \$_____.
2. Within 30 days of the effective date of this decision, _____ shall pay **Friends of the Earth** [the total award. [for multiple utilities: "Within 30 days of the effective date of this decision, ^, ^, and ^ shall pay **Friends of the Earth** their respective shares of the award, based on their California-jurisdictional [industry type, for example, electric] revenues for the ^ calendar year, to reflect the year in which the proceeding was primarily litigated. If such data is unavailable, the most recent [industry type, for example, 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 [date], the 75th day after the filing of Friends of the Earth's request, and continuing until full payment is made.

3. The comment period for today's decision [is/is not] waived.
4. This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	
Contribution Decision(s):	D.19-04-040		
Proceeding(s):	R.16-02-007		
Author:			
Payer(s):			

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Friends of the Earth	5/13/2019	\$ 89,685.68		N/A	

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Frank	Lindh	Attorney	\$585	2017	
Frank	Lindh	Attorney	\$600	2018	
Frank	Lindh	Attorney	\$615	2019	

(END OF APPENDIX)