

**FILED****BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**2-2-17
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Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2017. (U39M)

Application 15-09-001
(Filed September 1, 2015)

**ADMINISTRATIVE LAW JUDGE'S RULING ON COLLECTIVE APPROACHES
TO UTILITY SAFETY ENFORCEMENT'S SHOWING OF SIGNIFICANT
FINANCIAL HARDSHIP**

Party intending to claim intervenor compensation: Collective Approaches to Utility Safety Enforcement	
Assigned Commissioner: Michael Picker	Administrative Law Judge: Stephen C. Roscow

PART I: PROCEDURAL ISSUES
(Completed by the party intending to claim intervenor compensation)

A. Status as "customer" (see Pub. Util. Code § 1802(b)):¹ The party claims "customer" status because the party is (check one):	Applies (check)
1. A Category 1 customer is an actual customer whose self-interest in the proceeding arises primarily from his/her role as a customer of the utility and, at the same time, the customer must represent the broader interests of at least some other customers. In addition to describing your own interest in the proceeding you must show how your participation goes beyond just your own self-interest and will benefit other customers.	<input type="checkbox"/>
2. A Category 2 customer is a representative who has been authorized by actual customers to represent them. Category 2 involves a more formal arrangement where a customer or a group of customers selects a more skilled person to represent the customer's views in a proceeding. A customer or group of customers may also form or authorize a group to represent them, and the group, in turn, may authorize a representative such as an attorney to represent the group. A representative authorized by a customer must identify the residential customer(s) being represented and provide authorization from at least one customer. See D.98-04-059 at 30.	<input type="checkbox"/>

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

<p>3. A Category 3 customer is a formally organized group authorized, by its articles of incorporation or bylaws to represent the interests of residential customers or small commercial customers receiving bundled electric service from an electrical corporation.² Certain environmental groups that represent residential customers with concerns for the environment may also qualify as Category 3 customers, even if the above requirement is not specifically met in the articles or bylaws. <i>See D.98-04-059, footnote at 3.</i></p>	<input checked="" type="checkbox"/>
<p>The party's explanation of its customer status must include the percentage of the intervenors members who are residential ratepayers or the percentage of the intervenors members who are customers receiving bundled electric service from an electrical corporation, and must include supporting documentation: (i.e., articles of incorporation or bylaws).</p>	
<p>Identify all attached documents in Part IV.</p>	
<p>Certificate of Service; Bylaws of Collective Approaches to Utility Safety Enforcement (Amended 8/1/16); EIN acknowledgment</p>	
<p>Do you have any direct economic interest in outcomes of the proceeding?³</p> <p>Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/></p> <p>If "Yes", explain:</p>	
<p>B. Conflict of Interest (§ 1802.3)</p>	<p>Check</p>
<p>1. Is the customer a representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>2. If the answer to the above question is "Yes", does the customer have a conflict arising from prior representation before the Commission?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>C. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)):</p>	<p>Check</p>
<p>1. Is the party's NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: 10/29/2015</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>2. Is the party's NOI filed at another time (for example, because no Prehearing Conference was held, the proceeding will take less than 30 days, the schedule did not reasonably allow parties to identify issues within the timeframe normally permitted, or new issues have emerged)?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

² Intervenors representing either a group of residential customers or small commercial customers who receive bundled electric service from an electrical corporation, must indicate in Part I, Section A, Item #4 of this form, the percentage of their members who are residential customers or the percentage of their members who receive bundled electric service from an electrical corporation. The NOI may be rejected if this information is omitted.

³ See Rule 17.1(e).

2a. The party's description of the reasons for filing its NOI at this other time:
2b. The party's information on the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, Administrative Law Judge's ruling, or other document authorizing the filing of NOI at that other time:

PART II: SCOPE OF ANTICIPATED PARTICIPATION
(Completed by the party intending to claim intervenor compensation)

A. Planned Participation (§ 1804(a)(2)(A)(i)):
<p>The party's statement of the issues on which it plans to participate:</p> <ol style="list-style-type: none">1. CAUSE intends to advocate for PG&E to implement cost-effective management systems to provide continuous improvement in driving toward zero incidence of industrial accidents caused by PG&E or its contractors.2. CAUSE will assess the proposed prescription of design standards or other measures designed to improve safety, with regard to their cost-effectiveness and financial impact on rates.3. CAUSE will examine the cost and incidence of industrial accidents at PG&E) including settlements and judgments4. CAUSE will examine the extent to which the revenue requirement includes these costs, and they are allocated within PG&E and among services and classes of ratepayers.5. Only to the extent that the issues are not adequately addressed by other parties, CAUSE will advocate for the lowest rates for its members, including revenue requirement issues not directly related to safety, <p>The party's explanation of how it plans to avoid duplication of effort with other parties: CAUSE will consult with any party that intend') to provide evidence or argument with regard to safety measures in order to avoid duplication.</p> <p>The party's description of the nature and extent of the party's planned participation in this proceeding (to the extent that it is possible to describe on the date this NOI is filed).</p> <p>A. CAUSE plans to take discovery as to the incidence and cost of industrial accidents at PG&E and as to measures that are in place to mitigate these risks. These accidents include any adverse incidents or conditions affecting (1) the safety of individual ratepayers in their homes, including the consequences of outages, (2) worker health and safety, (3) public safety, including physical injuries, property damage, and disruption of transportation infrastructure resulting from explosions, leaks, contaminations, or downed power lines, (4) the effectiveness of responses to external disasters and threats, including the ability to coordinate with law enforcement, first responders. and other government agencies, utilities and transit carriers, and other critical parties, (5) environmental degradation, including foreseeable impacts and unanticipated events, (6) the extent to which PG&E employees and ratepayers actually identify (and PG&E effectively responds to) actions that mitigate risk, and (7) the readiness of PG&E to provide and to receive mutual aid from other utilities to address large-scale incidents.</p> <p>B. CAUSE plans to confer regularly with parties willing to consider consolidating proposals and witnesses, in order to avoid duplication and to strengthen the support for the proposals.</p> <p>C. CAUSE intends to work with PG&E to narrow the scope of disagreements and to explore possible areas of common ground.</p> <p>D. CAUSE intends to retain experts from each discipline necessary to evaluate PG&E >s risks and actions to mitigate and to propose additional cost-effective measures.</p>

E. CAUSE expects to present these experts as witnesses, to pre-file written testimony, and to defend any live examination.

F. CAUSE expects to examine witnesses, particularly those who testify regarding safety.

G. CAUSE expects to evaluate the rate impact of its own proposals, and of the proposals related to safety made by any party, as well as the tangible benefits of each proposal.

H. CAUSE expects to file briefs and reply brief in support of its positions, and such other motions as may be appropriate.

I. CAUSE intends to identify the extent to which other Commission proceedings affect the consideration of safety measures in this rate case, and to consider the possible need to propose proceedings.

CAUSE has filed testimony and participated in settlement discussions. In the course of these discussions, CAUSE comprehensively evaluated the economic benefits of the settlement. CAUSE intends to support the settlement, but (in the event that the settlement is not accepted) will participate in further proceedings prescribed by the Commission.

B. The party's itemized estimate of the compensation that the party expects to request, based on the anticipated duration of the proceeding (§ 1804(a)(2)(A)(ii)):

Item	Hours	Rate \$	Total \$	#
ATTORNEY, EXPERT, AND ADVOCATE FEES				
Scott J. Rafferty (as attorney)	1250	\$570	\$142,500	
Scott J. Rafferty (claim preparation)	10	\$285	\$ 2,850	
Scott J. Rafferty (as witness)	100	\$500	\$ 50,000	
Risk management expert (TBD)	150	\$500	\$ 25,000	
Organizational expert (TBD)	50	\$500	\$ 25,000	
Additional experts	120	\$500	\$60,000	
Subtotal: \$305,000				
OTHER FEES				
Secretarial fees	1200	\$25	\$5000	
[Person 2]				
Subtotal: \$5,000				
COSTS				
Postage, Supplies			\$500	
Travel			\$4000	
Subtotal: \$4500				
TOTAL ESTIMATE: \$314,850				
Estimated Budget by Issues: (keyed to issues identified above 60% to 1; 10% to 2; 20% to 3; 10% to 4; issue 5 contingent				

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP
(Completed by party intending to claim intervenor compensation)

A. The party claims “significant financial hardship” for its Intervenor Compensation Claim in this proceeding on the following basis:	Applies (check)
1. “[T]he customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation” (§ 1802(g)); or	<input type="checkbox"/>
2. “[I]n the case of a group or organization, the economic interest of the Individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding” (§ 1802(g)).	<input checked="" type="checkbox"/>
3. A § 1802(g) finding of significant financial hardship in another proceeding, made within one year prior to the commencement of this proceeding, created a rebuttable presumption in this proceeding (§ 1804(b)(1)). Commission’s finding of significant financial hardship made in proceeding number: Date of Administrative Law Judge’s Ruling (or CPUC Decision) in which the finding of significant financial hardship was made:	<input type="checkbox"/>
B. The party’s explanation of the factual basis for its claim of “significant financial hardship” (§ 1802(g)) (necessary documentation, if warranted, is attached to the NOI:	
<p>The members of the association are all residential ratepayers. The association does not expect to seek rate reductions that would result in a monetary benefit to these ratepayers. The only economic interests are indirect - (1) reducing the remote possibility that a member could be personally affected by an industrial accident, (2) a share of the public benefit of avoiding environmental impacts associated with accidents, and (3) avoiding the possible future rate effects from settlements and judgments resulting from accidents. These benefits may be offset by expenses and investments that PG&E would need to undertake to implement the safety measures that the association will propose.</p> <p>To the extent that these interests are tangible and can be quantified, they are insignificant compared to the costs of participation detailed above</p>	

ADMINISTRATIVE LAW JUDGE RULING

<p>1. The Amended NOI has not demonstrated the party’s status as a “customer” for the following reason(s):</p> <p><u>Procedural Background</u></p> <p>On July 25, 2016 the assigned Administrative Law Judge issued a ruling (July Ruling) rejecting Collaborative Approaches to Utility Safety Enforcement’s (CAUSE) original NOI dated November 30, 2015 (as amended by CAUSE on February 23, 2016). The NOI was rejected for several reasons, and the July Ruling directed CAUSE to include specific additional information in an amended NOI, should it choose to do so. CAUSE filed its Amended NOI on August 10, 2016, along with a “Motion to Amend” the NOI; on</p>	<input checked="" type="checkbox"/>
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October 20, 2016, CAUSE replaced the “Motion to Amend” with a generic cover document that described the Amended NOI and provided additional information.

First, the July Ruling found that CAUSE was not authorized by its Bylaws to represent residential utility customers. Although CAUSE asserted that 100% of its members are residential ratepayers of PG&E (original NOI Part I.A.4) and CAUSE stated its intent to advocate for management systems and measures to mitigate risk, the July Ruling found that these statements are insufficient support for a reasonable inference that CAUSE’s Bylaws authorize CAUSE to represent the interests of residential or small commercial customers before the Commission or other government agencies. In response to this finding, in its Amended NOI CAUSE provided amended Bylaws that include a revision of Section 3 to state that the objectives and purposes of this association shall be, in part, “to represent the interests of residential customers or small commercial customers receiving bundled electric service from an electrical corporation...”

Second, the July Ruling rejected CAUSE’s original NOI because it found that information in the record is insufficient to determine customer status. The July Ruling stated that in order to determine CAUSE’s eligibility as a customer under § 1802(b)(1)(C), the Commission would require verified information such as the total number of members of CAUSE, and a complete list of the names and titles of CAUSE’s directors. In response to this statement, CAUSE provided this information, but only in cover document attached to the Amended NOI, not in the Amended NOI itself.

As explained below, the Amended NOI submitted by CAUSE does not cure the defects identified with respect to the original NOI.

Policy Background

In Decision (D.) 98-04-059, the Commission noted an increase in customer groups participating at the Commission who represent small business customers as well as residential ratepayers, and directed that such groups should indicate in the Notice of Intent the percentage of their membership that are residential ratepayers. This requirement is included in Part I, Section A, Item #4 of the Commission’s standard NOI template.

Further, pursuant to § 1802.3, a representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation shall not be eligible for an award of compensation pursuant to this article if the representative has a conflict arising from prior representation before the commission. Intervenors are required to provide this information in Part I, Section B of the NOI, and affirm that it does not have a conflict arising from prior representation before the Commission.

Discussion

A ruling on any NOI cannot be issued until the requirements of D.98-04-059 and § 1802.3 are met.

CAUSE has not satisfied either requirement because it has not clearly stated, as a foundational matter, whether its membership is entirely residential customers, or includes small commercial customers as well. These facts must be established before the Commission can evaluate the Amended NOI with respect to the requirements of

D.98-04-059 and § 1802.3.

First, CAUSE has not completed Part I, A, Item #4 of its NOI regarding the percentage of its membership that are residential ratepayers. This is compounded by inconsistencies in its amended Bylaws, which now contain contradictory statements regarding the composition of its membership:

--Section 3 of the amended Bylaws states that the objectives and purposes of CAUSE shall be, in part, “to represent the interests of residential customers **or small commercial customers** receiving bundled electric service from an electrical corporation...” (Emphasis added).

--Section 5 of the Bylaws states that “the directors by majority vote, or the members by majority vote, by [sic, should by “may”?] grant membership to any **residential ratepayer** of a California utility” (emphasis added).

Second, regarding the requirements of § 1802.3, CAUSE indicates in Part I, B. of its Amended NOI that it is a representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation. Depending on which Section of its Bylaws is accurate, this may or not be a misrepresentation of fact to the Commission.⁴

The confusion is furthered by Part III.B of the Amended NOI, where CAUSE states that “the members of the association are all residential ratepayers”.

The Commission should not approve an NOI until the filer has clarified the nature of its membership, both in the NOI itself (by completing the document accurately) and in the organization’s bylaws.

In its Amended NOI CAUSE provided neither the total number of members of CAUSE, nor a complete list of the names and titles of CAUSE’s directors. Provision of this information in a separate document is not sufficient. This is not a matter of splitting hairs: as directed by statute, the Commission reviews the NOI, in order to determine eligibility for compensation. As instructed in the Commission’s NOI template, any supporting documentation shall be listed in Part IV of the NOI, and attached to the NOI.

This matter must still be corrected before a ruling can be issued finding that the customer has satisfied the eligibility requirements of § 1804(a). Any further amended NOI filed by CAUSE shall include the following:

a. Revision of CAUSE’s Bylaws and/or NOI as follows:

1. The NOI should specify the total number of members of CAUSE, and
2. The Bylaws should provide a complete list of the names and titles of CAUSE’s directors.

b. An additional discrepancy is noted between CAUSE’s original NOI in this proceeding,

⁴ Notice is also taken of the NOI filed by CAUSE in A.16-09-001, where CAUSE states in Part I,B. that it is not a representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation. This conflict between the two NOIs must be corrected.

<p>and the NOI that it recently filed in A.16-09-001, the General Rate Case application of Southern California Edison (SCE). In that NOI, CAUSE states that “100% of its members are residential ratepayers of SCE”, while in the original NOI in the instant proceeding, CAUSE states that “100% of its members are residential ratepayers of PG&E”.</p> <p>1. In order to provide clarity on this matter, CAUSE shall file, under seal, a complete list of its members’ names and addresses as an attachment to any amended NOI.⁵</p> <p>As stated in the July Ruling, the Commission should ensure that the NOIs of newly formed organizations comply with all the requirements of the intervenor compensation program. Information in the record still remains inadequate to support a finding that CAUSE has a separate identity from the individual who filed the NOI.</p>	
<p>2. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s):</p> <p>Part II.B of the NOI, which provides the party’s itemized estimate of the compensation that the party expects to request, appears to include several typographical errors, in that the estimated hours for several entries, multiplied by hourly rates, do not equal the total dollar amounts provided. See, for example, the first, fourth, and seventh entries in the table provided in Part II.B. Thus, the estimated compensation claim cannot be reviewed until this is corrected.</p>	<input checked="" type="checkbox"/>
<p>3. The NOI has not demonstrated significant financial hardship for the following reason(s):</p> <p>The issue of significant financial hardship may be considered after CAUSE cures deficiencies in the NOI.</p>	<input checked="" type="checkbox"/>
<p>4. The Administrative Law Judge provides the following additional guidance (see § 1804(b)(2)):</p> <p>This ruling does not preclude CAUSE from participating, at its own cost, in this proceeding. As with the original NOI, should CAUSE choose to do so, it may file a second amended NOI that specifically addresses each the issues identified in this ruling. If CAUSE chooses to file a second amended NOI, that NOI shall be filed no later than 14 calendar days from the date of this ruling.</p> <p>Furthermore, beyond the substantive items identified above, which CAUSE must correct in any further amended NOI, it is noted that the format of the revised Bylaws is confusing, and this should be resolved by providing clarified Bylaws with any further amendments to the NOI, as follows:</p>	<input checked="" type="checkbox"/>

⁵ See Rule 11.4 of the Commission Rules of Practice and Procedure (<http://cpuc.ca.gov/General.aspx?id=1620>). For more information regarding confidential filing you may check Filing Advice-FAQ at 11-13 (<http://cpuc.ca.gov/efile/>).

<p>1. The title of the Bylaws shall include a subheading under the title line, stating “As amended [DATE], effective [DATE].</p> <p>2. Each page of the Bylaws shall include a footer stating “Bylaws of Collective Approaches to Utility Safety Enforcement, Effective [DATE]”.</p> <p>3. The final page of the Bylaws shall provide an accurate list of all changes made to the Bylaws, and the date (s) of those changes. The current list on page 12 of the Bylaws does not list the revision of Section 3, or other changes, if any, besides the noted change to section 9.</p> <p>Finally, it is noted that CAUSE’s NOI has now been rejected two times. CAUSE is placed on notice that the Commission is not obligated to provide CAUSE unlimited opportunities to perfect its NOI, especially since the deficiencies and obvious inconsistencies noted above indicate a lack of attention to detail that is not acceptable in filings with the Commission. CAUSE is further placed on notice that, pursuant to § 1804(d), the Commission may audit the records and books of the customer to the extent necessary to verify the basis for any award that is ultimately claimed by CAUSE.</p>	
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IT IS RULED that:

1. The Notice of Intent to Claim Intervenor Compensation filed by Collaborative Approaches to Utility Safety Enforcement is rejected.	<input checked="" type="checkbox"/>
2. Additional guidance is provided to Collaborative Approaches to Utility Safety Enforcement as set forth above.	<input checked="" type="checkbox"/>

Dated February 2, 2017, at San Francisco, California.

/s/ STEPHEN C. ROSCOW

Stephen C. Roscow
Administrative Law Judge