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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U338E) for Authority to Increase Rates for its Class C Catalina Water Utility and Recover Costs from Water and Electric Customers.

Application 20-10-018

**ADMINISTRATIVE LAW JUDGE’S RULING
REJECTING NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
OF THE CITY OF AVALON, CATALINA ISLAND CHAMBER OF COMMERCE,
SANTA CATALINA ISLAND CONSERVANCY, GUIDED DISCOVERIES,
HAMILTON COVE HOMEOWNERS ASSOCIATION
AND THE BISHTON GUBERNICK LAW FIRM**

Party intending to claim intervenor compensation: City of Avalon, Catalina Island Chamber of Commerce, Santa Catalina Island Company, Santa Catalina Island Conservancy, Guided Discoveries, Hamilton Cove Homeowners Association

Assigned Commissioner:
Martha Guzman Aceves

Administrative Law Judge: Garrett Toy

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. (See, for example, D.08-07-019 at 5-10).	<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,	<input checked="" type="checkbox"/>

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

<p>in turn, may authorize a representative such as an attorney to represent the group.</p>	
<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 (§ 1802(b)(1)(C)). 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</i> D.98-04-059, footnote at 30.)</p>	<input type="checkbox"/>
<p>4. The party's detailed explanation of the selected customer category.</p> <p><u>The party's explanation of its status as a Category 1 customer.</u> A party seeking status as a Category 1 customer must describe the party's own interest in the proceeding and show how the customer's participation goes beyond just his/her own self-interest and will benefit other customers. Supporting documents must include a copy of the utility's bill.</p> <p><u>The party's explanation of its status as a Category 2 customer.</u> A party seeking status as a Category 2 customer must identify the residential customer(s) being represented and provide authorization from at least one customer.</p> <p>The parties seeking Intervenor Compensation as Category 2 customers are:</p> <p style="padding-left: 40px;">City of Avalon Catalina Island Chamber Of Commerce Santa Catalina Island Company Santa Catalina Island Conservancy Guided Discoveries Hamilton Cove Homeowners Association</p> <p>previously identified in this proceeding in the Assigned Commissioner's Scoping Memo and Ruling as the "Catalina Parties." The Catalina Parties have retained the Bishton Gubernick Law Firm, Norris J. Bishton, Jr., and Jeffery S. Gubernick, to represent the group.</p> <p>The Catalina Parties represent all classes of water ratepayers on Catalina Island:</p> <p>City of Avalon is a customer. Additionally, 95% of the residential and commercial ratepayers are located in the City of Avalon.</p> <p>Catalina Island Chamber of Commerce has 220 members. It represents the vast majority of commercial ratepayers.</p> <p>Santa Catalina Island Company is a customer. The Santa Catalina Island Company ("SCICO") owns 11% of the Island. Wells on land owned by SCICO are a</p>	

secondary source of water sold by SCE. SCICO operates hotels, restaurants and other commercial enterprises. It also leases property to other commercial enterprises. SCICO and its tenants account for a large portion of the commercial connections. SCICO employees constitute a large number of residential connections.

The Santa Catalina Island Conservancy (the "Conservancy") is a customer. It owns 88% of the Island. Wells on land owned by the Conservancy are the primary source of the ground water sold by Southern California Edison Company ("SCE").

Guided Discoveries, Inc. is a customer. It operates three of the eight youth camps located on the Island and has been designated by the remaining youth camps to represent the interests of all eight youth camps.

The Hamilton Cove Homeowners Association is a customer with 30 connections or 6% of SCE's non-residential connections. It is the largest condominium development on the Island. It represents 190 or 13% of SCE's residential accounts.

The Catalina Parties and the Bishton Gubernick Law Firm participated in the Previous GRC, A.10-11-009, filed on November 15, 2010, which resulted in an All-Party Settlement approved October 20, 2014. Subsequent to the approval of the All-Party Settlement, the Catalina Parties and their attorneys regularly met, including with SCE, to discuss water issues. The following customers, although not parties, participated, and continue to participate, with the Catalina Parties with regard to water issues:

Catalina Express, a customer that operates the ferry service from the mainland to Catalina Island.

Catalina Island Medical Center, a customer, the only hospital on the Island.

Pacifica Host, a customer that operates the Holiday Inn Resort Catalina Island, the largest hotel on the Island.

University of Southern California, a customer that operates the Wrigley Marine Science Center on the Island.

Representation of the Catalina Parties by the Bishton Gubernick Law Firm has been authorized by each of the Catalina Parties. It has been authorized by the Board of Directors of the Hamilton Cove Homeowners Association, which represents 190 residential customers (see Attachment 2). Additionally, Norris J. Bishton, Jr., a residential customer with three connections, has authorized the representation by the Bishton Gubernick Law Firm (see Attachment 3).

No Catalina Party will assert its own individual interest in the proceeding. The Catalina Parties will advocate only a single position on each issue, as was done in

<p>the preceding GRC. The Catalina Parties are representing all classes of customers, not their individual interests as customers. The economic interest of the individual members of the Catalina Parties is small in comparison to the cost of effective participation in the proceeding.</p> <p><u>The party's explanation of its status as a Category 3 customer.</u> If the party represents residential and small commercial customers receiving bundled electric service from an electrical corporation, it must include in the Notice of Intent either the percentage of group members that are residential ratepayers or the percentage of the members who are receiving bundled electric service from an electrical corporation. Supporting documentation for this customer category must include current copies of the articles of incorporation or bylaws. If current copies of the articles and bylaws have already been filed with the Commission, only a specific reference (the proceeding's docket number and the date of filing) to such filings needs to be made.</p>	
<p>Do you have any direct economic interest in outcomes of the proceeding?² If "Yes", explain:</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</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 type="checkbox"/> Yes <input checked="" 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 type="checkbox"/> No</p>
<p>C. Timely Filing of Notice of Intent to Claim Intervenor Compensation (NOI) (§ 1804(a)(1)):</p>	
<p>1. Is the party's NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: 1/7/2021</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 checked="" type="checkbox"/> No</p>
<p>2a. The party's description of the reasons for filing its NOI at this other time:</p>	
<p>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:</p>	

² See Rule 17.1(e) of the Commission's Rules of Practice and Procedure.

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

A. Planned Participation (§ 1804(a)(2)(A)):

The party's statement of the issues on which it plans to participate:

The Catalina Parties intend to participate in all issues in this proceeding as it did in the previous GRC. The Catalina Parties have indicated their positions on the issues in their Protest, which Protest is hereby incorporated by reference. The Catalina Parties will present evidence from witnesses who are not available to TURN or Cal Advocates, including one or more former employees of SCE. The Catalina Parties will also present extensive testimony from Dr. Brian J. Brady, P.E., an experienced water utility operator and engineer who testified in the previous GRC and has considerable knowledge with regard to the operation of the water utility on Catalina Island.

The party's explanation of how it plans to avoid duplication of effort with other parties:

The Catalina Parties worked in cooperation with what is now known as Cal Advocates and with TURN in the previous GRC without a duplication of effort. Catalina Parties will do the same in this proceeding.

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).

The Catalina Parties will present evidence and call witnesses. Catalina Parties have retained Dr. Brian J. Brady, P.E., a water utility operator and an expert on water utilities. Dr. Brady testified at length in the prior GRC and is well versed on the water issues on Catalina Island.

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)):

Item	Hours	Rate \$	Total \$	#
ATTORNEY, EXPERT, AND ADVOCATE FEES				
Norris J. Bishton, Jr.	100	\$606.31	\$60,631.00	V
Jeffery S. Gubernick	50	\$497.15	\$24,857.50	V
Dr. Brian J. Brady	50	\$318.22	\$15,911.00	V
[Expert 2]				
[Advocate 1]				
Subtotal: \$101,399.50				

OTHER FEES				
Chris Bounce, Paralegal	50	\$197.46	\$9,873.00	V
[Person 2]				
Subtotal: \$9,873.00				
COSTS				
[Item 1]				
Subtotal: \$				
TOTAL ESTIMATE: \$111,272.50				
Estimated Budget by Issues:				

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

A. The party claims that participation or intervention in this proceeding without an award of fees or costs imposes a significant financial hardship, on the following basis:	Applies (check)
1. The 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(h)).	<input type="checkbox"/>
2. In 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(h)).	<input type="checkbox"/>
3. The eligible local government entities' participation or intervention without an award of fees or costs imposes a significant financial hardship (§ 1803.1(b)).	<input type="checkbox"/>
4. A § 1802(h) or § 1803.1(b) 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)).	<input type="checkbox"/>
B. The party's explanation of the factual basis for its claim of "significant financial hardship" (§ 1802(h) or § 1803.1(b)) (necessary documentation, if warranted, is attached to the NOI:	

**PART IV: ATTACHMENTS DOCUMENTING
SPECIFIC ASSERTIONS MADE IN THIS NOTICE**

(The party intending to claim intervenor compensation identifies and attaches documents)

Attachment No.	Description
1	Certificate of Service
2	Category 2 Customer: Authorization to Represent and Financial Statement (Hamilton Cove Homeowners Association)
3	Category 2 Customer: Authorization to Represent (Norris J. Bishton, Jr.)

ADMINISTRATIVE LAW JUDGE RULING

<p>1. The Notice of Intent to Claim Intervenor Compensation (NOI) filed by the City of Avalon, Catalina Island Chamber of Commerce, Santa Catalina Island Conservancy, Guided Discoveries, Hamilton Cove Homeowners Association, and the Bishton Gubernick Law Firm (Law Firm) has not demonstrated the party’s status as a “customer” for the following reasons:</p> <p>I. The NOI fails to demonstrate that the named entities fit the selected customer category.</p> <p>The Commission distinguishes three categories of eligible customers. The filers state that they are a “representative who has been authorized by a customer,” which corresponds to the second customer category (Section 1802(b)(1)(B)) (see, Part I(A) of the NOI). The Commission defines a Category 2 customer, as follows:</p> <p style="padding-left: 40px;">A “representative authorized by a customer” connotes a more formal [than for a Category 1 customer status] arrangement where a customer, or a group of customers, selects a presumably more skilled person to represent the customers’ views in proceeding. (D.98-04-059 at 30.)</p> <p>Upon review of the NOI, the filers do not clearly explain who, specifically, they consider a Category 2 customer. First, the NOI claims that the City of Avalon, Catalina Island Chamber of Commerce, Santa Catalina Island Conservancy, Guided Discoveries, and Hamilton Cove Homeowners Association (collectively referred to as “Catalina Parties”), as a group, qualify as a Category 2 customer status.</p> <p>Elsewhere in the NOI it is claimed that each entity-member of the Catalina Parties acts as a representative of its constituents – for example, the NOI states that the Santa Catalina Island Company represents its many employees and that Guided Discoveries, Inc. represents youth camps. We note however that the NOI provides no evidence that</p>	<input checked="" type="checkbox"/>

these entities act with the authority to represent their constituents' specific interests as utility customers.

The Catalina Parties also state that they authorize the Law Firm to represent their interests. Thus, the Law Firm also claims to be a "Category 2" customer.

The NOI presents multiple entities that purport to be acting on behalf of its members, and fails to clearly indicate who amongst the Catalina Parties is to be considered as a Category 2 customer. We must therefore determine if all entities named in the NOI as representatives of utility customers fit the selected customer category. As we have stated, a Category 2 customer must be a "presumably more skilled person" selected and authorized by an informal group of ratepayers. Neither corporate entity among those named in the NOI can be characterized as a "more skilled person" selected by an informal group of utility ratepayers.

Therefore, we find that the NOI fails to demonstrate that the Catalina Parties as a group and the named entities fit characteristics of the Category 2 customer.

II. The Catalina Parties are not eligible

The purpose of the intervenor compensation program is "to encourage the participation of all customers in Commission proceedings by helping them overcome the cost barriers to effective and efficient participation."³ The Commission has determined that two customer classes have such cost barriers: residential and small commercial. We have explained why these two classes would be eligible to claim compensation:

Those entities which receive a large benefit from participating in Commission proceedings need no further incentives to participate. This group includes the regulated utilities, big business/large consumers who stand to benefit substantially from any savings achieved, and actual and potential competitors. A second category of entities not in need of compensation are groups with easy access to deep pockets. Included within this category are groups representing municipalities and other governmental entities, and representatives of industries seeking large and tangible gains from the outcome of Commission proceedings. Targets of concern include residential customers, including rural, low-income, fixed income; customers with special needs such as disabled or non-English speaking customers; customers with public interest concerns; and small business customers who cannot

³ D.98-04-059 at 26.

<p>afford to take time away from day-to-day operations to invest time and money in PUC⁴ proceedings ...⁵</p> <p>The NOI states that the Catalina Parties are representing all classes of customers, which would necessarily include mid- and/or large-size commercial and governmental. These customer's interests would not be eligible. The fact that the Catalina Parties represents ineligible interests disqualifies this intervenor.</p>	
<p>2. The NOI has not demonstrated significant financial hardship:</p> <p>Since the NOI does not request a finding of significant financial hardship, this ruling does not provide an in-depth analysis of this element of eligibility.</p>	<input checked="" type="checkbox"/>
<p>3. The Administrative Law Judge provides the following additional guidance (see § 1804(b)(2)):</p> <p>This ruling does not preclude the Law Firm from participating, at its own costs, in this proceeding as a representative of the Catalina Parties.</p> <p>In the future, should the filers or their constituents undergo a change affecting their eligibility to claim compensation, they may file a new NOI in another proceeding before the Commission. If the group is composed of diverse members and claims a Category 2 customer status for their representative, they must, at the minimum, supply a copy of the utility bill and demonstrate significant financial hardship for each member of the group. Additional documents may be requested by the assigned administrative law judge.</p> <p>Questions on filing documents supporting intervenor's eligibility can be directed to the Intervenor Compensation Program coordinator at Icompcoordinator@cpuc.ca.gov.</p>	<input checked="" type="checkbox"/>

⁴ California Public Utilities Commission.

⁵ Rulemaking No. 97-01-009; Investigation No. 97-01-010, 1997 Cal. PUC LEXIS 60, *69.

IT IS RULED that:

1. The Notice of Intent to claim intervenor compensation filed on behalf of the City of Avalon, Catalina Island Chamber of Commerce, Santa Catalina Island Conservancy, Guided Discoveries, Hamilton Cove Homeowners Association, and the Bishton Gubernick Law Firm is rejected, as set forth.	<input checked="" type="checkbox"/>
2. Additional guidance is provided to the City of Avalon, Catalina Island Chamber of Commerce, Santa Catalina Island Conservancy, Guided Discoveries, Hamilton Cove Homeowners Association, and the Bishton Gubernick Law Firm, as set forth.	<input checked="" type="checkbox"/>

Dated August 24, 2021, at San Francisco, California.

/s/ GARRETT TOY
Garrett Toy
Administrative Law Judge