Revised March 2017

Decision (D.) 17-05-013

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

FILED
7-17-17
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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)

INTERVENOR COMPENSATION CLAIM OF SCOTT J. RAFFERTY AND DECISION ON INTERVENOR COMPENSATION CLAIM OF SCOTT J. RAFFERTY

PUBLIC VERSION

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 Icompcoordinator@cpuc.ca.gov.

Intervenor: Scott Rafferty		**For contribution to Decision (D.) 17-05-013**
Claimed: $ 591,995 has been documented and is justified. Claimant offers 60% ($355,197) in compromise. See third comment to I.C		**Awarded: $**
Assigned Commissioner: Picker		**Assigned ALJ: Roscow**
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: July 17, 2017	**Printed Name:**	**Scott J. Rafferty**

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

A. Brief description of Decision:	Decision (D.) 17-05-013 resolved the test year 2017 general rate cases for Pacific Gas & Electric (PGE). Most of the disputed issues were resolved through a proposed settlement supported by a wide range of parties, including CAUSE. The decision adopted a 2017 revenue requirement for each utility representing the reasonable costs of providing safe

	and reliable utility service to their customers in that year. The decision also adopted post-test year increases for 2018 and 2019. •PG&E shall establish a Rule 20A balancing account that tracks the annual capital and expense costs for Rule 20A undergrounding projects, on a forecast and recorded basis. In addition, PG&E, the City of Hayward, and Commission staff are directed to determine a joint estimate of the scope and funding required for an audit of PG&E's Rule 20A program. •Section 3.1.5.2 of the Settlement Agreement, as reflected in the Settling Parties' April 24, 2017 proposed alternative provisions, is adopted. PG&E shall file a standalone application for recovery of recorded costs in its Residential Rates Reform Memorandum Account, or shall seek recovery in Commission Rulemaking 12-06-013. •Section 3.1.9.3 of the Settlement Agreement is not adopted. Instead PG&E shall file an advice letter to establish a two-way tax memorandum account in the form described in the decision. PG&E's total authorized 2017 revenue requirements for its gas distribution, electric distribution, and electric generation lines of business are $1.738 billion, $4.151 billion, and $2.115 billion, respectively, a total of $8.004 billion. As modified, D. 17-05-013 finds that the comprehensive Settlement Agreement entered into by PG&E and the other Settling Parties is reasonable, consistent with the law and in the public interest.

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	10/29/2015	
2. Other specified date for NOI:	none	
3. Date NOI filed:	11/30/2015 by CAUSE	
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.15-09-001	
6. Date of ALJ ruling:	5/10/2017	
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:	Deferred per A.15-09-001	
10. Date of ALJ ruling:	5/10/17	
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.17-05-013	
14. Date of issuance of Final Order or Decision:	5/18/2017	
15. File date of compensation request:	7/17/2017	
16. Was the request for compensation timely?		

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

#	Intervenor's Comment(s)	CPUC Discussion
Identity of party	The May 10, 2017 authorized Rafferty individually as a Category 1 customer, even though he never received party status. The record references generally refer to CAUSE. Except where it is necessary to distinguish Rafferty as an individual from CAUSE, this submission refers to CAUSE based on the understanding that Rafferty "stands in its shoes."	
General	At the advice of the Senate Utilities Committee, CAUSE sought the assistance of Senator Steven Glazer, of whom Dr. Rafferty and many CAUSE	

	members are constituents. Senator Glazer has suggested that the Executive Director meet with CAUSE and arrange such additional meetings with staff authorized to resolve the unusual and complex issues raised by the May 10, 2017 ruling and earlier aspects of this proceeding. The Commission asked Senator Glazer to direct me to a staff member who works for the intervenor compensation coordinator, who has not returned my call. Accordingly, it is difficult (given the absence of identified precedents or relevant guidance documents) to deal with certain aspects of this claim.	
Claim amount	CAUSE/Rafferty affirm that there is a good faith basis for the full claim amount. Hours are presented conservatively based on objective productivity and are fully justified, but were increased by the unusual procedural burdens described below. As a result, the effort expended exceeded the proposed budget. CAUSE recommends an ADR process to resolve this claim. Without prejudice to any other form of relief, CAUSE offers to resolve the claim for 60% of the stated amount, but wishes to provide some flexibility to the Commission in structuring that award.	
9	This May 10, 2017 ruling allowed Rafferty to defer his showing of financial hardship to this proceeding. This requires an auditable statement of net worth. Since all precedents as to form are believed to be under seal, Rafferty verifies information and will provide such further documentation as the legal division or auditors request. Because of the volume of this pleading and the need to minimize risk that private financial information will be disclosed, Rafferty is filing the required disclosure subject to a separate motion for leave to file under seal. He has attempted to contact the docket office and the attorney assigned to assist him in response to	

	Senator Glazer's request to verify that this is permissible, but neither has responded.	

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
1. **SETTLEMENT**. CAUSE contributed to the negotiation, examination, and acceptance of the terms of the settlement, as it was originally proposed. This included an extensive review of the economic reasonableness of the proposed rate increase, as well as participation in a series of individual meetings and calls, as well as conference meetings and calls. Due to the settlement privilege, no details are provided as to the content of these calls and meetings.	**Decision 17-05-013: 1.2 Further Procedural Developments** On April 8, 2016, the Commission's Office of Ratepayer Advocates (ORA) served its testimony and on April 29, 2016, the following intervenors served testimony: … • CAUSE…. Page 12. 1.3 Joint Motion for Adoption of Settlement Agreement On July 21, 2016, pursuant to Rule 12.1(b) of Commission's Practice and Procedure (Rules), PG&E notified all parties on the service list for this proceeding of a settlement conference in order to discuss the terms of a possible settlement agreement. The settlement conference took place on August 3, 2016. On the same day, following the settlement conference, the Settling Parties signed a Settlement Agreement and filed and served a Joint Motion for Adoption of Settlement Agreement (Joint Motion). The Settling Parties are: •PG&E •ORA •TURN •A4NR •Center for Accessible Technology (CforAT) •CUE •CAUSE •CFC •EDF Revised April 2017 •MCE •Merced ID •Modesto ID •NDC •SBUA •SSJID Page 13-14. Article 4 of the Settlement Agreement sets forth two contested issues over which the Settling Parties were unable to gain consensus. These issues concern: (i) a third post-test year and (ii) gas leak management. The Settling Parties proposed to present their respective positions on these contested issues through opening and reply comments on the Joint Motion. On August 18, 2016	

	the following parties filed comments on the Settlement Agreement: PG&E, CUE and EDF (jointly on the second contested issue); ORA and PG&E (jointly on the first contested issue); CFC; and A4NR. On August 25, 2016 the following parties filed reply comments on the Settlement Agreement: PG&E, CUE and EDF (jointly); ORA and PG&E (jointly on the first contested issue); and CFC. Pages 14-15. 3.2 The Settling Parties The Settling Parties explain that they represent a variety of interests other than those of PG&E. … CAUSE represents the interests of consumers with a focus on utility safety. Pages 36-37.	
2. SAFETY. CAUSE provided extensive testimony and advocacy in support of the use of international standards and broader involvement of line employees in achieving continuous improvement in safety conditions, which the settlement included.	Decision**: 3.4.7** at p.41: CAUSE provided recommendations concerning the implementation of international standards and broader involvement of field employees in assessing safety conditions. **4.2.8.8. Risk Management and Integrated Planning Process (Section 3.2.8.8)** CAUSE submitted testimony regarding safety and identification and mitigation of hazards, recommending that PG&E engage in an ongoing examination of its safety practices to achieve continuous improvement. Section 3.2.8.8 requires PG&E to attempt to improve its ability to identify specific actions or specific locations that require remediation on an urgent basis, and to attempt to develop measurements to evaluate and compare the cost-effectiveness of specific initiatives to mitigate risk. **4.2.8.9. Disclosure of Safety Metrics (Section 3.2.8.9)** PG&E presented testimony regarding its measurement and benchmarking of performance in relation to various safety metrics. During the settlement process, CAUSE and other Settling Parties agreed that PG&E should disclose its performance under various safety metrics. Specifically, Section 3.2.8.9 requires that PG&E shall provide to Settling Parties on request monthly data,	

	if available, for each LOB showing the following safety metrics:…**4.2.8.10. Safety Standards and Benchmarking (Section 3.2.8.10)** CAUSE presented testimony proposing that the Commission rely on international standards to supervise the development of management systems that will require utilities to develop, maintain and document compliance with regulatory mandates.	
3. COMPENSATION METRICS. CAUSE avoided duplication with NAAC/NDC's advocacy for linking executive compensation to safety performance, but contributed to the discussion and resolution of this issue in the course of the settlement. CAUSE also supported this effort by promoting specific safety metrics. While the majority of CAUSE's specific contributions to the settlement are privileged, PGE-43 does reflect an agreed statement on the future evaluation of how metrics are used in setting executive compensation that is specifically attributed to CAUSE.	Rafferty Direct Testimony at 12, 35; PG&E-43., n. 3 (agreed conditions regarding future evaluation of metrics) PG&E-40 (addendum to settlement on executive compensation) [NDC also responsible for this contribution] FINAL DECISION at 30-31 For this reason, the intent of the Scoping Memo has been addressed by further developing the record at the August 30, 2016 Settlement Workshop and through several additional exhibits prepared and filed by PG&E. As we highlight below, the Commission notes the cooperation of PG&E and the other Settling Parties in making this record, beginning with their presentations and discussions at the Settlement Workshop, and continuing with the collaborative preparation and review of late-filed exhibits. **4.2.6.2. Compensation (Section 3.2.6.2)** In its testimony, NDC offered a number of comments with respect to PG&E's executive compensation. Among those, NDC noted that while PG&E's current incentive structure appears to emphasize safety, including safety metrics totaling 50 % of the STIP,… **3.2.8.9.** CAUSE and other Settling Parties agreed that PG&E should disclose its performance under various safety metrics.	
4.RATE CASE CYCLE. With TURN, CAUSE successfully argued against a third post-test year (a contested issue left open by the settlement). As CAUSE discussed at the	TURN/CAUSE joint comments August 18, 2016 at 2-10. **4.1.1.3. 2020 Post-Test Year (Section 3.1.1.3)** In its testimony, ORA proposed a third attrition year in 2020, so that this	

workshop, the formulation of the "Z-factor" allowing recovery of certain exogenous changes during post-test years is consistent with liability rules that promote safety. More specific explanations of CAUSE's contributions are subject to the settlement privilege and will be made available on request of the Commission with the consent of the settling parties.	proceeding would result in a four-year (2017-2020) rate case cycle. In the Joint Motion, Settling Parties report that the parties were unable to gain consensus on whether the term of PG&E's next GRC should be three or four years. TURN, A4NR, CAUSE and CFC recommend that the term of PG&E's next GRC be three years - the test year and two post-test years. PG&E and ORA recommend that the term of PG&E's next GRC be four years - the test year and three post-test years. **4.3.1. Third Post-Test Year (Section 4.1 of the Settlement Agreement)** The parties were unable to gain consensus on whether the term of this GRC should be three or four years. PG&E and ORA recommend that the term of this GRC be four years: the 2017 test year and three post-test years, 2018-2020. TURN, A4NR, CAUSE and CFC recommend that the term this GRC remain at three years - the 2017 test year and two post-test years, 2018-2019. We find that it would be premature to resolve this matter in this decision. **4.1.1.4. Exogenous Changes (Section 3.1.1.4)** In past attrition mechanisms, we have included a provision identified as a Z-factor, to cover certain unforeseen exogenous events that may occur between test years. The Z-factor is a mechanism designed to prevent both windfall profitsand large financial losses as a result of changes in costs outside of utility control.	
5. GAS LEAK MAINTENANCE. With TURN, CAUSE successfully argued that the PG&E's proposal for a gas leak management account (a contested issue) should be denied without prejudice.	Decision at 198-199; TURN/CAUSE joint comments August 18, 2016 at 10-18. **4.3.2. Gas Leak Management (Section 4.2 of the Settlement Agreement [contested issue])** The parties were unable to reach consensus on whether PG&E should be authorized in this GRC decision to establish a new balancing account to record costs to comply with gas leak management requirements that may emerge from Commission Rulemaking	

	R.15-01-008. CUE, EDF and PG&E recommend that such a balancing account be established in this proceeding. TURN, CAUSE and CFC oppose the recommendation.	
6. MONITOR COSTS. The proposed decision solicited comments from PG&E regarding the costs of the federal monitor required by the criminal sentencing order issued by Judge Henderson on Jan. 9, 2017 (after the settlement). CAUSE argued that the costs imposed by the monitorship should be borne by shareholders, but that this liability should be limited by a principle of proximate cause (since to some extent all gas activities will be affected). No other intervenor took a position, but this appears to be congruent with the position taken by PG&E. The final decision contains an apparent editorial error in that it does not alter the language directing PG&E to address the issues in "its comments on this ***proposed*** decision." Given the absence of comments from other parties, the conceptual agreement between CAUSE and PG&E as to the appropriate limits of shareholder responsibility should be viewed as a "substantial contribution" in that it likely reflects the ratemaking treatment that PG&E will seek. After considerable analysis from the potentially adverse point of view of promoting safety, CAUSE agrees with PG&E that such limits are justified. .	**Compare PG&E Opening Comments on PD at 13: "**PG&E's shareholders will cover the direct costs of the monitorship. This shall include all amounts paid to the monitor or persons hired by the monitor pursuant to the monitor's authority… PG&E's shareholders will also cover the expenses of the group being formed at PG&E that will be dedicated to assist with the work of the monitor and address the monitor's needs…. Please note that the activities of the monitor will likely impact, to varying degrees, the work of scores of employees across the organization. (For example, consider these very comments on the topic.) PG&E does not expect the work of those impacted by the activities of the monitor in the course of their regular jobs (such as the author of these comments) to be covered by shareholders. Further, it is also possible that the monitor may recommend operational changes or improvements that affect future costs. PG&E expects that such costs would be evaluated as would other similar costs in future ratemaking proceedings. ***with*** **CAUSE Opening Comments on PD at 10-11: "**There should be a rebuttable presumption that costs proximately caused by requirements imposed by the federal monitor will not be recovered in rates. … PG&E may argue that the probation so transforms the company that every cost will increase due to the probation, so this presumption is limited to those costs identifiably and proximately caused by compliance with a specific mandate of the Monitor "(**Proposed Decision at 4.1.11.1 at 133; D17-05- at 131:** **The Commission should determine whether or not PG&E intends to seek recovery in rates for the costs that it will incur in connection with the monitorship imposed by the court.**	

	Therefore, PG&E shall include in its comments on this proposed decision a statement that explains its proposed ratemaking treatment for the costs that it will incur in connection with the monitorship imposed by the court. Conclusion 17	
7. POSSIBLE REMEDY IF POST-SETTLEMENT COST REDUCTIONS WERE NOT REFLECTED IN APPLICATION. The proposed decision raised another issue outside of the settlement: PG&E's decision to cut $300 million in expenses after the settlement was agreed but before it is approved. Again, CAUSE believe it was the only intervenor to comment. Although the final decision did not alter the discussion of this issue or cite any of the parties' comments, it did strengthen conclusion of law 15, consistent with CAUSE's recommendation, by committing the Commission to take remedial action if necessary.	**CAUSE Opening Comments on the PD at 13:** The proposed revenue requirement should be reduced to any extent that it includes any of the $300 million in cost savings that PG&E subsequently announced. CAUSE expects to reply to any explanation that PG&E offers in its comments regarding the relationship between the reported costs, on the basis of which TURN and ORA negotiated the overall revenue requirement and the savings announced to the press on January 11, 2017. See discussion PD at 126, ff.; Ordering Clauses 4-6 at 221-222. **D.17-05-013, Ordering Clause 15, at 245: 15.** "PG&E should demonstrate to the Commission that it will not collect in rates any funds rendered unnecessary by the $300 million in spending reductions that it announced on January 11, 2017 **and the Commission should require PG&E to take remedial action if it fails to do so**."	
8. STANDARD FOR EVALUATING SETTLEMENTS. CAUSE participated in the research and drafting of the joint comments on the PD with regard to the standard for considering settlements and proposing modifications. The settlement privilege precludes disclosure of the substance of these contributions. Ultimately, CAUSE filed separately and was the only party to support the authority of the Commission to modify a proposed settlement in order to make it conform to the public interest. *CAUSE has carefully adjusted the hours to exclude any time spent*	**6.1. The Commission's Standard for Review of Settlements** … CAUSE states that the Commission should clarify the standards that it will use to evaluate settlements, especially those reached prior to a full evidentiary hearing, to articulate more clearly when modifications are appropriate. [The entire discussion (at 220-223) of the standard proposed by the joint parties and by A4NR implicitly adopts the most essential position of CAUSE, that the Commission can evaluate an individual provision for conformity with the public interest and propose modifications without regard to the benefits of the settlement as a whole. Furthermore, the	

arguing that the utility should be made whole for the costs of any modification in order "to preserve the fundamental bargain," which the decision (at 223) criticized. In the context of certain settlement processes, it is possible to calculate a revenue adjustment to meet the costs faced by a utility to fulfill a modification in a manner that does not unduly prejudice the legitimate expectations of other parties. *This argument was mooted by PG&E's acceptance of the modification*.	discussion avoids citing precedents advocated by the settling parties but criticized by CAUSE, such as those comparing the standard with review of federal class action settlements] **6.1.3. CAUSE** In comments on the PD, CAUSE agrees with the other settling parties that the Commission should not evaluate reasonableness issue by issue. However, CAUSE also argues that the Commission should modify any single provision that, as proposed, contravenes the public interest, interest, "ideally doing so with any adjustments necessary to preserve the fundamental bargain that the parties sought.".	
9. CATALYST FOR ACCEPT-ANCE OF MODIFICATIONS. CAUSE indicated that it would accept the proposed modifications in the proposed decision (PD) as an alternative to the settlement. Although this was strongly criticized by PG&E initially (as noted in the decision), CAUSE did not abrogate the settlement. It simply indicated that it would accept the modifications in the alterative without seeking additional relief. This is precisely what PG&E and other settling parties did after the alternative proposed decision (APD). CAUSE's position had a catalytic effect, which is a basis for inclusion in its IC claim. CAUSE also participated very actively in the preparation of the joint comments on the APD, which it adopted in its entirety.	Joint Parties' Opening Comments on the APD at 2: While the Settling Parties still support the original provisions set forth in the Settlement Agreement, these Opening Comments provide an alternative approach recommended by the Settling Parties to address the considerations raised in the APD concerning these three topics. In these Opening Comments, the Settling Parties have taken the time afforded by the issuance of the APD to agree upon alternative provisions that address the specific concerns raised in the APD.	
10. **UNDERGROUNDING**. CAUSE accepted the proposed Rule 20A audit (an additional term, rather than a modification), and provided extensive input into the safety benefits that it could realize with appropriate siting decisions. CAUSE seeks recognition that its extensive analysis of Rule 20A enables the impending audit to consider safety	**CAUSE's Opening Comments on the APD at 18-21**. Request For Liberal Construction Of Rules Of Procedure Or Deviation Therefrom [provided bases for taking notice of background facts regarding nature of danger from overhead conduit in certain areas]: **Opening Comments on the APD** at 5-16. **Legal** analysis of the issues raised by reform of Rule 20A	

impacts, which should be acknowledged as a substantial contribution. There had been no record on the Rule 20A issue other than spontaneous testimony at the one-day hearing on the settlement. Since Hayward was given party status spontaneously, there was no opportunity to prepare cross or supplemental testimony on this topic. CAUSE filed the only comments on the Rule 20A audit, and successfully urged City of Hayward to request leave to late file comments. But for the late-filed comments that CAUSE encouraged, it was the only party supporting Hayward's claims. Also, as the catalyst for Hayward to file its own comments, CAUSE deserves recognition for contributing to the Commission's ability to address this issue. CAUSE filed almost 15 pages of comments analyzing the precedents of this Commission and the municipal ordinances and actions that they require. These are matters of law, not required to be entered into the evidentiary record. CAUSE cautioned against undue disregard for prior decisions about prioritization based on safety and coordination with road projects, which would constitute legal error. Given SB 512, CAUSE also demonstrated that it would be legal error not to consider safety in any decision addressing Rule 20A. As strong as Hayward's equities are, once its project is complete, safety needs to be a factor in Rule 20A siting decision. Other than noting the danger of mylar balloons, common to all urban areas, Hayward's comments do not refer to safety at all. Reference to previous Commission decisions are matters of law, to which Rule 14.3(c)'s requirement of record citation does	**Excerpt from Table of Contents:** Undergrounding has safety benefits, when it is economically feasible. [5] Given endemic overruns and delays, the work credit process simply does not work. [11] Safety budgets should not be allocated among political entities. [14] Proposed Decision: **6.2. Comments on Rule 20A Issues in the APD.** CAUSE includes extensive comments on Rule 20A matters that rely on material outside the evidentiary record in this proceeding. As noted above, Rule 14.3 (c), requires that comments shall focus on factual, legal or technical errors in the proposed decision and in citing such errors shall make specific references to the record or applicable law. Comments which fail to do so will be accorded no weight. Much of CAUSE's comments fail to make specific references to the record, and for this reason we accord them no weight.	

not apply. Because the Commission requires local municipalities to adopt ordinances, CAUSE's citations of local official actions in its comments are also relevant law and exempt from the requirement of record citation. Recognizing that a small number of background references were factual in nature, CAUSE provided three-pages of explanation as to why a waiver under Rule 1.2 was appropriate to allow the Commission to take notice. The ALJ's criticism does not even acknowledge this request. CAUSE's application for rehearing and petition for modification does seek reconsideration of the decision not to accord the comments made by CAUSE any weight, even though they preceded and were in substantial accord with those of City of Hayward. The application/petition has not yet been accepted for filing. The ALJ's treatment of CAUSE's Rule 20A comments is inconsistent with SB 62 and 512 for two reasons. First, it declines to consider the only comments the relevance of the audit to safety, which the decision does not address. Also, the Commission failed to comply with new Section 311.5(b)(5), which required it to post CAUSE's comments. CAUSE's comments were arbitrarily rejected and then accepted (with a backdated stamp) just hours before the Commission meeting. It is a violation of transparency and due process to criticize documents that are not posted (as required by SB512) so that the public can evaluate the merits of the criticism. In any event, the ALJ apparently read the documents. CAUSE should be compensated for all apparent contributions they made, whether or not the ALJ acknowledges them,		

The extensive analysis of Rule 20A enables the impending audit to consider safety impacts, which should be recognized as a substantial contribution. Independent of the outcome of any rehearing, CAUSE should be recognized as the catalyst that advised Hayward to file comments in the record, and provided the legal references to enable the audit to fulfill its responsibilities to safety under SB 512.		

B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	**CPUC Discussion**
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?[1]	yes	
b. Were there other parties to the proceeding with positions similar to yours?	yes, but only to a very limited degree regard ing certain issues	
c. If so, provide name of other parties: TURN, as to economic issues generally, as to gas leak management, and as to rate case cycle; National Asian American Coalition/National Diversity Coalition as to executive compensation; City of Hayward as to Rule 20A; Alliance for Nuclear Responsibility as to rate case cycle and post-test year treatment.		
d. Intervenor's claim of non-duplication: Economic issues. Until CAUSE was invited to join the settlement, it conducted no original research into the economic issues of the settlement. At that point, Rafferty engaged in intensive analysis to determine if he could viably testify and cross-examine witnesses at a hearing in a manner that had a reasonable possibility of improving the economic settlement for CAUSE members. He concluded that requesting a hearing was unlikely to improve the outcome. CAUSE deferred to NAAC on executive compensation, but engaged in settlement discussions regarding the specific terms relating to short-term compensation, some of which are attributed in PGE-43. CAUSE supported City of Hayward's equitable claims regarding the distribution of funds for undergrounding (Rule 20A), but performed substantial research and		

[1] The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013: public resources), which was approved by the Governor on September 26, 2013.

made recommendations as to the role of safety in selecting appropriate sites for future projects. CAUSE filed joint comments with TURN on gas leak management, post-test-year treatment, and rate case cycle	

C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Intervenor's Comment	CPUC Discussion
	1. CAUSE continues to believe that an ADR process is most appropriate to resolve its claim given the cumulative effect of impediments that it faced, for which there are no clear precedents.	
1-10	2.As noted above, CAUSE made a number of substantial contributions. CAUSE would have made substantial contributions on **additional** safety topics but for the delay and suspense of its NOI. See below. It also would have been able to present a more effective case if it had not been required to spend time establishing that its filings were PDF/A compliant. See below. Given the cumulative, prejudicial impact of the impediments associated with the NOI delay and the rejections of documents, the Commission should recognize time reasonably spent addressing them as ecessary to support effective participation and therefore deserving of reimbursement.	
	3. **Rejected pleadings**. CAUSE could not participate effectively while its pleadings were being erroneously rejected. As Attachment 5 details, CAUSE's pleadings were rejected as not PDF/A-compliant when they were, and other parties' filings were accepted even when they were non-compliant. Banners, warning boxes, and metadata clearly indicated that CAUSE was in compliance, but pleadings were still rejected without justification. Since the documents were in fact compliant, time spent attempting to demonstrate that fact to the docket office and the Commission should be compensated.	
	4. NOI Delay. CAUSE complied with all statutory requirements for the NOI and all known guidance and interpretation. Its NOI was properly formatted and timely submitted. No information was sought, and no action taken, within the 30 day time period during which the statute requires a decision. This precluded CAUSE from recruiting experts or taking extensive discovery. Subsequently, CAUSE experienced burdensome and apparently unprecedented requests, followed by repeated indications that the NOI was about	

	to approved (or, in October 2017, that **it had been approved**). *See* Att. 2. The specified information is not required by the statute, included on the form, or identified in any way that CAUSE could have predicted when it relied upon the statute, form, guide, and precedents in undertaking what developed into an enormously risky endeavor. Indeed, the requirements are inconsistent with the purposes of the statute, as reemphasized in SB 512 (streamlining eligibility) and the commitment of D.98-04-059 not to discourage small or new participants, including individual professionals. Many of these requested documents that had apparently never been required of other intervenors. Obtaining acknowledgement of the UA-100, which had been misdirected in processing by the Secretary of State, for example, required two trips to Sacramento, but is not relevant to the legal capacity of the group as an unincorporated association. More critically, it delayed approval of the NOI, a delay which was compounded by erroneous rejection of amendments as PDF/A noncompliant. CAUSE became so heavily invested in the proceeding that Rafferty could no longer afford to withdraw. Furthermore, Rafferty received several oral and written off-the-record assurances from the ALJ that the eligibility finding would be granted. The ALJ does not dispute that his demands were "unprecedented," but claimed that they were justified by an "inconsistency" - a document filed in the SCE rate case (A16-09-001) stated that all CAUSE members were SCE ratepayers, which CAUSE explained was a typographical error and promptly corrected. Furthermore, this error was not even committed until 10 months after the deadline for a ruling. (CAUSE explained that its decision not to represent small businesses in A16-09-001 was an ***election***, based on changed circumstances, not an inconsistency.) With the exception of the typographical error in an extrinsic document filed 12 months later, nothing changed in CAUSE's status that would justify the delay in failing to request all necessary information in a single, timely order. Nor was there any basis to depart from precedents granting NOIs to similar unincorporated organizations such as Aglet and Peninsula Ratepayers Association without making any of the showings required of CAUSE in this case	

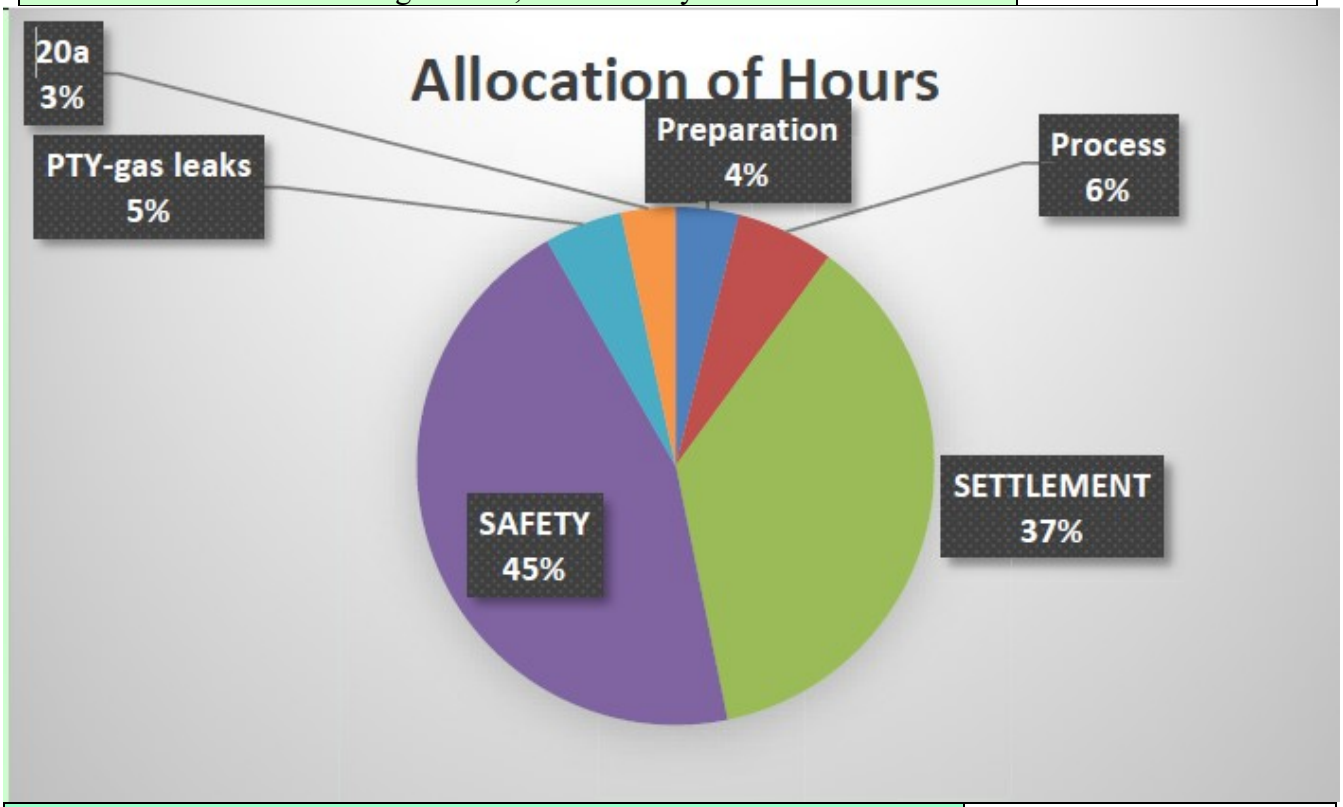
	CAUSE maintained that there were less intrusive means to satisfy the ALJ's desire to verify the residential nature of CAUSE's membership, including the provision of the addresses of the three directors (which CAUSE provided), or the inspection of home addresses by auditors, preferably on a non-custodial basis. As demonstrated by the procedural order resolving the identical issue in A16-09-001, the less intrusive means is providing a single redacted electric bill, which was not necessary in this case because the Commission had Rafferty's unredacted electric bill and obtained the names and home addresses of CAUSE's three directors.	
	CAUSE has applied for reconsideration and petitioned for modification of the final decision. The filing has not yet been considered by the Commission because the docket office rejected it as untimely. As to the application for reconsideration, the docket office has been unable to document that the filing was received after 5PM on the due date of 6/19. The notice provides no basis to reject the petition for modification. transaction number 0000109391; PRA request 17-249 (all responsive documents provided; no record of time application was actually received)	

PART III: REASONABLENESS OF REQUESTED COMPENSATION
(to be completed by Intervenor except where indicated)

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

a. Intervenor's claim of cost reasonableness:	**CPUC Discussion**
There will be monetary benefits for ratepayers because of CAUSE's participation, because the settlement commits PG&E to increased reliance on international standards, both in setting specific metrics and in developing management systems that will promote compliance with mitigate safety risks and increase regulatory compliance. This will reduce the direct cost of accidents and liability insurance recovered in rates, as well as additional social costs borne by employees, ratepayers, and members of the public. Furthermore, CAUSE (in coordination with TURN) protected ratepayers from the risks that a third post-test year would allow escalations not justified by costs, and that changes in maintenance schedules would increase cost without regard to safety mitigation. These savings are substantial compared to the amount of the claim.	

b. Reasonableness of hours claimed:
Despite the unusual burdens described below, which consumed 30% of total hours, CAUSE was extremely efficient. Only 10% of its remaining time was associated with background preparation and the usual procedural exercises (such as preparing the NOI and complying with the new ex parte statute). 45% went to direct advocacy for safety, including outreach to determine ratepayer concerns, to recruit experts, to obtain insights from state and federal officials, and preparation of testimony and comments. 37% went to support the settlement process, which included support for the responsibility of this Commission to make an independent determination that the settlement is in the public interest, as it is required to do by law. 5% went to advocacy (in coordination with TURN) in opposition to a third-post test year and non-risk-sensitive changes to gas leak maintenance. CAUSE/TURN prevailed on these issues. 3% went to address a proposed audit of Electric Rule 20A on undergrounded, an issue neither included nor contested in the settlement agreement, but added by the ALJ.



CAUSE has been conservative in recording hours. However, it has faced two burdens that are not consistent with Public Utilities Code 1801, et seq. or SB 512. Its notice of intent was not acted on in any way prior to the statutory timeframe, nor was any information sought. The NOI was (at this time) fully compliant with the requirements of the statute and properly formatted. This had a series of direct consequences, which imposed added costs on CAUSE that the Commission should recognize and reimburse.

Because of his own extensive experience as an expert, Dr. Rafferty was able to substitute for witnesses that he intended to recruit. Initially, CAUSE adopted a reduced role, foregoing discovery in anticipation of the opportunity to make its case through testimony and cross-examination at the hearing on the merits. CAUSE also relied on TURN for economic testimony, so once TURN

elected to settle, CAUSE had to make an independent assessment on a very compressed basis of whether it was reasonable to seek a hearing on the economic issues, which Dr. Rafferty was again able to do. CAUSE supported the settlement process extensively, as shown in the attached timesheets. CAUSE sustained this effort only because of reassurances that its NOI would be granted, including an October 2016 email from the ALJ stating that he **had approved** the NOI. Attachment 2. As a result, CAUSE (at the exclusive personal expense of the Rafferty family) continued to sustain its participation at a high level. Since the reversal of February 2, 2017, CAUSE/Rafferty has been required to expend extraordinary effort to re- establish CAUSE's eligibility. A second burden, also inconsistent with SB 512, required CAUSE to undertake extraordinary efforts. Many of its essential documents (most critically, numerous submissions of its NOI) were arbitrarily rejected for alleged failure to comply with PDF/A. The tests applied were not accurate, apparently because they sought to determine whether the documents could be re-saved using an older, non-handicapped accessible version of the standard, PDF/A-1b. Generally, CAUSE used PDF/A-3a, which is handicapped accessible and allows additional features, most critically embedded charts (which are treated as images and subject to OCR errors in PDF/A-1b). PDF/A-3a can be read on all versions of Adobe reader and similar software, and meets or exceeds the earlier standard in every respect. The Commission should allow excess costs imposed by its rejection of pleadings due to their handicap accessibility or due to their use of updated versions of the PDF/A standard. See also Att. 5 The defense of CAUSE's eligibility has excluded all other revenue opportunities for Dr. Rafferty since early March. Although CAUSE has adjusted the billing downward to claim only productive time, the task has effectively been full-time, and has prevented Rafferty from building a pipeline of future compensable projects.	**CPUC Discussion**
c. Allocation of hours by issue: See chart above **Preparation** (time that is not related to specific issues, but nonetheless essential to participate effectively): 4% **Process** (time addressing procedural matters, such as required filings, e.g., NOI, ex parte, excluding time spent on the NOI after 30-Dec-15): 6% **Settlement** (time spent evaluating, negotiating, revising, and editing settlement and related documents, and supporting the process of evaluation by the Commission): 37% **Safety** (time spent researching, obtaining input from stakeholders, and substantively advocating on behalf of safety, including the use of safety metrics in executive compensation): 45% **Contested issues** (time spent opposing third post-test year and risk-insensitive changes to gas leak maintenance): 5% **Rule 20A**: (time spent advocating on behalf of audit into undergrounding practices): 3% In its NOI, CAUSE broke "safety" down into 4 issues: management systems (60%), cost effectiveness of safety mitigations (10%), incidence of accidents (20%), inclusion in revenue requirement (10%). Due to the pre- hearing nature of the settlement, time spent related to the incidence of accidents was more limited. CAUSE believes that its actual efforts were broadly consistent with these forecasts, but the settlement precludes precise calculation or disclosure.	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate $**	**Total $**
Scott Rafferty	2015	143.5	$490	*See* Att. 5 & (C) below	$70,315			
Scott Rafferty	2016	568.0	$495	*See* Att. 5 & (C) below	$281,160			
Scott Rafferty	2017	421.0	$495	*See* Att. 5 & (C) below	$208,395			
Subtotal: $ 559,870						***Subtotal:* $**		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Hours**	**Rate**	**Total $**
Scott Rafferty	2017	128.5	$250	Half of rate proposed above	$32,125			
Subtotal: $32,125						***Subtotal: $***		
COSTS								
#	**Item**	**Detail**			**Amount**	**Amount**		
		Not claimed						
TOTAL REQUEST: $591,995						***TOTAL AWARD: $***		

*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.

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

ATTORNEY INFORMATION			
Attorney	**Date Admitted to CA BAR[2]**	**Member Number**	**Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation**
Scott Rafferty	2003	224389	No.

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

Attachment or Comment #	Description/Comment
1	**Attachment: Certificate of Service**
2	**Attachment: Email from ALJ stating CAUSE NOI had been approved (10/29/16)**
3	**Attachment: Timesheet of Scott J. Rafferty** Comment: Legislators and their staffs provided significant guidance to CAUSE during this proceedings. Because legislative communications are privileged, the timesheets code the identities of the legislators. If the Commission requires this information, I will seek the consent of the affected legislators. Comment: The current version of the Intervenor Compensation Guide (at 18) appears to indicate that there is a separate spreadsheet "form" for "numerical calculations" in the timesheet, in addition to the summary template. "An electronic version of the standardized Intervenor Compensation Claim form (MS Word) and an Excel spreadsheet template may be downloaded from the CPUC website at: http://www.cpuc.ca.gov/icomp/.You must also complete and attach an Excel spreadsheet to demonstrate the numerical calculations. This form is also available at: http://www.cpuc.ca.gov/icomp/." Having been unable to locate such a form, I have designed a timesheet that I have sent to the Icomp coordinator in Excel form with "Icomp Request Timesheet." A PDF of the detailed timesheet, but not of the summary is being served, consistent with the "DO NOT FILE" instruction on "Icomp Request Timesheet.xls"
4	**Attachment: Audit finding re delay of NOI review** CAUSE relied upon the Commission's commitment to decide NOIs within 30 days, as required by Section 1804, and to implement an alert system to ensure that this deadline was not met.
5	**Attachment: Arbitrary rejection of filings** PDF/A testing appears to be selective and inaccurate.
6	**Attachment: One-page biography of Scott Rafferty**
5	**Attachment: Curriculum Vitae of Scott J. Rafferty with publications**
6	**Comment:** A separate motion for leave to file under seal supplies the required financial disclosure. See to I.C. comment to line 9.
7	**Comment: Additional Justification For Hourly Rate** The NOI proposed an hourly rate of $570 for Dr. Rafferty's activities as an attorney

[2] This information may be obtained through the State Bar of California's website at http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch .

	and $500 for his activities as an expert. CAUSE wishes to revise this request and propose a single rate of $490, which represents 85% of the top range for attorneys of his experience. As required by Commission rules, the hourly rate absorbs 134 hours of time spent at public participation hearings or in travel, as well as almost 2978 in car mileage. Dr. Rafferty does not appear in the Commission's rate table. In I.04-02-007, Dr. Rafferty acted primarily as an expert witness, as there were few legal or procedural issues. Decision 07-07-006 [I.04-02-007] (7/23/2007) at 13-14, which gave Dr. Rafferty the top rate for experts - $360 in 2006. D.07-07-006 reduced the requested rate of $365 on the basis that the 2006 top range for experts was $360 at the time, but D.08-04-010 reports the top range in 2006 at $370, which had raised to $390 at for 2008. Applying the COLA to this rate would yield $420 for 2015/16 and $425 for 2017. The Commmission's current rate table indicates that it now sets hourly rates for lawyers who testify without regard to the range for experts (e.g., Tom Long, $570). Furthermore, in contrast to I.04-02-007, only 5% of this proceeding involved the preparation of testimony. The settlement eliminated the need to present this testimony and submit to cross-examination. As a result, almost all of his activities are appropriately compensated on the scale for attorneys. In any event, more than four years have passed since I.04-02-007, during which Dr. Rafferty has obtained new relevant skills. Dr. Rafferty is a graduate of the Woodrow Wilson School of Princeton University (A.B.), Yale Law School (J.D.), and Oxford University (Ph.D.), where he focused regulatory economics and privatization. He is a Rhodes Scholar. He has been a member of the District of Columbia Bar since 1980 (and California since 2003). Since 1990, he has testified before regulatory commissions in ten states, usually for the state agency representing utility consumers. He served as the first telecommunications director of the Maryland Public Service Commission, and as a NARUC staff representative to the State-Federal Joint Board. He began his legal career at O'Melveny & Myers, focusing on antitrust and environmental regulation. He left O'Melveny to serve as counsel the House Telecom Subcommittee, where he was the staff author of H.R. 5158, which proposed changes to the AT&T divestiture degree, most of which were imposed as modifications by Judge Harold Greene. At O'Melveny & Myers, he served a number of clients, including Allied Signal, where he learned about a management system similar to the one that he proposed in this case. He also advised several foreign countries on the privatization of utilities and other companies, include the Dutch PTT and the first post-Communist government in Poland. He consulted the Vietnamese finance minister on privatization, under a UN contract. He pioneered the use of electronic discovery in the 1990 NYNEX rate case, in which he used statistical analysis and sampling techniques to identify systematic overcharges by affiliates. He co-managed the ensuing audit. He designed a system of cost allocation that was adopted by several commissions, and was substantially adopted in the Telecommunications Act of 1996. During this practice, Dr. Rafferty has testified in all aspects of rate cases, including cost of capital, revenue requirement, deferred compensation, jurisdictional separations, quality of service, and safeguards for competition. Dr. Rafferty brought several important skills to this proceeding. Since he last appeared before this Commission, Dr. Rafferty served in the Obama Administration as the Deputy Director for Research and Policy at the Administrative Conference of the United States. The general counsel (or another senior official) of most federal agencies

	belong to this conference, which makes recommendations on administrative procedures to federal agencies. He managed a number of studies, including 3rd party certification and electronic recordkeeping and document management. He also coordinated the archiving of historic studies and papers of the agency, so he has expertise in archival formats and best practices. As is demonstrated particularly well in the 2015 timesheets, Dr. Rafferty has an exceptional range of relevant contacts among professors, state and federal officials, and other experts. He obtained input on this matter from the chairman of the NRC, the four-star admiral who is the immediate past president of the Institute for Nuclear Plant Operators (INPO), and from leading academics. Dr. Rafferty's experience in other jurisdictions and knowledge of administrative law are also unique assets for this Commission. He was able to bring perspectives on the best practices exercised at other utilities commissions.

D. CPUC 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))

(CPUC completes the remainder of this form)

A. Opposition: Did any party oppose the Claim?	

If so:

Party	Reason for Opposition	CPUC Discussion

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

If not:

Party	Comment	CPUC Discussion

FINDINGS OF FACT

1. Intervenor [has/has not] made a substantial contribution to D._____.

2. The requested hourly rates for Intervenor'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. Intervenor is awarded $_____.

2. Within 30 days of the effective date of this decision,_____shall pay Intervenor the total award. [for multiple utilities: "Within 30 days of the effective date of this decision, ^, ^, and ^ shall pay Intervenor 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."] 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 Intervenor'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.