




BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CAL

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

FILED
Application 15-09-001 (Filed
September 1, 2015) 04:59 PM

**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION
AND, IF REQUESTED (and ☒ checked), ADMINISTRATIVE LAW JUDGE'S
RULING ON COLLABORATIVE APPROACHES TO UTILITY SAFETY
ENFORCEMENT (CAUSE)'S SHOWING OF SIGNIFICANT FINANCIAL
HARDSHIP**

NOTE: After electronically filing a PDF copy of this Notice of Intent (NOI), please email the document in an MS WORD format to the Intervenor Compensation Program Coordinator at Icompcoordinator@cpuc.ca.gov.

Customer (party intending to claim intervenor compensation): COLLABORATIVE APPROACHES TO UTILITY SAFETY REGULATION (CAUSE)	
Assigned Commissioner: Michael Picker	Administrative Law Judge: Steven Roscow
I hereby certify that the information I have set forth in Parts I, II, III and IV of this Notice of Intent (NOI) is true to my best knowledge, information and belief.	
Signature:	 /s
Date: November 30, 2015 Amended: April 5, 2017	Printed Name: Scott J. Rafferty

PART I: PROCEDURAL ISSUES
(To be completed by the party ("customer") intending to claim intervenor compensation)

A. Status as "customer" (see Pub. Util. Code § 1802(b)): 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 checked="" type="checkbox"/>

¹ DO NOT CHECK THIS BOX if a finding of significant financial hardship is not needed (in cases where there is a valid rebuttable presumption of eligibility (Part III(A)(3)) or significant financial hardship showing has been deferred to the intervenor compensation claim).

<p>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.</p> <p>A representative authorized by a customer must identify the residential customer(s) being represented and provide authorization from at least one customer. <i>See</i> D.98-04-059 at 30.</p>	<input checked="" type="checkbox"/>
<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</i> D.98-04-059, footnote at 3.</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>In support of CAUSE's explanation of its status as a proposed Customer 3, CAUSE states:</p> <p>(1) CAUSE has members in order to qualify as an unincorporated association. It is a requirement of membership that one by a residential ratepayer. 100% of these members are residential customers.</p> <p>(2) CAUSE's bylaws are attached as Attachment 5. Section 3 states that CAUSE is authorized the association to represent the interests of residential ratepayers and, to the extent allowed by this Commission, small business customers. As amended to more clearly reflect its intended meaning, CAUSE submits that Section 3 is not inconsistent with Section 5, limited membership to residential ratepayers. In light of commentary in prior rulings, CAUSE no longer seeks to represent the interests of small business. In the alternative, as a group advocating for the measures to avoid environmental accidents, CAUSE should be granted Category 3 status without regard to its bylaws. <i>See</i> <u>D.98-04-059 (at 30)</u></p> <p>(3) Initially, all members were residential ratepayers of PG&E. There are approximately 20 members, who are served by PG&E, SCE, MCE, and SMUD. (In an attempt to conform a NOI filed in SCE to this NOI, CAUSE inadvertently modified a prior statement that all members were served by PG&E to indicate that they were all served by SCE. This is a typographical error.) Most members are in PG&E's territory.</p> <p>(4) Since CAUSE no longer elects to represent small business customers, it declines to</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. This information is provided in the space immediately above, since there is no "Item #4 on this form"

estimate how many of its members own small businesses or purchase electricity under tariff rates for commercial, industrial or any other class. It is not aware of any such members who are not within the scope of PUC 1801(b)(1)(C) end users because they are “small commercial customers who receive bundled electric service,” and CAUSE no longer seeks to represent any such customers.

(5) Footnote 2 requires that applicants for Category 3 provide either the percentage of their members who are residential customers or who receive bundled electric service. This does not correspond to the categorization in PUC 1801, which is limited to small businesses, and has been interpreted by some parties (*see, e.g.*, TURN’s NOI) to include not only self-generation and direct procurement, but also residential customers who fail to opt out of community choice aggregation. See definition of “bundled electric service” in PUC 3662(a)(4). Since CAUSE has represented that the residential percentage is 100%, it declines to estimate whether some of these customers now obtain service from community choice aggregators. This seems irrelevant, since most safety issues are associated with the distribution networks, for which these customers continue to pay. (The CCAs in the service area of members also shadow PG&E’s rates, so these customers continue to have an interest in the rates set in this proceeding.) CAUSE continues to have members who obtain residential service only from PG&E and not from a CCA.

(6) After extensive legal research, CAUSE has concluded that it cannot legally provide individual details regarding its members, even if the Commission committed to attempt to protect a sealed filing from public release, which it has not done. *See* Attachment 3 (“Motion to Be Relieved...”)

(7) A prior ruling requested the identities of the directors, who are Scott J. Rafferty, Linda Rafferty, and Marvin Ellenberg. As instructed, they are also identified in Attachment 5.

(8) To the best of its president’s knowledge, CAUSE’s membership does not include sole proprietors of large commercial, industrial, or agricultural users, or any person who supplies PG&E or competes with PG&E. Furthermore, CAUSE is not “*actually* representing business customers [of any size] *attempting to improve business prospects.*” *See* D.98-04-059 (at 30). Although CAUSE is no longer required to complete Box I.B.2, its president (and attorney) has not represented any large user before this (or any other) Commission.

In the alternative, if CAUSE is not granted Category 3 status for any reason, CAUSE requests that Category 1 or 2 status be granted to CAUSE or its president. If CAUSE is permitted to proceed as a Category 2 customer, CAUSE requests that the Commission continue to apply the “comparison test.” *See* D.98-04-059 (ordering clause 8). Its president is unable to provide complete, auditable financial statements at this time, so if the only option is for him to proceed in Category 1, he requests that the showing of financial need be deferred until the claim for reimbursement is made. For additional detail and discussion, including prior attempts to assert standing to represent small business customers, please see Attachment 3.

Identify all attached documents in Part IV. See Part IV below	
Do you have any direct economic interest in outcomes of the proceeding? ³	
Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>	
If “Yes”, explain:	
B. Conflict of Interest (§ 1802.3)	Check

³ See Rule 17.1(e).

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? The negative response reflects the previous rejection of CAUSE's attempt to assert standing to represent small businesses	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. If the answer to the above question is "Yes", does the customer have a conflict arising from prior representation before the Commission? CAUSE has no conflict, but has not checked this box in light of the previous rejection of CAUSE's attempt to assert standing to represent small businesses	<input type="checkbox"/> Yes <input type="checkbox"/> No
C. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)):	Check
1. Is the party's NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: 11/30/2015	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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)?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2a. The party's description of the reasons for filing its NOI at this other time: Not applicable	
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: not applicable.	

PART II: SCOPE OF ANTICIPATED PARTICIPATION
(To be completed by the party ("customer") 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> <p>At the time that the NOI was filed, CAUSE stated:</p> <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, judgments, and criminal prosecutions or convictions 4. CAUSE will examine the extent to which the revenue requirement includes these costs, and how 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>In addition, CAUSE plans to advocate for (6) appropriate review of the settlement by the Commission to ensure that it is in the public interest, (7) for measures related to dam safety, (8) for appropriate use of safety metrics in executive compensation, for (9) appropriate levels of funding and methods to allocate undergrounding electric conductors.</p> <p>There have been additional activities associated with the settlement, including (10) a thorough examination of the state of the record as to the revenue requirement, undertaken for the purpose of evaluating the</p>

settlement (and the practical ability of CAUSE to achieve a more advantageous outcome by cross-examining witnesses in a hypothetical proceeding).

CAUSE is promoting safety and environmental interests, which are distinct from those advocated by other intervenors. The interests that CAUSE was created to serve all relate directly to ratepayer interests.

CAUSE seeks to minimize the social costs of all accidents caused by utility operations, whether those accidents spoil the environment; release uncontrolled radiation; endanger customers; injure workers; damage property; compromise critical infrastructure; interrupt essential heating, lighting or critical power requirements; compromise customer data or cybersecurity; or impair public resilience in an emergency.

These accidents include any adverse incidents or conditions resulting from the generation or distribution of gas and power (and supporting operations) 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. A primary recommendation will be increased use of management systems that actively engage all employees in verifying safe conditions and the absence of regulatory violations. CAUSE will also advocate for increased use of peer review and international standards, including management system standards.

CAUSE will not seek to divert funds collected from ratepayers to finance any aspect of public safety (e.g., health care, traffic infrastructure) that is not directly affected by utility operations. Compare [D.04-08-025 \(I02-04-026\) \(39057.PDF\)](#) at 18 (granting intervenor compensation to group for advocating that \$20 million in ratepayer assets be diverted to establish urban parks)

Particularly at the time that CAUSE applied in this rate case, no one else had specifically committed to represent the unidentified safety interests, so there is an unrepresented interest and no risk of duplicated effort (except that A4NR advocated for the closure of Diablo Canyon, and NAAC addressed executive compensation incentives related to safety). CAUSE does not expect to achieve immediately quantifiable reductions in the requested revenue requirement; economic benefits will result from the avoidance of long-term liabilities and externalized social costs. CAUSE also expects to work with TURN and other parties to ensure the rate impact of programs calculated to reduce long-term social costs is minimized, equitably distributed, and implemented to avoid sudden rate shocks. But since CAUSE does not expect to achieve any bill savings for its members to offset the costs of participation, so the comparison test is also clearly satisfied.

Environmental accidents are a subset of CAUSE safety concerns. As such, CAUSE is entitled to treatment no less favorable than other environmental groups.

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

CAUSE intends to coordinate and/or defer to other parties that have expressed an intent to advocate on safety issues, such as A4NR and NAAC, to avoid duplication. CAUSE avoided duplication on revenue requirement issues by relying primarily on TURN, but conducted an independent review of the evidence and assessed the prospects for more favorable outcomes if there is a hearing on the merits. Now that there is an internal safety advocate, CAUSE has consulted with her and intends to continue doing so.

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).

- I. Extent and Scope of Issues – See statement above.
- II. Nature and Forms of Participation

At the time the NOI was filed (Nov. 2015), CAUSE stated:

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.

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.

C. CAUSE intends to work with PG&E to narrow the scope of disagreements and to explore possible areas of common ground.

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.

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.

Since the original NOI was filed, 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. In addition, CAUSE has responded to requests for information made by the ALJ during the processing of this NOI and has conducted extensive research into the rights of its members under the First Amendment and the California Corporations Code.

Due to the suspense of its NOI, CAUSE did not take discovery (A) and was unable to recruit additional experts (D).

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 Rafferty, attorney	451	\$570	\$257,070	
Scott Rafferty, witness	100	\$400	\$40,000	
Scott Rafferty, claim preparation	50	\$285	\$14,250	
[time previously budgeted to additional witnesses reallocated to Rafferty]				
[Advocate 1]				
[Advocate 2]				
Subtotal: \$311,320.00				
OTHER FEES				
Secretarial assistance [reallocated to attorney fees]				
[Person 2]				
Subtotal:				
COSTS				

Postage, supplies			\$680	
Travel [reallocated to attorneys fees]				
Subtotal: \$680				
TOTAL ESTIMATE: \$312,000				
Estimated Budget by Issues:				
	As of 11/30/15	Revised		
1. Management systems	60%	55%		
2. design standards; rate impact	10%	5%		
3. costs of settlements, judgments, environmental impacts	20%	10%		
4. revenue impact of safety; rate design	10%	5%		
5. other revenue requirement	Deferred to TURN	10% (evaluation of settlement)		
6. standards to review settlement	--	10%		
7. dam safety	--	2%		
8. undergrounding	--	3%		

(issues regarding NOI are included in total budget, but not within these percentage estimates)

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP
(To be completed by party ("customer") intending to claim intervenor compensation; see Instructions for options for providing this information)

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 checked="" 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: n/a Date of Administrative Law Judge's Ruling (or CPUC Decision) in which the finding of significant financial hardship was made: n/a	<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:	

CAUSE does not solicit dues or contributions. Although it intended to grow, incorporate, and participate in multiple fora, it currently has no actual income nor any anticipated income other than reimbursement of fees and expenses from the Commission. It has no assets.

CAUSE is a separate legal entity with capacity independent of its president and directors. It has no affiliations other than with its membership. See Attachment 3 for details.

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, at least in the short term, by expenses and investments that PG&E would need to undertake to implement the safety measures that the association may propose.

CAUSE has not polled its membership on the subject, but its directors have no knowledge that any of its members has utility expenses outside the range of normal residential use, except for indirect payments to landlords or homeowner associations and costs associated with sole proprietorships. Even to the extent that any impact of CAUSE's proposals on rates is tangible and can be quantified, the total impact for all 20 customers would be insignificant compared to the costs of participation detailed above.

In the event that Rafferty is granted Category 1 status in lieu of CAUSE's status as a Category 3 customer, he will submit financial statements at the time a claim is made. A monthly bill from his family is attached as Attachment 4. If CAUSE is granted Category 2 status in lieu of Category 3 status, CAUSE asks that the comparison test be used to determine substantial need (See D.98-04-059 at 92, ¶8) but submits that CAUSE also qualifies on the basis of its lack of assets and income.

To the extent that they may provide any additional information responsive or related to the information requested, please consider each attachment incorporated by reference into each response.

**PART IV: ATTACHMENTS DOCUMENTING SPECIFIC
ASSERTIONS MADE IN THIS NOTICE**
**(The party ("customer") intending to claim intervenor compensation
identifies and attaches documents; add rows as necessary)**

Attachment No.	Description
1	Certificate of Service
2	Motion of CAUSE Seeking Permission to Late-File Response to ALJ's Guidance Regarding Notice of Intent to Claim Intervenor Compensation (previously filed)
3	Motion of CAUSE To Be Relieved of Obligations Imposed by Ruling Denying Eligibility for Intervenor Compensation Without Prejudice and To Be Found Eligible (supplied as attachment based on instructions of ALJ in February 2017 ruling)
4	Rafferty monthly bill
5	Bylaws of CAUSE (adopted and effective as of March 29, 2017)
6	Authorization of CAUSE to be Category 2 customer by Scott Rafferty

ADMINISTRATIVE LAW JUDGE RULING⁴
(Administrative Law Judge completes)

	Check all that apply
1. The Notice of Intent (NOI) is rejected for the following reasons:	<input type="checkbox"/>
a. The NOI has not demonstrated the party's status as a "customer" for the following reason(s):	<input type="checkbox"/>
b. The NOI has not demonstrated that the NOI was timely filed (Part I(B)) for the following reason(s):	<input type="checkbox"/>
c. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s):	<input type="checkbox"/>
2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above).	<input type="checkbox"/>
3. The NOI has not demonstrated significant financial hardship for the following reason(s):	<input type="checkbox"/>
4. The Administrative Law Judge provides the following additional guidance (see § 1804(b)(2)):	<input type="checkbox"/>

IT IS RULED that:

1. The Notice of Intent is rejected.	<input type="checkbox"/>
2. The customer has satisfied the eligibility requirements of Pub. Util. Code § 1804(a).	<input type="checkbox"/>
3. The customer has shown significant financial hardship.	<input type="checkbox"/>
4. The customer is preliminarily determined to be eligible for intervenor compensation in this proceeding. However, a finding of significant financial hardship in no way ensures compensation.	<input type="checkbox"/>
5. Additional guidance is provided to the customer as set forth above.	<input type="checkbox"/>

Dated _____, at San Francisco, California.

Administrative Law Judge

⁴ A Ruling needs not be issued unless: (a) the NOI is deficient; (b) the Administrative Law Judge desires to address specific issues raised by the NOI (to point out similar positions, areas of potential duplication in showings, unrealistic expectations for compensation, or other matters that may affect the customer's Intervenor Compensation Claim); or (c) the NOI has included a claim of "significant financial hardship" that requires a finding under § 1802(g).