



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**FILED**  
6-21-16  
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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.	Application 15-09-001 (Filed September 1, 2015)
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**AMENDED NOTICE OF INTENT TO CLAIM INTERVENOR  
COMPENSATION AND, IF REQUESTED (and [X]<sup>1</sup> checked),  
ADMINISTRATIVE LAW JUDGE'S RULING ON FRIENDS OF THE  
EARTH'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](mailto:Icompcoordinator@cpuc.ca.gov).

<b>Customer (party intending to claim intervenor compensation): Friends of the Earth</b>	
<b>Assigned Commissioner: Michael Picker</b>	<b>Administrative Law Judge: Stephen C. Roscow</b>
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/ Ellison Folk	
Date: 06/21/2016	Printed Name: Ellison Folk Attorneys for Friends of the Earth

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

<b>A. Status as "customer" (see Pub. Util. Code § 1802(b)):</b>	<b>Applies (check)</b>
The party claims "customer" status because the party is (check one):	
1. A <b>Category 1</b> 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.	<input type="checkbox"/>
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.	

<sup>1</sup> 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 <b>Category 2</b> 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 type="checkbox"/>
<p>3. A <b>Category 3</b> 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.<sup>2</sup> 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> <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>	<input checked="" type="checkbox"/>
<p>Friends of the Earth ("FOE") is a non-profit organization within the meaning of Section 501(c)(3) of the United States Internal Revenue Code. FOE has worked for over forty years to reduce economic drivers that encourage environmental degradation from nuclear energy and address the threats to human health and the environment that nuclear power poses. FOE and its affiliates have used, and continue to use, technical and policy expertise to combat irresponsible nuclear development in state, federal and international arenas, including Iowa, Missouri, North Carolina, various federal agencies and throughout the Pacific Rim. FOE's nuclear campaign works to reduce risks for people and the environment by supporting efforts to close and defund existing nuclear reactors and fighting proposals to design and build new reactors. FOE actively participated before the CPUC on matters related to the closure of the San Onofre Generating Station, for which it was recognized as an intervenor and is currently seeking compensation, and past LTPP proceedings, for which FOE received intervenor compensation.</p> <p>FOE's focus on preventing the procurement of irresponsible nuclear energy generators qualifies it for Category 3 customer status. FOE is specifically authorized</p>	

<sup>2</sup> 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.

by its bylaws, articles of incorporation and policy manual to “transfor[m] the economy so it protects the environment and enhances people’s well being,” a necessary corollary of which is the representation of the interests of residential and small commercial customers of electric utilities. *See* Cal. Pub. Util. Code § 1802(b)(1)(C). Article 1 of FOE’s Bylaws authorizes FOE to participate in regulatory proceedings to further its purpose of preventing the development of nuclear resources:

“In pursuit of these purposes, the Corporation will conduct research and education and other activities consistent with [FOE’s Section 501(c)(3) tax status].” (Attachment 2 at § 1.02)

Section 3.06 of FOE’s Bylaws further authorizes the creation of a Legal Committee “with full authority to review, evaluate and approve all litigation. Upon approval of the Committee, the Committee may initiate litigation, joining a lawsuit or filing an amicus brief.” (Attachment 2 at § 3.06)

In order to make the extent of this authorization even more apparent on its face, FOE recently amended Section 3.06 of its Bylaws to explicitly state that “[s]ubject to any procedures adopted by the Legal Committee, the Corporation may also participate in formal administrative proceedings, settlements and informal legal actions.” (Attachment 4, FOE’s Bylaws, as amended June 10, 2016, at § 3.06). Though this authority has always been implicitly granted in every iteration of FOE’s Bylaws, this amended language makes FOE’s ability to represent residential ratepayer interests before the Commission even more apparent.

FOE’s members share its core purposes. FOE members are required to make dues payments. *See* FOE Bylaws, Art. V, Sec. 5.01. FOE advances the interests of its members, a group which includes residential ratepayers located in California.

Friends of the Earth’s nuclear campaign works to reduce the risks to people and the environment posed by nuclear energy by providing independent expert review, testimony, and working accountability and transparency in public proceedings. The organization works to ensure that public safety is not endangered by nuclear reactors and that neither ratepayers nor taxpayers are unfairly allocated the costs of nuclear facilities throughout the country.

FOE’s organizational purposes, and its members’ shared interest in those purposes, are consistent with Commission guidance on Category 3 customer eligibility with regard to environmental groups. Indeed, Commission precedent shows that FOE’s Bylaws adequately establish the members’ broad interest in the environmental and societal impacts the Commission has previously recognized as sufficient to establish Category 3 status:

“With respect to environmental groups, we have concluded they were eligible in the past with the understanding that they represent customers whose environmental

interests include the concern that, e.g., regulatory policies encourage the adoption of all cost-effective conservation measures and discourage unnecessary new generating resources that are expensive and environmentally damaging. (D.88-04-066, mimeo, at 3). They represent customers who have a concern for the environment which distinguishes their interests from the interests represented by Commission staff, for example.” D.98-04-059, mimeo, fn 14 at 16-17.

“Based on FOE’s showing in its NOI, we determine that FOE qualifies for Category 3 customer status consistent with the requirements of Pub. Util. Code § 1802(b). In addition, FOE has demonstrated significant financial hardship consistent with the requirements of Pub. Util. Code § 1802(g).” D.14-10-022, p. 4 (Oct. 2., 2014).

The Commission’s Intervenor Compensation Program Guide (“Guide”) also supports FOE’s Category 3 status. The Guide states that certain environmental organizations may qualify as Category 3 customers “as long as these organizations seek to protect the broader interests in the environment held by residential ratepayers, and address the customers’ environmental concerns.” FOE’s focus on reducing economic drivers for environmentally harmful technologies is of considerable benefit to residential ratepayers in California. This places FOE within the spectrum of groups that the Commission has previously recognized as representing residential ratepayer concerns. See, e.g., D. 11-03-025 at 3-4; D.09-09-045 at 6.

FOE’s California membership represents over 20% of its total nationwide membership. All of FOE’s California members are in the residential class, including residential customers of electrical corporations subject to the Commission’s jurisdiction. FOE therefore satisfies the statutory threshold to qualify as a Category 3 customer, authorized by its bylaws to “engage in programs to reduce the cost and waste of energy and energy resources and fuels,” a necessary corollary of which is the representation of the interests of residential and small commercial customers of electric utilities in California. FOE respectfully requests that the Commission recognize FOE’s Category 3 customer status so that FOE may further the interest of its members and California residential ratepayers in demonstrating that California’s power needs can be reliably met without the Diablo Canyon Power Plant (DCPP) through continued investment in safe, clean and responsible technologies such as renewable energy and energy efficiency.

Identify all attached documents in Part IV.

Bylaws of Friends of the Earth, as amended, June 6, 2014, effective July 1, 2014

Articles of Incorporation and Certificate of Merger of Friends of the Earth, effective 1974

Bylaws of Friends of the Earth, as amended, June 10, 2016

Do you have any direct economic interest in outcomes of the proceeding?<sup>3</sup>

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<sup>3</sup> See Rule 17.1(e).

Yes: ☐ No: ☒

FOE is a Section 501(c)(3) non-profit organization and does not have any direct economic interest in the outcome of this proceeding. FOE has no opportunity for direct financial benefit from the Commission's disposition of issues in this case. The consideration of rate recovery from, and future operations of, the DCPD does not provide a direct financial benefit to FOE and FOE's activities are pursuant to its educational, scientific, and charitable purposes, as described in Article I of its Bylaws. *See* Attachment 2.

If "Yes", explain:

<b>B. Conflict of Interest (§ 1802.3)</b>	<b>Check</b>
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?	<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?	<input type="checkbox"/> Yes <input type="checkbox"/> No

<b>C. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)):</b>	<b>Check</b>
1. Is the party's NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: 10/29/2015	<input type="checkbox"/> Yes <input checked="" 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2a. The party's description of the reasons for filing its NOI at this other time:  This Amended NOI is filed in conjunction with FOE's motion to reconsider the May 24, 2016 Ruling Rejecting FOE's [Original] Notice of Intent to Claim Intervenor Compensation.	
2b. The party's information on the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, Administrative Law Judge's ruling, or other document authorizing the filing of NOI at that other time:	

**PART II: SCOPE OF ANTICIPATED PARTICIPATION**  
(To be completed by the party ("customer") intending to claim intervenor compensation)

<b>A. Planned Participation (§ 1804(a)(2)(A)(i)):</b>
<b>The party's statement of the issues on which it plans to participate:</b>  As FOE noted in its motion for party status, FOE stands ready to make the case against the continuing cost-effectiveness of DCPD as a generating resource in PG&E's fleet. FOE intends to address the reasonableness of any rates requested for the DCPD, whether PG&E's GRC application improperly includes costs to address the imprudence of PG&E's actions with respect to operation of the DCPD, and whether PG&E has failed to include safety improvements that are

necessary to meet the requirements of its Nuclear Regulatory Commission license. FOE anticipates that its participation will substantially contribute to the Commission's consideration of the reasonableness and prudence of PG&E's decisions and investments in DCCP and its actions regarding the future of the plant. FOE expects to fully participate on the issues of cost recovery related to DCCP expenses.

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

FOE's contribution to this proceeding will be distinct from all other parties due to FOE's combination of extensive technical experience related to nuclear policy. FOE's members will not be adequately represented without FOE's participation. FOE will continue to communicate with other intervening parties, as necessary, to avoid duplication of effort and encourage settlement of issues.

**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).**

FOE, through its attorney(s), plans to participate in all meetings and workshops scheduled by the Commission in this proceedings; to engage in strategic planning with other parties to avoid duplication of effort and encourage settlement of issues; to participate in evidentiary hearings, if any; to submit comments and briefing, if any; and to undertake all other activities reasonably necessary to effectively participate or substantially contribute to a determination regarding the reasonableness of any rates requested for the DCCP.

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				
Ellison Folk	250	\$570/hr	\$142,500	
Tori Ballif Gibbons	200	\$250/hr	\$50,000	
Subtotal: \$192,500				
COSTS				
Travel			\$7,500	
Subtotal: \$7,500				
TOTAL ESTIMATE: \$200,000				
Estimated Budget by Issues: All of these costs will be incurred in connection with FOE’s argument that the PG&E’s application for funds for the operation of and capital improvements to Diablo Canyon Power Plant are not reasonable and prudent and fail to include all costs necessary to ensure compliance with PG&E’s NRC license to operate Diablo Canyon.				



*When entering items, type over bracketed text; add additional rows to table as necessary. Estimate may (but does not need to) include estimated Claim preparation time. Claim preparation time is typically compensated at ½ professional hourly rate.*

**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)**

<b>A. The party claims “significant financial hardship” for its Intervenor Compensation Claim in this proceeding on the following basis:</b>	<b>Applies (check)</b>
1. “[T]he customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation” (§ 1802(g)); or	<input type="checkbox"/>
2. “[I]n the case of a group or organization, the economic interest of the Individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding” (§ 1802(g)).	<input checked="" type="checkbox"/>
3. A § 1802(g) finding of significant financial hardship in another proceeding, made within one year prior to the commencement of this proceeding, created a rebuttable presumption in this proceeding ( § 1804(b)(1)).	<input type="checkbox"/>
Commission’s finding of significant financial hardship made in proceeding number:	
Date of Administrative Law Judge’s Ruling (or CPUC Decision) in which the finding of significant financial hardship was made:	

<b>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:</b>
<p>As estimated in Part II, Section B, the economic interests of an individual FOE member are small in comparison to the cost of effective participation in this proceeding. FOE’s members wish to further FOE’s objectives to promote safe and cost-effective energy sources, goals that go beyond an easily identified individual economic interest. These are goals that represent a broader public interest perspective, consistent with the Legislature’s intent that the Commission encourage participation by “administer[ing] the provisions of §§ 1801 et seq. in a manner ‘that encourages the effective and efficient participation of all groups that have a stake in the public utility regulation process.’” D.06-05-027, mimeo, at 9.</p> <p>FOE’s purposes for participating in this proceeding reflect the broader public interest of safe and cost-effective electric generation. The benefits of FOE’s participation to a particular member are difficult to isolate from this broader public benefit. This means that the cost of participation \$200,000 is much greater than any one individual member’s benefit. The Commission’s disposition of scoped issues could result in a range of potential ratepayer impacts, from positive to negative, but none of those foreseeable impacts on individual member-ratepayers approaches the magnitude of the costs of full and effective participation</p>

in this proceeding.

**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	Bylaws of Friends of the Earth, as amended, June 6, 2014, effective July 1, 2014
3	Articles of Incorporation and Certificate of Merger of Friends of the Earth, effective 1974
4	Bylaws of Friends of the Earth, as amended, June 10, 2016

**ADMINISTRATIVE LAW JUDGE RULING<sup>4</sup>**  
**(Administrative Law Judge completes)**

	Check all that apply
<b>1. The Notice of Intent (NOI) is rejected for the following reasons:</b>	<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"/>
<b>4. The Administrative Law Judge provides the following additional guidance (see § 1804(b)(2)):</b>	<input type="checkbox"/>

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<sup>4</sup> 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).



**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.

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Administrative Law Judge