

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

Application of PACIFIC GAS AND ELECTRIC  
COMPANY (U-39-E) for a certificate of Public  
Convenience and Necessity Authorizing the  
Construction of the Jefferson-Martin 230 kV  
Transmission Project.

Application No. 02-09-043

**NOTICE OF INTENT TO CLAIM COMPENSATION  
OF THE 280 CORRIDOR CONCERNED CITIZENS GROUP**

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February 7, 2003

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Application of PACIFIC GAS AND ELECTRIC COMPANY (U-39-E) for a Certificate of Public Convenience and Necessity Authorizing the Construction of the Jefferson-Martin 230 kV Transmission Project.

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**NOTICE OF INTENT TO CLAIM COMPENSATION  
OF THE 280 CORRIDOR CONCERNED CITIZENS GROUP**

Pursuant to Article 18.8 of the California Public Utilities Commission (“Commission”) Rules of Practice and Procedure and Public Utilities Code section 1804(a)(1),<sup>1</sup> the 280 Corridor Concerned Citizens Group (“280 Citizens”) hereby gives notice of its intent to claim compensation in this proceeding. Section 1804(a)(1) provides that a notice of intent to claim compensation must be filed within 30 days after a prehearing conference is held. The prehearing conference in this proceeding was held on January 10, 2003. Accordingly, this notice of intent is timely.

280 Citizens requests the issuance of a ruling finding: (i) 280 Citizens is a customer as defined in section 1802(b); (ii) the participation of 280 Citizens in this proceeding will pose a significant hardship as defined in section 1802(g); (iii) 280 Citizens has met the requirements of section 1804(a) for eligibility for compensation; and (iv) 280 Citizens is eligible for compensation in this proceeding.

**I. 280 CITIZENS MEETS THE DEFINITION OF A CUSTOMER**

Section 1802(b) defines a “customer” as “any participant representing consumers, customers, or subscribers of any electrical . . . corporation that is subject to the jurisdiction of the

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<sup>1</sup> Unless otherwise noted, all statutory references are to the Public Utilities Code.

commission; any representative who has been authorized by a customer; or any representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers. . . .” 280 Citizens is an ad hoc nonprofit organization comprised of residential ratepayers of Pacific Gas and Electric Company (“PG&E”) who live in the area of PG&E’s proposed Jefferson-Martin 230 kV Transmission Project (“Proposed Project”). As a result, 280 Citizens is a customer as defined by section 1802(b).

## **II. 280 CITIZENS WILL REPRESENT INTERESTS THAT WOULD OTHERWISE BE UNDERREPRESENTED**

In Decision 98-04-059, the Commission determined that to be eligible for compensation an intervenor must show that it will represent interests that would otherwise be underrepresented.<sup>2</sup> 280 Citizens is the only party to this proceeding actively representing the community interests of residential customers in the Proposed Project area. While the Town of Hillsborough (“Hillsborough”) and County of San Mateo (“San Mateo”) have filed appearances in this proceeding, it is 280 Citizens’ understanding that these parties may not be able to actively participating throughout this proceeding. Moreover, as local governmental entities, the interests represented by Hillsborough and San Mateo are broader and more diverse than those of 280 Citizens. Hillsborough and San Mateo must represent their own interests as local governmental entities and the diverse interests of local businesses as well as residents.

The Commission’s Office of Ratepayer Advocates (“ORA”) is also a party to this proceeding, but it too represents interests distinct from those of 280 Citizens. Its interests are generally limited to economic issues pertaining to the Proposed Project’s need and cost and do not encompass the broader range of issues raised by 280 Citizens. Accordingly, 280 Citizens is

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<sup>2</sup> *Order Instituting Rulemaking on the Commission's Intervenor Compensation Program; Order Instituting Investigation on the Commission's Intervenor Compensation Program*, Decision 98-04-059, 1998 Cal. PUC LEXIS 429 at \*149 (Findings of Fact 13) (1998).

the only party that can effectively represent the distinct interests of residents in the immediate vicinity of the Proposed Project and the community values which the Commission must consider under section 1002(a)(1) as part of its analysis of whether or not to approve the Proposed Project.

Indeed, 280 Citizens' participation in this proceeding to date has already demonstrated that it represents interests that would otherwise be underrepresented. It has raised issues raised by no other party and issues that ALJ Terkeurst has acknowledged need to be considered by the Commission. At the prehearing conference, ALJ Terkeurst directed PG&E to address the issues raised by 280 Citizens in its protest and prehearing conference statement.<sup>3</sup>

### **III. 280 CITIZENS WILL FULLY AND ACTIVELY PARTICIPATE IN THIS PROCEEDING**

Section 1804(a)(2)(A)(i) requires a notice of intent to claim compensation to include a statement of the nature and extent of a party's planned participation. 280 Citizens intends to fully participate in all aspects of the environmental review and CPCN phases of this proceeding. 280 Citizens' participation will include conducting discovery, preparing testimony, defending its testimony in hearings, cross-examining witnesses, and filing briefs, comments and other pleadings as necessary. 280 Citizens will focus its efforts on determining the need for the Proposed Project, defending the community values directly impacted by the Proposed Project, and identifying alternatives to the Proposed Project that achieve the Proposed Project's goals while minimizing the adverse impact of the Proposed Project on existing residential neighborhoods.

To date, 280 Citizens has filed a protest to PG&E's Application, submitted a Prehearing Conference Statement, and participated in the January 10, 2003 prehearing conference. In addition, 280 Citizens has, and continues to, actively participate in the EIR scoping process. 280

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<sup>3</sup> ALJ Terkeurst, R.T. at 18-19.

Citizens has also met with Hillsborough to discuss issues related to the Proposed Project and anticipates meeting with San Mateo and PG&E.

#### **IV. ESTIMATED COMPENSATION REQUEST**

Section 1804(a)(2)(A)(ii) requires a notice of intent to claim compensation to include a an itemized estimate of the compensation the intervener expects to request, given the likely duration of the proceeding. 280 Citizens will shoulder the principal burden and analysis of defending the community interests impacted by the Proposed Project along the 280 highway corridor. As a result, 280 Citizens' participation will be extensive throughout the environmental review and CPCN phases. This proceeding is expected to last 18 months from the date of the Application. 280 Citizens expects to incur the following expenses in order to effectively participate in this proceeding:

Attorney Fees (450 hours at \$365/hour; 450 hours at \$285/hour)	\$292,500
Regulatory/Economic Expert (175 hours at \$200/hour)	\$35,000
Transmission Siting/EMF Expert (200 hours at \$200/hour)	\$40,000
280 Citizens Member's time (200 hours at \$125/hour)	\$25,000
Paralegal (75 hours at \$130/hour)	\$9,750
Travel, postage, photocopies, telephone	<u>\$10,000</u>
<b>TOTAL</b>	<b>\$412,250</b>

280 Citizens will provide time records, expense records and justification for hourly rates in its request for an award of compensation.

**V. PARTICIPATION IN THIS PROCEEDING WILL POSE A SIGNIFICANT FINANCIAL HARDSHIP ON 280 CITIZENS**

Pursuant to section 1804(a)(2)(B), a notice of intent to claim compensation may include a showing that participation in the proceeding will pose a significant financial hardship to the customer. Section 1802(g) defines “significant financial hardship” to mean:

either that the customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocates fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

Under the first criterion, neither 280 Citizens as a group nor the individual ratepayers who make up 280 Citizens have the financial resources to pay the costs of effective participation in this proceeding. 280 Citizens is in the process of raising funds from its members that can be used to participate in this proceeding; however, 280 Citizens believes that this amount will be significantly less than the estimated cost of participating in this proceeding. Thus, effective participation in this proceeding will create a significant and undue hardship for 280 Citizens.

The second criterion under the definition of significant financial hardship for a group or organization requires the weighing of the reasonable cost of participation – which is estimated at more than \$400,000 – against the economic interest of the individual ratepayers who make up 280 Citizens. While it is difficult to quantify the economic interest that an individual homeowner has in stopping/modifying the construction of a 230 kV transmission line through his/her neighborhood (*e.g.*, the cost of reduced health and safety), it is clear that the cost of effective participation in this proceeding outweighs the economic interest of any individual homeowner.

Under both criteria expressed in section 1802(g), 280 Citizens satisfies the requirements that effective participation in this proceeding will pose a significant financial hardship.

**VI. CONCLUSION**

For the above stated reasons, 280 Citizens requests the issuance of a ruling finding: (i) 280 Citizens is a customer as defined in Public Utilities Code section 1802(b); (ii) the participation of 280 Citizens in this proceeding will pose a significant financial hardship as defined in Public Utilities Code section 1802(g); (iii) 280 Citizens has met the requirements of Public Utilities Code section 1804(a) for eligibility for compensation; and (iv) 280 Citizens is eligible for compensation in this proceeding.

Respectfully submitted,

By: \_\_\_\_\_

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