

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the 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 02-09-043
(Filed September 30, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING NOTICE OF INTENT TO CLAIM
COMPENSATION AND OTHER PROCEDURAL MATTERS**

I. Summary

On February 7, 2003, the 280 Corridor Concerned Citizens Group (280 Citizens) filed a Notice of Intent (NOI) to seek intervenor compensation for participation in this proceeding, pursuant to Pub. Util. Code §§ 1801 et seq.¹ and Rule 76.71 of the Commission's Rules of Practice and Procedure. The NOI was deemed to be incomplete and 280 Citizens was asked to provide additional information. 280 Citizens supplemented its NOI on March 27, 2003. No opposition to the NOI has been filed. As required by § 1804(b) and in consultation with the Assigned Commissioner, I find that 280 Citizens will be eligible for compensation.

In addition, I grant the petition of the City of San Bruno (San Bruno) to intervene in this proceeding.

¹ All statutory references are to the Public Utilities Code.

II. NOI Requirements

A. Timely Filing

Under § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” The prehearing conference in this proceeding occurred on January 10, 2003. The due date for NOIs was February 10, 2003. Since 280 Citizens filed its NOI before the due date, the NOI is timely filed.

B. Customer Status

Section 1802(b) defines the term “customer” as:

[A]ny participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the 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...

The Commission stated that a participant should explain how it meets the definition of customer and, if it is a group or organization, should provide a copy of its articles or bylaws noting where in the document the authorization to represent the interest of residential ratepayers can be found. Further, a group or organization should indicate what percentage of its membership are residential ratepayers. (Decision (D.) 98-04-059, mimeo. at 83 and 88.)

280 Citizens is a non-profit association and filed its Articles of Association and Bylaws with the supplement to its NOI. The Articles of Association and Bylaws indicate that membership in 280 Citizens is open to residential customers of Pacific Gas and Electric Company (PG&E) who live near or in the vicinity of PG&E’s proposed Jefferson-Martin 230 kV transmission line

project and that the group's purpose is to represent the interests of residential customers of PG&E who live near or in the vicinity of the proposed project. This showing is adequate to establish that 280 Citizens meets the third definition of customer, as set forth in § 1802(b).

C. Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the customer may make the required showing in the request for an award of compensation. 280 Citizens has chosen to include its showing of significant financial hardship in the NOI.

For a group or organization, § 1802(g) defines that a significant financial hardship means that “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.” This wording suggests that a finding of significant financial hardship must be based on a comparison of the economic interest of the individual members of the group or organization to the costs of effective participation in the proceeding.

280 Citizens estimates that it will cost \$412,250 to participate in this proceeding. 280 Citizens describes the economic interest of the individual members of its group to include: (1) stopping or modifying the construction of the proposed transmission line through their neighborhood (e.g., the value of reduced health and safety), and (2) ensuring that the need for and alternatives to the proposed project are thoroughly considered and that, if the project is approved, the Commission conditions approval to eliminate or mitigate adverse effects on residential areas and to preserve and protect the environment and the

community values of affected local communities. While it is difficult to quantify the economic interest of individual customers, I agree with 280 Citizens that the cost of effective participation in this proceeding outweighs the economic interest of any individual member of its group. Therefore, I determine that 280 Citizens has met the significant financial hardship test.

D. Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted. The Commission has stated that the information provided on planned participation should provide the basis for a more critical preliminary assessment of (1) whether an intervenor will represent customer interests that otherwise would be underrepresented, (2) whether the participation of third-party customers is nonduplicative, and (3) that participation is necessary for a fair determination of the proceeding. The Administrative Law Judge may issue a preliminary ruling on these issues, based on the information contained in the NOI and in the Assigned Commissioner's scoping memo. (D.98-04-059, mimeo. at 27-28, 31-33.)

280 Citizens states that it intends to fully participate in all aspects of the environmental review and certificate phases of this proceeding, with its participation to include conducting discovery, preparing testimony, defending its testimony in hearings, cross-examining witnesses, and filing briefs, comments, and other pleadings as necessary. 280 Citizens plans to focus its efforts on determining the need for the project, defending the community values directly affected by the project, and identifying alternatives to the project that achieve the project's goals while minimizing adverse impact on existing residential neighborhoods.

280 Citizens states that it is the only party in this proceeding actively representing the community interests of residential customers in the proposed project area. While the Town of Hillsborough and the County of San Mateo have filed appearances in this proceeding, it is 280 Citizens' understanding that these parties may not be able to participate actively throughout the proceeding. Moreover, the interests of these local governmental entities are broader and more diverse than those of 280 Citizens. 280 Citizens maintains that the interests of the Office of Ratepayer Advocates are generally limited to economic issues pertaining to the proposed project's need and cost. 280 Citizens concludes that it is the only party that can represent effectively the distinct interests of residents in the immediate vicinity of the proposed project and the community values which the Commission must consider as part of its analysis.

Participation in Commission proceedings by parties representing the full range of affected interests is important and ensures a fully developed record. The Commission benefits from the participation of parties whose interests, while overlapping, may diverge on specific issues. Thus, I preliminarily find that 280 Citizens represents customer interests that will be underrepresented if 280 Citizens is unable to participate effectively and that its participation is necessary for a fair determination of the proceeding. Because there are groups with overlapping interests, however, I caution 280 Citizens that compensation will not be paid for duplicative efforts. 280 Citizens may wish to coordinate its efforts with other parties. Nor will compensation be paid for participation on issues that are irrelevant, outside the scope of the proceeding, or beyond the Commission's jurisdiction to resolve.

E. Itemized Estimate of Compensation

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to request. 280 Citizens states that it expects to incur the following expenses in order to participate effectively in this proceeding:

Amount	Description
\$292,500	Attorney fees (450 hours at \$365/hour; 450 hours at \$285/hour)
\$35,000	Regulatory/economic expert (175 hours at \$200/hour)
\$40,000	Transmission siting/EMF expert (200 hours at \$200/hour)
\$25,000	280 Citizens members' time (200 hours at \$125/hour)
\$ 9,750	Paralegal (75 hours at \$130/hour)
\$10,000	Travel, postage, photocopies, telephone
\$412,250	Total

280 Citizens satisfactorily presents an itemized estimate of the compensation it expects to request. As must any intervenor, 280 Citizens must fully support its request for compensation, including substantiating that it has made a substantial contribution, and the reasonableness of the hours spent and hourly rates. This ruling in no way ensures compensation.

III. Petition to Intervene

On April 15, 2003, San Bruno filed a petition to intervene in this proceeding. San Bruno states that, while its residents may benefit to some extent from the project, they will also suffer the greatest burden because the city is slated to house “the least attractive and most disruptive feature, the transition station,” where the overhead wires of the southern portion of the project would go underground to their northern destination. San Bruno intends to identify

alternative locations for the proposed transition station and to pursue alternatives such as placing the entire project underground.

San Bruno states that, while its staff members were involved earlier, the City Manager and City Council were not informed of the project until after the prehearing conference. The City Council of San Bruno and the San Bruno Redevelopment Agency approved a joint resolution on March 25, 2003, expressing their concerns. San Bruno submits that its intervention will not broaden the scope or delay the proceedings.

No party filed a response to San Bruno's petition. There is no prejudice to any party from San Bruno intervening at this time. San Bruno's petition indicates an intent to participate actively in the proceeding. It has already submitted comments to the Energy Division regarding the Environmental Impact Report and has suggested alternative routes. While there may be some overlap of interests between San Bruno and other parties, San Bruno's interest may not at all times coincide with those of other parties. Therefore, I grant San Bruno's petition to intervene.

Therefore, **IT IS RULED** that:

1. The Notice of Intent of the 280 Corridor Concerned Citizens Group (280 Citizens) was timely filed.
2. 280 Citizens is a customer as that term is defined in Pub. Util. Code § 1802(b), based on the authorization to represent the interests of residential ratepayers contained in its Articles of Association and Bylaws.
3. The participation of 280 Citizens in this proceeding will pose a significant financial hardship as defined in § 1802(g).

4. 280 Citizens has fulfilled the requirements of § 1804(a)(2)(A) by providing a statement of the nature and extent of its planned participation and an itemized estimate of the compensation it expects to request.

5. 280 Citizens has met the requirements of § 1804(a) for eligibility for compensation.

6. A finding of eligibility in no way ensures compensation.

7. 280 Citizens will be eligible to claim compensation as an intervenor, under §§ 1801 et seq.

8. The Petition to Intervene by the City of San Bruno (San Bruno) is granted.

9. The following person is granted Interested Party status on behalf of San Bruno and is added to Appearances portion of the service list:

Pamela Thompson
City Attorney
City of San Bruno
567 El Camino Real
San Bruno, CA 94066
Telephone: (650) 616-7057
Facsimile: (650) 742-6515
Appearing for City of San Bruno
E-mail: pthompson@ci.sanbruno.ca.us

10. The following person is added to the Information Only portion of the service list:

Sky Woodruff
Meyers, Nave, Riback, Silver & Wilson
555 12th Street, Suite 1500
Oakland, CA 94607
Telephone: (510) 808-2000
Facsimile: (510) 444-1108
Appearing for City of San Bruno
E-mail: swoodruff@meyersnave.com

Dated May 6, 2003, at San Francisco, California.

/s/ CHARLOTTE F. TERKEURST

Charlotte F. TerKeurst
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge’s Ruling Regarding Notice of Intent to Claim Compensation and Other Procedural Matters on all parties of record in this proceeding or their attorneys of record.

Dated May 6, 2003, at San Francisco, California.

/s/ JEANNIE CHANG
Jeannie Chang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission’s policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

A.02-09-043 CFT/jyc