



# 2023 Annual Conference

# **All Hands on Deck!**

*Navigating a Sustainable Future*

**June 13 - 15, 2023**

Pre-Conference June 12

Sheraton San Diego Hotel & Marina

NEUAC Session 6E | Use your voice:  
meeting the public's desire for greater  
participation in energy decisions  
Wednesday, June 14, 2023

Tyson Slocum, Energy  
Program Director  
Public Citizen, Inc.

# If You're Not At The Table, You're On The Menu

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- Utility regulatory commissions preside over incredibly important energy issues that directly impact the clients of community action agencies, including determining households' monthly utility bills; dictating how and when utilities can disconnect service for non-payment; designing clean energy initiatives; and implementing energy efficiency programs.
- Utility commissions are adjudicatory agencies, deliberating much like a court of law. They are limited to making decisions only based upon the facts presented before them in a proceeding.
- Utilities have nearly unlimited funds to hire attorneys, expert witnesses and consultants to strengthen their case.
  - In most instances, utilities can recover these regulatory costs from ratepayers!
- In contrast, public interest organizations and community action agencies have scant resources, resulting in an unlevel playing field.
- The goal is to democratize access to utility regulation and give low-income households a seat at the table!

# Expanding Public Interest Access To Utility Commission Proceedings Through Intervenor Funding

Community action agencies often lack resources to participate in state utility regulatory proceedings, despite regulatory commissions' direct impact on energy affordability and access for low-income clients.

Intervenor funding provides qualifying organizations the potential to obtain financial reimbursement of their staff resources, legal & expert witness fees, and all other costs associated with their intervention.

May 2023

# OVERLY IMPACTED & RARELY HEARD

INCORPORATING COMMUNITY  
VOICES INTO MASSACHUSETTS  
ENERGY REGULATORY PROCESSES

- **Establish an Energy Justice Advocate At Utility Commissions**
- **Revise Intervention Standards To Ensure Community Action Agencies And Other Advocates Have Standing To Participate**
- **Provide Direct Logistical and Financial Support For The Public Interest, Including Establishing An Office of Public Participation And Intervenor Funding.**

# Advancing Equity in Utility Regulation

Chandra Farley – ReSolve, John Howat – National Consumer Law Center,  
Nidhi Thakar – Portland General Electric, Howard Crystal – Center for Biological Diversity

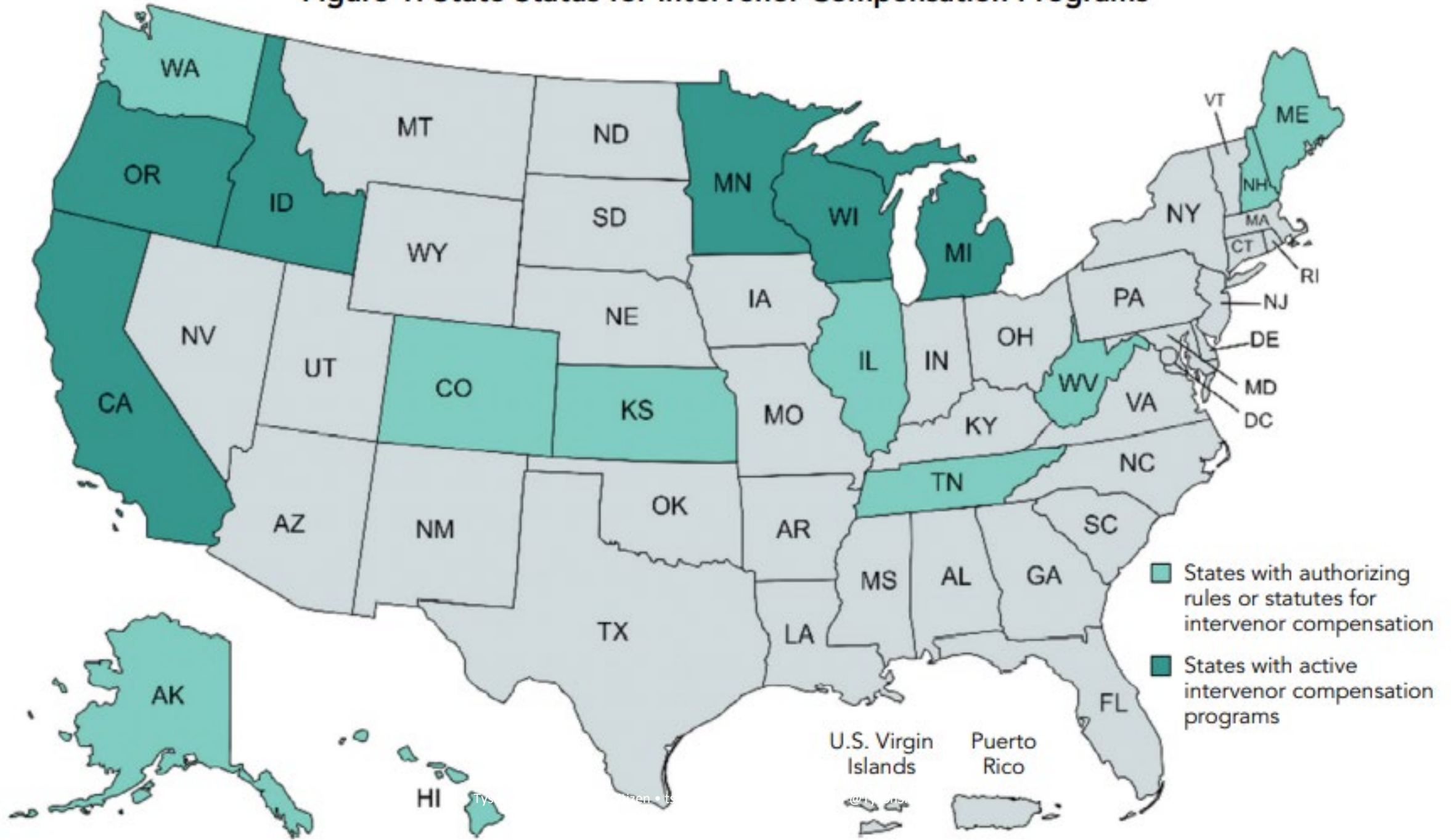
Presentation to National Association of Regulatory Utility Commissioners  
November 9, 2021

- ▶ **Extend public engagement** in utility regulatory decision-making to **include environmental justice organizations** and enable their effective participation through **intervenor funding**
- ▶ Prioritize **knowledge- and capacity-building on energy equity issues**, both for people who may bear the brunt of inequitable outcomes and in statehouses and utility commissions
- ▶ Mobilize “uncommon allies” — clean energy, civil rights, and equity and environmental justice groups — to inform and educate “first-person advocates” on energy issues and utility decision-making
- ▶ **Expand meaning of safe, reliable, and reasonable electricity service to include equity impacts**
- ▶ **Enact legislation** that protects against service disconnections, eliminates predatory disconnection fees, and funds energy bill assistance programs
- ▶ Support utility programs and retail rate design that **increase deployment of clean distributed resources for energy-burdened households**
- ▶ Involve impacted individuals, communities, and environmental justice organizations in **program design & evaluation and resource planning**
- ▶ **Publicly post shutoff and arrearages data** and use it to tailor programmatic solutions





Figure 1. State Status for Intervenor Compensation Programs



California is  
the gold  
standard of  
intervenor  
funding

California Public Utilities Code [§ 1801-1807](#)

**Qualifying public interest intervenors in California are reimbursed roughly \$12 million a year**

- Advocates can seek to recover legal, expert witness and any other reasonable costs associated with intervening.
- Fees are awarded if the advocate's "participation makes a substantial contribution to a commission order or decision"
  - *Substantial contribution* is defined as: "substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation."
  - Intervenor contribution determinations are made by the internal and independent Administrative Law Judges within the Public Utility Commission.



## CPUC Public Advisor's Office

The Public Advisor's Office provides procedural information to individuals and groups who want to participate in formal proceedings at the California Public Utilities Commission (CPUC). In addition, we provide programs and services to educate and assist the public, including special accommodations and interpreter services. Our staff can help answer your questions, help you locate information, or refer you to an appropriate staff person. The Public Advisor's Office has duties that are mandated by [CA Public Utilities Code Section 321](#).

At the California PUC, the *Public Advisor* serves as the liaison to public interest groups seeking to participate.

And the [Intervenor Compensation section](#) of the Administrative Law Judge Division reviews and awards intervenor compensation.



The California state auditor determined the only administrative weakness was that qualified intervenors were not being compensated within the statutory deadline.

The return on the investment for ratepayers is roughly 14:1



## California Public Utilities Commission

Despite Administrative Weaknesses, It Has Generally Awarded Compensation to Intervenors in Accordance With State Law

Report 2012-118

In 2021, Oregon enacted [HB 2475](#) into law, amending its existing intervenor funding to provide up to \$500,000/year to advocates representing low-income households and EJ communities

**SECTION 3.** ORS 757.072 is amended to read:

757.072. (1) A public utility providing electricity or natural gas may enter into a written agreement with an organization that represents broad customer interests in regulatory proceedings conducted by the Public Utility Commission relating to public utilities that provide electricity or natural gas. The agreement shall govern the manner in which financial assistance may be provided to the organization. The agreement may provide for financial assistance to other organizations found by the commission to be qualified under subsection (2) of this section. More than one public utility or organization may join in a single agreement. Any agreement entered into under this section must be approved by the commission before any financial assistance is provided under the agreement.

(2)(a) Financial assistance under an agreement entered into under this section may be provided only to organizations that represent [*broad customer*] interests in regulatory proceedings before the commission relating to public utilities that provide electricity or natural gas **that are:**

**(A) The broad interests of customers;**

**(B) The interests of low-income residential customers; or**

**(C) The interests of residential customers that are members of environmental justice communities.**

(b) The commission by rule shall establish such qualifications as the commission deems appropriate for determining which organizations are eligible for financial assistance under an agreement entered into under this section.

(c) **The total aggregate financial assistance available to all organizations that represent the interests described in paragraph (a)(B) and (C) of this subsection from all public utilities providing electricity or natural gas may not exceed \$500,000 annually.**

## Michigan statute § 460.6L-M

Establishes a [Utility Consumer Participation Board](#) with members appointed by the Governor. The Board oversees a *Utility Consumer Representation Fund*, which disburses upfront grants to encourage the participation of public interest intervenors.

The other 12  
with  
intervenor  
funding  
authority are  
a mix of red  
& blue states

- [Alaska](#)
- [Colorado § 40-6.5-105](#)
- [Idaho Title 61 Chapter 6 \(61-617A\)](#)
- [Illinois](#)
- [Kansas](#)
- [Maine Title 35-A, Part 1, Chapter 13 §1310-A](#)
- [Minnesota § 216B.16\(10\)](#)
- [New Hampshire § 365:38-a](#)
- [Tennessee](#)
- [Washington](#)
- [West Virginia](#)
- [Wisconsin § 196.31](#)



# Additional Advocacy Through LIHEAP & WAP

State LIHEAP program administrators can allocate as much as 0.08% or \$35,000 (whichever is greater) of funds to “identify, develop, and demonstrate leveraging programs”.

Such leveraging programs can be used by LIHEAP and Weatherization Assistance Program recipients to advocate for system benefits charges or other rate-funded initiatives through state utility regulatory proceedings.

# Intervenor Compensation Needed At FERC

In [April 2021 comments to the Federal Energy Regulatory Commission](#), we detailed our recommendations for the administration and funding of a federal intervenor funding program, including assistance to advocates on behalf of low-income families at regional wholesale markets, like California ISO, PJM, MISO, Southwest Power Pool and NYISO.



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# Continuing the learning

Thank you!

**Tyson Slocum, Energy Program Director**

**Public Citizen**

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**neuac**  
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