NARUC
National Association of Regulatory Utility Commissioners

State Approaches to Intervenor Compensation

Prepared for National Association of Regulatory Utility Commissioners
by FTI Consulting, Inc.

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Disclaimers

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ES. Executive Summary

Intervenor compensation is the practice of reimbursing individuals or groups for the costs of their involvement in regulatory proceedings, and for this paper, specifically for involvement in state utility regulatory proceedings. These groups advocate for views and issues that may otherwise not be introduced into the proceedings by the utility, large customers, state utility consumer advocates, attorneys general offices, or others. Programs have been developed in several states to encourage participation in all stages of proceedings before state commissions with the intended goal of having affected customers receive full and fair representation where the costs to intervene would otherwise create a financial hardship.

Traditionally, utilities are able to hire attorneys and expert consultants to build, present, and support their positions in regulatory proceedings, typically passing those costs through to their ratepayers. Large customers and customer groups generally have the economic resources needed to intervene in regulatory proceedings to protect their interests by hiring their own attorneys and expert consultants. Smaller customers, and public interest organizations, may not have the funding, time, or expertise to have their specific interests represented. They may have a unique perspective in the proceedings but be unable to participate due to the financial or time investment required. While most states have a form of utility consumer advocate that is funded by the state to represent utility consumers, these organizations are not responsible for advocating for unique or specific issues of individual groups and frequently lack the resources to participate fully in every proceeding.[1]

The evolution of how Americans use energy, the expansion of distributed energy resources, the increasing focus on environmental issues such as climate, clean air, and public health, and other trends have led to more individuals and groups desiring to make their voices heard in state regulatory proceedings. These groups could be advocating on unique topics or specific issues, but frequently cannot afford to spend the time doing so unless they raise money or are compensated for their time and effort. The lack of representation from potentially impacted parties could hinder the decision-making process and outcomes of proceedings.

This paper identifies the current sixteen U.S. states that have an authorized intervenor compensation, financing, or funding program in their legislative rules and statutes (**Figure 1**). They include Alaska, California, Colorado, Hawaii, Idaho, Illinois, Kansas, Maine, Michigan, Minnesota, New Hampshire, Oregon, Tennessee, Washington, West Virginia, and Wisconsin. Of these states, six are actively being used by intervenors—California, Idaho, Michigan, Minnesota, Oregon, and Wisconsin—and two (Illinois and Washington) are being established as of this writing. The remaining state programs, Alaska, Colorado, Hawaii, Kansas, Maine, New Hampshire, Tennessee, and West Virginia, have either never been used or have not been used in recent years. The six active state intervenor compensation programs include cost reimbursement programs and grant-based programs, with unique features related to eligibility, deadlines, and the amount and type of costs that can be submitted for reimbursement.

In addition to legislative and statute reviews, interviews of intervenors who participate under various state intervenor compensation programs revealed that the timeliness of cost reimbursement is an important feature of intervenor compensation programs for potential intervenors, as are eligibility requirements and knowing how much they will be awarded up front so they can hire the appropriate experts and budget accordingly. Complete references for all authorized compensation programs are included as Appendix A.

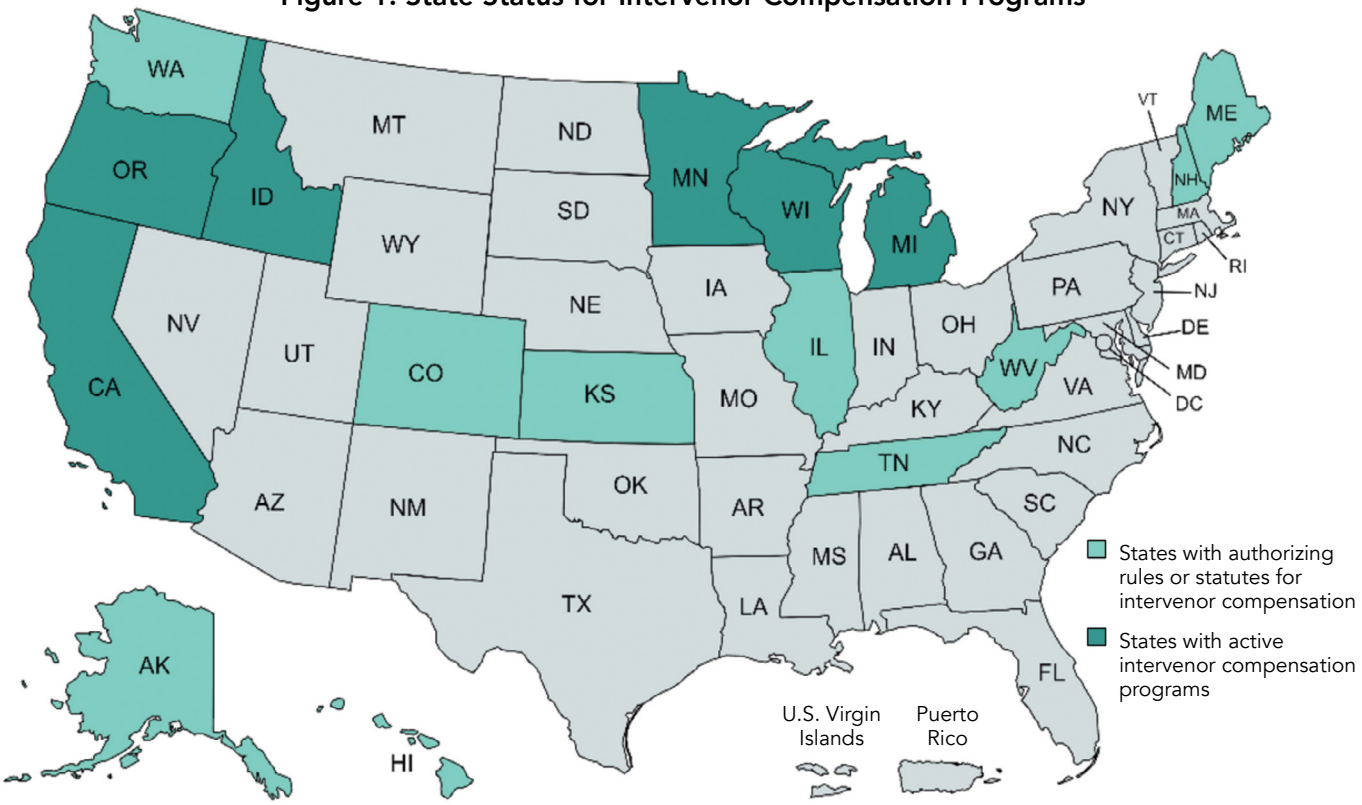
1 Read more about consumer advocates and their relationships to public utility commissions in "Duncan and Eagles, 2021, NCEP Mini Guide: Public Utilities Commissions and Consumer Advocates: Protecting the Public Interest."

1.0 States with Intervenor Compensation Programs

Information about state intervenor compensation programs was gathered from state legislative statutes, administrative rules, state utility regulatory websites, and state attorney general and/or consumer advocate websites. Docket searches were conducted to find proceedings relevant to intervenor compensation. Finally, interviews were conducted with several intervenors regarding their experience with intervenor compensation programs.

Currently, sixteen states have an authorized intervenor compensation program in statute or administrative code (see **Figure 1**). Links to the specific statute or rule establishing the state's program or parameters can be found in 5.1 Appendix A—Program Authorization Links.

Figure 1. State Status for Intervenor Compensation Programs



While sixteen states have authorized intervenor compensation plans, only six of them are actively being used, and two (Illinois and Washington) are currently being established. **Table 1. Features of Authorized State Intervenor Compensation Programs** shows a summary of the key features of authorized state intervenor compensation programs. The six states with active programs—California, Idaho, Michigan, Minnesota, Oregon, and Wisconsin—are discussed further in Section 3.0.

Alaska,[2] Colorado,[3] Hawaii,[4] Kansas,[5] Maine,[6] New Hampshire,[7] Tennessee,[8] and West Virginia[9] have authorized programs, but they have either never been used in practice or have not been used in recent years. Hawaii has not passed any legislation establishing an intervenor compensation program, but intervenor funding was established through an order limited to the specific context of integrated resource planning and implementation, which has not been used in practice.

Efforts have been made in other states to establish intervenor compensation programs, but the efforts have either been defeated, or they expired due to inactivity. A few states still have legislation pending. See 5.2 Appendix B—Pending, Defeated, or Repealed Legislation Related to Intervenor Compensation for a list of legislation related to intervenor compensation as of December 17, 2021.

2 Per Kristin Schubert, Commission Section Manager, Regulatory Commission of Alaska, they are not aware of any instance where compensation has actually been granted.

3 Per Doug Dean, Director, Colorado Public Utilities Commission, although it is allowed in statute, it hasn't been exercised to their knowledge.

4 Per Michael Chapman, Economic & Legislative Coordinator, Hawaii Public Utilities Commission, it only has a process for intervenor funding that is limited to the specific context of integrated resource planning and implementation and has not been utilized in about ten years.

5 Per Lynn M. Retz, Executive Director, Kansas Corporation Commission, they have not had any intervenor compensation in recent years.

6 Per Harry Lanphear, Administrative Director, Maine Public Utilities Commission, none has been requested in at least the last 10 years.

7 Reached out to New Hampshire Public Utilities Commission but did not receive confirmation. A search of dockets did not reveal any recent awards of intervenor compensation.

8 Reached out to Tennessee Public Utility Commission but did not receive confirmation. A search of dockets did not reveal any recent awards of intervenor compensation.

9 Per Karen Macon, Director, Utilities Division, Public Service Commission of West Virginia.

Table 1. Features of Authorized State Intervenor Compensation Programs

State	Applicable Utilities	Plan Type	Applicants	Eligibility Criteria[10]	Costs	Limits	Payee	Used in Practice
Alaska[11]	Electric	Cost Reimbursement	Electric consumer of regulated electric utility,[12] either intervenor or public witness	I, F, M, J	Reasonable Costs	None	Utility	N
California	Electric, Gas, Water and Telephone	Cost Reimbursement	Customer or eligible local government entity; intervenors with conflicts of interest are ineligible	I, F, M, J, O	Reasonable Costs based on Market Rate Study	None	Utility[13]	Y
Colorado	Electric or Gas Utility	Cost Reimbursement	Intervenors other than office of consumer counsel; prohibits any intervenor in direct competition with public utility involved in proceeding	I, M, O	Reasonable Costs	None	Not Specified	N
Hawaii[14]	Integrated Resource Plans only	Cost Reimbursement	Excludes government agencies, for-profit entities, or an association of for-profit entities	F, M, O	Reasonable Costs	None	Utility[15]	N
Idaho[16]	In any case involving electric, gas, water, or telephone utilities with gross Idaho intrastate annual revenues exceeding $3,500,000	Cost Reimbursement	Excludes any intervenor who is in direct competition with a public utility involved in the proceeding	I, F, M, O	Reasonable Costs	$40,000 for all intervening parties combined in any proceeding	Utility	Y

10 I = Granted intervenor status in proceeding; F = Financial hardship; M = Participation materially contributed to decision of commission; R = Represents interest not otherwise adequately represented in proceeding; J = Intervenors with same or similar interests, may be joined as one party; O = Other.

11 Unless an alternative means of compensation is provided.

12 Subject to Title I of the Public Utility Regulatory Policies Act (PURPA) of 1978 (a public utility whose sales of electric energy, for purposes other than resale, during any calendar year after 1975 and before the immediately preceding calendar year, exceeded 500 million kilowatt-hours).

13 Or if it is a quasi-legislative rulemaking proceeding affecting an industry or multiple industries, awards are paid from the Intervenor Compensation Fund.

14 A process for intervenor funding was outlined in *A Framework for* Integrated Resource Planning, March 9, 1992, Revised March 14, 2011, Docket No. 2009-1018, p. 122–124. The process is limited to the specific context of integrated resource planning and implementation and has not been utilized in about ten years, according to the Hawaii Public Utilities Commission.

15 Paid by the utility, cost recovery subject to approval of utility integrated resource plan.

16 Referred to as Intervenor Funding.

State	Applicable Utilities	Plan Type	Applicants	Eligibility Criteria[10]	Costs	Limits	Payee	Used in Practice
Illinois[17]	Electric or Gas	Cost Reimbursement	Customer Interest Representatives[18]	F, M, O	Market Rates	Compensation cannot exceed the comparable market rate for services paid by the utility as part of its rate case expense	Utility	N/A[19]
Kansas	Electric	Cost Reimbursement	Consumers of electric utilities subject to Title I of PURPA	I, F, M, R, J, O	Reasonable Costs	None	Utility	N
Maine	Public Utilities	Cost Reimbursement	Intervenor related to issue in a commission proceeding or judicial review related to a PURPA or non-PURPA issue	I, F, M, R, O	Reasonable Costs	None	Utility or the commission's regulatory fund[20]	N
Michigan	Energy utilities that apply to the commission for initiation of cost recovery proceedings	Grant[21]	Nonprofit organization or unit of local government; no individual interests[22]	O	Reasonable Costs	None	Utility[23]	Y
Minnesota	Public Utilities[24] in a general rate case	Cost Reimbursement	Nonprofit organization or individual granted formal intervenor status by commission	I, F, M, R, O	Reasonable Costs	$50,000 per single intervenor in a proceeding	Utility	Y

17 Illinois passed the Climate and Equitable Jobs Act (SB 2408), effective September 15, 2021, which includes a provision for an intervenor compensation fund. As of December 17, 2021, the program has not been initiated.

18 Defined as (a) a residential utility customer or group of residential utility customers represented by a not-for-profit group or organization registered with the Illinois Attorney General under the Solicitation of Charity Act; (b) representatives of not-for-profit groups or organizations whose membership is limited to residential utility customers; or (c) representatives of not-for-profit groups or organizations whose membership includes Illinois residents and that address the community, economic, environmental, or social welfare of Illinois residents, except government agencies or intervenors specifically authorized by Illinois law to participate in Commission proceedings on behalf of Illinois consumers.

19 New legislation.

20 From the utility if ordered by the commission in any proceeding in which PURPA standards are implemented under Title 16, Section 2601; from the commission's regulatory fund if ordered in proceedings in which the commission does not implement standards under PURPA Title 16, Section 2601.

21 From the Utility Consumer Representation Fund.

22 Only for advocating residential energy utility customers concerning energy costs or rates; not available for representation of merely individual interests.

23 Each energy utility that has applied to the commission for initiation of an energy cost recovery proceeding pays into the fund; excludes energy utilities organized as cooperative corporations.

24 Minnesota statute related to intervenor compensation falls under general Public Utilities. Specific administrative rules have been adopted only related to telecommunications. The features of the plan relate to the broad Public Utility statute.

State	Applicable Utilities	Plan Type	Applicants	Eligibility Criteria[10]	Costs	Limits	Payee	Used in Practice
New Hampshire	Public Utilities	Cost Reimbursement	Retail customers subject to the rates of the utility; excludes municipalities	F, M	Reasonable Costs	No more than $10,000 for a party in a single proceeding	Utility	N
Oregon	Electric or Gas	Grant	Citizens' Utility Board of Oregon or nonprofits that meet criteria[25]	O[26]	Per Individual Agreement[27]	Per Individ Agreement between utility and intervenor with total aggregate not to exceed $500,000 annually[28]	Utility[29]	Y
Tennessee	Electric	Cost Reimbursement	Intervenors in PURPA related proceedings	I, F, R, J, O	Attorney and expert witness fees based on market rates in TN; other costs are actual costs	A ceiling on costs may be determined by the commission	Utility	N

25 Only parties that are pre-certified or parties that become case-certified for particular proceedings are eligible to receive grants.

26 Only organizations that are pre-certified or parties that become case-certified are eligible to receive grants under an agreement. The following are eligible: Citizens' Utility Board (CUB) of Oregon or any nonprofit organization that meets certain criteria.

27 Agreements are entered into between the public utility providing electricity or natural gas service and an organization that represents broad customer interests in regulatory proceedings. Any agreement is approved by the commission before financial assistance is provided. Each agreement establishes the amounts of financial assistance. More than one public utility or organization may join in a single agreement.

28 HB2475 was signed into law and, effective January 1, 2022, limits the total aggregate award.

29 The utility providing electricity or natural gas enters into a written agreement to provide financial assistance to a certain organization, approved by the commission. The utility may recover in rates amounts paid or may defer inclusion of those amounts in rates if so elected; terms are specified in individual agreements.

State	Applicable Utilities	Plan Type	Applicants	Eligibility Criteria[10]	Costs	Limits	Payee	Used in Practice
Washington[30]	Electric or Gas	Grant[31]	Non-profit organizations that represent broad customer interests in regulatory proceedings; excludes government entities[32]	No specific criteria at this time	Reasonable Costs	For the first year of implementation, capped at 0.1% of utility operating revenues but no more than $300,000 per utility for gas and electric operations combined[33]	Utility	N/A[34]
West Virginia[35]	Electric	Cost Reimbursement	Electric consumer intervenor in any proceeding relating to PURPA	I, F, M, R, J, O	Reasonable Costs	None	Utility	N
Wisconsin[36]	Public Utilities	Cost Reimbursement	Customer of the utility that is subject of the proceeding or someone who may be materially affected by the outcome	I, F, M, R, J, O	Reasonable Costs	Annual limit for all intervenor compensation; The state fiscal year (SFY) 2022 expenditure authority is $542,500[37]	Utility(ies)	Y

30 The state of Washington passed legislation, effective July 25, 2021, related to gas and electric companies' rates. The Washington Utilities and Transportation Commission issued a Policy Statement on Participatory Funding for Regulatory Proceedings in Docket No. U-210595 on November 19, 2021.

31 Washington's program will be modeled after Oregon's, with utilities entering into agreements with intervenors to provide grants. A unique feature of the program is that it allows interim funding for organizations representing highly impacted communities and vulnerable populations, contingent on demonstrating a need. Funding will only be for expenses incurred.

32 Requires prioritization of funding for organizations representing highly impacted communities and vulnerable populations. This is new language not included in any other state program.

33 At least one-third of available funding per utility will be reserved specifically for use by organizations representing vulnerable populations and highly impacted communities and, at least for the first year of the program, may be used for the purposes of conducting outreach and developing awareness of participation opportunities for vulnerable populations and highly impacted communities.

34 New legislation.

35 Referred to as Consumer Reimbursement Program.

36 Referred to as Intervenor Financing.

37 Commission Memorandum Docket 1-IC-533, PSC Ref 421378.

2.0 Features of Authorized Intervenor Compensation Programs

Intervenor compensation is generally a two-step process, where the party filing for compensation must first be granted status as an intervenor in the proceeding and then is considered for intervenor compensation. This paper does not address the process involved in the application for intervenor status.[38]

Some states have very detailed program requirements, timelines, and standard forms, while other states have very broad language, with wide discretion given to the regulatory commission and/or Administrative Law Judges (ALJs) to make decisions on each specific claim for intervenor compensation. Differences among authorizing statutes are highlighted below, including for states that do not have active programs. Section 3.0 contains more detailed information about the six active state intervenor compensation programs; those states are underlined in this section.

2.1 Applicable Utilities

Of the authorized programs, only Maine, New Hampshire, and Wisconsin do not specifically restrict the utility proceedings in which an intervenor may request intervenor compensation. In Minnesota, there is no restriction on the type of utility, but it is only allowed in a rate case proceeding. Alaska, Kansas, and Tennessee restrict intervenor funding to electric utility proceedings only, and Colorado, Illinois, and Oregon allow funding in electric or gas utility proceedings. California's program applies to electric, gas, water, and telephone utilities. In Idaho, intervenor compensation can be requested in any type of utility proceeding but is limited to those where the utility exceeds $3.5 million in gross intrastate revenues. In Michigan, requests are allowed in proceedings related to energy utilities that apply to the commission for initiation of cost recovery proceedings. Hawaii only allows requests for intervenor compensation in integrated resource planning and implementation proceedings.

2.2 Plan Type

Plan types include cost reimbursement awards or grants. Most states with intervenor compensation programs are based on an award and reimbursement of costs at the conclusion of the proceeding, even if a notice of intent (NOI) is required to be filed at the beginning of the proceeding. Thus, the intervenor requests reimbursement of its actual costs when it files a claim, usually divided among attorney fees, expert witness fees, travel, and other costs.

Only three programs provide for grants or awards in advance of participation in a proceeding. Oregon is a grant-based program, where the state funds a specific amount each fiscal year and intervenors file for a grant either at the beginning of the year for their anticipated intervention during that year, or on a case-by-case basis as they intend to intervene. Intervenors in Michigan also file for a grant at the beginning of the proceeding in which they plan to participate, and then submit their actual costs at the end of the proceeding. In Wisconsin, applicants apply for and are awarded intervenor compensation at the beginning of a proceeding and then submit their claim with itemized expenses at the conclusion of their participation in the proceeding.

Intervenors interviewed prefer to have certainty in funding at the beginning of a proceeding, so they can hire experts and budget expenses.

2.3 Applications

2.3.1 Applicants

In most states, any utility in direct competition to the utility or utilities involved in a proceeding is specifically prohibited from applying for intervenor compensation, and some states also specifically prohibit municipalities

38 NARUC maintains a list of individual state utility commission websites where readers can find more information on the state-specific process for filing to intervene in a regulatory docket. See www.naruc.org/about-naruc/regulatory-commissions/.

or other government entities. Some states allow for their own state consumer advocate to apply for compensation; while in other states, those entities receive separate funding and are, thus, restricted from applying for funding through the intervenor compensation program. Others specifically require that an intervenor requesting compensation be a customer of the utility involved in the proceeding. Because the language varies, see **Table 1** for specifics related to each state program.

2.3.2 Application Process

In most states, the intervenor must file a preliminary claim or a NOI to file for intervenor compensation at the outset of the proceeding, and then file a claim at the end of the proceeding with actual costs incurred (e.g., California, Wisconsin). Other states, Colorado, Hawaii, Idaho, and New Hampshire do not have such requirements, with intervenors filing a claim only at the close of the proceeding. Michigan and Oregon are both unique in that grants are made to intervenors in advance of proceedings.

2.3.3 Eligibility Criteria

Each program has specific eligibility criteria on intervenors requesting compensation that must be demonstrated in the petition or claim and ruled upon by the commission and/or ALJs when determining final awards. Due to the varying language and requirements in each state, the eligibility requirements are summarized in **Table 1.** Where there are unique features related to a state's active program, they are discussed in more detail in 3.0 State Snapshots.

In most state programs, intervenors requesting compensation are required to show that their position was not adequately represented by any other party in the proceeding and that their participation is/was necessary for a fair determination in the proceeding. The organization must demonstrate they have or will have contributed in whole or in part to the decision in the proceeding through their arguments and testimony. The commissions and/or ALJs are left to make the final determination based on a review of the proceedings.

In Idaho, for example, the proposed finding or recommendation by the intervenor in the case must differ materially from the testimony and exhibits of the commission staff, and must also address issues of concern to the general body of utility users or consumers.

Nearly all states require that the intervenor show that intervention in the proceeding would be a financial hardship, if not for the intervenor compensation. As part of a preliminary determination of eligibility for intervenor funding in Maine, for example, the intervenor must include certified balance sheets, income statements, and expense statements for the last three fiscal years, where available, to demonstrate that participation in the proceeding would be a financial hardship to the intervenor.

2.3.4 Deadlines

All but three states with authorized intervenor compensation programs provide for specific deadlines that must be met related to filing a NOI, filing a protest by utilities and other parties, filing a claim, and the issuance of payments by the utility. These deadlines are typically inflexible; if deadlines are missed, the intervenor is precluded from the opportunity to receive compensation.

Deadlines for those states with cost reimbursement programs, excluding Colorado and New Hampshire, whose programs do not specify any deadlines, are shown in 5.3 Appendix C—Program Deadlines. Michigan has deadlines specific to its grant program that are discussed in Section 3.3. Oregon, on the other hand, is a state with a grant-based program that does not specify deadlines.

New intervenors or those wishing to participate on a one-time basis may miss deadlines because they are new to the process and are unaware of the details related to who can file, how to file, and when to file for intervenor compensation.

2.3.5 Costs

Many states simply require that intervenor costs are reasonable, and it is left to the commission and/or ALJs to make that determination. In other states, costs are limited to prevailing market rates, as explained below.

Alaska's program specifies reasonable fees or costs within a range, where the upper end is the fee or cost based on the prevailing market rates in Alaska for the kind and quality of service provided, and the lower end is the fee or cost based on the prevailing market rates in the contiguous United States for the kind and quality of service provided. California contracts for a market study identifying specific rates allowed for each level of experience of experts and attorneys. In Kansas, costs are measured against prevailing market rates for persons of comparable training and experience offering similar services. Fees are not to exceed those paid by the commission or the utility, whichever is greater for similar training and services. The programs in Illinois and Maine take into account prevailing market rates including whether the rates are comparable to those in the community for attorneys of comparable skill, experience, and reputation. In Tennessee, attorney fees and expert witness fees are based on prevailing market rates in Tennessee for the kind and quality of service rendered, and all other costs are based on the actual costs incurred by the intervenor, not to exceed the market rate. In Wisconsin, compensation paid to the staff of an intervenor is limited to the rate the intervenor normally pays for comparable services and cannot exceed rates authorized for employees of the commission. Likewise, compensation for travel and other miscellaneous expenses cannot exceed the rates authorized for commission employees.

2.3.6 Compensation Limits

Only Idaho, New Hampshire, and Minnesota place specific limits on the amount of compensation an intervenor can apply for in a particular proceeding, or the total award to all intervenors in a proceeding. Minnesota limits awards to $50,000 per a single intervenor in a proceeding, and New Hampshire allows for no more than $10,000 per party in a single proceeding. In Idaho, awards are limited to a total of $40,000 for all intervening parties combined in a single proceeding. Wisconsin has an annual budget for all intervenor compensation during a particular fiscal year; for fiscal year 2022, the amount is $542,500. In Oregon, the intervenor compensation amount is limited to the agreement between the intervenor and utility. In Tennessee, the commission may place a ceiling on costs.

2.4 Payee

All of the state programs are funded by utilities, either through a general assessment of the state's utilities or by the specific utility involved in the proceeding in which intervenor compensation is being sought. Thus, the programs are funded by ratepayers and not taxpayers. Colorado is the only state which does not specify who pays for intervenor compensation awards. The utility is then able to recover those costs in future rate cases from the class of customers whose interests were represented by that intervenor, or the costs may be recoverable in that same proceeding. In a few states, such as Michigan, utilities are charged annual fees that fund the intervenor compensation program.

For example, if a New Hampshire proceeding involves a change in the utility's rates, the entire amount of the award will be recovered by the utility in that very proceeding. If the proceeding is not one involving a change in a utility's rates, the entire amount of the award will be immediately recovered by a utility through measures approved on a timely basis by the commission. Tennessee, on the other hand, treats the award as an operating expense recoverable in the utility's next general rate case.

3.0 State Snapshots

The six states with active intervenor compensation programs—California, Idaho, Michigan, Minnesota, Oregon, and Wisconsin—are discussed in greater detail.

3.1 California

Applicable Utilities	Plan Type	Applicants	Eligibility Criteria[39]	Costs	Limits	Payee
Electric, Gas, Water, and Telephone	Cost Reimbursement	Customer or eligible local government entity; intervenors with conflicts of interest are ineligible	I, F, M, J, O	Reasonable Costs based on Market Rate Study	None	Utility

California's intervenor compensation program pays out the most in intervenor compensation awards and issues the most decisions among U.S. states. According to the California Public Utilities Commission (CPUC), in 2020 their intervenor compensation program issued 114 decisions, with 148 filed claims, and is awarding $10–$15 million per year.[40] California's program reimburses attorney fees, expert witness fees, and other expenses based on a market study. In California Resolution ALJ-393, effective with work performed in the 2021 calendar year, a new methodology was adopted eliminating the annual cost-of-living adjustment and incorporating overhead costs into hourly rates, thus no longer separately compensating for certain costs like Lexis Nexis, postage, photocopies, and telephone.

Intervenors who wish to file for an award of intervenor compensation must file a NOI, to request that the CPUC find the intervenor eligible to request compensation. The eligible intervenor then files a claim after the CPUC issues a final order or decision in the proceeding, as long as the intervenor's participation has made a substantial contribution to the outcome of the proceeding. Thus, intervenors do not know whether or how much they will receive in compensation until the end of the proceeding. This can lead to uncertainty for intervenors when planning their costs of intervention.

As part of establishing eligibility in California, an intervenor must prove the basis of its financial hardship through commission-provided tests. The basis is either: (1) the Undue Hardship Test, which applies to Category 1 or 2 customers or (2) the Comparison Test, which applies to Category 3 customers. Category 1 customers are actual customers of the utility. Category 2 customers are representatives who have been authorized by actual customers to represent them (residential, for example). Category 3 customers are representatives of an organization authorized by its articles of incorporation or by-laws to represent the interests of residential customers or small commercial customers receiving bundled electric service from an electrical corporation and may include organizations that represent residential customers with concerns for the environment.

Category 1 or 2 customers must certify that they cannot afford to pay the costs of participating in the proceeding without undue hardship and submit financial information including gross and net monthly income, monthly expenses, and cash and assets including other relevant information. Under California's Comparison Test, Category 3 customers must certify 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.

The awarded compensation is paid by the utility involved in the proceeding, and the payments are allowed as an expense for the purpose of establishing rates of the utility, as a dollar-for-dollar adjustment to rates, so that the amount of the award shall be fully recovered within one year from the date of the award.

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39 I = Granted intervenor status in proceeding; F = Financial hardship; M = Participation materially contributed to decision of commission; R = Represents interest not otherwise adequately represented in proceeding; J = Intervenors with same or similar interests, may be joined as one party; O = Other."

40 California Public Utilities Commission 2020 Annual Report, p. 40.

California's intervenor compensation program is administered under CPUC's ALJ Division, currently with six employees. They have a backlog of claims as their case load has been increasing since 2017, due to many factors including an increase in rulemaking proceedings that are eligible for intervenor compensation, proceedings with multiple intervenors, and an increase in judges which leads to an increase in decisions. There is no specific annual report on the program, but rather a general report from the CPUC that shows the intervenor compensation program's annual claims and awards.

California has many resources available to intervenors to aid in the process of applying for and receiving compensation, such as program guides and standard forms for filing timesheets or a NOI or claim. Links to these resources include:

Intervenor Compensation Program

Intervenor Compensation Program Guide

State of California Audit of the Intervenor Compensation Program 2013

Notice of Intent

Intervenor Compensation Claim

Timesheet

3.2 Idaho

Applicable Utilities	Plan Type	Applicants	Eligibility Criteria	Costs	Limits	Payee
In any case involving electric, gas, water, or telephone utilities with gross Idaho intrastate annual revenues exceeding $3,500,000	Cost Reimbursement	Excludes any intervenor who is in direct competition with a public utility involved in the proceeding	I, F, M, O	Reasonable Costs	$40,000 for all intervening parties combined in any proceeding	Utility

Idaho is another state in which intervenors actively request compensation for participation in proceedings on a cost reimbursement basis. The program has a limit of $40,000 for all intervenors in a single proceeding. In cases where the total requested by all intervenors exceeds $40,000, the commission must decide how to split the award between the parties. In one case,[41] four different intervenors submitted timely petitions for intervenor funding totaling in excess of $59,000. In the final order, the commission awarded three of the intervenors their entire petitioned amount, and the other intervenor was awarded the difference between their awards and the $40,000 proceeding limit, thus reducing their award below their original petitioned amount.

Idaho allows that expenses awarded to an intervenor are an allowable business expense in the pending rate case or, if the proceeding is not a rate case, in the utility's next rate case. Expenses are chargeable to the class of customers represented by the qualifying intervenor.

41 Docket No. IPC-E-17-13, Order No. 34046, Final Order No. 34608.

3.3 Michigan

Applicable Utilities	Plan Type	Applicants	Eligibility Criteria	Costs	Limits	Payee
Energy utilities that apply to the commission for initiation of cost recovery proceedings	Grant	Nonprofit organization or unit of local government; no individual interests	O	Reasonable Costs	None	Utility

Michigan has two components to its intervenor compensation program. Part of the program's funds, currently $1 million, goes to the state's attorney general office, who advocates on behalf of the interests of Michigan utility customers in general. Another $750,000 goes to the Utility Consumer Participation Board ("Board"), with members appointed by the governor, to distribute to specific interest groups to advocate on behalf of residential customer groups. A small part of the funds, $37,500, is set aside for administrative costs.

The attorney general's office is not limited in the cases in which it can intervene and does not have to request intervenor status; the office generally coordinates their work with other intervenors in the cases. Michigan's regulatory environment is unique in that rate cases occur yearly, thus increasing costs of interventions relative to other states.

The Board oversees a Utility Consumer Representation Fund (the "Fund") to disburse reimbursement payments to public interest intervenors. The Board meets on a regular basis and reviews requests for grants at those meetings, making award determinations based on various criteria. Funds can only be used to advocate the interests of residential energy utility customers concerning energy costs or rates and not merely for the representation of individual interests. Recipients can only use the grant for the advancement of the proposed action approved by the Board. Finally, any amounts that have been in the Fund more than twelve months may be retained for future proceedings, returned to the energy utility companies, or used to offset their future remittances, as the Board and attorney general determine will best serve the interests of consumers. Part of what makes the Michigan program unique is its separation from the commission and its funding of intervenors at the outset of a proceeding, so intervenors know the amount of funds they will have available.

Michigan's program is funded by the state's investor-owned utilities.[42] Each utility that has applied to the commission for the initiation of a cost recovery proceeding remits to the Fund before or upon filing its initial application for that proceeding, and on or before the first anniversary of that application based on the following formula:

1. Utility Serving ≥ 100,000 total customers, pay a proportional share of $900,000
2. Utility Serving ≥ 100,000 residential customers, pay a proportional share of $650,000
3. Utility Serving < 100,000 total customers, pay a proportional share of $100,000
4. Utility Serving < 100,000 residential customers, pay a proportional share of $100,000[43]

Thus, a utility with more than 100,000 residential customers would end up paying its proportional share of $1,550,000, and utilities with less than 100,000 residential customers would pay its proportional share of $200,000. Payments made by utilities falling under items 1 or 3 are considered operating expenses of the utility that are permitted to be charged to its total customers. Payments made by utilities falling under items 2 or 4 are considered operating expenses of the utility that are permitted to be specifically charged to its residential customers.

42 Per Utility Consumer Representation Fund Annual Report, Calendar Year 2020, p. 10, the following utilities remitted revenues into the Fund: Consumers Energy, DTE Electric, DTE Gas, Michigan Gas Utilities, SEMCO, Northern States Power (dba XCEL), Alpena Power, American Electric Power (I&M), Upper Peninsula Power, and Upper Michigan Energy Resources.

43 Adjusted annually by a consumer price index factor. For 2020, total remittances were $1,862,175 per Utility Consumer Representation Fund Annual Report, Calendar Year 2020, p. 10. Each energy utility that has applied to the commission for initiation of an energy cost recovery proceeding pays into the fund; excludes energy utilities organized as cooperative corporations.

As for deadlines, the commission cannot accept or take action on an application for a cost recovery proceeding from a utility until thirty (30) days after it has been notified by the Board that the Board is ready to process grant applications. It will transfer funds payable to the attorney general immediately upon receipt of those funds and then will approve grants and remit funds to grant applicants within thirty (30) days. Grant recipients are required to file a report with the Board within ninety (90) days following the end of the year. The Board and the Attorney General are each required to file annual reports by July 1.

Michigan's 2022 grant application is available at: UCRF Grant Application 2022.

3.4 Minnesota

Applicable Utilities	Plan Type	Applicants	Eligibility Criteria	Costs	Limits	Payee
Public Utilities in a general rate case	Cost Reimbursement	Nonprofit organization or individual granted formal intervenor status by commission	I, F, M, R, O	Reasonable Costs	$50,000 per single intervenor in a proceeding	Utility

Minnesota is another state program allowing cost reimbursement, authorized for all utilities under state statute, with rules specifically adopted for telecommunications proceedings. According to the Minnesota Public Utilities Commission (MPUC), since 2009, they have only had three requests for compensation under the program, with one granted. MPUC saw requests fall after 2009 when the statute was amended, making it only available in general rate cases. Other factors may be that intervenor compensation can no longer be requested up front, and the awards are limited to $50,000, making it difficult to hire the necessary experts.

As part of eligibility requirements in Minnesota, the intervenor must demonstrate that the absence of compensation could create financial hardship, showing that the attorney and expert witness fees are reasonable and showing the ratio between the costs of intervention and the intervenor's unrestricted funds. In its compensation request, the intervenor must include a list of the actual annual revenues, expenses, and balance sheet of the organization the intervenor is representing for the preceding year, and projected revenues, revenue sources, expenses, and balance sheet for the current year. The intervenor should also describe why additional organizational funds cannot be put toward intervention.

3.5 Oregon

Applicable Utilities	Plan Type	Applicants	Eligibility Criteria	Costs	Limits	Payee
Electric or Gas	Grant	Citizens' Utility Board of Oregon or nonprofits that meet criteria	O	Per Individual Agreement	Per Individual Agreement between utility and intervenor with total aggregate not to exceed $500,000 annuall	Utility

In Oregon, another state with a grant-based program, a utility providing electric or natural gas service may enter into a specific agreement to provide financial assistance to an intervenor. Intervenors that are pre-certified or those that become case-certified in a specific proceeding are eligible to receive grants under an agreement; only those organizations meeting specific criteria can be pre-certified.

To be pre-certified, an organization must be either: (1) the Citizens' Utility Board (CUB) of Oregon or (2) a nonprofit who represents customer interests on an ongoing basis; represents the interests of a broad class of customers; demonstrates it is able to effectively represent the class of customers; its members are customers of one or more utilities that are party to the agreement; and it has demonstrated in past proceedings the ability to substantially contribute on behalf of customer needs.

HB 2475 was recently passed into law and will be effective January 1, 2022. The law more narrowly defines the types of organizations that can receive financial assistance to only those that represent: a) the broad interest of customers, b) the interests of low-income residential customers, or c) the interests of residential customers that are members of environmental justice communities. The law will also require the Oregon Public Utility Commission ("OPUC") to provide a report no later than September 15, 2025, to the Legislative Assembly related to the implementation and impacts of these changes.

The OPUC must approve any agreement before financial assistance can be provided and the terms are binding. Once an organization is pre-certified, it remains pre-certified unless it is de-certified by the OPUC. Oregon's program does not outline any specific filing deadlines.

Intervenor funding agreements are available on the OPUC website, as well as an Intervenor Funding Summary that shows fund distribution details to date.

3.6 Wisconsin

Applicable Utilities	Plan Type	Applicants	Eligibility Criteria	Costs	Limits	Payee
Public Utilities	Cost Reimbursement	Customer of the utility that is subject of the proceeding or someone who may be materially affected by the outcome	I, F, M, R, J, O	Reasonable Costs	Annual limit for all intervenor compensation; The SFY 2022 expenditure authority is $542,500	Utility(ies)

Wisconsin's intervenor compensation program is divided into two parts—in part one, commissioners award intervenor compensation for specific dockets, limited in total to $542,500 for fiscal year 2022. For those awards, the Public Service Commission of Wisconsin (PSC) directly assesses the utility involved in that particular proceeding. Part two, under a new funding model passed in 2021, allows for a specific grant of up to $900,000 to the Citizens Utility Board of Wisconsin, a private nonprofit organization that advocates for residential, small commercial, and small industrial energy customers, for their intervention in cases. The costs of intervention are generally assessed to a group of utilities. Even though neither is funded by taxpayers, the compensation is appropriated through the legislature.

In general, intervenor compensation awards are made at the beginning of a proceeding, with applicants submitting an itemized statement of services and expenses that will be covered by the requested intervenor compensation funds on a commission form for approval; the intervenor will later submit their final claim at the conclusion of the proceeding. The PSC's three commissioners make the awards and have full discretion, with no award limits, only the restriction on budget authority. Commissioners can award 100 percent of the request, or they can make reductions for a variety of reasons.

Also, as part of eligibility for intervenor compensation, an applicant must be a customer of the utility or someone materially affected by the outcome of the proceeding; someone for whom intervention in the proceeding would cause significant financial hardship; someone who represents an interest material to the proceeding which but for the award would not be adequately represented; someone whose interest must be represented for a fair determination of the proceeding; and someone granted party status. Applicants must also show their financial status, by providing financial statements and other documents.

The PSC does not have any specific funds allocated for the administration of the intervenor compensation program, and they do not prepare specific reports on the program activities. Additional details and the required forms are available on the PSC's Intervenor Compensation webpage.

4.0 Case Studies

To give NARUC members and stakeholders a more complete idea of how intervenor compensation programs work in practice, including highlights and challenges, the following section presents a summary of interviews with five nonprofit leaders whose organizations have received intervenor compensation under programs in California, Michigan, and Wisconsin.

4.1 California Intervenors

California has seen the number of intervenor compensation claims increase over the last several years. Three groups that apply for intervenor compensation on a regular basis provided insight into their experience with California's program.

The Utility Reform Network (TURN) is the largest recipient of intervenor compensation in California.[44] According to TURN's records,[45] about 80 percent of its funding comes from intervenor compensation, with the remainder coming from grants from foundations, private donations, and a direct mail campaign. Currently, TURN is participating in just over 100 CPUC proceedings in various stages of progress. TURN files two to three dozen intervenor compensation claims per year, and typically receives between $4 and $5 million in funding compensation in total.[46] TURN receives about 98 percent of funds requested. It is uncommon for their requests to be denied, which TURN attributes to having seasoned staff who are well versed in how to demonstrate their contribution to the outcome of a decision.

Another intervenor, Small Business Utility Advocates (SBUA), is a nonprofit organization that represents the interests of smaller commercial customers of bundled energy in the state of California and has historically filed for and received intervenor compensation under the state's program.[47]

Environmental Defense Fund (EDF), a national nonprofit organization, has teams across the United States who focus on a few regulatory jurisdictions where they see change in the energy dynamic as possible, scalable, and important—primarily in California, New Jersey, New York, North Carolina, Texas, and several others. EDF has also participated in energy matters before state agencies and courts in an array of other states such as Colorado, Florida, and Minnesota. While other states where EDF has participated may have intervenor compensation programs, EDF has only filed for compensation in California. EDF typically files for intervenor compensation in any proceeding they are involved in, which may be five to seven active proceedings at any one time. They estimate receiving about 96 percent of what they ask for in claims. If their claims are reduced, it is typically small with minor adjustments for administrative reasons.[48]

Overall, TURN believes California's intervenor compensation program works well for those organizations with a strong legal staff and finances. Overall, SBUA believes California has a great system, robust compared to others the organization has seen, but there is room for improvement.[49] In interviews, these three intervenors raised several common issues related to California's intervenor compensation program, including the turnaround time for making determinations and payment on intervenor compensation applications, ability of newer organizations to participate and receive compensation, and administration of the program.

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44 Based on the California State Auditor Report 2012-118 on Intervenor Compensation, p. 37.

45 Interview with Mark W. Toney, Ph.D., Executive Director, TURN, October 1, 2021.

46 TURN received about $5 million in intervenor compensation for the fiscal year ended June 30, 2021.

47 Interview with James M. Birkelund, President and General Counsel, Small Business Utility Advocates, October 8, and November 4, 2021.

48 Interview with Timothy O'Connor, Senior Director and Senior Attorney, Energy Transition, and Larissa Koehler, Senior Attorney, Energy Transition, Environmental Defense Fund, October 14, 2021.

49 Interview with James M. Birkelund, President and General Counsel, Small Business Utility Advocates, October 8, and November 4, 2021.

Timelines for receiving compensation: Per TURN's records at the end of September 2021, they had 35 requests pending, totaling $5,338,000, that the CPUC has not acted upon.[50] One of the outstanding requests was filed in 2019, twelve were filed in 2020, and the remainder filed in 2021. California statute requires a decision on intervenor compensation claims within 75 days, but the average time it takes TURN to get paid is 30 months.[51] TURN has built these large receivables into its cash forecasts and has built up a reserve fund so the organization is not in a financial crisis, but they note that other, smaller organizations may be unable to sustain such levels of receivables. SBUA also noted that payments have been very unpredictable for their organization, at least taking a few months and with some delays of more than a year.[52] Recent delays may not be representative of the program historically, as it is SBUA's understanding that there has been an increase in requests the past few years contributing to the commission's delay on rulings. Rulings are the controlling factor, as payment cannot be made while waiting for the commission to issue a ruling. Once the ruling has been issued, the utilities must pay within 30 days. EDF also noted delays of one to two years in getting an award after the closing of a proceeding and believes the delays are due to the volume of applicants.[53] EDF sees that the CPUC is understaffed but is trying to deal with claims as fast as they can.

Another potential roadblock to new participation SBUA[54] also noted is that compensation requests can be reduced, and sometimes intervenors are denied compensation (though less so for intervenors who have been participating longer). Some small groups are ultimately at risk of not receiving compensation, as much discretion is given to the commission on rulings. SBUA notes it is not atypical to have a small adjustment to granted compensation relative to requested compensation due to various factors, with the largest cuts coming if the commission decides the work did not significantly contribute to the decision, or there was a duplication of parties in the proceeding. SBUA also believes it is difficult for smaller groups, or those wanting to participate on a one-time basis, to intervene and receive compensation because of unfamiliarity with the process or not understanding how to participate in a way that contributes without duplicating efforts of others. SBUA feels like there is an overall increase in intervenors participating in cases, and it is becoming harder to advocate how each intervenor specifically adds value and resources.

Potential administrative challenges to participation by new parties: According to TURN, there is an impediment to newcomers due to the current eligibility requirement that a representative of a group or organization should be authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers or to represent small commercial customers who receive bundled electric service from an electrical corporation.[55] In a recent telecommunications case about phone rates for incarcerated individuals, some prison and family advocate groups provided value and expertise on the subject that other groups, like TURN, do not have; however, these groups do not have the specific language in their bylaws required to be eligible for intervenor compensation. TURN believes there are policy benefits from having people join a proceeding who have never before participated and sees this requirement as a potential barrier. Some groups will only be interested in one or two proceedings and may not be interested in participating in CPUC proceedings again. TURN favors waiving that eligibility rule for selective cases or one-time situations to allow for some groups with expertise to be heard from and funded under the intervenor compensation program.

In TURN's opinion, the price of admission for new entrants is enormous and virtually prohibitive. TURN provides some training as a public service to other groups, helping them obtain party status, preparing filing and

50 Interview with Mark W. Toney, Ph.D., Executive Director, The Utility Reform Network, October 1, 2021.

51 As calculated by an outside consultant hired by TURN to do an independent analysis for their internal long-term sustainability forecasts.

52 Interview with James M. Birkelund, President and General Counsel, Small Business Utility Advocates, October 8, and November 4, 2021.

53 Interview with Timothy O'Connor, Senior Director and Senior Attorney, Energy Transition, and Larissa Koehler, Senior Attorney, Energy Transition, Environmental Defense Fund, October 14, 2021.

54 Interview with James M. Birkelund, President and General Counsel, Small Business Utility Advocates, October 8, and November 4, 2021.

55 Public Utilities Code-PUC. Division 1. Regulation of Public Utilities. Part 1. Public Utilities Act. Chapter 9. Hearings and Judicial Review. Article 5. Intervenor's Fees and Expenses. 1802(b)(1)(C).

providing some technical support. But, as far as TURN is aware, none of the organizations they have advised have filed a NOI or intend to file for intervenor compensation claims.[56]

Administration of the Program: In EDF's opinion, the process of actually requesting intervenor compensation is onerous, involving a lot of bookkeeping and lengthy forms, such that those who do not do it on a day-to-day basis may find it difficult. EDF notes[57] there is an intervenor compensation coordinator in California who can provide guidance, but they are over extended, and sometimes it is difficult for those who are not familiar with the compensation program to know what questions to ask.

EDF would like to see the process streamlined for both administrative tasks as well as the decision process. EDF noted that having a claim process prioritized based on need could enable smaller organizations to participate in the program (e.g., a 501(c)(3) with a small operating budget submitting a claim that represents half its budget could be prioritized for review before organizations like EDF that have large operating budgets). EDF would also like to see the program proliferated in other states, to get various interests and impacted people represented before other commissions.[58]

4.2 Citizens Utility Board of Michigan

Citizens Utility Board (CUB) of Michigan, a 501(c)(3) nonprofit organization formed in 2018, advocates for residential utility ratepayers and intervenes in various cases, usually rate cases. CUB also intervenes in integrated resource planning (IRP) cases and has started intervening in energy waste reduction (EWR) cases. There is a narrow scope of cases in which an intervenor compensation grant can be awarded in Michigan, and unfortunately, the Utility Consumer Participation Board ("Board") does not fund intervening in IRP or EWR cases. Most of CUB's legal intervention work is funded by the Board's grants from the Utility Consumer Representation Fund (UCRF), which funds residential ratepayer organizations.

Under the Michigan program, only one percent of the grant award is allowed to go toward the administration of the grant with the balance toward attorneys or expert witnesses; therefore, CUB obtains separate funding to support the operations of the organization itself.

Overall, CUB feels the Board has done a good job in funding advocates in as many cases and in as many geographic locations as possible so that all ratepayers who pay into the fund have representation.[59] CUB offered a few specific insights on the process of receiving funding, potential challenges to participation by new parties, and funding amounts in Michigan.

Process of receiving funding: Under Michigan's program, CUB submits its funding requests and budgets at Board meetings, and the Board decides during that meeting whether to approve the funding request. An intervenor cannot request funds retroactively. Grantees are required to submit written requests with limited discussion time. (Meetings used to be long and often included lengthy discussions over funding requests, but have changed recently.) Sometimes, the Board will give a lesser amount than what is requested, which CUB notes[60] is more typical when funds start to be spent down over the year. The Board will sometimes fund an initial amount to get started, and then CUB can request the remainder of the funds at the next Board meeting. CUB believes there is quite an appetite for the Board to fund a variety of groups, and it is something they are working toward.

56 Interview with Mark W. Toney, Ph.D., Executive Director, The Utility Reform Network, October 1, 2021.

57 Interview with Timothy O'Connor, Senior Director and Senior Attorney, Energy Transition, and Larissa Koehler, Senior Attorney, Energy Transition, Environmental Defense Fund, October 14, 2021.

58 Ibid.

59 Interview with Amy Bandyk, Executive Director, Citizens Utility Board of Michigan, October 29, 2021.

60 Ibid.

Potential administrative challenges to participation by new parties: CUB notes that unless you are aware and know you have to apply for an annual grant, the process is somewhat opaque. They have seen some groups show up at Board meetings requesting funding and get denied because it was the wrong type of proceeding or they asked for funds for operations and not just attorney and expert fees. Sometimes those groups are never seen again.[61]

Funding amounts: CUB would like to see more funding available in the program in general, which is likely a legislative change, not a change the Board can initiate. They would also like to see more than one percent available for administrative costs. Overall, CUB, as a residential ratepayer advocate, believes they wouldn't be able to get involved in as many cases as they do without the UCRF, and they feel it is important for them to be involved in all of the Michigan rate cases.

4.3 Clean Wisconsin

Clean Wisconsin, a nonprofit formed in 1970, is an environmental advocacy organization. While the organization is primarily funded through foundations, membership dues, and donations, they have relied on intervenor compensation to hire expert witnesses and attorneys for decades when they identify an issue in a rate case, construction case, or other proceeding they want to investigate further.[62] Their involvement is limited, as they must be adding value to the record and providing additional analysis.

Overall, Clean Wisconsin believes Wisconsin's intervenor compensation program has been valuable and has been an important part of their energy work, allowing them to participate fully in a lot of contested cases where they would not have otherwise been able to participate.[63] Clean Wisconsin offered a few specific insights on the relevance of intervenor compensation funding, allowable costs, and program administration in Wisconsin.

Relevance: The organization has observed more negotiations in recent years due to a settlement law that was passed in the state, making it easier for utilities to settle in lieu of long, drawn-out proceedings. In those instances, Clean Wisconsin has found negotiations happen quickly, and there is not usually enough time to apply for intervenor compensation, but they can usually apply when the issue goes to hearing.

Allowable costs: The organization exercises prudency with the attorney and expert hourly rates they include in their funding requests. While there is an acceptable range of hourly rates, it is subjective with no absolute guidelines. There is a guideline that if the organization has in-house experts or counsel, the rates included in the funding request should be based on those. While there are limits on their expert rates, they find there are no corresponding limits on what utilities pay for their experts.

Program administration: Clean Wisconsin finds it is not obvious the intervenor compensation program is even available and feels many people or groups might have difficulty finding it on the Public Service Commission of Wisconsin's website. Also, while they note the process is not necessarily tedious for them since they have experience, it could potentially be tedious for someone wanting to apply for the first time.

61 Interview with Amy Bandyk, Executive Director, Citizens Utility Board of Michigan, October 29, 2021.

62 Interview with Katie Nekola, General Counsel, Clean Wisconsin, November 1, 2021.

63 Ibid.

5.0 Appendices

5.1 Appendix A—Program Authorization Links

State	Note	Statute and/or Code
Alaska	Electric only	Alaska Administrative Code. Title 3 Commerce, Community, and Economic Development. Chapter 48. Practice and Procedure. 3 AAC 48.110. Intervention 3 AAC 48.115. Compensation for Consumer Participation 3 AAC 48.157. Allocation of Costs
California		Public Utilities Code – PUC. Division 1. Regulation of Public Utilities [201-3297]. Part 1. Public Utilities Act [201-2120]. Chapter 9. Hearings and Judicial Review [1701-1826]. Article 5. Intervenor's Fees and Expenses [1801-1812] Rules of Practice and Procedure (effective May 2021)
Colorado		Colorado Revised Statutes. Title 40. Utilities. Public Utilities. Article 6.5 Office of Consumer Counsel. C.R.S. 40-6.5-105
Idaho		Title 61. Public Utility Regulation. Chapter 6. Procedure Before Commission and in Courts. 61-617A. Award of Costs of Intervention. Idaho Administrative Code. Public Utilities Commission. IDAPA 31 Current Administrative Rules. IDAPA 31.01.01 - Rules of Procedure of the Idaho Public Utilities Commission Applications for Intervenor Funding (Rules 161-170)..
Illinois		Illinois Compiled Statutes. Chapter 220. Utilities. 2020 ILCS 5/9-229. Consideration of attorney and expert compensation as an expense and intervenor compensation fund.
Kansas	Electric Utilities subject to title 1 of PURPA	Kansas Administrative Regulations. Agency 82. Kansas Corporation Commission. K.A.R. Article 1. - Rules of Practice and Procedure K.A.R. 82-1-240. General Rule K.A.R. 82-1-241. Application for compensation K.A.R. 82-1-242. Preliminary hearing K.A.R. 82-1-243. Preliminary Commission determination K.A.R. 82-1-244. Accounting of costs K.A.R. 82-1-245. Award of compensation K.A.R.82-1-.246. Payment of compensation K.A.R. 82-1-247. Relationship to other rules K.A.R. 82-1-248
Maine		Title 35-A: Public Utilities. Part 1: Public Utilities Commission Chapter 13: Procedure. §1310. Funding of intervenors by the Commission Code of Maine Rules Public Utilities Commission. CMR 65-407 Public Utilities Commission-General, Chapter 840 Intervenor Funding

State	Note	Statute and/or Code
Michigan		Michigan Statute. Chapter 460 Public Utilities. Section 460.6m Utility Consumer Representation Fund
Minnesota	The statute speaks to utilities in general, but only telecommunications has specific administrative rules	Minnesota Statutes. Chapter 216B. Public Utilities. Section 16 Rate Change, Procedure; Hearing. Subd. 10. Intervenor compensation Minnesota Administrative Rules. Chapter 7831, Telecommunications; Intervenor Compensation. Chapter 7831, Telecommunications; Intervenor Compensation
New Hampshire		Title XXXIV Public Utilities Chapter 365 Complaints to, and Proceedings before, the Commission Reparations, Fees and Costs. 365:38-a Proceeding Costs
Oregon		Title Number: 57, Utility Regulation. 757.072 Agreements for financial assistance to organizations representing customer interest; rules Oregon Administrative Rules. Chapter 860 Public Utility Commission Division 1 General. 860-001-0120 Grant Eligibility (Precertification and Case Certification)
Tennessee	Electric only in PURPA related proceedings	Tennessee Administrative Code. Title 1220 Tennessee Public Utility Commission. Subtitle 1220-04-Division of Public Utilities. Chapter 1220-04-04-Regulations for Electric Companies. Section 1220-04-04-.51-Compensation of Consumer Intervenors Section 1220-04-04-.52-Preliminary Determination of Intervenor Eligibility Section 1220-04-04-.53-Determination of Costs for Intervenors Section 1220-04-04-.54 - Procedures for Intervenor Reimbursement
Washington		Senate Bill 5295 Washington Utilities and Transportation Commission Policy Statement on Participatory Funding for Regulatory Proceedings
West Virginia	Electric only in PURPA related proceedings	Sec 150-3-11 Consumer Reimbursement Program
Wisconsin		Wisconsin Statutes. Chapter 196 Regulation of Public Utilities. Wis. Stat. § 196.31 Intervenor financing Wisconsin Administrative Code. Public Service Commission. Chapter PSC 3 Intervenor Compensation

5.2 Appendix B – Pending, Defeated, or Repealed Legislation Related to Intervenor Compensation

State	Bill	Status	Detail
California	SB 520	Inactive Bill - Dead	This bill was introduced on February 16, 2017, during the 2017/18 legislative session that would have established a mechanism to provide compensation for participation in processes of the Independent System Operator (ISO) related to proceedings concerning transmission planning, the transmission access charge, energy markets, and regionalization. The request would have been made to the CPUC.
Hawaii	HB805 HD1 SB2733	Defeated	HB805 HD1 was introduced by C. Lee on January 21, 2017, to establish a program to provide compensation to intervenors that would appropriate the necessary funds but was not passed. SB2733 was introduced on January 17, 2020, to create an intervenor compensation program, modeled after the California and other state programs, and was sent to committee, but has not passed. No bill has been introduced in the 2021 session.
Illinois	HB2619 SB2295	Rolled into new bill and passed (Climate and Equitable Jobs Act, Public Act 102-0662)	HB2619 was introduced by Rep. Theresa Mah on February 19, 2021, proposing the creation of the Public Utilities Intervenor Compensation Act. It would create the Illinois Commerce Commission Intervenor Compensation Fund and would award grants. The bill was referred to the Rules Committee on March 27, 2021. The Senate version of the bill, SB2295, was introduced by Sen. Ann Gillespie on February 26, 2021. The bill proposes to create the Public Utilities Intervenor Compensation Act and the creation of the Illinois Commerce Commission Intervenor Compensation Fund. The bill was re-referred to assignments on April 16, 2021.
Minnesota	HF1289 SF1621	Pending	HF1289 was introduced by Rep. Athena Hollins on February 18, 2021, with proposed changes to the current intervenor compensation program. The proposals include expanding the types of proceedings intervenor compensation can be applied in—currently, it is only available in rate cases, and this bill proposes to include all proceedings before the PUC. It would also expand those eligible to include tribal nations, put caps on the awards, and ensure strict qualifications for applicants. The bill was referred to Climate and Energy Finance and Policy committee on the same day, where it currently remains. The Senate version of the bill, SF1621, was introduced by Sen. Nick Frentz on March 1, 2021, and was referred to Energy and Utilities Finance and Policy committee where it currently remains.
Montana	N/A	Repealed	Intervenor compensation was included in Montana's Administrative Code, related only to PURPA proceedings, but it was repealed in 1983. 38.5.2: Compensation for Consumer Intervenors in the Public Utility Regulatory Policies Act (PURPA) - Related Proceedings
New York	S3034A A873A	Pending	Assembly Bill A873A was pre-filed on January 6, 2021, in the 2021-22 legislative session relating to utility intervenor reimbursements and establishing the utility intervenor account. As of this writing, it is currently in Assembly Committee. The Senate version, Bill S3034A, was introduced on January 27, 2021, in the 2021-22 legislative session, and, as of this writing, has passed the Senate.
Virginia	Senate Bill No. 1115	Inactive Bill - Dead	The bill was introduced December 26, 2018, for the 2019 session, to establish an intervenor compensation process. The bill was referred to Committee on Commerce and Labor and was passed by indefinitely on January 14, 2019. This means the committee reserves the right to consider the bill at another time, but that typically does not happen.

5.3 Appendix C—Program Deadlines

State	Used in Practice	Filing Preliminary Request / NOI	Filing of Protest or Response	Preliminary Ruling	Filing of Claim	Filing of Protest or Response	Commission Award / Order	Filing of Appeal	Payment Date
Alaska	N	At least 10 days before hearing where commission hears any of the standards contained in Title 1, Subtitle B, an electric consumer who desires compensation shall file a written statement of intent to request compensation	None Provided	None Provided	Within 15 days of final order being issued, intervenor must file with commission and serve a memorandum of costs to utility	Within 15 days after filing memorandum of costs	None Provided	Within 15 days of issuance of court order that adjudicates the appeal	Affected utility shall pay consumer the awarded amount within 45 days after issuance of the commission's order awarding costs (unless an alternative means has been provided by the commission)
California	Y	Within 30 days of prehearing conference; if no prehearing conference is scheduled or if commission anticipates the proceeding will take less than 30 days, commission may determine procedure to file requests	Within 15 days after service of the NOI	Within 30 days of NOI filing	Within 60 days of the issuance of a final order or decision by the commission in the hearing or proceeding for a customer who was found to be eligible for an award of compensation	Within 30 days after service of the claim request	Within 75 days after filing a request for compensation, or within 50 days of filing of an audit report, whichever occurs later	None Provided	Within 30 days after commission order determining compensation decision (or interest must be paid)
Idaho	Y	None Provided	None Provided	None Provided	No later than 14 days of the last evidentiary hearing in a proceeding or the deadline for submitting briefs, proposed orders, or statement of position, whichever is last	Within 14 days after request for intervenor funding is filed	None Provided	None Provided	Within 28 days of the commission order commission awarding intervenor funding unless the order is stayed
Illinois	N/A	None Provided	None Provided	None Provided	Within 30 days of the commission's final order after denial or decision on rehearing, if any	None Provided	None Provided	None Provided	45 days after the administrator of the fund submits to the commission for approval a recommendation on the award of compensation, and the commission does not investigate an investigation

State	Used in Practice	Filing Preliminary Request / NOI	Filing of Protest or Response	Preliminary Ruling	Filing of Claim	Filing of Protest or Response	Commission Award / Order	Filing of Appeal	Payment Date
Kansas	N	File within 30 days after filing an application, a complaint, or an order initiating a proceeding	None Provided	Preliminary hearing on compensation within reasonable time after final date for intervenor's filing a compensation application	Within 10 days after close of hearing, any intervenor seeking compensation should submit actual costs	None Provided	None Provided	None Provided	Within 30 days after commission order determining compensation
Maine	N	None Provided	Within 10 days of the filing of a petition for a preliminary determination of eligibility for intervenor funding	Within 21 days of the filing of the petition for preliminary determination of eligibility	Within 30 days of the close of the proceeding	Within 7 days of submission of the intervenor's claim	Commission shall make final determination of amount of intervenor funding within 30 days of intervenor filing a Final Claim	Intervenor may petition for reconsideration of decision within 20 days of entry of final order	Utility or commission, whichever is appropriate, shall pay award of compensation within 30 days of commission's order awarding intervenor funding, or in the case of an order subject to judicial review, within 30 days after review is complete
Minnesota	Y	None Provided	None Provided	None Provided	30 days after the expiration of the period within which a petition for rehearing, amendment, vacation, reconsideration, or re-argument must be filed or the date the commission issues an order following such, whichever is later	Within 30 days after service of request; intervenor may reply within 15 days	Within 60 days of filing by an intervenor	Within 30 days of the decision	Within 30 days of the later of (1) the expiration of the period within which a petition for reconsideration of the commission's compensation decision must be filed or (2) the date the commission issues an order following reconsideration of its order on intervenor compensation

State	Used in Practice	Filing Preliminary Request / NOI	Filing of Protest or Response	Preliminary Ruling	Filing of Claim	Filing of Protest or Response	Commission Award / Order	Filing of Appeal	Payment Date
Tennessee	N	None Provided	None Provided	Prior to the beginning of the proceeding but no later than 20 days after receipt of an application to intervene	Within 10 days of an order determining costs incurred by consumer intervenor	Affected utility may file objection to reasonableness of any fee or cost within 10 days of the filing of memorandum of costs	Within 30 days of original order; allocating to various affected utility companies if applicable	None Provided	Within 45 days of the order or other applicable payment schedule set by the authority
West Virginia	N	None provided	None Provided	None Provided	None Provided	None Provided	None Provided	None Provided	Within 30 days of the Commission Order granting the award
Wisconsin	Y	Not more than 15 days after the prehearing conference or, if there is no prehearing conference, 30 days before the hearing (may be extended by commission for good cause)	None Provided	Within 15 days of application submission[64]	Within 90 days of recipient's completion of participation in the proceeding	None Provided	Within 30 days of receipt of claim (to extent practicable)	None Provided	None Provided

64 The employee processing the application submits it to the commission with recommendation as to whether and how much to compensate.

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