POWERING PARTICIPATION

HOW INTERVENOR COMPENSATION CAN STRENGTHEN UTILITY COMMISSION DECISION-MAKING

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America's energy demands are growing through electrification, technological advancement, and the increasing impacts of extreme weather. Environmental Defense Fund leverages deep expertise in science and economics to deliver bold, game-changing solutions to address climate change through federal, state, and regional clean energy advocacy. Gridworks leads collaboration to build a stronger, more modern energy grid. This report, which addresses intervenor compensation programs throughout the United States, would not have been possible without the support of Matthew Tisdale, Tomás Carbonell, Ted Kelly, Ryland Li, Jennifer Freeman, and Mica Crouse.

We acknowledge and thank each person who participated in a survey, interview, or focus group to provide invaluable insight regarding their perspectives on their experiences with developing and or implementing intervenor compensation programs. As a result of their participation, we were able to better understand concerns of stakeholders and include in the report concrete recommendations for best practices.

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EXECUTIVE SUMMARY

Effective intervenor compensation programs can lead to improved outcomes in state regulatory decision-making by improving the evidentiary record, broadening participation, and helping commissions manage long-term costs and risks. Complementary agencies and actions like public participation offices, workshops, and community-focused strategies are critical to meaningfully broadening access to decision-making.

Across the United States, commissions are making increasingly consequential decisions about affordability, reliability, clean energy deployment and the future of the grid. Load growth is accelerating, new infrastructure is being proposed at scale and states are under pressure to support economic development while maintaining safe, affordable and reliable utility service. At the same time, communities have a strong and increasing interest in engaging in these proceedings and weighing in on decisions that affect them.

In this environment, commissions need strong evidentiary records and broad participation to make durable, cost-effective decisions. Well-crafted intervenor compensation programs are one tool to help ensure commissions hear from the full range of stakeholders affected by their decisions, not just those with the resources to participate.

This report examines how intervenor compensation programs are designed and implemented, identifies common challenges and emerging best practices, and provides recommendations for regulators and policymakers considering new or expanded programs. The analysis draws on research and over 64 advocates and regulators through stakeholder interviews, surveys, and case studies from states with long-standing and newly developed programs.

The report finds that well-designed intervenor compensation programs can help strengthen regulatory outcomes by surfacing perspectives, expertise and local knowledge commissions otherwise may not receive. Intervenors often provide independent technical analysis and on-the-ground insight into how proposed decisions may affect communities, customers and infrastructure development. In many cases, intervenor participation has helped identify cost savings, improve consumer protections, strengthen utility planning, and surface lower-cost or less risky alternatives.

At the same time, program design significantly affects who is able to participate. Traditional reimbursement models often require intervening organizations to pay legal and expert costs upfront and wait months or years to be repaid, creating major barriers for many community-based organizations, Tribes and smaller nonprofits. For this reason, several states are now moving toward hybrid or upfront funding models designed to reduce financial barriers and expand participation.

The report also finds that funding alone is often insufficient to expand meaningful participation. Many utility proceedings operate through highly technical and quasi-adjudicatory processes that can be difficult for new participants to navigate. Outreach, technical assistance, procedural guidance and other institutional support are often essential to broadening participation while maintaining efficient and rigorous proceedings. Several themes emerged consistently across interviews and case studies:

- Intervenor compensation strengthens decision-making by improving the evidentiary record and surfacing perspectives commissions otherwise may not receive.
- New and evolving programs are increasingly focused on expanding participation, but financial and procedural barriers remain significant for many under-resourced communities.
- Clear standards for eligibility, substantial contribution, financial hardship, and reasonable costs are essential for fairness, predictability, and program credibility.
- Governance structures significantly influence transparency, consistency, and stakeholder confidence in program administration.
- Outreach, education, and technical assistance are essential complements to funding and can meaningfully expand participation in regulatory proceedings.
- Intervenor compensation programs are not the only tool for increasing participation in the work of utility commissions, and in some circumstances, may not be the correct tool to do so.

The report concludes that intervenor compensation programs are a targeted and cost-effective investment in stronger regulatory outcomes. By strengthening the record, testing assumptions, surfacing alternatives, and addressing concerns earlier in the process, these programs can help commissions reduce long-term risks, avoid costly mistakes and make more durable decisions.

ACRONYMS

ALJ: Administrative Law Judge

CEJA: (Illinois) Climate and Equitable Jobs Act

CPCN: Certificate of Public Convenience and Necessity

CPUC: California Public Utilities Commission

CRGA: (Illinois) Clean and Reliable Grid and Affordability Act

DPU: (Massachusetts) Department of Public Utilities

DPP: Division of Public Participation (within Massachusetts DPU)

FCC: Federal Communications Commission

FERC: Federal Energy Regulatory Commission

ICC: Illinois Commerce Commission

ICP: Intervenor Compensation Program

IURT: Indiana Utility Ratepayer Trust

LNG: Liquified Natural Gas

NOI: Notice of Intent

ORES: (New York) Office of Renewable Energy Siting and Electric Transmission

OUCC: (Indiana) Office of Utility Consumer Counselor

PSC: (Michigan) Public Service Commission

PUC: Public Utility Commission

PURPA: Public Utility Regulatory Policies Act of 1978

UCPB: (Michigan) Utility Consumer Protection Fund

UTC: Washington Utilities and Transportation Commission

GLOSSARY OF TERMS

Upfront grants (or "pay-as-incurred"): A funding model in which awards are decided on in advance of participation in a regulatory proceeding. Upfront grants are commonly paid out on an ongoing basis as an awardee incurs and submits pre-approved expenses.[1]

Cost reimbursement: A funding model in which an award determination is decided on after the close of a proceeding. Participants are compensated after a proceeding concludes, contingent upon demonstrating reasonable costs and meeting program criteria (e.g., meaningful participation or contribution to the outcome).[2]

Financial Hardship: A standard used to assess eligibility for compensation, referring to a participant's limited ability to bear the costs of participation without assistance. Demonstrating financial hardship is often required to ensure that funding is directed toward those who would otherwise be unable to participate effectively.

Hybrid-model funding: A blended funding approach that combines upfront or interim financial support with cost reimbursement. Hybrid models aim to reduce financial risk for participants while maintaining accountability through later review of costs and contributions.

Materially assisted: Any participation or presentation that was found to be useful and seriously considered in a utility commission proceeding.

Quasi-Adjudicatory or Quasi-Judicial: Describes administrative proceedings that function similarly to court processes, involving formal rules of evidence, sworn testimony, and structured argument, but conducted by regulatory agencies rather than judicial courts. These proceedings are typically used to resolve contested issues affecting specific parties.

Substantial Contribution: A legal standard used to determine compensation eligibility, requiring that a participant's involvement materially assisted the decision-maker in developing the record or reaching a decision. This may include providing new evidence, advancing persuasive arguments, or otherwise influencing the outcome or reasoning of a proceeding.

1 See *State Approaches to Intervenor Compensation*, National Association of Regulatory Utility

2 *See Id.*

INTRODUCTION: WHAT IS INTERVENOR COMPENSATION, AND WHY IS IT IMPORTANT?

Intervenor compensation is a regulatory mechanism designed to add information that would not otherwise be available in Public Utility Commission administrative proceedings by providing eligible participants reasonable costs of engagement when they participate, or "intervene," in a proceeding. To qualify, participants must demonstrate that they represent customer or public interest perspectives and, in general, show that their participation made a substantial contribution to the record or final decision.

In commission proceedings, intervenor compensation programs (ICPs) typically provide financial compensation to public interest representatives, including consumer advocates, Tribes, community-based organizations, municipalities, and environmental or equity-focused groups. This compensation can cover attorney fees, expert witness costs, and related expenses incurred in preparing for and participating in formal proceedings.

For instance, EDF's Community Voices in Energy effort works with communities in Illinois to engage directly in utility proceedings. Through the initiative, community leaders have served as witnesses in utility cases, providing firsthand testimony about energy affordability, disconnections, and the challenges faced by households struggling to pay utility bills. This testimony brings real-world experiences and community expertise into proceedings that have traditionally relied heavily on utility, legal, and technical expertise, helping commissioners better understand how regulatory decisions affect the people they serve.

The policy rationale underlying ICPs is twofold: First, the program can help make regulatory decisions more robust by ensuring that a broader range of perspectives, including those of local and historically underrepresented communities, are included in the evidentiary record. Second, it can help reduce structural imbalances between well-resourced entities and local or public interest participants.

For example, under California Public Utilities Code Section 1802, intervenor compensation is defined as payment for all or part of a customer's reasonable advocacy costs, including attorney and expert fees, incurred in commission proceedings. The statute requires a finding that the intervenor made a substantial contribution to the outcome, a standard implemented by the California Public Utilities Commission in administering its program (§§ 1801–1812). Similar frameworks exist in other jurisdictions, though eligibility criteria, reimbursement structures, and administrative processes vary.

State public utilities commissions serve as the central forum for utility rate cases and broader energy system policymaking, yet their proceedings are often opaque and difficult for affected stakeholders to access. These processes typically involve complex legal and technical requirements, extensive written filings, and procedural rules that can be challenging to navigate without specialized expertise. Meaningful participation from Tribes, communities, local governments, and other affected stakeholders has created more comprehensive decision-making to fulfill Commissions' statutory obligations to ensure consumers receive safe, reliable, and reasonably priced service.

Investor-owned utilities typically possess substantially greater financial, legal, and technical resources than ratepayer advocates, including consumer organizations and community groups. Utilities and developers often retain specialized counsel, expert witnesses, and consultants to develop extensive evidentiary records. Utilities can recover these costs from ratepayers through approved rates. As a result, ratepayers may effectively bear these costs. In contrast, advocates often face significant resource constraints that limit their ability to engage at a comparable level. This disparity can prevent full and effective representation of ratepayer interests in complex regulatory processes that directly affect prices, reliability, safety, infrastructure, and service quality.

ICPs can help mitigate this imbalance by providing financial support to eligible participants, enabling them to secure expert assistance, conduct independent analysis, and meaningfully contribute to the record. By enhancing the capacity of non-utility participants, such programs support more equitable, transparent, and well-informed regulatory outcomes that better serve the public interest.

The Role of Regulatory Commissions

State regulatory commissions function as quasi-judicial bodies. Their decisions must rely on the evidentiary record developed in each proceeding. Without meaningful participation from a diverse set of stakeholders, that record may not reflect the range of impacts that regulatory decisions have on different communities. In siting cases, valuable expertise may include localized knowledge about a particular place that extends beyond data available in state and federal databases. This may include knowledge about local cemeteries, water bodies, wildlife species, and practical uses of areas of land. In rate-making cases, expertise may include innovative approaches to ratemaking that result in as much as half of a proposed increase in residential rates, as demonstrated in the Michigan example later in this report.

Most states also have statutorily required "consumer advocate" offices that represent ratepayer interests. These may be independent state agencies, divisions within the state attorney general's office, or in rare cases, arms of the state legislature.[3] However, just as with state regulatory commissions, these offices may be resource-constrained and may also have limited, practical insights into the range of impacts at stake in a proceeding.

The Value Proposition of Intervenor Compensation Programs

When designed well, ICPs can play a critical role in addressing this gap by enabling environmental justice organizations, disadvantaged communities, Tribal entities, and other historically underrepresented participants to engage in proceedings on a more equal footing. By supporting these participants' ability to develop testimony, retain expert analysis, and articulate lived experience, such programs can help the record reflect a broader set of perspectives, thereby enabling commission decisions informed by a more comprehensive understanding of social, environmental, and economic factors.

3 Jake Duncan and Julia Eagles, *Public Utilities Commissions and Consumer Advocates: Protecting the Public Interest*, e National Council on Electricity Policy (Dec. 2021), https://pubs.naruc.org/pub/21475F72-1866-DAAC-99FB-1E3EE0593D06.

Today, commissions across the country are making decisions more quickly and with greater visibility than ever before. Load growth is accelerating, new infrastructure is being proposed at scale, and states are under pressure to support economic development, including large industrial manufacturing and new loads like data centers. At the same time, communities are more aware and engaged, better organized, and more likely to weigh in on decisions that affect them. The result is a more complex environment where the cost of getting decisions wrong is growing and the margin for error is shrinking. In a period of rapid system change and rising infrastructure investment, intervenor compensation could help commissions make more informed decisions, protect customers, and manage long-term utility costs.

Roadmap

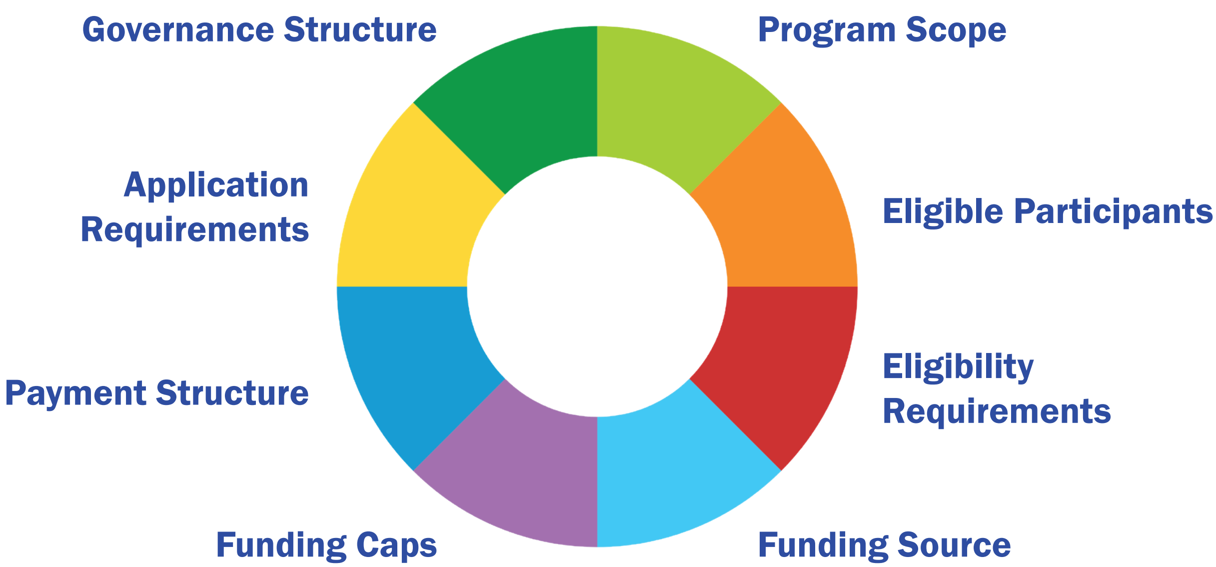
This report examines the core elements of intervenor compensation statutes and analyzes how states across the country design and implement ICPs. The analysis draws on both comprehensive research and a series of structured interviews with subject-matter experts, regulators, and advocates to better understand stakeholder needs, practical challenges, and emerging best practices. By synthesizing these findings, the report highlights effective program models and illustrates lessons learned from existing approaches via six in-depth case studies. The resulting best practices may provide a clear, actionable roadmap for legislators and regulators who are considering establishing new intervenor compensation programs or refining existing programs in their respective jurisdictions.

SECTION 1: BASIC INTERVENOR COMPENSATION PROGRAM ELEMENTS

While program structures vary across jurisdictions, several core components consistently shape how these programs operate in practice and determine their accessibility, transparency, and overall impact. These components include the scope of the program – such as the sectors and types of proceedings covered – the definition of eligible participants, and the structure of available funding, including caps and sources of funds. In addition, administrative features such as application requirements and the governance of application review processes play a critical role in determining how easily stakeholders can access support and how efficiently programs are implemented.

Together, these elements influence not only who is able to participate, but also the extent to which diverse perspectives are reflected in the evidentiary record. A well-designed ICP can lower barriers to entry, promote equity in participation, and improve the robustness of regulatory decision-making by ensuring that a broader range of interests is represented. The discussion that follows examines each of these components in turn, highlighting key considerations and trade-offs for policymakers seeking to establish or refine ICP frameworks.

Basic Intervenor Compensation Program Elements



Overall Program Goals

Intervenor compensation can be used as a tool to achieve a variety of goals – for example, improving decision-making quality, increasing the breadth of participants in proceedings, deepening the capacity of existing participants, and ensuring representation of traditionally underrepresented groups. Some states have enabling statutes that are specific and explicit about program goals, while others offer more flexibility for Commissioners to decide what is most needed.

Minnesota's authorizing statute focuses on compensating nonprofit organizations or Tribal entities who "materially assisted the commission's deliberation" in a proceeding.[4] "Materially assisted" is then defined as any participation or presentation that was found to be useful and seriously considered. The goal of the program is clearly articulated to incentivize more robust records.

The scope of ICPs refers to which types of dockets and proceedings are eligible for funding. Some states offer broad eligibility across regulated sectors (water, gas, and electric), while other states have highly targeted programs.

At the broadest end of the spectrum, states such as Wisconsin impose no explicit limits on the types of proceedings in which compensation may be sought. Similarly, California maintains a wide scope, covering proceedings related to electric, gas, water, and telecommunications utilities.

Other states adopt more constrained approaches. For instance, Minnesota excludes proceedings such as Integrated Resource Planning where there is already significant stakeholder engagement. Currently, New York has the most restrictive active compensation program in the country, with intervenor compensation only available for siting-related proceedings.[5]

Eligible Participants

Eligibility criteria also differ across programs, particularly with respect to the types of entities that may participate and receive compensation. Common eligible participants include consumer advocates, community-based organizations, and, in some cases, local units of government.

Programs differ in how they treat industry participants and whether such entities are eligible for compensation. In many cases, eligibility is tied to the requirement that participants represent a broader public interest rather than purely commercial or financial interests.

A notable gap across the states reviewed is the absence of participation by Tribal entities in ICPs. Based on the conversations we had, only Washington State has seen a Tribal entity apply for and successfully receive funding.

Eligibility Requirements

ICPs commonly require two additional criteria when evaluating compensation requests: (1) some form of financial verification, and (2) proof of meaningful contributions to the record.

4 Minn. Stat. § 216B.16, subd. 10 (2025).

5 The *Renewable Action through Project Interconnection and Deployment (RAPID) Act*, L 2024, Ch. 58 § 11 (Part O) implemented through N.Y. Comp. Codes R. & Regs. tit. 16, ch. XI, pt. 1100 (2026). See municipalities and other local agencies intervenor funding form: request-for-local-agency-account-funding-2024-08-20.pdf.

For the former, a common requirement is proof that an organization's participation in the regulatory proceeding poses a financial burden (e.g., significant financial cost) on the organization. In California, individuals and local governments must prove that participation in the proceeding would cause significant financial hardship via documentation, while groups or organizations may assert 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."[6] In some cases, strict requirements requiring proof of "significant financial hardship" have disallowed participation by more well-resourced "frequent flyer" groups.[7][8]

To ensure funding awards provide meaningful value, programs also tend to have requirements for parties to make a "material contribution," "substantial contribution," or in the most extreme case, prevailing on an issue (e.g., the Commission must adopt a part of their testimony for funding to be granted).[9]

Funding Source

ICPs are most commonly funded through mechanisms that allow utilities to recover program costs. The specific methods of cost collection vary, but generally involve regulatory approval for utilities to include these expenses in rates.

Some states have no explicit program budget – in California, requests are reviewed in each proceeding and, if awarded, the relevant utility is required to pay intervenors the reasonable costs of their participation.[10] Other states have a consistent set overall budget – for instance, Michigan's Utility Consumer Protection Fund offers up to $2.1 million in grant awards per year. Utility contributions to that static budget are calculated by utility size and type, and split proportionally based on gross revenues.[11]

Indiana's program is uniquely funded without ratepayer funds. The Indiana Utility Ratepayer Trust was established in 1997 with $3 million following a utility settlement. Subsequent utility settlements have also required contributions to the Trust, and annual award budgets are based roughly on the proceeds of trust income earned, keeping the principal amount consistent to allow for fiscal sustainability.

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6 *Form A: Notice Of Intent To Claim Intervenor Compensation* at 4 and 5 (2023) https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icomp-materials/updated-noi-form-march-2023.docx.

7 Pub. Act 102-0662 (Ill. 2021) (creating Illinois' program and initially required eligible intervenors to demonstrate "significant financial hardship." This required means testing, and effectively barred "frequent flyer" organizations from taking advantage of compensation, as they were already participating regularly. As discussed in the Illinois case study, the criterion was later updated to require "significant financial cost."

8 *An Act Promoting a Clean Energy Grid, Advancing Equity and Protecting Ratepayers*, implemented through 220 CMR 34.00 (2026) (requiring proof of "significant financial hardship," and applicants are required to explain via narrative description how participation in the proceeding would lead to financial hardship. It's unclear how applications will be reviewed. Applications open on July 1, 2026).

9 *See Compensation for Participants in Proceedings*, Minn. Stat. § 216B.631 (2025) (requiring that the proceeding results in "a commission order that adopted, in whole or in part, a position advocated by the participant" for compensation to be awarded).

10 See Cal. Pub. Util. Code § § 1803, 1808 (2025) (clarifying that California does not have an overall program budget or a cap on how much a single intervenor can recover per calendar year or per proceeding).

11 Mich. Comp. Laws § 460.6m (2025) (clarifying "a utility's proportional share must be calculated by dividing the company's jurisdictional gross revenues from residential tariff sales for the preceding year by the gross revenues from residential tariff sales for the preceding year of all energy utility companies [of the same size across the state]").

Funding Caps

Funding caps may be outlined in authorizing statutes or in administrative rules / program guidelines. These caps can describe (1) caps on annual awards per intervenor, (2) caps on awards available per proceeding, or (3) caps on awards per organization per proceeding.

There is no limit in California on how much one intervenor can recover annually across dockets, and some nonprofit organizations have built their financial models around consistent participation in regulatory dockets.[12] The Maine Public Utilities Commission's program also does not have any explicit caps, with all awards determined on a case-by-case basis.[13]

Connecticut's program is capped at $1.2 million per year, with further caps of $300,000 on any given docket and $100,000 per participant per docket. Idaho has a cap of $40,000 total for any proceeding, which must be split amongst intervenors.

Payment Structure

Programs can offer payment ahead of, during, or after the completion of a proceeding.

The longstanding practice of mature ICPs has primarily been to reimburse participants only after the completion of a proceeding. This type of program design is known as a cost reimbursement model, and is usually intended to ensure strict oversight over ratepayer-funded awards. For example, in California, after a proceeding is closed, a separate administrative law judge will go back into the record and make findings on which parties made substantial contributions. Compensation claims that reach the statutory eligibility threshold are then reviewed for their reasonable costs, with partial awards often granted.

Over half of active ICPs offer upfront grants or "pay-as-incurred" approaches, where funding awards are determined upfront and then reimbursed as expenses are incurred up to the awarded grant amount. In these cases, intervenors apply for compensation at the beginning of a proceeding, are awarded a capped amount, and costs are then reimbursed on an ongoing basis. Indiana's program offers this model, and intervenors are paid within thirty days of submitting receipt for ongoing expert witness and legal fees.

More recently, some states have begun employing hybrid models that offer upfront grants in cases of high financial need. Regulations governing the Massachusetts program allow for upfront payment of up to 20% of funding upon a showing of good cause and significant financial hardship, with the remaining funding available for reimbursement as incurred.

12 *California Public Utilities Commission Despite Administrative Weaknesses, It Has Generally Awarded Compensation to Intervenors in Accordance With State Law* at 45 (July 2013), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icomp-materials/californiastateauditorreport_072013.pdf (finding some groups and organizations had 90-100% of their revenue derived from intervenor compensation).

13 65-407 C.M.R. ch. 840 (2024) (clarifying that while there are no caps in Maine, "Any funding to be paid from the regulatory fund…is contingent on the availability of such funds. In the event funds are limited, priority will be given to intervenors or participants representing environmental justice populations").

Application Requirements

The administrative requirements associated with applying for intervenor compensation vary widely. In some states, application processes are relatively streamlined, while in others they are more complex and documentation-intensive.

Applicants may be required to submit detailed evidence to support their claims, including timesheets, invoices, and receipts. In California, intervenors must file a Notice of Intent within 30 days of a prehearing conference, and then a compensation claim within 60 days of a decision being filed. Applicants must track their ongoing expenditures in timesheets that outline which docket item was worked on and for how many hours. Hourly rates must also be justified and compared to market rate studies put out by the Commission.[14]

Models with upfront or interim payment structures require upfront applications where intervenors must detail their plans to use the funding and some proof of their ability to meaningfully participate in the proceeding. Some states also require applicants to file a close-out grant report and, if an awardee was found to contribute less than meaningful testimony, funding may be either clawed back or the participant may not receive funding in future proceedings.[15]

The format of applications also differs, ranging from formal written submissions to online grant portals or other digital systems.

14 Intervenor Compensation Market Rate Study Final Report at pg. 1 (Nov. 10, 2020), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icomp-materials/l4v-market-rate-study---final.pdf (demonstrating how formal market-rate studies specific to intervenor compensation programs appear to be relatively uncommon. California's CPUC has conducted one of the most developed examples, establishing role classifications and compensation ranges for attorneys, experts, and advocates based on experience levels and prevailing market conditions).

15 220 CMR 34.00 (2026) (clarifying that while Massachusetts has an upfront grant program, the Director of the Division of Public Participation reserves the right to terminate the grant during a proceeding or reject future applications on the basis of "a history of bad faith" such as misusing program funds, repeatedly delaying or obstructing proceedings, or inadequate accounting).

Program Administration / Governance Structure

The process for reviewing applications and determining awards differs across jurisdictions. In some states, decisions are made by Commissioners, while in others Administrative Law Judges play a central role in evaluating claims. Other programs may have designated staff within the Commission to make decisions or may utilize third-party contractors (Illinois) or independent commissions (Michigan) to review applications and determine awards.

These structural differences can affect both the consistency and perceived fairness of award decisions.[16] Additionally, timelines for review and payment vary considerably. In some cases, compensation is provided relatively quickly, while in others significant delays may occur between the conclusion of a proceeding and the disbursement of funds.

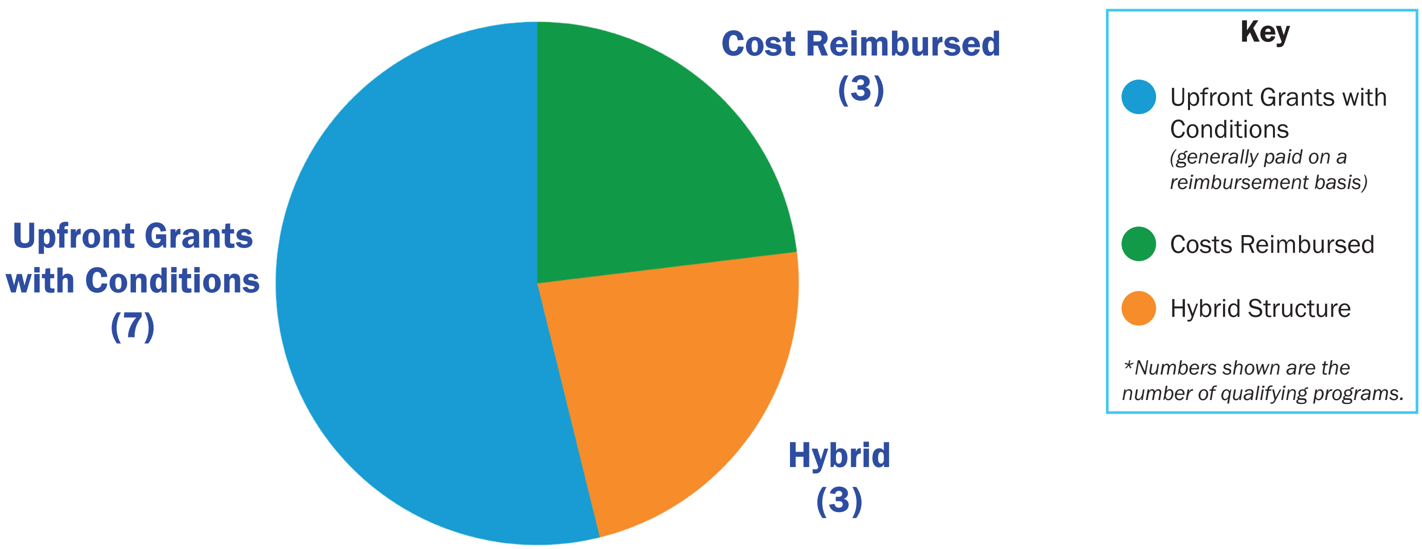
> **In summary, taken together, the foundational elements of intervenor compensation projects — scope, eligibility, funding sources and structures, and administrative processes — function as an integrated system that determines who participates, how effectively they can engage, and the extent to which their perspectives shape regulatory outcomes.**

16 In Wisconsin, Commissioners determine awards. Advocate interviewees noted inconsistencies in Commission decisions over the years as to whether environmental advocates were considered representatives of the public interest, based on the political leanings of Commissioners.

SECTION 2: OVERVIEW OF ACTIVE AND IN-DEVELOPMENT INTERVENOR COMPENSATION PROGRAMS

As of this writing, there are thirteen states with active ICPs: California, Connecticut, Idaho, Illinois, Indiana, Maine, Massachusetts,[17] Michigan, Minnesota, New York, Oregon, Washington, and Wisconsin. Funding structures vary: four states award compensation at the beginning of proceedings with reimbursements paid as incurred, three states award compensation at the end of proceedings, and five states have hybrid models that offer multiple payment options. Separately, New York offers a unique case where intervenor compensation is available upfront in select siting proceedings. The majority of programs are ratepayer-funded, with awards coming from filing fees or utility assessments (see list of U.S. investor compensation programs on page 18 for more details on active programs).

Funding Structure of Intervenor Compensation Programs



There are also seven states with authorizing intervenor compensation statutes or administrative rules but no active or in-development programs: Alaska, Colorado, Hawai'i, Kansas, New Hampshire, Tennessee, and West Virginia. Many of these state statutes (Alaska, Kansas, New Hampshire, Tennessee, and West Virginia) are related to the Public Utility Regulatory Policies Act (PURPA) of 1978, which encouraged state commissions to compensate intervenors who contributed to proceedings advancing certain federal policy goals. For instance, Alaska's Commission adopted an order in 1980 outlining the process for applying for intervenor compensation in PURPA-related cases.[18] Intervenors have since submitted requests in Alaska three times (1980, 1985, and 2010), all of which were denied. The first was denied due to the testimony not meeting the "substantial contribution" threshold, and the second two claims were denied because the case in question did not qualify as PURPA-related.

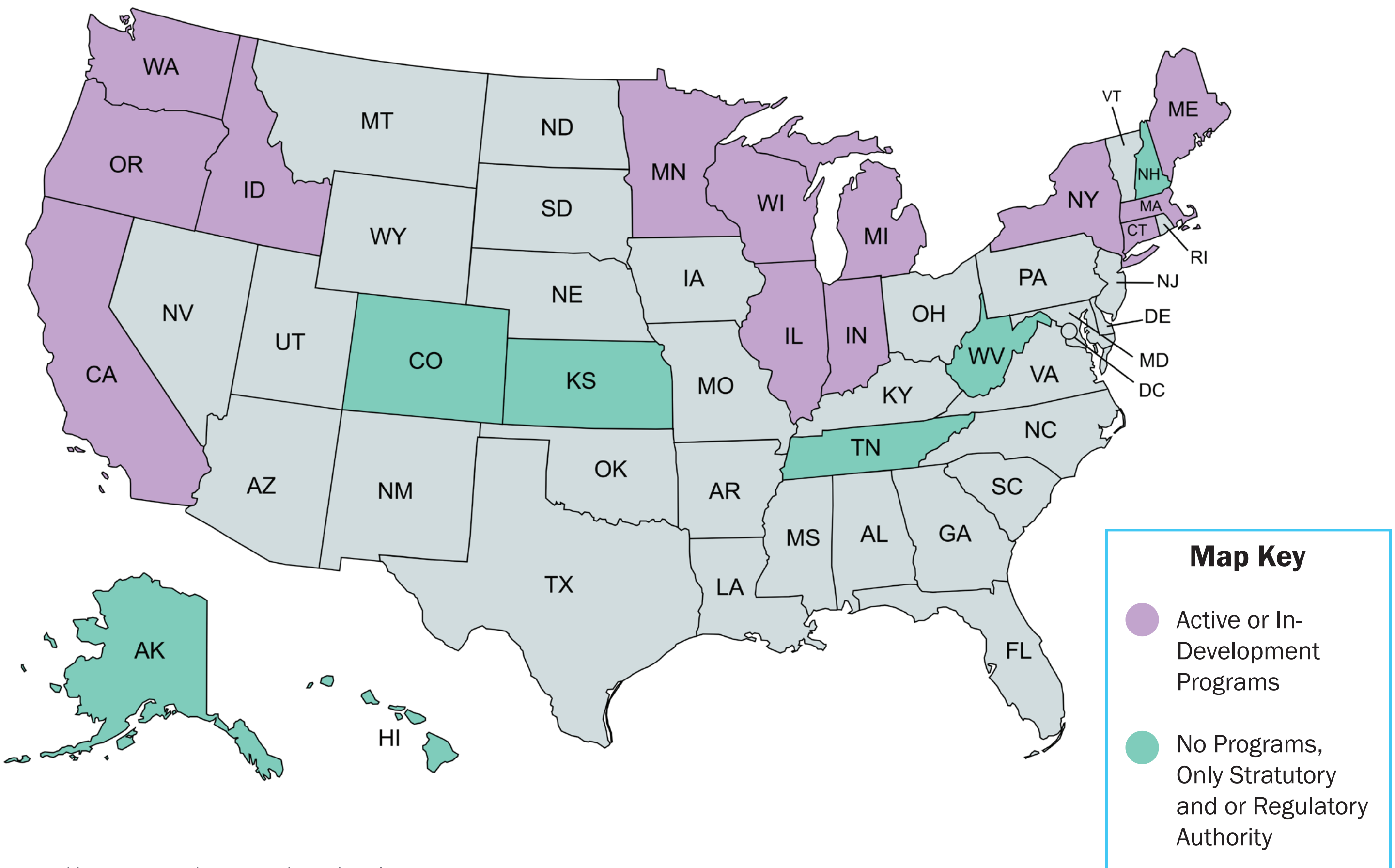
17 The Massachusetts' program launched on July 1, 2026.

18 Alaska Pub. Utils. Comm'n, Order U-80-029(2) (Order Adopting Regulation) (July 2, 1980) (as corrected July 18, 1980).

The Hawai'i Public Utilities Commission has issued an authorizing order for intervenor compensation, but has never administered a program. The Commission outlined a process of offering compensation in integrated resource planning processes to nonprofit entities, however, the Commission now uses a different process called integrated grid planning.[19] Bills in the state legislature that would have enabled more expansive funding programs, including HB805 HD1 (2017) and SB 2733 (2020), did not pass.

Finally, Colorado has an enabling statute from 1996 that has never been implemented.[20] The statute requires that awards only be granted to intervenors that represent a separate perspective than the Office of the Consumer Advocate, and that testimony "materially assisted the Commission in rendering its decision."[21] Interviewees on the regulatory side noted that the program criteria are so high that no funding requests have ever been granted. In its 2026 regular session, Colorado is considering legislation to reauthorize and restructure the Public Utilities Commission through HB26-1326, the PUC sunset bill.[22] While the bill does not directly reorganize the ICP, stakeholders have used the process to seek clarification and improvements to Colorado's existing intervenor compensation statute.

Map of States with Active Programs or Enabling Statutes-Only



https://www.mapchart.net/usa.html

19 Hawai'i Pub. Utils. Comm'n, Docket No. 2009-0108 Revised Decision and Order, Filing F-125734 at 122-124 (Mar. 14, 2011).

20 Colo. Rev. Stat. § 40-6.5-105 (2024).

21 Colo. Rev. Stat. § 40-6.5-105 (1)(c) (2024).

22 *Sunset Public Utilities Commission*, HB26-1326 (2026).

Intervenor Compensation Programs

State	Funding Structure	Programs Administrator	Grant Description
California	Cost reimbursement tied to substantial contribution	Commission Administrative Law Judges	• California's ICP provides reimbursement for the reasonable costs of participation by individuals or groups representing residential or small commercial customers in utility proceedings. • Participants must demonstrate eligibility (including financial hardship) and show that their work made a "substantial contribution" to the Commission's decision, with claims filed after a proceeding concludes. • Awards are funded by utilities (and ultimately ratepayers) and are based on approved hourly rates and documented expenses. • There are no total program caps or caps on how much any intervenor can recover annually or per proceeding
Connecticut	Hybrid: Cost reimbursement tied to substantial contribution; interim funding available in special cases of financial hardship	Commission	• Connecticut PURA's Stakeholder Group Compensation (SGC) program was authorized via legislation in 2023 and launched in the first quarter of 2024. • As of May 2026, staff are finalizing review of the first round of applications, of which they had five applicants. • As of May 2026. PURA is undergoing a docket to assess the "performance, impact, and effectiveness" of the ICP via a third party evaluation, as required by state statute. The evaluation is anticipated to be publicly available by the end of 2026.
Idaho	Cost reimbursement tied to substantial contribution	Commission	• Idaho's program has a $40,000 cap per proceeding to be shared amongst all intervenors, regardless of the size or scope of the proceeding. • A survey respondent noted that the group of parties and attorneys practicing at the PUC is very small, creating interesting social dynamics around claiming time and compensation and forcing parties to curtail their claimed expenses
Illinois	Hybrid: Cost reimbursement tied to substantial contribution; interim funding available in special cases of financial hardship	External Consultant pending Commission Review	• Illinois' ICP was created under the 2021 Climate and Equitable Jobs Act and recently revised via 2025 legislation. • Provides funding for "meaningful participation" in utility proceedings, removing earlier requirements that intervenors prevail on specific issues. • The program is administered by an independent third party that reviews applications and makes recommendations to the Illinois Commerce Commission, with relatively quick decision timelines. • New provisions allow for partial upfront payments in certain cases.
Indiana	Upfront grants, paid on reimbursement basis	Independent Board	• Indiana's Utility Rate Payer Trust was established in 1997 when the Public Service Company of Indiana (PSI, now Duke Energy) settled with parties after abandoning the Marble Hill Nuclear Power Plant. • The Trust is administered by a board of five members, with each representing one of the parties of the original settlement. • Funding applications and decisions are coordinated informally by phone and email, and very little guidance or award information is available publicly.
Maine	Upfront grants, paid on reimbursement basis	Commission	• Maine's ICP launched in July 2024, so it is still fairly new. • As of May 2026, the Commission has only had one intervenor request funding, which was awarded. • The Commission is hoping to expand awareness and outreach to encourage program utilization
Massachusetts	Upfront grants, paid on reimbursement basis OR up to 20% available upfront in cases of significant hardship	Director, Department of Public Utilities, Division of Public Participation	• The Massachusetts Department of Public Utilities has finalized its program regulations but is not yet operational: applications are expected to open on July 1, 2026. • The program sets relatively simple eligibility criteria, requiring applicants to demonstrate financial hardship and a plan for participation, and offers both upfront (including partial advance payments) and reimbursement funding, with caps per grantee and proceeding.
Michigan	Upfront grants, paid on reimbursement basis	Independent Board	• Michigan's ICP is an upfront grant-based program administered by an independent five-member board (the Utility Consumer Participation Board). • Funding is available across a wide range of proceeding types. • The program consistently reaches its funding cap of $2.1M, and mandated publicly-available annual reports demonstrate a highly effective use of ratepayer dollars
Minnesota	Cost reimbursement tied to substantial contribution	Commission	• Minnesota's ICP was expanded through 2023 legislation after the Commission had seen several years with no applications, and focuses on improving the evidentiary record and decision-making. • Funding is available to Minnesota-based nonprofits and federally-recognized Tribal entities. • Payments are capped at $50,000 per participant per proceeding, and $200,000 total per participant for each calendar year. • Per interviewees, while the 2023 program updates have resulted in higher utilization of intervenor funds, engaging newer or less-established participants in the regulatory process remains a key challenge.
New York	Upfront or during proceeding	Presiding Examiner; Office of Renewable Energy Siting and Electric Transmission	• New York offers funding to reimburse local agencies for their participation in siting proceedings via Article VIII. • When a developer or utility files an application for siting to the state permitting board, the application is accompanied by a fee based on generating capacity (for major renewable facilities) or distance (for major electric transmission facilities). • The funds are deposited into a "local agency account" which may then be disbursed by the Office of Renewable Energy Siting and Electric Transmission.
Oregon	Upfront grants: Case funding and pre-certification grant funding	Commission-approved agreements between energy companies and advocates	• Oregon offers two kinds of funding – intervenor funding and "justice funding." • Intervenor funding is enabled by statute and administrative rules, with specific program guidelines created via agreements between energy companies and intervenors. • The current agreement was approved by the Commission in December 2022 and is effective until December 2027. • "Justice funding" specifically targets organizations representing environmental justice communities or low-income groups. This includes both case-specific grants and broader pre-certified annual funding, with some funds available upfront. • The current agreement was approved in October 2025 and effective January 2026 through December 31, 2030.
Washington	Hybrid: Cost reimbursement tied to substantial contribution; interim funding available in special cases of financial hardship	Commission-approved agreements between energy companies and advocates	• Washington UTC's participatory funding program was established following clean energy legislation to expand participation, especially from equity-focused and underrepresented communities, in utility proceedings. • The program is guided by a 2022 policy statement that sets a framework (eligibility, funding caps, priorities), while utilities and stakeholders negotiate multi-year agreements that determine how funds are allocated and used in practice. • The program applies not only to adjudicated cases but also to broader policy dockets, with an emphasis on collaboration and equitable access
Wisconsin	Upfront grants, paid on reimbursement basis	Commission	• Wisconsin's ICP provides funding for groups to hire expert witnesses and participate in regulatory proceedings. Funding awards are publicly available on the Public Service Commission's website. • Awards are typically granted during the case, sometimes months in, and require early application, yet delays in processing can make it difficult to engage experts on tight schedules. • Interviewees and survey respondents noted that the Commissioners having power over compensation decisions has led to an inconsistent application of the rules, and varying interpretation of statutory guidelines that has left some organizations with inconsistent funding.

SECTION 3: COMMON THEMES FROM STAKEHOLDER OUTREACH AND ACCOMPANYING CASE STUDIES

Methods

To inform this report, we conducted a series of semi-structured interviews and supplemented those insights with a survey.[23] Interviews were carried out with ICP participants across eleven states – California, Colorado, Connecticut, Illinois, Indiana, Maine, Massachusetts, Michigan, Minnesota, Washington, and Wisconsin – as well as with several advocacy organizations and experts actively engaged in regulatory proceedings. To ensure candor, we gave interview and survey participants the option of keeping their responses confidential unless they preferred to speak "on the record". We did speak with one interviewee who disliked the offer of confidentiality and preferred to be on the record. For consistency, all responses have been kept anonymous.

The states represented provide a mix of jurisdictions with long-established ICPs and those with more recently implemented models. This approach enabled a comparative assessment of program design, administration, and outcomes across varying levels of maturity and institutional experience.

Interview participants included a diverse set of stakeholders involved in the design, administration, and utilization of ICPs. These included public engagement staff, Administrative Law Judges, diversity and equity officers, commissioners, policy advisors, former regulatory officials, and other subject-matter experts.

In addition to targeted outreach, we also incorporated perspectives from individuals and organizations who proactively expressed interest in contributing to this report. This helped broaden the range of viewpoints captured, particularly from stakeholders with direct, practical experience navigating these programs.

Overall Results

Across interviews and survey responses, respondents offered candid insights into program limitations and areas for improvement. Respondents also noted situations in which they would not apply for compensation or would recommend against new groups entering into an ICP. Additionally respondents flagged that: commissions have multiple tools at their disposal for increasing public participation, intervenor compensation is only one of those tools, and it is not always the appropriate tool for public engagement with a utility commission. Despite these important caveats, there was near-universal support for the role and value of ICPs, particularly in enhancing participation and improving regulatory outcomes.

While this research does not represent an exhaustive assessment of all ICPs nationwide, the combination of interviews and survey data provides a meaningful and timely snapshot of the key strengths, challenges, and emerging trends shaping these programs today.

23 See Interview questions and survey questions included in the appendix.

Themes

As we carried out interviews, we began to notice some themes across responses, including:

Quasi-judicial processes shape participation.	**Utility commission proceedings are highly technical and procedural, often requiring legal and expert capacity that can advantage experienced, well-resourced participants and limit accessibility for new entrants.**
Intervenor compensation improves decision-making but not automatically.	**While investor compensation programs often enhance the evidentiary record and bring valuable perspectives, the quality and impact of participation vary, and not all contributions add meaningful value.**
Timing of funding presents a structural barrier to intervenors but there are solutions.	**Barriers to entry remain significant. Upfront costs, financial risk, administrative complexity, and delayed payments continue to limit participation in investor compensation programs. Funding structure is a key lever, with a shift toward upfront or interim models to reduce barriers, but administrative complexity still deters participation and slows implementation.**
Clear standards and proactive commission management drive consistent outcomes.	**Ambiguous statutory or regulatory standards can lead to inconsistent and subjective compensation decisions. Clear definitions of "substantial contribution," "financial hardship," and "reasonable costs" are essential for fairness and predictability, and commissions can improve outcomes through proactive management, clearer expectations, and earlier engagement.**
Equity goals are not yet fully realized.	**Despite growing emphasis on environmental justice and inclusive participation, structural barriers continue to limit engagement from historically underrepresented communities.**
Governance structure matters.	**The entity responsible for administering compensation programs, whether commissioners, administrative law judges, independent boards, or third parties can significantly influence consistency, fairness, and program credibility.**
Funding alone is not enough. Participation requires outreach and support.	**Intervenor compensation is necessary but not sufficient. Expanding and sustaining participation requires pairing funding with outreach, education, technical assistance, and proactive engagement. Complementary agencies and actions like public participation offices, workshops, and community-focused strategies are critical to meaningfully broadening access to decision-making.**

This report highlights these themes in more detail below.

Theme: The quasi-adjudicatory nature of utility commissions and implications for intervenor participation

Utility commissions operate within quasi-adjudicatory[24] frameworks, governed by formal rules, evidentiary standards, and procedural requirements. This legalistic structure fundamentally shapes how ICPs function and who can participate effectively. While these frameworks are designed to set clear procedural rules and encourage rigor in decision-making, they also create inherent barriers to entry for individuals and organizations without specialized expertise.

As several interviewees noted, meaningful participation in commission proceedings typically requires legal and technical proficiency. Parties must navigate complex procedural rules, develop an evidentiary record, and present arguments in a structured and persuasive manner. As a result, intervenors who are attorneys, or who are represented by attorneys, tend to be more effective participants, often demonstrating a deeper understanding of commission processes and expectations. This dynamic can unintentionally favor experienced actors and limit the ability of newer participants to engage fully.

One interviewee noted that utility commission proceedings are highly technical and the process in and of itself is inaccessible, so the commission is always thinking about how best to explain what they are doing and have the public trust the information. Similarly, another interviewee flagged that general rate cases can be complicated, since the process is unique.

Some interviewees emphasized that ICPs may be most effective when they support participants who are able to engage consistently and at a high level – essentially treating participation as a professional, full-time endeavor. At the same time, this raises important questions about how programs can both reward expertise and expand access.

The quasi-adjudicatory nature of proceedings also constrains direct engagement between decision-makers and stakeholders. Ex parte rules are designed to prevent undue influence by limiting communications between commissioners and individual parties. In large proceedings – particularly in states like California, where dockets may include dozens or even hundreds of parties – the ex parte restrictions can make direct dialogue difficult and administratively burdensome. This is problematic in some instances where a direct conversation could quickly clarify a misinterpretation or resolve a misunderstanding.

Public participation presents a related challenge. While public comments are typically entered into the record, they are not always afforded the same evidentiary weight as formal testimony or expert analysis. This distinction can lead to confusion among members of the public, who may perceive that their input is not valued. In reality, public comments can play an important role in shaping the direction of proceedings, even if they do not constitute formal evidence. Some interviewees suggested that commissions could better integrate public input by using it to inform the development of the evidentiary record.

24 Quasi-adjudicatory (or quasi-judicial) refers to the authority of an administrative agency or regulatory body to conduct proceedings and make decisions that resemble those of a court, while operating outside the judicial branch. These proceedings typically involve applying existing laws or regulations to specific facts, using formal procedures such as evidentiary records, sworn testimony, and reasoned written decisions.

To address these challenges, interviewees proposed exploring complementary engagement strategies. For example, commissions could convene structured focus groups to better understand community perspectives and identify key issues early in a proceeding. Such approaches would need to be carefully designed to avoid concerns about bias or compensation for particular viewpoints, particularly in light of state ethics and gift policies that may limit the ability to provide incentives for participation.

As one interviewee succinctly observed: *"I love having intervenors on cases to get the varying perspectives, but it does slow everything down when the intervenors don't know the process."* This tension underscores a central challenge for ICPs: balancing the goal of broad, inclusive participation with the need for efficient, high-quality proceedings.

Simultaneously, interviewees broadly recognize that improving participant capacity is essential to strengthening ICPs. One potential solution is the development of Continuing Legal Education programs focused specifically on utility commission practice and intervenor compensation. These programs could potentially be administered through state or local bar associations and could help expand the pool of qualified attorneys and reduce barriers to participation.

Oftentimes intervenors do not know how to locate an attorney who may be able to assist them when they intervene. Another practical recommendation is for commissions to maintain and publish accessible lists of attorneys qualified to practice before them. Such resources could help intervenors, particularly new entrants, identify appropriate legal support and navigate the complexities of participation more effectively. Importantly, some interviewees raised concerns that recommending specific attorneys, rather than pointing potential participants to a list of attorneys, may open a Commission up to liability if the attorney did not perform well or the intervenors did not receive compensation.

Theme: Intervenor compensation often strengthens the record upon which decisions are made with information the commission otherwise would not have considered

ICPs play a critical role in enhancing regulatory decision-making by supporting broader and more diverse participation in complex proceedings. In many cases, these programs lead to a more robust evidentiary record by enabling perspectives that might otherwise be absent, including those of consumer advocates, environmental organizations, and community-based groups. This expanded participation can improve the rigor of analysis and, in some instances, produce tangible savings for ratepayers by identifying inefficiencies, challenging utility assumptions, or advancing cost-effective alternatives.

However, these benefits are not guaranteed. Not all participation adds equal value. As one interviewee noted, mere participation doesn't mean an intervenor will receive an intervenor compensation award. Utility Commissions are looking for analysis to back up recommendations or a unique perspective that hasn't been brought up by commission staff. Illinois' program established a high threshold for eligibility, requiring intervenors to have at least one of their findings adopted in the Commission's final order to qualify for intervenor compensation.

In other programs, intervenors need not have changed the result or have a recommendation included, but instead have "given the commission something to think about or have opened the commission's eyes" to a new issue or perspective. Another interviewee pointed out that "value" assessments tend to be in the eye of the beholder. In these instances, when an ICP is working well it is because the staff and commissioners appreciate and understand the perspective and information intervenors are bringing to the record. Intervenors struggle to bring their voices to proceedings where staff or commissioners do not wish to hear feedback, especially if there is any ambiguity around terms like "substantial contribution" or "financial hardship."

In some proceedings, contributions may be duplicative or of limited substantive quality, particularly when multiple parties raise similar arguments without advancing new analysis or bringing in new data. Some interviewees noted that it's important to see more money flowing to intervenors but it's also not good for proceedings to have superfluous, ineffective advocacy. This creates a core tension for program design: how to encourage broad participation while ensuring that compensation is directed toward meaningful, high-quality contributions?

Several interviewees highlighted this noting that there are some well-prepared intervenors, some less well-prepared ones, and occasionally some who only join a proceeding for the compensation. On balance, however, there are many examples of intervenors providing details and information that really helped shape the proceeding. One interviewee highlighted several instances when intervenors bring unique and impactful perspectives including proceedings related to wildfires in California, proceedings that have a specific geographic element, and proceedings that may impact Tribes. In instances like these, without community participation the commission may be missing essential pieces of data and only those specific communities could bring that data, perspective, and information to the record.

The case study about Michigan demonstrates how modest investments in ICPs can influence regulatory outcomes and potentially provide benefits for ratepayers.

Michigan Case Study: Stable investments in intervenor participation can meaningfully influence regulatory outcomes

1982: Establishment of the Utility Consumer Participation Framework

Michigan's ICP was established in 1982 in response to concerns about unequal representation in proceedings before the Michigan Public Service Commission (PSC).[25] At the time, investor-owned utilities were able to devote substantial financial resources – often recoverable from ratepayers – to support rate increase requests, while the Attorney General and independent consumer advocates operated with far more limited capacity. To address this imbalance, the legislature enacted House Bill 5527, creating a dedicated funding and governance structure to support consumer participation. [26]

25 1982 House Bill 5527, enacted as 1982 Mich. Pub. Acts 304.

26 Michigan House Legislative Analysis, HB 5227 (Oct. 6, 1982).

The statute established the Utility Consumer Protection Fund (UCPF) within the state treasury to finance participation by the Attorney General and consumer advocates in regulatory proceedings and related litigation.[27] It also created the Utility Consumer Participation Board (the Board), which was housed within the Department of Management and Budget but would operate independently in administering grant funding.[28]

The Board consists of five gubernatorial appointees with demonstrated expertise in, and commitment to, residential consumer advocacy. To preserve independence and avoid conflicts of interest, the statute includes strict eligibility criteria: members may not have recent employment or financial ties to utilities, nor may they be affiliated with organizations seeking funding.[29] Board members serve two-year terms, operate under open meetings and public records requirements, and receive no compensation beyond limited expense reimbursement. This governance structure reflects an early emphasis on transparency, independence, and public accountability in program design. Four members are selected by the Governor from a short list submitted by the Michigan Consumers' Council and one from a list submitted by the Attorney General.

Funding Structure and Allocation of the Utility Consumer Protection Fund

Michigan's funding model provides a stable and dedicated source of support for both government and non-governmental consumer advocacy. The UCPF currently allocates approximately $1.9 million annually to the Attorney General's consumer advocacy division and $2.1 million in grant funding to eligible intervenors.

Funding is collected from utilities that participate in energy cost recovery proceedings, with contributions structured to reflect utility size and revenue: [30]

- **Large Utilities** (100,000 or more customers) share a base pool of $1,800,000 which goes to the Attorney General. A specific utility's payment is determined by taking its total operating revenues from the previous year and dividing it by the total operating revenues of all large utilities combined. They also share a base pool of $2,000,000 which is used for consumer grants. That payment is calculated by taking the utility's revenues specifically from residential sales and dividing it by the total residential sales revenues of all large utilities.
- **Small Utilities** (fewer than 100,000 customers) share base pools of $100,000 to the Attorney General and $100,000 for consumer grants. Both pools are determined using the same criteria as large utilities.
- **Electric cooperatives** are exempt from contributing to the fund.

27 Mich. Comp. Laws §§ 460.6l-460.6m.

28 *Id*. at § 460.6l(5).

29 *Id*. at § 460.6l(5).

30 *Id*. at § 460.6m(2).

Grant funding is statutorily directed toward advocacy on behalf of the broad interests of residential utility consumers, or a subset of residential ratepayers such as environmental justice communities, high energy-burden populations, and diverse social and economic classes across different areas of the state. Michigan-based nonprofit organizations or local units of government are eligible to apply.[31] Eligible activities include advancing goals such as greenhouse gas emissions reduction, public health protection, equitable access to energy programs and technologies, and energy conservation.

Funds may be used to support a wide range of participation costs, including staff time, legal representation, expert witnesses, and "other costs required to effectively represent residential utility customers."[32] Once a grant is awarded, the grantee can submit receipts of ongoing expenditures and expect payment of up to 85% of total authorized budget as expenses are incurred.[33] The final 15% of the grant amount is awarded only after the Board has received and approved the final grant report, as well as a final invoice which is compared to the approved budget.[34]

The statute also provides flexibility in how the Board manages funds year-to-year: unspent funds may be carried forward, returned to utilities, or used to offset future utility contributions, ensuring both fiscal accountability and program continuity.

Program Utilization and Demonstrated Impacts

The Board is required to submit annual reports to the legislature detailing program activities and outcomes. According to its most recent report covering calendar year 2024, the Board awarded $2,135,371 in grants to five organizations: the Michigan Environmental Council, the Citizens Utility Board of Michigan, Soulardarity, the Great Lakes Renewable Energy Association, and the Michigan Municipal Association for Utility Issues.[35] Collectively, these organizations participated in 15 proceedings before the PSC.

The Board's reports include cost-benefit analyses that estimate ratepayer savings attributable to the testimony of awarded intervenors. As evidenced below, the ratepayer funds used to award grants in 2024 had a high return on investment:[36]

31 *Id*. at §§ 460.6m(11)-(12).

32 Michigan Utility Consumer Participation Board, Utility Consumer Representation Fund - Grant Application, (May 2025), https://www.michigan.gov/-/media/Project/Websites/lara/about/ucpb/UCRF_2025_Grant_Application.docx?rev=b62609648a3a431dbc1605dbf35e7320, at 6.

33 *Id*. at 8.

34 *Id*

35 Utility Consumer Representation Fund - Annual Report, Michigan Utility Consumer Participation Board at 3 (June 24, 2025), https://www.michigan.gov/lara/-/media/Project/Websites/lara/about/ucpb/2024/UCPB---2024-Annual-Report.pdf?rev=94d7d7ec2c0f4d0bb9e85bee0af88a22&hash=4C81994524E813284E46CA8731720811.

36 *Id*. at 10.

TABLE 1: GRANTS CLOSED OUT DURING 2024

Grantee	Docket No.	Case Title	Grant No.	Grant Amt.	Estimated Savings
Michigan Environmental Council (MEC) 2023	U-21051	DTE Electric 2022 PSCR Reconciliation	23-04	$6,167	Ongoing
MEC 2023	U-21297	DTE Electric Rate Case	23-04	$110,000	$19,565,963
MEC 2023	U-21389	Consumers Electric 2023 Rate Case	23-04	$99,000	$124,000,000
Citizen's Utility Board (CUB) 2024	MISO/FERC	MISO FERC 2024	23-06	$71,500	$142,000
CUB 2023	U-21297	DTE Electric Rate Case	23-06	$51,700	$19,565,963
CUB 2023	U-21389	Consumers Electric 2023 Rate Case	23-06	$51,700	$124,000,000
CUB 2023	U-21461	I&M Rate Case	23-06	$6,167	$1,284,615
CUB 2024	U-21461	I&M Rate Case	24-06	$114,833	$1,284,615
CUB 2024	U-21490	Consumers Gas Rate Case	24-06	$73,700	$5,941,176
Soulardarity 2024	U-21291	DTE Gas Rate Case	24-05	$77,137.50	$152,000,000
Soulardarity 2024	U-21534	DTE Electric Rate Case	24-05	$86,817.50	$570,000
City of Ann Arboe	U-21384	DTE Gas Depreciation Case	24-09	$72,500	$150,000,000

A few highlights from the above savings estimates include:

- In the DTE Electric Rate Case, DTE sought a 13.9% increase in residential rates. Michigan Environmental Council and Citizens Utility Board of Michigan's advocacy resulted in a cut of over half to that hike, with the final increase being 6.38%. DTE also sought an increase in their return on equity from 9.9% to 10.25%, but the 9.9% ROE was ultimately maintained.
- Citizens Utility Board of Michigan led the consumer advocate effort for a long range transmission planning portfolio with Midcontinent Independent System Operator (MISO), enabling low-cost renewable energy to reach Michigan's residential ratepayers, especially in the Lower Peninsula. There is an expected 2:1 benefit to cost ratio over the 20-year course of the projects.
- Consumers Energy filed a gas rate case seeking a $136 million increase in revenue and 10.25% return on equity. Citizens Utility Board of Michigan filed expert testimony that led to a settlement agreement of just $35 million increased revenue and 9.9% return on equity. As a result, a typical customer bill will only see a 1.15% increase, or a 0.27% decrease with the application of a new home products sale credit.

Per the Board report, "UCPB grants resulted in millions in savings to residential and other ratepayers."[37]

37 *Id*. at 3.

Theme: Timing of funding presents a structural barrier to intervenors but there are solutions

Despite the availability of intervenor compensation, significant barriers to entry remain particularly for newer entrants or under-resourced organizations. In reimbursement-based models, participants must front substantial costs for legal counsel, expert witnesses, and technical analysis, often over the course of multi-year proceedings. These costs are incurred without any guarantee of reimbursement, creating considerable financial risk.

One interviewee described a situation in which an intervenor brought their banker to meet with Commissioners to better understand the intervenor compensation process. The discussion was intended to confirm that compensation payments would, in fact, be made and that this assurance could support the bank's willingness to extend financing to the intervenor based on expected reimbursement. A second interviewee also highlighted the enormous upfront cost and risks that intervenor groups are forced to take when programs only offer compensation at the close of a proceeding. Oftentimes this locks out low income groups, environmental justice groups, and others.

In addition, delays in payment can further exacerbate these challenges. In some jurisdictions, reimbursement may take more than a year after the conclusion of a proceeding, placing strain on organizational cash flow. Multiple interviewees acknowledged how difficult it would be for an organization that did not have funds upfront to enter into a proceeding when compensation is received at the end of the process. Further, another interviewee expressed mixed feelings about intervenor compensation, expressing that waiting to receive a $20k or $30k reimbursement three years after carrying out the work for a proceeding isn't a viable business model.

As a result, many programs are dominated by a relatively small group of "frequent flyer" organizations that are experienced and well-resourced. Further many of the frequent flyer groups are not likely to participate in proceedings indefinitely without compensation. This dynamic raises concerns about whether these programs are fully achieving their goal of broadening participation. In fact, one interviewee observed that the voices of customers with very low income, on the verge of having their utility services disconnected, are often not represented, even with intervenor compensation. Another flagged that in proceedings with which they have had experience it seems that the customers "in the middle" aren't being well represented. Additionally, interviewees noted that in states with longer-established ICPs, utility commissions tend to see the same set of intervenors.

Administrative complexity is a persistent challenge for both regulatory staff and intervenors. In some jurisdictions, application and claims processes involve extensive documentation requirements, creating a time-intensive and resource-heavy process that can be difficult to navigate without specialized legal or regulatory expertise. For regulatory agencies, reviewing and adjudicating compensation requests can require significant staff capacity, particularly in models where awards are determined after the conclusion of a proceeding.

For example, in California, an Administrative Law Judge (ALJ) may be tasked with reviewing the full record of a proceeding to determine whether an intervenor made a "substantial contribution." This process can be both time-consuming and inherently subjective. Additionally, intervenors have to rely on a judge to make the determination about a substantial contribution and every proceeding has a different judge which may also lead to slightly differing interpretations of what meets the definition of substantial contribution. Furthermore, the ALJ may be distanced from the case either in time or because he or she is a new hire, which can make review of the record to determine substantial contributions more difficult.

Program administrators face an ongoing challenge in balancing accountability for the use of ratepayer funds with the need to design processes that are accessible and efficient. Excessive administrative burden can deter participation and reduce the overall effectiveness of the program. However when ICPs are challenged or require reauthorization, the program administrator must be able to demonstrate due diligence and fiscal accountability. Several interviewees highlighted that despite the complex nature of getting compensated in California's program, the program has successfully passed audits because of its clear parameters and the strict adherence to them.

However, in response to the limitations of reimbursement-based approaches, there is a growing trend toward upfront or interim funding models. While reimbursement structures may, in theory, promote accountability by ensuring that only high-quality contributions are ultimately compensated, they impose financial risks that deter participation for many potential intervenors.

Even among experienced participants, reimbursement models can distort behavior by requiring organizations to rely on past awards to finance current engagement. This creates financial instability and may limit the ability of organizations to participate consistently or as effectively. In interim funding models, evidence may be presented later in the proceeding or subject-matter experts have less preparation time because the representing organization is awaiting the reimbursement decision that allows them to collate the evidence or hire the subject-matter expert.

Upfront grant models offer an alternative by reducing financial barriers and enabling a broader range of stakeholders to engage meaningfully. States such as Michigan and Massachusetts have begun to adopt or experiment with these approaches, signaling a shift toward more inclusive program design.
Maine has had intervenor compensation for a long time but previously, it was calculated at the end of a case. No one applied because it is tough to secure funds from other sources to participate up front.

Maine moved intervenor compensation to the beginning of the process, and expanded the program to also include participant funding.[38] The intervenors and participants can apply for compensation at any point during the proceeding and there are no specific deadlines. The compensation program is broad and it covers workshops and policy issues. Maine wants interested people in the community to have a pathway to participation and informs potential intervenors and participants about the compensation program when they send notice of various proceedings. To date, Maine has not put a cap or any limitations on their compensation program. At present, only one group has taken advantage of the program and the commission awarded the group compensation for an attorney and a participant. The Maine Public Utilities Commission anticipates greater utilization of the program when they get to some Certificates of Public Convenience and Necessity (CPCNs). Information about the compensation program is easily accessible on the Maine PUC website.[39]

The following case study for California highlights the strengths and drawbacks of a cost reimbursement model and also illustrates the challenges that may present for intervenors.

California Case Study: the Strengths and Drawbacks of a Cost Reimbursement Model

A Brief History of Intervenor Compensation in California

California's ICP emerged from a regulatory system that initially offered little space for public participation beyond formal parties. The California Public Utilities Commission (the Commission) was originally established in 1911 and functioned much like a court.[40] Proceedings were largely adversarial and limited to regulated utilities and a small number of formal parties. Early consumer advocates had to fight simply to gain party status, arguing that they represented broader constituencies otherwise excluded from utility decision-making processes.

38 35-A M.R.S. § 1310-A.

39 Maine Public Utilities Commission, Application Information and Instructions for Intervenor and Participant Funding, https://www.maine.gov/mpuc/about/intervenor-funding.

40 Eugene R. Hallett, Public Utilities Act of California, 16-19 (1912).

A major shift began in the late 1970s with the passage of the federal Public Utility Regulatory Policies Act (PURPA) in 1978.[41] PURPA encouraged state commissions to compensate intervenors who contributed to proceedings advancing certain federal policy goals. It also allowed participants to seek attorney's fees in court if states failed to comply. California implemented rules to take advantage of this provision, enabling advocacy groups to receive compensation – but only in limited proceedings tied to PURPA standards. Even so, this marked the first meaningful mechanism for funding public participation and laid the groundwork for expanding compensation beyond narrow federal requirements.

At the same time, alternative models for supporting public advocacy were explored. In the early 1980s, during a more consumer-oriented period at the CPUC, the Commission considered an "envelope fundraising" approach. Utilities would include inserts in customer bills allowing ratepayers to voluntarily support advocacy groups. This model, however, raised constitutional concerns and was ultimately short-lived. In a notable case, PG&E v. Public Utilities Commission, the U.S. Supreme Court found that such billing insert programs could infringe on utilities' First Amendment rights.[42] This effectively pushed policymakers and advocates toward a more formal, commission-administered compensation structure instead of voluntary fundraising.

Parallel to these developments, legal and institutional foundations for intervenor compensation were taking shape. In the 1980 Consumers Lobby Against Monopolies v. PUC (CLAM) decision, the California Supreme Court affirmed that the CPUC had limited authority to award attorney's fees under certain equitable doctrines, such as the "common fund" theory.[43] Building on both, PURPA and CLAM, the CPUC adopted formal procedures in 1980 and expanded them in 1981–1983 to cover a broader range of proceedings. These rules introduced key concepts that remain central today: eligibility based on significant financial hardship and awards based on a participant's substantial contribution to a proceeding.

The program was ultimately codified through legislation in 1984, when Senator Joseph Montoya's SB 4 formally incorporated intervenor compensation into the Public Utilities Code. This statute largely confirmed the CPUC's existing rules while narrowing eligibility to certain types of utility proceedings, particularly those affecting rates. Although utilities initially challenged the Commission's authority, the legislative codification resolved much of that uncertainty. In its early years, participation remained concentrated among a small handful of frequent flyer groups, leading to criticism that the program was not sufficiently broad. Over time – particularly in the 1990s and early 2000s – efforts were made to expand participation, bringing in environmental organizations and other stakeholders and gradually transforming intervenor compensation into a central feature of California's utility regulatory framework.

41 16 U.S.C. §§ 2631-2632

42 *PG&E v. Public Utilities Comm'n*, 475 U.S. 1 (1986).

43 *Consumers Lobby Against Monopolies v. Public Utilities Comm'n*, 25 Cal. 3d 891 (1979).

Today, the California Public Utilities Commission's ICP is the largest system in the United States for funding public participation in utility regulation. By reimbursing individuals and organizations that make a "substantial contribution" to decisions, it aims to level the playing field between utilities and public interest advocates. The program is widely used across major proceedings – especially energy rate cases, rulemakings, and policy dockets – with dozens of intervenors often participating in a single case. While participation spans a range of groups, it is largely driven by a handful of consumer advocacy and environmental organizations, with more limited but consistent entry by new participants.

Strengths and Weaknesses of the Cost Reimbursement Model

The program has been highly effective at expanding participation and strengthening the evidentiary record, but it operates through a complex cost reimbursement model. Those seeking funding must file a Notice of Intent (NOI) within 30 days of a docket's prehearing conference to establish baseline eligibility.[44] Intervenors must then participate throughout the full length of a proceeding – sometimes lasting multiple years – before they are able to submit a funding claim. Compensation claims are due within 60 days of a decision being issued or a docket being closed, and applicants must demonstrate in their submission how they substantially contributed to the record.[45] An ALJ then reviews claims to determine (1) eligibility for an award (e.g., substantial contribution and financial hardship) and (2) recoverable costs.

The Commission often issues partial awards or disallowances based on a variety of factors. Awards may be reduced if an intervenor's participation is duplicative of work performed by other parties with similar positions, including the Office of Ratepayer Advocates.[46] ALJs may also question claimed hours if they are deemed an imprudent use of time, or adjust hourly rates if applicants do not adequately justify them based on the expert's qualifications. Payment may also be disallowed for work on specific issues if the Commission determines that the intervenor did not make a substantial contribution to that issue.[47]

Several interviewees who have sought compensation in California reported inconsistencies in how these rules are interpreted and applied across dockets. One frequent intervenor noted receiving different approved hourly rates for the same external legal counsel across three dockets, despite submitting identical rate requests. Another described maintaining meticulous and conservative time records, yet still experiencing what appeared to be arbitrary reductions in hours: "That kind of review makes me feel tempted to inflate my hours just so that the final result reflects reality."

44 *See Form A: Blank Notice of Intent to Claim Intervenor Compensation* at 3 (Mar. 2023), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icomp-materials/updated-noi-form-march-2023.docx.

45 *Id*.

46 Intervenor Compensation Program Guide, California Pub. Utili. Comm'n. at 12 (Apr. 2017), https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/administrative-law-judge-division/documents/icomp-materials/updated-icomp-program-guide-april-2017.pdf.

47 *Id*. at 17.

Despite these inconsistencies, a key strength of the Commission's cost reimbursement model is that it ensures only meaningful contributions receive ratepayer-funded compensation. When applied surgically, this approach reduces the risk of compensating low-quality or non-substantive participation, helping protect the program from criticism or claims of waste. A 2013 state audit validated that the Commission maintained strong administrative oversight and rigorously scrutinized claims, concluding that the program was largely achieving its core purpose of reducing barriers to participation and enabling diverse stakeholders to engage in utility proceedings.[48]

At the same time, the audit identified administrative weaknesses that create challenges for intervenors. Although the Commission is required to issue compensation decisions within 75 days of a claim being filed, between 2008 and 2012 only six percent of claims were decided within that timeframe.[49] Interviewees corroborated this finding, noting that it can take over a year to receive a final determination, as there is no penalty for delays. For organizations without sufficient upfront capital to fund multi-year proceedings, this often necessitates lines of credit with interest rates of 9–10 percent – meaning that even full reimbursement can result in a net loss.[50] One intervenor even brought a banker to meet with a Commissioner to illustrate the financial strain caused by delayed payments. Delays also create complications for organizations using accrual accounting, as they cannot recognize income as work is completed, which can distort annual financial reporting.

One interviewee who leads an organization that frequently participates in the program shared that they once calculated that the average time between a proceeding opening and payment is approximately 30 months. The organization has incorporated this lag into its financial and operational planning; for example, a newly hired attorney may not transition from a cost center to a revenue-generating role for two and a half years, until payment is received from a utility for their first proceeding. This dynamic presents a significant barrier for smaller or less-resourced organizations seeking to expand their regulatory capacity. Even so, interviewees emphasized that, for organizations able to fund upfront participation costs, the program can become a sustainable source of income, provided they engage consistently and make meaningful contributions.

Compensation Potentially Jeopardized when No Decision Reached

A rare and important episode in California's ICP arose during AT&T's proposed acquisition of T-Mobile in 2011, which required approval from both the Federal Communications Commission (FCC) and the CPUC. Consumer advocacy organizations actively participated in the CPUC proceeding, raising concerns about competition, consumer protection, and service impacts. As the state and federal reviews progressed, it became increasingly apparent that the merger faced significant opposition from federal regulators, particularly the U.S. Department of Justice and the FCC. AT&T ultimately withdrew its merger application before the CPUC could issue a final decision on the merits, leading the Commission to dismiss the proceeding as moot.

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48 See *California Public Utilities Commission: Despite Administrative Weaknesses, It Has Generally Awarded Compensation to Intervenors in Accordance With State Law*, California State Auditor at 23 (July 2013), https://information.auditor.ca.gov/pdfs/reports/2012-118.pdf.

49 *Id*. at 23.

50 The Commission has a practice of paying interest on overdue awards. However, interviewees noted that this interest rate is a fraction of the real rate it takes to borrow money in order to pay experts upfront.

Despite the withdrawal, the CPUC awarded intervenor compensation to participating organizations, reasoning that the intervenors had made substantial contributions to interim rulings and procedural developments during the course of the proceeding. Intervenor compensation was awarded and disbursed to relevant parties. AT&T challenged the awards, arguing that California's intervenor compensation statute authorizes compensation only when a proceeding results in a final decision adopting the intervenors' positions.

The dispute reached the California Court of Appeal in New Cingular Wireless PCS, LLC v. Public Utilities Commission (2016).[51] Contrary to some early concerns about the implications of the case, the court did not hold that intervenor compensation categorically requires a final merits decision. Instead, the court concluded that compensation may still be available even when a proceeding terminates before a final decision, provided the intervenor can demonstrate a "substantial contribution" to actual CPUC orders or rulings issued during the proceeding. At the same time, the court rejected the CPUC's broad approach of awarding compensation for virtually all participation in the case, emphasizing that compensation must be tied specifically to successful advocacy reflected in identifiable Commission actions.

After the matter was remanded, the CPUC again awarded substantially similar compensation amounts to the intervenors. AT&T appealed a second time, and in a 2018 follow-up decision the Court of Appeal again criticized the Commission for failing to sufficiently connect the fee awards to discrete successful contributions.[52] The court reiterated that intervenor compensation is not intended to reimburse "every penny" spent participating in a proceeding, particularly where no final merits determination was ever issued.

The case exposed a significant structural tension within California's intervenor compensation framework. On one hand, denying compensation whenever a proceeding ends without a final decision could discourage public-interest participation in major regulatory matters that terminate unexpectedly. On the other hand, awarding broad compensation absent a merits ruling risks compensating advocacy that was never ultimately adopted by the Commission. New Cingular Wireless therefore became an important precedent clarifying that intervenor compensation may survive the termination of a proceeding, but only when intervenors can demonstrate concrete and measurable contributions to actual Commission decisions or rulings issued before the case ended.

Theme: Clear standards and proactive commission management drive consistent outcomes

Where statutory or regulatory guidance is unclear, the implementation of ICPs can become inconsistent and, at times, unpredictable. This issue arises in multiple aspects of program administration, including eligibility criteria, determinations of "substantial contribution," determinations of "hardship," and assessments of "reasonable costs."

51 *New Cingular Wireless PCS, LLC v. Pub. Utils. Comm'n*, 246 Cal. App. 4th 784 at 794 (Cal. Ct. App. 2016).

52 *Id.*

For instance, eligibility criteria may be interpreted differently depending on the composition of a commission. In some cases, organizations such as environmental groups may be excluded from being considered "public interest" participants under certain interpretations. Similarly, intervenors report that standards for determining "substantial contribution" can vary significantly among Administrative Law Judges in California, leading to inconsistent outcomes in compensation determinations.

Additionally, differences in how "reasonable costs" are evaluated – whether focusing on hourly rates, total hours, or overall expenditures – can further contribute to the uncertainty of compensation outcomes.

This variability creates challenges for participants attempting to assess the likelihood of compensation and may discourage deeper engagement for current intervenors and participation from new entrants. One interviewee indicated that they might recommend against becoming an intervenor due to these concerns about unpredictable application of the intervenor compensation rules.

Colorado's intervenor compensation program has not truly been implemented. The program requires an intervenor to prove that they are bringing a perspective that is different from the utility consumer advocate. Only one party has ever applied and their application was denied. The interviewee continued on to note that the underlying statute for Colorado's ICP is difficult to navigate and while it authorizes up to $250,000 annually, it does not specify a funding source for the compensation. Further, some interviewees articulated reservations about increasing the number of parties involved in proceedings because the Colorado PUC is understaffed and it does take staff to carry out an ICP.

A related theme, raised consistently, across interviews is that commissions have significant, and often underutilized, authority to proactively shape and manage proceedings in ways that can improve both outcomes and the effectiveness of ICPs. Commissions can be far more deliberate in structuring proceedings, signaling priorities, and guiding the development of the record. This includes setting clearer expectations at the outset, identifying key issues for adjudication, and actively managing how parties engage throughout the lifecycle of a case.

One practical approach is for commissions to convene pre-proceeding or early-stage workshops to solicit stakeholder input on what success would look like in a given docket. This type of structured stakeholder engagement can help clarify objectives, surface critical perspectives early, and ensure that proceedings are designed to address the most relevant and impactful issues.

One interviewee emphasized that commissions can take a more active role in proceedings that raise equity or environmental justice considerations. For example, commissions could explicitly identify dockets with significant environmental justice implications and require intervening parties to state whether and how they will contribute expertise on these issues. Commissions could then compel parties to address identified equity and environmental justice topics as part of the proceeding. In addition, commissions could strengthen application requirements by assessing filings for completeness and deeming them deficient if they fail to address material equity or environmental justice concerns. Through these actions, commissions can more clearly signal the types of information and analysis they expect, thereby improving the quality and relevance of the record.

This interviewee also noted that commissions could create more accessible pathways for participation by allowing individuals or organizations bringing an environmental justice perspective to participate as witnesses and seek compensation for those contributions. This approach could broaden participation while ensuring that critical perspectives are meaningfully incorporated into the proceeding.

More broadly, some interviewees suggested that improvements to intervenor compensation may require changes to overall docket design and participation models, not just compensation mechanisms themselves. For example, one respondent pointed to Minnesota's use of panel-style witness formats. These panels prioritize dialogue among experts over traditional cross-examination. This model can foster more collaborative and substantive exchanges, potentially leading to a more robust evidentiary record and more efficient proceedings.

Another opportunity identified by multiple interviewees is for commissions to improve the timeliness and consistency of decisions about whether to award intervenor compensation by incorporating those determinations directly into final orders. Specifically, commissions could include findings of fact and conclusions of law addressing whether an intervenor made a substantial contribution and is therefore eligible for compensation.

While this approach may require additional effort during the decision-making process, it offers important advantages. Embedding compensation determinations within the final decision ensures that they are made contemporaneously with the proceeding, when the record and the contributions of each party are most clearly understood. This stands in contrast to practices in some jurisdictions where compensation decisions are made months, or even years, after a case concludes, sometimes by decision-makers who were not directly involved and must rely on a cold record. Integrating these determinations into final decisions could enhance administrative efficiency, reduce delays, and improve the perceived fairness and accuracy of compensation awards.

The case study about Illinois' program illustrates the theme that clear, achievable program requirements can help increase participation in ICPs. Illinois began with a prohibitively restrictive statute for intervenor compensation that was later amended to expand access.

Illinois Case Study: A Prohibitively Restrictive Statute Amended to Expand Access

2021: Originating Legislation via the Climate and Equitable Jobs Act

The Illinois Commerce Commission (ICC)'s ICP was created via the passage of the Climate and Equitable Jobs Act (CEJA, P.A. 102-0662) in 2021.[53] This sweeping legislation addressed a wide range of energy and equity issues and included provisions to create a Consumer Intervenor Compensation Fund.[54] The original draft bill's language was based on a collaborative draft that was spearheaded by advocacy organizations – however, over the course of the legislative session, amendments narrowed eligible organizations and raised the bar for award determination.

Most notably, the final statute set the bar for compensation above the more common "substantial contribution" threshold that provides flexibility in many other states – rather, eligibility requires the Commission to "adopt a material recommendation related to a significant issue in the docket" based on the party's testimony.[55] This "prevailing party" standard introduced several practical challenges. It created incentives for intervenors to focus on more conservative or widely accepted positions, rather than advancing novel or emerging issues that may be less likely to be adopted. It also introduced potential complications for commissioners, whose decisions could directly determine whether compensation is awarded. In addition, the requirement proved difficult to apply in settlement contexts or in cases where intervenors contributed to multiple issues with mixed outcomes, raising questions about how compensation should be apportioned.

The statute also had "significant financial hardship" as a central eligibility criteria for funding. Applicants needed to demonstrate that participating in the proceeding would impose a meaningful financial burden on their organization without reimbursement of expenses. The statute does not include a fixed numerical threshold for what constitutes hardship, but rather encourages the ICC to develop a schedule.

A positive and distinctive feature of Illinois' program is its use of a third-party administrator to support implementation. The administrator assists applicants in preparing compliant submissions, reviews claims, and provides recommendations to the Commission. This structure helps streamline the process and improve consistency, while preserving the Commission's ultimate authority over funding decisions.

Statutorily defined timelines further promote efficiency: recommendations are generally expected within 30 days, and Commission decisions are issued within 60 days unless a formal investigation is initiated. If the Commission does not act within the prescribed timeframe, the third-party administrator's recommendation is automatically adopted. In cases where an investigation is opened, the matter proceeds similarly to a standard adjudicatory process, with an administrative law judge issuing a recommendation. These provisions, reflected in implementing rules adopted in ICC Docket 22-0238, have enabled relatively rapid decision turnaround compared to other states.

53 *Climate and Equitable Jobs Act*, Pub. Act 102-0662, 102d Ill. Gen. Assemb. (eff. Sept. 15, 2021).

54 *Id.* at § 9-229.

55 *Id.* at 9-229 (b)(3).

2022-2025: Program is Underutilized; Lessons Learned

Following its launch in 2022, the program has seen limited utilization, with only a handful of intervenors seeking compensation. This limited uptake highlights several implementation challenges.

First, the statutory requirement that intervenors prevail on issues in order to receive compensation appears to have had a chilling effect on participation. Interviewees noted that organizations may be reluctant to pursue arguments that carry uncertainty or advance less-established policy positions, even when those perspectives could provide value to the Commission. This dynamic may be particularly discouraging for newer or smaller organizations that lack institutional experience or perceived influence in regulatory proceedings. Interviewees emphasized that intervenor participation provides value even when specific recommendations are not ultimately adopted. Contributions can help surface issues, inform future proceedings, and expand the evidentiary record in ways that support better long-term policymaking.

Second, questions around eligibility, particularly related to financial need, have created ambiguity. For example, organizations that are not large national nonprofits but are also not in immediate financial distress may fall into a gray area. Longstanding consumer advocates have historically operated without compensation and, under the original interpretation of the statute, were not clearly eligible despite playing a central role in representing ratepayer interests.

At the same time, stakeholders consistently identified the program's administrative structure as a strength. The use of a third-party administrator has facilitated relatively quick processing of claims and provided technical assistance to applicants, lowering procedural barriers for participation. However, this administrative efficiency has not been matched by robust outreach. Commission staff and stakeholders have noted that awareness of the program remains limited, particularly among community-based organizations and non-traditional participants.

As of December 31, 2025, the Consumer Intervenor Compensation Fund had a balance of over $6 million, with annual proceeds from utility fees of over $1.5 million. Seven intervenor funding requests were granted throughout that year totaling $468,730.[56]

2025-2026: Statutory Reforms to Expand Access

In response to these early challenges, Illinois enacted reforms through the Clean and Reliable Grid and Affordability (CRGA) Act, signed into law in January 2026 and effective June 1, 2026.[57] These updates are intended to clarify eligibility requirements and expand access to the program.

56 *Consumer Intervenor Compensation Fund Annual Report* at 3 (Mar. 1, 2026), https://icc.illinois.gov/api/web-management/documents/downloads/public/informal-processes/consumer-intervenor-compensation-fund/2025%20Annual%20Report%20for%20the%20Consumer%20Intervenor%20Compensation%20Fund.pdf.

57 Pub. Act No. 104-0458, 2025 Ill. Laws (eff. June 1, 2026).

Key changes include:

1. **Revised participation standard:** The statute replaces the prior "prevailing party" requirement with a lower threshold: parties are now eligible if "the Commission does not find the participation to be immaterial."[58] This reduces the financial risk for intervenors, who no longer have to factor likelihood of Commission adoption into the strategic creation of their testimony.
2. **Modified financial eligibility criteria:** Language emphasizing "significant financial hardship" has been revised to focus on "significant financial cost," broadening eligibility to include organizations that may not be in financial distress but still face barriers to participation.[59] This revised language more clearly allows frequent flyer organizations to qualify for compensation.
3. **Provision for interim payments:** The statute introduces the possibility of upfront or interim compensation in limited circumstances, which may enable smaller organizations that cannot front participation costs to engage in proceedings. It outlines a process for reconciling between interim funding and final award determination upon the closing of the case and final expense review.

While these reforms are expected to improve accessibility and participation, stakeholders emphasized that statutory changes alone may not be sufficient. Increased outreach, education, and technical assistance will be critical to ensuring that a broader and more diverse set of participants is aware of and able to utilize the program. Without such efforts, utilization may remain concentrated among established actors, limiting the program's potential to expand representation and enhance the evidentiary record in Commission proceedings.

Theme: Equity and environmental justice are growing priorities in many states, but they are not yet well integrated.

States are increasingly experimenting with a range of approaches to broaden participation in regulatory proceedings, including enhanced outreach efforts, new reporting requirements, and targeted funding mechanisms intended to support underrepresented groups. Despite these innovations, persistent structural barriers such as limited organizational capacity, and lack of technical expertise continue to constrain participation. As a result, stated environmental justice and equity goals do not always translate into meaningful or sustained engagement in proceedings.[60]

Several interviewees emphasized the need to rethink how states facilitate entry points into proceedings. One interviewee suggested that where a state has an Office of Environmental Justice or an office of public engagement, that entity could play a more formalized role – either by acting as an intervenor itself or by serving as a centralized hub to help community-based participants navigate the process. An approach like this could lower barriers to entry and provide continuity and institutional support for participants who may otherwise struggle to engage. One example of this approach exists in Massachusetts whereby the DPU establishes a division of public participation.

58 Pub. Act 104-0458, 104th Ill. Gen. Assemb. (eff. Jan. 8, 2026).

59 *Id.*

60 *See* the Massachusetts example below.

At a more fundamental level, interviewees raised questions about how to ensure that commissions hear from voices that are not already visible or organized. As one interviewee noted, a key challenge is identifying and incorporating perspectives from communities that stakeholders may not even anticipate needing to hear from. Intervenor compensation statutes could play a critical role in this context. Another respondent emphasized, these programs are essential tools for elevating the perspectives of communities, particularly those that have been historically excluded from regulatory processes, and ensuring that their experiences and priorities are reflected in decision-making.

Together, these insights suggest that while programmatic reforms are important, expanding participation will require a more holistic approach – one that combines funding with proactive outreach, institutional support, and deliberate strategies to identify and engage underrepresented voices.

The Massachusetts case study demonstrates how a utility commission can carefully develop an inclusive grant-based program that helps expand community participation.

Massachusetts Case Study: Carefully Developing an Inclusive Grant-Based Program

Massachusetts Attorney General Explores IC; 2024 Climate Act Mandates It

In the summer of 2021, the Massachusetts Office of the Attorney General convened a Stakeholder Working Group and tasked it with identifying barriers to participation in regulatory proceedings. Over the next eighteen months, the working group (composed of experts from consumer advocacy and environmental justice organizations) conducted a survey, stakeholder interviews, and focus groups to understand the fundamental barriers to entry in regulatory proceedings. The resulting report published in May 2023, "Overly Impacted & Rarely Heard: Incorporating Community Voices into Massachusetts Energy Regulatory Processes," outlined recommendations in the short- and long-term to expand justice-focused participation in decision-making.[61]

One key recommendation in the report was the need to create an ICP to address the vast resource imbalance between utility companies – who recover their massive legal and expert costs through customer rates – and community groups. The report noted that without financial support, it is incredibly difficult for community groups to hire the lawyers and experts needed to meaningfully participate and get the attention of decision-makers.[62] The report also included recommendations for key program elements such as upfront financial support, eligibility requirements (e.g., financial hardship), and requirements for material contributions to the proceeding at hand.

61 *Overly Impacted & Rarely Heard: Incorporating Community Voices into Massachusetts Energy Regulatory Processes* Massachusetts Office of the Attorney General and Stakeholder Working Group (May 2023), https://www.nclc.org/wp-content/uploads/2023/05/Overly-Impacted-and-Rarely-Heard.pdf-Rarely-Heard.pdf.

62 *Id*. at 29.

In 2024, the Massachusetts legislature followed up on the Attorney General's report by passing the 2024 Climate Act, which required the creation of an Intervenor Grant Support Program.[63] The statute included a broad structure for the program, including funding levels and eligibility criteria, and otherwise gave the Department of Public Utilities fifteen months to come up with program rules. The Act also created the Division of Public Participation within the Department, and authorized this division to administer all aspects of the grant support program.[64]

Department of Public Utilities' Stakeholder Outreach and Rulemaking

The Department issued a straw proposal of the Intervenor Support Grant Program in April 2025.[65] It then held a series of stakeholder sessions on the straw proposal between April and May 2025, seeking feedback via oral and written comments. This feedback was then incorporated into a draft of proposed regulations for the program, which was shared in a rulemaking opened in September of 2025.[66]

One common theme amongst stakeholders was the desire for the application process to be as straightforward as possible. DPU staff noted that there is an inherent tension between accessibility and due diligence, but kept simplicity in mind when designing the application. Determining eligibility is twofold: (1) is the applicant an eligible entity? (2) has the applicant demonstrated significant financial hardship? The application seeks details about the intervenor's plans, such as whether they will retain legal support and/or an expert witness, and also asks about the last three dockets that they intervened in. This is intended to allow staff to review whether the entity has contributed in a helpful way in the past – though shallow past efforts will not be necessarily disqualifying if the party was not previously able to retain legal or expert guidance due to financial constraints.

After holding a series of public hearings on the draft regulations, the Department adopted final regulations for the program in February 2026. Grant applications will begin being processed on July 1, 2026.[67]

Unique Elements of the Soon-to-Launch Program

To qualify, applicants must secure formal intervenor status and demonstrate "Significant Financial Hardship," ensuring that funding is directed toward those who genuinely need support to participate. Eligible applicants include nonprofits advocating for residential customers, low- and moderate-income households, and historically marginalized communities, as well as governmental entities, federally recognized Tribes, and qualifying unincorporated associations. Individuals and limited participants are excluded, while small municipalities (under 7,500 residents) benefit from a notable exemption from the hardship requirement when projects affect infrastructure within their borders.

63 Mass. Gen. Laws ch. 25, § 12S (2024).

64 *Intervenor Support Grant Program*, Massachusetts Department of Public Utilities, https://www.mass.gov/info-details/intervenor-support-grant-program (last accessed May 27, 2026).

65 *Id.*

66 *Id.*

67 *Id.*

A defining feature of the program is its emphasis on accessibility and capacity-building, particularly for newer or less experienced participants. DPP staff are expected to play an active facilitation role, offering technical assistance and guidance throughout the process rather than acting solely as administrators. This includes developing a comprehensive guidebook, video tutorials, and other educational materials to demystify participation in regulatory proceedings. The program will also be administered through a statewide grant portal already used by other agencies, a design choice that increases visibility and lowers administrative friction for applicants who may already be familiar with the system. Together, these elements reflect a deliberate effort to reduce procedural complexity and encourage broader, more equitable participation.

Financially, the program largely follows a reimbursement model similar to those used in states like Michigan and Indiana, where participants recover eligible costs as they are incurred. However, Massachusetts introduces a distinctive flexibility: the DPP director may authorize up to 20% of awarded funds to be disbursed upfront for applicants demonstrating both good cause and significant financial hardship. This provision directly addresses a common barrier in reimbursement-based systems, where participants must front costs before receiving support. By combining this limited advance funding option with strong administrative guidance and inclusive eligibility criteria, Massachusetts' program stands out as a hybrid model – balancing fiscal oversight with practical accommodations to ensure that under-resourced stakeholders can effectively engage in complex energy decision-making processes.

Theme: Governance structures shape outcomes, especially where statutory language or rules are unspecific and subject for interpretation.

The governance structure of an ICP plays a critical role in shaping its effectiveness, particularly in contexts where statutory guidance is limited. Different governance models introduce distinct tradeoffs:

- Commission-led models may be more directly accountable but can be subject to politicization or shifts in interpretation over time.
- Administrative Law Judge-led models may provide procedural rigor but can result in inconsistent application of criteria across proceedings, since individual ALJs might have different interpretations of the criteria or how to apply them.
- Third-party administrators, such as those used in Illinois, may offer a degree of independence and standardization.
- Independent boards, as seen in Michigan, can enhance stability and credibility.
- Consumer advocate offices may have expertise but can face potential conflicts of interest when balancing advocacy and administrative roles.

Selecting an appropriate governance structure is therefore a critical design decision that can influence both the consistency and perceived fairness of the program. Even with good governance structures intervenors might see ebbs and flows from Commissions on how loose or tight they are about determining a substantial contribution.

One interviewee highlighted the problem of retroactive rule changes. When the commission that they regularly testified in front of tightened requirements for intervenor compensation, the new standards would often apply to pending claims filed under the old rules. Because intervenors cannot retroactively fix past submissions, they faced unfair denials.

Indiana's case study details a unique governance structure, where an independent ICP was established without legislation. It also demonstrates that there is more than one way to involve communities in utility commission decision-making.

Indiana Case Study: An Independent Funding Program Established Without Legislation

1994-1997: Marble Hill Settlement Creates Intervenor Fund

Marble Hill Nuclear Power Station was a $3.5 billion nuclear power plant project funded by the Public Service Company of Indiana (PSI) and located in the southern part of the state. Construction began in 1977 despite controversy from environmental groups, who staged two non-violent occupations amid dwindling public support after the Three-Mile Island disaster.[68] In 1983, PSI (now Duke Energy) announced it was abandoning the partially-finished nuclear power plant, on which $2.5 billion had already been spent. This was the most expensive nuclear project ever abandoned.[69]

In 1994, various consumer advocacy groups, local governments, and the Office of Utility Consumer Counselor (OUCC) entered into a Supplemental Settlement Agreement to resolve over a decade of litigation concerning the recovery of sunk costs from PSI's cancelled Marble Hill Project. The Indiana Utility Ratepayer Trust (the Trust) was created as a key provision of the settlement, which allocated $3 million to a Trust out of a total $14.25 million in attorneys' fees and litigation expenses.[70] In its 1997 order approving the settlement, the Indiana Utility Regulatory Commission left it up to the parties involved to determine how the Trust would be managed and allocated.[71] Today, the trust funds individuals and organizations who participate in matters affecting Indiana utility rates.

68 See Kevin Foley, Anti-Nuclear Demonstrators Arrested in Madison, Indiana, Lewiston Evening Journal (Oct. 9, 1978), https://news.google.com/newspapers?nid=1913&dat=19781009&id=AIIpAAAAIBAJ&sjid=tWUFAAAAIBAJ&pg=3133,1137143.

69 See Jesus Rangel, *"Half-Built Indiana Nuclear Plant Abandoned at a $2.5 Billion Cost,"* The NY Times (Jan. 17, 1984), https://www.nytimes.com/1984/01/17/us/half-built-indiana-nuclear-plant-abandoned-at-a-2.5-billion-cost.html.

70 See Ind. Util. Regulatory Comm'n. *Supplemental Settlement Agreement on Attorneys' Fees, Litigation Expenses and Court Costs, In re PSI Energy, Inc., Cause Nos. 39498 & 39786* at 9 (Apr. 1994), https://docs.google.com/document/d/11qpX1pK6hceeWaAvk-KMuoBq4qBBZidC/edit?usp=drive_link&ouid=105047385953089409047&rtpof=true&sd=true.

71 Petition of PSI Energy, Inc. for Implementation of the November 27, 1991 and July 9, 1992 Decisions of the Supreme Court of Indiana in Cause No. 93S02-9111-EX-940, Cause Nos. 39498 & 39786, 1997 WL 34880691 (Ind. U.R.C. July 16, 1997), https://docs.google.com/document/d/15g3N7EseC_cQBInNk9HoGuifYAYmb_ky/edit?usp=drive_link&ouid=105047385953089409047&rtpof=true&sd=true.

The Trust was established for the purposes of:

> *"Providing funding to cover reasonable costs, expenses and efforts that may be incurred either by the Indiana Office of Utility Consumer Counselor for the State of Indiana, or by a group, entity or individual who desires to participate on behalf of ratepayer(s) in a rulemaking, an adjudication, or appeal or any other type of proceeding affecting the regulation (including rates charged and services rendered) of an Indiana utility or its affiliates, including, but not limited to proceedings before the Indiana Utility Regulatory Commission, the Federal Communications Commission, or the Federal Energy Regulatory Commission, or their successors, but either lacks the wherewithal to participate or cannot cost effectively participate under the then existing circumstances."*[72]

The Trust's balance is sustained through investments, with annual grant awards not exceeding returns on investment. The Trust has also grown over time from contributions in other utility settlements: Duke Energy contributed $2 million to the Trust in 2012, and $500,000 in 2016 as part of a settlement agreement over the Edwardsport coal plant.[73] [74]

Independent but Opaque Governance Structure

The Trust's administration was deliberately designed to be separated from the state to avoid funds being politicized or jeopardized by statute or budget processes. Funding decisions are made by a five-member executive committee (the Committee) where each member represents one of the organizations that were party to the original settlement: Citizens Action Coalition of Indiana, City of Terre Haute, Indiana Office of Utility Consumer Counselor (OUCC), PSI Industrial Group, and Save the Valley. There are no publicly available bylaws enumerating eligibility requirements or processes to replace board members. Per interviewees, the board is self-perpetuating, with either original entities or departing board members selecting their replacements upon the retirement or departure of a member. Two of the current five board members were among the original five appointed in 1997.

While information about the Trust is available on the OUCC website, all decisions are made independently by the Committee, where OUCC holds one of five positions. Per interviewees, funding is typically reserved for coverage of professional fees for expert witnesses or outside legal representation. Applicants must demonstrate that they lack the financial means to effectively participate on their own, and must also explain why OUCC does not adequately represent their interests.[75]

72 See *Indiana Utility Rate Payer Trust*, Indiana Office of Utility Consumer Counsel, https://www.in.gov/oucc/about-your-rates/indiana-utility-rate-payer-trust/ (last updated Oct. 2025).

73 *New agreement on Edwardsport plant: $85 million in additional rate relief with increased consumer benefits*, Indiana Office of Utility Consumer Counsel (Sept. 18, 2015), https://www.in.gov/oucc/files/Edwardsport_Settlement_OUCC_Release_9-18-15.pdf.

74 Ind. Util. Regulatory Comm'n, Duke Energy Ind., LLC, Cause No. 43114 IGCC 15 at 112 (Aug. 24, 2016), https://iurc.portal.in.gov/_entity/sharepointdocumentlocation/254de7fa-3d83-e611-810e-1458d04f0178/bb9c6bba-fd52-45ad-8e64-a444aef13c39?file=43114%20IGCC15%20Order_201608241304.pdf.

75 Instructions for Completing Application Requesting Funding, Indiana Utility Ratepayer Trust https://docs.google.com/document/d/1yZfBwBKVsBYq2vymxUoLAQINyqSi492u/edit?usp=drive_link&ouid=105047385953089409047&rtpof=true&sd=true.

Applications are reviewed on a rolling basis, with coordination and award decisions communicated exclusively through phone and email. Grant awards outline maximum allowances, and payment is then made as expenses are incurred, on a reimbursement basis. Interviewees noted that available funds dwindle over the course of a year, so depending on when a proceeding is opened, it may be a gamble on whether funds are already depleted.

Intervenor Experience Using the Fund

Regular participants in the program shared that most regular intervenors at the Indiana PUC are aware of the Trust, but without publicly-available award information, no participants are aware who else has received funding, or for how much.

Advocates noted that regulatory timelines are often prohibitively tight in relation to the process of applying for and receiving intervenor compensation. In the last few years, recurring participants noticed that the program instituted a new practice of banning retroactive reimbursements: the grant application states that the Trust "will not pay for any expenses already incurred prior to the approval of any Trust application."[76] Advocates claim that this has caused them financial burden given that they are often required to engage with expert witnesses prior to receiving notice on their award status. Advocates also noted that, while it was rare that their funding requests were outright rejected, the Committee frequently reduced award amounts from funding requests without necessarily giving reason.

One interviewee who offered legal services to intervening organizations shared that in their experience, "I have only applied to the IURT a couple of times over my 25 years in private practice. I found the IURT was not a reliable means of securing funding for a client that is of limited means. Funding is not always available, and the decision to grant an application is discretionary. In my experience, applying to the IURT is a last ditch effort where the client has exhausted all other means for funding."

Despite these setbacks, those who have utilized the program in Indiana recommended the overall governance structure (e.g., separating intervenor compensation decisions from the legislature's control). The Trust's perpetual funding structure and independent board has protected applicants from variability in decision making based on political whims, and reimbursement-style funding has generally allowed participating organizations to pay hired legal counsel and expert witnesses on a timely basis (within thirty days).

76 *Id.*

Theme: Funding alone is not enough – increased participation in intervenor compensation requires outreach and support.

Effective program design alone does not ensure broad participation. Outreach and education are equally important components of a successful ICP. Many potential participants do not engage simply because they lack awareness of the program or do not understand how to navigate regulatory processes. Regulatory proceedings are often perceived as opaque, technical, and intimidating. To make ICPs more accessible, the programs require:

- Education and training on utility commission processes
- Technical assistance to support participation – this may include lists of attorneys or subject-matter experts
- Continuous, step-by-step support throughout the lifecycle of a proceeding, in addition to the financial assistance
- Outreach to community groups to build long-term relationships beyond just docket by docket engagement and invite regular participation

ICPs are an important mechanism for expanding participation, but they are not necessarily sufficient on their own. Regulators could consider a broader suite of tools to enhance accessibility and inclusivity in decision-making processes. One interviewee posed thoughtful questions about how best to bring communities into proceedings, how to increase awareness of commission programs, and how best to direct engaged citizens and groups to the right programs. Another interviewee suggested that commissions should be out engaging the community so that communities know what the commission is doing and that they have an ability to weigh in on those decisions.

An example of this is when the Massachusetts DPU hosted four road shows throughout the Commonwealth. These road shows were an opportunity for the Department to engage directly with the public by giving a presentation of the Commission's work and allowing time to hear from the public.[77] Other interviewees queried whether each state needs a liaison to stay in contact with different, local communities and organizations and actively track other state agencies' proceedings. This liaison, particularly if embedded in an existing engagement office, could then communicate the information about important proceedings and describe how to participate to impacted communities.

Another interviewee discussed FERC's Office of Public Participation and noted that it is required by statute, which helps it maintain some consistency even as federal administrations change. In previous years, this office provided robust frontline support to communities, its outreach was quick and affirmative, and the office will walk new entrants or current intervenors through all the steps about how to get engaged in the FERC process. This office helps the public understand what is going on as proceedings are set, how to engage, what your rights are, and what is taking place throughout the proceeding. The Office of Public Participation provides a different service to the public than a customer advocate office does.

77 *See also Overly Impacted & Rarely Heard: Incorporating Community Voices into Massachusetts Energy Regulatory Processes* Massachusetts Office of the Attorney General and Stakeholder Working Group (May 2023)

An interviewee, similar to several others, pondered whether there should be "community compensation" programs in addition to intervenor compensation programs. A community compensation program could potentially assist with initial engagement or deeper engagement in matters that are not quasi-adjudicatory. Tools which could complement and grow the impact of intervenor compensation include:

- Workshops and collaborative processes, particularly for quasi-adjudicatory proceedings
- Public participation offices, such as the Federal Energy Regulatory Commission's Office of Public Participation[78]
- Plain-language communication of decisions and processes
- Meaningful, proactive community engagement strategies

Taken together, these approaches can help create a more accessible and participatory regulatory environment.

The Washington Utilities and Transportation Commission case study provides a concrete example of how a commission can develop priority funding agreements that aim to prioritize vulnerable populations.

Washington Case Study: Participatory Funding Agreements Aim to Prioritize Vulnerable Populations

2021: Enabling Legislation and Development of First Proposed Agreement

In 2021, Governor Jay Inslee signed Senate Bill 5295, an act that moved Washington public utilities toward multiyear rate plans and performance-based regulation.[79] It also created statutory authority for energy utilities to provide financial assistance to organizations participating in proceedings before the Washington Utilities and Transportation Commission (the Commission). The statute requires eligible organizations to represent "low-income, commercial, and industrial customers, vulnerable populations, or highly impacted communities."[80] Rather than requiring the Commission to design and implement a program on its own, the statute called for the development of written agreements between energy companies and consumer organizations. These agreements were to be based on initial guidance developed by the Commission and ultimately approved by it.

78 *About the Office of Public Participation*, Federal Energy Regulatory Commission (FERC), https://www.ferc.gov/OPP (last visited May 27, 2026).

79 Act of May 3, 2021, ch. 188, 2021 Wash. Sess. Laws (S.B. 5295).

80 *Id.*

Between August and November of 2021, the Commission solicited comments and held a workshop to gather input on what a strong participant funding program would look like. Many public comments drew on lessons from Oregon, which already had an agreement-based funding program.[81] The resulting policy statement provided interim guidance to energy companies and consumer advocates ahead of their agreement negotiations.[82] Key guidance included:

1. capping initial program spending at 0.1% of a utility's operating revenues, with a maximum limit of $300,000 annually per utility to mitigate impacts on ratepayers;
2. reserving at least one-third of total funding for organizations representing priority equity communities;
3. allowing interim funding payments for these prioritized organizations upon demonstration of financial need to avoid undue burden;
4. making funding available for both adjudicative and nonadjudicative proceedings; and
5. limiting eligibility to nonprofit organizations, excluding for-profit and government entities.

The first Interim Participatory Funding Agreement between Puget Sound Energy, Pacificorp, Northwest Natural, Cascade Natural Gas, Avista Corporation, and consumer representatives was submitted for approval on February 14, 2022.[83] The Commission approved the agreement for a one-year term with minor modifications on February 24, 2026, noting that it was largely aligned with their policy guidance.[84]

Benefits of the Agreement Model and Lessons Learned

The requirement that participatory funding agreements be periodically renegotiated has allowed stakeholders to incorporate lessons learned over time. Agreement terms have lengthened with each iteration – from one year in the initial agreement, to two years in the 2023 renewal, and three years in the 2025 version. Participants have generally indicated that the collaborative negotiation process is a central feature of the model, with consensus-building helping to establish shared expectations around funding use and eligibility. Clear guidance on eligible expenses has also contributed to greater predictability and fewer disputes over funding decisions.

81 See Or. Pub. Util. Comm'n, Order No. 25-409, Docket No. UM 2389 (Oct. 15, 2025), https://apps.puc.state.or.us/orders/2025ords/25-409.pdf (presenting an example agreement).

82 Wash. Utils. & Transp. Comm'n, Policy Statement on Participatory Funding for Regulatory Proceedings, Docket U-210595 (Nov. 19, 2021), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=65&year=2021&docketNumber=210595.

83 Wash. Utils. & Transp. Comm'n, Docket U-210595 Washington Interim Participatory Funding Agreement Order 01 (Feb. 14, 2022), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=72&year=2021&docketNumber=210595.

84 Wash. Utils. & Transp. Comm'n, Docket U-210595 *In re Petition of Puget Sound Energy, et al.*, Order 01 at 2 (Feb. 24, 2022), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=86&year=2021&docketNumber=210595.

Subsequent agreements have introduced targeted modifications to address implementation challenges. For example, the third agreement established a general outreach fund, allocating a portion of prioritized funds (10%) to support public education and engagement activities such as printed materials. This change responded in part to underutilization of funds reserved for priority communities, though uptake of the outreach fund itself has remained limited. Eligibility criteria for expenses have also evolved, with later agreements allowing greater flexibility upon a showing of sufficient cause. This has enabled funding for more technical tools, such as modeling software used in rate case analysis, which can support independent evaluation of utility proposals and strengthen the evidentiary record.

The Commission has also been expanding administrative and transparency requirements. Utilities are now required to submit periodic compliance filings detailing available funds and tracking budget requests, which help participants assess remaining funding and plan accordingly. The Commission has also directed the development of standardized templates for funding requests and required public reporting of fund balances. In addition, utilities must submit biannual reports summarizing fund activity and pending requests. Because funding is capped on a per-utility basis, the model has also encouraged coordination among participating organizations, particularly in instances where multiple proceedings compete for limited funds.

Puyallup Tribe Awarded Participatory Funding

Washington's participatory funding program facilitated the involvement of the Puyallup Tribe of Indians in regulatory proceedings concerning Puget Sound Energy's Tacoma LNG project. The facility was built adjacent to the Tribe's reservation at the Port of Tacoma, and the Tribe claimed that it presented significant environmental and safety burdens to their community. The Commission formally granted the Tribe case certification, recognizing that they would bring a vital new perspective to the hearings as a voice for historically underrepresented communities.

While the Utilities and Transportation Commission (UTC) does not have jurisdiction over siting decisions – which are delegated to the Puget Sound Clean Air Agency – the proceedings provided a forum for the Tribe to raise concerns related to cost allocation, compliance, and potential impacts. The Tribe had also previously engaged in related permitting processes, including appeals of shoreline development approvals.

During the proceedings, the Tribe presented testimony and evidence addressing environmental, public health, and safety considerations. The Tribe's expert witness testified that gaps in the evidentiary record limited the ability to fully evaluate the project's impacts and associated mitigation measures. The facility posed severe disparate impacts to the Tribal community, including the risk of catastrophic explosions and the release of toxic air pollutants and greenhouse gases into an already overburdened area.

Furthermore, the Tribe's expert argued that PSE's demand forecasts were flawed, the facility's storage tank was oversized for the public's actual needs, and the basic location was chosen to benefit a private marine shipping company rather than everyday ratepayers. They contended that allocating 43 percent of the plant's costs to regulated utility customers was far too high given the minimal benefits those customers would receive.

In its final decision, the Commission ultimately did not adopt most of the Puyallup Tribe's arguments. The Commission ruled that PSE's initial decision to construct the facility in 2016 was a prudent investment, directly rejecting the Tribe's claims that the facility was unnecessary, oversized, or a mere stopgap measure.[85] Furthermore, while the Commission acknowledged the Tribe's arguments about environmental justice, it ruled that new state laws requiring an "equity lens" for utility projects could not be applied retroactively to second-guess a facility authorized in 2016. However, the Commission did not give PSE a complete victory regarding cost allocation; echoing general concerns about ratepayers subsidizing unregulated activities, the Commission placed a strict condition on the settlement requiring $30 million in distribution pipeline costs to undergo further review to ensure the unregulated side of the LNG business pays its appropriate share.

Following the conclusion of the rate case, the Puyallup Tribe submitted a request for $45,000 to cover a portion of the hours their outside counsel spent researching, drafting briefs, and arguing before the Commission.[86] The Commission subsequently granted their intervenor funding because the Tribe's expenses were highly detailed, entirely reasonable, and directly attributable to their focused participation regarding the Tacoma LNG facility.[87] Furthermore, the Commission noted that the Tribe's concentrated advocacy benefited a broad cross-section of utility customers, justifying the financial reimbursement. The $45,000 payment was disbursed directly from PSE's Prioritized Organizations Sub-Fund, a specific financial pool established to dedicate one-third of authorized funding to organizations representing highly impacted communities and vulnerable populations.

Conclusion to themes and case studies

Many interviewees expressed a strong desire to ensure that all affected customers have a voice and a seat at the table. Respondents noted that there are many ways to accomplish this, and that ICPs are one tool that may help. Commissions can craft better solutions when everyone is at the table having a constructive solutions-oriented dialogue. This important task becomes much more difficult when voices are missing or groups enter into a process late. A well-designed ICP is one tool to open up participation opportunities and encourage broader representation at that table.

85 *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Dockets UE-220066, UG-220067 & UG-210918 (consolidated), Final Order 24/10 at 99, 132 (Wash. Utils. & Transp. Comm'n Dec. 22, 2022), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=3215&year=2022&docketNumber=220066.

86 *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Dockets UE-220066 & UG-220067 Puyallup Tribe of Indians' Request for Payment of Eligible Expenses, Wash. Utils. & Transp. Comm'n v. Puget Sound Energy, Complaint at 3 (Wash. Utils. & Transp. Comm'n Feb. 3, 2023), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=3316&year=2022&docketNumber=220066.

87 *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy,* Dockets UE-220066, UG-220067 & UG-210918 (consolidated), Order 27/13 at 8 (Wash. Utils. & Transp. Comm'n Mar. 2, 2023), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=3360&year=2022&docketNumbe r=220066.

SECTION 4: BEST PRACTICES FOR CREATING OR AMENDING INTERVENOR COMPENSATION PROGRAMS

1. Provide upfront and/or ongoing funding

- Offer advance payments or interim, "pay-as-incurred" funding to reduce financial risk and eliminate the need for significant upfront capital. Upfront award decisions can help shift financial risk away from intervenors.
- Ensure timely and predictable disbursement of awarded compensation dollars to sustain engagement throughout proceedings.
- Pair grants with accountability provisions, for example, mechanisms requiring intervenors to demonstrate they participated as they proposed.
- Provide clear, upfront expectations on eligibility, documentation, and how "substantial contribution" is evaluated.
- Apply standards consistently while allowing flexibility for less-experienced participants to build capacity.

2. Streamline and standardize administrative processes

- Simplify application, documentation, and claims procedures to reduce barriers to participation. Maintain clear expectations for intervenors.
- Provide upfront clarity on funding levels and eligibility to reduce uncertainty.
- Use simple, standardized forms for verification of fund use.
- Offer templates, guidance, and technical assistance to support participation.
- If the state has a centralized grant portal, consider using it to ensure consistency with other agencies.
- Encourage coordination among intervenors, for example joint filings, shared experts, cost-sharing) to minimize duplication while preserving diverse perspectives.

3. Ensure timely decisions and payments

- Establish and enforce clear timelines for compensation decisions and subsequent disbursements.
- Reduce financial strain and support sustained intervenor participation through timely payments, within 30-90 days of application, or provide interim or partial payments if these timelines are not met.
- Automate portions of the review process where feasible to improve efficiency.

4. Invest in outreach, education, and technical assistance for intervenors

- Expand participation through proactive outreach and education efforts.
- Develop plain-language materials and user-friendly guides explaining program requirements.
- Host tutorials and webinars to build intervenor familiarity and confidence with the process, especially when a program is launched or updated.
- Partner with trusted community-based organizations to reach underrepresented groups.
- Provide application assistance and general guidance to less-experienced participants.
- Recognize that meaningful participation opportunities extend beyond formal adjudicatory proceedings. Ensure intervenor compensation funding is flexible enough to support a range of participation activities.
- Support diverse engagement pathways, like research groups, workshops or community forums, related to the general business of the commission (substance).
- Capitalize on public participation, community engagement or diversity offices to help notify intervenors about important proceedings and to support intervenors as they navigate proceedings.

5. Maintain independence, transparency, and program integrity

- Establish safeguards to minimize undue political influence.
- Consider whether to appoint independent boards or third-party administrators to make decisions awarding intervenor compensation funds. This may provide more consistency than having multiple ALJs with slightly varying interpretations of the criteria and rules.
- Ensure transparency in criteria used to determine program eligibility, criteria used to determine funding awards, how decisions are made, and how funding will be allocated.
- Structure programs to avoid conflicts of interest – for example, by not relying exclusively on a single stakeholder group, such as consumer advocates, to represent the full range of public interests.
- Include guardrails to prevent gaming of ICPs.
- Balance flexibility with oversight to ensure efficient and meaningful participation.

6. Establish clear criteria and align compensation with market realities

- Define clear eligibility criteria, including who qualifies for funds and how to report their participation.
- Avoid setting overly stringent thresholds that result in rarely or never awarding compensation.
- Align compensation rates with market realities for legal, technical, and expert services
- Apply rules consistently across applicants and over time.
- Ensure predictability in billing practices, allowable activities, and compensation decisions.

7. Lead with proactive proceeding management

- Identify key issues at the outset and actively guide the process to reduce unnecessary complexity and help ensure that proceedings remain aligned with their intended objectives.
- Delegate ministerial and administrative tasks to staff.
- Use alternative pathways, like advice letters, where appropriate instead of formal litigation.
- Ensure accessibility to commission proceedings across regions, particularly in large and diverse states.
- Engage communities in ways that reflect local contexts and needs.

8. Track outcomes and continuously improve

- Evaluate participation diversity, including representation across income levels and geographies.
- Assess whether programs are reaching underrepresented communities.
- Measure the impact of intervenor contributions on case outcomes.
- Evaluate cost-effectiveness and overall program performance.
- Identify whether there are gaps where certain perspectives are consistently overlooked. Proactively address the gaps.
- Use findings to refine program design and improve equity and effectiveness over time.
- Adopt a data-driven, iterative approach to ensure programs remain responsive and inclusive.

CONCLUSION

Well-crafted and implemented ICPs are a targeted, cost-effective investment in stronger utility regulation and more durable public-interest outcomes. As commissions confront increasingly complex decisions about affordability, reliability, grid modernization and diverse energy generation deployment, building strong evidentiary records and identifying long-term risks, tradeoffs and alternatives necessitates meaningful participation by those affected by commission decisions. This report finds that well-designed programs can strengthen decision-making by adding to the administrative record: independent technical analysis, surfacing local and community perspectives, improving consumer protections, and creating more robust utility planning. Program structure is one of the determining factors of a program's success. Traditional reimbursement models and highly technical procedures can exclude under-resourced organizations, Tribes and community groups from participating effectively. States are increasingly responding with hybrid models, clearer eligibility standards and expanded outreach, education, and technical assistance to reduce barriers and improve transparency and consistency.

> **While intervenor compensation is not the only tool available to expand participation, it can play an essential role in helping commissions test assumptions, avoid costly mistakes and make more informed, resilient decisions.**

APPENDIX A - INTERVIEW QUESTIONS

1. Please describe your state/agency's intervenor compensation program.
    - Follow-up questions:
        - *How does it work?*
        - *Key components of the program?*
        - *How long has this program been in operation?*
2. How well do you think the intervenor compensation program works? What would you change in the program or in the existing compensation framework? What would you keep the same? Why?
3. Please share 2 or 3 experiences you have had to date with proceedings where intervenors were engaged due to Intervenor Compensation programs.
4. Depending on whether you are speaking to a regulator or an intervenor:
    - Regulator: In approximately how many cases has the intervenor compensation program been used? Do you think the intervenors enriched the docket to help you make a more well-informed decision? Why or why not?
    - Intervenor: Did the intervenor compensation program help you engage with the regulators in a more meaningful or impactful way? How many times have you used the intervenor compensation program? Did the timing of disbursement of the compensation impact your ability to engage? Why or why not?
5. Is there anything else you would like to tell us about intervenor compensation programs?

APPENDIX B - REGULATOR SURVEY QUESTIONS

What is the name of your agency or commission?*
Short answer

Your Name*
Short answer

Your Role*
Short answer

Email*
Short answer

Are you open to us contacting you for more context on your responses?*

- Yes
- Prefer no

Does your state currently have an intervenor compensation program?*

- Yes
- No
- Not currently, but previously operated a program
- Program under development

In your view, what are the primary goals of the intervenor compensation program? (Select up to three)*

- Improve decision-making quality
- Increase the number (breadth) of stakeholders participating
- Deepen the capacity of stakeholders that already participate
- Ensure representation of underrepresented groups
- Fund third-party consumer advocacy in lieu of a state consumer advocate office
- Other

How effective has your agency's Intervenor Compensation program been at achieving the above goals?*

- Very effective
- Somewhat effective
- Neutral
- Somewhat ineffective
- Very ineffective

Have any Federally Recognized Tribes participated in your Intervenor Compensation Program?*

- Yes
- No

Have any State or Locally Recognized Tribes participated in your Intervenor Compensation Program?*

- Yes
- No

Which entities are eligible for compensation? (Select all that apply)*

- Individual consumers
- Consumer advocacy organizations
- Environmental organizations
- Community-based organizations
- Local governments
- Tribal governments
- Small business representatives
- Labor organizations
- Academic or research institutions
- EJ or disadvantaged communities
- Other

Does the program require intervenors to demonstrate any of the following? (Select all that apply)*

- Financial hardship
- Representation of ratepayer interests
- Representation of underrepresented communities
- Unique expertise
- Lack of duplication with other parties
- Other

What compensation structure does your Intervenor Compensation program primarily use?*

- Advance funding (e.g., upfront grants)
- Pre-approved budget followed by reimbursement
- Reimbursement after participation (e.g., cost reimbursement)
- Hybrid model
- Other

Does the program impose caps on compensation, i.e., is there a maximum amount of compensation each intervenor can receive? If yes, please describe.*
Short answer

Approximate annual budget for the intervenor compensation program:*

- <$500,000
- $500,000–$1M
- $1M–$5M
- $5M–$10M
- >$10M

Approximately how many intervenors receive compensation annually?*
Short answer

Where do the program's funds come from?*
Short answer

Does your agency publicly report intervenor funding awards?*
- Yes
- No

Please share any additional thoughts about your responses in this section.
Long answer

To what extent do you agree with the following statements?

The Intervenor Compensation Program improves the quality of our agency's regulatory decisions.*
1-5 scale, strongly disagree to strongly agree

The Intervenor Compensation Program increases meaningful public participation.*
1-5 scale, strongly disagree to strongly agree

The benefits of the Intervenor Compensation Program outweigh its administrative costs.*
1-5 scale, strongly disagree to strongly agree

The Intervenor Compensation program improves representation of underserved communities.*
1-5 scale, strongly disagree to strongly agree

Please share any additional thoughts about your responses in this section.
Long answer

What outcomes have you observed from the Intervenor Compensation program?*
Long answer

Are there any amendments your agency could make to the program that you think would strengthen it?*
Long answer

Please provide links to any relevant statutes, rules, or program guidance.*
Long answer

Is there anything else about the Intervenor Compensation Program you would like to share?
Long answer

APPENDIX C - ADVOCATE SURVEY QUESTIONS

What is the name of your organization?
Short answer

Your Name
Short answer

Your Role
Short answer

Email
Short answer

Are you open to us contacting you for more information?

- Yes
- Prefer no

Which state agency are your responses regarding? (if you practice in multiple states, please fill out one form for each state)
Short answer

Have you successfully received funding from the intervenor compensation program?

- Yes
- No, but applied

To what extent do you agree with the following statements?

The process of applying for intervenor compensation is straightforward.
1-5 scale, strongly disagree to strongly agree

The review of intervenor funding requests is timely.
1-5 scale, strongly disagree to strongly agree

Intervenor compensation awards are paid in a timely manner.
1-5 scale, strongly disagree to strongly agree

Without intervenor compensation, our organization would not be participating in regulatory proceedings.
1-5 scale, strongly disagree to strongly agree

Intervenor compensation enhances our capacity to participate in regulatory proceedings.
1-5 scale, strongly disagree to strongly agree

The intervenor compensation program was well advertised and easy to access.
1-5 scale, strongly disagree to strongly agree

The intervenor compensation program allowed my organization, Tribe, or community to inform a proceeding that would have affected us.
1-5 scale, strongly disagree to strongly agree

Through the intervenor compensation program my organization, Tribe, or community had a positive experience working with Commission staff.
1-5 scale, strongly disagree to strongly agree

How did you learn about the intervenor compensation program?
Short answer

Please share any additional thoughts about your responses in this section.
Long answer

Are there any challenges of the intervenor compensation program that you would like to expand upon?
Long answer

For states that are creating or amending intervenor compensation programs, what are some best practices you'd recommend they think about from a participant point of view?
Long answer

Is there anything else about the Intervenor Compensation Program you would like to share?
Long answer