

Decision \_\_\_\_\_

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

Order Instituting Rulemaking to Consider Smart Grid Technologies Pursuant to Federal Legislation and on the Commission's own Motion to Actively Guide Policy in California's Development of a Smart Grid System.

Rulemaking 08-12-009  
 (Filed December 18, 2008)

**DECISION AWARDING COMPENSATION TO UTILITY CONSUMERS' ACTION NETWORK FOR SUBSTANTIAL CONTRIBUTION**  
**TO DECISION 11-07-056**

<b>Claimant:</b> Utility Consumers' Action Network	<b>For contribution to D.11-07-056</b>
<b>Claimed (\$):</b> \$50,329.58	<b>Awarded (\$):</b> \$50,329.58
<b>Assigned Commissioner:</b> Michael R. Peevey	<b>Assigned ALJ:</b> Timothy J. Sullivan

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	Adopts Privacy Rules.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	N/A	
2. Other Specified Date for NOI:		
3. Date NOI Filed:	March 8, 2010	Correct.
4. Was the notice of intent timely filed?		Yes.
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		

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5. Based on ALJ ruling issued in proceeding number:	R.08-12-009	Correct.
6. Date of ALJ ruling:	March 26, 2010	Correct.
7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status?		Yes.
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	N/A	N/A
10. Date of ALJ ruling:	N/A	N/A
11. Based on another CPUC determination (specify):	D.10-10-012	Pursuant to § 1804(b), a rebuttable presumption of significant financial hardship established in D.10-03-020 extends to UCAN’s participation in this proceeding.
12. Has the claimant demonstrated significant financial hardship?		Yes.
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision	D.11-07-056	Correct.
14. Date of Issuance of Final Decision:	July 28, 2011	Correct.
15. File date of compensation request:	August 22, 2011	Correct.
16. Was the request for compensation timely?		Yes.

## PART II: SUBSTANTIAL CONTRIBUTION

**A. Claimant’s description of its claimed contribution to the final decision.** (For each contribution, support with specific reference to final or record.)

	<b>SPECIFIC REFERNCES TO UCAN</b>	<b>CPUC</b>
<p><del>R-08-12-009 COM/MP1/sbf</del>            "UCAN supports the PD's adoption of FIP principles (at 18). FIP is a time-tested approach to policy development and has withstood much evaluation and assessment over the years. The Commission is wise not to re-invent this well-traveled wheel." (UCAN June 2nd Comments, at 3)</p>	<p>UCAN strongly supported the FIP principles in Opening Comments, stating:            For the purposes of protecting personal information, a time-tested approach to policy development is to utilize the Principles of Fair Information Practices. (D.11-07-056, "Decision" at 16)</p>	<p><del>DRAFT</del>            Yes.</p>
<p>March 5, 2010 comments, at 41, and also:            "UCAN noted in its opening comments that the potential for privacy to be compromised is minimized if the amount of personal and household information that is captured and retained by the utility and third-parties is limited. Data retention is an important subset of this issue" (November 8, 2010 Reply Comments, at 5)</p>	<p>UCAN supported a data minimization strategy with a few caveats. UCAN argued:            ...the potential for privacy to be compromised is minimized if the amount of personal and household information that is captured and retained by the utility and third-parties is limited. Data retention is an important subset of this issue. Personal information that is collected via Smart Grid systems should be retained only as long as needed for the purposes identified by the consumer. (Decision, at 69)</p>	<p>Yes.</p>
<p>"UCAN asserted that pricing data must incorporate the fully bundled rate per kWh rather than be limited to the commodity price. Two utilities -- SDG&amp;E and SCE -- appear to embrace this notion. PG&amp;E did not expressly address it and verbally indicated some potential hesitation about this requirement during the workshops. The ALJ indicated that he would require fully bundled rate data be provided to consumers. So UCAN is satisfied that this matter has been adequately addressed." (UCAN November 8, 2010 Reply Comments, at 2)</p>	<p>UCAN supported the provision of pricing data to customers, and argued that "[p]ricing data must incorporate the fully bundled rate per kWh rather than be limited to the commodity price." (Decision, at 102)</p> <p>Furthermore, the prices conveyed should, as UCAN recommends, state the "all in" price that customers pay for electricity. (Decision, at 103)</p>	<p>Yes.</p>
<p>"For the purposes of this phase of the case, UCAN submits that any Commission ruling make clear that enforcement of any of the rules adopted in this proceeding is essential." (UCAN November 8, 2010 Reply Comments, at 3)</p>	<p>UCAN also highlighted concerns over enforcement of privacy rules in its comments, and argued that there should be a utility role in vetting third party service providers. (Decision, at. 110)</p>	<p>Yes. Although not all of UCAN's recommendations regarding requirements for third party service providers were adopted, UCAN's participation provided information and argument that allowed the Commission to consider the full range of positions, thereby assisting the</p>

(Rev. 1)**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was DRA a party to the proceeding?</b>	<b>Y</b>	Yes.
<b>b. Were there other parties to the proceeding?</b>	<b>Y</b>	Yes.
<b>c. If so, provide name of other parties: multiple</b>		Yes.
<b>d. Claimants description of how it coordinated with DRA and other parties to avoid duplication or how Claimant's participation supplemented, complemented or contributed to that of another party:</b>  The intervenors cooperated by sharing drafting of a majority of the responses and submissions in the case. UCAN was active in development of legal briefs in response to questions posed by the Assigned Commissioners.		Yes. UCAN coordinated with other parties to avoid duplication.

**C. Additional Comments on Part II (use line reference # or letter as appropriate):**

<b>#</b>	<b>Claimant</b>	<b>CPUC</b>	<b>Comment</b>
	X		<p>The Commission has also found that an intervenor can “make a valuable contribution by performing a reasonableness review to test the prudence of [a utility’s] decisions, procedures and actions.” (D.06-03-001, slip op. at 12.) This compensation request closely mirrors the UCAN compensation request made in A.06-06-010 and A.02-12-027. In the compensation decision (D.05-08-014) related A.02-12-027, the Commission found: “UCAN made numerous significant recommendations that were all considered, in the two proposed decisions of ALJ Long and of the original assigned Commissioner, Carl Wood.”</p> <p>Similarly, in D.06-03-001, the Commission wrote: D.05-08-037 did not adopt UCAN’s ratemaking recommendations. However, the proposed decision of ALJ Long did adopt most of UCAN’s Recommendations... As noted earlier, a participant may sometimes make a substantial contribution even when the participant’s positions are not adopted in the final determination of the issues considered in the proceeding... UCAN’s participation was critical to that examination, and we find that to that extent UCAN made a substantial contribution to D.05-08-037. (D.06-03-001, at 3-6)</p> <p>As is shown above, not only did the final decision adopt UCAN’s arguments but in some cases, but the ALJ’s proposed decision adopted UCAN’s recommendations as well. For these reasons, UCAN seek full compensation for all of its work in this application.</p>
	X		Commission rules require that applications submit hourly sheets itemized by issue. However, in this case, there were only three issues; privacy, pricing and jurisdictional (legal). So UCAN has presented billing sheets broken down by

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			those three topics for Mr. Shames. Mr. Croyle's expert work was limited to Data Access and Pricing.
	X		Much of Mr. Croyle's hours were compensated in Phase I of this proceeding. However, because the Phase I decision did not address data access and pricing issues, UCAN refrained from seeking compensation for the work that Mr. Croyle had done in that Phase. However, given this Phase II decision adopting much of UCAN's recommendations offered in Phase I, UCAN deems it appropriate to seek compensation for the 13.5 hours not sought in Phase I.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

**A. General Claim of Reasonableness (§§ 1801 & 1806):**

<b>Claimant's explanation of how its participation bore a reasonable relationship with benefits realized through its participation. (include references to record, where appropriate)</b>	<b>CPUC Verified</b>
<p>While a pure balance of monetary savings for consumers against costs incurred cannot be established in this proceeding. UCAN's costs in this proceeding were reasonable in light of the significant contribution UCAN made in helping the Commission and the ALJ reach decisions.</p> <p>For these reasons, we request that the Commission find that UCAN is a customer as defined in Public Utilities Code Section 1802(b) and has made the requisite showing of significant financial hardship, and is determined to be eligible to claim intervenor compensation in this proceeding.</p>	<p>The benefits to consumers in this proceeding were privacy protections. Therefore, purely monetary savings to the consumers resulting from UCAN's participation in this proceeding are not readily ascertainable. However, UCAN's contribution had important social and economic benefits for consumers. We find that UCAN's efforts were productive.</p>

**B. Specific Claim:**

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Michael Shames	2010-2011	125.20 Attachment 1	330	D.10-10-012	\$41,316	2010-11	125.20	\$330	\$41,316
<b>Subtotal:</b>					<b>\$41,316</b>	<b>Subtotal:</b> \$41,316			
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
David Croyle	2010	13.5	\$225	D.10-03-020	\$3,031.50	2010	13.5	\$225	\$3,031.50

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		Attachment 2									
					<b>Subtotal:</b>	<b>\$3,031.50</b>				<b>Subtotal:</b>	<b>\$3,031.50</b>

**OTHER FEES**

Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.):

Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Travel-Shames	2010	26.3	165	D.10-05-013	<b>\$4,339.50</b>	2010	26.3	\$165	<b>\$4,339.50</b>
					<b>Subtotal:</b>	Travel hrs identified in Attachment 1		<b>Subtotal:</b>	

**INTERVENOR COMPENSATION CLAIM PREPARATION \*\***

Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Michael Shames	2011	5.0 (comp request)	\$165	(1/2 of 2011 claimed rate)	<b>\$825.00</b>	2011	5.0	\$165	\$825.00
					<b>Subtotal:</b>	<b>\$825.00</b>		<b>Subtotal:</b>	

**COSTS**

#	Item	Detail	Amount	Amount
1	Travel Costs	See Attachment 4 (itemization and (travel receipts)	\$817.58	\$817.58
			<b>Subtotal:</b>	<b>\$817.58</b>
			<b>TOTAL REQUEST \$:</b>	<b>\$50,329.58</b>
			<b>TOTAL AWARD \$:</b>	

When entering items, type over bracketed text; add additional rows as necessary.

\*If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale.

\*\*Reasonable claim preparation time typically compensated at 1/2 of preparer's normal hourly rate.

**C. Attachments or Comments Documenting Specific Claim (Claimant completes; attachments not attached to final Decision):**

Attachment or Comment #	Description/Comment
	<b>Certificate of Service</b>
1	<b>Michael Shames' hours</b>
2	<b>David Croyle's hours</b>
4	<b>Travel Costs &amp; Receipts</b>

**D. Additional Commission Comments on Part III:**

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#	Reason
	<p>Croyle’s work on data access and pricing issues was performed as part of Phase I of the proceeding. However, UCAN’s recommendations regarding data access and pricing issues were not adopted until Phase II. For this reason, not all of Croyle’s hours were compensated during Phase I and UCAN now asks that a portion of Croyle’s time be compensated in Phase II. We agree that the ideas developed in Phase I contributed to the Phase II decision and that these hours have not previously been compensated. Therefore we have included these hours for compensation. It should be noted that UCAN’s Request for Compensation for Phase II inaccurately stated that UCAN had not previously requested compensation for the hours. In fact, UCAN did request compensation for these hours, but the compensation request was reduced on the basis that the work was excessive in proportion to the UCAN’s Phase I contribution. This does not change the fact that UCAN has not yet been compensated for these hours.</p>

**PART IV: OPPOSITIONS AND COMMENTS**

**Within 30 days after service of this claim, Commission Staff or any other party may file a response to the claim (see § 1804(c))**

(CPUC completes the remainder of this form)

<b>A. Opposition: Did any party oppose the claim?</b>	No
<b>B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?</b>	Yes

**FINDINGS OF FACT**

1. Utility Consumers’ Action Network has made a substantial contribution to Decision (D.) 11-07-056.
2. The claimed fees and costs, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services. The total of reasonable contribution is \$50,329.58.

**CONCLUSION OF LAW**

1. The claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

**ORDER**

1. Utility Consumers’ Action Network is awarded \$50,329.58. Within 30 days of the effective date of this decision, Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall pay Utility Consumers’ Action Network their respective shares of the award. We direct Southern

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California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company to allocate the payment responsibility among themselves, based on their California-jurisdictional electric revenues for the second half of the 2010 calendar year, to reflect the period in which the proceeding leading to D.10-06-047 was primarily litigated. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning November 5, 2011, the 75<sup>th</sup> day after the filing of Utility Consumers' Action Network's request, and continuing until full payment is made.

2. The comment period for today's decision is waived.
3. This decision is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

**APPENDIX**

**Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D. <del>11-07-056</del> <a href="#">1107056</a>	
<b>Proceeding(s):</b>	R. <del>08-12-009</del> <a href="#">0812009</a>	
<b>Author:</b>	ALJ Timothy <u>J.</u> Sullivan	
<b>Payer(s):</b>	Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
Utility Consumers' Action Network	8/22/11	\$50,329.58	\$50,329.58	No	N/A

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Michael	Shames	Advocate	Utility Consumers' Action Network	\$330	2010/2011	\$330
David	Croyle	Expert	Utility Consumers' Action Network	\$255	2010	\$255

**(END OF APPENDIX)**

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