



**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

**FILED**  
3-06-14  
11:50 AM

March 6, 2014

**Agenda ID #12834**  
**Ratesetting**

TO PARTIES OF RECORD IN APPLICATION 11-05-023

This is the proposed decision of Administrative Law Judge Yacknin. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's April 10, 2014 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ TIMOTHY J. SULLIVAN

Timothy J. Sullivan,  
Chief Administrative Law Judge (Acting)

TJS:avs

Attachment

Decision **PROPOSED DECISION OF ALJ YACKNIN** (Mailed March 6, 2014)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of San Diego Gas & Electric Company (U902E) for Authority to Enter into Purchase Power Tolling Agreements with Escondido Energy Center, Pio Pico Energy Center and Quail Brush Power.

Application 11-05-023  
(Filed May 19, 2011)

**DECISION DENYING COMPENSATION TO THE UTILITY CONSUMERS' ACTION NETWORK FOR FAILURE TO MAKE A SUBSTANTIAL CONTRIBUTION TO DECISION 13-03-029**

<b>Claimant:</b> Utility Consumers' Action Network (UCAN)	<b>For contribution to D.13-03-029</b>
<b>Claimed (\$):</b> 38,015.85	<b>Awarded (\$):</b> \$0.00 (reduced 100%)
<b>Assigned Commissioner:</b> Michael R. Peevey	<b>Assigned ALJ:</b> Hallie Yacknin

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	Denies San Diego Gas & Electric Company (SDG&E) authority to enter into purchase power tolling agreements with Pio Pico Energy Center and Quail Brush Power at this time and grants SDG&E authority to enter into a purchase power tolling agreement with Escondido Energy Center.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	Claimant	CPUC Verified
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference (PHC):	July 14, 2011	
2. Other Specified Date for Notice of Intent (NOI):	N/A	
3. Date NOI Filed:	August 3, 2011	
4. Was the NOI timely filed?		yes
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on Administrative Law Judge (ALJ) ruling issued in proceeding number:	Comment 1	
6. Date of ALJ ruling:	Comment 1	
7. Based on another CPUC determination (specify):	Comment 1	
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:	Decision (D.) 10-05-013	
10. Date of ALJ ruling:	May 10, 2010	
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.13-03-029	
14. Date of Issuance of Final Order or Decision:	March 21, 2013	
15. File date of compensation request:	May 28, 2013	
16. Was the request for compensation timely?		yes

**C. Additional Comments on Part I:**

#	Claimant	CPUC	Comment
1	X		Utility Consumers' Action Network (UCAN) filed its Notice of Intent with its showing of customer status on August 3, 2011.  UCAN's NOI states the following with regard to its customer status:

		<p>The CPUC has repeatedly found that UCAN's bylaws "represent the interests of residential ratepayers." (e.g. D.10-05-013.) UCAN's articles of incorporation and bylaws have not been modified since those earlier findings. D.98-04-059 directs groups such as UCAN to indicate the percentage of their members that are residential ratepayers. UCAN has approximately 31,000 dues paying members, of whom approximately 90% are residential ratepayers. Although we've been able to establish anecdotally that many of those residential members are also owners of small businesses.</p>
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**PART II: SUBSTANTIAL CONTRIBUTION**

**A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).**

<b>Contribution</b>	<b>Specific References to Claimant’s Presentations and to Decision</b>	<b>Showing Accepted by CPUC</b>
<p>1. The Commission recognized the need to take into account reasonable forecasts of energy efficiency in evaluating SDG&amp;E’s resource needs.</p>	<p>UCAN Testimony: “For nearly a decade, the State of California has developed and supported policies prioritizing energy efficiency and demand response over new generation resources. The Energy Action Plan, adopted by the California Public Utilities Commission (the Commission) and the California Energy Commission (CEC) in 2003 and updated in 2005 and 2008, defines the State’s preferred Loading Order for additional energy resources. The Loading Order calls for energy efficiency and demand-side resources to be prioritized, followed by additional renewable generation. Only after these options have been exhausted does state policy turn to conventional electricity generation... Failure to properly consider all resources may result in over-procurement of peaking resources. This would be</p>	<p>UCAN’s presentation did not contribute to D.13-02-029’s determination of a reasonable forecast of energy efficiency. As UCAN states below in Part II.B.d, “UCAN’s testimony focused on SDG&amp;E’s energy efficiency assumptions, recommending that SDG&amp;E use the assumptions adopted in the Commission’s Standardized Planning Assumptions.” D.13-02-029 (at 11-12) rejected this recommendation, and instead adopted SDG&amp;E’s energy efficiency assumptions.</p> <p>UCAN did not participate with respect to challenging the results of the California Independent System</p>

	<p>inconsistent with the state’s loading order, and it would also reduce the value of demand response, undermining the state’s policy goals.” (UCAN Testimony, at 1.)</p> <p>D.13-02-029:</p> <p>“For the Commission’s purposes, it is appropriate to take into account reasonable forecasts of uncommitted energy efficiency and demand response, as well as incremental demand-side CHP, in determining whether to authorize the procurement of additional generation resources. Such action is consistent with the California Energy Action Plan, which established the “loading order” for how new resources are prioritized. These resources can reasonably be expected to occur as a result of State and Commission policies, and to reduce LCR needs in the San Diego area.” (D.13-03-029, at 9-10.)</p> <p>“it is reasonable to subtract conservative forecasts of uncommitted energy efficiency and demand response from the OTC study results for purposes of determining the LCR” (D.13-03-029, at 10).</p> <p>Finding of Fact 9. “The California Energy Action Plan established the ‘loading order’ for how new resources are prioritized” (D.13-03-029, at 23).</p>	<p>Operator’s Once-Through Cooling (OTC) Study for purposes of determining SDG&amp;E’s resource needs. In any event, D.13-03-029 evaluated SDG&amp;E’s resource needs based on the results of the OTC study, adjusted by SDG&amp;E’s assumptions of uncommitted energy efficiency, demand response, and incremental combined heat and powerA, which deviated from the “Standardized Planning Assumptions.”</p>
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<p>2. The Commission disapproved the PPTA’s for the Quail Brush Energy Project and the Pio Pico Energy Center because this new capacity is not needed. Through testimony UCAN provided evidence demonstrating the lack of need for this additional generation.</p>	<p>Finding of Fact 10. “The OTC study results, adjusted for uncommitted energy efficiency and demand response and for incremental CHP, show an LCR need in 2021 ranging from -87 MW (surplus) to 343 MW” (D.13-03-029, at 23).</p> <p>Finding of Fact 11. “To the extent that there is a forecasted LCR need, it arises in 2018” (D.13-03-029, at 23).</p> <p>Given the state’s energy policy and significant amount of demand and energy efficiency resources forecasted by SDG&amp;E and approved by this Commission, it is unlikely that these gas-fired generators are required to meet SDG&amp;E’s forecasted need. (UCAN testimony at 1.)</p> <p>Under all record forecasts, whether as originally presented by the parties or as adjusted in this decision, there is no need for the new capacity represented by the PPTA’s until early 2018, and then only under the assumption that the Encina OTC units retire. (D.13-03-029, at 25.)</p> <p>Conclusion of Law 1. “It is not reasonable to authorize the Quail Brush Energy Project and the Pio Pico Energy Center PPTAs to purchase local capacity beginning</p>	
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	<p>in 2014, when there is no need to for incremental local capacity until 2018, four years into the 20-year terms of the PPTAs” (D.13-03-029, at 25).</p> <p>Conclusion of Law 4. “In the absence of a power flow modeling study that models these resources, it is reasonable to account for conservative but reasonable forecasts of uncommitted energy efficiency and demand response and for incremental CHP by subtracting them from the results of the OTC study” (D.13-03-029, at 25).</p>	
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	Claimant	CPUC Verified
<b>a. Was the Office of Ratepayer Advocates (ORA)<sup>1</sup> a party to the proceeding?</b>	Yes	Verified
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	Yes	Verified
<b>c. If so, provide name of other parties:</b> Natural Resources Defense Council (NRDC) and California Environmental Justice Alliance (CEJA)		Verified
<p><b>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b></p> <p>Of these parties, only DRA and UCAN provided opening testimony, which was filed in September 2011, and admitted in June 2012. UCAN’s testimony focused on SDG&amp;E’s energy efficiency assumptions, recommending that SDG&amp;E use the assumptions adopted in the Commission’s Standardized Planning Assumptions. DRA’s testimony addressed the energy efficiency assumptions at a high level only, in less than one page of testimony. UCAN’s testimony, in contrast, provided a critique of each of SDG&amp;E’s</p>		

<sup>1</sup> The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

<p>adjustments to the Commission’s Standardized Planning Assumptions and quantitatively demonstrated how each adjustment contributed to an apparent resource need that is greater than the expected actual need.</p> <p>In supplemental testimony filed in May 2012, DRA, CEJA, and NRDC each submitted testimony stating that the CAISO should have assumed the same amount of energy efficiency as adopted by the Commission in the Standardized Planning Assumptions. This is consistent with UCAN’s opening testimony position. UCAN did not file supplemental testimony.</p>	
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**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<p><b>a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)</b></p> <p>UCAN did not file comments or reply comments on the proposed decision or the alternate proposed decision. At the time these comments were due, UCAN was experiencing resource issues, governance difficulties, and loss of key personnel. UCAN also did not want to duplicate the efforts of other intervenors.</p> <p>UCAN spent less than 60 hours of attorney time, and MRW spent fewer than 100 hours on this proceeding. This relatively small amount of effort was built upon by other parties (<i>i.e.</i>, CEJA, NRDC, and DRA), who adopted UCAN’s position and pursued the issue of energy efficiency assumptions in subsequent rounds of supplemental testimony. The Commission recognized the importance of this issue in the final decision and adjusted the CA ISO’s OTC study by adding in incremental energy efficiency, thus reducing SDG&amp;E’s resource need and finding cause to reject the agreements with Quail Brush Power and Pio Pico Energy Center. (See references to D.13-03-029 in Part II A.)</p>	<p><b>CPUC Verified</b></p> <p>Because we find no substantial contribution, we do not reach the issue of whether the participation bears a reasonable relationship with benefits realized through participation.</p>
<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>See above.</p>	<p>Because we find no substantial contribution, we do not reach the issue of whether the hours claimed are reasonable.</p>
<p><b>c. Allocation of Hours by Issue</b></p> <p>UCAN’s testimony addressed only one issue.</p>	

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Michael Shames	2011	12.20	\$535	Rate requested in attachment 1	\$6,527			
Michael Shames	2012	6.60	\$535	Rate requested in attachment 1	\$3,531.00			
David Peffer	2012	41.25	\$200	Rate requested in attachment 2	\$8,250			
Laura Norin (MRW)	2011 (through Nov)	25.75	\$220	Rate requested in attachment 3	\$5,665			
Laura Norin (MRW)	2011 (Dec)	0.25	\$230	Rate requested in attachment 3	\$57.5			
Laura Norin (MRW)	2012	8.75	\$230	Rate requested in attachment 3	\$2,012.5			
Steven McClary (MRW)	2011	10.0	\$300	Rate requested in attachment 3	\$3,000			
Briana Kobor (MRW)	2011	50.75	\$135	Rate requested in attachment 3	\$6,851.25			
Briana Kobor (MRW)	2012	1.0	\$135	Rate requested in attachment 3	\$135			
<b>Subtotal:</b>					\$36,029.25	<b>Subtotal:</b>		
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Peffer - Travel	2012	8	\$100	½ of \$200 hourly rate	800.00			
[Person 2]								
<b>Subtotal:</b>						<b>Subtotal:</b>		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Laura Norin	2013	4.75	\$122.5	Half of	\$582			

				standard rate			
Steven McClary	2013	1	\$150	Half of standard rate	\$150		
<b>Subtotal:</b>					\$732	<b>Subtotal:</b>	
<b>COSTS</b>							
<b>#</b>	<b>Item</b>	<b>Detail</b>			<b>Amount</b>	<b>Amount</b>	
	Travel	Airport parking, Airfare, taxi, BART to airport.			454.60		
<b>Subtotal:</b>					<b>454.60</b>	<b>Subtotal:</b>	
<b>TOTAL REQUEST \$:</b>					<b>38,015.85</b>	<b>TOTAL AWARD \$:</b>	

\*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

\*\*Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate

<b>Attorney</b>	<b>Date Admitted to CA BAR<sup>2</sup></b>	<b>Member Number</b>	<b>Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation</b>
Michael Shames	June 3, 1983	108582	No; please note from January 1, 1986 until January 15, 1987 and January 1, 1988 until October 5, 2011, Michael Shames was an inactive member of the California State Bar.
David Pepper	June 2, 2010	270479	No

**C. CPUC Disallowances & Adjustments:**

<b>#</b>	<b>Reason</b>
	Because we find no substantial contribution, we do not reach the issue of whether the claimed attorney, expert and advocate fees are reasonable.

<sup>2</sup> This information may be obtained at: <http://www.calbar.ca.gov/>.

**PART IV: OPPOSITIONS AND COMMENTS**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
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<b>B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?</b>	No
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If not:

<b>Party</b>	<b>Comment</b>	<b>CPUC Disposition</b>

**FINDINGS OF FACT**

1. Claimant has not made a substantial contribution to Decision 13-03-023.

**CONCLUSION OF LAW**

1. The Claim should be denied.

**ORDER**

1. The Utility Consumer Action Network’s request for an award of compensation for substantial contribution to Decision 13-03-039 is denied.
2. The comment period for today’s decision is not waived.

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>	D1303029		
<b>Proceeding(s):</b>	A1105023		
<b>Author:</b>	ALJ Yacknin		
<b>Payer(s):</b>	N/A		

**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	5/28/2013	\$38,015.85	\$0.00	No	No substantial contribution

**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>
n/a	n/a	n/a	n/a	n/a	n/a	n/a

**(END OF APPENDIX)**