

ATTACHMENT**Digest of Differences Between ALJ Yacknin' s Proposed decision and the Alternate Proposed Decision of Commissioner Peevey Granting Intervenor Compensation Request of the Utility Consumers' Action Network for Substantial Contribution to D.13-03-029**

Pursuant to Public Utilities Code Section 311(e), this is the digest of the substantive differences between the proposed decision of Administrative Law Judge (ALJ) Yacknin (mailed on March 6, 2014) and the alternate proposed decision of President Michael Peevey, (mailed on May 22, 2014).

The ALJ's proposed decision concludes the Utility Consumers' Action Network did not substantially contribute to Decision (D.) 13-03-029 and denies all of the requested compensation.

The alternate proposed decision differs from the proposed decision, finding that the Utility Consumers' Action Network substantially contributed to D.13-03-029 on certain issues and awards the intervenor \$17,001.88 in compensation, with some disallowances.

Decision **ALTERNATE PROPOSED DECISION OF COMMISSIONER PEEVEY**
 (Mailed on 5/22/14)

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)

ALTERNATE DECISION GRANTING COMPENSATION TO THE UTILITY CONSUMERS' ACTION NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-03-029

Claimant: Utility Consumers' Action Network (UCAN)	For contribution to Decision (D.)13-03-029
Claimed (\$): 38,015.85	Awarded (\$): \$17,001.88 (reduced 55.28%)
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Hallie Yacknin

PART I: PROCEDURAL ISSUES

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

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	X	Verified	Utility Consumers' Action Network (UCAN) filed its Notice of Intent with its showing of customer status on August 3, 2011.

			<p>UCAN’s NOI states the following with regard to its customer status:</p> <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>
12		X	<p>Ruling on Significant Financial Hardship for Utility Consumers’ Action Network</p> <p>Utility Consumers’ Action Network’s last ruling on significant financial hardship was issued on May 10, 2010. That ruling expired on May 10, 2011, nine days before Application (A.) 11-05-023 was filed. UCAN set forth a new demonstration of significant financial hardship in the Declaration of Donald Kelly in UCAN’s Amendment to its request for intervenor compensation, filed on April 30, 2014 in A.11-05-023.</p> <p>Public Utilities Code section 1802(g) defines “significant financial hardship” as follows: “significant financial hardship” means that a customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, 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.</p> <p>UCAN is a Category 3 customer as defined in D.98-04-059 and as such must satisfy the “comparison test” for significant financial hardship by demonstrating that the economic interest of its members and constituencies in the instant proceeding is small relative to the cost of effective participation in the proceeding.</p>

			<p>In the Declaration of Donald Kelly supporting UCAN’s finding of significant financial hardship, UCAN shows that it is a nonprofit, 501(c)(3) consumer advocacy organization dedicated to representing the interests of San Diego Area utility consumers. UCAN’s member database has several thousand members, the majority of whom are SDG&E residential and small business ratepayers. UCAN satisfies the “comparison test” because UCAN’s claim for its participation in A.11-05-023, \$38,015.85, is small in comparison to the costs to its members, and to ratepayers, generally, to effectively participate individually in the proceeding involving the application of SDG&E to enter into the Purchase Power Tolling Agreements at issue in this proceeding.</p> <p>In satisfying the comparison test, UCAN has successfully demonstrated significant financial hardship as appropriate for a Category 3 customer. We find that it would be a significant financial hardship for UCAN to participate in this proceeding without an award of fees or costs.</p>
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PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).

Intervenor’s Claimed Contribution	Specific References to Claimant’s Presentations and to Decision	CPUC’s Comment
<p>1. The Commission recognized the need to take into account reasonable forecasts of energy efficiency in evaluating SDG&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</p>	<p>1. UCAN’s presentation contributed to D.13-02-029’s determination of a reasonable forecast of energy efficiency. As UCAN states in Part II.B.d. of its compensation request, “UCAN’s testimony focused on SDG&E’s energy efficiency assumptions, recommending that SDG&E use the assumptions adopted in the Commission’s Standardized Planning Assumptions.” Although D.13-02-029 (at 11-12) rejected this recommendation, UCAN helped form the discourse of the decision by providing a balanced and</p>

	<p>preferred Loading Order for additional energy resources.1 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 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,</p>	<p>reasoned viewpoint.</p> <p>D.13-03-029 evaluated SDG&E’s resource needs based on the results of the OTC study, adjusted by SDG&E’s assumptions of uncommitted energy efficiency, demand response, and incremental combined heat and power, which deviated from the “Standardized Planning Assumptions.” UCAN provided substantial contributions that allowed the Commission to consider the ratepayer and environmental impacts of SDG&E’s assumptions on top of the OTC study.</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>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>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>2. Scoped within the proceeding was the issue of whether the applicant, SDG&E, established a need for each proposed project and PPTA. UCAN provided substantial analysis to help the Commission make a more informed decision about whether the applicant demonstrated sufficient need.</p>
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	<p>Given the state’s energy policy and significant amount of demand and energy efficiency resources forecasted by SDG&E and approved by this Commission, it is unlikely that these gas-fired generators are required to meet SDG&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 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</p>	
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	<p>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’s Assertion	CPUC Discussion
<p>a. Was the Office of Ratepayer Advocates (ORA)¹a party to the proceeding?</p>	<p>Yes</p>	<p>Verified</p>
<p>b. Were there other parties to the proceeding with positions similar to Claimant’s?</p>	<p>Yes</p>	<p>Verified</p>
<p>c. If so, provide name of other parties: Natural Resources Defense Council (NRDC) and California Environmental Justice Alliance (CEJA)</p>		<p>Verified</p>
<p>d. Intervenor’s Claim of Non-Duplication:</p> <p>UCAN claims that ORA’s testimony addressed the energy efficiency assumptions at a high level only, in less than one page of testimony, while UCAN’s testimony, in contrast, provided a critique of each of SDG&E’s 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>UCAN notes that 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, consistent with UCAN’s opening testimony position, and that UCAN did not file supplemental testimony.</p>		<p>UCAN did duplicate some efforts of ORA and NRDC. The compensation has been reduced commensurate with the efforts that were duplicated, providing compensation for the efforts that were original. This is specifically in regards to</p>

¹ 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.

	contributions surrounding the use of appropriate energy efficiency assumptions.
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>a. 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)</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.e., 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&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 style="text-align: center;">CPUC Verified</p> <p>Correct, in part. UCAN requested compensation for 156.55 hours of work. This decision provides compensation for 85.75 hours of work. Given the highly technical nature of the contributions to the record and the actual substance of the contributions, 85.75 hours of work is reasonable.</p>
<p>b. Reasonableness of Hours Claimed.</p> <p>See above</p>	<p>See Commission comment above.</p>
<p>c. Allocation of Hours by Issue</p> <p>UCAN’s testimony addressed only one issue.</p>	<p>Verified</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	0	No rate adopted here	\$0
Michael Shames	2012	6.60	\$535	Rate requested in attachment 1	\$3,531.00	0	No rate adopted here	\$0
David Pepper	2012	41.25	\$200	Rate requested in attachment 2	\$8,250	0	No rate adopted here	\$0
Laura Norin (MRW)	2011 (through Nov)	25.75	\$220	Rate requested in attachment 3	\$5,665	25.75	\$220	\$5,665
Laura Norin (MRW)	2011 (Dec)	0.25	\$230	Rate requested in attachment 3	\$57.5	.25	\$230	\$57.50
Laura Norin (MRW)	2012	8.75	\$230	Rate requested in attachment 3	\$2,012.5	8.75	\$230	\$2,012.50
Steven McClary (MRW)	2011	10.0	\$300	Rate requested in attachment 3	\$3,000	10	\$300	\$3,000
Briana Kobor (MRW)	2011	50.75	\$135	Rate requested in attachment 3	\$6,851.25	40	\$135	\$5,400
Briana Kobor (MRW)	2012	1.0	\$135	Rate requested in attachment 3	\$135	1	\$135	\$135
Subtotal:					\$36,029.25	Subtotal:		\$16,270.00
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	0	No rate adopted here	0
Subtotal:						Subtotal:		\$0

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Laura Norin	2013	4.75	\$122.5	Half of standard rate	582	4.75	\$122.5	581.88
Steven McClary	2013	1	\$150	Half of standard rate	150	1	\$150	150
Subtotal:					732	Subtotal:		\$731.88
COSTS								
#	Item	Detail			Amount	Amount		
	Travel	Airport parking, Airfare, taxi, BART to airport.			\$454.60			\$0
Subtotal:					\$454.60	Subtotal:		\$0
TOTAL REQUEST \$:					38,015.85	TOTAL AWARD \$:		\$17,001.88

*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

Attorney	Date Admitted to CA BAR ²	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
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 Peffer	June 2, 2010	270479	No

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

C. CPUC Disallowances & Adjustments:

#	Reason
Disallowance of fees for Michael Shames	UCAN did not provide reasonable justification to provide compensation for the contributions of Michael Shames. Any efforts that might have been provided were duplicative of ORA and NRDC without concurrently complementing, supplementing or contributing to a material degree.
Disallowance of Fees and Travel Hours for David Peffer	UCAN did not provide reasonable justification to provide compensation for the contributions of Peffer, nor did his performance in the proceeding give rise to a justification for his hours. Any efforts that might have been provided were duplicative of ORA and NRDC without concurrently complementing, supplementing or contributing to a material degree. Additionally, given there is no reasonable justification for compensation of Peffer, all travel hours by Peffer and related costs are not reasonable and are disallowed.
2011-2013 Hourly Rate for Laura Norin	<p>UCAN requests hourly rates of \$220 for Laura Norin’s 2011 work (through November 2011), \$230 for 2011 work (through December 2011), \$230 for 2012, and \$245 for 2013. At the time of the proceeding, Norin was a senior project manager at MRW & Associates where she has consulted on California energy issues since 2004. Norin earned a Bachelor of Science in Physics from University of California, Berkeley and a Masters in Applied Physics from University of California, Berkeley. Norin specializes in quantitative modeling related to energy economics, regulation and policy. Norin has testified before the Commission in proceedings related to utility revenue requirements, rate design and energy procurement.</p> <p>An hourly rate for Norin has not been requested from the Commission in the past. We base Norin’s hourly rate on the 2011 rate described in Resolution ALJ- 267 for expert intervenors in the 7-12 years of experience range. We adopt the requested hourly rates of \$220 for Norin’s 2011 work (through November 2011), \$230 for 2011 work (through December 2011), an hourly rate of \$230 for 2012, and an hourly rate of \$245 for 2013.</p>
2011 and 2013 Hourly Rate for Steven McClary	<p>UCAN requests an hourly rate of \$300 for Steven McClary’s 2011 and 2013 work in this proceeding. At the time of the proceeding, McClary was principal of MRW & Associates where he has consulted on California energy issues since 1990. McClary earned a Bachelor of Arts in Physics from the University of California, Santa Cruz and has pursued graduate studies in Energy Resource Planning from the University of California, Davis. McClary is a specialist and has consulted on economic and regulatory policy analysis, gas and electric supply planning, contract development and transmission, testifying as an expert witness for more than 25 years.</p> <p>An hourly rate for McClary has not been requested from the Commission in the past. We base McClary’s hourly rate on the 2011 rates described in Resolution ALJ-267 for expert intervenors in the 13+ years of experience range. We adopt the requested hourly</p>

	rate of \$300 for McClary’s 2011 and 2013 work in this proceeding.
2011 and 2012 Hourly Rate for Briana Kobor	UCAN requests an hourly rate of \$135 for Briana Kobor’s 2011 and 2012 work in this proceeding. At the time of proceeding Kobor was an associate at MRW & Associates. Kobor earned a Bachelor of Science in Environmental Economics and Policy from University of California, Berkeley. During her time at MRW & Associates she has conducted analyses related to California energy markets, electricity and natural gas rates and other energy regulatory and policy issues since 2007. An hourly rate for Kobor has not been requested for Kobor from the Commission in the past. We base Kobor’s hourly rate on the 2011 rates described in Resolution ALJ-267 for experts in the 0-6 years of experience range. We adopt the requested hourly rate of \$125 for Kobor’s 2011 and 2012 work in this proceeding.
Disallowance of Hours for Briana Kobor for lack of efficiency	UCAN requests 50.75 hours for Kobor’s work in 2011 in this proceeding. Considering the contributions to the issues of the selection of energy efficiency assumptions and need determination, the work performed by Kobor could reasonably be accomplished in 40 hours rather than 50.75 hours.

PART IV: OPPOSITIONS AND COMMENTS

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

Party	Comment	CPUC Disposition
	No Comments were filed.	

FINDINGS OF FACT

1. UCAN has made a substantial contribution to D.13-03-039.
2. The requested hourly rates for the UCAN’s representatives are comparable to market rates paid to experts and advocates having comparable training and experience offering similar services.

3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$17,001.88.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Utility Consumers' Action Network is awarded \$17,001.88.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company shall pay The Utility Consumers' Action Network the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning August 11, 2013, the 75th day after the filing of The Utility Consumers' Action Network's request, and continuing until full payment is made.
3. This decision is effective today.
4. Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	no
Contribution Decision(s):	D1303029		
Proceeding(s):	A1105023		
	ALJ Yacknin		
Payer(s):	San Diego Gas & Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Utility Consumers' Action Network (UCAN)	5/28/2013	\$38,015.85	\$17,001.88	No	Reduced compensation for excessive duplication with other intervenors, inefficient use of time, and disallowance of travel hours and expenses,

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Laura	Norin	Expert	UCAN	\$220	2011	\$220
Laura	Norin	Expert	UCAN	\$230	December 2011	\$230
Laura	Norin	Expert	UCAN	\$230	2012	\$230
Laura	Norin	Expert	UCAN	245	2013	\$245
Steven	McClary	Expert	UCAN	\$300	2011	\$300
Steven	McClary	Expert	UCAN	\$300	2013	\$300
Briana	Kobor	Expert	UCAN	\$135	2011	\$135
Briana	Kobor	Expert	UCAN	\$135	2012	\$135

(END OF APPENDIX)