

Decision \_\_\_\_\_

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

In the Matter of the Application of Southern California Gas Company (U904G) to Establish an Advanced Meter Opt-Out Program.	Application 12-05-016 (Filed May 11, 2012)
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**DECISION AWARDING INTERVENOR COMPENSATION TO  
CONSUMERS POWER ALLIANCE FOR SUBSTANTIAL  
CONTRIBUTION TO DECISION 14-02-019**

<b>Claimant:</b> Consumers Power Alliance (CPA)	<b>For contribution to Decision (D.) 14-02-019</b>
<b>Claimed:</b> \$22,125.75	<b>Awarded:</b> \$22,106.25
<b>Assigned Commissioner:</b> Michael Picker	<b>Assigned ALJ:</b> Amy C. Yip-Kikugawa

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision</b>	The decision approves Southern California Gas Company's (SoCalGas) request for authority to establish an advanced meter opt-out option for its residential customers similar to those offered by Pacific Gas and Electric Company, Southern California Electric Company, and San Diego Gas & Electric Company, including the interim fees adopted, and establishes accounting and procedural requirements.
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**B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	June 28, 2012	No. June 29, 2012.
2. Other Specified Date for NOI:		
3. Date NOI Filed:	July 27, 2012	Verified.
4. Was the NOI timely filed?		Yes, the CPA timely filed the NOI.

<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	A.11-03-014, A.11-03-015, A.11-07-020	Verified, A.11-07-020.
6. Date of ALJ ruling:	February 26, 2013	Verified.
7. Based on another CPUC determination		
8. Has the Claimant demonstrated customer or customer-related status?		Yes, CPA demonstrated appropriate status.
<b>Showing of "significant financial hardship" (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding		A.11-07-020.
10. Date of ALJ ruling:		February 26, 2013
11. Based on another CPUC determination		
12. Has the Claimant demonstrated significant financial hardship?		Yes, the February 26, 2013 ruling found CPA had demonstrated significant financial hardship.
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.14-02-019	Verified.
14. Date of Issuance of Final Order or Decision:	March 4, 2014	Verified.
15. File date of compensation request:	May 2, 2014	Verified.
16. Was the request for compensation timely?		Yes, CPA timely filed the request for compensation.

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

#	Claimant	CPUC	Comment
5	X		See attached ALJ Ruling in A.11-03-014 et al.

**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).**

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
While CPA has raised many additional issues concerning the opt-out plans of PG&E and SoCal Edison in other proceedings, and filed the Application requesting	As illustrated by the Scoping Memo, the Commission directly addressed the issue raised by CPA in this proceeding:	Agreed.

<p>that SCE implement such a plan, it has limited its participation in this proceeding to the targeted issue of the differential impact on consumers served by different gas and electric utilities of the interim rates proposed in this case by SoCal Gas when an additional equal opt out fee must be paid to SCE, when this is not the case if a consumer is served by PG&amp;E.</p> <p>CPA believes that it contributed to the Commission’s decision-making process in this proceeding by clearly presenting this issue for resolution and by efficiently and pragmatically presenting its position without causing undue resource expenditures by any party.</p>	<p>CPA does not oppose offering an opt-out option for SoCalGas residential customers. Its protest focuses on the level of the interim fees and the impact on those customers in the overlapping SoCalGas and SCE service territories. CPA argues that although SoCalGas proposes the same interim fees that were adopted for PG&amp;E, SDG&amp;E and SCE, customers in the overlapping service territories would pay opt-out fees to two utilities to opt-out of gas and electric smart meters during the interim period before permanent opt-out fees are adopted. In contrast, CPA notes that customers in PG&amp;E and SDG&amp;E’s service territories pay only an opt-out fee to a single utility to opt-out of both gas and electric smart meters during this same interim period. Given the interim nature of the fees, CPA argues that it is discriminatory and unfair to require customers in the overlapping SoCalGas and SCE territories to pay more. Scoping Memo at 3.</p> <p>Again in the Final Decision the Commission recognizes CPA’s argument:</p> <p>CPA next argues that it would be discriminatory to require customers in the overlapping SoCalGas and SCE territories to pay twice as much to opt-out of having gas and electric smart meters than customers served by PG&amp;E or SDG&amp;E. Therefore, it maintains that in the interest of fairness, no interim fees and charges should be assessed on those SoCalGas customers who receive electric service from SCE. While we agree that we should consider what is fair to the customers in the overlapping service territories, we must also balance that against fairness to the utility. Decision at 9.</p>	
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	<p>Because of CPA’s participation in a timely and pragmatic manner, the Commission was able to more thoroughly examine the impacts of overlapping territories and resolve the issues of fairness, equality and balance between customers and utilities. In addition to assisting in clarification, CPA’s participation also provided arguments in favor of CPA’s proposed resolution, thus making a substantial contribution to the process of the Commission’s review of the Application.</p>	
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC</b>
<b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?<sup>1</sup></b>	<b>No</b>	Verified.
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	<b>No</b>	Verified.
<b>c. If so, provide name of other parties:</b>		
<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>  Neither ORA nor any party other than the Applicant participated in this proceeding.		Verified.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<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>	<b>CPUC VERIFIED</b>
In addition to the reasonable number of hours claimed (see response b below) the cost of CPA’s participation is also a function of the hourly rates applied. Because of its non-profit status and the number of consumers affected by the issues CPA pursued in this proceeding, CPA has been given a 30% discount from the standard fees of Tobin Law Group. This reduction is reflected in the hourly fees used in this Claim. This	Verified.

<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: public resources), which was approved by the Governor on September 26, 2013.

<p>reduction brings the claimed hourly fees for all TLG professionals to or below the lower end of the range approved by the CPUC for 2012 in Resolution ALJ-281, and these fees were not increased for 2014.</p> <p>CPA participated in this proceeding in a manner to minimize potential but not likely successful prolonging of the proceeding by insisting on evidentiary hearings and by recognizing the context of the issues raised. Specifically, CPA has acknowledged that SoCal Gas is a participant in the consolidated proceedings in A.11-03-014 et al. where longer term resolution of these opt-out charges will be addressed.</p> <p>CPA’s participation did efficiently present the Commission with one important implication of the SoCal Gas application – the double opt-out fees payable by some but not all consumers. The Commission acknowledged this implication and directly balanced it against the cost causation arguments of SoCal Gas.</p> <p>Many consumers desiring to exercise an opt out right view the interim fees as financially burdensome, and the participation of CPA in this proceeding held the potential to beneficially affect these consumers. Since the permanent rates are not yet known, it is not possible to quantify the actual impact of CPA’s participation in this portion of the policy development process.</p>	
<p><b>b. Reasonableness of Hours Claimed.</b></p> <p>CPA submits that the total of 54 hours of attorney time devoted to this entire proceeding is facially reasonable. They include all activities involved in representation of CPA including materials and briefing calls of client management concerning the application, applicable procedures, policy alternatives; preparation and filing of the Protest, Opening and Reply Briefs; participation in the Prehearing Conference and mandatory settlement discussions; discussions with counsel in related proceedings; and provision of advice concerning procedural alternatives such as the pros and cons of insisting on an evidentiary hearing. Duplication of effort was avoided by using a primary attorney except when circumstances required substitution, and by making pragmatic judgments about the likely value of possible additional legal and factual research.</p>	<p>Verified.</p>
<p><b>c. Allocation of Hours by Issue</b></p> <p>As recognized in the Scoping Memo, the primary issues present by CPA’s Protest are interrelated; whether the interim rates proposed by SoCal Gas should be evaluated with a primary focus on the fairness and non-discriminatory impact of the proposed rates on consumers also paying similar interim rates to opt out from SCE, or on the traditional concept of cost causation to SoCal Gas. As summarized in the Scoping Memo at page 4:</p> <p style="padding-left: 40px;">The only disputed issue in this proceeding is whether it is fair for those SoCalGas customers who are served by both SoCalGas and SCE to pay higher interim fees to opt-out of gas and electric smart meters than customers who are served by PG&amp;E or SDG&amp;E.</p>	<p>Verified.</p>

All of CPA's participatory activities focused on this unified issue. Therefore CPA believes that 100% of its hours expended should be allocated to this one issue.	
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**B. Specific Claim:**

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
James M. Tobin	2012	45.75	\$367	Resolution ALJ-287, rate discount to CPA. See Attachment	\$16,790.25	45.75	365.00 [1]	16,698.75
James M. Tobin	2014	2.25	\$367	Resolution ALJ-287, rate discount to CPA. See Attachment	\$825.75	2.25	385.00 [2]	866.25
Jose Guzman	2012	5.75	\$315	Resolution ALJ-287, rate discount to CPA. See Attachment	\$1,811.25	5.75	315.00	1,811.25
August Stofferahn	2012	0.25	\$245	Resolution ALJ-287, rate discount to CPA. See Attachment	\$61.25	0.25	245.00	61.25
<b>Subtotal: \$ 19,488.50</b>						<b>Subtotal: \$ 19,437.50</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 \$
Channing Clarkson, Senior Paralegal	2012	14.25	\$140	Resolution ALJ-287, rate discount to CPA. See Attachment	\$1,995.00	14.25	140.00	1,995.00
<b>Subtotal: \$1,995.00</b>						<b>Subtotal: \$1,995.00</b>		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
James M. Tobin	2014	3.5	183.50	50% of rate above	642.25	3.5	192.50	673.75

<i>Subtotal: \$ 642.25</i>		<i>Subtotal: \$673.75</i>	
<b>TOTAL REQUEST: \$ 22,125.75</b>		<b>TOTAL AWARD: \$22,106.25</b>	
<p>**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. Intervenor’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.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate</p>			
<p>When entering items, type over bracketed text; add additional rows as necessary.</p> <p>*If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale.</p> <p>**Travel and Reasonable Claim preparation time are compensated at ½ of preparer’s normal hourly rate.</p>			
Attorney	Date Admitted to CA BAR <sup>2</sup>	Member Number	Actions Affecting Eligibility (Yes/No?)
James M. Tobin	12/20/1974	63017	No
Jose Guzman	5/31/1979	85624	No
August Stofferahn	1/7/2004	229957	No

**C. CPUC Disallowances and Adjustments:**

Item	Reason
[1]	The Commission rounds rates to the nearest five dollar increment. As such, Tobin’s rate has been rounded to \$365.
[2]	The Commission applied the 2% cost-of-living adjustment approved for 2013 and the 2.58% cost-of-living adjustment approved for 2014 to Tobin’s 2012 rate to produce the appropriate 2014 rate. Tobin’s 2014 rate is set at 385.
[3]	The Commission notes that the attorneys utilized discounted hourly rates in this proceeding. The Commission encourages intervenors to make note of this discount in future claims of intervenor compensation. The Commission also notes that the rate approved for Clarkson is in-line with the rates of other paralegals and the Commission did not apply the discount to determine Clarkson’s rate.

**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))**

<b>A. Opposition: Did any party oppose the Claim?</b>	No
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<sup>2</sup> This information may be obtained at: <http://www.calbar.ca.gov/>.

<b>B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?</b>	Yes
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**FINDINGS OF FACT**

1. Consumers Power Alliance has made a substantial contribution to D.14-02-019.
2. The requested hourly rates for Consumers Power Alliance's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and 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 contribution is \$22,106.25.

**CONCLUSION OF LAW**

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

**ORDER**

1. Consumers Power Alliance is awarded \$22,106.25.
2. Within 30 days of the effective date of this decision, Southern California Gas Company shall pay Consumers Power Alliance 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 July 16, 2014, the 75th day after the filing of Consumers Power Alliance's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

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

## APPENDIX

## Compensation Decision Summary Information

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	
<b>Contribution Decision(s):</b>	D1402019		
<b>Proceeding(s):</b>	A1205016		
<b>Author:</b>	ALJ Yip-Kikugawa		
<b>Payer(s):</b>	Southern California Gas 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>
Consumers Power Alliance (CPA)	6/26/14	\$22,125.75	\$22,106.25	No.	See Disallowances and Adjustments, above.

## 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>
James M.	Tobin	Attorney	Consumers Power Alliance	\$367	2012	\$365.00
James M.	Tobin	Attorney	Consumers Power Alliances	\$367	2014	\$385.00
Jose	Guzman	Attorney	Consumers Power Alliances	\$315	2012	\$315.00
August	Stofferahn	Attorney	Consumers Power Alliances	\$245	2012	\$245.00
Channing	Clarkson	Paralegal	Consumers Power Alliances	\$140	2012	\$140.00

(END OF APPENDIX)