

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIAOrder Instituting Rulemaking on the Commission's
own Motion to Consider a Comprehensive Policy
Framework for Recycled Water.Rulemaking 10-11-014
(Filed November 19, 2010)**DECISION GRANTING INTERVENOR COMPENSATION TO THE
CONSUMER FEDERATION OF CALIFORNIA FOR SUBSTANTIAL
CONTRIBUTION TO DECISION 14-08-058**

Claimant: Consumer Federation of California	For contribution to Decision (D.) 14-08-058
Claimed: \$27,167.60	Awarded: \$22,983.65 (reduced 15.4%)
Assigned Commissioner: Michel Peter Florio	Assigned ALJs: Darwin E. Farrar (Assigned Nov 22, 2013) Gary Weatherford (Assigned Nov 23, 2010)

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	Decision D1408058 - Adopts a comprehensive policy framework and minimum project criteria requirements for recycled water projects, and closes the proceeding.
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B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	January 18, 2011	April 7, 2011
2. Other Specified Date for NOI:	N/A	
3. Date NOI Filed:	May 4, 2011	Verified
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	D. 08-04-010	R.13-02-008
6. Date of ALJ ruling:	4/14/2008	October 25, 2013

7. Based on another CPUC determination (specify):	N/A	
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:	R.13-02-008	Verified
10. Date of ALJ ruling:	October 25, 2013	Verified
11. Based on another CPUC determination (specify):	N/A	
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-08-058	Verified
14. Date of Issuance of Final Order or Decision:	August 29, 2014	Verified
15. File date of compensation request:	October 24, 2014	Verified
16. Was the request for compensation timely?		Yes

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
<p>1. Rate Design</p> <p>CFC recommended that the MCRs and Tier 3 Advisory Letter Template should include an outline that requires a detailed explanation about how cost burdens will be allocated among customer classes.</p> <p>While the Commission chose not to adopt the Advice letter suggestion, it did chose to adopt “a cost allocation policy for recycled water project costs for potable customers based on the cost allocation criteria” for particular service areas. The IOWSUs are required to show the cost criteria in plans submitted on a case-by-case basis.</p>	<p>Prehearing Conference Statement of the Consumer Federation of California on the Commission’s Order Instituting Rulemaking to Consider a Comprehensive Policy Framework for Recycled Water, p.3, 9</p> <p>Comments of the CFC on Proposed Recycled Water Policy Guidelines and Minimum Criteria for Proposed Recycled Water Projects and OIR Tier 3 Advice Letter Template, p. 1-3.</p> <p>Comments of the Consumer Federation of California on</p>	<p>Yes, however, the Commission did not fully adopt CFC’s position.</p>

	<p>Proposed Recycled Water Policy Guidelines, Minimum Criteria For Proposed Recycled Water Projects, and OIR Tier 3 Advice Letter Template, p. 1.</p> <p>CFC Reply Comments at 2.</p> <p>D.14-08-058, pp. 24, 36, B-4.</p>	
<p>2. Cost Allocation</p> <p>CFC argued recycled water infrastructure cost allocation should be distributed equitably. Costs should be allocated to and borne by recycled water customers. If not in its entirety, then in the majority as recycled water users are the ones benefiting from the infrastructure. Recycled water users should, at a minimum, pay for costs including but not limited to costs related to installation of parallel pipe, costs related to infrastructural retrofits, and costs related to connection.</p> <p>While the Decision allows the potential for cost recovery from <i>both</i> potable water <i>and</i> recycled water customers, it does so on the condition that IOWSUs demonstrate to the Commission’s satisfaction the prudence of each project and the reasonableness of the associated costs. If the IOWSU cannot show the reasonableness of such cost sharing, the recycled water costs would not be distributed among all water customers. Precisely what CFC argued should happen.</p>	<p>Prehearing Conference Statement of the Consumer Federation of California on the Commission’s Order Instituting Rulemaking to Consider a Comprehensive Policy Framework for Recycled Water, p.8-11.</p> <p>Response to the Prehearing Conference Statements on the Commission’s Order Instituting Rulemaking to Consider a Comprehensive Policy Framework for Recycled Water, p. 2.</p> <p>Comments of the Consumer Federation of California on Proposed Recycled Water Policy Guidelines, Minimum Criteria For Proposed Recycled Water Projects, and OIR Tier 3 Advice Letter Template, p. 2.</p> <p>D. 14-08-058, p. 28, 33, 36,</p>	<p>Yes, however, the Commission ultimately adopted a position more flexible in its approach than that initially supported by CFC.</p>
<p>3. Outreach and Education</p> <p>CFC also urged that further guidance be provided on the education and outreach requirements for the IOWSUs.</p> <p>In response to the CFCs Reply Comments (p.3) , the Commission then</p>	<p>Response of the CFC to the Prehearing Conference Statements, pp. 1-3.</p> <p>Opening Comments of the Consumer Federation of</p>	<p>Yes.</p>

<p>modified the decision so that the final decision requires IOWSUs to include recycled water educational materials with their project proposals.</p>	<p>California on the Recycled Water Workshop Report, p. 2-4. D. 14-08-058, p. 36.</p>	
<p>4. Recycled Water Plans CFC argued that the Commission should require the utilities to submit recycled water plans to facilitate transparency, oversight and enforcement by the Commission. The Decision ultimately requires the IOWSUs to actively participate in the State’s IRWR planning. The IOWSUs are required to provide plans but they will be in relation to the State water plans for respective regions rather than by individual IOWSU. As CFC suggested, plans will be required.</p>	<p>Prehearing Conference Statement of the Consumer Federation of California on the Commission’s Order Instituting Rulemaking to Consider a Comprehensive Policy Framework for Recycled Water, p. 4-8. Response to the Prehearing Conference Statements on the Commission’s Order Instituting Rulemaking to Consider a Comprehensive Policy Framework for Recycled Water, p.2-5. Comments of the Consumer Federation of California on Proposed Recycled Water Policy Guidelines, Minimum Criteria For Proposed Recycled Water Projects, and OIR Tier 3 Advice Letter Template, p. 3-4. D. 14-08-058, p. 25.</p>	<p>Yes. CFC argued for the use of plans. However, such advocacy was duplicative, as requiring the IOWSUs to submit plans and participate in the State’s Integrated Regional Water Resource planning was a natural progression not advocated by CFC. Additionally, many parties advocated for the use of recycled water plans.</p>

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

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?¹	YES	Verified
b. Were there other parties to the proceeding with positions similar to yours?	YES	Verified
c. If so, provide name of other parties:		Verified

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

<p>The Utility Reform Network, National Consumer Law Center, Office of Ratepayer Advocates</p>	
<p>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:</p> <p>There is always some confluence of opinion when more than one consumer group participates and the number of voices arguing a particular point can be just as persuasive as the argument itself. However, CFC did not duplicate arguments of ORA or other parties, it made its own original contribution.</p>	<p>Verified, but some duplication.</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation</p> <p>There will be monetary benefits and educational benefits for ratepayers based on CFC’s participation, although it is difficult to estimate a specific amount of monetary benefits. Some of the CFC’s contributions adopted by the final decision will result in a clearer identification of barriers to recycled water plan adoption as well as a case-by-case framework that will, in part, focus on addressing valuation methodologies as well as a cost recovery models. Though currently abstract, these issues will be necessary in developing policy that will save utility customers money associated with recycled water in the long term.</p>	<p>CPUC Verified</p> <hr/> <p>- Verified</p>
<p>b. Reasonableness of Hours Claimed.</p> <p>CFC worked efficiently and recorded hours rounding down to the nearest decimal. The attorney fee hours are roughly equal to just 23 days’ time while the intervenor compensation claim preparation hours are equal to just 2 days because Nicole Johnson inherited the case from a former attorney & needed to figure out her contribution. Not all of those hours have been charged. In fact, because some of my hours were catchup with what the prior attorney (Nicole Blake) had done, they were also not charged. Combined total hours not charged, for both attorneys, are equal to 51.7 hours or \$12,952.25. All remaining hourly amounts are reasonable in light of the work performed and product produced.</p>	<p>Unverified. It’s unclear how CFC calculated its hours for purposes of this claim. Based on the hours it has accounted for, the claim has been revised.</p>
<p>c. Allocation of Hours by Issue</p> <p>See Attached Timesheet</p>	

RD= Rate Design CA= Cost Allocation OE= Outreach and Education P= Recycled Water Plans W = Workshops GP = General Prep. # = Where time entries cannot easily be identified with a specific activity code. For these entries, the allocation of time spent on activities can be broken equally.	Verified
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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 \$
Nicole Blake	2010	36	\$175	D1207020	\$6,300.00	11.88 ^[A, B]	\$175.00 ²	\$2,079.00
Nicole Blake	2011	22.2	\$175	D1202013; D1209017	\$3,692.60	26.74 ^[A, B]	\$175.00 ³	\$4,679.50
Nicole Blake	2012	32.6	\$205	D1209017; D1310031; D1301014	\$6,683.00	13.23 ^[A, B]	\$205.00 ⁴	\$2,712.15
Nicole Johnson	2013	38.7	\$305	Resolution ALJ-287	\$8,265.50	34.7 ^[A, B]	\$290.00 ⁵	\$10,063.00
Nicole Johnson	2014	11.50	\$305	Resolution ALJ-287	\$2,135.00	11.5	\$300.00 ⁶	\$3,450.00
Subtotal: \$ 27,076.10						Subtotal: \$22,983.65		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Nicole Johnson	2014	0.6	\$152.5	½ Resolution ALJ- 287	\$91.5	0.0 ^[A]	\$0.00	\$0.00
Subtotal: \$91.50						Subtotal: \$0.00		
TOTAL REQUEST: \$27,167.60						TOTAL AWARD: \$22,983.65		

² Approved in D.12-07-020.

³ Approved in D.12-02-013.

⁴ Approved in D.13-01-014.

⁵ Approved in D.15-05-021.

⁶ Approved in D.15-05-021.

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

**Reasonable claim preparation time typically compensated at ½ of preparer’s normal hourly rate.

Attorney	Date Admitted to CA BAR⁷	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
Nicole Johnson	June 2006	242625	No
Nicole Blake	January 2010	268541	No

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service

D. CPUC Disallowances and Adjustments:

Item	Reason
A	Numerous errors plagued CFC’s timesheets. Blake claimed 36 hours for 2010, however the timesheet only shows records for 26 hours. Additionally, Blake’s 2011 hours total 54.05; however, only 20.7 are claimed. For 2012, 32.6 hours are claimed, while only 16.3 are accounted for. Additionally, CFC’s claim had simple multiplication errors which caused the total claim to be understated. Appropriate adjustments have been made.
B	Although CFC substantially contributed on all issues, some advocacy was duplicative of other parties. The Commission therefore disallows for duplication 25% of hours from the Rate Design and Cost Allocation issues and 50% of the hours for participation on the Recycled Water Plan/Planning hours. The Commission disallows all hours related to “Accountability,” as this issue was not addressed in the claim. The Commission also reduces 6 hours for excessive time spent researching for a PHC Statement by Nicole Blake in 2010, and 10 hours in 2011 for excessive time spent researching, preparing and writing CFC’s PHC statement.

⁷ This information may be obtained at: <http://www.calbar.ca.gov/>.

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))

A. Opposition: Did any party oppose the Claim?	Yes
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Party	Reason for Opposition	CPUC Disposition
California Water Association	California Water Association filed a response, stating that CFC should only receive compensation for the amount attributable to CFC’s participation regarding consumer education. CWA estimates this amount to be \$3,008.08.	The Commission disagrees with California Water Association’s assertion that CFC did not substantially contribute on other issues. Although some contributions were duplicative and warranted reduction, CFC’s participation was helpful to the final decision.

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

1. CFC has made a substantial contribution to D.14-08-058.
2. The requested hourly rates for CFC’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 compensation is \$22,983.65.

CONCLUSION OF LAW

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

ORDER

1. Consumer Federation of California shall be awarded \$22,983.65.
2. Within 30 days of the effective date of this decision, Apple Valley Ranchos Water Company, Alisal Water Corporation doing business as Alco Water Company, California American Water Company, California Water Service Company, Del Oro Water Company, Inc., East Pasadena Water Company, Fruitridge Vista Water Company, Golden State Water Company, Great Oaks Water Company, Park Water Company, San Gabriel Valley Water Company, San Jose Water Company, Valencia Water Company, Suburban Water Systems, and California-American Water Company-Monterey Wastewater District shall pay Consumer Federation of California their respective shares of the award, based on their California-jurisdictional water revenues for the 2013 calendar year, to reflect the year in which the proceeding was primarily litigated. 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 January 07, 2015, the 75th day after the filing of Consumer Federation of California'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 _____, 2015, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1408058		
Proceeding(s):	R1011014		
Authors:	ALJ Weatherford; ALJ Farrar		
Payer(s):	Apple Valley Ranchos Water Company, Alisal Water Corporation doing business as Alco Water Company, California American Water Company, California Water Service Company, Del Oro Water Co., Inc., East Pasadena Water Company, Fruitridge Vista Water Company, Golden State Water Company, Great Oaks Water Company, Park Water Company, San Gabriel Valley Water Company, San Jose Water Company, Valencia Water Company, Suburban Water Systems, and California-American Water Company-Monterey Wastewater District		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Consumer Federation of California	10/24/14	\$27,167.60	\$22,983.65	N/A	Multiple accounting errors, decreases for duplicative and inefficient work.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Nicole	Blake	Attorney	Consumer Federation of California	\$175	2010	\$175
Nicole	Blake	Attorney	Consumer Federation of California	\$175	2011	\$175
Nicole	Blake	Attorney	Consumer Federation of California	\$205	2012	\$205
Nicole	Johnson	Attorney	Consumer Federation of California	\$305	2013	\$290
Nicole	Johnson	Attorney	Consumer Federation of California	\$305	2014	\$300

(END OF APPENDIX)