

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Address Natural Gas
Distribution Utility Cost and Revenue Issues Associated
with Greenhouse Gas Emissions.

Rulemaking 14-03-003
(Filed March 13, 2014)

**DECISION GRANTING COMPENSATION TO ENVIRONMENTAL DEFENSE FUND
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 14-12-040**

Intervenor: Environmental Defense Fund	For contribution to Decision (D.) 14-12-040
Claimed: \$16,000.00	Awarded: \$16,000.00
Assigned Commissioner: Carla J. Peterman	Assigned ALJ: Julie M. Halligan

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	D.14-12-040 approved, with modifications, a Phase I Settlement between Pacific Gas and Electric Company, the Office of Ratepayer Advocates, Southern California Gas Company, San Diego Gas & Electric Company, and Southwest Gas Company (collectively, the Settling Parties) concerning certain policies, programs, rules and tariffs necessary for natural gas corporations to comply with the California Cap and Greenhouse Gas Emissions and Market-Based Compliance Mechanisms' (Cap-and-Trade Program) regulations imposed by Air Resources Board (ARB) as a result of the California Global Warming Solutions Act of 2006 (Assembly Bill 32). The ARB regulations are contained in Title 17 of the California Code of Regulations (Title 17). Pursuant to Sections 95840, 95851(b), and 95852(c) of Title 17, natural gas utilities must comply with the Cap-and-Trade regulations beginning January 1, 2015.
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Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	April 29, 2014	Verified.
2. Other specified date for NOI:	n/a	
3. Date NOI filed:	May 20, 2014	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:	R.12-06-013	Verified.
6. Date of ALJ ruling:	February 25, 2013	Verified.
7. Based on another CPUC determination (specify):	n/a	
8. Has the Intervenor demonstrated customer or customer-related status?		Yes.
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	R. R.12-06-013	Verified.
10. Date of ALJ ruling:	February 25, 2013	Verified.
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes, <i>but see</i> Part III.D, below.
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-12-040	Verified.
14. Date of issuance of Final Order or Decision:	December 19, 2014	December 18, 2014
15. File date of compensation request:	February 19, 2015	Verified.
16. Was the request for compensation timely?		The Commission’s Rules of Practice and Procedure state that a request for an award must be filed no later “than 60 days after issuance of <i>the decision closing the proceeding.</i> ” Rule

	17.3 (emphasis added). Here, D.14-12-040 did not close the proceeding and the request for intervenor compensation is considered timely.
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PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (see § 1802(i), § 1803(a), and D.98-04-059).

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p><i>1. Consignment Percentage</i></p> <p>The Phase 1 issues were generally settled amongst the natural gas distribution companies through the Settlement Agreement that set forth procurement authority, cost recovery and potentially discussed establishing a consignment percentage.</p> <p>While EDF did not sign onto the settlement agreement, we did not oppose the agreement with respect to setting forth procurement authority and cost recovery, however, EDF did oppose establishing a permanent consignment issue.</p> <p>EDF advocated for the litigating the consignment issue during Phase 2 of the proceeding.</p>	<p>As stated on Page 2 of the <i>Comments of Environmental Defense Fund and Natural Resources Defense Council Regarding Joint Motion of Pacific Gas and Electric Company, the Office of Ratepayer Advocates, Southern California Gas Company, San Diego Gas & Electric Company and Southwest Gas Corporation to Adopt Settlement</i>, "While EDF and NRDC believe that the issue of consignment percentage is important to consider sooner rather than later, we do not believe it is within the scope of Phase 1 or the settlement agreement. Reserving discussion of consignment to Phase 2 will not prejudice settling parties, and will enable those parties that did not sign onto the settlement agreement an opportunity to litigate the appropriate consignment amounts before the CPUC. EDF and NRDC believe that allowing natural gas corporations to consign the California Air Resources Board (ARB) minimum will prevent a strong price signal, and may reduce the amount of revenue that is</p>	<p>The Intervenor’s participation made a substantial contribution regarding (1) the Commission’s disposition of the proposed settlement (where the Commission modified the settlement as recommended by the Intervenor’s), and (2) the Commission’s determination of when and where to consider the consignment issue.</p>

	<p>available for important greenhouse gas-reducing measures. Accordingly, EDF and NRDC ask that the CPUC, if they adopt this settlement agreement, carve out mention of consignment." The Final Decision adopting the Settlement Agreement agreed with EDF's contention, stating on Pages 24-25 "EDF suggests that, in the event that the Commission adopts the Settlement, the proposed ARB minimum be adopted as a placeholder for Phase 1, and allow parties the opportunity to present evidence and litigate the consignment issue during Phase 2." "[h]owever, we find that the record is insufficient to determine whether additional consignment is cost-effective or warranted for future periods. We will therefore modify the Settlement such that the consignment percentage after 2015 will continue to be addressed in Phase 2 of this proceeding."</p>	
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?	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: Natural Resources Defense Council (NRDC)		Verified.
d. Intervenor's claim of non-duplication: EDF's advocacy was not duplicative of other parties' efforts. EDF worked closely, particularly with NRDC, throughout the settlement and comment process to coordinate positions and tasks to strive for resolution and minimize duplicative efforts. Internally, staff was tasked with distinct responsibilities throughout the proceeding.		Verified.

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§ 1801 and § 1806):**

a. Intervenor's claim of cost reasonableness: EDF's costs were reasonable during Phase 1 of the proceeding. The office carefully considered its advocacy during Phase 1, with an understanding that Phase 2 will require additional time and litigation.	CPUC Discussion
b. Reasonableness of hours claimed: EDF worked diligently throughout the process to only spend a reasonable and prudent amount of time.	Verified.
c. Allocation of hours by issue: Consignment Percentage=100%	Verified.

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Tim O'Connor	2014	8	\$320	ALJ-303	\$2,560	8.0	\$320.00	\$2,560.00
Jennifer Weberski	2014	23.5	\$400	ALJ-303	\$9,400	23.5	\$400.00	\$9,400.00
Larissa Koehler	2014	17	\$220	ALJ-303	\$3,740	17.0	\$222.00	\$3,740.00
Subtotal: \$15,700.00						Subtotal: \$15,700.00		

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Jennifer Weberski	2014	1.5	\$200	ALJ-303	\$300	1.5	\$200.00	\$300.00
<i>Subtotal: \$300.00</i>						<i>Subtotal: \$300.00</i>		
TOTAL REQUEST: \$16,000.00						TOTAL AWARD: \$16,000.00		
<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>								
ATTORNEY INFORMATION								
Attorney	Date Admitted to CA BAR ¹	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation					
Larissa Koehler	June 2013	289581	No					
Timothy O’Connor	July 2007	250490	No					

C. CPUC Disallowances and Adjustments:

Item	Reason
Part I.B.	<p>Intervenor’s “Significant Financial Hardship” showing relies on a ruling issued on February 25, 2013, in an earlier proceeding (R.12-06-013). The present rulemaking, R.14-03-003, commenced on March 13, 2014, which is 16 days more than one year after the hardship finding in the earlier proceeding. Thus, the hardship finding is slightly too old to create a “presumption” of eligibility under Public Utilities Code Section 1804(b)(1), which provides in relevant part:</p> <p style="padding-left: 40px;">A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other commission proceedings commencing <i>within one year</i></p>

¹ This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

	<p>of the date of that finding. (Emphasis added)</p> <p>By today’s Decision, the Commission finds that Environmental Defense Fund has demonstrated significant financial hardship. The Commission notes that recently Environmental Defense Fund demonstrated significant financial hardship in A.14-11-003 (Ruling issued on April 01, 2015). This recent ruling gives rise to a rebuttable presumption of significant financial hardship , but only to the extent authorized in Public Utility Code § 1804(b)(1).</p>
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PART IV: OPPOSITIONS AND COMMENTS

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

FINDINGS OF FACT

1. Environmental Defense Fund has made a substantial contribution to D.14-12-040.
2. The requested hourly rates for Intervenor’s representatives 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 are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$16,000.00

CONCLUSIONS OF LAW

1. The Claim satisfies all requirements of Pub. Util. Code §§ 1801-1812.
2. Today’s decision should be made effective immediately to facilitate prompt payment of the award.

ORDER

1. Environmental Defense Fund shall be awarded \$16,000.00.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas & Electric Company, and Southwest Gas Company shall pay Environmental Defense Fund their respective shares of the award, based on their California-jurisdictional gas revenues for the 2014 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 Releases H.15, beginning March 04, 2015, the 75th day after the filing of Environmental Defense Fund's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated _____, 2015, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1412040		
Proceeding(s):	A1403003		
Author:	ALJ Halligan		
Payer(s):	Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas & Electric Company, and Southwest Gas Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Environmental Defense Fund (EDF)	02/19/2015	\$16,000.00	\$16,000.00	No	N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Tim	O'Connor	Attorney	EDF	\$320.00	2014	\$320.00
Jennifer	Weberski	Attorney	EDF	\$400.00	2014	\$400.00
Larissa	Koehler	Attorney	EDF	\$220.00	2014	\$220.00

(END OF APPENDIX)