

Decision \_\_\_\_\_

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

Application San Diego Gas & Electric Company (U 902 E) for Authority to Update Electric Rate Design Effective on January 1, 2015.	Application 14-01-027 (Filed January 31, 2014)
---	---

**DECISION GRANTING COMPENSATION TO UTILITY CONSUMERS' ACTION NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 15-08-040**

<b>Intervenor:</b> Utility Consumers' Action Network	<b>For contribution to Decision (D.) 15-08-040</b>
<b>Claimed:</b> \$55,033.08	<b>Awarded:</b> \$50,884.73 (reduced 7.54%)
<b>Assigned Commissioner:</b> Michel Peter Florio	<b>Assigned ALJ:</b> Stephen C. Roscow

**PART I: PROCEDURAL ISSUES**

<b>A. Brief description of Decision:</b>	This decision denies without prejudice San Diego Gas & Electric Company's (SDG&E's) request to modify its time-of-use periods by shifting the on-peak period to occur later in the day and by creating a "super off-peak" period, with offsetting adjustments to the current mid-peak period and elimination of the off-peak period. The Commission found that SDG&E's GRC Phase 2 proceeding was the more appropriate proceeding to consider the issues raised in this application.
--	--

**B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:**

	<b>Intervenor</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference (PHC):	April 2, 2014	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	May 1, 2014	Verified
4. Was the NOI timely filed?		Yes

<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	A.14-11-003 (see comment 1)	Verified
6. Date of ALJ ruling:	March 2, 2015	Verified
7. Based on another CPUC determination (specify):		
8. Has the Intervenor 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:	A.14-11-003 (see comment 1)	Verified
10. Date of ALJ ruling:	March 2, 2015	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.15-08-040	Verified
14. Date of issuance of Final Order or Decision:	August 28, 2015	Verified
15. File date of compensation request:	October 27, 2015	Verified
16. Was the request for compensation timely?		Yes

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

<b>#</b>	<b>Intervenor’s Comment(s)</b>	<b>CPUC Discussion</b>
1	When UCAN filed our NOI we listed the ALJ ruling issued on October 10, 2013 in A.13-05-012 as the basis for showing customer status and significant financial hardship. Since the filing of the NOI, UCAN has had a subsequent determination of eligibility in A.14-11-003 issued on March 2, 2015.	

**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>The Commission agreed with UCAN’s testimony and advocacy which urged the Commission to reject SDG&amp;E’s proposal and to consider the issues presented in this application in SDG&amp;E’s next GRC Phase 2 proceeding.</p>	<p>UCAN proposes that the Commission defer a decision on this application and move the issues addressed here to the upcoming Phase 2 application of SDG&amp;E’s General Rate Case (GRC). With updated costs and allocation information combined with more detailed and revealing bill impacts, better decisions about the merits of shifting and defining the time periods can be made (UCAN opening brief at page 5)</p> <p>UCAN’s primary recommendation is that the Commission delay a decision on changing the TOU time periods until the next SDG&amp;E GRC Phase 2 proceeding. UCAN believes that more information is needed about updated costs on which to design and assess proposed rates, such as detailed bill impacts (D.15-08-040 at page 9)</p> <p>This decision denies without prejudice San Diego Gas &amp; Electric Company’s (SDG&amp;E’s) request to modify its time-of-use periods by shifting the on-peak period to occur later in the day and by creating a “super off-peak” period, with offsetting adjustments to the current mid-peak period and elimination of the off-peak period. SDG&amp;E may introduce such a</p>	<p>Yes, but duplicative of other parties, such as the California Farm Bureau Federation.</p> <p>This demonstrates that these parties failed to adequately coordinate.<sup>1</sup></p>

<sup>1</sup> 2015 Cal. PUC LEXIS 264 (Cal. PUC 2015).

	<p>proposal in its currently-open General Rate Case Phase 2 proceeding, should it choose to do so (D.15-08-040 at page 2)</p> <p>Conclusions-of-Law</p> <p>5. SDG&amp;E’s request to change its TOU periods effective November 2015 should be denied without prejudice, so that SDG&amp;E may make a similar proposal in its Phase 2 GRC. (D.15-08-040 at page 37)</p>	
<p>UCAN advocated and the Commission found that more information is needed to support a Commission decision on SDG&amp;E’s proposals. The Commission made clear that more information was needed before the Commission would move forward with these proposals.</p>	<p>In this proceeding, UCAN noted SDG&amp;E’s failed to provide data on specific aspects of their proposal including the need for much more detailed customer bill impact data. (See UCAN’s opening brief pages 6-12)</p> <p>As explained below, during this proceeding it did in fact “become clear that more data and/or more analysis is needed to support a Commission decision on SDG&amp;E’s proposal” and this prevented the Commission from considering the proposal in detail within the relatively compressed schedule allowed for the “rate design window” proceedings created by D.89-01-040. For this reason, we conclude that SDG&amp;E’s proposal may be resubmitted in SDG&amp;E’s general rate case (GRC) proceeding. . . (D.15-08-040 at page 3)</p> <p><b>Findings-of-Fact</b></p> <p>10. More data and more analysis are needed to support any Commission decision on proposals to change TOU</p>	<p>Verified.</p>

	<p>periods in SDG&amp;E territory. (D.15-08-040 at page 36)</p> <p><b>Conclusions-of-Law</b></p> <p>4. Any proposals to change TOU periods in SDG&amp;E’s territory should be supported by more data and more analysis than was provided by SDG&amp;E in this proceeding. (D.15-08-040 at page 37)</p> <p><b>Orders</b></p> <p>9. San Diego Gas &amp; Electric Company shall not change the time-of-use periods on any existing optional residential time-of-use schedules. (D.15-08-040 at page 40)</p>	
<p>Consistent with UCAN’s positions, the Commission found that SDG&amp;E’s proposals failed to consider the impacts of its proposal to its customers.</p>	<p>UCAN is concerned on how this proposed change affects customer bills, and specifically any unintended consequences must be assessed prior to adopting the time period changes. . . (UCAN protest at page 3)</p> <p>SDG&amp;E needs to provide more information on the consequences to customers of SDG&amp;E’s proposal. (UCAN opening brief at page 9)</p> <p>SDG&amp;E had not adequately considered the impact of its proposals on the customers who would be significantly affected if the Commission granted SDG&amp;E the relief it sought. (D.15-08-040 at pages 26)</p>	<p>Verified.</p>
<p>The Commission found that the testimony and briefing from</p>	<p>As for the intervenors, we have made clear above that their testimony and</p>	<p>Verified.</p>

<p>intervenors was invaluable for its consideration of SDG&amp;E’s proposals.</p>	<p>briefing in this proceeding was invaluable in terms of establishing a solid record for the Commission’s consideration of SDG&amp;E’s TOU proposal.  (D.15-08-040 at pages 26-27)</p>	
---	---	--

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

	<b>Intervenor’s Assertion</b>	<b>CPUC Discussion</b>
<p><b>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?</b></p>	<p>YES</p>	<p>Verified</p>
<p><b>b. Were there other parties to the proceeding with positions similar to yours?</b></p>	<p>YES</p>	<p>Verified</p>
<p><b>c. If so, provide name of other parties:</b> On whether to defer the issues raised in this proceeding to SDG&amp;E’s GRC Phase 2 application the City of San Diego, California Farm Bureau Federation, CALSEIA, and SDCPA had similar positions to UCAN.</p>		<p>Verified</p>
<p><b>d. Intervenor’s claim of non-duplication:</b> Given the scope of this proceeding and the issues examined, UCAN’s recommendation of deferring the issues raised in this application to SDG&amp;E’s next GRC Phase 2 proceeding was consistent with many other parties, however, UCAN’s presentation focused on the need to defer based on the lack of information and specifically lack of sufficiently detailed customer bill impact analyses. UCAN believes our advocacy either presented unique information or supported other intervenors in their presentations and was therefore not duplicative.</p>		<p>Verified, but some duplication still occurred.</p>

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<p><b>a. Intervenor’s claim of cost reasonableness:</b></p> <p>In this proceeding UCAN is billing \$55,033 for our participation. In this case SDG&amp;E put forward an application with multiple issues presented through 10 volumes of testimony (direct, revised, supplemental and rebuttal). This application involved SDG&amp;E’s specific proposals for shifting peak hours to later in the day for customers on a Time-of-Use (TOU) rates, and proposed that all TOU time periods be the same across all rates.</p> <p>UCAN participated in all phases of this proceeding and is billing only 200.5 hours for all of our attorney time and expert witness time. Even though the issues were complex UCAN minimized costs when possible. For</p>	<p><b>CPUC Discussion</b></p> <p>Verified</p>
--	---

<p>example, even though the hearings in this proceeding lasted for a few days, UCAN’s attorney who lives in San Diego is not asking for lodging expenses. As can be seen from our travel receipts and time sheets for the hearings in January 2015 Mr. Kelly flew into San Jose and rented a car. Mr. Kelly’s parents live in Santa Clara, and on the many occasions Mr. Kelly is required to be at the Commission on consecutive days (and in an effort to save money for hotel costs), Mr. Kelly will stay with his parents in Santa Clara and rent a car and commute to the Commission.</p> <p>UCAN would also note we minimized expenses in other ways. For example, because a special accommodation by the ALJ was granted to UCAN so our expert witness did not need to travel to San Francisco for testimony we avoided billing for expert travel and hearing time. In addition, UCAN also minimized costs by not billing for all correspondence between UCAN’s attorney and expert (see section b below for unbilled time).</p> <p>UCAN believes that the costs for our participation at \$55,033 is reasonable.</p>	
<p><b>b. Reasonableness of hours claimed:</b></p> <p>UCAN is billing for 200.5 hours of total time for UCAN’s attorney and our expert. While UCAN’s timesheets indicate the purpose of the hours expended, UCAN has in many instances not billed for all the hours worked. UCAN believes hour hours claimed are reasonable and we ask that they be reimbursed.</p> <p>While in our timesheets there are explanations for the time expended, UCAN would like to note the following issues:</p> <p><b>Unbilled time:</b> Throughout this proceeding UCAN’s attorney, Don Kelly and our expert, David Croyle exchanged emails and talked on the phone regarding the issues. For the most part, David Croyle did not include any of this time in his timesheets and Don Kelly recorded this time in his only in a few instances.</p> <p>In reviewing UCAN’s timesheets therefore, sometimes you will see Don Kelly listing time for correspondence with David Croyle and no corresponding entries on David Croyle’s timesheets for emailing with Don Kelly. Mr. Croyle has informed Mr. Kelly that on most of Don Kelly’s email correspondence and phone calls, he has not recorded the time. For the few times listed by Mr. Kelly for correspondence with David Croyle, UCAN can produce the email correspondence. To be sure, the vast majority of the emails and phone conversations were not billed by either Mr. Kelly or Mr. Croyle.</p> <p><b>Estimated Time:</b> There are several instances in UCAN’s timesheets for which UCAN does not have contemporaneous time entries recorded. For most of the time where there are no entries UCAN does not seek reimbursement. For some entries however, UCAN has either relied on date and time stamps from documents or has estimated the time where there was no contemporaneous entries.</p>	<p>Verified</p>

<p>Where UCAN has estimated the time, for the most part, we have either explained the amount of time claimed in the timesheet itself, have used the minimum billing period of .25 hours (for example, sending information by FedEx to the Commission) or we have noted in the timesheets that the time was not contemporaneously recorded and the reasons why UCAN believes the estimated time is correct. For example in the entry for UCAN’s protest we note 3.5 hours. In the notes section we put:</p> <p><i>Write and file UCAN's Protest. Review notes and proposed write up by David Croyle. Time was not contemporaneously noted, however, UCAN requests that the Commission approve our estimate of 3.25 hours. This was a 7 page protest and UCAN believes that we are substantially underestimating the time it took to write and file this protest.</i></p> <p><b>UCAN’s Advocates and Expert time</b></p> <p>UCAN’s presentation though our filings was truly a collaborative effort between UCAN’s expert, Mr. Croyle and UCAN’s attorney, Mr. Kelly. In our timesheets you will note that both Mr. Kelly and Mr. Croyle have billed hours for things like developing data requests, working on testimony, writing briefs and writing comments. As an example of how UCAN’s expert and Attorney interacted, with regards to testimony for example, David Croyle wrote the testimony and Mr. Kelly edited, and offered suggestions for revision. For brief writing, Mr. Croyle provided Mr. Kelly with his write up on issues he believed should be presented in a brief, and Mr. Kelly then wrote the brief using some of the material suggested by Mr. Croyle. While UCAN understands that this type of attorney/expert relationship is common at the Commission, we thought we should mention it here should there be a question regarding how the time was described in our time sheets.</p>	
<p><b>c. Allocation of hours by issue:</b></p> <p>In dividing UCAN’s issues, based on the timesheets submitted, UCAN allocates our attorney and expert time as follows:</p> <p>General Preparation – 5.85%          Coordination and settlement discussions with parties – 12.28%          Hearing preparation and hearing time – 31.43%          Briefs and Comments on the PD – 50.44%</p> <p>In addition UCAN would also note, regarding hours broken out by issue, that this proceeding concerned whether the Commission should allow or defer SDG&amp;E’s proposal to shift the on-peak time periods for their TOU rates. UCAN took the position that the issues here should be deferred to SDG&amp;E’s next GRC Phase 2 proceeding. In testimony, in briefs and in comments UCAN listed several reasons why it was preferable to defer these issues, the concerns we had, the information we believe the Commission needed to obtain and the impact on customers we were concerned about.</p>	<p>Verified</p>

Given that UCAN's primary recommendation was to defer the issues to SDG&E's GRC Phase 2 proceeding, we did not log hours in our timesheets between deferring the issues in this application to the GRC Phase 2, and what the Commission should do if the issues were not deferred. UCAN would note however, in our presentation we did present recommendations on the diversity of time periods in rates should the Commission not defer the issues to the GRC Phase 2 proceeding.

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Donald Kelly	2014	23	335	D.15-07-033	\$7,705	21.1 <sup>[A]</sup>	\$335.00	\$7,068.50
Donald Kelly	2015	46.75	335	D.15-07-033	\$15,661.25	44.42 <sup>[A]</sup>	\$335.00	\$14,880.70
David Croyle	2014	36.75	255	See Comment 1	\$9,371.25	34.91 <sup>[A]</sup>	\$235.00	\$8,203.85
David Croyle	2015	64.5	255	See Comment 1	\$16,447.5	61.28 <sup>[A]</sup>	\$245.00 <sup>2</sup>	\$15,013.6
<b>Subtotal: \$49,185</b>						<b>Subtotal: \$45,166.65</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 \$
Travel hours for Donald Kelly	2014	9.5	167.50 (50% of normal rate)	D.15-07-033	\$1,591.25	9.5	\$167.50	\$1,591.25
Donald Kelly	2015	8	167.50 (50% of normal rate)	D.15-07-033	\$1,340	8	\$167.50	\$1,340.00
<b>Subtotal: \$2,931.25</b>						<b>Subtotal: \$2,931.25</b>		
INTERVENOR COMPENSATION CLAIM PREPARATION**								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Donald Kelly	2014	.5	167.50 (50% of normal rate)	D.15-07-033	\$83.75	.5	\$167.50	\$83.75

<sup>2</sup> Application of first 5% step increase to 2014 rate.

Donald Kelly	2015	9.5	167.50 (50% of normal rate)	D.15-07-033	\$1,591.25	9.5	\$167.50	\$1,591.25
David Croyle	2015	2	127.50 (50% of normal rate)	See comment 1	\$255	2	\$122.50	\$245.00
<b>Subtotal: \$1,930</b>						<b>Subtotal: \$1,920.00</b>		
COSTS								
#	Item	Detail			Amount	Amount		
	Travel, copying, express mail fees	Airfare, parking charges, BART ticket from airport, car rental, copying charges, express mail fees			\$986.83	\$866.83		
<b>TOTAL REQUEST: \$55,033.08</b>						<b>TOTAL AWARD: \$50,884.73</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>								
ATTORNEY INFORMATION								
Attorney		Date Admitted to CA BAR <sup>3</sup>		Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation		
Donald Kelly		December 1990		151095		No		

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

Attachment or Comment #	Description/Comment
1	Rate request for David Croyle. UCAN is asking that David Croyle's rate be increased from \$230 an hour that was given in D.14-08-027 to \$255 an hour. Mr. Croyle is an energy economist with 30 years of experience, and he is a retired former executive with SDG&E. UCAN believes this rate is appropriate given the quality of his work, his familiarity with the rate design issues and the depth of his experience at the

<sup>3</sup> This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

	Commission. Not only is Mr. Croyle seeking all available COLA and step increases but Mr. Croyle is asking that the Commission consider that in 2010 Mr. Croyle was approved for a rate of \$225 an hour and in 2014 his rate was readjusted by only \$5 dollars to \$230 an hour.
--	---

**D. CPUC Disallowances and Adjustments:**

Item	Reason
A	Reduction of 0.75 hours for Kelly's 2015 hours for time spent on copying and mailing. Such time is non-compensable. Reduction of 5% to Issues hours for duplication, resulting in deductions to Kelly of 1.15 hours in 2014 and 2.33 hours in 2015, and a reduction of 1.84 hours in 2014 and 3.22 hours in 2015 to Croyle. This represents a reduction of UCAN's General prep hour.
B	Reduction of \$120.00 to UCAN's costs. UCAN waited until three days prior to flying to purchase airfare despite having three weeks' notice of the pre-hearing conference date, unnecessarily increasing costs.

**PART IV: OPPOSITIONS AND COMMENTS**

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

**FINDINGS OF FACT**

1. Utility Consumers' Action Network has made a substantial contribution to D.15-08-040.
2. The requested hourly rates for Utility Consumers' Action Network'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 \$50,884.73.

**CONCLUSION OF LAW**

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

**ORDER**

1. Utility Consumers' Action Network shall be awarded \$50,884.73.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company shall pay Utility Consumer's 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 January 10, 2016, the 75<sup>th</sup> day after the filing of Utility Consumer's Action Network'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>	No
<b>Contribution Decision(s):</b>	D1508040		
<b>Proceeding(s):</b>	R1401027		
<b>Author:</b>	ALJ Roscow		
<b>Payer(s):</b>	San Diego Gas & Electric 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>
Utility Consumers' Action Network	October 27, 2015	\$55,033.08	\$50,884.73	N/A	Reductions for duplication, lower hourly rates, and inappropriate costs.

**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>
Donald	Kelly	Attorney	Utility Consumers' Action Network	\$335	2014	\$335
Donald	Kelly	Attorney	Utility Consumers' Action Network	\$335	2015	\$335
David	Croyle	Expert	Utility Consumers' Action Network	\$255	2014	\$235
David	Croyle	Expert	Utility Consumers' Action Network	\$255	2015	\$245

**(END OF APPENDIX)**