

Decision **PROPOSED DECISION OF ALJ THOMAS** (Mailed 1/16/2009)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the matter of the Application of CALIFORNIA WATER SERVICE COMPANY (U60W), a corporation, for an order authorizing it to increase rates charged for water service in its Chico District by \$6,380,400 or 49.1% in July 2008, \$1,651,100 or 8.5% in July 2009, and by \$1,651,100 or 7.9% in July 2010; in its East Los Angeles District by \$7,193,200 or 36.5% in July 2008, \$2,034,800 or 7.6% in July 2009, and \$2,034,800 or 7.0% in July 2010; in its Livermore District by \$3,960,900 or 31.2% in July 2008, \$942,200 or 5.6% in July 2009, and by \$942,200 or 5.4% in July 2010; in its Los Altos-Suburban District by \$5,172,500 or 30.5% in July 2008, \$1,189,100 or 5.4% in July 2009, and by \$1,189,100 or 5.1% in July 2010; in its Mid-Peninsula District by \$5,435,100 or 23.7% in July 2008, \$1,634,200 or 5.8% in July 2009, and by \$1,634,200 or 5.5% in July 2010; in its Salinas District by \$5,119,700 or 29.8% in July 2008, \$3,636,900 or 16.3% in July 2009, and by \$2,271,300 or 8.7% in July 2010; in its Stockton District by \$7,474,600 or 29.0% in July 2008, \$1,422,400 or 4.3% in July 2009, and by \$1,422,400 or 4.1% in July 2010; and in its Visalia District by \$3,651,907 or 28.4% in July 2008, \$3,546,440 or 21.3% in July 2009, and by \$3,620,482 or 17.6% in July 2010.

Application 07-07-001
(Filed July 3, 2007)**CLAIM AND DECISION ON REQUEST FOR INTERVENOR COMPENSATION**

Claimant: Arthur A. Mangold	For contribution to D.08-07-008
Claimed (\$): \$21,720	Awarded (\$): \$10,560 (52.5% reduction)
Assigned Commissioner: John Bohn	Assigned ALJ: Sarah R. Thomas

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: Adopts settlement between Cal Water¹ and DRA² regarding rates and ratemaking issues, and resolves other issues including water supply for the Mid-Peninsula District.

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 (§ 1804(a)):		
1. Date of Prehearing Conference:	8/31/2007	Yes
2. Other Specified Date for NOI:	1/18/2008	No other specified date.
3. Date NOI Filed:	1/22/2008	January 9, 2008
4. Was the notice of intent timely filed? It was not. However, Ruling of January 18, 2008, approved the late filing.		.
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.07-07-001	No. See comments.
6. Date of ALJ ruling:	11/29/2007	No. See comments.

¹ California Water Service Company.

² Division of Ratepayer Advocates.

7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status? Yes. Mangold participated in this proceeding as a “customer” as defined in § 1802(b)(1)(A) of the Public Utilities Code, i.e., an actual customer who represents more than his or her own self-interest; a self-appointed representative of other consumer interests.		
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:		
10. Date of ALJ ruling:		
11. Based on another CPUC determination (specify):	See Additional Comments on Part 1.	See comments.
12. Has the claimant demonstrated significant financial hardship? Yes. Claimant demonstrated significant financial hardship pursuant to § 1802(g) and provided supporting financial documents (filed under seal on October 17, 2008). We find that Claimant could not afford, without undue hardship, to pay the costs of his effective participation in this proceeding, and therefore met significant financial hardship test of § 1802(g).		
Timely request for compensation (§ 1804I):		
13. Identify Final Decision	D.08-07-008	Yes.
14. Date of Issuance of Final Decision:	7/14/2008	Yes.
15. File date of compensation request:	9/12/2008	Yes.
16. Was the request for compensation timely?		Yes.

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

#	Claimant	CPUC	Comment
5&6			There was no ruling on the customer's eligibility.
11	Mangold		Mangold represents himself and other Mid-Peninsula customers. Although DRA also represents those customers, Mangold is a long time resident of San Mateo and has particular knowledge of local factors affecting the utility's operations and revenue requirements, including growth and water supply. As a civil engineer, he has particular awareness of water supply issues. It would be an undue hardship for Mangold to participate without compensation. The cost of his participation is small compared to the benefits to Mid-Peninsula District customers.
12		CPUC	According to D.98-04-059, Category 1 customers (as defined in § 1802(b)(1)(A)) must demonstrate that they "cannot afford, without undue hardship," to participate in the proceeding, as set forth in § 1802(g). D.98-04-059 requires Category 1 customers to disclose their gross and net monthly income, monthly expenses, and any other relevant financial information, to demonstrate significant financial hardship. On October 17, 2008, Mangold filed a Supplement to his request for intervenor compensation, where he provided his annual income and expenses statement and statement of assets and liabilities, under seal. These documents satisfy the § 1802(g) test for Category 1 customers. The claimant also satisfactorily explained how that financial information demonstrates undue hardship resulting from his participation in this proceeding.
12A		CPUC	This decision grants the Claimant's Motion for Protective Order filed on October 17, 2008. The Claimant's income and expense statement and

			statement of assets and liabilities attached to the Motion are placed under seal, as set forth.
15		CPUC	On October 17, 2008, Claimant filed Supplement to the Request.

PART II: SUBSTANTIAL CONTRIBUTION³

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) (For each contribution, support with specific reference to final or record.)

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
1. No. of multi-family residential customers. Paragraph 4.1.2.1 of the Settlement pertains to the Mid-Peninsula District. It states that "The Parties initially agreed on an annual change of negative two multi-family units per year. The Parties now agree to use zero growth per year." The 4 and 6 additional customers in 2008-09 and 2009-10, respectively generate additional revenues of about \$23,200 in 2008-09 and \$36,600 in 2009-10. Mangold's focus on multi-family customer growth was instrumental in the settlement being different than Cal Water's and DRA's original estimates.	Settlement, paragraph 4.1.2.1. Exhibit No. 2, p. 49. Exhibit No. 201, p. 2.	Yes.
2. Water supply. Finding of Fact 34 ⁴ notes that "The SFPUC ⁵ Hetch Hetchy water system is not limitless. Conclusion of Law 16 ⁶ notes that "It is appropriate for Cal Water to	D.08-07-008, Order No. 6.	In part.

³ Mangold misplaced information pertaining to Part II.A by providing it in Part II.B., Productivity. We correct this error here by copying that information to Part II.A, where it belongs.

⁴ Correction: Finding of Fact 33.

⁵ San Francisco Public Utilities Commission.

⁶ Correction: Conclusion of Law 15.

<p>begin the process of locating an additional source of water in the Mid-Peninsula District... Order 6 states, ““The foregoing Water Supply and Facilities Master Plan shall address the water supply concerns of Arthur Mangold</p>		
<p>3. One-inch meter for fire protection only. Order 10 requires that “Cal Water shall make a proposal to address customers outside the Livermore district who pay for one-inch metered service solely to meet fire protection requirements imposed by the local government.... This issue was raised by Mangold (Exh. 301, p. 48).</p>	<p>D.08-07-008, Order 10. Exhibit No. 301, p. 48.</p>	<p>Yes.</p>
<p>4. Water conservation, including reporting of savings. Order 2 pertains to evaluation of and reporting on water conservation programs. Exhibit 301 demonstrates the need for vigilance, particularly if conservation is viewed as a substitute for long-term supply.</p>	<p>D.08-07-008, Order 2. Exhibit No. 303.</p>	<p>In part.</p>

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

	Claimant	CPUC Verified
<p>a. Was DRA a party to the proceeding? (Y/N)</p>	<p>Yes</p>	<p>Yes</p>
<p>b. Were there other parties to the proceeding? (Y/N)</p>	<p>Yes</p>	<p>Yes</p>
<p>c. If so, provide name of other parties:</p>	<p>Jeffrey A. Young and the City of Los Altos</p>	
<p>Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: Mangold supplemented DRA’s efforts by focusing on long term growth and long-term water supply, including over reliance on conservation as a substitute for additional supply. He raised other</p>	<p>Yes. Mangold participated on specific issues of Mid-Peninsula District; no unnecessary duplication occurred.</p>	

<p>issues, most of which the Commission did not adopt and for which he claims no compensation. Before deciding to participate, Mangold discussed his potential participation with DRA's project manager. In that discussion, he avoided detailed discussion of issues to avoid any possible conflict of interests.</p>	
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C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Claimant	CPUC	Comment
II.A. No. 2		CPUC	<p>Mangold contributed by requesting that the Commission engage in long-term water supply planning. We note, however, that Mangold's concerns about water supply in Mid-Peninsula District were identified and addressed by the Commission prior to and/or independently from, Claimant's participation in this proceeding. See, D.08-07-008, p. 22. More importantly, Mangold's strong opposition to long-term water supply planning measures, such as new wells, undermines Mangold's concerns with water supply in Mid-Peninsula.⁷ The Commission rejected Mangold's opposition to the settlement provisions on locating additional sources of water.</p>
II.A. No. 4		CPUC	<p>Mangold contributed to the issue of monitoring CWSC's⁸ spending on conservation, by arguing that the Commission should make sure conservation dollars are spent wisely. We note, however, that water conservation, including reporting requirements, was addressed by the Commission prior to and/or independently from, Claimant's participation in this proceeding. See, D.08-07-008, pp. 19-20. In addition, D.08-07-008 did not adopt Claimant's position against the water conservation budget proposed in the</p>

⁷ Mangold's Rebuttal to DRA's Report on the Results of Operations in Mid-Peninsula District of January 21, 2008, pp. 2-3, 5; D.08-07-008, pp. 51-53.

⁸ California Water Service Company.

			settlement.
II.B.d		CPUC	Claimant focused on Mid-Peninsula District, Young – on the Redwood Valley/Coast Springs district, and the City of Los Altos – on the Los Altos district.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

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)	CPUC Verified
<p>1. Paragraph 4.1.2.1 of the Settlement pertains to the Mid-Peninsula District. It state that “The Parties initially agreed on an annual change of negative two multi-family units per year. The Parties now agree to use zero growth per year.” The 4 and 6 additional customers in 2008-09 and 2009-10, respectively, generate additional revenues of about \$23,200 in 2008-09 and \$36,600 in 2009-10. Mangold’s focus on multi-family customer growth was instrumental in the settlement being different than Cal Water’s and DRA’s original estimates.</p> <p>2. Finding of Fact 34 notes that “The SFPUC Hetch Hetchy water system is not limitless. Conclusion of Law 16 notes that “It is appropriate for Cal Water to begin the process of locating an additional source of water in the Mid-Peninsula District... Order 6 states, ““The foregoing Water Supply and Facilities Master Plan shall address the water supply concerns of Arthur Mangold</p> <p>3. Order 10 requires that “Cal Water shall make a</p>	<p>1. Yes.</p> <p>2. See footnote 3, p. 4.</p> <p>3. See footnote 3, p. 4.</p>

<p>proposal to address customers outside the Livermore district who pay for one-inch metered service solely to meet fire protection requirements imposed by the local government.... This issue was raised by Mangold (Exh. 301, p. 48).</p> <p>4. Order 2 pertains to evaluation of and reporting on water conservation programs. Exhibit 301 demonstrates the need for vigilance, particularly if conservation is viewed as a substitute for long-term supply.</p>	<p>4. See footnote 3, p. 4.</p>
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B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
[Atty 1]			\$						
[Atty 2]									
	<i>Subtotal:</i>				-0-	<i>Subtotal:</i>			

EXPERT FEES									
Item	Year	Hours ⁹	Rate \$	Basis for Rate*	Total \$ ¹⁰	Year	Hours	Rate \$	Total \$
Arthur Mangold	2007	129.0	\$120	Reasonable rate for professional engineering services	\$15,480	2007	61.2	\$120	\$7,344
Arthur Mangold	2008	48.0	\$120	Reasonable rate for professional engineering services	\$ 5,760	2008	22.8	\$120	\$2,736
Subtotal:					\$21,240	Subtotal:			\$10,080
OTHER FEES									
Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.):									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
[Person 1]									
[Person 2]									
Subtotal:					-0-	Subtotal:			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours ¹¹	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Arthur Mangold	2007	4	\$60	½ normal rate	\$ 240	2007	4	\$60	\$240
Arthur Mangold	2008	4	\$60	½ normal rate	\$ 240	2008	4	\$60	\$240

⁹ Mangold failed to include his hours of work in this column. We fill out this information for him based on the total amount of the requested fees and hourly rate.

¹⁰ Multiplying a number of hours reported in Mangold's timesheets by his requested hourly rate results in the total numbers higher than Mangold requests here. Absent any clear explanation by Mangold, it would appear that Mangold voluntarily reduced his requested professional hours by approximately 47.5%.

¹¹ We find eight hours Mangold spent on Intervenor Compensation documents excessive; however, we allow these hours since Mangold was new to preparing intervenor compensation documents.

		Subtotal:	\$ 480	Subtotal:	\$480
COSTS					
#	Item	Detail	Amount	Amount	
		Subtotal:	-0-	Subtotal:	
		TOTAL REQUEST \$:	\$21,720	TOTAL AWARD \$:	\$10,560

C. Attachments or Comments Documenting Specific Claim (Claimant completes; attachments not attached to final Decision):

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Daily Time Record of Arthur Mangold
	Daily time record of Mangold is deficient in that it does not identify substantive issues, on which Mangold worked in performing each particular task. This violates the requirements of Rule 17.4(b)(3) and deprives us of the ability to determine what percentage of the time Mangold devoted to each issue.

D. CPUC Disallowances & Adjustments (CPUC completes):

#	Reason
1	The Commission has considered many factors in determining reasonableness of this request, such as the narrow focus of Mangold's work, the fact that he focused, in part, on the secondary (issues number of multi-family residential customers and one-inch metered service), that his position on the primary issues of the proceeding (new sources of water and conservation budget) did not prevail, and that the Commission benefited to some extent from Mangold's participation, however, the extent of his contributions was very limited. This decision finds that although Mangold contributed to D.08-08-007, his requested expert hours are excessive in comparison to his actual contributions to the decision.

Claimant states he contributed to four issues; unfortunately, Claimant fails to provide information on the time spent on each issue. Mangold does not fill out the "Hours" column in his table in Part III.B. Based on the requested expert fees (\$21,240) and hourly rate (\$120), it appears that Claimant requests compensation for 177 expert hours. We acknowledge that this number is a result of the voluntary reduction made by Claimant (see, footnote 9 on p. 7). Unfortunately, Mangold does not indicate what principle he used when he made the reduction. All of this precludes us from making more precise disallowances for lack of substantial contribution and excessive hours. Therefore, in order to determine reasonableness of the requested compensation, we have to consider the place each of Mangold's issues occupied in this proceeding and his contributions to that issue.

By a rather generous assumption, we consider spending 15% of his requested expert time on each of the two minor issues - multi-family customer growth in Mid-Peninsula and one-inch metered fire-protection service - to be reasonable. We find that Mangold provided substantial contributions to these two issues, and we allow 30% (15%+15%) of the total requested expert hours for them.

We further conclude that spending not less than 35% of Claimant's requested expert hours on each of the two more critical to this proceeding's issues - water supply and water conservation, is reasonable. Since Mangold provided partial contributions to these issues (see, comments to II.A. No. 2 and II.A. No. 4, and the first paragraph of Part III.D), to account for these contributions we allow for each of them one fourth of the 35% of his requested hour.

We find that the total amount of \$10,080 for Mangold's expert hours reasonably reflects his substantial contributions to the issues of this proceeding, and we approve this amount.

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 (Y/N)?

No.

If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6)) (Y/N)?

No.

If not:

Party	Comment	CPUC Disposition
	No comments received	

FINDINGS OF FACT

1. Claimant has made a substantial contribution to D.08-07-008.
2. Claimant is a customer as defined in § 1802(b(1)(A) of the Public Utilities Code.
3. Claimant provided confidential financial documents under seal in support of his claim that demonstrate significant financial hardship, as described in § 1802(g).
4. The claimed fees and costs, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
5. The total of reasonable contribution is \$10,560.

CONCLUSIONS OF LAW

1. Claimant's Motion for Protective Order Regarding Personal Financial Information of October 17, 2008, should be granted.
2. The claim, with any adjustments set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

O R D E R

1. Claimant is awarded \$ 10,560.
2. Within 30 days of the effective date of this decision, California Water Service Company shall pay Claimant the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning November 26, 2008, the 75th day after the filing of claimant's request, and continuing until full payment is made.
3. Claimant's October 17, 2008 Motion for Protective Order Regarding Personal Financial Information is granted, as set forth. Claimant's personal financial information attached to the October 17, 2008 Supplement to Claim, shall be placed under seal for a two-year period from the date of this ruling. During this period, this information shall not be made accessible or be disclosed to anyone other than Commission staff except on the further order or ruling of the Commission. If Claimant believes that further protection of this information is needed after two years, he may file a motion stating the justification for further withholding of the material from public inspection, or for such other relief as the Commission Rules may then provide. This motion shall be filed no later than 45 days before the expiration of this order.
4. Application 07-07-001 is closed.
This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision? No
Contribution Decision(s):	D0807008	
Proceeding(s):	A0707001	
Author:	ALJ Thomas	
Payer(s):	California Water Service Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Arthur Mangold	9/12/08	\$21,720	\$10,560		Lack of substantial contribution; excessive hours

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Arthur	Mangold	Advocate	Arthur Mangold	\$120	2007	\$120
Arthur	Mangold	Advocate	Arthur Mangold	\$120	2008	\$120

(END OF APPENDIX)