

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
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Ratesetting

TO PARTIES OF RECORD IN APPLICATION 07-12-010

This is the proposed decision of Administrative Law Judge (ALJ) Walwyn. It will not appear on the Commission's agenda sooner than 30 days from the date it is mailed. The Commission may act then, or it may postpone action until later.

When the Commission acts on the proposed decision, it may adopt all or part of it as written, amend or modify it, or set it aside and prepare its own decision. Only when the Commission acts does the decision become binding on the parties.

Parties to the proceeding may file comments on the proposed decision as provided in Article 14 of the Commission's Rules of Practice and Procedure (Rules), accessible on the Commission's website at www.cpuc.ca.gov. Pursuant to Rule 14.3, opening comments shall not exceed 15 pages.

Comments must be filed either electronically pursuant to Resolution ALJ-188 or with the Commission's Docket Office. Comments should be served on parties to this proceeding in accordance with Rules 1.9 and 1.10. Electronic and hard copies of comments should be sent to ALJ Walwyn at cmw@cpuc.ca.gov and the assigned Commissioner. The current service list for this proceeding is available on the Commission's website at www.cpuc.ca.gov.

/s/ KAREN V. CLOPTON
Karen V. Clopton, Chief
Administrative Law Judge

KVC;jt2

Attachment

Decision PROPOSED DECISION OF ALJ WALWYN (Mailed 1/15/2010)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of California-American Water Company (U210W) for an Order Authorizing a Special Conservation Program and Modifications to its Rate Design in its Monterey District, and Authorization to Increase its Rates for Water Service in its Monterey District.

Application 07-12-010
(Filed December 14, 2007)

**DECISION GRANTING INTERVENOR COMPENSATION TO HIDDEN HILLS
SUBUNIT RATEPAYERS ASSOCIATION FOR SUBSTANTIAL
CONTRIBUTIONS TO DECISIONS 09-02-006, 09-05-029, AND 09-07-023**

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**DECISION GRANTING INTERVENOR COMPENSATION TO HIDDEN HILLS
SUBUNIT RATEPAYERS ASSOCIATION FOR SUBSTANTIAL
CONTRIBUTIONS TO DECISIONS 09-02-006, 09-05-029, and 09-07-023**

1. Summary

This decision awards Hidden Hills Subunit Ratepayers Association \$56,872.31 for its substantial contributions to Decisions 09-02-006, 09-05-029, and 09-07-023. This represents a decrease of \$31,558.37 or 35.7% from the amount requested due to adjustment for work performed at an agency other than the Commission, reduction for excessive hours claimed, and duplication of time/amount claimed. Today's award will be paid California American Water Company.

2. Background

On December 14, 2007, California American Water Company (Cal-Am) filed Application (A.) 07-12-010, requesting that the Commission (1) authorize special conservation program and rate design modifications for its Monterey district and (2) increase rates for water service to fund these efforts. On February 14, 2008, Cal-Am filed an amendment to its application to include a special request for a balancing account to track differences in allowed costs related to the Seaside Basin Water Master and the costs that will actually be incurred.

The presiding officer was Administrative Law Judge (ALJ) Christine Walwyn, and the assigned Commissioner was John Bohn. Hidden Hills Subunit

Ratepayers Association (HHSRA) represents six homeowners associations within the Monterey District.¹

A prehearing conference (PHC) was held on February 15, 2008. At the first PHC, coordination of this proceeding with the newly filed Monterey general rate case (GRC), General Office, and Wastewater proceedings was discussed. At a second PHC held on March 20, 2008, all parties agreed that conservation rate design, emergency rate design, and Cal-Am's request to modify its revenue adjustment mechanism would be transferred to the GRC. Settlement discussions between the parties was noticed and held on May 1, 2008. On June 5, 2008, HHSRA filed a motion requesting party status, which was granted by ALJ ruling on June 13, 2008. An assigned Commissioner's and ALJ Ruling and Scoping Memo was issued on June 27, 2008, detailing the issues and schedules for Phase 1 and Phase 2 of A.07-12-010. The issues addressed in Phase 1 included a review of: 1) Cal-Am's proposed conservation programs; 2) Cal-Am's proposed modifications to Rule 14.1; 3) interim changes to Cal-Am's emergency rate design to include the satellite systems of Bishop, Ryan Ranch, and HHSRA; and 4) Cal-Am's procedures for sharing customer data with the Monterey Peninsula Water Management District (MPWMD). The issues addressed in Phase 2 included conservation and rationing programs proposed by Cal-Am in its application, the specific concerns regarding these proposals expressed in a May 9, 2008 Joint Ruling, and further revisions to Rule 14.1.

¹ HHSRA represents Bay Ridge Homeowners Association of Monterey, Halcyon Hills Owners Association, Halcyon Heights Homeowners Association, Hidden Hills Homeowners Association, Los Laureles Homeowners Association, and Mesa Hills West Homeowners Association.

A number of issues originally included in A.07-12-010 were transferred to A.08-01-027, including review of the: 1) proposed changes to the current conservation rate design; 2) proposed changes to establish an emergency rationing rate design; 3) proposed modifications to the permanent rate design for Ryan Ranch, Bishop, HHSRA, and Ambler Park satellite systems; 4) proposed changes to the low-income program; and 5) proposed implementation of a full fixed cost recovery revenue adjustment mechanism.

Three decisions were issued in this proceeding: 1) D.09-02-006 adopted two proposed settlements between Cal Am, the Division of Ratepayer Advocates (DRA), and the MPWMD; 2) D.09-05-029 adopted a settlement agreement between Cal-Am, DRA, and the MPWMD on the conservation budget for the Monterey District; and 3) D.09-07-023 adopted a settlement agreement on water conservation and rationing for the Monterey District.

3. Requirements for Awards of Compensation

The intervenor compensation program which is set forth in Pub. Util. Code §§ 1801-1812,² requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if that party makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim

² All subsequent statutory references are to the Public Utilities Code (Pub. Util. Code) unless otherwise indicated.

- compensation within 30 days of the Prehearing Conference (PHC), pursuant to Rule 17.1 of the Commission's Rules of Practice and Procedure (Rules), or at another appropriate time that we specify. (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
 3. The intervenor must file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
 4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g) and 1804(b)(1).)
 5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision or as otherwise found by the Commission. (§§ 1802(i) and 1803(a).)
 6. The claimed fees and costs must be reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§ 1806), and productive (D.98-04-059).

In the discussion below, the procedural issues in Items 1-4 above are combined and a separate discussion of Items 5-6 follows.

3.1. Preliminary Procedural Issues

Under § 1804(a)(1) and Rule 17.1(a)(1), a customer who intends to seek an award of intervenor compensation must file an NOI before certain dates.

In a proceeding in which a PHC is held, the intervenor must file and serve its NOI between the date the proceeding was initiated until 30 days after the PHC is held. (Rule 17.1(a)(1).) The PHCs in this matter were held on February 15, 2008 and March 20, 2008. In her ruling of June 13, 2008, the ALJ granted HHSRA leave to file a late NOI to seek intervenor compensation and to

defer a showing of financial hardship. HHSRA filed its NOI on November 12, 2008. In her June 11, 2009 ruling, the ALJ ruled that HHRA has met the financial hardship condition pursuant to Pub. Util. Code § 1804(b)(2), but noted that this finding in no way ensures compensation.

Section 1802(b)(1) defines a “customer” as: (A) a participant representing consumers, customers or subscribers of a utility; (B) a representative who has been authorized by a customer; or (C) a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small business customers. (§ 1802(b)(1)(A) through (C).) On June 13, 2008, the ALJ issued a ruling that found HHSRA a customer pursuant to § 1802(b)(1) (C).

Regarding the timeliness of the request for compensation, HHSRA submitted its request for compensation on September 8, 2009, within 60 days of D.09-07-023 being issued.

In view of the above, we find that HHSRA has satisfied all the procedural requirements necessary to make its request for compensation in this proceeding.

Cal-Am responded to HHSRA’s request for Intervenor Compensation on October 8, 2009. HHSRA replied on October 23, 2009. We briefly summarize the contents here.

Cal-Am contends that HHSRA’s request: 1) includes costs associated with lobbying efforts of Monterey governmental officials that do not constitute participation in this Commission proceeding which should be excluded; 2) includes costs associated with its participation in MPWMD and Monterey County Planning Department proceedings which should be excluded; and 3) includes a billing summary and list of itemized expenses that do not meet the

standards of the Commissions Rules of Practice and Procedure Rule 17.4(b) and should be revised.

HHSRA replied that: 1) it agrees with Cal-Am that meetings and communications with individual MPWMD Board members and the Monterey County Planning Department do not qualify for intervenor compensation, and will remove such work from its claim for compensation; 2) the remainder of the work it performed before the MPWMD for which it requests compensation qualifies for recovery, based on compliance with factors enumerated in D.02-06-070; and 3) it will delineate fees for work performed before the MPWMD, for which it is requesting compensation.

4. Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding, we look at several things. First, we look at whether the Commission adopted one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer. (§1802(i)) Second, if the customer's contentions or recommendations paralleled those of another party, we look at whether the customer's participation unnecessarily duplicated or materially supplemented, complemented, or contributed to the presentation of the other party. (§§1801.3(f) and 1802.5)

As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is

then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.³

With this guidance in mind, we turn to the claimed contributions HHSRA made to the proceeding. HHSRA claims that it participated in every phase of this proceeding, representing a select group of Cal-Am ratepayers. HHSRA was an active party in this proceeding. HHSRA participated in settlement meetings of the parties, but was not a signatory to the settlements authorized in this proceeding, submitted a prehearing conference statement, submitted testimony, participated in settlement meetings, participated in hearings, submitted a response in opposition to a settlement agreement, and submitted comments on the ALJ's proposed decision. Specifically, HHSRA claims it made substantial contributions in both Phase 1 and Phase 2 of A.07-12-010, regarding:

- a. Participation in MPWMD proceedings.
- b. Ratepayer perspective on Cal-Am service and proposed changes to conservation and rationing programs in the Laguna Seca Subarea through the Bishop, Hidden Hills, and Ryan Ranch subsystems, and that this subarea be recognized as a separate subunit; and
- c. Revisions to Cal-Am's conservation and rationing plan, in particular, revision to Rule 14.1 and emergency rate design.

We find that HHSRA made a substantial contribution in both Phase 1 and Phase 2 of A.07-12-010 on items b. and c. above, however, the work HHSRA's performed before the MPWMD and has claimed in A.07-12-010 does not qualify for intervenor compensation. Intervenor compensation may only be rewarded for work performed before another agency when the circumstances of the case are extraordinary. For example, The Utility Reform Network (TURN) was

³ See D.98-04-059, 79 CPUC2d 628 at 653.

awarded compensation for work performed before the United States District Court, regarding Southern California Edison and Pacific Gas and Electric Company's argument that "the Commission could not prevent the utilities from raising rates to collect increased wholesale procurement costs."⁴ In that case, the work TURN performed at another agency affected multiple utilities and their customers, and occurred during the energy crisis. The circumstances of the current case are not extraordinary. A.07-12-010 addresses the rates and programs of just one district of one utility, and does not have industry wide policy effects. Therefore, HHSRA's work performed before the MPWMD does not qualify for intervenor compensation.

In both Phase 1 and Phase 2, HHSRA represented the interests of the customers living in Laguna Seca Subarea, including the Bishop, Hidden Hills, and Ryan Ranch subsystems. D.09-02-006 clearly provides support for HHSRA's claim of substantial contribution in Phase 1. HHSRA supported and promoted several positions that were adopted by the Commission, such as: 1) recognition of the Laguna Seca Subarea as a separate subsystem; 2) customers in the Laguna Seca Subarea are now subject to conservation and rationing provisions of Cal-Am's Rule 14.1.1; 3) Under Rule 14.1.1, main and subsystem customers are treated differently; 4) interim emergency rates authorized for main and subsystem customers are similar; 5) subsystem customers are eligible for all conservation programs offered by Cal-Am to its main system customers; and 6) HHSRA's objection to the preliminary agreement between Cal-Am and

⁴ See D.02-06-070 at 7.

MPWMD on Rule 14.1.1 rationing stages 4-7.⁵ HHSRA was specifically mentioned by the Commission as an active party in the development of the two settlements authorized in D.09-02-006.⁶ HHSRA's response and protest to a third settlement, between Cal-Am and MPWMD, was also considered by the Commission in its rejection of that settlement.⁷

Similarly, D.09-07-023 provides support for HHSRA's claim of substantial contribution in Phase 1. HHSRA supported the interests of the Laguna Seca Subarea customers in its work in the development of a settlement that: 1) revised Monterey District Rule 14.1.1 conservation plan, Stages 1-3, to make it consistent with MPWMD's Regulation XV as amended by Ordinance 137; and 2) made further revisions of the Monterey District Rule 14.1.1, to include Stages 4-7 that are compatible with MPWMD's Regulation XV.⁸ Even though D.09-07-023, does not specifically mention HHSRA, it does refer to negotiations between all parties, of whom HHSRA was one, which resulted in the settlement authorized by the decision regarding further revisions to Cal-Am's Rule 14.1.1, and revisions to its conservation and rationing programs. In particular, Bishop, Hidden Hills, and Ryan Ranch subsystems, areas represented by HHSRA, were authorized exclusions from rationing requirements at Stage 4 of Rule 14.1.1 if there is no reliance by the subsystems on production or production offsets from the main system, and at Stages 5-7 of Rule 14.1.1 unless there is a Final Cease and Desist

⁵ See D.09-02-006 at Findings of Fact 6, 14-18, 27-29.

⁶ See D.09-02-006 at 8.

⁷ See D.09-02-006 at 5.

⁸ See D.09-07-023 at 2 and 5.

Order that reduces available supplies for subsystems that do not rely to any extent upon production or production offsets from the main system.⁹

D.09-05-029 provides support for HHSRA's claim of substantial contribution in Phase 2 of A.07-12-010. D.09-05-029 authorized a settlement between Cal-Am, DRA, and MPWMD, regarding a proposed 3-year conservation budget for 2009-2011, including monitoring and reporting requirements for each conservation program, and a surcharge funding mechanism. The settlement approved in this decision includes a conservation budget with specific funding for the initiation of water audits for applicable customers in the Ryan Ranch, Hidden Hills, and Bishop subsystems. HHSRA continued to represent the interests of the Laguna Seca Subarea customers in this phase, through submission of testimony and presentation of a witness in support of their position,¹⁰ and their cross of witnesses during hearings, in particular with regards to how the proposed conservation budget and program would affect subarea customers.¹¹

HHSRA and DRA, both opposed one of the three settlements proposed in Phase 1, between Cal-Am and the MPWMD. The adopted decision specifically identified and agreed with both DRA and HHSRA's opposition to this particular settlement.¹² Under the Settlement in question, Cal-Am agreed to revise its Tariff Rule 14.1 to implement certain concepts based on MPWMD's drafted

⁹ See D.09-07-023 at 15.

¹⁰ RT at 660-666.

¹¹ RT at 582-587, 646-648, 706-710, 734-735, 751-752, and 773-778.

¹² See D.09-02-006 at 5. DRA's comments and HHSRA's opposition were both filed on October 27, 2008.

Ordinance 137 and Regulation XV. In its capacity as representatives of the Laguna Seca Subarea customers, HHSRA stated that, if the settlement were adopted, public review and comment by the ratepayers via public participation hearings would be preempted. DRA, on the other hand, stated more broad-based concerns with the settlement: 1) the settlement is an agreement between two parties to work together, which does not require Commission approval; 2) the settlement does not require Commission action; 3) the settlement does not present a rationing plan as discussed in its motion; and 4) a settlement is premature, since the revisions to the MPWMD ordinance and Rule are a work in progress.

Accordingly, we find that HHSRA made substantial contributions regarding representation of the interests of customers living in the Laguna Seca Subarea in both Phases 1 and 2 of A.07-12-010.

5. Contributions of Other Parties

Section 1801.3(f) requires an intervenor to avoid participation that duplicates that of similar interests otherwise adequately represented by another party, or participation unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation where its participation materially supplements, complements, or contributes to the presentation of another party if that participation makes a substantial contribution to the Commission order.

As discussed in the previous section, HHSRA and DRA, both opposed one of the three settlements proposed in Phase 1, between Cal-Am and the MPWMD. HHSRA's comments, as representatives of a specific customer group, were key to the outcome adopted, and provided a different argument against the settlement than DRA's broad based concerns. For purposes of evaluating HHSRA's request,

we therefore find that its participation was not duplicative of the presentation of DRA.

6. Reasonableness of Requested Compensation

HHSRA's adjusted request of \$88,430.68¹³ for its participation in this proceeding is as follows:

Requested Hours and Rates

Description	Total Hours	Hourly Rates	Total
Lloyd W. Lowrey			
2008	154.76	\$295	\$45,654.20
2009	19.65	\$295	\$5,796.75
Subtotal	174.41		\$51,450.95
Christine G. Kemp			
2008	.20	\$295	\$59.00
2009	.80	\$295	\$236.00
Subtotal	1.00		\$295.00
Myron E. Etienne			
2008	4.56	\$295	\$1,345.20
Glen Stransky			
2008	103.75	\$125	\$12,968.75
2009	8.30	\$125	\$1,037.50
Subtotal	112.05		\$14,006.25
Russ Hatch			
2008	42.29	\$125	\$5,286.25
Charlena A. Nossett			
2008	19.40	\$125	\$2,425.00
2009	7.70	\$125	\$962.50
Subtotal	27.10		\$3,387.50
TOTAL Before IComp Preparation and Direct Expenses			\$75,771.15
2008 IComp Preparation (at 1/2 Rate)	12.43		\$1,408.43
Lloyd W. Lowrey	7.43	\$147.50	

¹³ In its Response to the Inquiries of the ALJ, filed on October 30, 2009, HHSRA adjusted its original requested compensation down from \$126,066.31 to \$88,430.68. HHSRA's revision reflects correction of an arithmetic error, a reallocation of time, and deletion of some work performed before the MPWMD.

Charlena A. Nossett	5.00	\$62.50	
2009 IComp Preparation (at ½ Rate)			\$5,144.98
Lloyd W. Lowrey	15.46	\$147.50	
Christine G. Kemp	7.90	\$147.50	
Charlena A. Nossett	3.06	\$62.50	
Jeanne R. Baughman	24.13	\$62.50	
TOTAL Before Direct Expenses			
Direct Expenses			\$6,106.13
Grand Total			\$88,430.68

HHSRA also provided a breakdown of each person's work by phase/venue, as detailed below.

Total Hours Requested by Person and Phase/Venue

Description	Phase 1	Phase 2	MPWMD Phase 1	MPWMD Phase 2	Intervenor Compensation
Lloyd W. Lowrey					
2008	49.93	58.78	16.25	29.80	7.43
2009	8.40	11.05		.20	15.46
Subtotal	58.33	69.83	16.25	30.00	22.89
Christine G. Kemp					
2008	-	.20			
2009	.40	.40			7.90
Subtotal	.40	.60			7.90
Myron E. Etienne					
2008	.48	.48	3.60		
Glen Stransky					
2008	83.00		20.75		
2009	8.30				
Subtotal	91.30		20.75		
Russ Hatch					
2008	33.79		8.50		
Charlena A. Nossett					
2008	2.20	17.20			5.00
2009	3.05	4.65			3.06
Subtotal	5.25	21.85			8.06
Jeanne R. Baughman					
2009	-				24.13
Phase/Venue Total	185.55	92.76	49.10	30.00	62.98
Total Hours Claimed	424.39				

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are discussed below.

6.1. Hours and Costs Related to and Necessary for Substantial Contribution

We first assess whether the hours claimed for HHSRA's efforts that resulted in substantial contributions to a Commission decision are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

HHSRA's unique perspective as representatives of a newly recognized subarea of the Monterey District provided a distinctive viewpoint on all the issues considered by the Commission in this proceeding, as well as those that affected only the subarea.

6.2. Duplication of Claimed Hours and Hours Attributable to Other Proceedings

In its verification of the hours claimed by HHSRA for work performed in Phase 1 and Phase 2 of A.07-12-010, the Commission discovered numerous instances of the same work being claimed in both phases, claim for work in A.08-01-027, and claim for work performed before the MPWMD that was included in the timesheets for Phase 1 and Phase 2 work. A claimant for intervenor compensation may only claim work once, and only for the specific proceeding in which the claim of substantial contribution is made. Even if work performed by claimant that is attributable to multiple phases of a proceeding, it may only be claimed once.

Therefore, 25.21 hours are excluded in 2008 and 7.55 hours are excluded in 2009, for a total exclusion of 32.76 hours for duplication, work in another Commission proceeding, and work performed before the MPWMD that was claimed as part of Phase 1 and 2, are excluded from consideration of its claim. If broken out by activity, this equates to adjustments of 3.51 hours in Phase 1 and 29.25 hours in Phase 2. The remainder of hours that HHSRA specifically delineated in its timesheets as work performed before the MPWMD, is discussed separately below.

6.3. Work Performed Before MPWMD

As discussed above, HHSRA's specific claim for work performed before the MPWMD is not recoverable. HHSRA is being compensated for its input to the Commission's consideration of Cal-Am's requested revisions to its conservation and rationing programs in the Monterey District. In part, HHSRA provided input as to how the Commission should incorporate revisions to MPWMD rules and ordinances in regards to the Commission decision regarding Cal-Am's Rule 14.1.

Therefore, 78.90 hours in 2008 and .20 hours in 2009, for a total of 79.10 hours, attributable to HHSRA's specifically claimed work before the MPWMD are excluded from consideration of its claim.

6.4. Phase 1

During hearings held on July 28-29 and August 12-13, 2008, HHSRA:
1) cross-examined Cal-Am's witness, David Morse, regarding Cal-Am's proposed changes to Rule 14.1 and the effect of changes to rationing, banking

and tariff rates on the subsystem;¹⁴ and 2) participated in discussions regarding settlements,¹⁵ scheduling,¹⁶ testimony,¹⁷ data responses,¹⁸ noticing of subsystem customers,¹⁹ and the effect of conservation and rationing rates on subsystem customers.²⁰

Except for the hours excluded as detailed above in Sections 5.1.1, the time allocated by HHSRA to Phase 1 is reasonable.

6.5. Phase 2

HHSRA's submitted testimony and actively participated in hearings in Phase 2 of A.07-12-010.²¹ HHSRA's testimony discussed recognition of the Laguna Seca Subarea as a subunit of the Monterey District, proposed revisions to Cal-Am's conservation and rationing program (including Rule 14.1), rationing triggers specific to the subarea, and the need for an emergency connection with the main system.²²

HHSRA's witness Glen Stransky²³ submitted testimony and was cross-examined by the MPWMD regarding his position on the actual need for

¹⁴ RT at 301-319.

¹⁵ RT at 486-488 and 503-504.

¹⁶ RT at 244-247 and 518-521.

¹⁷ RT at 244-247 and at 528-533.

¹⁸ RT at 217 and 296-300.

¹⁹ RT at 241.

²⁰ RT at 29-230.

²¹ RT at 547-552, 582-587, 646-648, 660-663, 706-710, 734-735, 751-752, 765, 773-778, 851-852, and 858.

²² Testimony of Glen Stransky, dated September 9, 2008.

²³ HHSRA Exhibit 36, dated September 9, 2008.

conservation in the subarea, the water supply to the subarea, and the application of MPWMD conservation incentive ordinances to the subarea.²⁴ HHSRA witness Stransky was also questioned by the ALJ regarding conservation programs that residents of the subarea may be interested in, as well as the possible use of grey water in the subarea.²⁵

HHSRA also cross-examined a number of witnesses and participated in discussions regarding briefing and scheduling for the remainder of the proceeding. HHSRA cross-examined: 1) Cal-Am witness Morse regarding the differentiation between subareas in the Monterey district and whether those differences were considered in his recommended conservation proposals;²⁶ 2) Cal-Am witness Stephenson regarding the rate design and revenues related to Cal-Am's conservation proposals, whether specific information regarding the subarea had been considered by Cal-Am in its conservation rate design, whether the provisions of the Public Records Act provide enough protection of the data Cal-Am would share with MPWMD, and whether Cal-Am has analyzed whether there's greater potential for savings from leak detection and focus on unaccounted for water losses rather than conservation or as opposed to conservation;²⁷ 3) MPWMD witness Pintar regarding success of MPWMD's conservation and outreach programs, coordination with homeowners' associations, cost of water audits, and whether she had any knowledge of homeowners' associations efforts undertaken in subareas regarding

²⁴ RT at 660-663.

²⁵ RT at 663-666.

²⁶ RT at 547-552.

²⁷ RT at 582-587 and 646-648.

conservation;²⁸ 4) the Independent Reclaimed Water Users Group witness Prokop regarding reasonableness of Cal-Am's conservation program budget;²⁹ and 5) a panel of witnesses regarding whether conservation efforts discussed in proposed settlement target a part of the community, in particular regarding water audits, outdoor use, and rebates.³⁰

Except for the hours excluded as detailed above in Sections 5.1.1, the time allocated by HHSRA to Phase 2 is reasonable.

6.6. Preparation of Intervenor Compensation Request

In its request, HHSRA originally claimed 37.76 hours to draft its intervenor compensation request. In its Response, HHSRA revised its request to 62.9 hours to draft its intervenor compensation request, which is much greater than is normally requested by an intervenor for a case that lasted approximately two years, and included the work of three attorneys, two consultants, and two legal assistants.

Even though there is no standard amount of time specified for preparation of an intervenor compensation request, we can look to past awards for guidance. For example, in a case that lasted a similar amount of time, with multiple attorneys and consultants, TURN claimed and was awarded 23 hours;³¹

²⁸ RT at 706-710 and 734-735.

²⁹ RT at 751-752.

³⁰ RT at 773-778.

³¹ See D.09-05-014, TURN claimed and was awarded compensation for participation that lasted two years and included the work of five attorneys.

Disability Rights Advocates claimed and was awarded 43.6 hours;³² and the National Consumer Law Center claimed and was awarded 26.35 hours.³³

We therefore find that HHSRA's original claim of 37.76 hours is more reasonable and more in line with compensation awards in similar cases.

6.7. Intervenor Hourly Rates

We next take into consideration whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. Current intervenor compensation rates were authorized in Resolution ALJ-235. HHSRA seeks hourly rates of \$295 for work performed by Lloyd W. Lowrey in 2008 and 2009. This rate is at the low end of an attorney with 13+ years experience practicing law. Lowrey has 37 years experience practicing law, and states that he has represented other clients before the Commission in the past. Given the length of Lowrey's overall legal experience, balanced with his limited practice before the Commission, the rate of \$295 is reasonable.

HHSRA seeks an hourly rate of \$295 for work performed by Christine G. Kemp in 2008 and 2009. This rate is at the low end of an attorney with 13+ years experience practicing law. Kemp has over 21 years experience practicing law, but has not practiced before the Commission. Given the length of Kemp's overall legal experience, balanced with her limited practice before the Commission, the rate of \$295 is reasonable.

³² See D.09-05-016, Disability Rights Advocates claimed and was awarded compensation for participation that lasted two years and included the work of three attorneys and two paralegals.

³³ See D.09-05-017, the National Consumer Law Center claimed and was awarded compensation for participation that lasted two years and included the work of two attorneys and one expert.

HHSRA seeks an hourly rate of \$295 for work performed by Myron E. Etienne in 2008 and 2009. This rate is at the low end of an attorney with 13+ years experience practicing law. Etienne has over 56 years experience practicing law, but has not practiced before the Commission. Given the length of Etienne's overall legal experience, balanced with his limited practice before the Commission, the rate of \$295 is reasonable.

HHSRA seeks an hourly rate of \$125 for work performed by Glen Stransky in 2008 and 2009. This rate is at the low end of an expert with 0-6 years experience practicing before the Commission. Stransky has over 25 years experience in information technology, data base management, and data analysis experience; 14 years experience consulting in project management, software design, and programming and implementation; but has not practiced before the Commission. Given Stransky's experience in data analysis, balanced with this being his first appearance before the Commission, we adopt an hourly rate of \$125.

HHSRA seeks an hourly rate of \$125 for work performed by Russ Hatch in 2008 and 2009. This rate is at the low end of an expert with 0-6 years experience practicing before the Commission. Hatch appeared before the Commission in the 1970's, and has managed small water systems in the Laguna Seca Subarea. Given Hatch's experience, we adopt an hourly rate of \$125.

HHSRA seeks an hourly rate of \$125 for work performed by Charlena A. Nossett in 2008 and 2009. Over the past 10 years, the hourly rate authorized for a paralegal has ranged from \$50 to \$145.³⁴ Nossett has over 20 years experience as

³⁴ See D.07-12-004 and 06-04-018, respectively.

a paralegal, and has worked on water rate proceedings filed with the Commission. Given Nossett's level of experience and practice before the Commission, we adopt an hourly rate of \$125.

HHSRA seeks an hourly rate of \$125 for work performed by Jeanne R. Baughman in 2009. Baughman has 19 years experience as a paralegal, and has worked on water rate proceedings filed with the Commission. Given Baughman's level of experience and practice before the Commission, we adopt an hourly rate of \$125.

6.8. Direct Expenses

HHSRA has requested \$6,106.13 for hotel, meals, parking, mileage, legal research postage, photocopying, and transcripts. We have reviewed the supporting documentation for these expenses, and find that some non-compensable expenses have been claimed by HHSRA. HHSRA claimed \$1,200.54 in the current case, which were incurred by HHSRA's in their participation in another Commission proceeding, A.08-01-024, which we do not compensate for in this proceeding. HHSRA claimed meals totaling \$352.50, which we do not compensate for.³⁵ HHSRA also claimed \$288.98 for mileage within what the Commission considers a range of routine travel, which we do not compensate for.³⁶ We have therefore adjusted the claim by \$1,842.02, resulting in reasonable direct expenses of \$4,264.11.

6.9. Productivity

D.98-04-059 directed applicants to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participations to ratepayers. The

³⁵ See D.09-11-026 at 7 and D.09-11-029 at 6.

costs of a customer's participation should bear a reasonable relationship to the benefits realized through its participation. This showing assists us in determining the overall reasonableness of the request.

HHSRA coordinated its efforts in A.07-12-010 with other parties in order to avoid duplication of effort and ensure efficiency. Given that A.07-12-010 in large part addressed water conservation policy issues, it would be difficult to assign a specific dollar amount to recognize the productivity of HHSRA's efforts Phases 1 and 2 of A.07-12-010.

With the adjustments to the award made today regarding substantial contribution and hourly rates, we find HHSRA's efforts, as adjusted herein, to be productive.

³⁶ See D.09-12-040 at 28.

7. Award

As set forth in the table below, we award HHSRA \$56,872.31.

Description	Year	Hours	Rate	Total
Lloyd W. Lowrey				
	2008	83.98	\$295	\$24,774.10
	2009	16.00	\$295	\$4,720.00
Christine G. Kemp				
	2008	0.20	\$295	\$59.00
	2009	0.40	\$295	\$118.00
Myron E. Etienne				
	2008	0.48	\$295	\$141.60
Glen Stransky				
	2008	83.00	\$125	\$10,375.00
	2009	8.30	\$125	\$1,037.50
Russ Hatch				
	2008	33.79	\$125	\$4,223.75
Charlena A. Nossett				
	2008	19.40	\$125	\$2,425.00
	2009	4.00	\$125	\$500.00
Intervener Compensation Preparation (at ½ Rate)				
Lloyd W. Lowrey	2009	12.45	\$147.50	\$1,836.38
Christine G. Kemp	2009	7.35	\$147.50	\$1,084.13
Charlena A. Nossett	2008	4.10	\$62.50	\$256.25
Charlena A. Nossett	2009	3.06	\$62.50	\$191.25
Jeanne R. Baughman	2009	13.86	\$62.50	\$866.25
Direct Expenses	\$4,264.11			
Grand Total	\$56,872.31			

Pursuant to §1807, we order Cal-Am to pay this award. Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on November 22, 2009, the 75th day after HHSRA filed its compensation request, and continuing until full payment of the award is made.

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. HHSRA's records should identify specific issues for which it requested 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.

8. Comment Period

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

9. Assignment of Proceeding

President John A. Bohn is the assigned Commissioner, and Christine Walwyn is the assigned ALJ in this proceeding.

Findings of Fact

1. HHSRA has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
2. HHSRA made a substantial contribution to D.09-02-006, 09-05-029, and D.09-07-023, as described herein.
3. The work performed by HHSRA before the MPWMD is not eligible to be claimed, as described herein.

4. Duplicative claims and claims for work performed in another Commission proceeding by HHSRA are not recoverable, as described herein.

5. Hourly rates for its representatives requested by HHSRA, as adjusted herein, are reasonable when compared to the market rates for persons with similar training and experience.

6. HHSRA requested related expenses, as adjusted herein, that are reasonable and commensurate with the work performed.

7. The total of the reasonable compensation is \$56,872.31.

8. Appendix A to this decision summarizes today's award.

Conclusions of Law

1. HHSRA has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed expenses, as adjusted herein, incurred in making substantial contributions to D.09-03-025.

2. HHSRA's claim for work performed before the MPWMD should not be eligible for a claim of intervenor compensation.

3. Duplicative claims and claims for work performed in another Commission proceeding should not be recovered by HHSRA.

4. HHSRA claim for direct expenses should be adjusted to remove non-compensable expenses.

5. HHSRA should be awarded \$56,872.31 for its contributions to D. 09-02-006, 09-05-029, and D.09-07-023, as described herein.

6. This order should be effective today so that HHSRA may be compensated without further delay.

7. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. Hidden Hills Subunit Ratepayers Association is awarded \$56,872.31 as compensation for its substantial contributions to Decisions 09-02-006, 09-05-029, and 09-07-023.

2. Hidden Hills Subunit Ratepayers Association's claim for work performed before the Monterey Peninsula Water Management District is not eligible for a claim of intervener compensation.

3. Within 30 days of the effective date of this decision, California American Water Company shall pay \$56,872.31 to Hidden Hills Subunit Ratepayers Association. 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 22, 2009, the 75th day after the filing date of Hidden Hills Subunit Ratepayers Association's request for compensation, and continuing until full payment is made.

4. Application 07-12-010 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision? No
Contribution Decision(s):	D0902006, D0905029, and D0907023	
Proceeding(s):	A0712010	
Author:	ALJ Walwyn	
Payer(s):	California American Water	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Hidden Hills Subunit Ratepayers Association (HHSRA)	09/08/2009	\$88,430.68	\$56,872.31	None	Adjustment for level of contribution and adjusted hourly rates

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested for	Hourly Fee Adopted
Lloyd W.	Lowrey	Attorney	Hidden Hills Subunit Ratepayers Association	\$295	2008	\$295
Lloyd W.	Lowrey	Attorney	Hidden Hills Subunit Ratepayers Association	\$295	2009	\$295
Christine G.	Kemp	Attorney	Hidden Hills Subunit Ratepayers Association	\$295	2008	\$295
Christine G.	Kemp	Attorney	Hidden Hills Subunit Ratepayers Association	\$295	2009	\$295
Myron E.	Etienne	Attorney	Hidden Hills Subunit Ratepayers Association	\$295	2008	\$295
Glen	Stransky	Expert	Hidden Hills Subunit Ratepayers Association	\$125	2008	\$125
Glen	Stransky	Expert	Hidden Hills Subunit Ratepayers Association	\$125	2009	\$125
Russ	Hatch	Expert	Hidden Hills Subunit Ratepayers Association	\$125	2008	\$125
Charlena A.	Nossett	Legal Assistant	Hidden Hills Subunit Ratepayers Association	\$125	2008	\$125
Charlena A.	Nossett	Legal Assistant	Hidden Hills Subunit Ratepayers Association	\$125	2009	\$125
Jeanne R.	Baughman	Legal Assistant	Hidden Hills Subunit Ratepayers Association	\$125	2009	\$125

(END OF APPENDIX A)

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a Notice of Availability of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the Notice of Availability of the filed document is current as of today's date.

Dated January 15, 2010, at San Francisco, California.

/s/ JOYCE TOM
Joyce Tom

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event.