Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U 39 M) to Recover Costs Recorded in the Catastrophic Event Memorandum Account (CEMA Effective January 1, 2000.	Application 99-01-011 (Filed June 19, 2000)

O P I N I O N

This decision grants Aglet Consumer Alliance (Aglet) and James Weil an award of $12,512.80 in compensation for contributions to Decision (D.) 00-04-050. No party objected to Aglet's and Weil's request for compensation.

1. Background

Pacific Gas and Electric Company (PG&E) in this proceeding requested authority to recover costs recorded in its Catastrophic Event Memorandum Account (CEMA). D.00-04-050 addressed ratemaking treatment and recovery of costs by PG&E related to seven declared disasters.

Prehearing conferences were conducted on February 23, 1999, and on August 31, 1999. Weil entered an appearance as an individual PG&E customer at the first prehearing conference. He amended the appearance to represent Aglet Consumer Alliance at the second prehearing conference.

On September 14, 1999, the first day of evidentiary hearings, PG&E, the Office of Ratepayer Advocates (ORA) and Weil announced that they had reached agreement on all contested issues. On October 1, following a settlement

conference, the three parties filed a motion for approval of their settlement agreement. Weil signed the agreement.

On February 11, 2000, PG&E, ORA and Weil filed a motion to amend the settlement agreement due to new developments following the signing of the agreement. In D.00-04-050, the Commission approved the settlement agreement, including the amendments, without change. D.00-04-050 resolved issues for which Aglet and Weil believe they made substantial contributions. It is a final order or decision as defined in Rule 76.72 of the Rules of Practice and Procedure.

2. Requirements for Awards of Compensation

Intervenors who seek compensation for their contributions in Commission proceedings must demonstrate compliance with Pub. Util. Code §§ 1801-1812. Section 1804(a) requires an intervenor to file a Notice of Intent (NOI) within 30 days of the prehearing conference or by a date established by the Commission. On September 29, 1999, Aglet and Weil filed a timely NOI to claim compensation. The NOI included a demonstration of "customer" status (as defined by the statute), adequacy of representation, nature and extent of planned participation, and a compensation estimate of $9,390. The NOI presented citations to rebuttable presumptions of eligibility for compensation for both Aglet and Weil, pursuant to Pub. Util. Code § 1804(b)(1). The assigned Administrative Law Judge (ALJ) issued a ruling on January 10, 2000, finding them eligible for compensation in this proceeding.

Section 1804(c) requires the intervenor's request for an award be filed within 60 days following issuance of a final decision. There was some question of Aglet's and Weil's timeliness in this regard, but we have examined the Express Mail receipt and other documents supplied by Aglet and Weil, and we conclude

that the preponderance of evidence shows that the compensation request was timely delivered to the Commission offices.

Section 1804(c) also requires an intervenor requesting compensation to provide "a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding." Section 1802(h) states that "substantial contribution" means that,

> "in the judgment of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation."

Section 1804(e) requires the Commission to issue a decision that determines whether or not the customer has made a substantial contribution and the amount of compensation to be paid. The level of compensation must take into account the market rate paid to people with comparable training and experience who offer similar services, consistent with § 1806.

3. Contributions to Resolution of Issues

Under § 1802(h), a party may make a substantial contribution to a decision in various ways.[1] It may offer a factual or legal contention upon which the

[1] Pub. Util. Code § 1802(h).

Commission relied in making a decision, or it may advance a specific policy or procedural recommendation that the Commission adopted. A substantial contribution includes evidence or argument that supports part of the decision even if the Commission does not adopt a party's position in total. The Commission has provided compensation even when the position advanced by the intervenor is rejected.[2]

In this proceeding, Aglet and Weil dealt with several technical issues related to CEMA ratemaking, including the effect of Gas Accord provisions on gas transmission system restoration costs that are eligible for CEMA recovery, and the level of losses already built into PG&E rates. Although Aglet and Weil generally agreed with the showing of ORA, their testimony complemented and supplemented ORA's work.

Weil had an active role in settlement negotiations. He also participated in drafting the settlement agreement, the motion for its approval, the amendments, and the motion for acceptance of the amendments.

Prior to the settlement, PG&E sought CEMA recovery of $75.9 million of electric costs, $2.2 million of gas transmission revenues, and $7 million for correction of a calculation error. Its total request was for $85.1 million. As a compromise in the settlement, PG&E agreed to recover $69.8 million of CEMA revenue requirement, saving ratepayers $15.3 million. ORA and Aglet were the only parties contesting these costs. The settlement explicitly recognizes a PG&E

[2] See D.89-03-96 (awarding San Luis Obispo Mothers For Peace and Rochelle Becker compensation in Diablo Canyon Rate Case because their arguments, while ultimately unsuccessful, forced the utility to thoroughly document the safety issues involved).

concession of $1.7 million as a result of Weil's testimony. (Settlement Agreement, p. 3.)

The benefits of Aglet's and Weil's participation in this proceeding include the $1.7 million concession by PG&E, a share of the $15.3 million revenue requirement compromise included in the settlement, and a share of the administrative efficiencies gained by eliminating evidentiary hearings. The Commission's approval of the settlement was based at least in part on resolution of technical issues addressed in Weil's testimony. We therefore find that Aglet and Weil have demonstrated that they made a substantial contribution to D.00-04-050.

4. The Reasonableness of Requested Compensation

Aglet and Weil request request compensation in the amount of $12,512.80. Documentation attached to the request shows the following hours and expenses:

Weil:	
40.6 hours @ $200 (1999)	$8,120.00
13.5 hours @ $220 (2000)	2,970.00
5.8 hours travel @ $100 (1999)	580.00
5.4 hours travel at $110 (2000)	594.00
Other:	
Copies	$90.48
Postage, FAX	40.90
Parking, tolls, mileage	117.42
Total	**$12,512.80**

4.1. Hours Claimed

Aglet and Weil have maintained detailed records of time spent on the proceeding. Spreadsheet summaries of 1999 and 2000 hours and direct expenses are set forth in an attachment to the compensation request. Weil's time is separated into professional hours, travel and compensation request hours, and

administrative hours, as shown on the spreadsheets. No compensation for administrative time is requested, in accordance with Commission practice. (D.99-06-002, at 8-10.) Aglet and Weil also appropriately break down time spent on various issues and activities. We find the request to be a reasonable one in this case.

4.2. Hourly Rates

Section 1806 requires the Commission to compensation eligible parties at a rate that reflects the "market rate paid to persons of comparable training and experience who offer similar services." Aglet and Weil request Commission approval of (1) an hourly rate of $200 for Weil's professional work performed during 1999, (2) an hourly rate of $220 for professional work performed during 2000, and (3) one half of those rates for travel time associated with professional work and for preparation of this compensation request. The Commission has previously awarded Weil compensation at a professional rate of $200 per hour and a travel and compensation rate of $100 per hour for work in 1997, 1998 and 1999. (*See, e.g.*, D.00-04-015; D.00-04-008; D.00-03-051.)

Aglet and Weil request an increase in hourly rate to $220 for work in the year 2000. The Commission in D.00-09-068 increased Weil's hourly rate from $200 to $220 for work in the year 2000, based on his experience as an intervenor in Commission proceedings. We reaffirmed the $220 rate in D.00-11-002, D.01-03-030, and D.01-06-068.

4.3. Other Costs

Aglet and Weil claim $248.80 for costs relating to photocopying, postage, mileage and related administrative activities, a reasonable sum that we adopt here.

5. Award

We award Aglet and Weil $12,512.80 for contributions to D.00-04-050. Consistent with previous Commission decisions, we will order that interest be paid on the award amount (calculated at the three-month commercial paper rate), commencing the 75th day after Aglet and Weil filed this compensation request (September 2, 2000) and continuing until the utility makes full payment.

6. Allocation of Award

The entire award granted today should be paid by PG&E because it is the only utility affected by the participation by Aglet and Weil in this proceeding.

7. Waiver of Comment Period

This is an intervenor compensation decision, and accordingly, pursuant to Pub. Util. Code § 311(g)(3) and Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day public review and comment period is being waived.

Findings of Fact

1. Aglet and Weil timely request compensation for contributions to D.00-04-050 as set forth herein.
2. Aglet and Weil request hourly rates for professional work that have already been approved by the Commission for 1999 or which are reasonable under the circumstances.
3. An increase in the hourly rates for the year 2000 has been justified.
4. The miscellaneous costs incurred by Aglet and Weil in this proceeding are reasonable.

Conclusions of Law

1. Aglet and Weil have fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation.

2. Aglet and Weil should be awarded $12,512.80 for contributions to D.00-04-050 in this proceeding.

3. This order should be effective today.

O R D E R

IT IS ORDERED that:

1. Aglet Consumer Alliance (Aglet) and James Weil are awarded $12,512.80 as set forth herein for substantial contributions to Decision 00-04-050.

2. Pacific Gas and Electric Company shall, within 30 days of this order, pay Aglet and James Weil $12,512.80 plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release, G.13, with interest beginning September 2, 2000, and continuing until full payment has been made.

3. The public review and comment period is waived.

4. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.