

Decision 09-05-018 May 7, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's Post-2005 Energy Efficiency Policies, Programs, Evaluation, Measurement, and Verification, and Related Issues.

Rulemaking 06-04-010
(Filed April 13, 2006)

**DECISION GRANTING INTERVENOR COMPENSATION TO
NATURAL RESOURCES DEFENSE COUNCIL FOR
SUBSTANTIAL CONTRIBUTIONS TO DECISION 08-07-047 AND
PARTICIPATION IN THE ENERGY EFFICIENCY
PEER REVIEW GROUP PROCESS**

This decision awards Natural Resources Defense Council \$32,919.47 in compensation for its substantial contributions to Decision 08-07-047, and participation in the Energy Efficiency Advisory Groups. This represents a decrease of \$7,621.25 or approximately 19% from the amount requested due to excessive hours and unproductive efforts. Today's award payment will be allocated to the affected utilities. This proceeding remains open to address remaining issues of the proceeding.

1. Background

The Commission opened this rulemaking to consider issues related to the design, delivery and management of utility energy efficiency programs. The proceeding consists of three parts defined in the Scoping Memo and Ruling of April 13, 2007, as follows: (1) updates of goals, policies, and rules for portfolio development; (2) handling the 2009-2011 portfolio filing, review, and

authorization; and (3) treatment of longer-term issues involving strategies as they will be carried out beyond 2011 and in coordination with the Assembly Bill 32 Greenhouse Gas (GHG) implementation plan. Decision (D.) 08-07-047 adopted interim energy efficiency savings goals for 2012 through 2020, and defined energy efficiency savings goals for 2009 through 2011.

This proceeding has also encompassed ongoing activities related to the implementation of the 2006-2008 portfolios, including consideration of recommendations made by the utility peer review groups (PRGs) during 2006-2008, such as those included in the PRG reports filed with the utilities' compliance advice letters.

In terms of Natural Resources Defense Council's (NRDC) participation in this proceeding, we note that we have awarded NRDC compensation at the earlier stages of this proceeding, including PRGs, in D.08-06-018.

In the subject request for compensation, NRDC asserts it made contributions to both D.08-07-047 and the PRGs activities in the period of time between October 19, 2007, and July 31, 2008.¹

2. Requirements for Awards of Compensation

The intervenor compensation program set forth in California Public Utilities Code Sections 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

¹ Request, at 2.

² All subsequent statutory references are to the Public Utilities Code unless otherwise indicated.

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 to claim (NOI) 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.

2.1. Requirements for Award of Compensation for Participation in Program Advisory Group

Since details of the PRG's activities are protected by confidentiality agreements, the Commission needs from intervenors certain non-confidential information to make the findings required by §§ 1801-1812. D.07-11-024 clarified that intervenors requesting compensation for participation in Program Advisory Groups (PAGs) are required to indicate types of programs, policies, practices or documents reviewed in connection with their work and how that work contributed to an outcome that benefited ratepayers. The intervenors should also explain how their unique analysis, perspective or work product or specific expertise or skills added value to the review or advisory process.³

2.2. 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 in the period of time between the date the proceeding was initiated and the 30th day after the PHC is held. (Rule 17.1(a)(1).) NRDC timely filed its NOI on March 28, 2007, following the February 27, 2007 PHC.

In its NOI, NRDC asserted that its customer status falls within the § 1802(b)(1)(C) definition (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). NRDC also asserted significant financial hardship through a rebuttable presumption pursuant to § 1804(b)(1). Most recently, NRDC received a finding of significant financial hardship in a

³ D.07-11-024, at 5-6.

ruling issued by Administrative Law Judge (ALJ) Weissman in Application (A.) 07-01-024 et al. dated April 3, 2007. Because this proceeding commenced on April 13, 2006, under § 1804(b)(1) the rebuttable presumption applies to this case.

In D.08-06-018 granting NRDC's request for compensation related to the earlier stages of this proceeding, we confirmed NRDC's customer status and accepted its showing of significant financial hardship. We reaffirm those findings.

D.08-07-047 was mailed on July 31, 2008. On September 30, 2008, NRDC filed its request for an award of compensation for substantial contribution to D.08-07-047. The timing of the request was in compliance with §1804(c) since the request was filed within 60 days of the date of issuance of D.08-07-047. On October 3, 2008, to reflect newly awarded hourly rates for NRDC's representatives, it filed an amended request. No party opposed the requests.

We find that NRDC has satisfied all the procedural requirements necessary to request compensation as described in the subject request.

3. 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.⁴

With this guidance in mind, we turn to the claimed contributions The Utility Reform Network made to the proceeding.

3.1. Contributions to D.08-07-047

D.08-07-047 sets interim energy efficiency savings goals for 2012 through 2020 for electricity and natural gas on a total market gross basis. For 2009 through 2011, the decision clarifies that our currently adopted energy efficiency savings goals will be defined as "gross"- inclusive of free riders - in order to better reflect changes in underlying energy efficiency calculations since 2004 and to assist utilities in developing portfolios consistent with the upcoming long-term Energy Efficiency Strategic Plan and D.07-10-032.⁵ NRDC actively participated on these issues.

In its comments on the Assigned Commissioner Ruling of March 25, 2008, NRDC states its support to the Energy Division's recommendations on the energy efficiency savings goals through 2020, but does not provide unique

⁴ D.98-04-059, 79 CPUC2d 628 at 653.

⁵ Interim Opinion on Issues Relating to Future Savings Goals and Program Planning for 2009-2011 Energy Efficiency and Beyond.

reasoning or present any independent research or in-depth analysis of the related issues.⁶ Similarly, in its reply comments on the March 25, 2008 ruling,⁷ NRDC supports other parties' positions without providing additional expert analysis and argument or factual information, except for NRDC's opposition to the Division of Ratepayer Advocates' (DRA) comment on updating goals from 2012 through 2020. As a result, NRDC's substantive comments on specific issues are limited in these filings.

Comments on the proposed decision leading to D.08-07-047 contained more substantive material. However, NRDC's reply comments simply stated support or opposition to other parties' recommendations and did not meet the requirements of Rule 14.3(d) of the Commission Rules of Practice and Procedure to limit the scope of the comments to identifying misrepresentations of law, fact or condition of the record contained in the comments of other parties.

The time NRDC spent on most of the comments is not commensurate with the comments' substantive contents. While we find that NRDC substantially contributed to D.08-07-047, the time NRDC spent on its comments is excessive in comparison to their contents. To reflect the fact that NRDC's comments lacked NRDC's own independent argument, research, in-depth analysis or justification in support of its position, we reduce the time spent towards that decision by 10% (NRDC does not allocate its time by issues and we can only adjust the time by an across-the-board reduction). We allow the rest of the time (adjusted), to reflect

⁶ See, NRDC's April 25, 2008 Comments on the energy efficiency savings goals.

⁷ NRDC's reply comments of May 5, 2008.

the fact that NRDC substantially contributed to D.08-07-047, as described in more detail below.

Total-Market-Gross Goals for 2012 through 2020. NRDC supported Energy Division's recommendations of creating a hybrid total-market-gross (TMG) and investor-owned utilities specific goals structure,⁸ as well as all other recommendations of the Energy Division.⁹ Although we note that NRDC's comments lacked in-depth or unique analysis or research which would make NRDC's position distinctive, NRDC did contribute by arguing against opponents to the Energy Division's recommendations and by supporting these recommendations, which were ultimately adopted in the decision.

Use of TMG Goals in Procurement Planning. The final decision requires that 100% of the interim TMG goals adopted in this decision shall be used in future Long-Term Procurement Plan proceedings,¹⁰ as consistently recommended by NRDC¹¹ as well as other parties. We note, however, that NRDC's comments lack in-depth or unique analysis and/or research.

Gross Goals for 2009 through 2011. Parties did not reach consensus on whether to use gross or net goals for 2009-2011: four utilities and NRDC¹² supported use of gross goals for 2009-2011 while the DRA, CE Council, Women's Energy Matters, and City and County of San Francisco supported the continued use of net goals. NRDC argued that if the 2009-2011 goals were defined as net,

⁸ NRDC Comments of April 25, 2008, at 2.

⁹ See D.08-07-047, tables at 17.

¹⁰ D.08-07-047, at 25-26.

¹¹ NRDC Comments of April 25, 2008, at 5-6.

¹² D.08-07-047, at 26-27; NRDC's Comments of May 5, p. 1, June 11, 2008, at 3.

the goals would be set at such a high level that the utilities would not realistically be able to meet them and therefore, gross goals would continue to represent stretch goals that are aggressive, achievable, and exceed historical levels of savings. D.08-07-047 adopted the use of gross goals for 2009-2011.¹³ We find that NRDC contributed to this issue by opposing the use of gross goals.

Updating Goals for 2012 Through 2020. The majority of parties, including NRDC, agreed that setting I would name “the goals or delete the goals for 2012-2020 would benefit from the results of 2006-2008 Impact Evaluation studies, scheduled to be completed in March, 2010.

However, DRA asserted that the update should wait until the Commission’s evaluation of the utility risk/reward incentive mechanism is complete and the 2011 minimum performance standard is established (both in February 2011). NRDC presented a well articulated opposition to DRA’s recommendation to move the update after February 2011. NRDC explained that implementing DRA’s recommendation will not provide adequate time for Investor-owned Utilities (IOU) program planning to occur.¹⁴ The Commission discussed both positions:

We agree with DRA that the schedule for updating the 2012-2020 goals should incorporate information from the 2006-2008 Impact Evaluation studies and resulting DEER updates. However, waiting until early 2011 to begin the goals update and establish utility-specific goals would necessarily delay planning and implementation of 2012-2014 energy efficiency portfolios We also agree with NRDC and the IOUs that the establishment of

¹³ D.08-07-047, at 28.

¹⁴ NRDC’s Comments of May 5, 2008, at 4.

final goals for 2012-2020 must be completed with adequate time for 2012-2014 portfolio planning to occur. We find that the update must be completed by October, 2010 for adequate portfolio planning lead time.¹⁵

We find that NRDC provided substantial contributions to this issue.

Findings of Fact and Conclusions of Law. In order to continue the regular updating of the long-term goals established in D.04-09-060 Finding of Fact 28, NRDC recommended¹⁶ including an additional Finding of Fact that refers to updating the energy savings goals on a regular basis. The Commission adopted this recommendation.¹⁷ We find that NRDC contributed to this point.

3.2. Contributions to PRGs

NRDC was a member of both the statewide PRG and the individual IOUs' PRGs during the period of time from October 24, 2007, through July 23, 2008. NRDC asserts that it contributed to the process by reviewing the ongoing implementation of the utilities' portfolios as laid out by D.05-01-055 and D.05-09-043, and by actively participating in the development of criteria for the third-party programs and local government partnerships (LGP) as directed by D.07-10-032.

In particular, NRDC played a role in the continued observation of new solicitations and related activities for the 2006-2008 program cycle and the 2009-2011 solicitation process to ensure that public benefits funds were being used as effectively as possible.

¹⁵ D.08-07-047, at 34-35.

¹⁶ NRDC's Comments of July 21, 2008, at 10.

¹⁷ D.08-07-047, at 37.

For the 2009-2011 cycle, NRDC reviewed all four utilities' scoring and ranking of third-party proposals to ensure fairness and consistency, encouraged the utilities to better define "innovation," which was directed to be one of the purposes of third-party programs by D.05-01-055. NRDC states its role in the PRG third-party solicitation process as ensuring that the resulting third-party portion of the utility portfolio represented the most effective energy efficiency programs that would directly benefit consumers by saving them money on their utility bills, reducing global pollution, and advocating for a review to determine if utilities are able to provide a single statewide bid for appropriate third-party programs as directed by D.05-09-043.

NRDC also met with utilities and other PRG members to establish criteria for the LGP as directed by D.07-10-032. NRDC reviewed all aspects of the local government program development including the initial abstracts, program implementation plans, and ultimately the partnership programs as filed by the utilities on July 21, 2008. NRDC offered recommendations to ensure that the development of LGP programs were consistent with Commission direction as indicated throughout the strategic planning process, that the process was fair and transparent, and that the resulting partnerships would yield the most effective programs to saving consumers money on their energy bills and reduce global pollution.

NRDC also played a significant role in developing and writing the PRG Report on the 2009-2011 Energy Efficiency Applications that was ordered by D.07-10-032 and filed with the Commission on September 12, 2008, in the utilities 2009-2001 energy efficiency program plans A.08-07-021 et al. As NRDC and DRA were the two main contributors to the report, NRDC's role in this effort was substantial.

4. Contributions of Other Parties

In a proceeding involving multiple participants, it is often impossible to completely avoid some duplication of the work of other parties. The intervenor compensation statutes allow the Commission to award full compensation even where a party's participation has overlapped in part with showings made by other parties (§ 1802.5), if that participation materially supplemented, complemented or contributed to the presentation of another party, including the Commission staff.

Referring to NRDC's contributions to D.08-07-047, we find that due to NRDC's status as the only main environmental group that participated during the whole length of this proceeding, it played an important and unique role in the process leading to D.08-07-047.

As to the PRG process, we emphasize that NRDC was one of the two authors of the PRG Report, filed on September 12, 2008, as directed by D.07-10-032, in A.08-07-021 et al. NRDC was the only non-financially interested stakeholder that participated in the PRG process across all IOU service territories. We find NRDC's award should not be reduced for duplication of effort with other parties.

5. Reasonableness of Requested Compensation

NRDC requests compensation in the amount of \$40,540.72, as follows:

Name	Year	Hours	Hourly Rate	Total
Work Towards D.08-07-047				
Audrey Chang, Expert	2008	20.50	\$155.00	\$3,177.50
Lara Ettenson, Expert	2008	47.25	\$125.00	\$5,906.25
Peter Miller, Expert	2008	10.50	\$100.00	\$1,050.00
Subtotal:		78.25		\$10,133.75

Participation in PRGs/PAGs				
Audrey Chang, Expert	2007	14.25	\$150.00	\$2,137.50
Audrey Chang, Expert	2008	21.00	\$155.00	\$3,255.00
Lara Ettenson, Expert	2007	25.50	\$120.00	\$3,060.00
Lara Ettenson, Expert	2008	137.50	\$125.00	\$17,187.50
Kristin Grenfell	2007	13.00	\$145.00	\$1,885.00
Kristin Grenfell	2008	13.75	\$150.00	\$2,062.50
Subtotal:				\$29,587.50

Costs (Travel Expenses Related to PRG Meetings in Los Angeles)

4/10/2008	
Parking	\$22.00
Metro	\$2.50
Metrolink from airport	\$8.25
Lunch	\$5.95
Airfare	\$269.00
4/16 - 4/17/2008	
Parking	\$44.00
Lodging	\$194.77
Airfare	\$273.00
Total Costs:	\$819.47
Total Request:	\$40,540.72

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.

5.1. Hours and Costs Related to and Necessary for Substantial Contributions

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

NRDC documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. The hourly breakdown reasonably supports the claim. Unfortunately, NRDC does not allocate by issues its time spent on the substantive matters in this proceeding, as we require.¹⁸

NRDC's time records indicate that most of the events reflected in the timesheets were attended by more than one NRDC's staff members. NRDC explains that each NRDC representative was responsible for a particular utility and was present to provide "unique perspective, information, and input" on that utility.¹⁹ NRDC also explains that this arrangement served as "transitional overlap while NRDC's PRG participation shifted from Ms. Chang to Ms. Ettenson and Ms. Grenfell."²⁰

We noticed, however, that when two NRDC's representatives: Chang and Ettenson participated in the April 4, 2008 long-term goals workshop, for 4.5 and

¹⁸ D.98-04-059, at 48.

¹⁹ Request, at 8.

²⁰ *Id.*

6.0 hours, respectively, Ettenson at that time already appeared alone on behalf of NRDC and did so on many occasions. We consider reasonable to have one representative of NRDC attending the workshop. Therefore, we allow 4.5 Chang's hours and 1.5 Ettenson's hours for this task.

We also disallow compensation for participation of more than one person in PRGs meetings, whether statewide or utility-specific. Time records show internal pre- and post- meeting discussions, debriefings, document preparation, and review of materials, creating a basis for having one representative at the meetings. Hours of internal communications prior to and after, the meetings appear to sufficiently cover learning needs. We also note that NRDC's new attorney Grenfell, while frequently appearing as the second or third person at the PRG meetings, devoted to this proceeding much less time in general than other NRDC team members (compare, for example, with Ettenson).

Therefore, where more than one member of NRDC's staff participated in a PRG workshop or meeting, we allow compensation for only one person's hours, except for two PRG meetings held in October of 2007. During that period of time, responsibility for PRG participation was transferring from Chang to Ettenson, and participation of both experts appears reasonable.²¹

Furthermore, Grenfell participated in the January 29, 2008 meeting described as "local government feedback meeting run by Energy Division covering criteria to evaluate LGPs; types of projects local governments think

²¹ See, NRDC's letter of May 4, 2009, clarifying participation of the individual staff members in PRG process. The letter can be found in the "Correspondence" file for the proceeding.

would be helpful.”²² Based on this description, we believe Grenfell’s participation in the meeting was not warranted, duplicative, and went beyond what was reasonably required for NRDC’s contributions to the PRGs.²³ We disallow five hours spent on this activity.²⁴

Further, on February 5, 2008, Chang, Ettenson and Grenfell had a meeting described as “internal strategy meeting to discuss review of Case Management Statements, and to discuss innovative suggestions to utilities.”²⁵ Noting that no case management statements were filed in this proceeding and it is not clear what issue of the proceeding the “innovative suggestions” concerned, we disallow this time.

²² Request, at 24.

²³ Two days later, both Chang and Ettenson participate in a meeting described as “LGP meeting: strategic plan and criteria development” for another 5.5 hours, which we allow for Ettenson.

²⁴ NRDC’s letter of May 4, 2009,²⁴ does not explain why NRDC’s presence at the meeting was indispensable for NRDC’s contributions to this proceeding.

²⁵ See Request, at 20, 22, and 24.

The table below summarizes adjustments discussed above:

<u>Contributions to D.08-07-047</u>			
Event	Requested Hours	Allowed	Explanation
04/04/2008 workshop	<u>Chang: 4.50</u> <u>Ettenson: 6.00</u>	<u>0.00</u> <u>1.5</u>	Unproductive participation
<u>Contributions to PRGs/PAGs</u>			
10/24/2007 PRG	<u>Chang: 0.5</u> <u>Ettenson: 0.5</u>	<u>0.50</u> <u>0.50</u>	Unproductive participation
10/25/2007 PRG	<u>Chang: 1.5</u> <u>Ettenson: 1.5</u> <u>Grenfell: 1.5</u>	<u>1.50</u> <u>1.50</u> <u>0.00</u>	Unproductive participation
10/30/2007 PRG	<u>Chang: 1.5</u> <u>Ettenson: 2.00</u> <u>Grenfell: 2.00</u>	<u>0.00</u> <u>2.00</u> <u>0.00</u>	Unproductive participation
11/1/2007 PRG	<u>Chang: 2.00</u> <u>Ettenson: 2.00</u> <u>Grenfell: 2.00</u>	<u>0.00</u> <u>2.00</u> <u>0.00</u>	Unproductive participation
11/8/2007 PRG	<u>Chang: 2.00</u> <u>Ettenson: 2.00</u> <u>Grenfell: 1.00</u>	<u>0.00</u> <u>2.00</u> <u>0.00</u>	Unproductive participation
11/1920/07 PRG	<u>Chang: 1.00</u> <u>Ettenson: 2.00</u>	<u>0.00</u> <u>2.00</u>	Unproductive participation
11/30/2007 PRG	<u>Ettenson: 2.00</u> <u>Grenfell: 1.50</u>	<u>2.00</u> <u>0.00</u>	Unproductive participation
12/12/2007 PRG	<u>Ettenson: 2.00</u> <u>Grenfell: 2.00</u>	<u>2.00</u> <u>0.00</u>	Unproductive participation
1/15/2008 PRG	<u>Chang: 1.00</u> <u>Ettenson: 1.00</u> <u>Grenfell: 1.00</u>	<u>0.00</u> <u>1.00</u> <u>0.00</u>	Unproductive participation
1/29/2008 local government feedback meeting	<u>Grenfell: 5.00</u>	<u>0.00</u>	Not necessary for NRDC's contributions
1/31/2008 PRG	<u>Chang: 5.50</u> <u>Ettenson: 5.50</u>	<u>0.00</u> <u>5.50</u>	Unproductive participation
2/1/2008 PRG	<u>Chang: 2.00</u> <u>Ettenson: 2.00</u>	<u>0.00</u> <u>2.00</u>	Unproductive participation
2/1/2008 PRG	<u>Chang: 3.5</u> <u>Ettenson: 3.5</u>	<u>0.00</u> <u>3.5</u>	Unproductive participation
2/5/208 NRDC meeting re case management statements review	<u>Chang: 2.00</u> <u>Ettenson: 2.00</u> <u>Grenfell: 2.00</u>	<u>0.00</u> <u>0.00</u> <u>0.00</u>	Unsupported by the formal record

As to the rest of the time, we find it reasonable and necessary for NRDC's contributions to D.08-07-047 and the PRG process. We also take into consideration the fact that NRDC excluded from the request its time spent in numerous additional communications with utility representatives as well as other PRG members for added coordination and follow-up.²⁶

5.2. Intervenor Hourly Rates

We next take into consideration whether the claimed hourly rates are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. NRDC requests and we previously adopted the hourly rate of \$150 for Chang's work in 2007 in D.08-10-011. For Chang's work in 2008, NRDC requests an hourly rate of \$155 which reflects a 3% cost of living adjustment to her 2007 rate.

NRDC requests an hourly rate of \$145 for work performed by NRDC attorney Kristin Grenfell in 2007 and of \$150 (3.4% increase) for her work in 2008, and provides a supporting document justifying the request. Grenfell has a JD and Master of Environmental Management, both from Duke University, more than two years of attorney experience, and more than three years of experience working on energy and environmental issues. Her requested rates are either below or at the lowest level of, the rate range established for specialists with her years of experience.

NRDC seeks an hourly rate of \$120 for work performed by Ettenson in 2007 and of \$125 (4% increase) for work performed in 2008 and provides a supporting document justifying the request. Ettenson has a Master's degree in

²⁶ Request, at 8.

Public Administration from Columbia University, a Bachelor's degree in Biology and Environmental Studies from Oberlin College, and three years of experience working on energy and environmental issues.

NRDC seeks an hourly rate of \$100 for work performed by Peter Miller in 2008 and provides documents in support of the request. Miller has over twenty years of experience in the development and analysis of energy efficiency programs and policy. Miller served on the California Board for Energy Efficiency from 1997 to 2000 and testified on energy policy issues before various state and federal administrative and legislative bodies. Miller received his Master of Science degree in Resource Systems and Policy Design from Dartmouth College in 1994. In D.06-04-005, we awarded the rate of \$150 for his work in 2005. NRDC requests now a discounted non-profit billing rate of \$100 for this consultant.

We approve the newly requested rates because they either fall within or are below, the 2007-2008 rate ranges for intervenor representatives with the same professional experience.²⁷

5.3. Direct Expenses

NRDC's requested direct expenses consist only of those associated with NRDC's representative travel to Southern California Edison Company's and Southern California Gas Company's PRG meetings in Los Angeles. These expenses total \$819.47 and include airfare, parking, transportation, lodging, and meal for the April 10th, 16th and 17th travels. Unfortunately, NRDC fails to include receipts for its travel expenses. We note that NRDC waives other direct

²⁷ D.08-04-010, at 5.

expenses. We award the travel expenses; however, we request that in the future claims, NRDC provide receipts for this category of direct expenses; otherwise, they will be disallowed.

6. Productivity

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through its participation. (D.98-04-059, at 34-35.) This showing assists us in determining the overall reasonableness of the request. In D.98-04-059, the Commission adopted a requirement that a customer must demonstrate that its participation was "productive," as that term is used in § 1801.3 (at 31-33).

The Commission directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. While NRDC contributions can be difficult to quantify in monetary terms, NRDC's focus on policies that ensure a reliable, affordable and environmentally sustainable energy resource portfolio should have lasting benefits to ratepayers.

If the energy savings goals as adopted by D.08-07-047 are met, NRDC estimates savings from 2012-2020 will reduce GHG emissions by approximately 5.0 to 7.6 million metric tons of carbon dioxide. NRDC also projects that avoided regulatory costs due to reductions in GHG emissions would reach \$150 million to \$228 million. NRDC estimates that if the energy efficiency goals are met and net benefits per kilowatt-hour saved are similar to the average for IOU programs from the start of the 2006-2008 program cycle to present day, these goals will produce a net benefit of over \$2 billion.

NRDC's participation and contribution in the PRG process is likewise difficult to quantify in monetary terms. We can foresee, however, that ensuring a fair and transparent solicitation process, developing criteria for third-party and local government programs, and reviewing program submittals within PRG process will enhance energy efficiency programs leading to increased savings for ratepayers.

We believe NRDC's participation in this proceeding was productive.

7. Award

As set forth in the table below, we award NRDC \$32,919.47.

Name	Year	Hours	Hourly Rate	Total
Work Towards D.08-07-047				
Audrey Chang, Expert	2008	18.5	\$155.00	\$2,867.50
Lara Ettenson, Attorney	2008	38.5	\$125.00	\$4,812.50
Peter Miller, Expert	2008	9.5	\$100.00	\$950.00
Subtotal:		66.5		\$8,630.00
Participation in PRGs/PAGs				
Audrey Chang, Expert	2007	7.75	\$150.00	\$1,162.50
Audrey Chang, Expert	2008	7.00	\$155.00	\$1,085.00
Lara Ettenson, Expert	2007	25.50	\$120.00	\$3,060.00
Lara Ettenson, Expert	2008	135.50	\$125.00	\$16,937.50
Kristin Grenfell, Attorney	2007	2.50	\$145.00	\$362.50
Kristin Grenfell, Attorney	2008	5.75	\$150.00	\$862.50
Subtotal:		184.0		\$23,245.00
Costs (Travel to PRG Meetings in Los Angeles)				
4/10/2008				
Parking				\$22.00
Metro				\$2.50
Metrolink from airport				\$8.25
Meal				\$5.95
Airfare				\$269.00

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Parking	\$44.00
Lodging	\$194.77
Airfare	\$273.00
Subtotal Costs:	\$819.47
TOTAL AWARD:	\$32,919.47

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 December 14, 2008, the 75th day after NRDC 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. NRDC'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. Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 14.6(c)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

9. Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and ALJ David M. Gamson is the assigned ALJ in this proceeding.

Findings of Fact

1. NRDC has satisfied all the procedural requirements necessary to claim compensation in this proceeding. NRDC made a substantial contribution to D.07-09-043, D.07-10-032 and D.08-01-042 as described herein.
2. NRDC made a substantial contribution to PRGs and PAGs as described herein.
3. NRDC requested hourly rates for its representatives that were approved in the Commission's prior decisions and/or are reasonable when compared to the market rates for persons with similar training and experience.
4. NRDC requested related expenses that, as adjusted herein, are reasonable and commensurate with the work performed.
5. The total of the reasonable compensation is \$32,919.47.
6. The appendix to this decision summarizes today's award.

Conclusions of Law

1. NRDC 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.08-07-047, PRGs and PAGs.
2. NRDC should be awarded \$32,919.47 for its contribution to D.08-07-047, PPRs and PAGs.
3. This order should be effective today so that NRDC may be compensated without further delay.

O R D E R

IT IS ORDERED that:

1. Natural Resources Defense Council is awarded \$32,919.47 as compensation for its substantial contributions to Decision 08-07-047, Peer Review Groups, and Program Advisory Groups.

2. Within 30 days of the effective date of this decision Southern California Edison Company, San Diego Gas & Electric Company, Southern California Gas Company and Pacific Gas and Electric Company shall pay Natural Resources Defense Council the award granted herein in shares proportional to their 2007 revenues. 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 on December 14, 2008, the 75th day after the filing date of Natural Resources Defense Council's request for compensation, and continuing until full payment is made.

This order is effective today.

Dated May 7, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D0905018	Modifies Decision? No.
Contribution Decision(s):	D0807047, PRGs, PAGs	
Proceeding(s):	R0604010	
Author:	ALJ David Gamson	
Payer(s):	Southern California Edison Company, San Diego Gas & Electric Company, Southern California Gas Company, and Pacific Gas and Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Natural Resources Defense Council	9/30/08	\$40,540.72	\$32,919.47	No	Excessive hours, unproductive efforts

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Audrey	Chang	Expert	Natural Resources Defense Council	\$150	2007	\$150
Audrey	Chang	Expert	Natural Resources Defense Council	\$155	2008	\$155
Lara	Ettenson	Expert	Natural Resources Defense Council	\$120	2007	\$120
Lara	Ettenson	Expert	Natural Resources Defense Council	\$125	2008	\$125
Kristin	Grenfell	Attorney	Natural Resources Defense Council	\$145	2007	\$145
Kristin	Grenfell	Attorney	Natural Resources Defense Council	\$150	2008	\$150
Peter	Miller	Consultant	Natural Resources Defense Council	\$100	2008	\$100

(END OF APPENDIX)