

Decision 09-09-026 September 10, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to establish
the California Institute for Climate Solutions.

Rulemaking 07-09-008
(Filed September 20, 2007)

**DECISION GRANTING INTERVENOR COMPENSATION
TO CONSUMER FEDERATION OF CALIFORNIA FOR SUBSTANTIAL
CONTRIBUTION TO DECISION 08-11-060**

This decision awards Consumer Federation of California (CFC) \$23,978.50 for its substantial contributions to Decision 08-11-060. This represents a decrease of \$13,142.50 or 35% from the amount requested due to excessive hours, discrepancies between the hours requested by CFC and its supporting documents, and failure to make a substantial contribution. Today's award will be paid by the ratepayers of Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company. Rulemaking 07-09-008 is closed.

1. Background

Decision (D.) 08-11-060 disposed of the applications for rehearing of D.08-04-039 as modified by D.08-04-054¹ (Corrected D.08-04-039 or Decision) filed by The Utility Reform Network (TURN), the Division of Ratepayers

¹ In D.08-04-054, we corrected typographical errors and inadvertent inconsistencies in D.08-04-039. No substantive changes were made.

Advocates (DRA), and the Utility Consumers Action Network (UCAN) (collectively, the Joint Parties), and by CFC.

Our Decision approved establishment of the California Institute for Climate Solutions (CICS). The CICS was intended to be a grant-making body to fund applied research and development (R&D) of practical and commercially viable technologies to reduce greenhouse gas (GHG) emissions and slow global warming. The mission of the CICS was consistent with climate change and GHG emissions policies under Assembly Bill (AB) 32, the Global Warming Solutions Act of 2006,² and Senate Bill (SB) 1368.³

Timely applications for rehearing were filed by the Joint Parties, and by CFC. The Joint Parties incorporated by reference the Legislative Counsel of California Letter of April 28, 2008 opposing the Decision. Accordingly, they challenged the Decision on the grounds that (1) AB 32 and SB 1368 did not provide the Commission with the authority to establish the CICS; (2) the Commission exceeded its authority under the California Constitution; and (3) the establishment of the CICS was inconsistent with the statutorily established

² AB 32 (Stats. 2006, Ch. 488, effective September 27, 2006), codified in Division 24.5 of the Health & Safety Code. AB 32 requires among other things, that the California Air Resources Board (CARB) adopt regulations to require the reporting of GHG emissions and to monitor and enforce compliance with the program (Health & Safety Code, § 38530, subd. (a)), and approve a statewide GHG emissions limit equivalent to the level to be achieved by 2020. (Health & Safety Code, § 38550.)

³ SB 1368 (State. 2006, Ch. 598, effective September 29, 2006), codified in Division 4.1, Chapter 3 (commencing with Section 8340) of the Public Utilities Code. SB 1368 requires, among other things, that the Commission, through a rulemaking proceeding, and in consultation with the Energy Commission and CARB, establish a GHG emission performance standard for all baseload generation of load-serving entities, at a rate of emissions that is no higher than the rate for combined-cycle natural gas baseload generation. (Pub. Util. Code, § 8341, sub. (d)(1).)

scheme for energy R&D related to electrical and gas corporations. The Joint Parties also requested an explanation regarding the administration of ratepayer funds.

CFC challenged the Decision on the grounds that (1) the Commission exceeded its authority under the California Constitution; (2) the Commission unlawfully invaded a field which the Legislature had occupied; (3) the Decision interfered with the California Air Resources Board's (CARB's) authority to regulate GHG emissions; and (4) the surcharge is an unlawful tax. No responses were filed.

On September 23, 2008, the Governor signed the State budget, including trailer bill AB 1338 (Stats. 2008, ch. 760, effective immediately).⁴ AB 1338 contained language regarding the Commission's authority to authorize funds for establishment of the CICS.⁵

As explained below, as a result of the passage of AB 1338, we found it appropriate to vacate the Decision. We directed the Energy Division to cease any efforts to review and approve utility advice letters filed for the purpose of implementing tariffs in connection with the Decision. We also dismissed the applications for rehearing of Corrected D.08-04-039, as moot.

⁴ The Governor approved AB 1338 on September 30, 2008.

⁵ On September 30, 2008, the Governor vetoed SB 1762. SB 1762 would have authorized a California Climate Change Institute to be established by the University of California, subject to the general oversight of the Legislature.

2. Requirements for Awards of Compensation

The intervenor compensation program, set forth in Pub. Util. Code §§ 1801-1812,⁶ 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 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 All subsequent statutory references are to the Public Utilities Code unless otherwise indicated.

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. 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.

The Order Instituting a Rulemaking (OIR) in Proceeding R.07-09-008 was issued on September 20, 2007. CFC filed its NOI on October 30, 2007, the deadline set by the OIR. No ruling of eligibility was ever issued in this case.

In its NOI, CFC asserted financial hardship. An Administrative Law Judge (ALJ) Ruling dated March 7, 2007 in Application 06-09-016 found that CFC met the financial hardship condition pursuant to § 1804(b)(1) through a rebuttable presumption of eligibility. Because the Commission found CFC met this requirement in another proceeding commencing within one year of this proceeding, we apply the same finding of eligibility here.

Section 1802(b)(1) defines a “customer” as: (1) a participant representing consumers, customers or subscribers of a utility; (2) a representative who has been authorized by a customer; or (3) 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).) CFC is a non-profit federation of several organizations, as well as individual members. Its organizational members include consumer groups, senior citizen groups, labor organizations and other organizations that are composed of California Consumers, all of who are residential customers of

California public utilities. CFC takes a broad view of consumer issues, considering the impact of public policy on the quality and cost of goods and services as well as its effects on working Californians, their families and their communities. We affirm here that CFC is a category 3 customer, pursuant to § 1802 (c)(1) as a “group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interest of residential ratepayers.” CFC has submitted in many proceedings its authorization in its articles of incorporation to represent residential customers, and have had no changes in the articles of incorporation since last submission.

Regarding the timeliness of the request for compensation, CFC filed its request for compensation on January 12, 2009, within 60 days of D.08-11-060 being issued.⁷ No party opposed the 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:

⁷ D.08-11-060 was issued on December 3, 2008.

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.⁸

With this guidance in mind, we turn to the claimed contributions CFC made to the proceeding. CFC filed two sets of comments in this proceeding (Comments to the OIR and Comments on the Proposed Decision) which objected to the use of ratepayer funding for the creation of CICS. Contained in these comments were the following objections:

- The appropriation of \$600 million, devoted to CICS, is the function of the California Legislature and the Governor, not the Commission, and the Commission should allow the legislature and other state agencies to determine best how to address the issue of climate change.
- The State Air Resources Board is expected to take the lead role in developing solutions to the problems of GHG emission, by adopting regulations and developing a "scoping plan for achieving maximum technologically feasible and cost-effective reductions in GHG emissions..." Health & Safety Code §§ 38530, 38560 and 38561. The legislature and the Governor intended that CARB develop a coordinated, prioritized, and cost-effective plan for expenditure of public funds on climate change research. Health & Safety Code § 38591(d).⁹
- The legislature has clearly 'occupied the field' of climate change research and "laws passed by the Legislature under its general police power will prevail over regulations made by an agency

⁸ D.98-04-059, 79 CPUC2d 628 at 653.

⁹ Corrected Comments filed November 2, 2007, at 4-7.

with regard to matters which are not exclusively within the ambit of the agency.”¹⁰

- Any power exercised by the Commission must be “cognate and germane to the regulation of public utilities,” and the CICS was not. *So. Calif. Gas. Co. v. Pub. Util. Com.* (1979) 24 Cal. 3d 653, 656. The financing through the auspices of CICS, of job development, re-tooling of industries, and behavioral modification is not reasonably necessary to meet the public demand for utility service.¹¹
- Other branches of government had already been directed to perform most, if not all, of the project proposed by the University of California (UC).¹²
- Most of the research originally proposed by UC was already being undertaken by UC, funded by legislative appropriations for research, by private donors, and by the Air Resources Board and the Energy Commission, through its Public Interest Energy Research program (PIER), as prescribed by the Legislature.¹³ CFC argued that there was no justification for forcing the customers of investor owned utilities (IOUs) to pay for research funded by the State of California.
- The average electric rate in California for all sector (13.57¢/kWh) is the 6th highest rate in the country (Only New England and Hawaii are higher) due, in part, to additional costs like CICS being collected through utility bills. High utility bills hurts California’s economy.¹⁴

In its Comments on the Proposed Decision (PD), CFC asked the Commission “to reject the PD which proposed an unlawful levy of a special tax

¹⁰ Corrected Comments at 12.

¹¹ Corrected Comments at 15-16, *see also*, Comments on Proposed Decision at 1-2.

¹² Corrected Comments at 7-12.

¹³ Corrected Comments at 13-15.

¹⁴ Corrected Comments at 2-4.

on ratepayers to support an Institute which is not required to invest in projects with ratepayers and will duplicate the research of other state agencies acting pursuant to AB 32. CFC's comments voiced the following objections:

- The Legislature has clearly and expressly manifested its intent to occupy the field of GHG emission control, under the umbrella of another state agency. The Commissions' creation and funding of the Climate Institute is preempted.¹⁵
- AB 32 specifically directs CARB to fund the same projects the PD anticipates the Climate Institute will fund, i.e., "technologies that improve efficiency" and "contribute to reductions of GHG emissions." Other redundancies include the creation of a comprehensive inventory of current climate change related research and educational activity, and bringing new energy services and products to the marketplace.¹⁶
- The appropriation from ratepayers of more than a half a billion dollars that would otherwise be spent supporting their families, paying for health care and insurance, housing, groceries and gasoline, is unfair and without legal authority.
- The products of the Climate Institute's research will benefit Californians, as a whole, rather than the ratepayers. The Climate Institute should be financed by the public, not the customers of investor-owned utilities.¹⁷
- The PD decision broadly delegates power to others to direct research efforts, without any clear standards or Commission control.¹⁸

The Commission's decision in this case (D.08-04-039, as modified by D.08-04-054), responded to some of the concerns expressed by CFC: "We

¹⁵ Comments on PD at 10.

¹⁶ Comments on PD at 8-10.

¹⁷ Comments on PD at 4-5.

¹⁸ Comments on PD at 7.

acknowledge that not all comments were supportive and we seriously consider the arguments raised against the establishment of the Institute, either *in toto*, or because it is funded by a surcharge on ratepayers of the ratepayer funding issue.”¹⁹ “In response to both the supporting and opposing comments, we made many minor corrections and change amendments, and we incorporated suggested modifications in the following areas: ...”²⁰

In particular, the Commission recognized that “CFC, among others, contends that the PIER Program is already doing much of what the proposed Institute would do and the creation of the Institute would, therefore, interfere with the coordination of state policy. The Commission agrees that redundancy in research is not desirable because it may result in unnecessary ratepayer and taxpayer expenditures.”²¹ We clarified that “the Institute, its funding and its functions, are to work in concert with, but not duplicate, the programs implemented pursuant to AB 32, as well as the Commission’s ongoing efforts in the areas of energy efficiency and clean energy.”²²

The Commission addressed the potential for duplication of efforts of the Commission and the California Air Resources Board: “It is the intent of the decision to have CICS’ Strategic Plan build off of the AB 32 Scoping Plan and work in concert with, but not duplicate the work and funding of AB 32.”²³ The Institute’s Strategic Research Committee is to utilize the advice from the

¹⁹ D.08-04-039, as modified by D.08-04-054 at 8.

²⁰ *Id.* at 8-9.

²¹ *Id.* at 12.

²² *Id.* at 9.

²³ *Id.* at 18.

(Economic and Technology Advisory Committee) in developing the Strategic Plan Roadmap.

The Commission also recognized “taxpayer funding may indeed be a preferred means of financing the Institute, as some parties have argued. We are concerned, however, that waiting for collective statewide action to establish the framework for the Institute and authorize funding will incur undue delay.”²⁴

Additionally, the Commission took into account the need to ensure ratepayer funds are used in a way that benefits ratepayers. “[W]e agree that there should be a direct tie between funded projects and benefits to ratepayers. Accordingly, a ratepayer-benefit index that ranks proposed projects from high ratepayer benefit to low, or no ratepayer benefit, will be an integral component that informs the entire grant process from the solicitations through selection.”²⁵

“A ratepayer benefit index is to be a key component of the Strategic Plan that will then inform the grant selection process from solicitation... Proposal with no discernable ratepayer benefit will not be chosen for CICS grant funding...”²⁶

The Commission recognized the need to exert greater control over activities delegated to the Institute: “In response to parties’ comments, we have taken several accountability measures that will safeguard ratepayers’ interests and ensure ongoing oversight.”²⁷ “We specify steps and procedures that ensure more oversight, governance and involvement by the Commission with the

²⁴ *Id.* at 21.

²⁵ *Id.* at 22.

²⁶ *Id.* at 10.

²⁷ *Id.* at 47-48.

Institute.”²⁸ “We now require more of an on-going consultation and collaborative process between the Institute Executive Director and the Commission on the preparation of the annual report, budget and Strategic Plan.”²⁹

We affirm CFC’s substantial contributions as outlined above.

On May 21, 2008, CFC applied for rehearing of the Commission’s decision (D.08-04-039, as modified by D.08-04-054) and joined TURN, UCAN and DRA in a request that the Commission stay the decision pending final Commission decisions on the Joint Parties’ Application for Rehearing. CFC argued that the creation of the Climate Institute was in excess of Commission’s authority, citing *Southern California Gas Co. v. Public Utilities Com.*, 24 Cal. 3d 653, 660 (Cal. 1979).

CFC provided the Commission with the authority for the proposition that the principle of preemption applied to this situation. “Where the Legislature has adopted statutes governing a particular subject matter, its intent with regard to occupying the field to the exclusion of all local regulation is not to be measured alone by the language used, but by the whole purpose and scope of the legislative scheme.” *Tolman v. Underhill* (1952) 39 Cal. 2d 708, 712. The Commission’s assumption of authority to duplicate the Air Resources Board’s “consider[ation of] all relevant information pertaining to GHG emissions reduction programs,” identification of “new technologies, research,

²⁸ *Id.* at 9.

²⁹ *Id.* at 9.

demonstration projects, funding opportunities,” invaded a field already occupied by AB 32 and the Air Resources Board.³⁰

When Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), Sierra Pacific Power Company and PacifiCorp filed Advice Letters requesting authorization to begin collections for the California Institute for Climate Solutions, CFC filed its application for rehearing challenging the Commission’s authority to establish the CICS and fund it through utility rates.³¹

On September 30, 2008, the Governor approved AB 1338. In pertinent part, AB 1338 provides:

Sec. 27. (a) the Public Utilities Commission shall not execute an order, or collect any rate revenues, in Rulemaking 07-09-008 (Order Instituting Rulemaking to establish the California Climate Institute for Climate Solutions), and shall not adopt or execute any similar order or decision establishing a research program for climate change unless expressly authorized to do so by statute.

(b) This section does not constitute a change in, but is declaratory of, existing law.

On November, 21 2008, the Commission vacated its earlier decision creating CICS, due to the passage of AB 1338.³² CFC states that it made a substantial contribution to the order reversing the decision (D.08-11-060). We disagree with their assessment. D.08-11-060 specifically states “as a result of the

³⁰ Application for Rehearing filed on May 21, 2008 at 4-6.

³¹ CFC also asked the Commission to direct that any collections that are made to be made in accordance with its decision, i.e. on an equal cents per therm basis, rather than the Equal Percent of Base Revenues allocation method proposed in R.07-12-006.

³² D.08-11-060 at 4.

passage of AB 1338 we find it appropriate to vacate the Decision. We will direct the Energy Division to cease any efforts to review and approve utility advice letters filed for the purposes of implementing tariffs in connection with D.08-04-039, as modified by D.08-04-054.”³³ As such, we do not find that CFC’s rehearing efforts made a substantial contribution to D.08-11-060.

4. 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.

Although there were several other intervenors who participated in this proceeding, CFC submits that its work did not duplicate the work of others. In support of this claim it offers the following:

- CFC expressed its concern about ratepayer funding of the CICS in its first set and comments and throughout the proceeding. It did not take part in workshops where parties discussed “CICS’s proposed mission and role, its governance and accountability, proposed treatment of intellectual property and indirect cost accounting,”³⁴ nor did it file Post-Workshop Comments on those subjects as permitted by the ALJ. Thus, there was no duplication of work of others who supported the creation of the CICS.

³³ D.08-11-060 at 2-3.

³⁴ ALJ’s Ruling Inviting Workshop Comments, issued on December 28, 2007.

- Although TURN, DRA and CFC all agreed that the creation of CICS was best left to the Legislature, TURN discussed the ramifications of adding a CICS fee to utility rates, and Commission initiatives which ran counter to the goals of CICS. Unlike CFC, TURN did not raise issues of redundancy or the preemptive effect of AB 32.
- CFC did not duplicate the work of Greenlining, which urged that CICS must be directed by an entity that is committed to representing and serving California's diverse constituency, and minority populations. Greenlining also argued that CICS should be required to secure private funding before using ratepayer money. CFC specifically did not address either of these issues.
- UCAN intervened in the proceeding after the Proposed Decision was issued to argue that it was illegal for the Commission to collect funds to be administered by a non-utility entity, unless there was direct Commission oversight and budgetary approval for the expenditures. CFC submitted comments at the same time which also found fault with the lack of standards to guide the CICS staff. CFC also questioned the staff's ability to perform all the tasks delegated to it on a limited budget.³⁵

In this proceeding, the other intervenors, the California Council on Science and Technology, the Natural Resource Defense Council, and the Community Environmental Council all supported the creation of CICS. CFC opposed the creation of CICS and did not duplicate the efforts of these participants. We affirm that CFC took reasonable steps to avoid duplicating the efforts of other parties in this proceeding.

³⁵ CFC Comments on Proposed Decision, filed on February 29, 2008 at 6-7.

5. Reasonableness of Requested Compensation

CFC requests \$37,121.00³⁶ for its participation in this proceeding, as follows:

| Work on Proceeding | | | | |
|---------------------------------------------------------------|-------------|--------------|--------------------|--------------------|
| Attorney/Staff | Year | Hours | Hourly Rate | Total |
| Alexis Wodtke | 2007 | 29.4 | \$340 | \$ 9,996.00 |
| Alexis Wodtke | 2008 | 67.3 | \$350 | \$ 23,555.00 |
| Subtotal Hourly Compensation: | | | | \$33,551.00 |
| Preparation of NOI and Compensation Request (1/2 rate) | | | | |
| Attorney/Staff | Year | Hours | Hourly Rate | Total |
| Alexis Wodtke | 2008 | 9.1 | \$175 | \$ 1,592.50 |
| Subtotal Compensation Preparation: | | | | \$ 1,592.50 |
| Total Requested Compensation: | | | | \$35,143.50 |

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 Contribution

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.

CFC has documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity.

³⁶ In its request for compensation, CFC totals the hours spent related to the preparation of its NOI and its compensation request at 20.4 hours. CFC’s timesheets, however, list the actual hours as 9.1 hours.

After the adjustments and disallowances we make below, the remainder of the hours reasonably support CFC's claim for total hours.

CFC requests a total of 25.1 hours for Wodtke's work in 2008 related to "analyzing, drafting and finalizing comments of the Proposed Decision." This amount is excessive given the scope of the work and the product produced. We disallow 12.6 of these hours to more closely reflect our standards of reasonableness of hours and to reflect similar compensation to other intervenors for this same task.

CFC requests a total of 26.6 hours for Wodtke's work in 2008 related to "researching, drafting, and re-writing" of CFC's application for rehearing. This amount is excessive given the scope of the work and the product produced. We disallow 12.35 of these hours to more closely reflect our standards of reasonableness of hours and to reflect similar compensation to other intervenors for this same task.

CFC requests a total of 4.9 hours for Wodtke's 2008 work for "drafting protest to advice letters implementing D.08-04-039." We disallow these hours, as outlined on page 14, because they did not make a substantial contribution to the decision.

CFC requests a total of 9.1 hours for Wodtke's work in 2008 for "drafting and filing" CFC's request for compensation. Given the relative quick disposition of this proceeding and the fact that other intervenors requested half this amount for compensation in this proceeding, we disallow 4.1 hours for the completion of this task.

5.2. 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.

CFC seeks an hourly rate of \$350 for Alexis Wodtke's work performed in 2008. We previously approved a rate of \$340 for Wodtke's work in 2007 in D.08-12-057. The request for Wodtke's new rate includes a 3% COLA increase. We find this amount to be reasonable, and adopt it here.

5.3. Direct Expenses

CFC has no direct expenses for which it seeks compensation.

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. (D.98-04-059, at 34-35.) The 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.

CFC argued that as a result of D.08-11-060, which vacated an earlier decision (D.08-04-039, as modified by D.08-04-054), utility bills will not be increased to collect funds for financing the creation and operation of the CICS. CFC also argued that during a recession, in which job loss has become a significant factor for California, the \$600 million avoided cost savings achieved through D.08-11-060 will provide relief to ratepayers.

CFC re-affirms that its interest in this proceeding was to make the Commission aware of the consequences to ratepayers, and specifically to its members. CFC advocates that taking monies from ratepayers and spending it on projects already financed through tax dollars is wrong. Through its participation

and guided by this position, CFC submits that its efforts in this proceeding were both productive and efficient.

We agree that through CFC's participation, ratepayers will achieve cost savings, in addition to other social benefits which, though hard to quantify, are substantial. Thus, we find that CFC's efforts have been productive.

7. Award

As set forth in the table below, we award CFC \$23,978.50:

| Work on Proceeding | | | | |
|---------------------------------------------------------------|-------------|--------------|--------------------|--------------------|
| Attorney/Staff | Year | Hours | Hourly Rate | Total |
| Alexis Wodtke | 2007 | 29.40 | \$340 | \$ 9,996.00 |
| Alexis Wodtke | 2008 | 37.45 | \$350 | \$13,107.50 |
| Subtotal Hourly Compensation: | | | | \$23,103.50 |
| Preparation of NOI and Compensation Request (1/2 rate) | | | | |
| Attorney/Staff | Year | Hours | Hourly Rate | Total |
| Alexis Wodtke | 2008 | 5.00 | \$175 | \$875.00 |
| Subtotal Compensation Preparation: | | | | \$875.00 |
| Total Award: | | | | \$23,978.50 |

Pursuant to § 1807, we order PG&E, SDG&E, SoCalGas, and SCE 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 March 28, 2009, the 75th day after Consumer Federation of California filed its compensation request, and continuing until full payment of the award is made.

We direct PG&E, SDG&E, SoCalGas, and SCE to allocate payment responsibility among them based upon their California-jurisdictional gas and electric revenues for the 2008 calendar year, to reflect the year in which the proceeding was primarily litigated.

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. CFC'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. Comments on Proposed Decision

The proposed decision of the ALJ Division 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. No comments were filed.

9. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner, and Melanie M. Darling is the assigned ALJ in this proceeding.

Findings of Fact

1. CFC has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
2. CFC made a substantial contribution to D.08-11-060 as described herein.
3. CFC requested hourly rates for its representatives that are reasonable when compared to the market rates for persons with similar training and experience.
4. The total of the reasonable compensation is \$23,978.50.
5. The Appendix to this decision summarizes today's award.

Conclusions of Law

1. CFC has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed expenses incurred in making substantial contributions to D.08-11-060.
2. CFC should be awarded \$23,978.50 for its contribution to D.08-11-060.
3. This order should be effective today so that CFC may be compensated without further delay.
4. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. Consumer Federation of California is awarded \$23,978.50 as compensation for its substantial contributions to Decision 08-11-060.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company shall pay Consumer Federation of California their respective shares of the award. We direct Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison Company to allocate payment responsibility among them, based on their California-jurisdictional gas and electric revenues for the 2008 calendar year, to reflect the year in which the proceeding was primarily litigated. 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 March 28, 2009, the 75th day after the filing date of Consumer Federation of California's request for compensation, and continuing until full payment is made.

3. Rulemaking 07-09-008 is closed.

This order is effective today.

Dated September 10, 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: | D0909026 | Modifies Decision? No |
| Contribution Decision(s): | D0811060 | |
| Proceeding(s): | R0709008 | |
| Author: | ALJ Melanie M. Darling | |
| Payer(s): | Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southern California Edison | |

Intervenor Information

| Intervenor | Claim Date | Amount Requested | Amount Awarded | Multiplier? | Reason Change/Disallowance |
|-----------------------------------|-------------------|-------------------------|-----------------------|--------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| Consumer Federation of California | 01-12-09 | \$37,121 | \$23,978.50 | No | excessive hours and discrepancies between the hours requested by CFC and its supporting documents, and failure to make a substantial contribution. |

Advocate Information

| First Name | Last Name | Type | Intervenor | Hourly Fee Requested | Year Hourly Fee Requested | Hourly Fee Adopted |
|-------------------|------------------|-------------|-----------------------------------|-----------------------------|----------------------------------|---------------------------|
| Wodtke | Alexis | Attorney | Consumer Federation of California | \$340 | 2007 | \$340 |
| Wodtke | Alexis | Attorney | Consumer Federation of California | \$350 | 2008 | \$350 |

(END OF APPENDIX)