

Decision 09-10-026 October 15, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company (U 902 E) for a Certificate of Public Convenience and Necessity for the Sunrise Powerlink Transmission Project.

Application 06-08-010
(Filed August 4, 2006)

**DECISION GRANTING REQUEST OF MUSSEY GRADE ROAD
ALLIANCE FOR INTERVENOR COMPENSATION FOR
SUBSTANTIAL CONTRIBUTION TO DECISION 08-12-058**

Claimant: The Mussey Grade Road Alliance	For contribution to D.08-12-058
Claimed (\$): 257,617	Awarded (\$): \$207,446.20 (reduced 19%)
Assigned Commissioner: Grueneich	Assigned ALJ: Vieth
Claim Filed: 2/23/09	

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: Approval of a certificate of public convenience and necessity for Sunrise Powerlink

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	As Stated By Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	9/13/06	Yes
2. Other Specified Date for NOI:	NA	
3. Date NOI Filed:	10/12/2006	Yes
4. Was the notice of intent timely filed?		Yes

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.06-08-010	Yes
6. Date of ALJ ruling:	12/6/2006	Yes
7. Based on another CPUC determination (specify):	NA	
8. Has the claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	As A.06-08-010	Yes
10. Date of ALJ ruling:	12/6/2006	Yes
11. Based on another CPUC determination (specify):	NA	
12. Has the claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.08-12-058	Yes
14. Date of Issuance of Final Decision:	12/24/2008	Yes
15. File date of compensation request:	2/22/2009	Yes
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
	X		Claimant was instructed to file an amendment to the NOI no later than January 30, 2007. The Claimant’s amended NOI was filed with the Docket Office and served on all parties on January 28, 2007.

PART II: SUBSTANTIAL CONTRIBUTION (Completed by Claimant except where indicated)

A. Description of Claimant’s contribution to the final decision (see § 1802(i), § 1803(a) and D.98-04-059)

Contribution	Citation to Decision or Record (Provided by Claimant)	Showing Accepted by CPUC
1. See Attachment 2 “A.06-08-010 Mussey Grade Road Alliance Contributions.xls”. Due to complex nature of Claimant contributions (to EIR and thence to Decision), additional	See attachment #2.	Yes

<p>showings are necessary to demonstrate significant contribution. Excel spreadsheet format has been requested by Commission staff.</p>		
<p>2. See Attachment 3 “2 “A.06-08-010 Mussey Grade Road Alliance Contributions Definitions.pdf”. This file is derived from a tab in the Excel file of Attachment #2, and put into PDF format so that it can be filed electronically. It contains definitions of methods and terms used in the Claimant’s showing.</p>	<p>See attachment #3.</p>	<p>Yes</p>
<p>3. See Attachment 3 “2 “A.06-08-010 Mussey Grade Road Alliance Contributions Decision.pdf”. This file is derived from a tab in the Excel file of Attachment #2, and put into PDF format so that it can be filed electronically. It contains Claimant’s showing of contributions to the Final Decision.</p>	<p>See attachment #4.</p>	<p>Yes</p>
<p>4. See Attachment 3 “2 “A.06-08-010 Mussey Grade Road Alliance Contributions EIR.pdf”. This file is derived from a tab in the Excel file of Attachment #2, and put into PDF format so that it can be filed electronically. It contains Claimant’s showing of contributions to the Draft and Final EIR.</p>	<p>See attachment #5. The EIR has been adopted as part of the Decision: D.08-12-058, p. 288 - "The Final EIR/EIS reflects the Commission’s independent judgment and analysis." D.08-12-058, p. 292 - "all feasible mitigation measures identified in the Final EIR/EIS are imposed upon construction of the Final Environmentally Superior Southern Route"</p>	<p>Yes</p>
<p>5. The Alliance was the only party that entered testimony of affected community members into the record.</p>	<p>See Attachments 2 through 5.</p>	<p>Yes</p>
<p>6. The Alliance’s data requests obtaining both outage data and fire data from SDG&E and subsequent analysis (cross-referencing these records) presented in Phase 1 and Phase 2 testimony and briefs demonstrated that</p>	<p>See Attachments 2 through 5.</p>	<p>Yes</p>

<p>there was a small but significant risk of catastrophic fire from transmission lines, which the Applicant had asserted to be negligible. This led to adoption of significant mitigation measures.</p>		
<p>7. By looking at time correlations of historical fire perimeters overlying potential routes, the Alliance was able to state and show that the northern proposed route favored by SDG&E was likely to merit only a Category C reliability rating, refuting SDG&E's claim that it would be able to obtain cost savings by obtaining a Category D rating. This had a part to play in the final routing decision.</p>	<p>See Attachments 2 through 5.</p>	<p>Yes</p>
<p>8. The Alliance was first to bring Cal Fire historical fire records (both it's "Top 20" list and detailed fire records) to the Commission's attention and use them to demonstrate the hazards of power line fires.</p>	<p>See Attachments 2 through 5.</p>	<p>Yes</p>
<p>9. The Alliance suggested an expansion of defensive measures that funds from a "Defensible Space Grant" suggested in mitigation measure F1-e could be used for. This suggestion was adopted in the Final EIR.</p>	<p>See Attachments 2 through 5.</p>	<p>Yes</p>
<p>10. Mitigation measures F2-c (climbing inspections), and B1-k (re-seeding) were put into place after the Alliance helped to demonstrate a significant risk from fire from transmission towers and that there was a potential for extensive ecological damage from type conversion.</p>	<p>See Attachments 2 through 5.</p>	<p>Yes</p>
<p>11. The Alliance made numerous other contributions of various types throughout the proceeding, and these are listed along with their citation and cross-references in the attached spreadsheets.</p>	<p>See Attachments 2 through 5.</p>	<p>Yes</p>

			<p>fact that significant mitigation steps to reduce fire risks and impacts have been required for the Project as part of the Commission Decision is vindication of the Alliance’s efforts and those of the EIR/EIS preparation team.</p> <p>While not all of the Alliance conclusions, analyses or methods have been adopted by the Decision or EIR/EIS, the attached documents show significant contributions even in cases where Alliance contributions have not been fully cited by showing the causal link between the Alliance evidence, the Draft EIR, the Final EIR, and the Decision. Additionally, much of the Alliance work was to establish the credibility of the wildland fire threat from transmission lines to such an extent that mitigation would be required. These contributions and the resulting implications have also been shown.</p>
	X	<p>Unknown</p> <p>Yes</p>	<p>The Alliance intervenor and expert have minor self-interest in the proceeding, being residents of an area that would have been impacted by the primary route, but this self interest is very small compared to both the compensable effort expended and the benefit obtained by Alliance participation. The proposed route would not have come closer than ¼ mile to their property, and the Commission found in the EIR/EIS that property value impacts due to the upgrade of a transmission line in an existing corridor is expected to be small: “transmission lines have affected property values in some places, though the effects are generally smaller than anticipated and difficult to quantify... incremental effects on property values that may result from the changes within the [an existing] corridor resulting from their project would be even smaller.” [Final EIR/EIS, p. D.14-28]</p> <p>Additionally, the Alliance brought in testimony from affected community members not only from the Mussey Grade area, but also from Santa Ysabel, Rancho Penasquitos, and Boulevard (along the southern route). It did not change its position on SPL even after a southern route was chosen.</p> <p>During and after this proceeding, the Alliance also became involved in other Commission proceedings having to do with wildland fire risk and power lines, including P.07-11-007, R.08-11-005, and A.08-12-021.</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>Concise explanation by claimant as to how the cost of claimant’s participation bears a reasonable relationship with benefits realized through participation</p>	<p>CPUC Verified</p>
<p>1. One benefit of adopting fire safety mitigation is the avoidance of costs to citizens, ratepayers and utilities due to catastrophic power line fires. The Alliance has in fact calculated this benefit using an actuarial method as being (with significant uncertainty) as \$2M per year. (D.08-12-058, p. 96.) The cost recovery basis for the SPL is now held to be 58 years (<i>Ibid.</i>), so the total potential for avoided losses would be \$116 M.</p> <p>Because the Commission ruled that this amount could not be directly applied to project cost because it overlaps with SDG&E liability insurance (D.08-12-058, p. 98), it has taken no position on whether this is an appropriate estimate or not. However, it remains the only basis in the record by which benefit can be estimated, and we use it for benefit calculation. The Commission has adopted numerous fire mitigation measures as part of its Decision (D.08-12-058, App. E, E-190 to E-201), demonstrating that it is imperative as part of its mandate to provide for public safety – and none of these were listed as unnecessary due to the fact that SDG&E carries liability insurance. Hence benefit obtained through mitigation should be viewed separately from liability insurance.</p> <p>Only one proposed mitigation measure directly addresses the risk of fire ignition due to structural or component failure under high-wind conditions – the primary scenario warned of by the Alliance. This is measure F2-c, which requires climbing inspections of poles. The Decision finds that “Mitigation Measure F-2c will increase the hardware failure detection rate, thereby decreasing hardware-related ignitions... However, the unavoidable sources of ignition from the presence of the overhead transmission line will remain” (D.08-12-058, App. E, E-193). As far as determining benefit, we have no good estimate of what fraction of potentially catastrophic ignitions this measure would prevent. If we adopt a conservative estimate of 50%, this will not over-emphasize the contribution of this measure to project safety.</p> <p>Finally, we must estimate to what degree Alliance participation has contributed to the adoption of this measure. In Attachments 2 through 5 we show that “but for” the participation of the Alliance, it is not clear that the 230 kV ignitions in the SDG&E fire history would have come to light. That being said, a great deal of work was done as part of the EIR/EIS preparation to justify and introduce this mitigation measure, above the establishment of need achieved by the Alliance discovery and submissions. It would be inappropriate though, to assume an Alliance contribution of any less than 10% to this measure, which we assert as a conservative lower limit.</p>	<p>Cost avoidance measure not adopted by D.08-12-058. Proposed calculation is speculative.</p> <p>We agree there are benefits to ratepayers, not only those most directly at risk of fire hazards, that will result from the fire mitigation measures adopted in D.08-12-058 in part due to the substantial contribution of claimant on this issue.</p> <p>For purposes of determining the relative benefits in comparison to the costs of participation, we agree that the long-term overall benefits of the fire mitigation measures that resulted, in large part, from the expert and community input provided by claimant, exceed the costs claimed herein.</p>

<p>So we can estimate MINIMUM benefit achieved through Alliance participation by adopting the following assumptions: Cost per year: \$2M Years in service: 58 Risk reduction: 50% Alliance fraction: 10%</p> <p>Benefit = \$2M/yr X 58 yrs X 0.5 X 0.1 = \$5.8 M</p>	
<p>2. Another mitigation measure was put forward by the EIR is F-1e, which creates a Defensible Space Grants program to aid homeowners in potentially affected areas to prepare their homes to survive wildland fires. The EIR estimates that 1803 households will be eligible for this program (D.08-12-058, App. E, E-192). Attachments 2 through 5 show that the Alliance made a substantive improvement to this mitigation measure by allowing the grants not only to be used for vegetation management but also for structural improvements to improve structure survivability.</p> <p>We can set a lower bound on the benefit achieved through the Alliance improvement. The fire return interval in the area of the Southern route is usually less than 100 years in high hazard areas (MG-20, App 2C Sec. 2C-1.5 attachment). We will adopt 100 years as a very conservative period (fires are likely to be more frequent). Note that this does not assume power lines as the fire cause, since protective measures will help against any fire.</p> <p>The probability that a structure within a fire perimeter will be destroyed depends on many factors, including neighborhood type. Rural / exurban neighborhoods (such as Mussey Grade) have experienced loss rates of 60-70%. Others that have a more suburban layout with less vegetation exposure (such as San Diego Country Estates) can experience loss rates of less than 5%. Vegetation management has been shown to be one of the most powerful influences on structure survival. However, significant losses can be seen due to ember attack, which is now accepted as the primary cause of structure loss, as described in our testimony (MG-20, Appendix 2E, Sec. 2E-2.5), requiring further countermeasures, such as those suggested by the Alliance and adopted in the Final EIR. While it is difficult to estimate the survivability improvements due to these countermeasures, we adopt a very conservative improvement of 5% additional avoided structure losses for structures impacted by fire.</p> <p>The probability that given a 100 year mean return interval, a given structure will have a 44% chance of being impacted by fire within the 58 year lifetime of the line. Assuming current home values are roughly \$300k, we can calculate benefits:</p> <p>We can estimate MINIMUM benefit achieved through Alliance participation by adopting the following assumptions:</p> <p>Number of homes: 1803 Home price: \$300 k Fraction impacted: 44%</p>	<p>Yes. See above</p>

<p>Addl. saves: 5 %</p> <p>Benefit = 1803 X \$300k X .44 X .05 = \$12 M</p>	
<p>3. The Alliance was the party that recognized that significant outages would be expected due to simultaneous fires and that this would be frequent enough to change the reliability classification even for a northern route. It showed this quantitatively and its analysis is used by both the EIR and the Decision (See Attachments 2 through 5 for justification).</p> <p>SDG&E claimed an additional cost savings of \$360 M to \$3 B over the lifetime of the line, with a base case of \$1.4 B with the selection of its proposed northern alternative. (SD-36; SDG&E Phase 2 direct testimony; p. 13.19.) The Alliance analysis effectively refuted this assertion. This contributed to the final Decision by showing that reliability claims regarding the northern proposed route were overstated. “Therefore, because the Northern Route likely would have experienced an outage concurrent with Southwest Powerlink twice in 30 years, a more accurate assessment of the risk of outage due to concurrent fire appears to fall within Category C standards but does not meet the higher standards of Category D.” (D.08-12-058, p. 214.)</p> <p>The EIR preparation staff put in sufficient additional analysis, and UCAN identified the fact that a flawed wildfire analysis had been supplied to WECC by SDG&E.</p> <p>Alliance contribution estimated to be 50%.</p> <p>Benefit: \$180 M to \$1.5 B (not avoided – but showed that these savings would not be achieved).</p>	<p>Yes. See above</p>
<p>4. There are numerous other intangible or difficult to quantify benefits brought to the proceeding by the participation of the Mussey Grade Road Alliance. These contributions are supported by our showing in Attachments 2-5. Among these are the fact that the Alliance was the sole group representing community testimony and that the Alliance members were the first to bring significant attention to the issue of wildland fire and power lines.</p>	<p>Yes</p>

B. Specific Claim*:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Diane Conklin	2006-2009	412.3	\$150	See Attachments 11-15	\$61,845	2006 to 2009	389.9	100	38,990
Subtotal:					\$61,845	Subtotal:			38,990

EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$ ¹	Year	Hours	Rate	Total \$
Joseph Mitchell	2006-2009	681.4	\$262	See Attachments 6-10	\$178,570	2006 to 2009	646	\$250	161,500
Subtotal:					\$178,570	Subtotal:			161,500
OTHER FEES									
Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.):									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Joseph Mitchell	2006-2009	55.7	\$100	See Attachments 6-10	\$5,570	2008	8	125	1,000
Diane Conklin	2006-2009	44.2	\$75	See Attachments 11-15	\$3,315	2006 - 2008	30	50	1,500
Subtotal:					\$8,885	Subtotal:			2,500
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$ ²	Year	Hours	Rate \$	Total \$
Joseph Mitchell	2009	43.6	\$125	See Attachments 7-10	\$5,713	2009	21.80	125	2,725.00
Diane Conklin	2009	10.70	\$75	See Attachments 11-15	\$759	2006 2009	5.35	50	267.50
Subtotal:					\$6,472	Subtotal:			2,992.50
COSTS									
#	Item	Detail			Amount	Amount			
1	Office Materials	Presentation materials for SPL Hearings. See Attachment 14.			307.14				307.14
2	Travel	Diane Conklin trip to CAISO to represent communities. See Attachment 14, 16.			346.06				346.06
3	Travel	Diane Conklin trip to submit testimony for Phase 1 Hearings. See Attachment 14, 16.			548.05	(less meals)			367.50

¹ Dollar amounts in this column are incorrect. The correct amount should be \$178,526.80. We base our award calculations on the correct amounts.

² Dollar amounts in this column are incorrect. The correct amounts should be \$5,450.00 (for Mitchell) and \$802.50 (for Conklin). We base our award calculations on the correct amounts.

4	Travel	Diane Conklin / Joseph Mitchell trip to CPUC hearings / oral arguments. See Attachment 14, 16.	644.12	(less meals)	443.00
Subtotal:			\$1,845	Subtotal:	1,463.70
TOTAL REQUEST \$:			\$257,617³	TOTAL AWARD \$:	\$207,446.20
<p>* 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. Claimant’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.</p> <p>** Reasonable claim preparation time typically compensated at ½ of preparer’s normal hourly rate.</p>					

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

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	MGRA2 Mussey Grade Road Alliance A.06-08-010 Contributions.xls – description of MGRA contributions to both the Final Decision and EIR in a tabbed spreadsheet file.
3	MGRA3 Mussey Grade Road Alliance A.06-08-010 Contributions Definitions.pdf – Tab of Contributions file defining methods and terms used to analyze MGRA contributions in pdf format
4	MGRA4 Mussey Grade Road Alliance A.06-08-010 Contributions Decision.pdf - Tab of Contributions file containing references to the Final Decision and its Appendices in pdf format
5	MGRA5 Mussey Grade Road Alliance A.06-08-010 Contributions EIR.pdf - - Tab of Contributions file containing references to the Draft and Final EIR in pdf format
6	MGRA6 Mitchell_CV09a.pdf – Curriculum Vitae of Expert Witness Joseph Mitchell
7	MGRA7 Mbar_billing_A.06-08-010.xls – Timesheets and billing for Expert Witness Joseph Mitchell, with billing schedule, in Excel spreadsheet format.
8	MGRA8 Mbar_billing_A.06-08-010.pdf – Timesheets and billing for Expert Witness Joseph Mitchell, in PDF format.
9	Joseph W. Mitchell, Ph. D. is a physicist with 15 years of experience in the field of experimental particle physics, which provided multidisciplinary training in fields as diverse as electrical engineering, mechanical engineering, computer science, optics and lasers. He began researching and publishing in the area of wildland fire in 2003, and has published in fire science’s top refereed journal. This multidisciplinary approach enhanced the Alliance’s contribution for Sunrise, enabling it to ask a number of questions and conduct a number of analyses not carried out by other parties which allowed substantial savings by ratepayers and enhanced safety for the Project. Results from Sunrise proceeding have been presented at a

³ The dollar amount is incorrect: it should be \$257,354.30. We base our award calculations on the correct amount.

	<p>scientific conference (Fire & Materials 2009, San Francisco).</p> <p>See Attachment 6 : MGRA6-Mitchell_CV09a.pdf – Curriculum Vitae of Expert Witness Joseph Mitchell</p>										
10	<p>Hours worked by Dr. Mitchell were segregated into different categories based on the level of professional expertise required, and a different billing rate is requested for each.</p> <p>The average rate requested by Dr. Mitchell over all billable expert hours in A.06-08-010 is \$262/hr.</p> <p>Dr. Mitchell excluded almost 100 hours of work from billing to accommodate learning curve issues and those not pursued through the full proceeding.</p> <p>See Attachments 7 and 8 Timesheets and billing for Expert Witness Joseph Mitchell</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Activities</th> <th style="text-align: right;">Billing Rate (\$/hr)</th> </tr> </thead> <tbody> <tr> <td>Tier 0 Background research, corrections, not used in proceeding</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Tier 1 Travel, clerical, revisions (Other)</td> <td style="text-align: right;">\$100.00</td> </tr> <tr> <td>Tier 2 Literature search; data manipulation; Review of documentation. (Expert)</td> <td style="text-align: right;">\$200.00</td> </tr> <tr> <td>Tier 3 Analysis, Reports, Presentations, Testimony (Expert)</td> <td style="text-align: right;">\$300.00</td> </tr> </tbody> </table>	Activities	Billing Rate (\$/hr)	Tier 0 Background research, corrections, not used in proceeding	\$0.00	Tier 1 Travel, clerical, revisions (Other)	\$100.00	Tier 2 Literature search; data manipulation; Review of documentation. (Expert)	\$200.00	Tier 3 Analysis, Reports, Presentations, Testimony (Expert)	\$300.00
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11	MGRA11 DIANE CONKLIN VITAE.pdf –Vitae of Alliance Advocate Diane Conklin										
12	MGRA12 Intervenor Diane Conklin billing.xls – Timesheets and billing for Alliance Intervenor and Advocate Diane Conklin, with billing schedule, in Excel spreadsheet format.										
13	MGRA13 DianeConklin_billing_A.06-08-010.pdf – Timesheets and billing for Alliance Intervenor and Advocate Diane Conklin, with billing schedule, in PDF format.										
14	MGRA14 A0608010_MGRATravelOther_expenses.pdf – Itemized travel and other expenses incurred.										
15	<p>Diane Conklin represented the Mussey Grade Road Alliance as Intervenor, but also took on the role of primary advocate, thus saving considerably on the cost of attorney’s fees for the Alliance and Commission. Ms. Conklin has a law degree but does not practice law. However, during the course of this protracted and complex proceeding, she performed all of the regular functions of a licensed attorney. She intervened into the proceedings and worked a considerable number of unbilled hours to overcome the learning curve in order to proficiently represent her client, the Mussey Grade Road Alliance. The Alliance filed hundreds of pages of testimony and briefs. Ms. Conklin also filed a successful Motion to Strike substantial portions of SDG&E’s Phase 1 rebuttal testimony, conducted four cross-examinations, and defended the Alliance expert witness Joseph Mitchell during his cross-examination by the law firm of Latham & Watkins. She was complemented by the presiding ALJ on her first ever cross-examination and her motion to strike. In light of the contributions made by Ms. Conklin to the proceeding, \$150/hr is a reasonable rate of compensation, especially when her professional experience taken as a whole is considered.</p> <p>Travel and filing costs were billed at ½ the maximum rate, or \$75/hr. Ms. Conklin’s averaged rate over all billable hours is \$140/hr.</p> <p>Ms. Conklin also was involved in organizing efforts to increase community involvement in the Sunrise Powerlink proceeding, and attended several public hearings. None of this work has been included in hours billed to the Commission.</p>										

	See Attachment 11: MGRA11 DIANE CONKLIN VITAE.pdf –<i>Vitae of Alliance Advocate Diane Conklin</i>
16	<p>The Alliance took care to minimize travel expenses through coordinating activities with other parties and attending by teleconference. Three trips were necessary:</p> <ul style="list-style-type: none"> - A trip to CAISO to provide community input, provide feedback on required SDG&E outreach programs, and to request an extension on a decision timetable. We are required to coordinate activities with other parties where possible. - Travel to San Francisco to coordinate submission of Alliance Phase 1 testimony into the record. Costs were reduced by obtaining free lodging. - Travel to the Oral Argument proceedings in San Francisco in November 2008. Costs were reduced by obtaining free lodging.

D. CPUC Disallowances & Adjustments:

#	Reason
Hourly rates	<p>Dr. John Mitchell: He asserts a novel approach to his billing by segregating the hours worked into three different categories “based on the level of professional expertise required.” He claims Tier 1 –travel, clerical, revisions (Other) \$100/hr; Tier 2 – literature search, data manipulation, review of documentation (Expert) \$200/hr; Tier 3 – analysis, reports, presentations, testimony (Expert) \$300/hr. These rates were claimed for all time in 2006-2008. We reject this approach for several reasons. Initially, we view an expert’s time researching, developing, and analyzing data and documentation in order to prepare testimony, reports, etc. used in the proceeding as potentially compensable expert time, providing the other requirements for intervenor compensation are met (e.g., reasonable, provides a substantial contribution to the decision, etc.) We also note that clerical and administrative time, including routine correspondence, requests, and downloads, is not compensable. Reasonable travel is compensable at ½ the expert’s hourly rate. Here, Dr. Mitchell variously asserts \$200/hr and \$300/hr as his expert rates, depending on the task. However, MGRA “averages” the rate to \$262/hr (including the “Tier 1” time.) Based on Dr. Mitchell’s foundational expertise in physics, and relative newness in the area of wildfire analysis (since 2001), we find that a reasonable rate would be \$250/hour. This is at the high end of an expert with 7-12 years of experience in 2007 (\$150-\$260/hour) as set forth in D.08-04-010.</p> <p>Diane Conklin – Ms. Conklin’s limited work history does not qualify her as an expert, but given her apparent involvement in local planning issues related to the Mussey Grade area in which she lives, we find that she is eligible for compensation as an advocate. However, we find that \$100 per hour is a more reasonable rate given her local activities prior to the Sunrise proceeding and the learning curve necessary to effectively advocate at the CPUC.</p>

<p>Reasonableness of Billed Hours</p>	<p>At the outset, we note that this was a long, involved proceeding which spanned more than three years and included an amended application, a CEQA process (with a recirculated DEIR), CAISO involvement, numerous disputes about scope, discovery, confidentiality, etc., required coordination between intervening parties, numerous workshops, hearings, witnesses, and exhibits, and complex briefing over two Phases of the proceeding. In order to make a relevant and thoughtful substantial contribution, applicant had to not only pursue its own issue priorities but also closely monitor the actions and filings of SDG&E and all other parties both to avoid duplication and to assure it had the most complete and current information to work with. That is not to say that time claimed by applicant was allowed without scrutiny, but to affirm that some value was attributed to keeping on top of actions and information as such became known during the proceeding.</p> <p>Dr. Mitchell: Dr. Mitchell provided extensive testimony related to wildfire risks arising from the proposed Sunrise project and estimates of unanticipated costs as a result of potential liability to SDG&E ratepayers. His expert testimony and work was an important impetus for various fire mitigation measures adopted in the EIR and incorporated into the decision. Although we recognize that he had to acquire raw data for original analysis and development of his professional conclusions, complicated by factors including SDG&E’s initial limited analysis of the wildfire risk, the overall time spent for Phase 1 and Phase 2 testimony seems excessive given the narrow issue focus on fire risks in the area of the proposed and alternate Sunrise routes. In addition, the MGRA position that potential costs of fire damage should be included in the cost/benefit analysis for the project was summarily dismissed in D.08-12-058 at 98 where the Commission found that SDG&E’s insurance covers potential costs. We find that the portion of Mitchell’s testimony which opines on SDG&E’s potential liability for transmission related wildfire damage is speculative, even by his own admission, and exceeds the scope of his expertise as a physicist. Therefore, it did not provide a substantial contribution to D.08-12-058. The time records do not segregate how much time was spent on the cost/benefit issue. To more accurately reflect that portion of Mitchell’s testimony which provided a substantial contribution to D.08-12-058, we disallow 10% from the 239.5 hours claimed for preparation of Phase 1 testimony and 10% from 185.1 hours claimed for preparation of Phase 2 testimony in 2007 and 2008, for a total of 42.4 hours.</p> <p>We also disallow all self-described clerical (Tier 1) entries except for 7 hours (3 hours on 2/17/08 and 4 hours on 2/22/08) which are described as preparation of Phase 2 testimony, and 8 hours of travel time (4 hours on 11/3/08 and 4 hours on 11/10/08). The net reduction is 40.7 hours (55.7 – 15 = 40.7 hrs.) The 7 hours are allowed at full rate as expert preparation. The 8 hours of travel time are allowed at ½ the allowed hourly rate.</p> <p>Intervenor Compensation Claim Preparation: Dr. Mitchell claims 43.6 hours (inconsistent with the 49.3 hours on his time sheets) and Diane Conklin claims 10.70 hours related to MGRA’s request for intervenor compensation. We find these</p>
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<p>Summary of Changes</p>	<p>claims excessive and note, in particular, that MGRA submitted extensive spreadsheets of claimed contributions to D.08-12-058 and to the EIR, including multiple references to the record, some of which were wrong as to location or content. The discussion column also did not always provide a clear link between applicant’s actions and the decision language quoted. These features made review of the request for compensation unnecessarily time-consuming. In the future, we advise claimant to streamline and better review its descriptions of its substantial contributions.</p> <p>The overall claim preparation does not involve substantive research or analysis on the merits of the proceeding. For example, time-keeping records should be maintained in the normal course of business. In terms of tracking down the MGRA’s position stated in the claimant’s documents, the EIR and the decision, since the intervenor’s participation was focused on a limited number of issues, mainly associated with fire hazard, this task also should not be time-consuming. Finally, the use of the standard form should lead to fewer hours spent on the claim preparation. To reflect a reasonable number of hours on this kind of work, we reduce the claimed hours by 50%. In reducing the compensation time, we also take into consideration the fact that this is the first document of this nature prepared by the intervenor; therefore, we allow more time than what we would normally find reasonable for the claim preparation of the given complexity level.</p> <p>Diane Conklin: As noted above for Dr. Mitchell, time claimed for clerical and administrative activity is not compensable even at the ½ rate Conklin claimed. Furthermore, Conklin has claimed excess time for routine matters at full rate (e.g., claimed 1 hour to review a 3 page ruling) Therefore, we disallow a total of 22.4 hours for these reasons, as follows:</p> <p>13.4 hours claimed for clerical tasks on 9/22/06, 10/12/06, 12/19/06, 7/9/07, 8/31/07, 11/9/07, 12/31/07, 3/12/08, 4/4/08, 5/16/08, 6/13/08, and 12/8/08</p> <p>5.0 hours in reductions for the clerical portion of combined entries as follows: (-.5) 9/10/07, (-.5) 11/4/07, (-1.8) 1/28/07, (-.5) 3/6/08(-.5) 5/8/08, (-1.0) 11/16/08, and (-.2) 11/21/08</p> <p>4 hours for excess time spent on “review” or drafting of several short documents, as follows (-.9) 8/25/06, (-.9) 9/21/06, (-.4) 10/19/06, (-.8) on 12/6/06, (-.5) 3/13/07, (-.5) 5/15/08.</p> <p>Travel: No change to claimed travel of 30 hours.</p> <p>Mitchell: Claimed at Full rate 681.4 hours “Tier 1” allowed 7.0 Excess time deduction < 42.4 > Time allowed at full rate 646.0 hours</p> <p>Time allowed at ½ rate:</p> <p>Travel 8 hours Intervenor Compensation 21.80 hours</p>
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	<p>Conklin: Claimed at full rate 412.3 hours Clerical & Excess time deduction $\leq 22.4 \geq$ Allowed at full rate 389.9 hours</p> <p>Time allowed at 1/2 rate: Intervenor Compensation 5.35 hours</p>
Expenses	We disallow \$381.67 claimed expenses for meals because meals are not compensable.

PART IV: OPPOSITIONS AND COMMENTS
 Within 30 days after service of this claim, Commission Staff
 or any other party may file a response to the claim (see § 1804(c))

A. Opposition: Did any party oppose the claim (Y/N)?

No

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

Yes

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision 08-12-058.
2. The claimed fees and costs, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total of reasonable contribution is \$207,446.20.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code Sections 1801-1812.

ORDER

1. Claimant is awarded \$207,446.20.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company shall pay claimant the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 9, 2009, the 75th day after the filing of claimant's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This proceeding remains open.
5. This decision is effective today.

Dated October 15, 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:	D0910026	Modifies Decision? No
Contribution Decision(s):	D0812058	
Proceeding(s):	A0608010	
Author:	ALJ Vieth	
Payer(s):	SDG&E	

Intervenor Information

Intervenor	Claim Date	Amount* Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Mussey Grade Road Alliance	2/23/09	\$257,617	\$207,446.20	No	Adjusted hourly rates; clerical and travel time disallowed; miscalculation, unproductive efforts/excessive hours.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Diane	Conklin	Advocate	Mussey Grade Road Alliance	\$150	2006-09	\$100
Joseph	Mitchell	Expert	Mussey Grade Road Alliance	\$262	2006-09	\$250

(END OF APPENDIX)

* The correct calculation for amount requested is \$257,354.30.