

Decision 09-10-053 October 29, 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 INTERVENOR COMPENSATION  
TO UTILITY CONSUMERS' ACTION NETWORK  
FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 08-12-058**

<b>Claimant: Utility Consumers' Action Network (UCAN)</b>	<b>For contribution to Decision (D.) 08-12-058</b>
<b>Claimed (\$): \$1,191,401.80</b>	<b>Awarded (\$): \$1,076,694.25</b>
<b>Assigned Commissioner: Dian Grueneich</b>	<b>Assigned ALJ: Jean Vieth</b>

**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 Sections 1801-1812:**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (§ 1804(a)):</b>		
1. Date of Prehearing Conference:		<b>1/31/06 in Application (A.) 05-12-014, a consolidated proceeding.</b>
2. Other Specified Date for Notice of Intent (NOI):		
3. Date NOI Filed:	N/A	<b>2/14/06</b>
4. Was the notice of intent timely filed? <b>See ALJ Malcolm ruling of March 16, 2006 (below)</b>		

		<b>Yes</b>
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	A.05-12-014	<b>Yes</b>
6. Date of ALJ ruling:	March 16, 2006	<b>Yes</b>
7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status?		<b>Yes</b>
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	C.05-07-022	<b>Yes</b>
10. Date of ALJ ruling:	May 31, 2006	<b>Yes</b>
11. Based on another CPUC determination (specify):		
12. Has the claimant demonstrated significant financial hardship?		<b>Yes</b>
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision	D.08-12-058	<b>Yes</b>
14. Date of Issuance of Final Decision:	December 24, 2008	<b>Yes</b>
15. File date of compensation request:	February 5, 2009	<b>Yes</b>
16. Was the request for compensation timely?		<b>Yes</b>

**C. Additional Comments on Part I** (use line reference # as appropriate):

#	Claimant	CPUC	Comment
	X		Utility Consumers’ Action Network (UCAN) also filed an amended NOI on April 10, 2008 to put parties on notice of increased costs of participation in the case. Due to the extensions and numerous revisions made by San Diego Gas & Electric Company (SDG&E) and California Independent System Operator (CAISO). UCAN’s estimated costs of participation were projected to exceed \$1 million.

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. In the fields below, describe in a concise manner Claimant’s contribution to the final decision** (see § 1802(i), § 1803(a) & D.98-04-059) (For each contribution, support with specific reference to final or record.)

<b>Contribution</b>	<b>Citation to Decision or Record</b>	<b>Showing Accepted by CPUC</b>
1. “The June 5, 2007 <i>Motion to Compel SDG&amp;E to Upgrade its Import Capability at Miguel Substation</i> filed by Utility Consumers Action Network (UCAN) is granted as specified herein.”	D.08-12-058, Ordering Paragraph 11.	<b>Yes</b>
2. “SDG&E shall take the necessary steps to institute a review of Path 44’s rating and, within 60 days of the effective date of this decision, shall report on the status of that review.”	D.08-12-058, Ordering Paragraph 12	<b>Yes</b>
3. “The request of San Diego Gas & Electric Company (SDG&E) for a certificate of public convenience and necessity to construct the proposed Sunrise Powerlink Transmission Project (Sunrise) is denied without prejudice.”	ALJ Proposed Decision, Ordering Paragraph 1	<b>Yes</b>
4. “To include the Pala and Margarita Peakers as available before 2011 in the Analytical Baseline”	D.08-12-058, p. 51	<b>Yes</b>
5. “We agree with UCAN that the Carlsbad Energy Center, in permitting at the Energy Commission, has a high likelihood of coming online by 2012 or 2013.”	D.08-12-058, p. 53	<b>Yes</b>
6. “We agree that SDG&E and CAISO have overstated the amount of fossil fired generation that will be built in WECC in their Analytical Baselines. We also agree that this overstatement results in a lowering of out-of-state power prices, which competes with in state generation, making Sunrise appear more cost-effective than is reasonable to assume. CAISO’s modeling confirms this.... As pointed out by UCAN, SDG&E’s modeling confirms that a reduction in out-of-state capacity reduces energy benefits by over 50%, which is far from trivial.”	D.08-12-058, pp. 61-62	<b>Yes</b>
6. “We agree with UCAN that many out-of-state renewables will be deliverable to California without new transmission facilities, as demonstrated by SDG&E’s Advice Letter filing requesting approval of two Montana wind contracts for a total capacity of 210 MW”	D.08-12-058, p. 69	<b>Yes</b>
7. “After UCAN pointed out that CAISO had failed to include gas taxes in Arizona, CAISO added 5.6% to the border gas price for generators in Arizona. Given	D.08-12-058, p. 89	<b>Decision adopted CAISO forecast for other reasons</b>

<p>this change, UCAN generally supports CAISO’s gas price forecast, especially when compared to that used by SDG&amp;E.”</p>		
<p>8. “The wide variation between CAISO’s Phase 1 and Phase 2 combustion turbine cost estimates is notable. CAISO and SDG&amp;E claim that we should use combustion turbine cost estimates included in an Energy Commission staff study from December 2007 (December 2007 Study). However, from January 2007 through the close of hearings in Phase 1, SDG&amp;E and CAISO used cost estimates for combustion turbines that were less than half those in the December 2007 Study - \$78/kW-year verses \$162.10/kW-year (both 2007\$, escalated at 2% per year).</p> <p>Moreover, some of the cost estimates from the December 2007 Study were not reasonable. In Phase 2, CAISO uses the December 2007 Study for estimates of the cost of combustion turbines but disavows other cost estimates in the study, such as estimates of the cost of new combined cycle and solar thermal generation.”</p>	<p>D.08-12-058, pp. 91-92</p>	<p><b>UCAN’s arguments do not suggest that the estimates are wrong, only that CAISO failed to make other adjustments UCAN considers necessary as a result of higher combustion turbine costs</b> <b>D.08-12-058 at 93</b></p>
<p>9. “UCAN itemizes numerous changes in SDG&amp;E’s and CAISO’s assumptions underlying the Must Run benefits calculations, and suggests that eventually both CAISO and SDG&amp;E come close to agreeing with UCAN’s opening position.”</p>	<p>D.08-12-058, p. 120</p>	<p><b>Yes, at 119-120</b></p>
<p>10. “UCAN’s suggestion that Sunrise may create technical reliability problems concerns us. Neither SDG&amp;E nor CAISO establish that criteria violations in the power flow and other technical modeling of Sunrise are insignificant.”</p>	<p>D.08-12-058, p. 126</p>	<p><b>Yes</b></p>
<p>11. “We agree in part with UCAN’s observation that the solar PV costs associated with the 105 MW (firm capacity) due to the California Solar Initiative are not incremental to the Reference Case and, as a result, should not be included in the cost estimates of the All-Source Generation Alternative.”</p>	<p>D.08-12-058, p. 156</p>	<p><b>Yes, however, the decision did not deduct all solar PV costs, it assumed about 1/3 would come from CSI and not attributable to All Source Generation Alternative</b></p>
<p>12. “We agree with DRA and UCAN that GridView modeling has a number of faults.”</p>	<p>D.08-12-058, p. 170</p>	<p><b>Yes</b></p>
<p>13. “UCAN argues that SDG&amp;E has tried to minimize, inaccurately, the Proposed Project’s impacts on Peninsular bighorn sheep by contending</p>	<p>D.08-12-058, p. 196</p>	<p><b>Yes</b></p>

<p>that the Proposed Project “primarily follows State Route 78 which, as a paved road, is already a barrier to sheep. We agree with UCAN.”</p>		
<p>14. “We find that SDG&amp;E has significantly understated Sunrise operating and maintenance costs. It is unreasonable to assume that operating and maintenance costs for a 100+ mile long transmission line will be less than \$4 million per year. We adopt UCAN’s estimate of \$26.3 million per year for operating and maintenance costs in our Analytical Baseline assumptions.”</p>	<p>ALJ Proposed Decision, p. 99</p>	<p><b>Yes</b></p>
<p>14. “ UCAN’s suggestion that Sunrise may create technical reliability problems concerns us. Neither SDG&amp;E nor CAISO establish that criteria violations in the power flow and other technical modeling of Sunrise are insignificant. We do not find reasonable CAISO’s modeling of avoided new generation costs. As set forth in Section 6.16, we assume different combustion turbine costs than those in CAISO’s Phase 1 and 2 estimates. We agree with UCAN that SDG&amp;E improperly included the 138 MW associated with the Pala and Margarita Peakers in its reliability savings projections. Both the CAISO and our Analytical Baselines include those peakers. As a result, they are not counted as reliability savings generated by Sunrise. We do not agree with many of the assumptions underlying CAISO’s modeling of Must Run contract savings. For example, we do not agree that potential Must Run generators will continue to be available to operate after several years with no Must Run contract. Nor do we agree that Sunrise will permanently avoid the construction of new combustion turbines, rather than just postponing them. However, we find the CAISO’s reliability benefits modeling effort superior to other efforts, which have generated inconsistent results. Thus, we adopt CAISO’s reliability benefits modeling methodology and the results generated using our adopted Analytical Baseline assumptions. The unquantifiable benefits parties have suggested remain speculative and unsubstantiated. We examine them further in our net benefits discussion in Section 11, but afford them less weight than the quantifiable reliability benefits discussed above. We give no weight to the results of SDG&amp;E’s Decision Quality modeling. While the modeling methodology may have merit, SDG&amp;E’s assumptions for the modeling were not verified and very likely conflict with our adopted Analytical Baseline assumptions.”</p>	<p>ALJ Proposed Decision, pp. 124-125</p>	<p><b>Yes, partially duplicative although much was not included in D.08-12-058, see paragraph 10.</b></p>

<p>15. “Several parties filed comments on the Compliance Exhibit. UCAN observes that if the California Solar Initiative program is forecasted to be a success, solar PV costs under the program should not be included as incremental costs in the cost of the All-Source Generation alternatives because such costs have already been included in the costs of the California Solar Initiative program. In addition, CAISO recognized that it did not revise Sunrise costs to include the UCAN operations and maintenance estimates, which we adopt in our Analytical Baseline assumptions.”</p>	<p>ALJ Proposed Decision, p. 146</p>	<p><b>Yes</b></p>
<p>16. “In summary, our Update makes the following changes to the Compliance Exhibit:</p> <ul style="list-style-type: none"> <li>• We adjust the amount of in-area renewables in the All-Source Generation Alternative, thereby changing the distribution of renewables throughout the WECC, consistent with CAISO’s assumed supply curves;</li> <li>• We subtract \$367 million per year from the assumed capital cost of the All-Source Generation Alternatives in each scenario to address the 37 MW of solar PV already assumed to be paid for through the California Solar Initiative program;</li> <li>• We assume combustion turbine costs to be \$120/kW-year (2007\$, escalated at 2% per year) with a transmission cost adder of 35.2% for new combustion turbines; and</li> <li>• We add \$22.4 million per year to the assumed costs of SDG&amp;E’s “Enhanced” Northern Route and the Draft EIR/EIS Environmentally Superior Southern Route to raise the CAISO’s assumed operating and maintenance costs of \$3.9 million to our adopted Analytical Baseline assumption of \$26.3 million per year.”</li> </ul>	<p>ALJ Proposed Decision, p. 149. Each of these modifications was advanced by UCAN in its testimony and briefs.</p>	<p><b>Yes, some duplication [see paragraphs 11, 14]</b></p> <p><b>Claimant failed to properly cite to location in testimony &amp; briefs</b></p>
<p>17. “UCAN takes issue with these SDG&amp;E estimates. Among other things, UCAN argues that it is unreasonable to assume an increase in GHG emissions in 2015 associated with the South Bay Repower Project (a potential component of the All-Source Generation Alternative) since SDG&amp;E’s analysis fails to quantify GHG emissions associated with generation elsewhere in WECC. We agree with the EIR/EIS that it is likely some of the alternatives will have less and some will have more GHG construction-related impacts than Sunrise, and that these emission impacts are difficult to quantify accurately given the number of unknown variables. We reject SDG&amp;E’s attempts to</p>	<p>ALJ Proposed Decision, pp. 170-171</p>	<p><b>Yes</b></p>

<p>quantify the GHG emission impacts of the Sunrise alternatives. SDG&amp;E gives no basis for its contentions that the cases analyzed by CAISO are in any way comparable to those defined in the Draft EIR/EIS. CAISO’s Part 2 testimony (which SDG&amp;E cites as the source of its estimated emissions levels) does not address GHG emissions, nor does it provide updated GridView modeling. In addition, SDG&amp;E provides no record of conducting the updated production cost modeling that would be necessary to derive WECC-wide estimates of GHG emissions related to Sunrise alternatives.”</p>		
<p>18. UCAN had to file 8 different motions – including four discovery related ones. Each of the motions were granted, in part or in full, by the ALJ. These motions included:</p> <ul style="list-style-type: none"> <li>• requesting the Commission take official notice of a June 10 regulatory filing by SDG&amp;E at the California Energy Commission.</li> <li>• to Compel Additional SDG&amp;E Testimony relating to Wildfires in Phase II of the Proceeding.</li> <li>• to Rescind the Confidentiality Status of SDG&amp;E ISO Data</li> <li>• to Compel SDG&amp;E to Upgrade its Import Capability at Miguel Substation.</li> <li>• to Compel Response to Discovery by SDG&amp;E (2/21/07)</li> <li>• to Compel Response to Discovery by SDG&amp;E (2/20/07)</li> </ul>		<p><b>Yes</b></p>
<p>19. UCAN was the first (and only) intervenor to propose a southern route for a power line from Imperial Valley. This alternative route was subsequently explored by Aspen Consulting and presented as the alternative to the SDG&amp;E Northern Route.</p>	<p>See U-100 from Phase 1 of the proceeding.</p>	<p><b>Yes, but claimant failed to properly cite to location in DEIR &amp; briefs: DEIR Appendix 2; Opening Brief at 120-126</b></p>

**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	Claimant	CPUC Verified
<p><b>a. Was DRA a party to the proceeding? (Y/N)</b></p>	<p><b>Y</b></p>	<p><b>Yes</b></p>
<p><b>b. Were there other parties to the proceeding? (Y/N)</b></p>	<p><b>Y</b></p>	<p><b>Yes</b></p>
<p><b>c. If so, provide name of other parties: See Service List</b></p>		<p><b>Yes</b></p>

<p><b>d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b></p>	<p><b>Yes, UCAN had a leading role in opposition and worked to limit overlap with other groups. Other groups proposed alternatives to SPL route proposed by utility.</b></p>
<p>UCAN’s focus on the case was largely outside the scope of DRA’s focus, nor that of the other intervenors. UCAN’s was the primary opposition case presented in this application. DRA and others built their cases on much of UCAN’s work. The ALJ took great efforts to ensure that the parties didn’t duplicate effort. UCAN took on the primary task to focus on the economics issues raised and shared with DRA the task of addressing reliability issues. UCAN was also the only party to propose an alternate southern route.</p>	

**C. Additional Comments on Part II (use line reference # or letter as appropriate):**

#	Claimant	CPUC	Comment
	X		<p>The Commission has also found that an intervenor can “make a valuable contribution by performing a reasonableness review to test the prudence of [a utility’s] decisions, procedures and actions.” (D.06-03-001, <i>slip op.</i> at 12.)</p> <p>This compensation request closely mirrors the UCAN compensation request made in A.02-12-027. In the compensation decision (D.05-08-014) related to that proceeding, the Commission found:</p> <p>“UCAN made numerous significant recommendations that were all considered, in the two proposed decisions of ALJ Long and of the original assigned Commissioner, Carl Wood.”</p> <p style="padding-left: 40px;">Similarly, in D.06-03-001, the Commission wrote:</p> <p style="padding-left: 40px;">D.05-08-037 did not adopt UCAN’s ratemaking recommendations. However, the proposed decision of ALJ Long did adopt most of UCAN’s recommendations... As noted earlier, a participant may sometimes make a substantial contribution even when the participant’s positions are not adopted in the final determination of the issues considered in the proceeding... UCAN’s participation was critical to that examination, and we find that to that extent UCAN made a substantial contribution to D.05-08-037. (D.06-03-001, pp. 3-6.)</p> <p>As will be shown, not only did the final decision adopt a number of UCAN’s findings, but the ALJ’s proposed decision adopted almost all of UCAN’s factual assertions as well as UCAN’s specific recommendations to deny the CPCN application. For these reasons, UCAN seek full compensation for all of its work in this lengthy application.</p>
	X	<b>Possible, citations lacking</b>	<p>In addition to actual contributions cited by the final and proposed decisions, UCAN’s work in this case influenced and relied upon by every major party. The CAISO and SDG&amp;E adopted much of UCAN’s analysis for their own cases and DRA cited frequently to UCAN’s data requests.</p> <p>UCAN was the most active party in both discovery and analysis, more so even than DRA. And UCAN’s discovery efforts early in the case served as the basis for</p>



**B. Specific Claim:**

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Michael Shames	2005-2006	257.10	310	D.08-12-055	79,701.00	2005-2006	236.9	310	73,439.00
Michael Shames	2007	838.20	320	D.08-12-055	268,224.00	2007	781.4	320	250,048.00
Michael Shames	2008	745.70	330	pending	246,081.00	2008	679.5	330	224,235.00
<b>Subtotal:</b>					\$594,006.00	<b>Subtotal:</b>			\$547,722.00
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
David Marcus	2005-2008	2110.44	270	See Attachment 5	569,818.80	2005-2008	2024.54	250	506,135.00
Peter Lanzalotta	2005	66.25	180	See Attachment 5	11,925.00	2005	0	-	0.00
David Schlissel	2005	42.00	180	See Attachment 5	7,560.00	2005	0	-	0.00
<b>Subtotal:</b>					\$589,303.80	<b>Subtotal:</b>			\$506,135.00
OTHER FEES (Travel)									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours <sup>1</sup>	Rate \$	Total \$
Shames	2006		310	(50% of time)	682.00	2006	4.50	155	697.50
Shames	2007		320	(50% of time)	4,800.00	2007	29.20	160	4,672.00
Shames	2008		330	(50% of time)	9,306.00	2008	57.00	165	9,405.00
Marcus	2006-2008		270	(50% of time)	3,207.60	2006-2008	23.75	125	2,968.75
<b>Subtotal:</b>					\$17,995.60	<b>Subtotal:</b>			\$17,743.25

<sup>1</sup> UCAN does not separate its travel time from the time spent on substantive issues of the proceeding. We base our award on UCAN's timesheets that reflects Shames and Marcus travel time. We note, however, that the timesheets, instead of reporting the actual travel time, inappropriately report only half of it. We base our award on the actual travel time, at half professional rate.

<b>INTERVENOR COMPENSATION CLAIM PREPARATION</b>											
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$		
Shames	2009	12.00	165	pending	1,980.00	2009	10	165	1,650.00		
Shames	2006	1.00	310	(50% of time)	310.00	2006	2	155	310.00		
					<b>Subtotal:</b>	\$2,290.00				<b>Subtotal:</b>	\$1,960.00
<b>COSTS</b>											
#	Item	Detail			Amount \$	Amount \$					
1.	Photocopies	Exhibits, pleadings and other work specific to this proceeding			513	513.00					
2.	Travel	See itemization in Attachment 6			5,421	2,621.00					
3.	Postage	Overnight delivery costs			178	0.00					
					<b>Subtotal:</b>	\$ 6,112				<b>Subtotal:</b>	3,134.00
<b>TOTAL REQUEST \$: 1,191,401.80</b>						<b>TOTAL AWARD \$: 1,076,694.25</b>					

### C. Attachments or Comments Documenting Specific Claim:

Attachment or Comment #	Description/Comment
1	<b>Certificate of Service</b>
2.	<b>Hourly Billing Sheets for Michael Shames – separate</b>
3.	<b>Hourly Billing Sheets for David Marcus – separate</b>
4.	<b>Hourly Billing Sheets for Synapse Consulting – separate</b>
5.	<b>Qualifications of UCAN’s experts</b>
6.	<b>Itemization of travel costs</b>
	Travel time and expenses: UCAN seeks recovery for one-half the time devoted to traveling and the full amount of travel expenses for work on this proceeding. UCAN’s witness traveled from Oakland in order to appear during the evidentiary hearings held in San Diego. UCAN’s attorney traveled to San Francisco for the 2007 and 2008 hearings at the CPUC. All of the trips meet the criteria set forth in D.07-10-014: the amount of travel time and expense was reasonable, both when considered in isolation and in context of this compensation request. The travel was not routine commuting, but rather trips that would not have occurred but for UCAN’s participation in this proceeding; the expenses were reasonably incurred; and there was no less expensive way to participate in the proceeding
	UCAN’s attorney and expert hours are broken down into five categories, all of which UCAN’s contributions were recognized by the Proposed and Final Decisions. UCAN made an effort to assign costs to these categories but in some cases, especially during discovery, the hearing process and brief-writing process, it was impossible to clearly assign costs by issue. For that reason, UCAN assigned costs to “General Preparation” and “Hearing” where assignation by issue was impossible.

	<p>UCAN’s attorney costs are reasonable in light of the fact that Mr. Shames worked on an almost full-time basis for more than three years on this case. In addition to making UCAN’s showing, Mr. Shames was asked by the presiding ALJ to assist other intervenors with their participation in the case, thus necessitating his availability and professional assistance to those less-experienced intervenors.</p>
	<p>UCAN’s expert costs sought for Mr. Marcus are reasonable in light of the contribution made by him. As noted above, the dollar savings he achieved through his analysis and accepted recommendations dwarf the costs for which UCAN is seeking reimbursement. Mr. Marcus worked literally full-time for UCAN during the three-year pendency of the proceeding and performed work that matched the team of experts used by SDG&amp;E and CAISO.</p>
	<p>Mr. Marcus has extensive experience in California and Federal regulatory proceedings but has not worked for an intervenor at the CPUC so his hourly rate has not been established before this Commission. Mr. Marcus’ \$270 per hour rate is reasonable in light of his recognized expertise. Also, as set forth in Attachment 5, Mr. Marcus’ other state clients, including the Attorney General’s office, has paid him a \$270 per hour rate since 2006.</p>
	<p>UCAN seeks compensation for the expert analysis conducted by Synapse Consulting (Lanzalotta and Schlissel) in 2005. SDG&amp;E announced plans for the Powerline in mid-2005 and held public hearings on it in September 2005. In preparing for its involvement in the case, UCAN retained Synapse to conduct a high-level analysis of the project and to assist UCAN in narrowing the issues for the CPUC review. UCAN’s expert David Marcus built off of the initial work done by Synapse in preparing his testimony for the case. UCAN is <u>not</u> seeking any attorney hours for the work done during this time frame, only the expert costs that produced information used by UCAN during the CPUC case.</p>
	<p>Efficiency: The Commission generally expects intervenors to rigorously minimize and control their costs and to be sensitive to the hours and costs associated with their intervention. UCAN met this expectation through a variety of means. We closely coordinated our issue coverage with other intervenors, thus avoiding devoting hours or incurring costs to matters already sufficiently covered. For those issues UCAN addressed in testimony and briefs, we minimized and controlled costs by only having one attorney and one consultant addressing the totality of the issues. UCAN has not sought reimbursement for the considerable staff time taken to review, edit, catalog and handle back-office activities.</p> <p>This case was extremely litigious in nature. The applicants repeatedly objected to discovery requests, so much so that the ALJ resorted to holding weekly or bi-weekly discovery conferences to address the unending stream of controversies. The applicants revised its entire case three times and the CAISO made frequent modifications to its case. This required UCAN to be continually assessing and reassessing the application. Because of the length and complexity of the case, UCAN could not substitute in lower-cost experts or attorneys to work on the case.</p> <p>In sum, the Commission should find that UCAN’s costs are consistent with a commitment to minimizing and controlling the costs of participation in Commission proceedings.</p>

**D. CPUC Adoptions, Disallowances & Adjustments: (completed by CPUC)**

#	Reason
<b>Hourly Rates</b>	<p><b>David Marcus:</b> He claims an hourly rate of \$270.00 for all years in which he worked. In support he provided a list of various rates he received from other sources, most notably receiving \$250 and \$270 per hour from the California Attorney General in both 2006 and 2007. Although Mr. Marcus is an experienced energy expert, his experience has largely been in areas other than transmission and he has not previously been awarded compensation by the Commission. A rate of \$250.00/hour is within the range for experts with 13+ years of experience, therefore, we find that \$250.00 per hour is an appropriate rate and we adopt it here.</p> <p><b>Michael Shames:</b> The hourly rates claimed reflect a previously approved rate of \$310/hour for 2006, adjusted for authorized cost-of-living increases in 2007 and 2008. No hourly rate was specifically claimed for 2009 hours, all of which were spent on preparation of the request for Compensation. Because the Commission has not authorized any COLA adjustment for 2009, the 2008 rate of \$330/hour is authorized.</p>
<b>Reasonableness of Billed Hours:</b>	<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 re-circulated DEIR), CAISO involvement, numerous disputes about scope, discovery, confidentiality, etc., required coordination between intervening parties, numerous hearings, witnesses, and exhibits, and complex briefing over two Phases of the proceeding. In order to make a relevant and thoughtful substantial contribution, claimant had to not only pursue its own issue priorities but also closely monitor the actions and filings of SDG&amp;E and all other parties both to avoid duplication and to assure it had the most complete and current information to work with. Moreover, the ALJ asked UCAN to assist other parties who were inexperienced with CPUC proceedings and UCAN took a primary role in regular discovery conferences held with the ALJ which tried to resolve a plethora of on-going discovery disputes. That is not to say that time claimed by UCAN was allowed without scrutiny, but to affirm that some value was attributed to its role of assistance to other parties (which likely reduced duplication and kept costs lower than otherwise), and in keeping on top of actions and information as such became known during the proceeding.</p> <p>UCAN provided high quality review of major elements of the application, CAISO modeling, the DEIR, and testimony offered by other parties through its vigorous cross-examination of witnesses. Its briefs were voluminous and thorough. Therefore, the compensation claim is expectedly large.</p> <p><b>Michael Shames:</b> From the 1,841 total hours claimed, we deduct 45.4 hours claimed (50% of actual time) attributed to related travel and 1.0 hour (50% of actual time) related to preparation of the Notice of Intent to Claim Compensation. We separately address these hours.</p> <p>We have some concerns about his time reports, including the lumping of tasks where it is not always easy to decipher actual time spent on a specific task where that task may not be compensable or is possibly duplicative. One example is that</p>

there are over 100 instances of clerical tasks combined with other tasks (e.g., sending, serving, and filing things previously drafted). Since these tasks are not broken out, but likely are minor uses of time, we deduct 20 hours for non-compensable tasks, allocated 8 hours in 2006, 8 hours in 2007, and 4 hours in 2008.

In addition, we note some inefficiencies and redundancies as expressed by duplicate efforts, many telephone calls, dual attendance at meetings, and numerous memos between Shames and Marcus, UCAN's duly hired expert. Despite having retained an experienced expert, Mr. Shames claimed time related to drafting data requests which appears to add more than 50% to the time claimed by the expert, David Marcus, for such tasks. Some of what Shames claimed seemed to be independent of Marcus, but he also claimed time for completing, reviewing, and revising Marcus's work. We find some of this time to be redundant and deduct 17 hours, or about 15% of the time claimed for this task category and an additional 10 hours for other inefficiencies, allocated 9 hours each for 2006, 2007, and 2008.

We also are concerned that UCAN claimed what appears to be excess time as it relates to five activities, including preparation of three documents filed in the proceeding. Both Shames and Marcus worked on these tasks and the excess time may reflect inefficiencies, duplication of effort, or other redundancies. Therefore, we have applied a 10% reduction of the total hours claimed for these tasks, as set forth below, and apportioned the reduction pro rata to the total hours each person contributed to the task. Notably, the combination of tasks on the submitted time sheets requires some estimation by the Commission as to allocation of time by task.

<u>2007</u>	Shames	Marcus	Total	Reductions
Prepare Phase 1 testimony	69	179	248	6.9/17.9
Prepare Cross of witnesses	82	186	268	8.2/18.6
Draft Phase 1 Opening Brief	97	141	238	9.7/14.10
 <u>2008</u>				
Prepare Phase 2 Cross	118	49	167	11.8/4.9
Draft Phase 2 Opening Brief	132	70	202	13.2/7.0
<b>Total excess time deductions</b>	<b>112.3 hours</b>			<b>49.8/62.5</b>
<b>Total deductions from Shames time:</b>				
Travel/Preparation of Intervenor Compensation request			46.4	
Non-compensable clerical tasks			20.0	
Inefficiencies, redundancies			27.0	
Excess time			<u>49.8</u>	
TOTAL			143.2	

**Intervenor Compensation Request:** Some of the required citation to corroboration in the record for substantial contribution claims made in the request was missing, and the time sheets for both Shames and Marcus had combined tasks. Therefore,

	<p>the task of reviewing the claim became more time consuming. We deduct 2 hours from the time claimed by Shames for preparation of the Request for Compensation as a result.</p> <p><b>David Marcus:</b> In addition to the 62.5 hours of excess time deducted above, from the 2,110.44 total hours claimed, we deduct 11.88 hours claimed (50% of actual time) attributed to related travel and separately address it in this claim. We also deduct 8.52 hours, representing 50% of time used to prepare invoices for UCAN which is non-compensable clerical activity that did not make a substantial contribution to D.08-12-058.</p> <p>We have similar concerns about his time reports, including the lumping of tasks where it is not easy to decipher actual time spent on a specific task where that task may not be compensable or is possibly duplicative. Some tasks appear to be clerical or contain nothing to link it to a substantial contribution task (e.g., review and organize old files, converge emails, send prepared documents, “questions.”) We deduct 3 hours for these minor claims.</p> <p><b>Total deductions from Marcus’s time:</b></p> <table data-bbox="428 842 1295 989"> <tr> <td>Travel</td> <td>11.88</td> </tr> <tr> <td>Non-compensable clerical tasks</td> <td>11.52</td> </tr> <tr> <td>Excess time</td> <td><u>62.40</u></td> </tr> <tr> <td><b>TOTAL</b></td> <td><b>85.80</b></td> </tr> </table> <p><b>Peter Lanzalotta and David Schissel:</b> UCAN seeks compensation for expert analysis conducted by Synapse Consulting (Lanzalotta and Schlissel) in 2005 on the basis that it retained these experts to review early information about the proposed transmission project advanced in a September 2005 public hearing by SDG&amp;E. (The first application for approval of the Sunrise transmission line was not filed until December 2005.) However, the invoices provided do not adequately describe the actual work done (e.g., review transmission-related documents and studies, “r emails,” “r studies, docs,” etc.) or provide explanation as to how the work substantially contributed to D.08-12-058, other than asserting it provided a basis for UCAN’s expert Marcus to “build on.” Notably, UCAN’s Phase 1 Opening Brief (at 2) states that UCAN conducted a “thorough analysis of SDG&amp;E’s proposal” in “early 2006 through October of 2007.” Therefore, we disallow all of the time claimed for these two experts because no substantial contribution to D.08-12-058 is shown.</p>	Travel	11.88	Non-compensable clerical tasks	11.52	Excess time	<u>62.40</u>	<b>TOTAL</b>	<b>85.80</b>
Travel	11.88								
Non-compensable clerical tasks	11.52								
Excess time	<u>62.40</u>								
<b>TOTAL</b>	<b>85.80</b>								
<p><b>Costs</b></p>	<p>UCAN claims “Food &amp; lodging per diem for 16 evenings @ \$175/night for a total of \$2,800.00.” This amount is disallowed in total because no documentation was provided to establish reasonable lodging expenses and there is no authority to award compensation for either a “per diem” or for meals.</p> <p>In addition, we disallow \$178 in “Overnight delivery costs” because there is no link asserted to a substantial contribution to D.08-12-058, nor an explanation as to why ratepayers should compensate UCAN for late preparation of documents such that overnight delivery services would be necessary to timely file them.</p>								

**PART IV: OPPOSITIONS AND COMMENTS**

**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(2)(6)) (Y/N)?**

**Yes**

**FINDINGS OF FACT**

1. Claimant has made a substantial contribution to D.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 \$1,076,694.25.

**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 \$1,076,694.25.
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 April 21, 2009, the 75<sup>th</sup> 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 is not closed.

5. This order is effective today.

Dated October 29, 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**

<b>Compensation Decision:</b>	D0910053	<b>Modifies Decision?</b> N
<b>Contribution Decision(s):</b>	D0812058	
<b>Proceeding(s):</b>	A0608010	
<b>Author:</b>	ALJ Vieth	
<b>Payer(s):</b>	San Diego Gas & Electric Company	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
Utility Consumers' Action Network	2/05/09	\$1,191,401.80	\$1,076,694.25	No	adjusted hourly rate for Marcus; clerical and travel time disallowed; unproductive efforts/excessive hours; meal expenses and overnight delivery charges disallowed.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Michael	Shames	Attorney	Utility Consumers' Action Network	\$310	2006	\$310
Michael	Shames	Attorney	Utility Consumers' Action Network	\$320	2007	\$320
Michael	Shames	Attorney	Utility Consumers' Action Network	\$330	2008	\$330
Michael	Shames	Attorney	Utility Consumers' Action Network	Not specified	2009	\$330
David	Marcus	Expert	Utility Consumers' Action Network	\$270	2006-08	\$250

**(END OF APPENDIX)**