

Decision 09-10-054 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 (U902E) 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 CENTER FOR
BIOLOGICAL DIVERSITY FOR INTERVENOR COMPENSATION FOR
SUBSTANTIAL CONTRIBUTIONS TO DECISION 08-12-058**

Claimant: Center for Biological Diversity (CBD)	For contribution to Decision (D.) 08-12-058
Claimed (\$): 797,673.00	Awarded (\$): 694,202.75
Assigned Commissioner: Dian M. Grueneich	Assigned ALJ: Jean 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		
1. Date of Prehearing Conference:	January 31, 2006	Yes
2. Other Specified Date for NOI:		
3. Date NOI Filed:	March 1, 2006; Amended notice filed September 6, 2006	Yes
4. Was the notice of intent timely filed? Yes, <i>see</i> ALJ ruling of March 16, 2006 referenced below.		Yes

¹ Information in sections 1-4 relates to the consolidated proceeding Application (A.) 05-12-014.

Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.05-12-014	Yes
6. Date of ALJ ruling:	March 16, 2006	Yes
7. Based on another CPUC determination (specify):		
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:	A.05-12-014	Yes
10. Date of ALJ ruling:	March 16, 2006	Yes
11. Based on another CPUC determination (specify):		
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:	December 24, 2008	Yes
15. File date of compensation request:	February 23, 2009	Yes
16. Was the request for compensation timely?		

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
	X		CBD and Sierra Club provided an amended notice of intent to claim compensation on May 2, 2008, to put parties on notice of increased costs of participating in the case due to extensions in the hearing, a draft Environmental Impact Report (EIR) exceeding 12,000 pages, and recirculation of the EIR because of previously undisclosed information.

PART II: SUBSTANTIAL CONTRIBUTION

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

Contribution	Citation to Decision or Record (Provided by Claimant)	Showing Accepted by CPUC
<p>1. Center for Biological Diversity (CBD) and Sierra Club were the only parties in the proceeding to recommend that if approved, the Commission require the power line carry some amount of renewable energy. The recommendation played an important role in the final decision by leading to:</p> <p>Provisions not previously raised in the proceeding to better ensure the line carries renewable energy. “We acknowledge that additional steps are necessary to ensure that renewable energy is developed in the Imperial Valley...Therefore, we direct the assigned Commissioner in R.08-08-009...to issue an Assigned Commissioner Ruling putting forth proposals...so that renewable resources that are facilitated by Sunrise are in fact developed on a timely basis.”</p> <p>“In response to these concerns SDG&E CEO Debbie Reed stated that the utility would make three voluntary commitments if Sunrise is approved. She stated that SDG&E would: (1) not contract, for any length of term, with conventional coal generators that deliver power via Sunrise, (2) replace any currently approved renewable energy contract deliverable via Sunrise that fails with a viable contract with a renewable generator located in Imperial Valley, and (3) voluntarily raise SDG&E’s Renewable Portfolio Standard (RPS) goal to 33 percent by 2020. We do not take SDG&E’s commitments lightly and fully expect the utility to follow through.”</p> <p>A broad policy dialogue with additional parties joining specifically to address whether approval of the power line should be conditioned to carry renewable energy.</p>	<p>Exhibit C-2 at 4 and attachment B; Phase 1 opening brief at 35-36; Phase 2 opening brief at 65-72.</p> <p>D.08-12-058, pp. 173, 263-268. Quotation at p. 266.</p> <p>D.08-12-058, p. 265.</p> <p>ALJ rulings of November 12, 2008 granting limited party status to Independent Energy Producers; November 26, 2008, granting limited party status to Geothermal Energy Association;</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>Recommendation by the ALJs that if approved, the line carry renewable energy.</p> <p>Proposed approval of the line with conditions requiring it carry renewable energy.</p>	<p>December 11, 2008, granting limited party status to Pacific Gas & Electric; December 17, 2008, granting limited party status to Zemer Energia, and an all party meeting was held to address the topic.</p> <p>ALJ proposed decision, p. 164,</p> <p>D.08-12-058, dissent of assigned Commissioner Grueneich.</p>	<p>Yes</p> <p>Yes</p>
<p>2. CBD and Sierra Club were the only parties to offer expert testimony specifically comparing the impacts of the Northern and Southern alternative routes.</p> <p>“Any Northern Route would have massive significant and unmitigable environmental impacts on Anza-Borrego...”</p> <p>“the Final Environmentally Superior Northern Route, compared to the Final Environmentally Superior Southern Route, has greater impacts on biological resources, visual resources...”</p> <p>“It would be unwise to experiment with a Federally endangered population, and we should therefore err on the side of caution to protect bighorn sheep in the Peninsular Ranges...”</p> <p>“My previous testimony identifying the southern route generally as the environmentally preferable route still applies (p. 22), even recognizing that this route also causes significant adverse impacts on biological resources</p>	<p>Testimony, exhibits:</p> <p>C-1 (testimony of David Hogan)</p> <p>C-2 (Jerre Ann Stallcup)</p> <p>C-18 (Ileene Anderson)</p> <p>C-19 and C-20 (Richard Halsey)</p> <p>C-21 and C-22 (Dr. Travis Longcore)</p> <p>C-23 and C-24 (Dr. Esther Rubin)</p> <p>C-25 (Jerre Ann Stallcup)</p> <p>D.08-12-058, p. 286.</p> <p>D.08-12-058, p. 204.</p> <p>D.08-12-058, p. 196 quoting Dr. Rubin’s testimony in C-23. See footnotes throughout pages 195-196.</p> <p>Phase 2 rebuttal testimony of Dr. Travis Longcore, page 2. The final decision agreed that the southern route was less damaging than the northern route. <i>See</i></p>	<p>Yes. The exhibit identifications are reversed for C-1 and C-2, i.e., C-1 is Testimony of Stallcup and C-2 is Testimony of Hogan. The CBD/Sierra Club testimony compared the impacts of the alternative routes on biodiversity conservation.</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>that cannot be mitigated, and it would be biologically preferable if neither route is constructed (p. 20).”</p> <p>“the Northern Route is more likely to be expanded, requiring overhead transmission lines through Anza-Borrego Desert State Park, which would result in significant, unmitigable impacts equivalent to or even more unacceptable than the Southern Route.”</p>	<p>D.08-12-058, p. 204 (“the Final Environmentally Superior Northern Route, compared to the Final Environmentally Superior Southern Route, has greater impacts on biological resources, visual resources...”)</p> <p>Phase 2 direct testimony of Ms. Jerre Stallcup, page 2. The final decision agreed that the southern route was less damaging than the northern route. <i>See</i> D.08-12-058, p. 204 (“the Final Environmentally Superior Northern Route, compared to the Final Environmentally Superior Southern Route, has greater impacts on biological resources, visual resources...”)</p>	<p>Yes</p>
<p>3. CBD and Sierra Club were the only parties offering expert scientific testimony describing the severe environmental impacts of the project, and offering options for mitigation. The testimony complemented testimony of other parties on legal, policy, and community value impacts of the project on Anza-Borrego Desert State Park.</p> <p>“This decision also imposes 125 substantial mitigation measures directly on SDG&E to address the many of the environmental impacts of Sunrise.”</p> <p>“We conclude that the significant environmental impacts of the Northern and Southern Route Alternatives strongly militate against authorizing the construction of any of them.”</p> <p>4. CBD and Sierra Club environmental recommendations played a key role in shaping the EIR and Appendix D to Decision. The following are just a few examples:</p> <p>Testimony of Travis Longcore addressed bird impacts from power lines.</p>	<p>D.08-12-058, pages 175-207 discussing environmental impacts generally. Expert testimony listed in #2 above.</p> <p>D.08-12-058, p. 7.</p> <p>Proposed Decision of the ALJs, p. 247.</p> <p>Mitigation was adopted to address bird impacts. <i>See, e.g.,</i> Appendix D</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>11. CBD and the Sierra Club were also instrumental in developing a schedule for this proceeding. In their Prehearing Conference Statement (September 13, 2006), and their Supplemental Protest (September 22, 2006), CBD and the Sierra Club proposed a two phase process in order to adequately address environmental issues.</p>	<p>alternatives, as well as GHG emissions. As already pointed out, the Final Decision chose an alternative route (D.08-12-058, p. 204), and addressed GHG emissions (D.08-12-058, page 170; D.08-12-058, p. 265); moreover, the Draft Environmental Impact Report (DEIR) and FEIR both addressed alternative routes, non-wire alternatives, and GHG emissions.</p>	<p>Yes.</p>
<p>12. CBD and the Sierra Club ensured a PEA was completed prior to a Certificate of Public Convenience and Necessity (CPCN).</p>	<p>The November 1, 2006, Administrative Law Judge (ALJ) Ruling adopted a Two Phase approach and a schedule that gave more appropriate deference to environmental review.</p>	<p>Yes.</p>
<p>13. CBD and the Sierra Club also ensured that proper process was adhered to during the proceedings.</p>	<p>On January 20, 2006, CBD and the Sierra Club submitted a Motion For Determination of Applicability of The California Environmental Quality Act and to Request a Hearing and/or to Reschedule the Prehearing Conference and on January 27, 2006, submitted a Response In Opposition to Motion of SDG&E to Set Procedures and to Defer Certain Filing Requirements. on February 10, 2006, the ALJ issued a ruling seeking briefing from all parties on procedural matters, and, on April 7, 2006, the ALJ issued a ruling that denied “the motion of San Diego Gas & Electric Company (SDG&E) to initiate an evaluation of the need for its proposed Sunrise Power link project in this proceeding prior to SDG&E’s filing of its Proponent’s Environmental Assessment (PEA) and related information required by General Order (GO) 131-D, Rule 17.1 of the Commission’s Rules of Practice and Procedure (Rules), and</p>	<p>Yes.</p>

	<p>Public Utilities Code Section (§) 1003.”</p> <p>For instance, CBD and the Sierra Club submitted Motions to Strike testimony in both Phase 1 and Phase 2 of the proceedings. These motions were largely accepted or ruled in favor of. <i>See, e.g.</i>, Conservation Groups’ Motion to Strike Portions of the Division of Ratepayer Advocates Testimony of Dr. Lon House (July 6, 2007); Conservation Groups’ Motion for Extension of Time to Prepare Testimony for Phase II Proceedings (July 16, 2007) (Granted in Part by ALJ Ruling Setting the Schedule for Phase 2 (December 11, 2007)); Center for Biological Diversity and the Sierra Club’s Motion to Strike the Phase 2 Direct Testimony of San Diego Gas & Electric (March 18, 2008) (Granted in Part by ALJ during Phase 2 hearings.)</p>	
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was DRA a party to the proceeding? (Y/N)	Y	Yes.
b. Were there other parties to the proceeding? (Y/N)	Y	Yes.
c. If so, provide name of other parties: <i>See Service List</i>		
<p>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:</p> <p>CBD and Sierra Club’s focus was largely outside the scope of the Ratepayer Advocate’s (DRA) focus. One area of overlap was testimony regarding Stirling Energy Systems. CBD and DRA negotiated a joint agreement to resolve the CBD motion to strike DRA’s testimony on this topic. The agreement struck much of DRA witness House’s testimony and was read into the record on July 18, 2007, at transcript pages 1211-1213.</p> <p>CBD and Sierra Club, as the only two environmental organizations in the proceeding, joined their efforts. After their initial notices of intent to seek compensation, every aspect of participation between the two organizations was coordinated and filed jointly throughout the proceeding, including the presentation of expert witnesses and all briefs and motions.</p> <p>CBD and Sierra Club coordinated with other groups whenever possible to maximize efficiency and avoid duplication of effort. Cooperative efforts are reflected in part by motions prepared by CBD and Sierra Club that were filed on July 16, 2007, and January 18, 2008, that were joined or concurred with by 5 and 6 intervening parties, respectively.</p> <p>Issues related to fire and power lines were covered by both CBD/Sierra and the Mussey Grade Road Alliance (MGRA). The groups coordinated efforts to ensure the expert testimony presented covered different aspects of the issue. CBD/Sierra fire expert Richard Halsey (Exhibits C-19 and C-20) complimented and supplemented MGRA testimony by presenting a witness who is a fire fighter and an expert on habitat type- conversion as it relates to fire.</p> <p>CBD/Sierra Club complemented and supplemented the testimony of the California State Parks Foundation and Anza-Borrego Foundation by presenting expert biologists who testified on impacts to species and habitats on Anza-Borrego Desert State Park. <i>See list of experts in Section A.2 above.</i></p>		<p>Yes.</p> <p>Yes.</p> <p>Yes.</p> <p>Yes.</p> <p>Yes.</p>

C. Additional Comments on Part II:

#	Claimant	CPUC	Comment

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

Concise explanation by claimant of how the cost of claimant's participation bears a reasonable relationship with benefits realized through participation	CPUC Verified
<p>Environmental issues played a key role in the Commission's decision. CBD and the Sierra Club were the only parties to present environmental experts in the hearing. The primary difference between the proposed project and the approved application was the change in routing of the line to a Southern Alternative. CBD and Sierra Club, while opposing the application, played an important role in the routing of the line by presenting testimony describing environmental impacts of both Northern and Southern Alternatives. <i>See</i> part II.A.2 above.</p>	<p>Yes.</p>
<p>The issue of whether the line should be conditionally approved to require it carry renewable energy was the primary difference between the two alternative proposed decisions. CBD and the Sierra Club were the only parties to raise this issue during the hearing. Both the Sunrise proceeding and the state benefited from the larger policy discussion that took place on this issue and in the final decision, as described in Part II A.1 above.</p>	<p>Yes.</p>
<p>CBD and the Sierra Club submitted substantial comments during the California Environmental Quality Act (CEQA) and National Association of Fire Protection Associations (NEPA) process, and also submitted testimony described in Part II above, that contributed to the mitigation measures adopted in the final decision, Appendix D. Extensive comments were submitted on the draft EIR/EIS on October 20, 2006, February 23, 2007, April 11, 2008, August 25, 2008, and November 15, 2008.</p>	<p>Yes.</p>
<p>The decision paid particular attention to the threats from fire. CBD and Sierra Club contributed to the care paid to this issue in the final decision through the testimony of Richard Halsey and its briefing of this issue in both phases of the proceeding.</p>	<p>Yes.</p>
<p>The impact of the project on greenhouse gas emissions was identified as a primary policy concern in the decision. CBD and Sierra Club comments "go to the heart" of the greenhouse gas issues in the proceeding. <i>See</i> II.A.7 above.</p>	<p>Yes.</p>
<p>CBD and the Sierra Club were involved with ensuring a wider range of alternatives were analyzed (e.g., southern route and non-wire alternatives), and that greenhouse gas emissions were given proper consideration.</p>	<p>Yes.</p>
<p>CBD and the Sierra Club were also instrumental in developing a schedule for this proceeding and helped ensure additional scoping meetings, especially in the southern route region, and also resulted in more community libraries being provided access to documents associated with the Sunrise proceedings (thus promoting greater public awareness and public participation). <i>See</i> ALJ Ruling on The Motion To Extend The Scoping Period (October 16, 2006).</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 \$
Steven Siegel	2007	419.6	450	D.08-04-010 (rationale in attachment 2 hours in attachment 3)	188,820	2007	409.60	400	163,840
Steven Siegel	2008	668.2	465	D.08-04-010 (rationale in attachment 2 hours in attachment 3)	310,713	2008	655.10	430	281,693
Steven Siegel	2009	22.5	480	D.08-04-010 (rationale in attachment 2 hours in attachment 3)	10,800	2009	0	--	0
Justin Augustine	2006	180.1	190	D.08-04-010 (rationale in attachment 2 hours in attachment 4)	34,219	2006	167.1	175	29,242
Justin Augustine	2007	233.7	200	D.08-04-010 (rationale in attachment 2 hours in attachment 4)	46,740	2007	233.7	190	44,403
Justin Augustine	2008	374.3	230	D.08-04-010 (rationale in attachment 2 hours in attachment 4)	8,608	2008	366.4	210	76,944
Justin Augustine	2009	32.3	240	D.08-04-010 (rationale in attachment 2 hours in attachment 4)	7,752	2009	0	--	0
Paul Blackburn	2006	294	175	D.08-04-010 (rationale in attachment 2 hours in	51,450	2006	258.13	150	38,718.75

				attachment 5)						
<i>Subtotal:</i>					736,583	<i>Subtotal:</i>				634,841.25
EXPERT FEES										
Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$	
Travis Longcore	2008	67	150	D.08-04-010 (rationale in attachment 2 hours and resume in attachment 6)	10,000	2008	67	150	10,050	
Esther Rubin	2008	92	70	D.08-04-010 (rationale in attachment 2; hours and resume in attachment 7)	6,440	2008	92	70	6,440	
Jerre Stallcup	2008	41	85	D.08-04-010 (rationale in attachment 2; hours and resume in attachment 7)	3,485	2008	41	85	3,485	
Rick Halsey	2008	58.5	85	D.08-04-010 (rationale in attachment 2; hours and resume in attachment 8)	4,972	2008	58.5	85	4,972.50	
Ileene Anderson	2008	26	75	D.08-04-010 (rationale in attachment 2; hours and resume in attachment 9)	1,950	2008	26	75	1,950	
David Hogan	2007	27	75	D.08-04-010 (rationale in attachment 2; hours and resume in attachment 10)	2,025	2007	27	75	2,025	
Curt Bradley	2007	25	75	D.08-04-010 (rationale in attachment 2; hours and resume in	1,875	2007	25	75	1,875	

				attachment 11)					
Barry Butler	2007		0	D.08-04-010	0				0
Subtotal:					30747	Subtotal: 30,797.50			
OTHER FEES									
Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
Steven Siegel	2007 Travel**	28	450/2= 225	D.08-04-010 (rationale in attachment 2; hours in attachment 3)	6,300	2007	28	200	5,600
Steven Siegel	2008 Travel	42	465/2= 155	D.08-04-010 (rationale in attachment 2; hours in attachment 3)	9,744	2008	42	215	9,030
Justin Augustine	2007 Travel	16	200/2= 100	D.08-04-010 (rationale in attachment 2; hours in attachment 4)	1,600	2007	16	95	1,520
Justin Augustine	2008 Travel	6	230/2= 115	D.08-04-010 (rationale in attachment 2; hours in attachment 4)	690	2008	6	105	630
Subtotal:					18334	Subtotal: 16,780			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
Steven Siegel	2009	10	480/2= 240	D.08-04-010 (rationale in attachment 2; hours in attachment 3)	2,400	2009	10	215	2,150
Steven Siegel	2008	3	465/2= 232	D.08-04-010 (rationale in attachment 2; hours in attachment 3)	696	2008	3	215	645
Justin Augustine	2009	7	240/2= 120	D.08-04-010 (rationale in attachment 2; hours in	840	2009	7	105	735

				attachment 4)					
Paul Blackburn	2006	0	0		0	2009	2.4	75	180
Subtotal:					3936	Subtotal:			3,710
COSTS									
#	Item	Detail			Amount	Amount			
	Hotel, rental car, and airline tickets for hearings (Siegel)	See attachment 3 for itemization			7,079				7,079
	Hotel, rental car, and airline tickets for hearings (Augustine)	See attachment 4 for itemization			994.75				995
Subtotal:					8,073	Subtotal:			8,074
TOTAL REQUEST \$:					797,673	TOTAL AWARD \$:			694,202.75
<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 travel and claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p>									

C. CPUC Disallowances & Adjustments:

#	Reason
Hourly rates	<p>Steven Siegel: Although Mr. Siegel has been an attorney since 1988, he initially focused on hazardous substances while working at the Environmental Protection Agency (EPA) and has not practiced before the California Public Utilities Commission (CPUC) before. His time records show that he spent over 40 hours first becoming familiar with the background of the proceeding and in general his claimed times are on the high side, possibly indicating a learning curve. Therefore, his 2007 rate is set at \$400/hour, about the middle for the top rank of experienced attorneys: \$290-\$520/hour. His high quality work product indicates he quickly adapted to the professional expectations within Commission proceedings. Therefore, we apply both a 5% step increase and a 3% cost-of-living adjustment (COLA) to increase his rate to \$430 (\$432 rounded to the nearest \$5.00, pursuant to our practice), for 2008, despite the fact that CBD did not ask for the step increase. No COLAs have been authorized for 2009 so his 2008 rate carries forward.</p> <p>Justin Augustine: Mr. Augustine has been an attorney since January 2005 and in 2006 and 2007 is eligible for an hourly rate within the 0-2 year category.</p>

	<p>Although he asserts that his exclusive work in the area of environmental law supports the high end of hourly rates, we find that \$175/hour is an appropriate starting rate for 2006, and still at the higher end of the range of \$140-195/hour. We agree with applicant that, based on his experience, his 2007 rate should reflect a 5% step increase and 3% COLA for an approved rate of \$190/hour. In 2008, Mr. Augustine became eligible for rates within the 3-4 years experience range of \$200-235 and we find that \$210/hour is appropriate, slightly more than the minimum approved rate. No COLAs have been authorized for 2009 so his 2008 rate carries forward.</p> <p>Paul Blackburn: Although Mr. Blackburn apparently practiced law for a few years some time ago outside CA, he is neither an attorney licensed in CA nor a qualified expert. Instead he appears to fall within the compensable category of “Advocate.” Therefore, we find that an advocate rate of \$150/hour for 2006 is reasonable, although on the high end, considering his prior legal experience.</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), California Independent System Operator (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, 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>We disallow all hours claimed in 2009 for both Siegel and Augustine, 22.5 hours and 32.3 hours respectively, which are related to preparation of an Application for Rehearing because there is no substantial contribution to D.08-12-058 as issued. We reduce to one-half rate Blackburn’s claim of .5 hours on 2/28/06 regarding Notice of Intent and one half of 3.75 hours claimed on 9/5/06 for Amended Notice of Intent and other activities for a combined reduction of 2.4 hours from total 2006 hours claimed at full rate. We observe that Blackburn’s claimed time includes research into the Commission’s rules, procedures, and CEQA process which appear to be excessive and not part of CBD’s substantial contribution. Therefore, we reduce his claim by 10 hours to reflect his learning curve while getting up to speed on Commission proceedings. We are also concerned that applicant claimed what appears to be excessive time as it relates to the preparation of six documents filed in the proceeding. Two people worked on each of these documents and the excess time may reflect inefficiencies, duplication of effort, or other redundancies. Therefore, we have applied a reduction to the total hours for the preparation of these documents, as set forth</p>

² The year 2006 information relates to A.05-12-014 (consolidated proceeding).

PART IV: OPPOSITIONS AND COMMENTS

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

Yes

If so:

Party	Reason for Opposition	CPUC Disposition
SDG&E	SDG&E points out an apparent inconsistency about applicant’s claim for compensation regarding Paul Blackburn’s hours on the ground that he appeared in the proceeding for Sierra Club, rather than applicant, CBD, and suggests that all his claimed hours be disallowed.	CBD replied that while Blackburn was an unpaid volunteer for Sierra Club, he performed separate and distinct work for CBD, billed CBD, and CBD paid him for that work. Since 2006, CBD and Sierra Club filed documents jointly to avoid duplication and inefficiencies. Sierra Club was found eligible to claim intervenor compensation but did not submit a claim, thus, there is no double recovery. The Commission does not involve itself in the arrangements of intervening parties. (D.03-10-056 at 38.) Here, Blackburn’s claimed hours all occurred before CBD assigned Siegel to be its lead attorney and, except as noted hereinabove, we find that his claimed hours represent a substantial contribution to D.08-12-058.

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

Yes

If not:

Party	Comment	CPUC Disposition

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 \$694,202.75.

CONCLUSION OF LAW

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

ORDER

1. Claimant is awarded \$694,202.75.
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 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

Compensation Decision:	D0910054	Modifies Decision? No
Contribution Decision(s):	D0812058	
Proceeding(s):	A0608010	
Author:	ALJ Vieth	
Payer(s):	San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Center for Biological Diversity	2/23/09	\$797,673	\$694,202.75	No	Adjusted hourly rates; work not related to substantial contributions to the decision, excessive hours, inefficient effort, miscalculation of hours.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Steven	Siegel	Attorney	Center for Biological Diversity	\$450	2007	\$400
Steven	Siegel	Attorney	Center for Biological Diversity	\$465	2008	\$430
Steven	Siegel	Attorney	Center for Biological Diversity	\$480	2009	\$435
Justin	Augustine	Attorney	Center for Biological Diversity	\$190	2006	\$175
Justin	Augustine	Attorney	Center for Biological Diversity	\$200	2007	\$190
Justin	Augustine	Attorney	Center for Biological Diversity	\$230	2008	\$210
Justin	Augustine	Attorney	Center for Biological Diversity	\$240	2009	\$210
Paul	Blackburn	Advocate	Center for Biological Diversity	\$175	2006	\$150
Travis	Longcore	Expert	Center for Biological Diversity	\$150	2008	\$150
Esther	Rubin	Expert	Center for Biological Diversity	\$70	2008	\$70
Jerre	Stallcup	Expert	Center for Biological Diversity	\$85	2008	\$85
Rick	Halsey	Expert	Center for Biological Diversity	\$85	2008	\$85
Ileene	Anderson	Expert	Center for Biological Diversity	\$75	2008	\$75
David	Hogan	Expert	Center for Biological Diversity	\$75	2007	\$75
Curt	Bradley	Expert	Center for Biological Diversity	\$75	2007	\$75

(END OF APPENDIX)