

Decision 10-03-020 March 11, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company
for Review of its Proactive De-Energization
Measures and Approval of Proposed Tariff Revisions
(U902E).

Application 08-12-021
(Filed December 22, 2008)

DECISION GRANTING INTERVENOR COMPENSATION TO UTILITY CONSUMERS' ACTION NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 09-09-030

Claimant: Utility Consumers' Action Network	For contribution to D.09-09-030
Claimed (\$): \$60,527.30¹	Awarded (\$): \$54,189.60 (reduced 10%)
Assigned Commissioner: Timothy Alan Simon	Assigned ALJ: Timothy Kenney

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: The decision denies San Diego Gas & Electric Company's (SDG&E) application to shut off power to certain areas when hazardous fire conditions are present.

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

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	February 10, 2009	Yes
2. Other Specified Date for NOI:		
3. Date NOI Filed:	March 4, 2009	Yes
4. Was the notice of intent timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		

¹ UCAN miscalculates its request at \$57,177.80. The correct amount is \$60,527.30. We correct this error here and use the corrected amount for consideration in our award.

5. Based on ALJ ruling issued in proceeding number:	A.08-12-021	Yes
6. Date of ALJ ruling:	March 20, 2009	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:	N/A	
10. Date of ALJ ruling:	Adoption of this decision	
11. Based on another CPUC determination (specify):	UCAN’s supplemental filing in this proceeding	
12. Has the claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.09-09-030	Yes
14. Date of Issuance of Final Decision:	September 18, 2009	Yes
15. File date of compensation request:	October 16, 2009	Yes
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant’s description of its contribution to the final decision

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
1. UCAN states that owners of portable generators may need to store 20 gallons of fuel on site in order to power a generator through a shut-off event lasting 72 hours. If a wildfire passes through the property, the fuel could explode with deadly consequences for residents and fire crews.	D.09-09-030, p. 38	Yes

<p>2. In addition, some residents may connect their generators to the electrical wiring of their homes. If “do-it-yourselfers” do not disconnect their electrical panels from the utility system, the generators would energize utility lines, thereby nullifying SDG&E’s intent to reduce ignitions from power lines. This would also pose a danger to utility employees because power lines would be “hot” when the workers do not expect it.</p>	<p>D.09-09-030, p. 38</p>	<p>Yes</p>
<p>3. Finally, generators emit dangerous levels of carbon monoxide (CO). UCAN cites a study that shows portable generators were implicated in 96% of poisonings from CO following hurricanes Charley and Jeanne in Florida in 2004.</p>	<p>D.09-09-030, p. 38</p>	<p>Yes</p>
<p>4. UCAN notes that sparks from vehicles are responsible for 11.6% of fires. Shutting off power could increase the number of miles driven by forcing people in the areas where power is shut off to drive long distances to find restaurants and retail stores where power is on so they can eat and buy groceries, batteries, gasoline, and other necessities. The increased driving would exacerbate the risk of vehicle-ignited fires.</p>	<p>D.09-09-030, pp. 42-43</p>	<p>Yes</p>
<p>Requirement of a cost-benefit study in a subsequent filing by SDG&E.</p>	<p>Ordering paragraph #3, pp. 70-71</p>	<p>Yes</p>

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

	Claimant	CPUC Verified
<p>a. Was DRA a party to the proceeding? (Y/N)</p>	<p>Y</p>	<p>Yes</p>
<p>b. Were there other parties to the proceeding? (Y/N)</p>	<p>Y</p>	<p>Yes</p>
<p>c. If so, provide name of other parties: A coalition of “Opposing Parties,” as described in the decision that included local utilities, telecommunications companies, and school districts, CPSD, DRA, and UCAN.</p>		<p>Yes</p>
<p>d. Claimant’s description of how it coordinated with DRA and other parties to avoid duplication or how claimant’s participation supplemented, complemented, or contributed to that of another party: UCAN worked closely with the coalition, filing joint motions, responses and other submissions. Also worked with other parties to develop comments that didn’t duplicate. UCAN’s focus was on identifying potential dangers and customer impacts caused by the SDG&E plan and discussing the need for cost-benefit analysis.</p>		<p>Yes</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

Concise explanation as to how the cost of claimant’s participation bears a reasonable relationship with benefits realized through participation	CPUC Verified
<p>UCAN’s participation in this case provided important factual bases for the Commission’s rejection of the application. As cited above, the Commission relied upon the UCAN comments at pages 38 and 42, as established by Shames & Schilberg. It also adopted ordering paragraph #3 which echoed the recommendations for a cost-benefit analysis presented by Croyle’s comments. It also frequently cited positions of the “Opposing Parties,” which was a coalition in which UCAN participated. It also compelled SDG&E to perform a cost-benefit study in any future study, as argued by UCAN in comments crafted by Croyle.</p> <p>UCAN also spent resources drafting alternatives/mitigation measures, as requested by the Commission. These weren’t incorporated because the Commission rejected the SDG&E proposal outright. However, UCAN submits that because the Commission requested that parties offer mitigation measures and because SDG&E accepted, in concept, UCAN’s mitigation measures, they constitute compensable work product.</p> <p>Pursuant to Commission rules, UCAN has provided the time sheets with costs allocated among the issues addressed by UCAN: 1) Customer impacts; 2) Alternatives/Mitigation; and 3) Cost-benefit</p> <p>Hours spent upon a motion to dismiss that was not granted have not been included in the attorney hours sought by Shames.</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 \$
M. Shames	2009	105.80	330	D.09-10-053	34,914	2009	94.15	330	31,069.50
Subtotal: \$34,914						Subtotal: \$31,069.50			

EXPERT FEES

Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
G. Schilberg	2009	39.33	200	Equal to 2008 rate in D.09-04-027	7,866	2009	32.30	200	6,460
David Croyle	2009	58.30	225	See Attachment 3	13,117.50	2009	52.96	225	11,916

Subtotal: \$20,983.50

Subtotal: \$18,376

OTHER FEES: Travel (1/2 rate)

Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
M. Shames	2009	20.30	165	D.09-10-053	3,349.50	2009	20.30	165	3,349.50

Subtotal: \$3,349.50

Subtotal: \$3,349.50

INTERVENOR COMPENSATION CLAIM PREPARATION (1/2 rate)* **

Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
M. Shames	2009	4.00	165	D.09-10-053	660.00	2009	5.50	165	907.50

Subtotal: \$660.00

Subtotal: \$907.50

#	Item	Detail	Amount	Amount
1	Travel Costs	See Attachment 4(itemization and travel & lodging receipts)	\$620.30	\$487.10

Subtotal: \$620.30

Subtotal: \$487.10

TOTAL REQUEST \$60,527.30

TOTAL AWARD \$54,189.60

* 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.

** Reasonable claim preparation time is typically compensated at 1/2 of preparer's normal hourly rate.

C. Attachments or Comments Documenting Specific Claim:

Attachment or Comment #	Description/Comment
	Certificate of Service
1	Michael Shames hours
2	Gayatri Schilberg hours
3	David Croyle hours and qualifications
4	Travel Costs & Receipts

D. CPUC Adoptions, Disallowances or Adjustments:

#	Reason
2009 hourly rate for Schilberg	UCAN requests an hourly rate of \$200 for Schilberg's 2009 work in this proceeding, equal to the 2008 rate previously adopted in D.09-04-027. We find this amount reasonable and we adopt it here.
2009 hourly rate for Croyle	<p>UCAN requests an hourly rate of \$225 for its expert Croyle. Croyle has no previously adopted rate. Croyle is an economist with 30 years of experience in the utility industry. Croyle graduated from the University of Maryland with an M.A. in economics, having been promoted to Ph.D. candidacy (A. B. D.) in energy and natural resource economics. Croyle has worked as a utility consultant focused on energy forecasting and planning, including solar conservation, demand management and technology penetration. Croyle spent ten years at Georgia Power Company, including four years as Pricing and Economic Analysis Manager. In 1994, he joined San Diego Gas & Electric Company as Pricing Principal and was subsequently promoted to Strategic Market Planning Manager. Croyle became a Regulatory Policy and Analysis Manager for Sempra Energy's Corporate Center providing policy leadership and analytical expertise. Croyle has been actively involved in electric and gas industry restructuring in California and provided expertise as a witness for SDG&E in cost and service unbundling, e.g., Croyle developed long-run marginal cost estimates forming the basis for Commission-adopted revenue cycle service credits. He retired from SDG&E in 2007 and works as a consultant to the industry.</p> <p>UCAN's hourly rate request of \$225 is reasonable and comparable to market rates paid to expert having comparable training and experience and offering similar services, and we adopt this rate here.</p>
2009 professional hours for Croyle	UCAN's time sheets indicate that Croyle attended workshops on March 18th, 19th, and 20th of 2009 along with another of UCAN's expert's, Schilberg. We reduce this time by 5.34 hours to match the same amount of time logged by Schilberg for attendance at the same workshops.

<p>2009 professional hours for Schilberg</p>	<p>We disallow the reimbursement of two or more parties in the same event without a clear showing of why the attendance of multiple parties was necessary and/or how their presentations were different or unique. UCAN has failed to make this showing here. As such, we disallow 7.03 hours for Schilberg’s attendance at the same workshops that Coyle attended on March 18-20.</p>
<p>Travel Costs</p>	<p>We disallow \$58.20 for BART and parking fees from UCAN’s request due to its failure to provide receipts. Additionally, we disallow UCAN’s request for \$75.00 for meal compensation, as the Commission provides no compensation for this expense. All totaled we reduce the request for travel cost compensation by \$133.20.</p>
<p>2009 travel hours for Shames</p>	<p>UCAN logs only ½ of Shames’s travel hours with all other professional hours with a notation that the time is allocated for travel. UCAN then multiplies this time by 2 and correctly lists the total hours in the correct area of the claim for other hours which are billed at ½ hourly rate. Unfortunately, UCAN fails to reduce these hours (10.15) from Shames’s professional hours. We correct this error here and recomputed UCAN’s requested hours.</p>
<p>2009 professional hours for Shames</p>	<p>UCAN incorrectly requests compensation for Shames time spent preparing its NOI (1.5 hrs) at full hourly rate. Time spent on this task is compensated at ½ hourly rate. We correct this error here by subtracting these hours from Shames professional time and increasing the number of hours UCAN has requested for intervenor compensation claim preparation by this same amount. We caution UCAN to be more diligent about the correct allocation of time in future claims to avoid disallowances for these types of errors.</p>

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

Yes

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision (D.) 09-09-030.
2. The claimed fees and costs, as adjusted herein, are reasonable and 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 \$54,189.60.

CONCLUSION OF LAW

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

ORDER

1. Claimant is awarded \$54,189.60.
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 December 30, 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. Application 08-12-021 remains open to address other related matters.

5. This decision is effective today.

Dated March 11, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D1003020	Modifies Decision? No
Contribution Decision(s):	D0909030	
Proceeding(s):	A0812021	
Author:	Timothy Kenney	
Payer(s):	San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Utility Consumers' Action Network	10-16-09	\$60,527.30	\$54,189.60	No	miscalculations, disallowance of time for multiple parties at the same event, undocumented costs, , failure to discount intervenor compensation time, and disallowance of meals

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michael	Shames	Attorney	Utility Consumers' Action Network	\$330	2009	\$330
Gayatri	Schilberg	Expert	Utility Consumers' Action Network	\$200	2009	\$200
David	Croyle	Expert	Utility Consumers' Action Network	\$225	2009	\$225

(END OF APPENDIX)