

Decision 10-03-019 March 11, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company for Authority to Update Cost Allocation and Electric Rate Design. (U902E)

Application 08-11-014
(Filed November 14, 2008)

DECISION AWARDING INTERVENOR COMPENSATION TO UTILITY CONSUMERS' ACTION NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 09-09-036

Claimant: Utility Consumers' Action Network	For contribution to D.09-09-036
Claimed (\$): \$21,897.74	Awarded (\$): \$19,744.64 (reduced 10%)
Assigned Commissioner: John A. Bohn	Assigned ALJ: Douglas M. Long

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: Adopts settlement of 2010-2011 rate design for San Diego Gas & Electric Company (SDG&E).

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

	Claimant	CPUC Verified
Timely filing of notice of intent (NOI) to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	January 16, 2009	Yes
2. Other Specified Date for NOI:		
3. Date NOI Filed:	February 2, 2009	Yes
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
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 subsequent filing in this proceeding.	
12. Has the claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.09-09-036	Yes
14. Date of Issuance of Final Decision:	September 28, 2009	Yes
15. File date of compensation request:	October 27, 2009	Yes
16. Was the request for compensation timely?		Yes

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

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.)

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
1. Addressed a number of issues, including: <ul style="list-style-type: none"> • Revenue allocation and rate design for all customer classes; • Treatment of California Alternate Rates Energy Tier 3 rates; • Residential base line allowances; • Residential rate presentment; • Critical Peak Pricing for Commercial and Industrial Customers; • Peak Time Rebate for Residential and Small Commercial and Industrial Customers; • Lighting tariff provisions; • California Solar Initiative residential cost recovery; • Residential and small Commercial and Industrial Time-of-Use metering charges; and • Miscellaneous tariff clean-up. 	D.09-09-036, p. 2.	Yes

<p>2. “Although we acknowledge that in the give-and-take to settle this proceeding, the residential consumer advocates, including Division of Ratepayer Advocates (DRA) and UCAN, accepted the changes to base line, we do not “adopt” or “approve” these new base line quantities as a beginning point in the next proceeding. Therefore, SDG&E must also present, as one option, a rate design that restores to prior levels the residential base line allowances that are changed by the settlement adopted here.”</p>	<p>D.09-09-036, p. 6.</p>	<p>Yes</p>
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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:</p> <p>A coalition of parties, including Federal Executive Agencies, Building Owners and Managers Association, California City-County Street Light Association, California Farm Bureau Federation, and the City of San Diego.</p>		<p>Yes</p>
<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>UCAN worked closely with DRA and submitted joint testimony with DRA, for the first time, in this case.</p>		<p>Yes</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

(completed by Claimant except where indicated)

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

<p>Concise explanation as to how the cost of claimant’s participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)</p>	<p>CPUC Verified</p>
<p>UCAN’s participation in this case made it possible for the parties to resolve a number of issues that dealt with residential and small business customers. The Joint Testimony submitted by UCAN’s and DRA’s experts addressed baseline allowances, residential rates, SDG&E’s posting of rate information on its website and CARE rates. All four of UCAN/DRA proposals were adopted in the settlement.</p> <p>Pursuant to Commission rules, UCAN has provided the time sheets with costs. However, given the nature of the settlement process and because all of UCAN’s proposals were incorporated into the settlement, it is not possible, nor practical to allocate the hours among the issues addressed by UCAN.</p>	<p>We find UCAN’s costs, as adjusted, to be reasonable, but we reject its assertion that it was not practical to allocate the hours among issues that it spent in this proceeding. UCAN’s statement in its claim that, because there was a settlement, it cannot allocate staff time, is unreasonable on its face. The settlement occurred after UCAN performed its analysis and served joint testimony with DRA. Therefore, it was perfectly capable of contemporaneously allocating professional time by issue. Intervenors are obliged to contemporaneously track their time by issue¹ and activity (briefs, hearings, comments, etc.) as they incur the hours. Settlement is a later event, and is not an excuse for failing to allocate and track time. In the absence of adequate records we could disallow all recovery. In the past we have reduced the claims of intervenors failing to do so by 25-35%.</p> <p>However, we note that, and wish to continue to encourage, UCAN and DRA worked cooperatively together and appeared to not duplicate any efforts. Therefore, rather than disallow all time not supported by an accurate accounting, we will allow 90% recovery, reducing UCAN’s claim for professional hours by 10%.</p>

¹ See D.98-04-059.

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	51.60	\$330	D.09-10-053	\$17,028.00	2009	41.90	\$330	\$13,827.00
Subtotal:					\$17,028.00	Subtotal:			\$13,827.00
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
W. Marcus	2009	15.35	\$250	D.09-10-053	\$3,837.50	2009	13.85	\$250	\$3,462.50
Subtotal:					\$3,837.50	Subtotal:			\$3,462.50
OTHER FEES: Travel (1/2 rate)									
Item	Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
M. Shames	2009	9.20	\$330	D.09-10-053	\$1,518.00	2009	18.40	\$165	\$3,036.00
Subtotal:					\$1,518.00	Subtotal:			\$3,036.00
INTERVENOR COMPENSATION CLAIM PREPARATION (1/2 rate)									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. Shames	2009	3.50	\$165	D.09-10-053	\$577.50	2009	4.50	\$165	\$742.50
Subtotal:					\$577.50	Subtotal:			\$742.50
COSTS									
#	Item	Detail			Amount	Amount			
1	Travel Costs	Lodging			\$454.74	\$404.34			
Subtotal:					\$454.74	Subtotal:			\$404.34
TOTAL REQUEST \$:					\$21,897.74	TOTAL AWARD \$:			\$21,472.34
<i>10% disallowance of professional hours for failure to allocate time by issue (M. Shames 4.19 hrs and W. Marcus 1.38 hrs)</i>						\$1,727.70			
TOTAL ADJUSTED AWARD \$:						\$19,744.64			

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

Attachment or Comment #	Description/Comment
	Certificate of Service
1	Michael Shames hours
2	William Marcus hours
3	Travel Costs & Receipts

D. CPUC Disallowances & Adjustments:

#	Reason
2009 Travel hours for M. Shames	UCAN logs ½ of Shames’ travel hours under all professional hours with a notation that the time is allocated for travel. We move the full number of hours from professional time to other fees and recomputed time.
Travel Costs	We disallow UCAN’s request for BART and parking fee reimbursement (\$50.40) because there were no receipts.
Intervenor Claim Preparation	UCAN logs .5 hours for preparation of its NOI under Shames’s professional time with a notation that the time is representative of only ½ of the time spent on this task. Again, we move this time to the appropriate area on the claim form. We have repeatedly admonished UCAN to categorize its time properly and allocate time in the correct areas on the claim, but the admonitions have not prompted compliance.
2009 Professional hours for W. Marcus	UCAN makes a 1.5 hour additional error in its total of Marcus’ professional hours. We correct this error here and recompute UCAN’s claim to reflect the correct amount.
2009 Professional hours for M. Shames	10% reduction for UCAN’s failure to allocate time by issue as outline above.
2009 Professional hours for W. Marcus	10% reduction for UCAN’s failure to allocate time by issue as outline above.

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.) 09-09-036.
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. UCAN did not allocate professional time to ratemaking issues as required by the Commission.
4. The total of reasonable contribution is \$19,744.64.

CONCLUSIONS OF LAW

1. It is reasonable to adjust the total compensation for UCAN's failure to allocate professional time to ratemaking issues.
2. The claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code Sections 1801-1812.

ORDER

1. Claimant is awarded \$19,744.64.
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 January 10, 2010, the 75th day after the filing of claimant's request, and continuing until full payment is made.

A.08-11-014 DUG/gd2

3. The comment period for today's decision is waived.
4. Application 08-11-014 is closed.
5. This order 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:	D1003019	Modifies Decision? No
Contribution Decision(s):	D0909036	
Proceeding(s):	A0811014	
Author:	ALJ Long	
Payer(s):	San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Utility Consumers' Action Network	10-27-09	\$21,897.74	\$19,744.64	No	Failure to allocate time by issue, miscalculation and undocumented costs.

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
William	Marcus	Expert	Utility Consumers' Action Network	\$250	2009	\$250

(END OF APPENDIX)