

Decision 10-10-012 October 14, 2010

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Consider Smart Grid Technologies Pursuant to Federal Legislation and on the Commission's own Motion to Actively Guide Policy in California's Development of a Smart Grid System.	Rulemaking 08-12-009 (Filed December 18, 2008)
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**CLAIM AND DECISION ON REQUEST FOR INTERVENOR COMPENSATION**

<b>Claimant:</b> Utility Consumers' Action Network	<b>For contribution to D.10-06-047</b>
<b>Claimed (\$):</b> 46,340.34	<b>Awarded (\$):</b> 39,854.09
<b>Assigned Commissioner:</b> Nancy Ryan	<b>Assigned ALJ:</b> Timothy Sullivan
<b>Claim Filed:</b>	<b>July 21, 2010</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decision:</b>	Adopts rules for utilities deploying Smart Grid
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**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:	N/A	
2. Other Specified Date for NOI:		
3. Date NOI Filed:	March 8, 2010	Correct
4. Was the notice of intent timely filed?		Yes
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R08-12-009	
6. Date of ALJ ruling:	March 28, 2010	March 26, 2010

7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status?		Yes
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	N/A	
10. Date of ALJ ruling:	N/A	
11. Based on another CPUC determination (specify):	D.10-03-020	Pursuant to §1804(b), a rebuttable presumption of significant financial hardship established in D.10-03-020 extends to UCAN’s participation in this proceeding.
12. Has the claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision	D. 09-09-036	Correct
14. Date of Issuance of Final Decision:	June 28, 2010	Correct
15. File date of compensation request:	July 21, 2010	Correct
16. Was the request for compensation timely?		Yes

**C. Additional Comments on Part I**

#	Claimant	CPUC	Comment
15		X	On August 30, 2010, UCAN filed a supplement to the original request providing a complete timesheet for expert Croyle, and correcting hours for Shames.

**PART II: SUBSTANTIAL CONTRIBUTION**

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

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
UCAN offered comments in its opening comments on privacy matters. (Comments, p. 36-42)	D.10-06-047, p. 10 “Although there is a widespread consensus that consumer privacy is important and requires protection and there are numerous principles on	Yes

	<p>which there is major agreement, developing a full host of regulatory requirements and protections cannot be done in this decision. There are, however, some elements of security and privacy that should be addressed in deployment plans, and this decision will provide guidance on these matters. After the adoption of this decision, this proceeding will focus on information access and privacy protections needed to implement access to price and consumption data.”</p>	
<p>UCAN argues that a deployment plan may be a useful guide, but not a document that controls utility investments. UCAN posits:... that a Smart Grid deployment plan should serve as a blueprint for a utilities' Smart Grid deployment. It need not be a procurement plan, as per Section 454.5, but they can be if the utility so desires. First, and foremost, it should clearly state the objectives that the utility seeks to achieve. Secondly, it must keep an eye squarely focused upon cost-effectiveness of the measures taken to achieve those objectives. Finally, it should be a living, breathing blueprint that is routinely, if not annually, revised based upon emerging technologies,</p>	<p>D.10-06-047, p. 19</p> <p>D.10-06-047, pp. 21-22  “arguments of commenters confirm our tentative conclusion that the best uses of the deployment plans is to set a baseline indicating the current deployment of Smart Grid technologies and as a document for guiding future Smart Grid investments. We also conclude that deployment plans are not a substitute for a Commission review of specific infrastructure investments that will take place just prior to the time of deployment”</p>	<p>Yes</p>
<p>UCAN suggests that a deployment plan baseline should include the “Scorecard and Decision-maker’s Checklist” in the absence of interoperability</p>	<p>D.10-06-047, pp. 37-38</p> <p>Decision, p. 40  “Parties are in near total agreement that a baseline, or inventory, of current Smart Grid infrastructure investments</p>	<p>Yes</p>

<p>standards. UCAN argues that “until official standards are adopted [the Scorecard and Decision-makers Checklist] are the best measurement for ensuring the utilities are adopting technology that is interoperable.”</p>	<p>is necessary to enable the Commission to understand where the utilities are today and can be used to gauge how much “smarter” the grid is in the future. The Commission agrees that a baseline should be undertaken by the utilities and included in their deployment plan filings, due by July 1, 2011.”</p>	
<p>UCAN also comments on the importance of cyber security and argues that “[t]he risk of interrupted energy service has the potential of being much more devastating to a consumer than the dropped calls that occur in the cellular communications network.”</p>	<p>D.10-06-047, p. 53  Decision, p. 58 “Like many commenters, we conclude that the developing NIST framework will address many of the security issues that are arising”</p>	<p>Yes</p>
<p>UCAN supports the use of metrics as an important way to measure “the achievement of deployment plan objectives.” UCAN states that the Commission “should focus on results and net benefits more than build metrics.” UCAN is concerned that the proposed metrics may not yield valuable information regarding Smart Grid investments and Commission review of those investments. UCAN argues that if the metrics are too specific, the utility may attempt to build out to those metrics and miss potentially other, more cost-effective technologies that when combined with other technologies may provide more benefits to ratepayers. Additionally, UCAN</p>	<p>D.10-06-047, pp. 80-81  Decision, p. 84-85 “The Commission agrees with parties that metrics should be adopted for inclusion in the Smart Grid Deployment Plans and subsequent utility reports because they will provide the Commission with a means to assess the state of the electric grid. .... Therefore, the Commission declines to adopt the limited set of metrics proposed by the utilities.”</p>	<p>Yes</p>

<p>cautions that any metrics adopted up front “may be premature until more is known about technology change and commercial viability.” UCAN also provides specific edits to the proposed metrics.</p>		
<p>In its opening comments, UCAN discussed the importance of utilities incorporating commonly accepted consumer principles into their deployment plans in order to comply with § 8360(j).</p>	<p>The decision does not explicitly address this issue. It does address UCAN’s comments on the PD by stating:          “The Commission will review the entire Smart Grid Deployment Plan and the specific Smart Grid investments proposed in subsequent Commission proceedings, and these comprehensive reviews will enable the Commission to assure that the Smart Grid meets the requirements of § 8360(j).” Decision, p. 113.          From this comment, UCAN believes that the Commission has committed to adhere to § 8360(j), which, we have argued, requires adherence to consumer protection.</p>	<p>Yes</p>

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

	Claimant	CPUC Verified
<p><b>a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?</b></p>	<p>Y</p>	
<p><b>b. Were there other parties to the proceeding?</b></p>	<p>Y</p>	
<p><b>c. If so, provide name of other parties:</b> A remarkably large and diverse set of stakeholders commented in this proceeding.</p>		<p>Yes</p>
<p><b>d. Claimant’s description of how Claimant coordinated with DRA and other parties to avoid duplication or how Claimant’s participation supplemented, complemented, or contributed to that of another party:</b>             The nature of the proceeding was such that parties didn’t work in coalitions. UCAN’s points were developed independently with a focus upon UCAN’s in-house and retained experts on Smart Grid deployment. There was relatively little duplication of UCAN’s testimony with that of DRA.</p>		<p>Yes</p>

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<b>Explanation by Claimant of how the costs of its participation bore a reasonable relationship with benefits realized through participation</b>	<b>CPUC Verified</b>
<p>UCAN's participation in this case provided important factual bases for the Commission's final decision. As cited above, the Commission referenced the UCAN comments in its decision regarding metrics, price and usage data and privacy matters.</p> <p>Pursuant to Commission rules, UCAN has provided the time sheets with costs allocated among the issues addressed by UCAN: 1) Metrics 2) Pricing and Usage Data 3) Privacy and 4) Market Barriers/Consumer principles. UCAN asserts in its NOI that the economic interest of the individual members of the organization is small in comparison to the costs of effective participation in the proceeding. UCAN's participation in this proceeding concerned issues of metrics, price and usage data, privacy and market barriers which while beneficial only has a minimal financial impact on its individual members.</p> <p>Additionally, in an effort to economize UCAN had Mike Scott prepare and draft much of the legal documentation behind the consumer principles as his claimed hourly rate is significantly lower than Michael Shames' claimed hourly rate thereby reducing UCAN's overall claimed costs.</p>	<p>Purely monetary savings to the consumers resulting from UCAN's participation in this proceeding are not readily ascertainable at this time. However, important social and economic benefits for the consumers achieved through UCAN's participation are already apparent, while its costs, with the reductions we make, were reasonable. We find that UCAN's efforts were productive.</p>

**B. Specific Claim:\***

<b>CLAIMED</b>						<b>CPUC AWARD</b>			
<b>ATTORNEY AND ADVOCATE FEES</b>									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
Michael Shames	2010	68.80	\$330	D.10-05-013	\$22,704.00	2010	60.05	\$330	\$19,816.50
Mike Scott	2010	28.5	\$155	D.10-05-013	\$ 4,417.50	2010	27.00	\$155	\$4,185.00
<b>Subtotal:</b>					<b>\$27,121.50</b>	<b>Subtotal:</b>			<b>\$24,001.50</b>
<b>EXPERT FEES</b>									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
David Croyle	2010	53.5	\$225	D.10-03-020	\$12,037.50	2010	35.75	\$225	\$8,043.75
Beth Givens	2010	20.8	\$200	D.03-07-014 D.04-12-054	\$4,160.00	2010	20.80	\$200	\$4,160.00
<b>Subtotal:</b>					<b>\$16,197.50</b>	<b>Subtotal:</b>			<b>\$12,203.75</b>

**OTHER FEES (travel):**

Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total
Michael Shames	2010	12.8	\$165	D.10-05-013	\$2,112 <sup>1</sup>	2010	12.80	\$165	\$2,112.00
<b>Subtotal:</b>						<b>Subtotal:</b>			<b>\$2,112.00</b>

**INTERVENOR COMPENSATION CLAIM PREPARATION \*\***

Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total
Mike Scott						2010	1.00	77.50	\$77.50
Michael Shames	2010	6.0 <sup>2</sup>	\$165	(1/2 of 2010 rate)	\$990.00	2010	6.00	\$165	\$990.00
<b>Subtotal:</b>					<b>\$990.00</b>	<b>Subtotal:</b>			<b>\$1,067.50</b>

**COSTS**

#	Item	Detail	Amount	Amount
1	Travel Costs	See Attachment 5	\$513.34	469.34
<b>Subtotal:</b>			<b>\$513.34</b>	<b>Subtotal:</b> 469.34
<b>TOTAL REQUEST \$:</b>			<b>\$46,934.34<sup>3</sup></b>	<b>TOTAL AWARD \$:</b> <b>\$39,854.09</b>

\* 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 typically compensated at 1/2 of preparer's normal hourly rate (the same applies to the travel time).

<sup>1</sup> We have re-calculated here UCAN's erroneous result of \$1,518.

<sup>2</sup> UCAN's timesheets supporting these hours were received, via electronic mail, on August 30, 2010. The email printout has been placed in the "Correspondence" file for this proceeding.

<sup>3</sup> We have corrected here UCAN's erroneous result of \$46,340.34 in the original request as well as of \$52,016 in the August 30, 2010 supplement to the request.

**C. CPUC Disallowances & Adjustments:**

#	Reason																																																																					
<p><b>1</b></p> <p><b>March 5th comments</b></p>	<p>The main contributions by UCAN were accomplished in its March 5, 2010 comments filed jointly with Privacy Rights Clearinghouse (PRC). Attorneys Shames and Scott, and experts Croyle and Givens participated. The table below, based on UCAN’s timesheets, breaks down each person’s comment time by issues, where GP stands for General Preparation; P/D – Price and Usage Data, Met – Metrics, Cons – Consumer Principles, and Inter – Interoperability:</p> <table border="1" data-bbox="269 527 1520 930"> <thead> <tr> <th>Issues</th> <th>Shames</th> <th>Scott</th> <th>Croyle</th> <th>Givens</th> <th>Total hours</th> </tr> </thead> <tbody> <tr> <td>GP</td> <td>11.00 hours</td> <td>--</td> <td>7.00 hours</td> <td>--</td> <td>18.00</td> </tr> <tr> <td>P/D</td> <td>8.00 hours</td> <td>--</td> <td>12.00 hours</td> <td>--</td> <td>20.00</td> </tr> <tr> <td>Met.</td> <td>9.90 hours</td> <td>--</td> <td>31.50 hours</td> <td>--</td> <td>41.40</td> </tr> <tr> <td>Privacy</td> <td>2.50 hours</td> <td></td> <td></td> <td>20.80</td> <td>23.30</td> </tr> <tr> <td>Cons</td> <td>--</td> <td>7.80 hours</td> <td>--</td> <td>--</td> <td>7.80</td> </tr> <tr> <td>Inter</td> <td>--</td> <td>6.70 hours</td> <td>--</td> <td>--</td> <td>6.70</td> </tr> <tr> <td>Total:</td> <td>31.40</td> <td>14.50</td> <td>50.50</td> <td>20.80</td> <td>117.20</td> </tr> </tbody> </table> <p>It shows that Scott focused on the “Cons” and “Inter”; Croyle – on “Met” and “P/D”, and Givens – on Privacy matters, while Shames participated on most issues and handled most of the GP matters. The table below contains an allocation of the comment text and time by issues:</p> <table border="1" data-bbox="263 1144 1516 1306"> <thead> <tr> <th></th> <th>Inter.</th> <th>GP</th> <th>Privacy</th> <th>P/D</th> <th>Met</th> <th>Cons.</th> </tr> </thead> <tbody> <tr> <td>% of the text</td> <td>3.75%</td> <td>8.75%</td> <td>13.75%</td> <td>16.25%</td> <td>17.50%</td> <td>40.00%</td> </tr> <tr> <td>% of the time</td> <td>5.72%</td> <td>15.36%</td> <td>19.88%</td> <td>17.06%</td> <td>35.32%</td> <td>6.66%</td> </tr> </tbody> </table> <p>It shows that the most time-consuming issue was Metrics. It was developed by Croyle (31.50 hours) and Shames (9.90 hours). In the comments, the section on metrics occupies less than 7 pages (pp. 10-17). It consists of approximately 3 pages of references to two documents: the Commission’s ruling of February 8, 2010, and the Department of Energy report on metrics, and 4 pages of the analysis of these documents. Although UCAN performed good analytical work and contributed in this area, 41.40 hours for this work is excessive, considering the amount of research involved and the output in terms of the text. To reflect a reasonable amount of the time to prepare UCAN’s comments in this area, we reduce UCAN’s comment hours by 50%.</p> <p>It results in the following reductions: Shames – 4.95 hours, and Croyle – 15.75 hours.</p>	Issues	Shames	Scott	Croyle	Givens	Total hours	GP	11.00 hours	--	7.00 hours	--	18.00	P/D	8.00 hours	--	12.00 hours	--	20.00	Met.	9.90 hours	--	31.50 hours	--	41.40	Privacy	2.50 hours			20.80	23.30	Cons	--	7.80 hours	--	--	7.80	Inter	--	6.70 hours	--	--	6.70	Total:	31.40	14.50	50.50	20.80	117.20		Inter.	GP	Privacy	P/D	Met	Cons.	% of the text	3.75%	8.75%	13.75%	16.25%	17.50%	40.00%	% of the time	5.72%	15.36%	19.88%	17.06%	35.32%	6.66%
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<p><b>2</b>  <b>February 8th ruling.</b></p>	<p>UCAN intervened in this proceeding after the ruling of February 8, 2010 changed the proceeding's scope. The ruling is comprised of approximately 52 pages, including attachments. UCAN spent 7.00 hours reviewing this ruling, which we find excessive. Shames spent 2.50 hours reviewing the ruling, Scott – 1.50 hours, and Croyle – 3.00 hours. Since Shames participated on most of the issues, and, as it appears, was the lead attorney for this matter, we compensate 2.00 hours of his time. It is a sufficient amount of time to read the ruling and make case management notes. We will compensate 1 hour for each Scott and Croyle, which is enough to read the ruling with the focus on their issues. We allow the total 4.0 hours, which we believe is a generous amount for reviewing a document of this length and complexity.</p> <p>Our disallowances for this task are: 0.50 hours for Shames, 0.50 hours for Scott and 2.0 hours for Croyle.</p>
<p><b>3</b>  <b>June 10th comments</b></p>	<p>UCAN's June 10, 2010 comments on the proposed decision (PD) focused on the consumer rights issue and brought an important message about UCAN's concerns. It did not prevail, but contributed to the decision-making process. Shames and Scott spent 16.30 hours preparing the comments, with Scott writing and Shames finalizing the document. The comments consist of approximately 7 pages, including Appendix.</p> <p>Scott spent 2.90 hours reviewing the PD and 7.40 hours writing the comments. The total of 10.30 hours is a reasonable, amount of time to prepare the comments. In addition, Shames spent 4.30 hours reviewing the PD, and 2.00 hours finalizing the comments. Taking into our consideration the lengths of the PD and UCAN's comment, its focus on one issue, and the fact that it was prepared mainly by Scott, we find Shames' hours excessive. We allow 2.00 hours of his time for reviewing the PD and 1.00 hour to finalize the comments.</p> <p>We disallow 3.30 hours of Shames' time.</p>
<p><b>4</b>  <b>Time Allocation</b></p>	<p>On March 5, 2010, Scott spent an hour writing UCAN's notice of intent to claim intervenor compensation. UCAN requests the full attorney's rate for this task. We move that hour from UCAN's time spent on the proceeding's merits to the time spent on intervenor compensation matters, and compensate it at 50% rate.</p>
<p><b>5</b>  <b>Travel Costs</b></p>	<p>In the absence of receipts, we are unable to allow UCAN's parking cost of \$44.00.</p>

**PART IV: OPPOSITIONS AND COMMENTS**

<p><b>A. Opposition: Did any party oppose the claim?</b></p>	<p>No</p>
<p><b>B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6))?</b></p>	<p>Yes</p>

**FINDINGS OF FACT**

1. Claimant has made a substantial contribution to Decision (D.)10-06-047.

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 \$39,854.09.

### **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 \$39,854.09.
2. Within 30 days of the effective date of this decision, Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall pay Utility Consumers' Action Network their respective shares of the award. We direct Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company to allocate the payment responsibility among themselves, based on their California-jurisdictional electric revenues for the first half of the 2010 calendar year, to reflect the period in which the proceeding leading to D.10-06-047 was primarily litigated. 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 October 4, 2010, the 75th day after the filing date of Utility Consumers' Action Network's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This decision is effective today.

Dated October 14, 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**

<b>Compensation Decision:</b>	D1010012	<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D1006047	
<b>Proceeding(s):</b>	R0812009	
<b>Author:</b>	ALJ Timothy Sullivan	
<b>Payer(s):</b>	Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and 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	7/21/10	\$46,340.34	\$39,854.09	No	Excessive hours, correction of the computation and the time allocation errors; undocumented travel costs

**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	\$330	2010	\$330
Michael	Scott	Attorney	Utility Consumers' Action Network	\$155	2010	\$155
David	Croyle	Expert	Utility Consumers' Action Network	\$225	2010	\$225
Beth	Givens	Expert	Utility Consumers' Action Network	\$200	2010	\$200

**(END OF APPENDIX)**