

Decision 11-05-042 May 26, 2011

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

In the Matter of the application of California Water Service Company, (U60W), a California corporation, for an order 1) authorizing it to increase rates for water service by \$70,592,000 or 16.75% in test year 2011, 2) authorizing it to increase rates on January 1, 2012 by \$24,777,000 or 5.04% and January 1, 2013 by \$24,777,000 or 4.79% in accordance with the Rate Case Plan, and 3) adopting other related rulings and relief necessary to implement the Commission's ratemaking policies.

Application 09-07-001  
(Filed July 2, 2009)

**DECISION AWARDING INTERVENOR COMPENSATION TO LEONA VALLEY  
TOWN COUNCIL FOR SUBSTANTIAL CONTRIBUTION  
TO DECISION 10-12-017**

<b>Claimant: Leona Valley Town Council (LVTC)</b>	<b>For contribution to: Decision (D.) 10-12-017</b>
<b>Claimed: \$15,176</b>	<b>Awarded: \$10,121 (reduced 33%)</b>
<b>Assigned Commissioner: Michael R. Peevey</b>	<b>Assigned ALJ: Jeffrey P. O'Donnell</b>

**PART I: PROCEDURAL ISSUES**

- A. Brief Description of Decision:** D.10-12-017 authorized general rate increases for California Water Service Company (CWS, Cal Water) for 24 districts for 2011. CWS is also authorized to file escalation advice letters for 2012 and 2013, and ratebase offset advice letters for specified projects. In doing so, the Commission adopts a settlement agreement between five of the seven parties to the proceeding that resolved most of the issues in this application. The Commission also adopted a second settlement agreement between two of the parties that resolved a single issue not resolved in the first settlement agreement. The overall revenue requirement increase approved herein for 2011 is \$25,444,800 or 5.6%. Individual district revenue requirement changes range from a decrease of 1.1% to an increase of 50.0%.

**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 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:	09-28-09	Correct
2. Other Specified Date for NOI:		
3. Date NOI Filed:	10-14-09	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:	A.09-07-001	Correct
6. Date of ALJ ruling:	11/23/09	12/4/09
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:	A.09-07-001	Correct
10. Date of ALJ ruling:	11/23/09	12/4/09
11. Based on another CPUC determination (specify):		
12. Has the claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision	D.10-12-017	Correct
14. Date of Issuance of Final Decision:	12/2/10	Correct
15. File date of compensation request:	01-31-11	Correct
16. Was the request for compensation timely?		Yes

**PART II: SUBSTANTIAL CONTRIBUTION**

**A. Claimant’s claimed contribution to the final decision:**

<b>Contribution</b>	<b>Citation to Decision or Record</b>	<b>Showing Accepted by CPUC</b>
1. Provided more recent and reliable data, pointed out lack of necessity and justification for large projects, negotiated and reached settlement on behalf of several hundred ratepayers while maintaining communication and dialogue with them about their differing concerns.	Findings of Facts 6 and 7 in D.10-12-017	Yes
2. Raised issues regarding the reasonableness and costing of proposed replacement projects.	Finding of Fact 100 in D.10-12-017, Conclusion of Law 41 in D.10-12-017, Order 33 in D.10-12-017	Yes

**B. Duplication of Effort:**

	<b>Claimant</b>	<b>CPUC Verified</b>
a. Was Division of Ratepayer Association (DRA) a party to the proceeding?	Yes	Correct
b. Were there other parties to the proceeding?	Yes	Correct
c. If so, provide name of other parties: Claimant, DRA, Jeffrey Young Fremont Valley Property Owners, Marcos Pareas, City of Visalia		Correct
d. Claimant’s description of how it coordinated with DRA and other parties to avoid duplication or how its participation supplemented, complemented, or contributed to that of another party: Coordinated efforts with DRA and other intervenors through numerous telephone calls and e-mails. Supplemented DRA by providing testimony regarding capital projects of less than \$100,000 which were not closely examined by DRA.		We agree that LVTC took reasonable steps to avoid duplicating the efforts of other parties and that no reductions to this claim are necessary for failure to supplement, coordinate or contribute to the efforts of other parties.

**PART III: REASONABLENESS OF REQUESTED**

**A. General Claim of Reasonableness:**

<b>Claimant’s explanation of how the cost of claimant’s participation bore a reasonable relationship with benefits realized through claimant’s participation</b>	<b>CPUC Verified</b>
<p>Claimant is requesting compensation only for actual out of pocket costs, not for the hundreds of volunteer hours spent by committee members. The negotiated settlement which was approved lowered the rate increase from 73% to 41.6% in 2011, from 16.9% to 4.4% in 2012 and from 14.5% to 4.1% in 2013. This constitutes close to a 50% reduction overall from the applicant’s request. Savings to ratepayers over the next three years in the Antelope Valley District are estimated at \$2, 682,000. This is far in excess of the reimbursement that LVTC requests here.</p>	<p>After the reductions we have outlined in Part III, Section C of this claim, the remaining hours and costs are reasonable and should be compensated.</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 \$
J. Kosnett	2010	7.1	\$400	Adopted here as requested	2,840	2010	7.1	400	2,840
<b>Subtotal: \$2,840</b>						<b>Subtotal: \$2,840</b>			
<b>OTHER FEES (Travel)<sup>1</sup></b>									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
J. Kosnett	2010	3.0	\$200	½ rate adopted here	600	2010	3.0	200	600
<b>Subtotal: \$600</b>						<b>Subtotal: \$600</b>			
<b>COSTS</b>									
#	Item	Detail	Amount			Amount			
1	Airline tickets	5 people to attend settlement meeting and 2 day hearing in San Francisco	2,812			2,812			
2	Hotel	6 people to attend 2 day hearing in San Francisco	1,305			1,305			
3	Mileage	1 person to attend 2 day hearing in San Francisco	523			523			
4	Rental cars	Trips to San Francisco for settlement meeting and 2 day hearing	298			276			

<sup>1</sup> LVTC fails to record Kosnett’s travel time in the proper section of this claim. We subtract the travel hours from Kosnett’s professional time, and relocate these hours in the “Other Fees” section of this claim.

5	Parking	San Francisco settlement meeting and 2 day hearing	387	387
6	Other travel	Shuttle bus from Palmdale to LAX, tolls, tips	147	92
7	Meals	Settlement meeting and 2 day hearing	688	-0-
8	Reference	R.S. Means reference books	550	550
9	Printing	Briefs, etc.	293	166
10	Photocopies	Reports, settlement agreement, decision, etc.	552	-0-
11	Postage	Briefs, other filings, ratepayer notification	147	38
12	Office supplies	Binders, paper, 3 hole punch	326	326
13	Research costs	LexisNexis subscription (3 year minimum required at \$103/mo.)	3,708	206
<b>Subtotal: \$11,736</b>			<b>Subtotal: \$6,681<sup>2</sup></b>	
<b>TOTAL REQUEST: \$15,176</b>			<b>TOTAL AWARD: \$10,121</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 seeks 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.

**C. Comments Documenting Specific Claim:**

Comment	Description/Comment
#1	Receipts are not available for some items. Attached are declarations from individuals attesting to costs incurred and reimbursed.

<sup>2</sup> Rounded to nearest dollar amount.

**D. CPUC Adoptions & Disallowances:**

<b>Adoptions</b>	
<b>2010-hourly rate for James Kosnett</b>	<p>LVTC requests an hourly rate of \$400 per hour for James Kosnett, and attaches his invoice for services from January-February 2010. Kosnett’s attended the hearing, reviewed documents and logs time discussing case with LVTC’s members providing a report to LCTV. Although LVTC provides no information about Kosnett’s background and experience, our own independent search of the California Bar Association indicates that Kosnett was admitted to the BAR in December 1976. Kosnett has been a practicing attorney for about 34 years. We find LVTC’s requested hourly rate of \$400 to be in the mid-range of the \$300-\$535 range approved for attorneys with 13 years or more of experience in D.08-04-010 and adopt the rate as requested.</p>
<b>Disallowances</b>	
<p><i>At the onset of our review, we admonish LVTC that it has failed to justify why the presence of so many participants at hearings and settlement meeting was required and essential to LVTC’s showing or how their presence made a substantial contribution to the outcome of the Commission’s decision. That being said, we applaud LVTC’s advocacy and the volunteer hours for many of its participants. We recognize that LVTC could have sought compensation for this time, but elected not to. In our attempt to strike a fair balance between our position and the short-falls of LVTC’s claim, we momentarily break with our practice of disallowing the duplicative efforts of multiple individuals present at the same pre-hearing conference, hearings or settlement meetings without a clear showing of how each person’s participation was unique and essential to the intervenor’s showing, and compensate LVTC for the travel costs of these participants. That being said, we caution LVTC that future claims including multiple individuals present at the same events which lack a clear justification for individual efforts, will result in reductions that we forgo here. We recognize that LVTC is fairly new to Commission proceedings and do not want to unfairly penalize their participation due to unfamiliarity with Commission practices.</i></p>	
<b>Meals</b>	<p>We disallow \$688 from LVTC’s request for meal compensation as the Commission provides no compensation for this expense.<sup>3</sup></p>
<b>Research Costs</b>	<p>We disallow \$3,502 of LVTC’s costs for LexisNexis research. LVTC submits that a three year subscription (36 months) was the shortest period of time that it could subscribe to and requests full compensation for this subscription totaling \$3,708. A search of LexisNexis’s website indicates that at least up until April 15, 2011, there was a “pay as you go” method available for this task. LVTC could have used this method, law library research, or some other more efficient means to conduct its research. In addition, we have compensated LVTC fully for purchase of its research books, where we could have opted to merely provide partial reimbursement. We approve \$206 for LVTC’s research costs, equal to the duration of time that LVTC conducted its research in this matter. This amount is reasonable and justified and is supported by the receipt LVTC provides for reimbursement for this cost.</p>

<sup>3</sup> See D.10-03-020, D.09-10-055, D.07-12-040, and D.07-08-021.

<b>Rental Car expenses</b>	We disallow \$21.90 of LVTC's requested costs for this expense as they included non-essential add-on services (GPS/Navigation).
<b>Other travel expenses</b>	We disallow \$55 of LVTC's request for tip reimbursement. Since the Commission does not compensate for meals, the tips associated with meal service are also non-compensable.
<b>Photocopying, Printing and Postage expenses</b>	We disallow \$552 for photocopying expenses, \$127.31 for printing expenses and \$109.20 of postage expenses related to producing and mailing some 5,520 copies of a flyer. LVTC does not explain to whom it distributed this flyer to or how these efforts played a role in making a substantial contribution to the Commission's decision. We suspect that the flyers might have been distributed to the public to attend the various 2010 Public Participation Hearings (PPH's) conducted in this proceeding (2/4 in Lancaster, 2/11 in Salinas, 2/18 in Kernville and 2/25 Guerneville). Lacking a justification from LVTC to explain these costs, we find these efforts are related to PPH's, which are non-compensable for intervenors. <sup>4</sup>

**PART IV: OPPOSITIONS AND COMMENTS**

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

**FINDINGS OF FACT**

1. Claimant has made a substantial contribution to Decision (D.) 10-12-017.
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 \$10,121.

**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 \$10,121.

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<sup>4</sup> See D.10-04-024.

2. Within 30 days of the effective date of this decision, California Water Service 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 16, 2011, 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.

This decision is effective today.

Dated May 26, 2011, at San Francisco, California

MICHAEL R. PEEVEY  
President  
TIMOTHY ALAN SIMON  
CATHERINE J.K. SANDOVAL  
MARK J. FERRON  
Commissioners

I abstain.

/s/ MICHEL PETER FLORIO  
Commissioner

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>	D1105042	<b>Modifies Decision?</b> No
<b>Contribution Decision:</b>	D1012017	
<b>Proceeding:</b>	A0907001	
<b>Author:</b>	ALJ Division	
<b>Payer:</b>	California Water Service 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>
Leona Valley Town Council	01-31-11	\$15,176	\$10,121	No	Disallowance for meal costs and related tips; disallowance of photocopying, printing and postage expenses related to PPH efforts; disallowance of excessive research costs; disallowance of non-essential car rental services (GPS)

**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>
James	Kosnett	Attorney	Leona Valley Town Council	\$400	2010	\$400

**(END OF APPENDIX)**