

Decision 09-03-018 March 12, 2009

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

Application of San Diego Gas & Electric Company (U902M) for authority to update its gas and electric revenue requirement and base rates effective January 1, 2008.

Application 06-12-009  
(Filed December 8, 2006)

And Related Matters.

Application 06-12-010  
Investigation 07-02-013

**DECISION GRANTING REQUEST OF DISABILITY RIGHTS ADVOCATES  
FOR INTERVENOR COMPENSATION FOR  
SUBSTANTIAL CONTRIBUTION TO DECISION 08-07-046**

<b>Claimant: Disability Rights Advocates</b>	<b>For contribution to D.08-07-046</b>
<b>Claimed (\$): 101,195.00</b>	<b>Awarded (\$): 76, 945.11 (24 % reduction)</b>
<b>Assigned Commissioner: John Bohn</b>	<b>Assigned ALJ: Douglas Long</b>

**PART I: PROCEDURAL ISSUES**

**A. Brief Description of Decision:** Decision on Test Year 2008 General Rate Cases for SDG&E and Southern California Gas Company.

**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:	2/9/07	Yes
2. Other Specified Date for NOI:		

3. Date NOI Filed:	3/9/07	Yes
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.06-12-009 et al.	Yes
6. Date of ALJ ruling:	4/24/07	Yes
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.06-12-009 et al.	Yes
10. Date of ALJ ruling:	4/24/07	Yes
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.08-07-046	Yes
14. Date of Issuance of Final Decision:	8/1/08	Yes
15. File date of compensation request:	9/30/08	Yes
16. Was the request for compensation timely?		Yes

**PART II: SUBSTANTIAL CONTRIBUTION**

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. Utilities agreed to survey all branch offices and third-party authorized payment locations where customers pay bills and conduct remediation as needed to ensure	Decision at 79-80, 95, 103, 107 & Appendix 10 (MOU, § 3).	Yes

accessibility in accordance with applicable law.		
2. Utilities agreed to make their websites accessible and compliant with Web Content Accessibility Guidelines.	Decision at 79-80, 95, 103, 107 & Appendix 10 (MOU, § 4).	<b>Yes</b>
3. Utilities will add new TTY and other non-traditional platforms for emergency communications with medical baseline/life support customers, and conduct related outreach.	Decision at 79-80, 95, 103, 107 & Appendix 10 (MOU, § 5).	<b>Yes</b>
4. Utilities will ensure pedestrian right-of-way access to streets and sidewalks affected by utility construction and property.	Decision at 79-80, 95, 103, 107 & Appendix 10 (MOU, § 6).	<b>Yes</b>

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

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was DRA a party to the proceeding? (Y/N)</b>	<b>Y</b>	<b>Yes</b>
<b>b. Were there other parties to the proceeding? (Y/N)</b>	<b>Y</b>	<b>Yes</b>
<b>c. If so, provide name of other parties:</b> San Diego Gas & Electric Company, Southern California Gas Company, Utility Consumers' Action Network, The Greenlining Institute, The Utility Reform Network, Pest Control Operators of California, Southern California Generation Coalition, Aglet Consumer Alliance, California Farm Bureau Federation, Federal Executive Agencies, California Natural Gas Vehicle Coalition, Coalition of California Utility Employees, Western Manufactured Housing Community Association, Pacific Gas and Electric Company.		<b>Yes</b>
<b>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:</b> Disability Rights Advocates was the only party in this proceeding that represented the unique interests of persons with disabilities. TURN and DRA advocated for ratepayers generally, and Greenlining Institute represented a cross-section of under-served communities. While people with disabilities share some overlapping concerns with these represented communities, Disability Rights Advocates advocated specifically on behalf of California's six million citizens with		<b>Yes</b>

<p>disabilities (nearly 20 percent of California’s population) and brought the unique issues and concerns of this community to the attention of the Commission. Only Disability Rights Advocates raised issues concerning the accessibility of branch offices and other payment locations for people with disabilities, as well as accessibility of rights-of-way for disabled pedestrians, accessibility of utility websites, and emergency communications. Because of the unique issues raised by Disability Rights Advocates, there was little overlap with issues raised by parties. When such overlap occurred, most notably with regard to issues about branch offices, Disability Rights Advocates coordinated efforts with other parties to avoid duplication of efforts. For example, while TURN and other consumer groups were concerned about the utilities’ contracts with payday lenders to provide authorized payment locations, and with the closure of branch offices, Disability Rights Advocates focused on ensuring accessibility of all payment locations the utilities utilized – whether they were branch offices or payment centers of any kind.</p>	
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**B. Additional Comments on Part II (use line reference # or letter as appropriate):**

#	Claimant	CPUC	Comment
A.	Disability Rights Advocates		The final decision orders that the Memorandum of Understanding (MOU) between Disability Rights Advocates and the utilities be adopted in full. (Page 103, ¶ 10.) The MOU is Appendix 10 to the decision. In addition, the decision finds that the MOU “provides reasonable and useful improvements to SDG&E and SoCalGas’ facilities, web sites and customer practices.” (Page 95.) The decision orders the utilities to include information regarding the subject matter of the MOU in testimony and work papers for the next general rate case. (Page 107, ¶ 24.)

**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 (include references to record, where appropriate)	CPUC Verified
The participation of Disability Rights Advocates resulted in the Commission’s adoption of the MOU, which requires the utilities to take specified actions to ensure accessibility by disabled persons of branch offices and authorized payment locations, public sidewalks, websites, and emergency communications. In addition, the Commission has required the utilities to present information from access studies required by the MOU in the next general rate cases. Although it is not possible to quantify the benefits to the significant number of disabled persons who have	Yes

occasion to interact with the utilities, it is clear that the participation of Disability Rights Advocates resulted in substantial benefits to disabled persons. See Attachments 2 and 3.	
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**B. Specific Claim:**

With the exception of Ronald Elsberry and Neal Casper, all other individuals listed below have hourly rates adopted by the Commission. Disability Rights Advocates requests increases in 2008 for Melissa Kasnitz, Roger Heller and its paralegals which apply the cost-of-living and 5% step increase outlined in D.07-01-009. We adopt the hourly rate requests for Melissa Kasnitz and Roger Heller as requested. We approve the requested hourly rate of \$110 for paralegals as being reasonable, absent the fact that D.07-01-099 does not apply the 5% step increase principals for paralegals. Ronald Elsberry and Neal Casper are new to the Commission and have no rates set for them.

Ronald Elsberry has been working for 15 years as a staff attorney with the California Supreme Court, including seven years on the personal legal staff of Chief Justice Ronald M. George. His background and experience in direct review of PUC administrative decisions and review of other administrative and quasi-administrative proceedings, qualifies him to work on Commission proceedings. The rate for Elsberry is \$400, which is less than the midpoint of the range for attorneys with 13+ years (\$300-\$535). The rate requested for him of \$400 is reasonable given his background and experience and is adopted here.

Neal Casper is an expert on architectural access for persons with disabilities. He has nine years experience as a construction project manager. He surveyed and inspected the utilities' payment centers. His findings were useful in the course of settlement negotiations and in preparing the MOU. Although Casper is not a utility expert, given his skills and experience, the rate of \$200 per hour is within the range for experts with Casper's length of experience as set forth in D.08-04-010 and adopt it here.

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. Kasnitz	2006	4.1	\$360	D.06-11-009	1,476	2006	4.1	\$360	1,476
M. Kasnitz	2007	37.7	\$390	D.07-06-040	14,703	2007	27	\$390	10,530
M. Kasnitz	2008	19.9	\$420	8% annual increase D.07-01-009.	8,358	2008	15	\$420	6,300
R. Heller	2006	6.1	\$260	D.07-04-032	1,586	2006	6.1	\$260	1,586
R. Heller	2007	105.1	\$280	D.07-06-040	29,428	2007	83.5	\$280	23,380
R. Heller	2008	3.1	\$300	8% annual increase D.07-01-009.	930	2008	3.1	\$300	930
R. Elsberry	2008	38.4	\$400	Attachment 4	15,360	2008	20	\$400	8,000
<b>Subtotal:</b>					<b>71,841</b>	<b>Subtotal: 52,202</b>			
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Neal Casper-Surveys	2007	*	*	Attachment 6	15,200	2007	76.0	200	15,200
Dmitri Belser-Surveys	2007	30	\$125	D.08-01-033	3,750	2007	30.0	125	3,750
<b>Subtotal:</b>					<b>18,950</b>	<b>Subtotal: 18,950</b>			
OTHER FEES									
Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.):									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Paralegal	2006	2.9	\$90	D.07-04-032	261	2006	2.9	\$90	\$ 261
Paralegal	2007	20.4	\$100	D.07-06-040	2,040	2007	20.4	\$100	\$2,040
Paralegal	2008	3.7	\$110	reasonableness	407	2008	3.7	\$110	\$ 407
<b>Subtotal:</b>					<b>2,708</b>	<b>Subtotal: 2,708</b>			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. Kasnitz	2007	1.4	\$195	D.07-06-040	273	2007	1.4	\$195	\$273
M. Kasnitz	2008	4.4	\$210	8% annual increase D.07-01-009.	924	2008	4.4	\$210	\$924
R. Heller	2007	2.1	\$140	D.07-06-040	294	2007	2.1	\$140	\$294

R. Elsberry	2008	23.6	\$200	8% annual increase D.07-01-009.	4,720	2008	4.6	\$200	\$920
Paralegal	2007	1.2	\$50	D.07-06-040	60	2007	1.2	\$ 50	\$ 60
Paralegal	2008	0.8	\$55	8% annual increase D.07-01-009.	44	2008	0.8	\$ 55	\$ 44
<b>Subtotal:</b>					<b>6,315</b>	<b>Subtotal:</b>			<b>2,515</b>
<b>COSTS</b>									
<b>#</b>	<b>Item</b>	<b>Detail</b>			<b>Amount</b>			<b>Amount</b>	
1	Photocopying and Printing	Attachment 5			1,011.75			\$ 200.00	
2	Postage and Delivery				22.40			\$ 22.40	
3	Telephone and Fax				47.71			\$ 47.71	
4	Informal Survey	Attachment 5			300.00			\$300.00	
		<b>Subtotal:</b>			<b>\$1,381.86</b>	<b>Subtotal:</b>	<b>570.11</b>	<b>570.11</b>	
<b>TOTAL REQUEST \$:</b>					<b>101,195</b>	<b>TOTAL AWARD \$:</b>		<b>76,945.11</b>	

**B. Attachments or Comments Documenting Specific Claim:**

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	General Comment and Request Regarding Standardized Intervenor Compensation Form
3	Reasonableness of Staffing and Number of Hours
4	Justification of 2008 Rates for Attorneys and Paralegals
5	Reasonableness of Costs Including Printing
6*	Justification of Rates for Experts: * Estimated Hourly Rate Shown in Attachment
7	Detailed Records for Work on the Merits in 2006
8	Detailed Records for Work on the Merits in 2007
9	Detailed Records for Work on the Merits in 2008
10	Detailed Records for Work on Fees in 2007

**C. CPUC Disallowances & Adjustments (CPUC completes):**

#	Reason
2007 hrs for M. Kasnitz	Excessive hours given the responsibilities and allocation of tasks between attorneys, attorney performing clerical work. Reduced by 10.7 hours.
2007 hrs for R. Heller	Excessive hours given the responsibilities and allocation of tasks between attorneys. Reduced 21.6 hours.
2008 hrs for M. Kasnitz	Excessive hours given the responsibilities and allocation of tasks between attorneys, hourly compensation adjustment for time spent for Icomp related work. Reduced by 4.9 hours.
2008 hrs for R. Elsberry	Excessive hours given the allocation of tasks between attorneys. Reduced by 18.4 hours. Excessive hours for Icomp related preparation. Reduced by 19.0 hours.
<b>Costs #1 Photocopying</b>	Excessive costs claimed for printing and photocopying. Reduced \$811.75.

In compliance with Rule 17.4b, please ensure that future requests for compensation initially include the time records for experts that include: the name of the expert performing the task; the specific task performed; the issue that the task addresses, as identified by the intervenor; and the issue that the task addresses, as identified by the scoping memo.

**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)?**

<b>No</b>
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**B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6)) (Y/N)?**

<b>Yes</b>
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**FINDINGS OF FACT**

1. Claimant has made a substantial contribution to D.08-07-046.
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 \$76,945.11.

**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 \$76,945.11.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company and Southern California Gas Company shall each pay claimant half of 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 7, 2009, 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.
4. Application 06-12-009, A.06-12-010 and Investigation 07-02-013 remain open.

This order is effective today.

Dated March 12, 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

<b>Compensation Decision:</b>	D0903018	Modifies Decision? No
<b>Contribution Decision(s):</b>	D0807046	
<b>Proceeding(s):</b>	A0612009, A0612010, I0702013	
<b>Author:</b>	ALJ Long	
<b>Payer(s):</b>	San Diego Gas & Electric Company and Southern California Gas Company	

**Intervenor Information**

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Disability Rights Advocates	9-30-08	\$101,195.00	\$ 76,945.11	No	excessive hours, excessive costs, adjusted hourly rate for work performed, and attorneys performing clerical work.

**Advocate Information**

First Name	Last Name	Type	Intervenor	Hourly Requested	Fee	Year Hourly Fee Requested	Hourly Fee Adopted
Melissa	Kasnitz	Attorney	Disability Rights Advocates	\$360		2006	\$360
Melissa	Kasnitz	Attorney	Disability Rights Advocates	\$390		2007	\$390
Melissa	Kasnitz	Attorney	Disability Rights Advocates	\$420		2008	\$420
Roger	Heller	Attorney	Disability Rights Advocates	\$260		2006	\$260
Roger	Heller	Attorney	Disability Rights Advocates	\$280		2007	\$280
Roger	Heller	Attorney	Disability Rights Advocates	\$300		2008	\$300
Ronald	Elsberry	Attorney	Disability Rights Advocates	\$400		2008	\$400
Neal	Casper	Expert	Disability Rights Advocates	\$200		2007	\$200
Dmitri	Belser	Expert	Disability Rights Advocates	\$125		2007	\$125

Paralegal			Disability Rights Advocates	\$ 90	2006	\$ 90
Paralegal			Disability Rights Advocates	\$100	2007	\$100
Paralegal			Disability Rights Advocates	\$110	2008	\$110

**(END OF APPENDIX)**