

Decision 22-01-010 January 13, 2022

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

Application of San Diego Gas & Electric Company (U902E) to Extend and Modify the Power Your Drive Pilot Approved by Decision 16-01-045.

Application 19-10-012

**DECISION GRANTING COMPENSATION TO  
NATIONAL DIVERSITY COALITION  
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 21-04-014**

<b>Intervenor:</b> National Diversity Coalition	<b>For contribution to Decision (D.) 21-04-014</b>
<b>Claimed:</b> \$129,697.53	<b>Awarded:</b> \$124,935.00
<b>Assigned Commissioner:</b> Clifford Rechtschaffen	<b>Assigned ALJ:</b> Sasha Goldberg

**PART I: PROCEDURAL ISSUES**

<b>A. Brief description of Decision:</b>	D.21-04-014 approves \$43.5 million in funding to subsidize the deployment of Level 2 electric vehicle charge ports at workplaces and multi-unit dwellings in San Diego Gas & Electric Company's service territory. The decision sets an equity requirement that 50 percent of sites be in underserved communities as defined on a state-wide basis according to Assembly Bill 841.
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**B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:<sup>1</sup>**

	<b>Intervenor</b>	<b>CPUC Verification</b>
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	01/09/2020	Verified
2. Other specified date for NOI:	N/A	
3. Date NOI filed:	01/09/2020	02/06/2020
4. Was the NOI timely filed?		Yes
<b>Showing of eligible customer status (§ 1802(b)) or eligible local government entity status (§§ 1802(d), 1802.4):</b>		
5. Based on ALJ ruling issued in proceeding number:	A.19-11-018	Verified
6. Date of ALJ ruling:	10/09/2020	Verified
7. Based on another CPUC determination (specify):	N/A	
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes
<b>Showing of “significant financial hardship” (§ 1802(h) or § 1803.1(b)):</b>		
9. Based on ALJ ruling issued in proceeding number:	A.19-11-018	Verified
10. Date of ALJ ruling:	10/09/2020	Verified
11. Based on another CPUC determination (specify):	N/A	
12. Has the Intervenor demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.21-04014	Verified
14. Date of issuance of Final Order or Decision:	4/19/2021	Verified
15. File date of compensation request:	6/18/2021	6/17/2021
16. Was the request for compensation timely?		Yes

<sup>1</sup> All statutory references are to California Public Utilities Code unless indicated otherwise.

## PART II: SUBSTANTIAL CONTRIBUTION

### A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059):

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p><b>1. Effective Participation (EP) Coordination and Settlement (COOR) Discovery and Research (DISC)</b></p> <p>The National Diversity Coalition (NDC) actively participated in the proceeding, which required some efforts that are difficult to assign to specific insulated issues. NDC reviewed the utility's application, rulings from the Commission, and testimony and filings from all other parties. NDC conducted discovery and research, cross examined witnesses at evidentiary hearings, and coordinated with other parties and internal coalition organizations to develop strategy and positions.</p> <p>NDC filed testimony, briefs, and comments which identified concerns regarding specific program aspects, and substantially contributed to the final decision by providing analysis and recommendations to better target underserved market segments, evaluate reasonable costs and cost effectiveness, and improve the public benefits achieved through the program.</p> <p>Low-income and minority ratepayers benefited from NDC's advocacy in this proceeding because these groups are the most impacted by rate increases and environmental pollution, and yet these communities have the least capacity and resources to engage in Commission proceedings to make</p>	<p><i>Protest of the National Diversity Coalition to the Application of San Diego Gas And Electric Company to extend and modify the Power Your Drive pilot (12/02/2019) ("Protest")</i></p> <p><i>Prepared Testimony of Faith Bautista on the Power Your Drive 2 Application of San Diego Gas &amp; Electric Company (05/18/2020) ("NDC-01")</i></p> <p><i>Opening Brief Of The National Diversity Coalition (12/18/2020) ("Opening Brief")</i></p> <p><i>Reply Brief Of The National Diversity Coalition (01/15/2021) ("Reply Brief")</i></p> <p><i>Opening Comments of the National Diversity Coalition on the proposed decision of Administrative Law Judge Goldberg authorizing San Diego Gas &amp; Electric Company's Power Your Drive Extension Electric Vehicle Charging Program (03/08/2021) ("Opening Comments on PD")</i></p> <p><i>Reply Comments Of The National Diversity Coalition On The Proposed Decision Of Administrative Law Judge Goldberg Authorizing San Diego Gas &amp; Electric Company's Power Your Drive Extension Electric Vehicle Charging Program (03/15/2021) ("Reply Comments on PD")</i></p>	<p>Noted</p>

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<p>their voices heard. Therefore, it is vital that NDC highlight the needs and perspectives of low-income and minority ratepayers in Commission proceedings.</p> <p>As in every case, NDC's participation entailed a significant amount of work to review and research issues and address procedural matters that may not have result in outcomes which are directly evident in the final decision, but were nonetheless essential for effective engagement in the overall case. Although not every recommendation that NDC provided was adopted, our perspectives and analyses led to more robust discussions and review of the program and issues, contributing to the overall reasonableness of the final decision.</p> <p>NDC's advocacy efforts are further detailed below, broken down by issue.</p>	<p>D.21-04-014, <i>Decision Authorizing San Diego Gas &amp; Electric Company's Power Your Drive Extension Electric Vehicle Charging Program</i>, (04/15/2021) ("Decision")</p>	
<p><b>2. Procedural and Statutory Issues (PROC)</b></p> <p>NDC provided statutory references and analysis showing that SDGE had the burden to demonstrate that their PYD2 proposal was reasonable, that SDGE failed to meet this burden, and that the Commission had the authority to reject, or modify and approve a more appropriate program.</p> <p>NDC also proposed modifications to align the Final Decision with Cal Pub. Util. Code Sections 740.8(b)(5) and 740.12(a)(1)(F) regarding jobs in underserved communities created as a result of the program. NDC</p>	<p>"SDGE bears the burden to demonstrate that their proposal is just and reasonable... Instead, SDGE has only demonstrated their eagerness to expand a failed program built on faulty assumptions and executed without fiscal responsibility, putting profits before public benefits. The Commission must not approve the PYD2 program, or must only approve a program with significant modifications. Rejecting or modifying ineffective TE programs is essential to meet State GHG reduction goals, as there are only limited ratepayer funds to expend on supporting EV adoption,</p>	<p>Verified</p>

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<p>recommended changes to specify that such jobs must be performed by members of underserved communities in order to be counted toward the intended statutory public benefit.</p> <p>And regarding liability for the excessive costs of the PYD Pilot beyond the approved budget, NDC explained that D.16-01-045 adopted a one-way balancing account, and ratepayers were not responsible for the cost overruns. Therefore, NDC recommended that ratepayers should also not be made responsible for the costs of the audit to investigate the fiscal mismanagement.</p>	<p>and they must be used wisely.” – Reply Brief 1-2</p> <p>In particular, the evidence and arguments presented by SDGE fail to justify their unreasonable assumptions of EV adoption, excessive proposed size and costs, and meaningless definition and deployment target for underserved communities. Only with substantial modifications to maximize ratepayer benefits, minimize costs, and direct support to areas that need it the most should the Commission consider allowing SDGE to attempt another TE program. – Reply Brief 2</p> <p><i>See Also</i> Reply Brief at 1-3.</p> <p>“In order to receive Commission approval to expend ratepayer funds on the PYD2 program, SDGE has the burden to prove that their proposal is just and reasonable and that it will effectively and efficiently provide ratepayer benefits. SDGE failed to meet this burden in all of the most significant aspects of their proposal, including demonstrating reasonable cost estimates and targets for the number and location of deployments. Section 740.18 does not require the Commission to approve SDGE’s program, but only to ‘decide whether to approve’ it, modify it if appropriate, and issue a decision. The Commission would be more than justified in outright rejecting the PYD2 proposal as a waste of ratepayer funds that will not help achieve State environmental goals or provide ratepayer benefits. Instead, the PD appropriately incorporates significant and necessary</p>	<p>Verified</p> <p>Verified</p>

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	<p>modifications to help ensure that PYD2 will effectively and efficiently use ratepayer funds to provide meaningful benefits.” – Reply Comments on PD at 1-2.</p> <p>“Reporting on jobs created by PYD2 is appropriate given that the Commission must investigate whether utility expenditures are providing the expected ratepayer benefits, which include ‘Creating high-quality jobs or other economic benefits, including in disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code.’ Taken together with Section 740.12(a)(1)(F) which was amended by AB 841 along with the ‘underserved communities’ definition, it is appropriate for the PD to track high-quality jobs that are created in all AB 841 underserved communities.” – Opening Comments on PD at 9</p> <p>“However, NDC is concerned that the ‘high-quality’ jobs related to construction and installation of EV charging equipment deployed in underserved communities will be performed by workers brought in to work at job sites, but who have no connection to the area. Yet these will be counted as ‘jobs in underserved communities’ simply because of where the work was performed, not whether it was performed by a member of the community. Instead, the majority of jobs related to this program that are filled by members of underserved communities may end up</p>	

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	<p>being limited to parking lot attendants who assist in the use of EVSE.</p> <p>In order to support the Commission in evaluating whether PYD2 truly provides the intended high-quality job creation benefits in underserved communities, the final decision should clarify that ‘creating jobs in underserved communities’ means that job positions are filled by members of underserved communities.” – Opening Comments on PD at 10.</p> <p>“The PD states that ‘Given that ratepayers bear the burden of the \$25M overspend from the Pilot, they should not be responsible for funding this audit.’</p> <p>NDC fully agrees that ratepayers should not pay for the audit, as it was SDGE’s actions and mismanagement that created the problem which must now be investigated. However... In D.16-01-045 which approved the PYD Pilot program, the Commission considered SDGE’s request to record costs in a two-way balancing account, but ultimately rejected it in favor of a one-way balancing account ‘to ensure that costs associated with the 2016 VGI Pilot Program [PYD Pilot] are limited.’ Given this wise precaution, ratepayers should be protected from the excessive Pilot costs that were actually incurred... Therefore, NDC recommends removing language in the PD that assigns responsibility for the Pilot cost overrun to ratepayers. Instead, the PD should be modified to acknowledge that ratepayers were not responsible for causing the Pilot</p>	

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<p>--</p> <p>The final decision acknowledges standards of evidence and burdens of proof as identified by NDC.</p> <p>The final decision also incorporates language to appropriately identify and define jobs created in underserved communities attributed to the PYD2 program, including that such jobs must be performed by members of the underserved communities, as suggested by NDC and required by statute.</p> <p>Additionally, the final decision removes language stating that ratepayers are responsible for PYD pilot overrun costs, and adopts the position that ratepayers should not pay</p>	<p>overspend, and should therefore not be responsible for paying for the audit.</p> <p><i>Recommended Modification</i></p> <p>PD at 84:</p> <p>Given that ratepayers <u>were not responsible for causing the \$25M overspend from the Pilot</u>, they should not be responsible for funding this audit.</p> <p>Conclusion of Law:</p> <p>13. Because ratepayers <u>were not responsible for causing the \$25 million overspend from the Pilot</u>, the audit required by this decision should be funded by SDG&amp;E shareholders.”</p> <p>– Opening Comments on PD at 11-12.</p> <p>--</p> <p>“The appropriate standard in a ratesetting matter is preponderance of the evidence. Preponderance of the evidence usually is defined ‘in terms of probability of truth, e.g., ‘such evidence when weighed with that opposed to it, has more convincing force and the greater probability of truth’.’ As the applicant, SDG&amp;E has the burden to demonstrate their proposal is just and reasonable, and that it will effectively and efficiently provide ratepayer benefits. [Footnote101 citing to NDC Reply Brief at 2.] – Decision at 29.</p> <p>“The reporting must include the number of jobs created in underserved communities and their average hourly wage, and the number of such jobs filled by members of underserved</p>	<p>Verified</p>



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for the audit of PYD pilot cost overruns.	<p>communities, in addition to any contractual jobs with women minority and disabled veteran-owned business enterprise consistent with Commission General Order (GO) 156.” – Decision at 70.</p> <p>“While we decline to set a budget for the audit, we direct the full cost be funded by SDG&amp;E shareholders.” – Decision at 82.</p> <p>Ordering Paragraph “10. San Diego Gas &amp; Electric Company shareholders shall fund the audit on the Power Your Drive Pilot’s \$25 million dollar cost overrun.” – Decision at 99.</p>	Verified
<p><b>3. Program Costs, Size, and Cost Recovery (COST)</b></p> <p>NDC provided analysis on the PYD pilot’s excessive costs and the unreasonable assumptions used by SDGE to justify their request to extend the failed program.</p> <p>NDC demonstrated that an appropriately sized program could be achieved with a reduced budget, or that with the requested budget PYD2 could deploy substantially more EVSE. NDC supported reductions in per-port average costs and reductions in per-port rebates and subsidies to develop more reasonable cost assumptions.</p> <p>NDC recommended that the final decision reduce the overall size and budget of PYD2 to account for findings from the Pilot, align per-port</p>	<p>Analysis of PYD Pilot cost and assumptions, and recommendations for PYD2 costs and deployment requirements. – <i>See</i> NDC-01 at 5-10.</p> <p>Arguments that the excessive size of PYD2 as proposed is completely unsubstantiated, and the projected cost of PYD2 is not justified by Pilot data. Recommendations for reductions to the overall budget, allowed per-port average costs, and tighter accountability with a one-way balancing account. – <i>See</i> Opening Brief at 11-19.</p> <p>“Reject SDGE’s request to implement a two-way balancing account mechanism and advice letter process, and adopt a one-way balancing account with a hard cost cap... SDGE demonstrated in their Pilot that they did not institute[] adequate cost controls, overspending their approved</p>	Verified

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<p>average costs with the reasonable approved costs of other programs, and utilize a one-way balancing account to restrain utility mismanagement and protect ratepayers.</p>	<p>budget by over 50%. SDGE has not developed additional cost control measures, and does not even acknowledge the failures of their Pilot program implementation or assumptions, and instead seeks to extend it with minimal modifications. Such behavior must not be rewarded with more latitude and discretion in spending, but with stronger cost controls and regulation.” – Opening Brief at 19.</p> <p>“SDGE claims that PYD2 cost assumptions are reasonable because they are based on actual PYD Pilot costs. In their list of cost assumptions, SDGE repeatedly states in footnotes that the estimates are based on ‘average per site’ costs from the PYD pilot. However, SDGE fails to explain how the PYD Pilot costs themselves could possibly be considered reasonable, when they vastly exceeded the amount approved by the Commission by over 56 percent, spending an additional \$25 million beyond the approved budget of \$45 million.” – Reply Brief at 4.</p> <p>“Additionally, trying to base PYD2 costs on the excessive and unrestrained spending of the PYD Pilot also shows that SDGE has not incorporated any lessoned learned or efficiencies developed from the Pilot. Either SDGE did not learn anything about how to run a more efficient program or SDGE intends PYD2 cost savings to inure as profit to their shareholders. Either way, it would be unreasonable to adopt a PYD2 budget based on the same expenses incurred</p>	<p>Verified</p>

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	<p>in the Pilot, as if the Pilot was not specifically meant to better inform a successor program. Considering the colossal failure of the PYD pilot in regard to both costs and benefits, SDGE is foolish to attempt to justify PYD2 costs by tying them to Pilot costs.” – Reply Brief at 4-5.</p> <p>“SDGE did not provide any basis for their original 2000 port/200 site program size request. However, evidence and testimony during cross examination support a program size of 1200 ports/120 sites, based on the proportion of the existing ‘interest list’ which is expected to result in deployments. The PD’s \$15,000 port average and \$43.5 million budget could allow approximately 2,900 ports/290 sites, far greater than is justified by facts in evidence, and potentially detrimental to the currently developing competitive market. Further, the PYD Pilot failed to demonstrate that SDGE’s TE program design actually leads to EV adoption and utilization , warranting extreme caution in approving any additional deployment based on the same assumptions.” – Opening Comments on PD at 6.</p> <p>“NDC supports the reduced EVSE rebate amounts, as they are consistent with statutory requirements to minimize costs and maximize benefits of TE programs, and consistent with facts regarding EV market developments. Rebates and incentives should be set at levels that will encourage EVSE installation (and hopefully EV adoption) by reducing</p>	

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	<p>financial barriers, but not pay excessive levels beyond what is necessary to incentivize the purchase. As the EV market matures, and prices come down and consumers gain more understanding of the benefits of EV adoption, lower incentives will be necessary and expected to stimulate adoption. The record shows that many other programs from other utilities and government agencies which only provide rebates on a portion of EVSE costs have seen substantial participation and interest. Therefore, it is reasonable to set PYD2 EVSE rebates, which are also paired with subsidized utility-side infrastructure, well below the full EVSE cost.” – Opening Comments on PD at 8.</p> <p>“As the record clearly shows, SDGE grossly overspent their PYD pilot budget, yet they refuse to acknowledge their fiscal irresponsibility and have failed to implement cost-containment measures to prevent another spending spree. The final decision must consider the facts in evidence and SDGE’s performance record and reject their request for more spending discretion with a two-way balancing account.” – Opening Comments on PD at 8-9.</p> <p>“SDG&amp;E has failed to rebut TURN and NDC’s assertions that such a gross overspend lends itself to less discretion in spending.” – Opening Comments on PD, Appendix B Typographical Errors at 3.</p> <p>“SDGE often complains that the PD does not adopt costs in-line with the</p>	

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<p>--</p> <p>The Final Decision adopts a lower per-port average cost requirement, and accordingly expects significantly higher EVSE deployment than SDGE proposed. The Decision also adopts the one-way balancing account to restrain further utility overspending, and protect ratepayers.</p> <p>Although the Decision does not adopt NDC's recommendation to reduce the overall budget, NDC's broader concerns and arguments to regulate utility spending and reduce utility discretion in light of the failed Pilot implementation were appropriately considered and incorporated into the final program design.</p>	<p>results from the Pilot program, and assumes that the PD has failed to consider actual costs. What SDGE fails to consider is that the Commission is required to reject unreasonable cost estimates, and the PYD Pilot costs are clearly unreasonable. They exceed the litigated and approved budget and exceed actual costs incurred in comparable utility TE programs. While SDGE argues that the parameters of the Pilot should be maintained simply because they were 'robustly litigated' and 'approved by a detailed Commission decision', SDGE has no compulsion about abandoning the Pilot's litigated and approved budget and costs estimates." – Reply Comments on PD at 3.</p> <p>--</p> <p>"Cal Advocates, TURN, NDC, SBUA, and UCAN attempt to show how SDG&amp;E fails to justify their cost assumptions, proposed program size and costs, and DAC/underserved community target. NDC's comments reflect the sentiments of many, explaining that 'only with substantial modifications to maximize ratepayer benefits, minimize costs, and direct support to areas that need it the most should the Commission consider allowing SDG&amp;E to attempt another TE program.' " – Decision at 29.</p> <p>"Applying a \$15,000 per port average to PYD2, SDG&amp;E should be able to achieve a higher port goal than the original 2,000 ports/200 sites proposed in testimony... While we decline to set a minimum port installation</p>	<p>Noted</p>

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	<p>requirement for SDG&amp;E to achieve based on a lower per port average, as well as some of the other cost measures adopted in the following Sections, we expect SDG&amp;E to install significantly more than the 2,000 ports the utility proposed in testimony.” – Decision at 42-43.</p> <p>“Cal Advocates, TURN, SBUA, UCAN, and NDC all support a one-way balancing account to record PYD2 program costs due to the cost over runs in the PYD Pilot... NDC provides, ‘SDGE has not developed additional cost control measures, and does not even acknowledge the failures of their Pilot program implementation or assumptions, and instead seeks to extend it with minimal modifications. Such behavior must not be rewarded with more latitude and discretion in spending, but with stronger cost controls and regulation.’ ” – Decision at 73-74.</p> <p>“Though a two-way balancing account may have been appropriate for the Pilot, SDG&amp;E fails to rebut the claims of the parties above. Moreover, the utility fails to prove how an identical design is reasonable for PYD2 given the significant cost overruns from the Pilot. SDG&amp;E fails to establish how a two-way balancing account will constrain the utility from tracking costs above its authorized recovery, when SDG&amp;E overspent on the Pilot by more than \$25M over the authorized budget. SDG&amp;E has failed to rebut TURN and NDC’s assertions that such a gross overspend lends</p>	

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	<p>itself to less discretion in spending.” – Decision at 74.</p> <p>“Given the 56 percent cost overrun that occurred in the Pilot, it would be imprudent for the Commission to approve the same balancing account structure here. Accordingly, we authorize a one-way balancing account for SDG&amp;E to record revenues, costs and participation payments associated with PYD2.” – Decision at 74-75.</p>	
<p><b>4. <i>Underserved Community Definition</i> (DEFINE)</b></p> <p>NDC specifically argued against using the same “utility-wide” DAC definition that was used in the PYD Pilot, which designated many non-polluted and affluent areas as underserved.</p> <p>Instead, NDC argued for statutory “statewide” DAC definitions based on SB 350 that were consistent with other Commission TE programs, low-income programs, and efforts by other State agencies. NDC recommended using an expanded statewide definition, incorporating low-income criteria from other Commission and state agency programs. These arguments prophetically supported adoption of the AB 841 definition, which was passed by the Legislature late in the proceeding.</p>	<p>Arguments against SDGE’s claim that using a utility-wide definition would be necessary in order to avoid confusion in PYD2 – NDC-01 at 11-13.</p> <p>Using a utility-wide definition would divert funds away from areas that were truly disadvantaged. – NDC-01 at 13-16.</p> <p>Legislation intends and is designed to direct resources to underserved communities, as identified by the statewide definition – NDC-01 at 16-18.</p> <p>The state-wide DAC definition and other expanded Commission and state agency definitions are more reasonable, consistent with legislative intent, and complement other TE programs – NDC-01 at 19-23.</p> <p>“If the Commission is interested in improving consistency between proceedings and other agencies as well as increasing focus on economically burdened areas, a modified DAC</p>	Verified

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	<p>definition could also include communities identified through the DRIVE or Affordability OIR frameworks. Expanding the CES state-wide DAC definition to include CARB Low-Income Needs Assessment 'priority populations' or top 25 percent SEVI tracts would also be consistent with legislative intent and allow for greater consistency with DAC definitions used in other programs.” – NDC-01 at 24.</p> <p>“NDC provides testimony on the reasonableness of using the statewide DAC definition, shows that it is required by SB 350, and necessary to align with other state agency efforts and Commission proceedings. NDC further explores appropriate ways to expand the DAC definition that would still be in line with statutory intent and Commission precedent, which includes using the California Air Resources Board (“CARB”) Low-Income Needs Assessment definition, based on areas at 80% of median household income level. Our testimony and analysis support the appropriateness of applying the AB 841 underserved definitions in this proceeding, in particular the requirements of PUC section 1601(e)(1), (2), and (3), even if the Commission were to find that AB 841 does not directly apply otherwise.” – Opening Brief at 8.</p> <p>“In rebuttal testimony, SDGE essentially restates their reasons for wanting to keep the same DAC definition as the pilot, namely ‘to help maintain continuity and minimize</p>	



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	<p>confusion'. SDGE additionally complains that they would be 'greatly limited in the geographic footprint' where they could deploy EVSE under the statewide definition, and it would be 'difficult to find qualifying sites' in the two-year duration of the program.</p> <p>These claims merely restate positions NDC already countered in direct testimony, and reflect SDGE's preferences, not sound policy decisions. As discussed in testimony, the only potential 'confusion' over adopting a more reasonable definition that actually targets communities in need might stem from sites on the interest list that no longer qualify as disadvantaged. While this number would be much less under the expanded AB 841 definition than the SB 350 definition, and in any case, is resolved with an email or other notification sent to the affected customers. 'Maintaining continuity' and making deployment 'easier' for SDGE are irrelevant objections, given that the prior territory-wide definition is unreasonable and violates statutory intent." – Opening Brief at 9-10.</p> <p>"SDGE often complains that low-income and low English proficiency areas are much harder to reach (even to give essentially free infrastructure worth hundreds of thousands of dollars), but those barriers do not apply in the majority of areas identified under the utility-wide definition. Under the statutory state-wide DAC definition used by all other State agencies, only 6.7 percent of SDGE territory should be</p>	

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<p>--</p> <p>The final decision acknowledges facts and analysis NDC provided, which show that SDGE's utility territory-wide definition was overly broad and did not direct funds to underserved communities as intended by statutes. The final discussion also considers NDC arguments for an underserved community definition based on statewide definitions used in</p>	<p>considered disadvantaged. Meaning that the other 18.3 percent labeled 'disadvantaged' under the utility definition do not experience the same level of environmental and economic burdens as actual DACs do." – Reply Brief at 5-6.</p> <p>"AB 841 applies to all TE programs filed after January 1, 2016, and contains provisions that are specific to the PYD2 application. The PD is correct in concluding that the AB 841 definition of underserved communities is controlling for the PYD2 program, and that applying AB 841 is also consistent with Executive Order N-79-20's directive that the Commission accelerate EVSE deployment in underserved communities. Additionally, the record of the proceeding contains testimony that independently demonstrates the reasonableness of the AB 841 underserved community criteria. Consequently, the PD appropriately rejects SDGE's arguments to use a service-territory based definition, as it contradicts the law and facts." – Opening Comments on PD at 2.</p> <p>--</p> <p>"NDC, Cal Advocates, TURN and the Joint Parties call for an increased focus on siting infrastructure in disadvantaged communities in PYD2." – Decision at 30.</p> <p>"Regarding the DAC definition, under the service territory-wide definition, 25 percent of SDG&amp;E's service territory is labeled as 'disadvantaged.' Under the state-wide DAC definition,</p>	<p>Verified</p> <p>Verified</p>

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<p>Commission and other agency programs, which also provide support for the criteria used in the AB 841 definition.</p> <p>In line with NDC arguments and recommendations, the final decision adopts the statewide and low-income program-based definition for underserved communities pursuant to AB 841.</p>	<p>only 6.7 percent of SDG&amp;E's territory would be considered disadvantaged. NDC asserts that applying the overly broad service territory-wide definition makes an inappropriately large number of tracts that are not actually disadvantaged eligible to receive funding meant for communities that are in the most need. NDC testifies that the state-wide DAC definition embodies the legislative requirement that program funds be directed to areas that are truly disadvantaged on account of both pollution and poverty." – Decision at 30-31.</p> <p>"Because AB 841 includes the state-wide DAC definition as one of the criteria to qualify which communities are underserved, the argument put forward by SDG&amp;E as a reason to utilize the service territory definition for PYD2 is effectively moot. Instead of utilizing the service territory-wide definition as the PYD Pilot and other SDG&amp;E TE programs do, SDG&amp;E should utilize the criteria provided in AB 841 to qualify which areas are underserved in its service territory.</p> <p>Applying the underserved community definition to PYD2 is also consistent with Executive Order N-79-20's directive that the Commission accelerate deployment charging options for ZEVs in low-income or underserved communities." – Decision at 33.</p> <p>Conclusion of Law  "2. SDG&amp;E should apply the underserved community definition</p>	

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	pursuant to AB 841 to PYD2.” – Decision at 95.	
<p><b>5. Underserved Community Deployment Target (TARGET)</b></p> <p>In testimony, NDC provided analysis and argument showing that SDGE's proposed 10 percent deployment target was unreasonably low compared to the need and demand in underserved communities, levels attained by SDGE and other utilities, and inconsistent with statutory requirements to support TE in such communities. Instead, NDC recommended a target between 30 and 60 percent, based upon the statutory statewide DAC definition and any expanded additional criteria the Commission ultimately adopted.</p> <p>NDC highlighted that AB 841 required an underserved deployment target of at least 35 percent, and that Commission application of the statutory requirement and intent in other proceedings had been much greater. NDC explained that the individual criteria of the AB 841 underserved community definition covered 40 percent of more of SDGE's territory.</p> <p>Additionally, NDC repeatedly pointed out the inconsistency, irrationality, and hypocrisy of SDGE request for higher budgets with lower ratepayer benefits, especially in the underserved communities that need the most support.</p>	<p>SDGE's proposed 10 percent DAC deployment target ignores the needs, demand, and statutory requirements for investments in underserved communities. – NDC-01 at 25-28.</p> <p>Depending on how broad of a DAC definition the Commission adopts for PYD2, a correlated deployment target between 30 and 60 percent would be reasonable and achievable. – NDC-01 at 28-30.</p> <p>“For TE programs and investments, California Public Utilities Code section 740.12(b) requires that ‘Not less than 35 percent of the investments pursuant to this subdivision shall be in underserved communities as that term is defined in Section 1601.’ ” – Opening Brief at 3.</p> <p>“While there will certainly be some overlap of communities that qualify as underserved through each individual metric, these five criteria will cover a considerable proportion of SDGE territory, significantly greater than the SB350 CES-based definition alone. If approximately half (50 percent) of households earn below the median household income, then households at or below 80 percent of the median income per sections (e)(1) and (2) could apply to approximately 40 percent of SDGE households. 29 percent of the schools in San Diego county serve communities that qualify as underserved under 1604(e)(4). These estimates do not include</p>	Verified

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>Citing to statutory requirements beyond AB 841 to direct resources toward underserved communities, as well as evidence of substantial barriers to TE, together with data of DAC deployment achieved in the PYD Pilot, NDC provided substantial evidence and argument to support a 50 percent underserved community deployment requirement.</p>	<p>communities in the portion of Orange county also served by SDGE.” – Opening Brief at 6.</p> <p>“NDC provides testimony demonstrating that SB 350 and Health &amp; Safety Code section 39711 call for utility TE programs to specifically target and direct substantial resources toward supporting EV adoption in underserved communities. We also provide testimony on the needs in underserved communities that relate to poverty and ethnicity, supporting the Legislative intent to prioritize investment in these areas with stronger deployment targets. These arguments provide support for the Commission to apply the equity investment requirement of AB 841 to this proceeding even if the Commission were to find that AB 841 does not directly apply otherwise.” – Opening Brief 8-9.</p> <p>“SDGE tried to argue that statewide DAC only make up 7 percent of their territory, and ‘If State policy intended DAC investments to be targeted at seven percent of the population, then the statewide DAC definition would be set at seven percent of the state, not 25 percent.’ This is a specious argument, in that the 25 percent threshold for CES scores is only meant to identify areas that are pollution burdened throughout the State. It has nothing to do with what proportion of utility service territories should be targeted for investment. In fact, the Legislature has clarified such confusion with their minimum 35 percent mandate in AB 841, and it</p>	

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	<p>is the utility TE program that must be modified to fit the statutory definition, not the other way around.” – Opening Brief at 10.</p> <p>“The Commission should implement the plain language and intent of AB 841 by adopting the statutory definition of underserved communities in Pub. Util. Code section 1601(e), along with a minimum deployment target of <i>at least</i> 35 percent.” – Opening Brief 10.</p> <p>“Given how broad the underserved community metrics are – encompassing areas with environmental burdens, a variety of economic-need factors, as well as all tribal lands – together with the commitment shown by the Commission to strong equity investment goals as demonstrated by the 75 percent requirement in the LCFS PD, the Commission should adopt an ambitious minimum target here as well. Based on NDC’s discussion of deployment targets using similar underserved community definitions expanded beyond the statewide CES definition, the ability to divert funds away from the least burdened communities, and incorporate improvements from lessons learned in the Pilot, NDC recommends a 50 percent <i>minimum</i> investment requirement for sites or ports located in underserved communities as defined by AB 841.” – Opening Brief 10-11.</p> <p>“Yet even though the Pilot placed over 30 percent of EVSE sites in the</p>	

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	<p>broadly defined ‘disadvantaged’ areas, SDGE still refuses to propose a deployment target based on actual Pilot results (which they claim is the basis for reasonable cost estimates). Instead, they request the negligible 10 percent target that had been approved for the Pilot, before the Commission had evidence from all utility TE programs that DACs have a strong demand and need for EV adoption. In fact, it is in low-income and pollution burdened communities where utility TE programs should focus the majority of their deployment, as those are the areas where ratepayer funding and monopoly utilities can enable EV adoption that would not otherwise happen, instead of subsidizing costs for customers that were already interested, able, and in many cases planning to make the purchase, harming the developing third-party EVSE market which is essential to support mass market EV adoption.” – Reply Brief 6.</p> <p>“Given that the ridiculously broad utility-wide DAC definition made 25 percent of all SDGE territory ‘disadvantaged’ it would have taken significant effort to avoid DAC deployment in order not to exceed the 10 percent target. The utility-wide definition includes many areas that are high-income and low-pollution relative to areas throughout the State, and which do not face high barriers to EV adoption. The Pilot cannot be considered a DAC deployment success for exceeding so low a bar. And as discussed above, it would be</p>	

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	<p>unreasonable to ‘maintain continuity’ with a failed Pilot program, just as it would be unreasonable to resist making modifications to correct and prevent such failures in similar future programs.” – Reply Brief 9.</p> <p>“SDGE admits that EVs are a ‘premium consumer item’, one that low-income customers living in underserved communities are not typically able to afford. Yet there must be mass market EV adoption, including in underserved communities, in order to meet State GHG reduction goals. It would therefore be most appropriate to target support toward underserved communities if SDGE wants to help meet State goals (as SDGE claims is their goal). But instead of prioritizing PYD deployment in underserved communities, SDGE asserts that their negligible allocation for DACs should be considered ‘extraordinary’. SDGE behaves as though they have a right to deploy EVSE in prime locations at ratepayer expense even though their Pilot failed to demonstrate cost-effective benefits, and seems to think that any minimal consideration they deign to bestow upon underserved communities that actually need support should be considered generous.” – Reply Brief 10.</p> <p>“SDGE states that lower demand for EVs in underserved communities will result in such locations requesting fewer ports per site, reducing savings from economies of scale, and leading to higher per port costs. Therefore, SDGE claims that PYD2 should not</p>	



Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	<p>have significant underserved community deployment requirements, in order to keep per port costs low. It is shocking that SDGE has the audacity to make such a claim, while at the same time arguing for PYD2 per port costs that (1) far surpass the costs of any other similar utility TE program and (2) which are based on Pilot costs that grossly exceeded the reasonable budget approved by the Commission, while simultaneously pushing for a DAC definition that encompasses many higher-income and lower-pollution regions. SDGE wants negligible commitments to broadly defined underserved communities, while still being granted an excessive budget to extend a Pilot program that failed to follow approved costs or provide meaningful benefits.” – Reply Brief 11.</p> <p>“Using a 50 percent target with the expanded AB 841 definition is entirely consistent with the justification provided in NDC testimony for using only the state-wide definition and a 30 percent deployment target, or a modified state-wide definition with some low-income communities and a 40 percent target... SDGE fails to rebut NDC’s consistent justification for adopting an appropriate deployment target paired with a reasonable definition.” – Reply Brief 12-13.</p> <p>“Based on the facts that the PYD pilot program achieved 32 percent deployment using a service territory DAC definition and now AB 841 has greatly expanded the underserved</p>	

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>--</p> <p>The final decision reiterates arguments from NDC against using SDGE's proposed 10 percent minimum deployment goal, and agrees with our interpretation that AB 841 applies and requires a minimum 35 percent target. The final decision also relies upon NDC's analysis of the proportion of SDGE territory that would be identified as underserved under AB 841, and the appropriate related deployment target to adopt.</p> <p>In line with NDC recommendations, the final decision adopts a 50 percent deployment target for underserved communities.</p>	<p>community parameters, and that SDGE should have developed best practices to increase their efficiency and effectiveness in underserved site deployment and can also divert funds away from less burdened areas and underutilized locations, the mandate to deploy a minimum 50 percent of PYD2 sites in underserved communities is exceedingly reasonable and required based on the law and facts in evidence." – Opening Comments on PD 4-5.</p> <p>--</p> <p>"As to the DAC deployment target, SDG&amp;E discusses the process that helped 'scale up' PYD Pilot deployment in DACs beyond the 10 percent minimum goal – including screening criteria, complementing other government programs, contractor goals to hire from DACs, and vendor marketing efforts. However, SDG&amp;E fails to explain how it will use these lessons to maximize DAC participation for PYD2 or why the PYD2 DAC target should not align with the DAC participation rate in the Pilot. Moreover, setting such a low minimum deployment goal does not recognize the successes of California's other investor-owned utilities, and indeed SDG&amp;E itself, in deploying TE programs within DACs. Ultimately, SDG&amp;E's proposed 10 percent target does not align with the legislative directives of AB 841, which establishes a minimum equity investment target of 35 percent."– Decision at 33-34.</p>	<p>Verified</p>

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	<p>“NDC, TURN, Cal Advocates and the Joint Parties urge the Commission to raise SDG&amp;E’s 10 percent DAC target. TURN supports NDC’s recommendation for a 50 percent deployment target, explaining that a higher minimum deployment requirement is necessary and consistent with AB 841’s directive that 35 percent of the investments be made in underserved communities. As NDC explains, applying the ‘underserved communities’ definition of AB 841 to SDG&amp;E’s service territory includes low-income areas that could cover approximately 40 percent of utility’s territory, and likely more. This would result in deploying infrastructure in approximately 40 percent of the lowest income and most polluted communities in SDG&amp;E’s service territory. NDC asserts that SDGE’s proposed 10 percent DAC target fails to incorporate lessons learned from PYD Pilot and other TE pilots. NDC provides that for Pacific Gas &amp; Electric Company’s (PG&amp;E) EV Charge Network program, PG&amp;E has achieved 26 percent DAC deployment, exceeding its 15 to 20 percent minimum deployment goal. For Southern California Edison Company’s (SCE) Charge Ready Pilot, SCE has achieved 50 percent DAC deployment, far exceeding its 10 percent minimum deployment goal.” – Decision at 34-35.</p> <p>“SDG&amp;E’s proposed 10 percent target falls short of AB 841’s minimum equity requirement of 35 percent. It also falls below the utility’s own DAC</p>	

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	<p>deployment achievement in the Pilot. SDG&amp;E further cannot rebut the fact that other investor-owned utilities running similar TE programs (PG&amp;E's EV Charge Network and SCE's Charge Ready Pilot) have been successful in exceeding a 10 percent DAC target.</p> <p>Consistent with § 740.12(b) and party comments about what is achievable in SDG&amp;E's territory, PYD2's equity target should be 50 percent. SDG&amp;E must place 50 percent of PYD2 sites in underserved communities pursuant to § 1601. This increased target focuses charging infrastructure deployment in the most polluted and lowest income communities in SDG&amp;E's service territory. This 50 percent target is reflective of other equity goals the Commission has adopted for TE programs (e.g. Charge Ready 2) and will help further the strong equity goals in the recently issued Executive Order N-79-20." – Decision at 35.</p> <p>Findings of Fact  "4. SDG&amp;E fails to show how its proposed 10 percent DAC target maximizes ratepayer investments in direct support to areas that need it the most.</p> <p>5. Applying the underserved community definition in AB 841 to PYD2 is consistent with Executive Order N-79-20's directive that the Commission accelerate deployment of charging options for ZEVs in</p>	

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
	<p>low-income or underserved communities.</p> <p>6. A higher minimum DAC deployment requirement is necessary and consistent with AB 841's directive that a minimum of 35 percent of the investments be made in underserved communities.</p> <p>7. Utilizing the underserved community definition provides the opportunity to focus TE investment in 40 percent of SDG&amp;E's lowest income and most polluted communities.</p> <p>8. Other investor-owned utilities running similar TE programs have been successful in exceeding a 10 percent DAC target.</p> <p>9. The 50 percent underserved community deployment requirement is reflective of other equity goals the Commission has adopted for TE programs (e.g., Charge Ready 2)." – Decision at 92.</p>	

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

	Intervenor's Assertion	CPUC Discussion
<b>a. Was the Public Advocate's Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?<sup>2</sup></b>	Yes	Verified
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	Yes	Verified

<sup>2</sup> The Office of Ratepayer Advocates was renamed the Public Advocate's Office of the Public Utilities Commission pursuant to Senate Bill 854, which the Governor approved on June 27, 2018.

	Intervenor's Assertion	CPUC Discussion
<b>c. If so, provide name of other parties:</b> Cal Advocates, TURN, UCAN		Verified
<b>d. Intervenor's claim of non-duplication:</b> CalAd, TURN, and UCAN are respected and strong advocates for the interests of ratepayers generally. As such, their positions often align with those of NDC on certain issues.  Although NDC works and coordinates with other ratepayer advocate parties, they do not represent the same minority, low-income communities as NDC does, and do not have the same direct grassroots involvement in those communities that NDC has. The arguments of other parties, even for the same outcomes, are not based on the same understanding and expertise gained from direct service to and input from low-income and minority ratepayers that NDC brings to CPUC proceedings. NDC contributes a distinct perspective on the needs of underserved communities, gained through grassroots engagement and experience, which helps inform and lend credibility to Commission decisions.  NDC made reasonable efforts to coordinate with parties who had similar positions and concerns, in order to reduce duplication, and allow other parties to speak from their experience and expertise, while presenting our own unique perspective as community leaders. Therefore, while other parties may have had positions that were compatible or similar to NDC, our perspectives and goals were necessarily differentiated, and were supplemented, not duplicated, by efforts toward common goals.  Additionally, NDC represents a coalition of dozens of different community-based organizations with many affiliate organizations. In order to effectively communicate case developments and receive member feedback on positions, a significant number of discussions must take place. Only a small fraction of those numerous meetings are included in our records, and only the portion of time during those meeting that are directly relevant to the instant case are recorded in our timesheets. Time we record as "Coordination" is more than simply avoiding duplication among parties, and should all be eligible for compensation.  The Commission should find that to the extent that NDC is claiming compensation for any overlapping efforts that may have occurred, it served to supplement, complement, or contribute to the presentation of issues by another party, consistent with Cal Public Utilities Code Section 1802.5.		Noted

### PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
<p><b>a. Intervenor’s claim of cost reasonableness:</b></p> <p>NDC is seeking \$129,697.53 as the reasonable cost of our participation in this proceeding. Our analysis of the numerous issues to consider helped the Commission evaluate and adopt a final decision that should ensure transportation electrification in cost-effective manner and provide substantial support in underserved communities, accelerating California’s transition to clean energy and environmental goals, benefiting all ratepayers.</p> <p>For the most part, NDC cannot calculate precisely the exact monetary benefits to ratepayers from these advocacy efforts, given the nature of the issues addressed and the fact that policies and projects have yet to be fully implemented. However, NDC has participated actively in this proceeding, engaged in hearings and workshops, coordinated with other parties, and provided research, analysis, and recommendations in our filings. As such, our requested compensation is appropriate for the contributions we have made to the record and to the final decision, and it should be found reasonable.</p>	Noted
<p><b>b. Reasonableness of hours claimed:</b></p> <p>This claim for compensation includes 315.75 total hours for NDC attorneys and experts. NDC submits that this is a reasonable amount of time, given the scope of the proceeding and the breadth and depth of issues that needed to be examined. The hours claimed were devoted to research and analysis, review of proposals and filings, drafting testimony, briefs, and comments, and participation in workshops, hearings, conferences and meetings, as well as other procedural matters.</p> <p>The vast bulk of the work was handled by Director of Legal Advocacy Tadashi Gondai. To reduce duplication of efforts and increase efficiency, Mr. Gondai took primary responsibility for the case.</p> <p>Outside Counsel Julian Dela Cruz provided limited support, primarily on research and drafting testimony related to costs. His hours have been reduced to reflect time spent on training, and reflect efforts that directly contributed to the final decision. The time Mr. Dela Cruz spent working</p>	Noted

	CPUC Discussion
<p>on this case resulted in lower costs than if Mr. Gondai had done the work at his higher hourly rate.</p> <p>NDC has made voluntary reductions for time spent investigating issues and developing recommendations that were ultimately not pursued or were not addressed in our filings. We have also omitted hours spent on matters that did not contribute to the final decisions.</p> <p>NDC submits that the requested hours are reasonable, both for each attorney and expert, and in the aggregate. Therefore, NDC seeks compensation for all hours submitted in this claim.</p> <p><u>Compensation Request Preparation Time:</u> NDC is requesting compensation for 15.50 hours devoted to the preparation of the compensation request, and an additional 0.75 hours for the preparation of the initial Notice of Intent to Claim Compensation. This number of hours is reasonable in light of the amount of material which needed to be reviewed in preparing this claim.</p> <p>Mr. Gondai reviewed timesheets, emails, filings, motions, briefs, rulings, comments, and decisions in order to properly allocate time by issue. He also reviewed I-Comp claim procedures and prior I-Comp decisions, as well as newly revised hourly rate qualifications and guidelines.</p> <p>The Commission should find that the hours claimed are reasonable.</p>	
<p><b>c. Allocation of hours by issue:</b></p> <p><b>Effective Participation (EP) – 16.9%:</b> time and effort not tied to single specific issues but which was nonetheless essential for effective participation, such as analyzing testimony and proposals for relevant issues, reviewing other party filings, and developing positions and strategy.</p> <p><b>Procedural and Statutory Issues (PROC) – 7.5%:</b> time and effort spent researching and advocating for the proper application of legal standards, statutory requirements, and addressing other procedural matters.</p> <p><b>Coordination and Settlement (COOR) – 6.7%:</b> time and effort spent coordinating with other parties and organizations, planning joint strategy, engaging in settlement negotiations, and reducing duplication while supplementing common positions.</p>	99.9%



	CPUC Discussion
<p><b>Discovery and Research (DISC) – 11.0%:</b> time and effort drafting and reviewing data requests and responses, as well as locating and analyzing relevant information including similar or related programs and policies, demographic information, scientific and academic studies, and technological developments.</p> <p><b>Underserved Community Definition (DEFINE) – 17.7%:</b> research and advocacy on the proper definition of “underserved community”.</p> <p><b>Underserved Community Deployment Target (TARGET) – 13.0%:</b> research and advocacy on the proper level of investment and deployment in underserved communities.</p> <p><b>Program Cost, Size, and Cost Recovery (COST) – 13.5%:</b> research and advocacy on the appropriate program budget, size, and assumptions for the program, as well as mechanisms to record and recover approved costs from ratepayers.</p> <p><b>Hearings (HRNGS) – 13.6%:</b> time and effort spent preparing for and engaging in conferences and hearings.</p> <p><b>EP – 16.9%</b>  <b>PROC – 7.5%</b>  <b>COOR – 6.7%</b>  <b>DISC – 11.0%</b>  <b>DEFINE – 17.7%</b>  <b>TARGET – 13.0%</b>  <b>COST – 13.5%</b>  <b>HRNGS – 13.6%</b></p> <p><b>Total: 99.9% (0.1 rounding error)</b></p>	

**B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Tadashi Gondai	2019	16.75	\$350.00	D.20-05-033	\$5,862.50	16.75	\$350.00	\$5,862.50
Tadashi Gondai	2020	197.00	\$360.00	See Comment #4	\$70,920.00	197	\$360.00 [1]	\$70,920.00
Tadashi Gondai	2021	58.00	\$572.51	See Comment #5	\$33,205.58	56.25	\$545.00	\$30,656.25

CLAIMED						CPUC AWARD		
						[2]	[3]	
Julian Dela Cruz	2020	40.00	\$360.00	See Comment #6	\$14,400.00	40	\$310.00 [4]	\$12,400.00
Faith Bautista	2019	0.5	\$180.00	See Comment #7	\$90.00	0.5	\$180.00 [5]	\$90.00
Faith Bautista	2020	3.5	\$185.00	See Comment #7	\$647.50	3.5	\$185.00 [6]	\$647.50
Subtotal: \$125,125.58						Subtotal: \$120,576.25		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Tadashi Gondai	2020	0.75	\$180.00	\$360 /2 See Comment #4	\$135.00	.75	\$180.00	\$135.00
Tadashi Gondai	2021	15.50	\$286.26	\$572.51 /2, See Comment #5	\$4,436.95	15.5	\$272.50 [3]	\$4,223.75
Subtotal: \$4,571.95						Subtotal: \$4,358.75		
TOTAL REQUEST: \$129,697.53						TOTAL AWARD: \$124,935.00		
<p>*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§ 1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors’ 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.</p> <p>**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer’s normal hourly rate</p>								
ATTORNEY INFORMATION								
Attorney	Date Admitted to CA BAR <sup>3</sup>		Member Number		Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation			
Tadashi Gondai	Dec 3, 2010		273186		No			
Julian Rodrigo A. Dela Cruz	April 29, 2015		Supreme Court of the Philippines Roll No. 64891 <sup>4</sup>		No			

<sup>3</sup> This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

<sup>4</sup> This information may be obtained through the Supreme Court of the Philippines Lawyer's List at <https://sc.judiciary.gov.ph/lawlist/>.

**C. Attachments Documenting Specific Claim and Comments on Part III:**

<b>Attachment or Comment #</b>	<b>Description/Comment</b>
Attachment 1	Certificate of Service
Attachment 2	Timesheets of NDC Attorneys and Experts
Attachment 3	Resumes of Tadashi Gondai, Julian Dela Cruz
Comment 4	<p>Mr. Gondai has currently pending requests for a 2020 rate of \$360/hr in Intervenor Compensation claims for NDC in proceedings A.19-11-018 and A.18-12-009, and for the National Asian American Coalition (NAAC) in proceedings A.18-06-015 and R.18-07-006. We provide the justification for those requests again here for the convenience of the Commission.</p> <p>For Mr. Gondai's 2020 hourly rate, NDC requests the application of the 2020 COLA (2.55%) pursuant to ALJ-387 (10/26/2020). D.20-11-009 set Mr. Gondai's 2019 rate at \$350/hr, reflecting his then 6.5 years of relevant regulatory experience</p> $\$350 \text{ (2019)} * 1.0255 \text{ (2020 COLA)} = \$358.93$ <p>Rounded to the nearest five-dollar increment, Mr. Gondai's <b>2020</b> rate should be set at <b>\$360/hr</b> which is the high end of the range for attorneys with 5-7 years of experience, appropriately reflecting 7.5 years of relevant experience by 2020 (starting with 2.5 years in 2015, as ruled in D.16-06-050). In the 5-7 year experience tier, Mr. Gondai has previously only requested one of his two allotted 5% step-increases, further justifying this 2020 rate request.</p>
Comment 5	<p>Resolution ALJ-393 requires intervenors to submit, in their first claim seeking compensation for work completed in 2021 and beyond, updated labor roles and resumes pursuant to Section 1804(c). Mr. Gondai has a currently pending request for a <b>2021 rate of \$572.51/hr</b> in an Intervenor Compensation claim for NDC in proceeding A.18-12-009. We provide the justification for that request again here for the convenience of the Commission.</p> <p>For Mr. Gondai's 2021 hourly rate, NDC requests the application of rates for a Legal Director, Level II.</p> <p>In his role as Director of Legal Advocacy, Mr. Gondai oversees the legal work of NDC, including providing strategic direction, and is responsible for coordinating and supervising a legal team that has included multiple other attorneys, experts, legal assistants and interns. Mr. Gondai has served in this role since 2016, which gives him 5 years of experience in 2021, placing him</p>

Attachment or Comment #	Description/Comment
	<p>at the highest end of the Level II rate tier. Accordingly, NDC requests a <b>2021</b> rate of <b>\$572.51/hr</b> for Mr. Gondai.</p> <p>Mr. Gondai has worked as an attorney since 2010, and has at minimum the equivalent of 8.5 years of relevant experience before the CPUC in 2021 (starting with 2.5 years in 2015, as ruled in D.16-06-050). Mr. Gondai's Juris Doctor degree and Bar license qualify him beyond the educational requirements described for a Legal Director in the latest hourly rate chart developed by Level 4 Ventures, dated 03/02/2019. However, ALJ-393 indicates that the Commission intended to modify the definition of labor roles for Legal Directors and Attorneys to include "licensing by any jurisdiction within the United States." (ALJ-393 at 6).</p> <p><i>See also</i> Mr. Gondai's resume, attachment 3.</p> <p>If the Commission approves a 2021 rate for Mr. Gondai that is below the maximum for a Legal Director, Level II, or below the maximum for any category, NDC requests the application of the first 5 percent step increase within that level for Mr. Gondai, as authorized in ALJ-393, Finding 6 and D.07-01-009.</p>
Comment 6	<p>The Commission has not yet determined a rate for Mr. Julian Dela Cruz.</p> <p>As explained in more detail below and the attached resume, Mr. Dela Cruz's relevant professional experience includes 6 years as a legislative consultant in the Philippine House of Representatives, and 5 additional years by 2020 as a Philippine Bar licensed attorney engaged in legal advocacy which includes public policy and administrative law practice with NDC before the CPUC. Applying his years as a legislative consultant as equivalent to 3 years of related practice before the Public Utilities Commission, and his licensed attorney experience as equivalent to 4 years, Mr. Dela Cruz should be found to have 7 years of relevant work experience by 2020.</p> <p>ALJ-387 sets the appropriate hourly rate for attorneys with 5-7 years of relevant work experience in 2020 at between \$330-360. Given Mr. Dela Cruz's 11 years of relevant professional experience, substantial academic qualifications, and the complexity of the issue areas he has addressed, NDC requests that Mr. Dela Cruz's rate be established at <b>\$360 an hour for 2020</b>. Mr. Dela Cruz's requested compensation "take[s] into consideration the market rates paid to persons of comparable training and experience who offer similar services," (see PUC § 1806) and is in accordance with the</p>

Attachment or Comment #	Description/Comment
	<p>Commission's guidelines in D.05-11.031 and the hourly rates adopted for the year 2020.</p> <p>Mr. Dela Cruz is a practicing lawyer in the Philippines, having been admitted to the Philippine Bar in 2015. He is a partner at the Allado Zapanta Dela Cruz &amp; Lim Law Offices and is primarily engaged in litigation, handling all stages of civil, commercial, administrative, and labor disputes, as well as criminal prosecution and defense.</p> <p>Mr. Dela Cruz joined the National Diversity Coalition (NDC) in June 2018 and served as its Deputy Director for Government Affairs, primarily tasked to meet with regulators in Washington D.C. such as the USDA, FDIC, FTC, SBA, Fannie Mae, DOJ, and the Department of Treasury to push for regulatory reform and pursue strategic partnerships on behalf of low-income, minority, and disadvantaged communities.</p> <p>He transferred to NDC headquarters in Daly City, California in 2019 and was tasked to handle most of NDC's external communications including project proposals, grant applications, press releases, letters, opinion/editorials, and newsletter write-ups. After returning to the Philippines in August 2019, Mr. Dela Cruz has been collaborating with attorneys and research staff of NDC on CPUC proceedings. He is responsible for legal research, cost analysis, drafting data requests, and contributing to testimony and comments.</p> <p>Mr. Dela Cruz obtained his Master of Laws from Georgetown University Law Center before joining NDC to supplement his advanced legal studies through practical training. He also holds a Bachelor of Laws from San Beda College Alabang School of Law and a Bachelor of Science in Economics from the University of the Philippines.</p> <p>Aside from advocacy work and litigation practice, Mr. dela Cruz draws from years of relevant experience in legal and policy research for the Philippine House of Representatives, working under a party-list representative for the education sector. He directed legal and policy research and drafted and reviewed bills, resolutions, and interrogatories for legislative inquiries, as well as coordinated with various consumer rights and interest groups to push for legislation.</p>
Comment 7	Ms. Bautista currently has pending requests for a <b>2019</b> rate of \$180/hr in Intervenor Compensation claims for NDC in proceedings A.18-12-009 and

Attachment or Comment #	Description/Comment
	<p>R.20-08-020. We provide the justification for those requests again here for the convenience of the Commission.</p> <p><i>For Ms. Bautista's 2019 hourly rate, NDC requests the application of the 2019 COLA (2.35%) pursuant to ALJ-357 (4/8/2019). D.20-11-009 set Ms. Bautista's 2018 rate at \$175/hr.</i></p> $\$175 * 1.0235 = \$179.11$ <p><i>Rounded to the nearest five-dollar increment, Ms. Bautista's <b>2019</b> rate should be set at <b>\$180/hr</b>.</i></p> <p>Ms. Bautista currently has pending requests for a <b>2020</b> rate of \$185/hr in Intervenor Compensation claims for NDC in proceedings R.20-08-020 and R.20-08021. We provide the justification for those requests again here for the convenience of the Commission.</p> <p><i>For Ms. Bautista's <b>2020</b> hourly rate, NDC requests the application of the 2020 COLA (2.55%) pursuant to ALJ-387 (10/26/2020). NDC's pending IComp claims in A.18-12-009 and R.20-08-020 request a 2019 rate of \$180/hr (discussed above).</i></p> $\$180 \text{ (2019 requested)} * 1.0255 \text{ (2020 COLA)} = \$184.59$ <p><i>Rounded to the nearest five-dollar increment, Ms. Bautista's <b>2020</b> rate should be set at <b>\$185/hr</b>.</i></p>

#### D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
[1] Tadashi Gondai (Gondai) 2020 Rate	D.20-05-033 approved \$350 rate for 2019. We apply the 2.55% 2020 COLA set by Resolution ALJ-387. Gondai's new rate for 2020 is \$360.
[2] Gondai 2021 Hours	The following timesheet entry is disallowed from Gondai's 2021 hours because it did not contribute to the decision-making process; 4/20/2021, 1.75 hours, "Review Final Decision". The final decision was issued on 04/15/2021.
[3] Gondai 2021 Rate	Gondai has 5 years' experience as NDC's Director of Legal Advocacy and an additional 5 years' experience as a practicing

Item	Reason
	attorney. According to the Hourly Rate Chart implemented by Resolution ALJ-393, the rate range for Legal Director III (5 – 10 years) is \$396 to \$673. If we were to assign Gondai an Attorney IV rate (10 – 15 years) the rate range would be \$381 to \$619. A rate of \$520 is reasonable based on Gondai’s relevant experience before the Commission. As requested by NDC, we apply the first step increase of 5%, per D.07-01-009 for a 2021 rate of \$545.
[4] Julian Dela Cruz (Dela Cruz) 2020 Rate	NDC requested a 2020 attorney rate of \$360 for Dela Cruz. Resolution ALJ- 393 modified the definition of labor roles for Legal Directors and Attorneys to include “licensing by any jurisdiction within the United States.” Although Dela Cruz has a Master of Laws, he is not licensed with any bar association in the United States. Dela Cruz has a wide range of experience in the non-profit, government, and private sectors in the U.S. and the Philippines, equating to 10 years’ professional experience. According to the hourly rates set by Resolution ALJ- 387, the rate range for an Expert with 7-12 years’ experience is \$190 to \$315. Given Dela Cruz’s extensive education in Law and Economics, we adopt a rate of \$310, at the high end of that range.
[5] Faith Bautista (Bautista) 2019 Rate	D.20-11-009 adopted a 2018 rate of \$175 for Bautista. We apply the 2.35% 2019 COLA set by Resolution ALJ-375 for a 2019 rate of \$180.
[6] Bautista 2020 Rate	We apply the 2.55% 2020 COLA set by Resolution ALJ-387 for a 2020 rate of \$185.

#### **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))**

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

#### **FINDINGS OF FACT**

1. National Diversity Coalition has made a substantial contribution to D.21-04-014.

2. The requested hourly rates for National Diversity Coalition's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$124,935.00.

### **CONCLUSION OF LAW**

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

### **ORDER**

1. National Diversity Coalition shall be awarded \$124,935.00.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company shall pay National Diversity Coalition the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning September 1, 2021, the 75th day after the filing of National Diversity Coalition'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 January 13, 2022, at San Francisco, California.

ALICE REYNOLDS  
President  
CLIFFORD RECHTSCHAFFEN  
GENEVIEVE SHIROMA  
DARCIE HOUCK  
Commissioners



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

<b>Compensation Decision:</b>	D2201010	<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D2104014		
<b>Proceeding(s):</b>	A1910012		
<b>Author:</b>	ALJ Goldberg		
<b>Payer(s):</b>	San Diego Gas & Electric Company		

**Intervenor Information**

<b>Intervenor</b>	<b>Date Claim Filed</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/ Disallowance</b>
National Diversity Coalition	06/17/2021	\$129,697.53	\$124,935.00	N/A	Rate adjustments, Hours claimed after decision was issued

**Hourly Fee Information**

<b>First Name</b>	<b>Last Name</b>	<b>Attorney, Expert, or Advocate</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Tadashi	Gondai	Attorney	\$360.00	2020	\$360.00
Tadashi	Gondai	Attorney	\$572.51	2021	\$545.00
Julian	Dela Cruz	Attorney	\$360.00	2020	\$310.00
Faith	Bautista	Expert	\$180.00	2019	\$180.00
Faith	Bautista	Expert	\$185.00	2020	\$185.00

**(END OF APPENDIX)**