

Decision 25-01-022 January 16, 2025

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding
Broadband Infrastructure Deployment and to
Support Service Providers in the State of
California.

Rulemaking 20-09-001

**DECISION GRANTING COMPENSATION TO THE UTILITY CONSUMERS’
ACTION NETWORK FOR SUBSTANTIAL CONTRIBUTION TO
DECISION (D.) 21-10-020 AND D.22-04-055**

Intervenor: Utility Consumers’ Action Network	For contribution to Decision (D.) 21-10-020, D.22-04-055
Claimed: \$ 125,158.56	Awarded: \$62,134.48
Assigned Commissioner: Alice Reynolds	Assigned ALJ: Thomas J. Glegola

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	<p>On September 10, 2020, the California Public Utilities Commission (Commission) initiated this “Broadband for All” proceeding to set the strategic direction and changes necessary to expeditiously deploy reliable, fast, and affordable broadband Internet access services that connect all Californians. Subsequently, the proceeding was divided into three phases.</p> <p>On October 21, 2021, the Commission adopted Decision (D.) 21-10-020. This Decision resolved Phase I of this proceeding, adopting new post-disaster community engagement and reporting requirements for Investor-Owned Utilities and facilities-based telecommunications service providers in California. Furthermore, requirements for the Digital Divide Account created in California Public Utilities (Pub Util.) Code Section 280.5 were also adopted. The proceeding remained open.</p> <p>Thereafter, President Biden signed into law the American Rescue Plan Act of 2021 (ARPA), also called the COVID-19 Stimulus Package or American Rescue Plan, which</p>
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	<p>appropriated funds for states to deploy last-mile broadband Internet networks. On July 20, 2021, Governor Newsom signed SB 156 into law, creating the Federal Funding Account, with this Commission being responsible for implementing the new grant program. Consequently, certain issues associated with the implementation of SB 156 were added to the scope of this proceeding, including implementation of the Federal Funding Account in Phase III.</p> <p>On April 21, 2022, Decision 22-04-055 was adopted. This decision adopts rules for the Federal Funding Account (FFA) created by Senate Bill (SB) 156 and funded through the federal American Rescue Plan Act of 2021 (Public Law No. 117-2), and the rules issued by the U.S. Treasury Department. The scope of this decision is the development of the rules governing the Federal Funding Account (FFA), focused on last-mile Internet connections, including whether the Commission should adopt the Staff Proposal or refine it. Additionally, the rules adopted in this decision include, among other items, the following subjects: project eligibility, application objections, allocating FFA funding between rural and urban counties, reimbursing grantees, a ministerial review process whereby Communications Division Staff may approve certain projects, and minimum performance standards for grantees.</p> <p>This proceeding remains open.</p>
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812¹:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of prehearing conference:	November 10, 2020	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	December 10, 2020	Verified
4. Was the NOI timely filed?		Yes

¹ All statutory references are to California Public Utilities Code unless indicated otherwise.

	Intervenor	CPUC Verification
Showing of eligible customer status (§ 1802(b)) or eligible local government entity status (§§ 1802(d), 1802.4):		
5. Based on ALJ ruling issued in proceeding number:	Rulemaking (R.) 20-07-013 (See Comment 1 in Part I. C)	Verified. The Ruling of December 14, 2020 in R.20-07-013 has found that UCAN has demonstrated eligibility to claim intervenor compensation, including the eligible customer status.
6. Date of ALJ ruling:	December 14, 2020	Verified
7. Based on another CPUC determination (specify):	D.22-05-008 D.22-06-022 D.21-08-016 D.21-08-035 D.21-09-012 D.21-08-015 D.21-12-050	Noted
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes
Showing of “significant financial hardship” (§1802(h) or §1803.1(b)):		
9. Based on ALJ ruling issued in proceeding number:	R.20-07-013 (See Comment 1 in Part I. C)	Verified
10. Date of ALJ ruling:	December 14, 2020	Verified
11. Based on another CPUC determination (specify):	D.22-05-008 D.22-06-022 D.21-08-016 D.21-08-035 D.21-09-012 D.21-08-015 D.21-12-050	Noted
12. Has the Intervenor demonstrated significant financial hardship?		Yes

	Intervenor	CPUC Verification
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.22-04-055	Verified
14. Date of issuance of Final Order or Decision:	April 22, 2022	Verified
15. File date of compensation request:	June 21, 2022	Verified. On November 13, 2023, UCAN filed a Supplement to the Claim.
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Intervenor’s Comment(s)	CPUC Discussion
	<p>UCAN was last found to satisfy the § 1802(g) “significant financial hardship” requirement in R.20-07-013 on December 15, 2020, and before that R.18-07-006 granted on May 30, 2019.</p> <p>UCAN has requested a significant financial hardship ruling in its NOI’s filed in Application (A.) 17-12-011 on March 23, 2018; in R.18-12-005 on March 20, 2019; in R.20-01-007 on April 13, 2020; in A.20-04-014 on July 17, 2020; in A.20-07-016 on October 14, 2020; in R.21-03-011 on May 26, 2021, A.21-03-001 on May 26, 2021, in R.21-06-017 on September 16, 2021, in A.21-08-010 on October 14, 2021, in A.21-07-017 on November 12, 2021, in A.21-08-013 on November 15, 2021, in A.21-09-001 on November 29, 2021, and in A.21-12-006 on April 6, 2022. UCAN has yet to receive a ruling on any of these requests.</p>	Noted

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>1. UCAN CONTRIBUTED TO THE DECISION BY INFORMING AND DEVELOPING THE RECORD, ADDRESSING VARIOUS AND MULTIPLE ISSUES AND TOPICS, AND PROVIDING RELEVANT COMMENTS TO PHASE I AND II DECISIONS.</p> <p>A. <u>UCAN actively intervened in the proceeding that led to Decisions for Phase I and II issues.</u></p> <p>UCAN intervened in the proceeding through its various and consistent comments. For example, UCAN emphasized balanced approaches to community engagement and reporting requirements and greater flexibility to urban-rural allocations. UCAN recommended any policies adopted should examine deployment, and adoption, at both a municipal-wide and neighborhood-level. UCAN advocated for the importance of data collection and analysis to inform policies to achieve</p>	<ul style="list-style-type: none"> • <i>See, e.g., D.21-10-020, at pp. 4-5, 11, 21-23; D.22-04-055, at pp. 5, 29, 32, 94.</i> 	<p>Except for a few instances, the Commission did not rely on UCAN’s presentations because of their unspecific nature or because they repeated other parties’ presentations or the Commission’s findings, without enriching them with distinctive, substantive analysis. <i>See the Commission’s Discussion in Part III (D) [1]</i></p>

<p>digital equity. By offering comments in various filings, addressing critical issues, UCAN aided and supported the development of a more complete record for the Decision.</p>		
<p><u>Phase I</u></p> <ul style="list-style-type: none"> • UCAN filed Opening and Reply Comments to the to Order Instituting Rulemaking • UCAN filed Opening and Reply Briefs and Comments on the Phase I staff proposal • UCAN filed Comments on Assigned Commissioner’s Amended Scoping Memo and Ruling • UCAN filed Opening and Reply Comments regarding PHASE II-B issues • UCAN filed various Comments on the Administrative Law Judge’s Ruling and the Assigned Commissioner’s Ruling • UCAN filed Opening Comments on the Proposed Decision (Phase I) 	<p><u>Phase I</u></p> <ul style="list-style-type: none"> • October 12, 2020, OPENING COMMENTS TO ORDER INSTITUTING RULEMAKING • October 27, 2020, REPLY COMMENTS TO ORDER INSTITUTING RULEMAKING • February 01, 2021, OPENING BRIEF AND COMMENTS ON ADMINISTRATIVE LAW JUDGE’S RULING (PHASE I STAFF PROPOSAL) • February 16, 2021, REPLY BRIEF AND COMMENTS ON ADMINISTRATIVE LAW JUDGE’S RULING (PHASE I STAFF PROPOSAL) • May 05, 2021, COMMENTS ON ASSIGNED COMMISSIONER’S AMENDED SCOPING MEMO AND RULING • May 17, 2021, PHASE I SUPPLEMENTAL REPLY COMMENTS • July 01, 2021, COMMENTS REGARDING PHASE II-B • July 26, 2021, PHASE II-B REPLY COMMENTS • September 03, 2021, COMMENTS ON THE ASSIGNED COMMISSIONER’S RULING 	

<p><u>Phase II</u></p> <ul style="list-style-type: none"> • UCAN filed Opening and Reply Comments on the Administrative Law Judge’s Email Ruling Requesting Comments on the Proposal for the Apportionment of the Federal Funding Account Grant Program • UCAN filed Opening Comments on Proposed Decision (Phase II) 	<ul style="list-style-type: none"> • September 21, 2021, REPLY COMMENTS ON THE ASSIGNED COMMISSIONER’S RULING • October 01, 2021, COMMENTS ON ADMINISTRATIVE LAW JUDGE’S RULING • October 06, 2021, OPENING COMMENTS ON PROPOSED DECISION • October 14, 2021, REPLY COMMENTS ON ADMINISTRATIVE LAW JUDGE’S RULING • November 15, 2021, REPLY COMMENTS ON ASSIGNED COMMISSIONER’S RULING <p><u>Phase II</u></p> <ul style="list-style-type: none"> • November 30, 2021, COMMENTS OF THE UTILITY CONSUMERS’ ACTION NETWORK (UCAN) ON THE NOVEMBER 10, 2021 ADMINISTRATIVE LAW JUDGE’S EMAIL RULING REQUESTING COMMENTS ON THE PROPOSAL FOR THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM • December 10, 2021, REPLY COMMENTS ON THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM • March 22, 2022, OPENING COMMENTS ON PROPOSED DECISION 	
<p>2 UCAN CONTRIBUTED TO D.21-10-020, RESOLVING</p>		

<p>PHASE I OF BROADBAND FOR ALL PROCEEDING.</p> <p>D.21-10-020 resolved Phase I of this proceeding, adopting new post-disaster community engagement and reporting requirements for Investor-Owned Utilities and facilities-based telecommunications service providers in California. We also adopt eligibility requirements for the Digital Divide Account created in California Public Utilities Code Section 280.5. This proceeding remains open. D.21-10-020, at p. 2.</p> <p>A. <u>UCAN advocated, supported and recommended that the Commission recognize and adopt requirements for the Digital Divide Account to accommodate and allocate Account funds to urban schools too.</u></p>	<ul style="list-style-type: none"> • <i>UCAN recognizes that the funds in the Digital Divide Account are fairly limited and minimal, hence, the acceptance that any pilot program approaches cannot simply accommodate all, UCAN does wish to point out that urban areas – particularly in SDG&E’s service areas – also face the same, significant broadband obstacles of access and affordability. In fact, recent review of this same issue, easily document that urban areas – across the State – suffer from these same concerns as rural areas. COMMENTS ON ASSIGNED COMMISSIONER’S AMENDED SCOPING MEMO AND RULING, at p. 4.</i> • <i>Most parties question the rationale for Staff’s proposed exclusion of urban schools from the proposed Digital Divide Account Pilot Program. The comments on this point are persuasive and consistent with</i> 	<p>Verified, in part. See Commission’s Discussion in Part III (D). [1]</p>
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<p>The Phase I Decision incorporated and adopted UCAN's advocacy.</p> <ul style="list-style-type: none">• <i>AARP, Joint ILECs, NDC, UCAN, CETF, CENIC,</i>	<p><i>UCAN's original position on this point. UCAN reiterates its recommendation that the Pilot Program be modified to include at least one urban school. The digital divide affects not only rural areas but also urban areas, where the presence and quality of broadband services can vary enormously from zip code to zip code, from community to community. The purpose of the Pilot Program is, in part, to gather lessons learned – the lessons to be learned in an urban environment may well differ in some ways from the lessons learned in rural areas. PHASE I SUPPLEMENTAL REPLY COMMENTS, at p. 6.</i></p> <ul style="list-style-type: none">• <i>Again, UCAN argues that urban schools also should benefit from the Digital Divide Account grant program, because students in urban areas are affected in pockets by the same broadband access problems as students in rural areas. Like other parties, UCAN opines that excluding urban schools would not comply with the requirement in statute to disburse the funds widely. Consequently, UCAN supports the PD's modification to the proposal to include urban schools. OPENING COMMENTS ON PROPOSED DECISION, at p. 3.</i>	
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<p><i>CWA, and CforAT all argue that urban schools also should benefit from the Digital Divide Account grant program, because students in urban areas are affected in pockets by the same broadband access problems as students in rural areas. Further, these parties argue that excluding urban schools would not comply with the requirement in statute to disburse the funds widely. D.21-10-020, at p. 21.</i></p> <ul style="list-style-type: none"> <i>We adopt the proposed requirements for the Digital Divide Account with some modifications. The enabling statute directs Digital Divide Account funds be available for both rural and urban areas, thus we modify the proposal to include urban schools. D.21-10-020, at p. 22.</i> <p>B. <u>UCAN contended that the CPUC should assert broad jurisdiction over pertinent broadband issues in this proceeding and require addition reporting requirements.</u></p>	<ul style="list-style-type: none"> <i>UCAN welcomes the PD statement that this proceeding is continuing to investigate ways to leverage existing IOU fiber, as well as future fiber builds, and wildfire hardening work, to assist in serving unserved and underserved communities . . . and UCAN wishes to recognize that the PD, in fact, affirmatively rejects the notion that leveraging IOU fiber to serve unserved communities somehow violates</i> 	<p>This did not substantially contribute to the decision as it repeats what was already stated in the PD.</p>
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	<p><i>statute or is anticompetitive. Moreover, along these lines, UCAN supports the PD’s vision that this proceeding should continue to explore options that include local and tribal governments.</i> OPENING COMMENTS ON PROPOSED DECISION, at p. 2.</p> <ul style="list-style-type: none">• <i>Keeping the Commission informed about ILECs’ post-disaster construction plans, as would occur if Staff’s proposal were adopted, does not necessarily infringe on ILECs’ construction decisions, and, for this reason, UCAN regards ILECs’ concerns as overly skittish about regulatory oversight. It is not surprising that telecommunications and cable companies do not want to be held accountable to the Commission regarding their post-disaster construction plans. Although UCAN does not address the legal arguments that they make, UCAN supports fully, as a policy matter, the Commission’s oversight of broadband providers, and the reliability of the networks of cable and telecommunications carriers. If not the Commission, then what entity will hold communications providers accountable to consumers and more generally to the state of California regarding their post-disaster construction plans?</i> PHASE I SUPPLEMENTAL REPLY COMMENTS, at p. 3.• <i>CCTA observes “[i]t is not necessary, appropriate, or lawful for the CPUC to assert ‘comprehensive jurisdiction’ over</i>	
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<p>C. <u>UCAN supported the Advice Letter requirements as adopted in the Decision.</u></p> <p>D. <u>UCAN addressed other Phase I issues which helped develop the record and inform the Decision.</u></p>	<p><i>‘advanced communications services’ to undertake these steps that will most effectively and expeditiously advance California broadband goals.” AT&T also provides a similar refrain in its comments. UCAN urges the Commission to reject these narrow views of the Commission’s authority over broadband. REPLY COMMENTS TO ORDER INSTITUTING RULEMAKING, at p. 3.</i></p> <ul style="list-style-type: none"> • <i>UCAN finds reasonable the Assigned Commissioner’s proposal that the Commission require the IOUs and the communications provider to each file an advice letter detailing the impact of the disaster on their facilities, and to include service restoration plans, no later than 15 days after the disaster. UCAN also supports the proposed requirement that IOUs and communications providers meet and confer prior to filing their advice letter. PHASE I SUPPLEMENTAL REPLY COMMENTS, at p. 3.</i> • <i>UCAN is disappointed with the PD observation that “we cannot increase the cap on administrative expenses and still be in compliance with Pub. Util. Code Section 280.5(b) . . . The Decision, itself, acknowledges the challenges of CBOs working with a low administrative expense allocation. OPENING</i> 	<p>This did not inform the decision.</p>
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	<p>COMMENTS ON PROPOSED DECISION, at p. 4.</p> <ul style="list-style-type: none">• <i>Also, as UCAN explains in its initial comments, it is critically important that affected communities be informed about and have a meaningful opportunity to comment on IOUs' and communications providers' post-disaster construction plans.</i> <p>PHASE I SUPPLEMENTAL REPLY COMMENTS, at p. 4.</p> <ul style="list-style-type: none">• <i>Along this line, shining light on information, data, costs, challenges and opportunities to deploy broadband infrastructure, while not formally adopted in the Decision, like other parties, UCAN supported the proposal that, if a post-disaster utility infrastructure rebuild involves undergrounding and the range of costs or the cost sharing arrangement differs from this Commission's Rule 20 formulas, the IOU must explain the reason for the difference.</i> <p>OPENING COMMENTS ON PROPOSED DECISION, at p. 3.</p> <ul style="list-style-type: none">• <i>Again, while acknowledging the unresolved regulatory field in front of the Commission, UCAN disagrees with the Decision's declination to require IOUs to install fiber. But, in a positive spirit, UCAN observes and endorses the language here that commits this proceeding, and other proceedings, to continue nonetheless to find ways to encourage IOUs to install fiber or conduit voluntarily.</i>	
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<p>The Phase I Decision considered and reflected UCAN’s contentions in its findings.</p> <ul style="list-style-type: none">• <i>We are not persuaded by arguments that leveraging IOU fiber to serve unserved communities somehow violates statute or is anticompetitive. Further, we will continue to explore options that include local and tribal governments.</i> D.21-10-020, at p. 12.• <i>We dismiss the extremely broad claims made by the large ILECs, cable providers and CTIA that this Commission does not have the authority to adopt these rules. . . . While there are specific actions state commissions cannot take, such as licensing spectrum, state commissions are not preempted from adopting these types of rules. Further, we are not persuaded by objections that community engagement and Advice Letter requirements will divert critical resources from the restoration efforts, as these claims are unsupported.</i> D.21-10-020, at p. 17.• <i>In general, most parties filing comments support the proposed criteria, though most also assert the Commission should broaden eligible grantees to beyond just rural, low-</i>	<p>COMMENTS ON PROPOSED DECISION, at p. 2.</p>	
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<p><i>income small school districts. Some parties also support increasing the limit on administrative expenses to more than the proposed five percent. Parties also propose other modifications. AARP, Joint ILECs, NDC, UCAN, CETF, CENIC, CWA, and CforAT all argue that urban schools also should benefit from the Digital Divide Account grant program, because students in urban areas are affected in pockets by the same broadband access problems as students in rural areas. D.21-10-020, at p. 17.</i></p> <ul style="list-style-type: none">• The first requirement we adopt is that, in the event of a disaster declared either by the Governor of California or the President of the United States, IOUs and facilities-based telecommunications service providers shall each file a Tier 1 Advice Letter within 15 business days from when they are allowed into an affected area to assess the damage to their facilities. D.21-10-020, at p. 18.• <i>Finally, we adopt a 10 percent cap on administrative expenses associated with this grant. As some parties note, Pub. Util. Code Section 280.5(b), which mandates</i>		
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<p><i>that "Not more than 5 percent of the revenues... be used to pay the costs incurred in connection with the administration of digital divide pilot projects..." appears to limit this Commission's administrative expenses, not the administrative expenses this Commission imposes on grantees. D.21-10-020, at p. 23.</i></p> <p><i>We also are not persuaded by arguments that existing post-disaster reporting requirements are sufficient. The Commission has received enough formal and informal complaints to suggest this is not the case. Comments in the record from several types of consumer groups further support this point. D.21-10-020, at p. 17.</i></p>		
<p>3. UCAN CONTRIBUTED TO D.22-04-055 ADOPTING FEDERAL FUNDING ACCOUNT RULES.</p> <p>The Phase II Decision (and including Appendix A, the Federal Funding Account Grant Program Rules) encompassed the development of rules governing the FFA, including whether the Commission should adopt the Staff Proposal for funding guidelines or refine it, as well as other topics: project eligibility, affordability, criteria for evaluating applications, allocating FFA funding between rural and urban counties, and reimbursing grantees. D.22-04-055, at p. 2.</p>		<p>Except for a few instances, the Commission did not rely on UCAN's presentations because of their unspecific nature or because they repeated other parties' presentations or the Commission's findings, without enriching them with distinctive substantive analysis. See the Commission's</p>

<p>A. <u>UCAN highlighted and suggested that urban areas also are underserved and faced barriers to adoption and deployment.</u></p>	<ul style="list-style-type: none"> • <i>The PD finding does not, however, adequately reflect these recommendations nor those of UCAN that the guidelines take into account and prioritize historically unserved or underserved communities. UCAN considers this an important criterion that should be incorporated explicitly in funding guidelines. OPENING COMMENTS ON PROPOSED DECISION, at p. 3.</i> • <i>Given its earlier comments, UCAN is concerned that the PD does not address its concern regarding the PD’s estimate of unserved households. . . . UCAN reiterates a concern that the PD does not address, but that UCAN raised in initial and reply comments regarding the apportionment of federal funds among counties. Specifically, it is extremely probable that the estimate of unserved households in California . . . greatly underestimates the actual number of unserved California households. OPENING COMMENTS ON PROPOSED DECISION, at pp. 4-5.</i> • <i>UCAN urges the Commission to keep the overall broadband deployment picture in mind. Specifically, UCAN reiterates points we made in an earlier phase of this proceeding that although San Diego is considered an urban county, there are parts of the county that are clearly not “urban” but instead are unserved, remote, and sparsely populated, including, among other areas, Tribal lands, and</i> 	<p>Discussion in Part III (D) [1]</p>
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<p>The Decision acknowledged that communities throughout California “face a multitude of barriers for the deployment of resilient and accessible broadband networks.” The CPUC also observes that in urban areas, high-speed internet access varies by neighborhood, and that rural areas often lack the infrastructure needed for “sufficient wireline and wireless broadband Internet access service.”</p> <ul style="list-style-type: none">• <i>Communities across California face a multitude of barriers for the deployment of resilient and accessible broadband networks. Broadband Internet access and service in urban communities varies by neighborhood. Rural areas of the state often lack the infrastructure for sufficient wireline and wireless broadband Internet access service. D.22-04-055, at p. 6.</i>• <i>The Commission adopts the Staff Proposal with clarifications of how priority areas are defined and identified. “Priority Area” means an area with a high density of unserved locations, analyzed on a county basis, that makes a substantial contribution to</i>	<p><i>areas lacking English proficiency. Also, as UCAN has previously demonstrated, even in urban areas, there are unserved neighborhoods.</i> COMMENTS OF THE UTILITY CONSUMERS’ ACTION NETWORK (UCAN) ON THE NOVEMBER 10, 2021 ADMINISTRATIVE LAW JUDGE’S EMAIL RULING REQUESTING COMMENTS ON THE PROPOSAL FOR THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at p. 4.</p>	
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<p><i>meeting the state's broadband deployment objectives, as identified by CD Staff. D.22-04-055, at p. 25.</i></p> <p>B. <u>UCAN contributed to the section of the Decision further determining the classification of State counties to apportionment funds.</u></p> <p>Consistent with UCAN's recommendations, an important</p>	<ul style="list-style-type: none">• <i>Resolving the thorny issue of classifying counties as either rural or urban should be informed by the principle of fairness and guided by the goal of deploying broadband infrastructure where it is most needed. . . . Accordingly, UCAN recommends that the Commission adopt the balanced approach summarized in Table 15 and Appendix D of TURN's comments, which is informed by multiple sources and factors, and TURN's well-considered analysis.</i> <p>REPLY COMMENTS ON THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at pp. 1, 5.</p> <ul style="list-style-type: none">• <i>UCAN concurred that the hybrid proposal described by TURN would be the most sound approach to classifying California's urban and rural counties. Accordingly, UCAN welcomes the PD's analysis and conclusion on this important</i>	<p>This did not substantially contribute to or inform the decision.</p>
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<p>part of this decision defines “rural” and “urban” for the purpose of apportioning the \$2 billion in available monies between rural and urban counties. The CPUC adopted “The TURN proposal” which UCAN heartily endorsed.</p> <ul style="list-style-type: none"> • <i>We adopt TURN’s proposal, as it is the most rigorous, and attempts to arrive at a consensus by relying on seven different approaches, instead of one. The TURN proposal appropriately balances the two most significant competing realities of broadband Internet infrastructure: rural areas typically have higher constructions costs -- due to more rugged terrain, poles with greater failure rates, and lower population density -- while urban areas have the highest number of unserved households. D.22-04-055, at p. 32.</i> • <i>UCAN support TURN’s proposal. D.22-04-055, at p. 32.</i> <p>C. <u>UCAN contributed to the Decision’s emphasis on data collection, digital equity publication and the importance of data collection to inform deployment decisions and efforts to advance digital equity in ESJ communities.</u> UCAN’s</p>	<p><i>issue. The PD carefully balances the merits and drawbacks of various options for apportioning federal monies among the state’s 58 counties and adopts TURN’s hybrid proposal. UCAN concurs fully with the PD’s explanation that TURN’s proposal “is the most rigorous, and attempts to arrive at a consensus by relying on seven different approaches, instead of one. OPENING COMMENTS ON PROPOSED DECISION, at pp. 4-5.</i></p>	
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<p><u>comments and suggestions helped frame and determine the Decision’s findings of Prioritization/Funding Criteria and Commission Evaluation of Applications.</u></p>	<ul style="list-style-type: none">• <i>UCAN supports the Commission of prioritizing investment in high-poverty areas as well as in communities of color. UCAN is also hopeful that the principles and methodologies that the Commission adopts in this phase of this proceeding will provide a solid foundation for the disbursement of future monies that will become available to California as a result of the recently enacted IIJA.</i> <p>COMMENTS OF THE UTILITY CONSUMERS’ ACTION NETWORK (UCAN) ON THE NOVEMBER 10, 2021 ADMINISTRATIVE LAW JUDGE’S EMAIL RULING REQUESTING COMMENTS ON THE PROPOSAL FOR THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at p. 6.</p> <ul style="list-style-type: none">• <i>UCAN strongly concurs with those supporting the awarding of additional ‘points’ to ESJ communities. UCAN commends the Commission for its comprehensive efforts to address the digital divide and to adopt policies and programs that help California achieve digital equity, and urges the Commission to incorporate these same efforts in its allocation of public monies for</i>	
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	<p><i>broadband deployment. Prioritizing ESJ communities that seek subsidized broadband deployment is an integral element of a coherent digital equity policy.</i> REPLY COMMENTS ON THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at pp. 7-8.</p> <ul style="list-style-type: none"> • <i>In conclusion, UCAN urges the Commission to not only look as the broadband ‘speedometer’ in a community in awarding public monies, but also to take into account other factors that bear on California’s progress in achieving digital equity.</i> REPLY COMMENTS ON THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at p. 9. • <i>UCAN supports recommendations that the Commission require grant recipients to submit data to facilitate monitoring about the program. UCAN concurs with this recommendation as well as other recommendations for data collection, analysis, and reporting.</i> REPLY COMMENTS ON THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at p. 9. • <i>In other words, the Commission should rely not only on the availability of broadband, but moreover, on criteria that affect the adoption of broadband service, and focus subsidies on areas with particularly low levels of adoption.” Consistent with</i> 	<p>This did not substantially contribute to or inform the decision.</p> <p>This did not substantially contribute to or inform the decision.</p>
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<p>This Decision is consistent with UCAN’s support for non-commercial operation of broadband networks as well as for affordable high-speed internet access. CPUC Staff is required to publish those areas that it considers to be priority areas (which will be a subset of the eligible unserved areas) on the CPUC website. Although the Decision does not cite UCAN, the Decision prioritizes applications that advance the goals of affordability and digital equity – two goals that UCAN has consistently emphasized in its many various comments throughout this proceeding.</p> <ul style="list-style-type: none"> • <i>Staff will publish priority areas that are coordinated with the Commission’s obligation to assist in preparing definitive plans for deploying necessary infrastructure in each county, including potential coordination across contiguous counties. . . . In addition, Communications Division will publish demographic and digital equity information and analysis about the priority areas such as the number of low-income households within each priority area, median household income, disadvantaged community</i> 	<p><i>Treasury guidelines, in identifying unserved areas, the first litmus test should be whether broadband service is available, and then consistent with achieving the goal of digital equity, the second criterion should be metrics that correspond with the probability of adoption.</i></p> <p>REPLY COMMENTS ON THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at p. 10.</p> <ul style="list-style-type: none"> • <i>In UCAN’s view, not only will non-commercial providers be more likely to set (and commit in the long-term) to affordable rates than would commercial providers, but they also are more likely to coordinate broadband deployment with community-based organizations, which, in turn, will be more likely to lead to successful broadband programs. This on-the-ground collaboration can lead to more successful broadband adoption. With local involvement, the deployment of tangible, physical infrastructure can dovetail with the intangible, but equally important, “deployment” of digital literacy programs and outreach regarding the availability of affordable rates.</i> <p>REPLY COMMENTS ON THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at p. 5.</p>	
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<p><i>status, and other measures of broadband need and digital equity. D.22-04-055, at Appendix A, at A-5, A-6.</i></p> <ul style="list-style-type: none"><i>• The Commission’s Decision enhanced the Treasury’s Final Rule, which addresses many aspects of affordability. And, the Decision, at Appendix A (the Final rules) required publication of equity information and also will consider, when scoring Projects, the demographic information of the disadvantaged communities served. The Decision: (1) encouraged municipal participation increased (relative to Staff’s proposal) the amount of points available for broadband networks operated by municipalities, Tribes, non-profits and cooperatives (and reduced the amount for priority projects identified by the Commission’s Communications Division) by 10 points; and (2) added two incentives for applicants to offer longer-term pricing commitments and affordable plans. D.22-04-055, at pp. 39-40.</i> <p>D. <u>UCAN’s recommendations, in terms of applicants participating in the ACP (or successor program),</u></p>		
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<p><u>participating in the federal Lifeline program or the California LifeLine program to be awarded 10 points, and other specific plan participation requirements, are embedded in the Decision.</u></p> <p>Although the Decision does not cite UCAN, these decisions are consistent with UCAN's advocacy.</p> <ul style="list-style-type: none">• <i>Among other things, the Commission decided to award applicants 20 additional points for offering a generally</i>	<ul style="list-style-type: none">• <i>UCAN supports a <u>requirement that grant recipients participate in the Emergency Broadband Benefit Program (and any successor program such as the Affordable Connectivity Program, which is part of the Infrastructure Investment and Jobs Act). The Commission could award additional points for applicants' participation in the California and federal Lifeline programs.</u> (Emphasis added.) REPLY</i>	
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<p><i>available low-cost broadband plan for the life of the infrastructure that includes certain minimum standards.</i></p> <p>D.22-04-055, at pp. 63-64.</p> <ul style="list-style-type: none">• <i>[F]inds that “a project cannot be considered a necessary investment in broadband infrastructure if it is not affordable to the population the project would serve,” and requires: 1) grantees to participate, for the life of the infrastructure, in the Federal Communications Commission’s (FCC) Affordable Connectivity Program (ACP), or otherwise provide access to a broad-based affordability program to low-income consumers in the proposed service area of the broadband infrastructure that provides benefits to households commensurate with those provided under the ACP; 2) that services include at least one low-cost option offered without data usage caps, and at speeds that are sufficient for a household with multiple users to simultaneously telework and engage in remote learning; and 3) that recipients report speed, pricing, and any data allowance information as</i>	<p>COMMENTS ON THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at p. 6.</p> <ul style="list-style-type: none">• <i>UCAN fully supports the groundswell of support, as espoused by numerous parties, for requirements that grant recipients conduct comprehensive outreach, marketing, and education in the served communities to ensure that consumers are aware of affordable and discounted broadband rates.</i> REPLY COMMENTS ON THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at p. 7.• <i>Fiber infrastructure is not only reliable but also has a long useful life. The need for affordable service will not expire. Therefore, UCAN opposes the proposal of some for a two-year limit on the term for affordable and discounted rates.</i> REPLY COMMENTS ON THE APPORTIONMENT OF THE FEDERAL FUNDING ACCOUNT GRANT PROGRAM, at p. 7.	
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<p><i>part of mandatory reporting to Treasury.</i> D.22-04-055, at pp. 63-64.</p>		
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor’s Assertion	CPUC Discussion
a. Was the Public Advocate’s Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: TURN, PCF, CforAT, CalPA, AARP California, National Diversity Coalition (NDC), The Greenlining Institute (GLI)		Verified
d. Intervenor’s claim of non-duplication: Although most if not all parties raised, reviewed or presented on similar issues and topics, UCAN avoided duplication by more narrowly focusing on matters that emphasized balanced approaches to community engagement and reporting requirements and greater flexibility to urban-rural allocations, that recommended any policies adopted should examine deployment, and adoption, at both a municipal-wide and neighborhood-level, and that advocated for the importance of data collection and analysis to inform policies to achieve digital equity.		As discussed in Part III (D) [1], UCAN duplicated and repeated other parties’ statements, without providing additional value.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
a. Intervenor’s claim of cost reasonableness: UCAN’s seeks an intervenor compensation award of \$125,158.56 as the reasonable cost of our participation in this proceeding. UCAN urges the Commission to find these costs reasonable in light of its substantial contribution to the record detailed in Part II (A) above as well as the importance of the issues that UCAN addressed for the protection of ratepayers. UCAN’s participation helped inform the Commission on pertinent issues and topics arising in Phase I and II Decisions. UCAN’s comments additionally supported and developed the records for this Decision. UCAN urges the Commission to	Noted. <i>See</i> Part III (D) [1] for the discussion of the claim’s reasonableness.

			CPUC Discussion															
find the costs of UCAN’s participation reasonable in light of all the related benefits to ratepayers.																		
<p>b. Reasonableness of hours claimed: In this proceeding, UCAN is claiming 165.25 total hours of attorney time, 170.75 hours of expert time, UCAN believes that 366 hours of substantive work is reasonable due to the multitude of issues covered in the Phase I and II Decisions (see Part II (A) above). UCAN participated in the numerous workshops and provided various comments that addressed and reviewed the diverse and specific issues and topics.</p>			Noted. <i>See</i> Part III (D) [1] for the discussion of the claim’s reasonableness.															
<p>c. Allocation of hours by issue:</p> <table border="1"> <thead> <tr> <th>Total Hours</th> <th>% of Hours per Issue</th> <th>Issue</th> </tr> </thead> <tbody> <tr> <td>8.45</td> <td>3%</td> <td>1. General Prep (GP)</td> </tr> <tr> <td>156</td> <td>49%</td> <td>2. Hearings, Workshops, and Conferences (HWC)</td> </tr> <tr> <td>151.25</td> <td>48%</td> <td>3. Filings (F)</td> </tr> <tr> <td>315.7</td> <td>100%</td> <td></td> </tr> </tbody> </table>			Total Hours	% of Hours per Issue	Issue	8.45	3%	1. General Prep (GP)	156	49%	2. Hearings, Workshops, and Conferences (HWC)	151.25	48%	3. Filings (F)	315.7	100%		Allocation of hours by issue is not reasonable. <i>See</i> Part III (D) [1] for the discussion on this matter.
Total Hours	% of Hours per Issue	Issue																
8.45	3%	1. General Prep (GP)																
156	49%	2. Hearings, Workshops, and Conferences (HWC)																
151.25	48%	3. Filings (F)																
315.7	100%																	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Edward Lopez	2020	36.75	\$335	D.21-08-016	\$12,311.25	12.87 [1]	\$335.00	\$4,311.45
Edward Lopez	2021	99.5	\$442	<i>See</i> Comment 1	\$43,979.00	24.74 [1]	\$440.00 [2]	\$10,885.60
Edward Lopez	2022	13.25	\$442	<i>See</i> Comment 1	\$5,856.50	4.56 [1]	\$455.00 [3]	\$2,074.80
Susan Baldwin	2020	15.25	\$215	<i>See</i> Comment 2	\$3,278.75	4.38 [1]	\$215.00 [4]	\$941.70
Susan Baldwin	2021	136.5	\$370.45	<i>See</i> Comment 3	\$50,566.43	109.50 [1]	\$370.00 [5]	\$40,515.00
Susan Baldwin	2022	11.25	\$370.45	<i>See</i> Comment 3	\$4,167.56	2.56	\$380.00	\$972.80

CLAIMED						CPUC AWARD		
						[1]	[6]	
Tim Howington	2020	0.5	\$200	See Comment 4	\$100.00	0.12 [1]	\$200.00 [7]	\$24.00
Tim Howington	2021	4.25	\$225	See Comment 5	\$956.25	1.06 [1]	\$225.00 [8]	\$238.50
Subtotal: \$121,215.74						Subtotal: \$59,963.85		
INTERVENOR COMPENSATION CLAIM PREPARATION**								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Edward Lopez	2020	1.75	\$166	½ the rate D.21-08-016	\$293.13	1.75	\$167.50 [9]	\$293.13
Edward Lopez	2022	14	\$221	½ rate Requested Rate	\$3,094.00	7.00 [1]	\$227.50 [10]	\$1,592.50
Susan Baldwin	2022	3	185.23	½ rate Requested Rate	\$555.69	1.50 [1]	\$190.00 [11]	\$285.00
Subtotal: \$3,942.82						Subtotal: \$2,170.63		
TOTAL REQUEST: \$125,158.56						TOTAL AWARD: \$62,134.48		
<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 ²	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation					
Edward Chris Lopez	December 20, 1991	157052	No					

² This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

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

Attachment or Comment #	Description/Comment
	<p>Certificate of Service Timesheet CV Susan Baldwin CV Tim Howington</p>
<p>Comment 1</p>	<p>UCAN requests a new rate for Mr. Edward Lopez based on Resolution ALJ-393 Adopting Intervenor Compensation Market Rate Study and Addressing Related Matters issued December 22, 2020. The Resolution directs intervenors to use the Hourly Rate Chart spreadsheet available on the Commissions ICOMP webpage to determine the appropriate hourly rate when completing claims for work performed on or after January 1, 2021. Consequently, Mr. Lopez needs to establish an appropriate rate for work performed after January 1, 2021. According to the labor roles and rates established by this resolution and found in the hourly rate chart, Mr. Lopez’s responsibilities are consistent with the title of a Level V Executive Director with 15+ years’ experience, an education level of Juris Doctorate, and a member of the State Bar of California.</p> <p>Mr. Lopez has 15+ years as a non-profit executive. For the past four years he has served as the Executive Director at UCAN. As Executive Director, his responsibilities include providing overall direction and guidance to UCAN’s non-profit mission, implementing special events, community outreach initiatives and fundraising activities, acts as UCAN’s spokesperson and represents the organization before public agencies and the public, assesses UCAN’s needs and objectives, ensures program objectives are met, draft, monitors and executes the organization’s budget, and initiates changes to maintain members satisfaction and engagement. And as Executive Director, he is responsible for budget issues and monitoring and managing revenue and expenses regarding staff hours and payments to experts. With the hiring of two additional attorneys for UCAN, staff now composes a total of five employees of which 4 positions are allocated to support the CPUC work.</p> <p>Additionally, Mr. Lopez graduated law school in 1991 and has 10+ years of legal experience. Mr. Lopez practices before the Commission on various UCAN proceedings. His increased involvement in UCAN’s proceedings including filing protests, utilizing discovery, directing the work of expert consultants and witnesses, submitting testimony, cross examining witnesses in hearings, writing briefs and submitting comments on Commission issues and proposed decisions.</p>

Attachment or Comment #	Description/Comment
	<p>As Executive Director, he works with UCAN’s Legal Director in overseeing the overall legal work of the organization including providing strategic direction on which proceedings the organization should choose to best protect the interests of San Diego Gas and Electric ratepayers. Mr. Lopez meets weekly with legal staff to coordinate case assignments and discuss complex legal issues and actions before the Commission.</p> <p>Mr. Lopez’s last approved rate for 2020 was as an attorney at \$335/hr. (D.21-08-016)</p> <p>Mr. Lopez’s non-profit background includes experience as an Executive Director of an educational foundation as well as the Executive Director for a community-based organization that provided financing for affordable housing as well as neighborhood economic development. For an environmental non-profit, he served as the principal author of a Master Plan for an Advanced Energy Community pursuant to a California Energy Commission grant. He has supervised staff between 3 to 7 employees.</p> <p>As an attorney, Mr. Lopez provided counsel and services to public agencies and non-profit organizations. Additionally, he served in positions with SDG&E and Cox Communications, as part of their local Government/Community Affairs departments.</p> <p>Due to Mr. Lopez’s education, experience and current responsibilities, UCAN is requesting a rate of \$442 which is the high level for an Executive Director Level V with 15+ years’ experience and an education level of Juris Doctorate.</p>
Comment 2	<p>UCAN requests a COLA increase for Ms. Susan Baldwin for her work done in 2020. Ms. Baldwin’s last approved rate was for 2016 as an expert at \$195/hour in the proceeding (D.17-04-009). Ms. Baldwin has been actively involved in public policy for forty-four years, which includes thirty-eight years in telecommunications policy and regulation, and thirteen years in energy policy and regulation. After calculating COLA increased for 2017-2020, UCAN is requesting Ms. Baldwin’s rate to be increased to \$215 her work done in 2020.</p>
Comment 3	<p>UCAN requests a new rate for Ms. Susan Baldwin based on Resolution ALJ-393 Adopting Intervenor Compensation Market Rate Study and Addressing Related Matters issued December 22, 2020 and the Hourly Rate Chart (Effective January 1, 2021.) The Resolution directs intervenors to use the Hourly Rate Chart spreadsheet available on the Commissions ICOMP webpage to determine the appropriate hourly rate when completing claims for work performed on or after January 1, 2021. Consequently, Ms.</p>

Attachment or Comment #	Description/Comment
	<p>Baldwin needs to establish an appropriate rate according to the labor roles and rates established by this resolution and found in the hourly rate chart.</p> <p>Susan M. Baldwin specializes in utility economics, regulation, and public policy, with a long-standing focus on telecommunications and with a more recent focus on consumer issues in electric and gas markets. Ms. Baldwin has been actively involved in public policy for forty-four years, which includes thirty-eight years in telecommunications policy and regulation, and thirteen years in energy policy and regulation. Since 2001, she has been consulting to public sector agencies, consumer advocates, and others as an independent consultant. Ms. Baldwin received her Master of Economics from Boston University, her Master of Public Policy from Harvard University’s Kennedy School of Government, and her Bachelor of Arts degree in Mathematics and English from Wellesley College. Ms. Baldwin has extensive experience both in government and in the private sector. Ms. Baldwin has testified before 24 public utility commissions in more than 75 state proceedings.</p> <p>Ms. Baldwin has also contributed to numerous comments and declarations submitted to the Federal Communications Commission in various proceedings on diverse issues including broadband policy (such as regarding data collection, mapping, deployment, universal service, affordability, consumer protection, and network management). Also, in many state regulatory proceedings that have examined carriers’ proposals for spin-offs and for mergers, she has recommended conditions concerning broadband deployment, affordability, and adoption.</p> <p>Ms. Baldwin worked with Economics and Technology, Inc. for twelve years (1984 to 1988 and 1992 to 2000), most recently as a Senior Vice President. Ms. Baldwin served four years (1988-1992) as the Director of the Telecommunications Division for the Massachusetts Department of Public Utilities (now the Department of Telecommunications & Cable), where she directed a staff of nine, and acted in a direct advisory capacity to the DPU Commissioners.</p> <p>Due to Ms. Baldwin’s education, experience and current responsibilities, UCAN is requesting a rate of \$370.45 which is the highest for an Expert Economist Level V with 15+ years of experience and an education of Masters degree.</p>
Comment 4	<p>UCAN requests a rate to be established for Mr. Timothy E. Howington for work done in 2020. Mr. Howington has over twenty years of experience in a variety of disciplines, including economic development, utility regulation, and geospatial modelling. Mr. Howington earned an M.S. in Geo-</p>

Attachment or Comment #	Description/Comment
	<p>Information Science from Salem State University, an M.A. in Economics from Boston University, and a B.A. in Near Eastern Languages and Civilizations from the University of Chicago. Mr. Howington has contributed to multiple telecommunication and energy regulatory proceedings since 2003. In ALJ Resolution 387 a rate for an expert with 13+ years ranges from \$190-\$465. With Mr. Howington’s experience, UCAN requests a rate of \$200.</p>
<p>Comment 5</p>	<p>UCAN requests a new rate for Mr. Timothy E. Howington based on Resolution ALJ-393 Adopting Intervenor Compensation Market Rate Study and Addressing Related Matters issued December 22, 2020 and the Hourly Rate Chart (Effective January 1, 2021.) The Resolution directs intervenors to use the Hourly Rate Chart spreadsheet available on the Commissions ICOMP webpage to determine the appropriate hourly rate when completing claims for work performed on or after January 1, 2021. Consequently, Mr. Howington needs to establish an appropriate rate according to the labor roles and rates established by this resolution and found in the hourly rate chart.</p> <p>Timothy E. Howington has over twenty years of experience in a variety of disciplines, including economic development, utility regulation, and geospatial modelling.</p> <p>Since 2003, Mr. Howington has contributed to numerous telecommunications and energy regulatory proceedings at the state and federal level addressing topics of concern to utility consumers, including market concentration and industry consolidation, broadband markets, differentials in product availability and service quality, and pricing.</p> <p>Mr. Howington earned an M.S. in Geo-Information Science from Salem State University, an M.A. in Economics from Boston University, and a B.A. in Near Eastern Languages and Civilizations from the University of Chicago.</p> <p>Mr. Howington’s responsibilities and contributions are consistent with those for an Expert Economist Level V with 15+ years of experience and an education of Masters degree. UCAN is requesting a rate of \$225.</p>

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason

[1]	<p>Analysis of UCAN’s claim of substantial Contributions</p> <p>Section 1802(j) defines substantial contribution, as follows:</p> <p>“Substantial contribution” means that, in the judgment of the commission, the customer’s presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contention, legal contention, or specific policy or procedural recommendations presented by the customer.</p> <p>Pursuant to § 1804(c), an intervenor must describe its substantial contribution to the decision. More specifically,</p> <p>The request for compensation shall identify each issue resolved by the Commission for which the intervenor claims compensation, and shall specify the pages, findings, conclusions and/or ordering paragraphs in the Commission decision which resolve the issue. (Rule 17.4(a) of the Commission Rules of Practice and Procedure.)</p> <p>Analysis of UCAN’s claim of substantial contribution presents challenges. According to UCAN, it contributed by actively intervening; informing, enriching, and developing the record; addressing “various and multiple issues and topics;” and providing relevant, “various and consistent” comments. UCAN states that by addressing critical issues it “aided and supported the development of a more complete record for the Decision.” All these are general statements that do not help identify a substantial contribution made by the intervenor.</p> <p>UCAN fails to support its pleadings with specific references to the record. For example, the claim makes no specific reference how UCAN made a substantial contribution in its opening brief of 02/01/21 and reply brief of 02/16/21, while requesting more than 40 hours preparing them. Similarly, the claim makes no specific references how UCAN made a substantial contribution in its comments filed on July 1, 2021, regarding Phase II-B, and July 26, 2021 reply comments, while claiming more than 60 hours preparing them. There are other examples of the same nature.</p> <p>UCAN lists the “critical issues,” as follows: infrastructure availability, post-disaster construction requirements, digital redlining/equity, community/tribal engagement, digital divide account, post-disaster requirements, staff proposal, digital redlining/data analysis, validity of studies, urban vs. rural, middle mile, FFA Rules. However, addressing issues constitutes substantial contribution only if the intervenor’s presentations contributed on these issues to the decision-making. Similarly, a summary of the intervenor’s views in the final decision, alone, does not demonstrate that the intervenor contributed so that the Commission relied on the intervenor’s presentations.</p>
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A review of the record reveals that most of UCAN's pleadings on the proceeding's issues were largely rhetorical and did not rise to the level required to make a substantial contribution, except for in the instances that we discuss below.

Substantial Contribution Findings Based on the Proceeding's Record.

1. Urban School's Needs. D.21-10-020 mentions UCAN, along with other commenters, on the issue of urban schools' inclusion in the Digital Divide Account grant program. We find that UCAN provided unique research related to the San Diego communities, in support of its position. Based on our review of the record, we find that UCAN's advocacy on behalf of the urban schools' needs contributed to the Commission's deliberations.

2. Increase of Administrative Expenses Cap. D.21-10-020 mentions UCAN with other parties supporting an increase by 8-15% of the administrative expenses cap. To the extent that the decision adopted a 10% cap which corresponded to UCAN's specific recommendation, we find that UCAN contributed to this matter.

3. Bringing Local Data to the Commission's Attention. We further find that UCAN deserves a credit for bringing to the Commission's attention certain socio-economic data and local concerns specific to San Diego's communities. To the extent that they were relevant to the issues of the proceeding, UCAN's data and analysis of the local facts enriched our deliberations leading to D.21-10-020.

4. Supporting TURN's Recommendation for Urban and Rural Designations. D.22-04-055 mentioned UCAN at p. 29 among the parties who supported using the federal Office of Management and Budget's method to define rural and urban designation, and as a supporter of TURN's urban and rural designations, which was adopted in the decision. We find that this analysis contributed.

The rest of UCAN's claimed contribution on the proceeding's issues is not supported by the record.

Analysis of UCAN's Allocation of Hours by Issue

Another challenge in assessing UCAN's claim is that UCAN was not able to correctly or clearly allocate hours to the proceeding's substantive issues, as §1804(c) and Rule 17.4(a) require. The original claim allocates hours by the procedural steps – hearings, workshops, and conferences (HWC) (49%); filings (F) (48); and “general preparation” (activities that were neither HWC nor F) (3%), rather than substantive issues.

UCAN's supplement to the claim, purported to allocate hours by the proceeding's substantive issues, again failed this task. Instead of allocating hours to the proceeding's issues, UCAN allocates the hours by each of the Commission-issued documents (Order Instituting Rulemaking, Scoping Memo and Ruling, Amended Scoping Memo and Ruling, Proposed Decision, etc.) and by issue in each document

to which UCAN filed comments. UCAN also includes the issue of Phase II-B, and allocates hours to this issue, as well. UCAN then includes issues in various rulings to which UCAN commented. In all, UCAN names sixteen such issues. The issues so formulated either overlap or are identical or unclear. This prevents any meaningful analysis of the reasonableness of the costs of the intervenor's claimed contributions. Therefore, we resolve to base our cost reasonableness assessment on UCAN's actual contributions.

Reasonableness Analysis.

Disallowances Based on the Lack of Substantial Contribution.

UCAN claims that spending 366 hours was reasonable due to the multitude of issues, and because it participated in numerous workshops and provided various comments. We correct these statements: the total of the substantive work adds up to 317.25 hours; there were no workshops; and the claim's reasonableness is assessed in connection with the substantial contributions and the costs required to make these contributions.

According to §1802(j), substantial contribution is determined based on whether the final decision adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Pursuant to § 1802(j), compensation is limited to reasonable costs incurred in preparing or presenting the contention or recommendation that contributed to the decision. Our assessment of reasonableness is based on this law.

As we have discussed, UCAN contributed to the urban school's participation in the pilot programs; an increase of the administrative expense cap to 10%; bringing local data to the Commission's attention; and supporting TURN's recommendation regarding the method of defining rural and urban designation. We note that UCAN's comments relevant to these issues are relatively short (for example, UCAN's discussion of TURN's recommendation occupies, approximately, two pages of the comments of 12/10/21 (see pp. 4-6); San Diego communities' data analysis takes, approximately, a page of the 09/03/21 comments at p. 4, while the rest of the comments are overly general and includes statements duplicative of the Commission's rulings, other parties' findings, and UCAN's statements).

UCAN did not contribute to the rest of the issues mentioned in the claim; however, the claim includes hours of participation on all of them. Based on the value of UCAN's contribution, we allow a portion of the hours reasonably required to make UCAN's contribution. UCAN spent the following hours preparing the pleadings:

2020. Edward Lopez spent approximately 18.25 hours preparing UCAN's pleadings, Susan Baldwin – 9.50 hours, and Tim Howington spent 0.50 hours.

<p><u>2021</u>. Edward Lopez spent approximately 77.00 hours preparing UCAN’s pleadings, Susan Baldwin – 31.50 hour, and Tim Howington – 4.25 hours.</p> <p><u>2022</u>. Edward Lopez spent approximately 8.75 hours preparing UCAN’s pleadings, and Susan Baldwin – 11.25 hours.</p> <p>Because UCAN’s effort is not commensurate with the contribution, we disallow 75% of the above hours. We note that the Commission has made significant reductions to the costs where no substantial contribution was found.³</p> <p>Non-Compensable Costs (administrative costs; unproductive and excessive efforts)⁴</p> <p><u>Non-compensable administrative tasks</u>: Edward Lopez (2020) – 0.75 hour spent on the letter of engagement with expert (10/14 and 10/20) are in the administrative costs category that are embedded in the professional hourly rates, and therefore non-compensable.</p> <p><u>Excessive communications between UCAN’s representatives</u>. We allow compensation for initial communications with the expert. However, spending hours coordinating is excessive and inefficient, and is disallowed, as follows:⁵</p> <p>Edward Lopez (2020) – 2.50 hours (time records entries of 10/21, 10/28; 11/05; and 11/25), (included in this entry is also a review of the Prehearing Conference (PHC) transcript, which is an inefficient use of time for someone who participated in the event).</p> <p>Edward Lopez (2021) – 12.51 hours (time records entries of 1/13, 1/14; 1/20; 2/12; 4/26; 5/28; 6/14; 6/23; 7/13; 7/23; 8/20; 9/2; 9/3; 9/27; 10/26; and 11/23).</p> <p>Eward Lopez (2022) – 1.0 hour (time record of 3/8).</p> <p>Susan Baldwin (2020) – 3.00 (time record of 11/10). (The time record reflects attending the PHC, in which Lopez participated, and discussing it with Lopez. The purpose of the PHC was to discuss the scope and schedule of the proceeding. Given UCAN’s participation in this proceeding, the presence of two representatives at the PHC, was unnecessary and unproductive.) Baldwin (2021) – 2.63 (time records of 1/14; 6/14; 7/13; and 11/25). Baldwin (2022) – 0.25 (time record of 3/8).</p>

³ See, for example, D.18-07-034.

⁴ Reductions reflected in this section are consistent with the Commission’s practices. See, for example, D.11-03-024, reducing UCAN’s hours for the excessive efforts.

⁵ Where the time records combined, inappropriately, multiple tasks, we have estimated the number of hours being disallowed.

	<p><u>Activities that did not contribute and were unnecessarily time-consuming.</u></p> <p>UCAN spent hours reviewing and reading parties’ reply comments (the final round of the comments), but this activity did not provide value to UCAN’s contributions. Therefore, we reduce, as unproductive, 75% of the hours spent reading parties’ reply comments, as follows:</p> <p>Edward Lopez (2020) – 9.25 hours (time records of 10/28, 10/29, 10/30, 11/02, 11/06 (this entry also includes a repeat reading of the OIR), 11/09, 05/18, and 05/19) reduced to 6.94.</p> <p>Edward Lopez (2021) – 6.0 hours (time records of 01/20, 03/05, and 07/27) reduced to 4.5.</p> <p>Edward Lopez (2022) – 1.50 (time record of 03/28) reduced to 1.13.</p> <p>Susan Baldwin (2020) – 1.00 (time records of 10/30) reduced to .75</p> <p>Susan Baldwin (2021) – 1.00 (time record of 05/18) reduced to .75.</p> <p><u>Excessive Time Preparing the Claim</u></p> <p>UCAN spent a total of 18.75 hours preparing the intervenor compensation claim. We have already mentioned excessive use of the general statements, a lack of supporting references to the Commission’s record, and an untenable allocation of hours by issue.</p> <p>Further, the time records inappropriately combine several tasks in a single entry.⁶ The records are also often unclear as to the activities undertaken – apparently, UCAN was counting on the Commission to determine what exactly an individual UCAN’s representative was doing and on what issue.⁷ Given the claim’s deficiencies, we reduce the claim preparation time by half, as follows: Lopez – 7.0 hours; Baldwin – 1.5 hours.</p>
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Item	Reason
[2]	Per D.22-08-021, Mr. Lopez’s established rate for 2021 is \$440.

⁶ See, for example, Edward Lopez’s timesheet entries of 11/25/20, 01/20/21, etc.; or Susan Baldwin’s timesheet of 07/13/21, etc.

⁷ See, for example, activities in the time records described as “Coordinate w Expert re and preliminary Scoping Memo,” “Discuss issues w/Expert,” “Call w Expert and preliminary Scoping Memo,” “Reply Comments,” “Planning call and data analysis,” etc.

Item	Reason
[3]	Per D.23-05-022, Mr. Lopez's established rate for 2022 is \$455
[4]	<p>The Commission requested supplemental documentation to confirm the rate charged by Ms. Baldwin.</p> <p>Pursuant to Commission policy, the rate requested by an intervenor must not exceed the rate billed to that intervenor by any outside consultant it hires, even if the consultant's billed rate is below the floor for a given experience level.⁸ Per the IComp Program Guide at 24, the Commission may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§ 1804(d)). UCAN has confirmed that Ms. Baldwin serves as a consultant for UCAN under contract on a contingency basis.</p> <p>We therefore adjust and utilize the reasonable rates by adopting \$215 rate for Ms. Baldwin for 2020 for work in this proceeding. New rate based on Ms. Baldwin's 2016 rate adjusted to reflect Resolution ALJ-345 (2.14% COLA for 2017), Resolution ALJ-352 (2.30% COLA for 2018), Resolution ALJ-357 (2.35% COLA for 2018), Resolution ALJ-2.35% COLA for 2019), and Resolution ALJ-387 (2.55% COLA for 2020).</p> <p>The award determined herein for the consultant's contribution in this proceeding shall be paid in full to the consultant, and no portion of this part of the award shall be kept by the intervenor.</p> <p>We reiterate that it is the responsibility of the intervenor to be forthcoming about engaging consultants and <i>the terms of the contract</i>, to adhere to the Commission's policy on compensation for consultant fees, and to provide the appropriate documentation with the <i>initial</i> claim to ensure efficient processing, and thus avoid the need for the Commission to request supplemental documentation. In this instance, UCAN did not provide all the documentation pertaining to the contract terms between UCAN and Ms. Baldwin in the initial claim and waited until the Commission requested supplemental documentation.</p>
[5]	<p>The Commission requested supplemental documentation to confirm the rate charged by Ms. Baldwin. The Commission has confirmed that Ms. Baldwin serves as a consultant for UCAN under contract on a contingency basis. We therefore adjust and utilize the reasonable rates established by Resolution ALJ-393 and adopt \$370 rate for Ms. Baldwin for 2021 for work in this proceeding in the high range for a level V Expert Economist with 15 plus years of experience. Ms. Baldwin specializes in utility economics, regulation, and public policy. She has been actively involved in public policy for forty-four years, which includes thirty-eight years in telecommunications policy and</p>

⁸ D.07-01-009, D.08-04-010, and ALJ Resolution ALJ 235.

Item	Reason
	regulation, and thirteen years in energy policy and regulation. Ms. Baldwin received her Master of Economics from Boston University, her Master of Public Policy from Harvard University's Kennedy School of Government, and her Bachelor of Arts degree in Mathematics and English from Wellesley College.
[6]	The Commission requested supplemental documentation to confirm the rate charged by Ms. Baldwin. The Commission has confirmed that Ms. Baldwin serves as a consultant for UCAN under contract on a contingency basis. We therefore adjust and utilize the reasonable rates established by Resolution ALJ-393 and adopt \$380 rate for Ms. Baldwin for 2022 based on Ms. Baldwin's 2021 rate adjusted to reflect Resolution ALJ-393 2022 escalation rate of 3.35%.
[7]	<p>The Commission requested supplemental documentation to confirm the rate charged by Howington. The Commission has confirmed that Howington serves as a consultant for UCAN under contract on a contingency basis.</p> <p>We therefore adjust and utilize the reasonable rates established by Resolution ALJ-393 and adopt \$200 rate for Mr. Howington for 2020 for work in this proceeding. New rate based on Resolution ALJ-387 for 2020 for an expert with 13 plus years of experience. Mr. Howington has over twenty years of experience in economic development, utility regulation, etc. Mr. Howington earned an M.S. in Geo-Information Science from Salem State University, an M.A. in Economics from Boston University, and a B.A. in Near Eastern Languages and Civilizations from the University of Chicago. Mr. Howington has contributed to multiple telecommunication and energy regulatory proceedings since 2003.</p> <p>The award determined herein for the consultant's contribution in this proceeding shall be paid in full to the consultant, and no portion of this part of the award shall be kept by the intervenor.</p> <p>We reiterate that it is the responsibility of the intervenor to be forthcoming about engaging consultants and <i>the terms of the contract</i>, to adhere to the Commission's policy on compensation for consultant fees, and to provide the appropriate documentation with the <i>initial</i> claim to ensure efficient processing, and thus avoid the need for the Commission to request supplemental documentation. In this instance, UCAN did not provide all the documentation pertaining to the contract terms between UCAN and Mr. Howington in the initial claim and waited until the Commission requested supplemental documentation.</p>
[8]	The Commission requested supplemental documentation to confirm the rate charged by Howington. The Commission has confirmed that Howington serves as a consultant for UCAN under contract on a contingency basis. We therefore

Item	Reason
	adjust and utilize the reasonable rates established by Resolution ALJ-393 and adopt \$225 rate for Howington for 2021 between the low and median range for a level V Expert Economist with 15 plus years of experience.
[9]	Adopted rate for Lopez in 2020 is \$335. \$167.50 will be used since claim preparation is compensated at ½ the preparers usual rate.
[10]	Adopted rate for Lopez in 2022 is \$455. \$227.50 will be used since claim preparation is compensated at ½ the preparers usual rate.
[11]	Adopted rate for Baldwin in 2022 is \$380. \$190 will be used since claim preparation is compensated at ½ the preparers usual rate.

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?	No
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B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?	No
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Party	Comment	CPUC Discussion
	No comments filed.	

FINDINGS OF FACT

1. Utility Consumers’ Action Network has made a substantial contribution to D.21-10-020 and D.22-04-055.
2. The requested hourly rates for Utility Consumers’ Action Network’s representatives as adjusted herein are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services, and/or reflect the actual rates billed to, and paid by the intervenor, for services rendered.
3. The claimed costs and expenses as adjusted herein are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$62,134.48.

CONCLUSION OF LAW

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

ORDER

1. Utility Consumers' Action Network is awarded \$62,134.48.
2. Within 30 days of the effective date of this decision, California Public Utilities Commission shall pay Utility Consumers' Action Network 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 4, 2022 the 75th day after the filing of Utility Consumers' Action Network's request, and continuing until full payment is made.
3. The comment period for today's decision is not waived.

This decision is effective today.

Dated January 16, 2025, at San Francisco, California.

ALICE REYNOLDS

President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

Commissioners

Commissioner Matthew Baker recused himself from this agenda item and was not part of the quorum in its consideration.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D2501022	Modifies Decision?	No
Contribution Decision(s):	D2110020, D2204055		
Proceeding(s):	R2009001		
Author:	ALJ Thomas J. Glegola		
Payer(s):	California Public Utilities Commission		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Utility Consumers' Action Network	June 21, 2022	\$125,158.56	\$62,134.48	N/A	See Part III.D CPUC Comments, Disallowances and Adjustments

Hourly Fee Information

First Name	Last Name	Attorney, Expert, Advocate, or Consultant	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Edward	Lopez	Executive Director	\$335	2020	\$335.00
Edward	Lopez	Executive Director	\$442	2021	\$440.00
Edward	Lopez	Executive Director	\$442	2022	\$455.00
Susan	Baldwin	Consultant/ Expert Economist Level V	\$215	2020	\$215.00
Susan	Baldwin	Consultant/ Expert Economist Level V	\$370.45	2021	\$370.00
Susan	Baldwin	Consultant/ Expert Economist Level V	\$370.45	2022	\$380.00
Tim	Howington	Consultant/ Expert Economist Level V	\$200	2020	\$200.00
Tim	Howington	Consultant/ Expert Economist Level V	\$225	2021	\$225.00

(END OF APPENDIX)