

Decision 07-05-017 May 3, 2007

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

Order Instituting Rulemaking to Examine the Commission's Future Energy Efficiency Policies, Administration and Programs.	Rulemaking 01-08-028 (Filed August 23, 2001)
Pacific Gas and Electric Company (U 39-E), for approval of the 2006-2008 Energy Efficiency Programs and Budget.	Application 05-06-004 (Filed June 1, 2005)
Southern California Gas Company (U 904-G), for approval of Natural Gas Energy Efficiency Programs and Budgets for Years 2006 through 2008.	Application 05-06-011 (Filed June 1, 2005)
Southern California Edison Company (U 38-E), for approval of its 2006-2008 Energy Efficiency Program Plans and Associated Public Goods Charge and Procurement Funding Requests.	Application 05-06-015 (Filed June 2, 2005)
San Diego Gas & Electric Company (U 902-E), for approval of Electric and Natural Gas Energy Efficiency Programs and Budgets for Years 2006 through 2008.	Application 05-06-016 (Filed June 2, 2005)

**OPINION GRANTING INTERVENOR COMPENSATION  
TO CENTER FOR SMALL BUSINESS AND THE ENVIRONMENT  
FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION  
(D.) 04-09-060, D.05-01-055, D.05-04-051 AND DENYING  
ITS PETITION TO MODIFY D.06-02-028**

This decision awards the Center for Small Business and the Environment (CSBE) \$29,085 in compensation for its substantial contributions to D.04-09-060,

D.05-01-055, and D.05-04-051. This represents a decrease of \$18,240 from the total amount requested. We deny CSBE's Petition to Modify D.06-04-028, related to the subject request.

**A. Background**

The subject rulemaking was the Commission's generic energy efficiency (EE) proceeding to examine future energy efficiency policies, administration and programs for the state's major regulated energy utilities: Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas).<sup>1</sup> In particular, the proceeding was designed to address: (1) the savings goals for post-2005 portfolio plans over a 10-year horizon; (2) the administrative structure for post-2005 energy efficiency activities; (3) evaluation, measurement and verification (EM&V) protocols for assessing the achievements of post-2005 energy efficiency; and (4) the policy rules to govern the selection, evaluation, and implementation of these activities. The Commission issued several decisions in various phases of the proceeding to address the above issues, including D.04-09-060 (adopted electric and natural gas savings goals by utility service territory by 2013), D.05-01-055 (addressed threshold issues for designing an administrative structure for energy efficiency programs beyond 2005), and D.05-04-051 (updated policy rules for post 2005 and addressed threshold issues for EM&V), and for which CSBE seeks intervenor compensation. No party opposed CSBE's request.

Rulemaking (R.) 06-04-010 closed R.01-08-028 and continued the Commission's post-2005 energy efficiency program oversight.

---

<sup>1</sup> Collectively "the utilities."

CSBE filed a Petition to Modify D.06-04-028, which awarded compensation to CSBE for substantial contribution to D.05-09-043 in A.05-06-004 *et al.* This petition is related to the compensation request in this proceeding and is discussed later in this decision.

**B. Requirements for Awards of Compensation**

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers. (Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.)

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (PHC), or in special circumstances at other appropriate times that we specify. (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor should file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g), 1804(b)(1).)
5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole

or in part, of the intervenor's contention or recommendations by a Commission order or decision. (§§ 1802(i), 1803(a).)

6. The claimed fees and costs are reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§ 1806), and productive (D.98-04-059).

For discussion here, the procedural issues in Items 1 through 4 above are combined, followed by separate discussions on Items 5 and 6.

### **C. Procedural Issues**

The first prehearing conference in this matter was held on September 10, 2001. A subsequent prehearing conference was held on January 23, 2004. CSBE filed its notice of intent (NOI) on October 21, 2004, long after the filing due date. In its NOI, CSBE asserted financial hardship.

Section 1802(b)(1) defines a "customer as: A) a participant representing consumers, customers or subscribers of a utility; B) a representative who has been authorized by a customer; or C) a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small business customers.

On November 12, 2004, Administrative Law Judge (ALJ) Gottstein ruled that CSBE is a customer pursuant to § 1802(b)(1)( B), meets the financial hardship condition, pursuant to § 1802(g), and timely filed its NOI. This was the first proceeding in which CSBE participated as an intervenor and, after a series of informal inquiries and requests, CSBE was not granted full party status in this lengthy proceeding until September 24, 2004. CSBE filed its NOI within 30 days of this date. For these reasons, ALJ Gottstein ruled that CSBE's NOI was timely filed. Because R.06-04-010 closed the subject proceeding, we regard that to be the final order in the proceeding and consider the issue date of that rulemaking here

for the purpose of determining the compensation request filing requirements. CSBE filed its request for compensation on June 16, 2006, within 60 days of R.06-04-010 being issued. In view of the above, we affirm the ALJ's ruling and find that CSBE has satisfied all the procedural requirements necessary to make its request for compensation in this proceeding.

### **1. Substantial Contribution**

In evaluating whether a customer made a substantial contribution to a proceeding we consider whether the ALJ or Commission adopted one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer. (See § 1802(i).) If the customer's contentions or recommendations paralleled those of another party, we consider whether the customer's participation materially supplemented, complemented, or contributed to the presentation of the other party or to the development of a fuller record. (See §§ 1801.3(f) and 1802.5.) As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.<sup>2</sup>

Should the Commission not adopt any of the customer's recommendations, compensation may be awarded if, in the judgment of the

Commission, the customer's participation substantially contributed to the decision or order. For example, if a customer provided a unique perspective that enriched the Commission's deliberations and the record, the Commission could find that the customer made a substantial contribution.

With this guidance in mind, we turn to the claimed contributions CSBE made to the proceeding. But first we provide a summary of CSBE's claim. CSBE's compensation request is in two parts. In the first part, CSBE states that it has made substantial contribution to this proceeding by joining the advisory committee to oversee EM&V activities for small business program and by providing proposals and comments to D.04-09-060, D.05-01-055, and D.05-04-051 regarding OBF and valuation measures for CFL values. In the second part, CSBE provides additional information in a narrative format on general work it performed on OBF and EM&V issues. Below is a discussion of each issue.

**a. On-Bill Financing (OBF)**

CSBE's provides information on specific activities and milestones that it believes led to the Commission's endorsement of the OBF concept in D.04-09-060 and its approval in utilities 2006-2008 portfolio plans. CSBE's activities include attending meetings with the utilities and the program advisory group (PAG) members to discuss utility proposals, providing background information to utilities for their OBF programs, research of OBF programs in other states, arranging meetings on OBF, responding to ALJ rulings soliciting post workshop comments, and providing comments to the ALJ draft decision. CSBE states that

---

<sup>2</sup> D.98-04-059, 79 CPUC2d, 628 at 653.

D.04-09-060 adopted its recommendation regarding OBF and directed program administrators to review OBF practices in other states.

CSBE also refers to D.05-04-051, and a related ALJ ruling dated April 19, 2005 that acknowledged CSBE's comments on an EM&V roadmap. CSBE claims the roadmap adopted its recommendation regarding future meetings with the utilities to discuss approaches for evaluation planning for programs such as OBF.

Although the information provided by CSBE in its compensation request is excessive and adds a degree of complexity and difficulty to the evaluation of its subject request, we agree that CSBE's participation significantly contributed to the Commission's overall understanding of OBF and the Commission's final determinations of OBF in D.04-09-060. Overall, the Commission benefited from CSBE's participation.

CSBE first raised OBF issues in March 2004 in response to workshop comments. CSBE investigated OBF programs in other states, continued to raise the OBF issues in this proceeding, and presented related background information to inform the Commission. CSBE also raised OBF issues during the Commission's consideration of energy efficiency savings goals and the development of D.04-09-060. The ALJ's draft decision required the utilities to propose OBF in their filings. CSBE filed comments and reply comments in support of OBF and addressed implementation issues. Although the Commission did not adopt CSBE's recommendation in its final decision, it did become aware of the OBF issues because of CSBE's effort and as a result required the utilities to further evaluate OBF in their filings by "looking to the practices

used in other states to resolve the ratemaking, cost allocation and consumer protection issues raised by the parties in this proceeding.”<sup>3</sup>

**b. EM&V – Valuation of Energy Savings Measures**

CSBE states that its participation in this proceeding has resulted in savings calculations in several areas. First, CSBE states that its recommendation on compact florescent lamp (CFL) was presented in the final Express Efficiency report, which CSBE claims is a crucial document for the Commission’s determination of the achievements of EE programs. CSBE notes that it participated in the Express Efficiency Advisory Committee pursuant to the ALJ ruling of July 29, 2004, and documents a series of activities including meetings with utilities and Energy Division staff that it claims led to utilities revising the CFL savings claims in their filings to a more conservative number. CSBE claims that it ceased participation in any EM&V Evaluation panel work in order to participate on the advisory committee.

Second, CSBE states that it contributed to D.04-09-060 regarding the adoption of savings goals being “net of free riders.”<sup>4</sup> CSBE claims that it discussed this issue along with a “net to gross calculation” in EM&V workshops, and in comments to the alternate draft decision on administration issues, to ensure that utilities do not improperly use the fund to offer rebates after the customers have installed energy measures without aid from the utility program.

---

<sup>3</sup> D.04-09-060, p. 34.

<sup>4</sup> Net of free riders refers to gross savings that are adjusted to count for free riders, i.e, those customers who would have installed the EE measure(s) even without the financial incentives offered under the EE program.

Third, CSBE claims it contributed to the proceeding by arguing in several workshops and filings, including pre-workshop comments, for the need for the ISO to be able to depend on energy efficiency and treat it as a resource for system reliability. CSBE points out that the Commission's Energy Action Plan (EAP) sets energy efficiency as the top priority in the loading order of resources.

Fourth, CSBE claims it contributed to D.05-01-05 and the Commission's determination regarding the need to have a separate entity responsible for evaluating program performance.

Finally, CSBE states that D.05-04-051 adopted its recommendation on rolling EM&V, which CSBE claims it had pointed out earlier, to ensure inaccurate savings projections are determined before any funds are spent on a specific technology. CSBE also notes that D.05-04-051 adopted its recommendation regarding solar water heaters as eligible energy efficiency measures.

With respect to contribution to EM&V issues, we find CSBE did make a substantial contribution to this proceeding only in the development of "net of free riders" and rolling EM&V issues. CSBE contributed to the development of EM&V by proposing to adopt a workable feedback process for evaluation of the energy efficiency programs and also by bringing to the Commission's attention the issue of free riders. Both of these issues were addressed in Commission decisions. D.04-09-060 clarified that the savings goals adopted for programs years through 2008 are net of free riders.

Gross savings count the energy savings from installed energy efficiency measures irrespective of whether or not those savings are from free riders, i.e., those customers who would have installed the measure(s) even without the financial incentives offered under the program. Gross savings are adjusted by a net-to-gross ratio to produce net savings, that is, to remove the savings associated with free riders. It is our understanding that

the savings modeled in the potentials studies are net of free riders in the near-term, .....

And D.05-04-051, on page 65 stated:

In addition, our EM&V efforts should be structured so that they can: 1) inform the program selection process, 2) provide early feedback to program implementers, 3) produce calculations of performance basis at the end of the funding period, and 4) feed back into the planning process for the next program cycle. ...

However, CSBE's claim regarding the energy efficiency being considered a resource for the ISO is not persuasive. CSBE made a brief comment on this issue in response to a workshop report. There is no reference to any other activities related to this specific issue in CSBE's claim. CSBE's limited work on this matter cannot be justified as a significant contribution to the proceeding. Also, CSBE's claim that it made a substantial contribution to the roadmap cannot be justified. CSBE's recommendation was nothing more than a scheduling recommendation. We do not view that as a significant contribution to the proceeding.

## **2. Contributions of Other Parties**

Section 1801.3(f) requires an intervenor to avoid unnecessary participation that duplicates that of similar interests otherwise adequately represented by another party, or unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation if their participation *materially supplements, complements, or contributes* to that of another party if that participation makes a substantial contribution to the commission order.

Regarding duplication, CSBE states that it was the only intervenor focused solely on representing the interest of over 1.1 million small business owners in California and as such had a unique role in the proceeding. CSBE argues that it was the sole and unique advocate for OBF. It argues that although other parties

also raised issues related to accurate savings measures, CSBE took all appropriate steps to ensure that its work was not duplicative, but served to complement and assist the works of other parties.

We agree that as the representative of small businesses, CSBE had a unique role in this proceeding. Although some of CSBE's comments were shared by other parties in the proceeding, we believe CSBE took reasonable steps to ensure its work was not duplicative.

**D. Reasonableness of Requested Compensation**

CSBE requests \$47,325.00 for its participation in this proceeding, as follows:

<b>Name</b>	<b>Type</b>	<b>Hourly Rate</b>	<b>Hours</b>	<b>Total</b>
Hank Ryan	Policy Expert	\$140	248.25	\$34,755.00
comp request & travel		70	44.50	3,105.00
	Efficiency Adder			9,465.00
<b>GRAND TOTAL</b>				<b>\$47,325.00</b>

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are discussed below:

**1. Hours and Costs Related to and Necessary for Substantial Contribution**

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

CSBE documented its claimed hours by presenting a breakdown of the hours on OBF and EM&V activities. All requested hours are for expert Hank Ryan. CSBE requested 13 hours at half the hourly rate for preparing its request for compensation.

**OBF:** Of the hours that CSBE has documented under OBF, only those hours spent on the development of OBF in D.04-09-060 are approved here for compensation. We deduct for hours that involve meetings with staff and decision makers from other state agencies or the Governor's office. We do not normally compensate such work and CSBE has failed to show how these activities contributed to the Commission's decision.

**EM&V:** As discussed above, we only approve hours related to work on certain EM&V issues. CSBE does not break down its work according to issue area, as required by D.85-08-012. We therefore cannot determine the exact number of hours dedicated to work on "net of free riders" or the rolling EM&V issues, which are the only EM&V issues for which CSBE is eligible to receive compensation here. Issue areas for which we do not provide compensation include:

- Hours spent on general EM&V related issues such as gaming concern, workbook assumptions, and utilities rebate practices. CSBE has not presented how participation in these activities contributed to Commission decisions.
- Hours for work related to San Francisco Peak Energy Program (SFPEP). This issue was not addressed in any of the Commission decisions for which CSBE requests compensation.
- All hours claimed for work related to the 2003 Express Efficiency Report and attending the EM&V Express Efficiency Review Committee, as discussed in Section 4 below.

- Express Efficiency Review Committee. As part of CSBE's contribution to D.05-09-043, D.06-04-028 authorized compensation for pre filing hours on EM&V related to CFL issues.

Appendix B shows the total EM&V and OBF hours that we approve in this decision.

## **2. Market Rate Standard**

We next consider whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.

CSBE seeks an hourly rate of \$140 for Ryan's work in 2004 and 2005. We previously approved this same rate for Ryan in D.06-04-028, and adopt it here.

CSBE also seeks a 25% multiplier for Ryan's time stating that he acted as both advocate and expert witness. CSBE claims other intervenors fulfilling both of these roles simultaneously have been awarded a 25% adder.

In the past, the Commission has authorized two different types of multipliers; an "efficiency adder" or a "fee enhancement." Both result in increased awards by multiplying the authorized hourly rate by the authorized adder or enhancement. An "efficiency adder" has been approved where a customer's participation involved skills or duties far beyond those normally required. An example is an attorney who develops and sponsors necessary technical testimony, performing the dual roles of counsel and expert not only with a very high degree of professionalism but also at a lower total cost than the hourly fee of the two individuals. A "fee enhancement" has been approved where the Commission determined the intervenor had achieved exceptional results.

We decline to adopt the requested efficiency adder here for CSBE, because we find the request is unsupported by the record in this proceeding. The

Commission has set high standards for applying multipliers to attorney fees. In this case, Ryan did not perform work that required skills or duties beyond those normally required in Commission proceedings. The issues that CSBE raised were not particularly difficult or complex. In addition, CSBE was not the only party that raised certain issues in this proceeding. CSBE's work was not particularly exceptional and the hourly rate awarded reflects appropriate compensation for the work performed. No additional adjustment is warranted.

### **3. Productivity**

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request.

In its request, CSBE describes how its effort in bringing attention to correct valuation of energy savings provided benefits to ratepayers and saved small business owners over an estimated \$540 million in 2004 and 2005 programs. CSBE states that it demonstrated that inaccurate CFL valuations had resulted in approximately \$180 million of lost savings to California small businesses in 2003. CSBE states that identifying this issue helped improve the accuracy of energy savings calculations and saved the small businesses from accruing similar losses in future years. Although we do not know for certain the dollar impact of CSBE's participation, we agree that its participation was productive.

### **4. Direct Expenses**

The itemized direct expenses submitted by CSBE include costs for travel and total \$1,260. Consistent with our previous determination that CSBE should not be compensated for meetings with staff or decisionmakers in other state

agencies, we disallow costs for travel for such meetings. With that adjustment, the remaining travel expenses are reasonable.

As set forth in the table below, we award CSBE \$29,085.

<b>Policy Expert Hank Ryan</b>	<b>Hourly Rate</b>	<b>Hours</b>	<b>Total</b>
OBF	\$140	25.25	\$3,535
OBF travel	\$70	9.5	\$665
EM&V	\$140	160.5	\$22,470
EM&V travel	\$70	21.5	\$1,505
Comp request	\$70	13	\$910
<b>GRAND TOTAL</b>		229.75	<b>\$29,085</b>

Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on August 30, 2006, the 75th day after CSBE filed its compensation request, and continuing until full payment of the award is made.

We direct PG&E, SCE, SoCalGas, and SDG&E, as the affected utilities, to allocate payment responsibility among themselves based upon their California-jurisdictional gas and electric revenues for the 2004 calendar year, to reflect the year in which the majority of the work was performed.

We remind CSBE that Commission staff may audit its records related to the award and that CSBE must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. CSBE's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

**E. CSBE Petition to Modify D.06-04-028**

On June 16, 2006, CSBE filed a Petition to Modify D.06-04-028.<sup>5</sup> The petition requests CSBE be allowed to file a separate compensation request in R.01-08-028 for earlier work that was denied in D.06-04-028. CSBE claims D.06-04-028 denied compensation for certain hours considered to be related to R.01-08-028, rather than A.05-06-004 *et al.* A05-06-004 *et al.* are the applications initiated by the utility proposals for their specific 2006-2008 EE portfolio and funding levels.

CSBE also requests modification to D.06-04-028 regarding the hours worked on the EM&V Advisory Panel or committee for Express Efficiency that were denied in D.06-04-028. CSBE states that D.06-04-028 denied those hours because the Commission viewed participation in that committee and related work to be voluntary.

**1. Discussion – Petition to Modify**

D.06-04-028 awarded CSBE compensation for its substantial contributions to Commission decisions in A.05-06-004 *et al.* and for some of the work it performed in R.01-08-028 leading up to those decisions, before A.05-06-004 was filed. However, the decision denied compensation for some of the requested hours because the Commission found that those hours should have been requested in this compensation request, that is, as work contributing to Commission decisions in R.01-08-028.<sup>6</sup> Since today's decision addresses CSBE's requested compensation for these and other hours related to Commission

---

<sup>5</sup> CSBE filed its petition to modify D.06-04-028 in this proceeding instead of A.05-06-004.

<sup>6</sup> See discussion on p. 15 of D.06-04-028.

decisions in R.01-08-028, this aspect of CSBE's Petition to Modify D.06-04-028 has become moot.

However, CSBE also petitions the Commission to reconsider the denial of compensation for its participation in the EM&V Express Efficiency, which we denied in D.06-04-028. To support its request for reconsideration of this aspect of D.06-04-028, CSBE provided a copy of an e-mail correspondence with the ALJ seeking advice on compensation relating to work on a review committee. CSBE states that based on this email exchange, it had assumed it would be compensated for the hours worked on the committee. The referenced e-mail does not refer to the EM&V Express Efficiency review committee. Rather, the e-mail refers to a review panel for SFPEP. Furthermore, in response to CSBE's e-mail, the ALJ instructed CSBE to seek further advice on participation. Nothing in the e-mail suggested CSBE's work on the EM&V Express Efficiency review committee would be compensated.<sup>7</sup> In fact, the Commission has never established that participation in the EM&V review of previous program years such as 2003, would be compensable under the intervenor compensation statute. Rather, the Commission expected that EM&V review committees would be formed as needed to provide periodic review at "very little or no cost" to ratepayers. The Commission never intended that work to be considered for intervenor compensation.<sup>8</sup>

---

<sup>7</sup> We note that during the review of CSBE's NOI, CSBE received assistance from our Public Advisor's Office and the assigned ALJ regarding intervenor compensation procedures, and was advised to familiarize itself with those procedures for future intervenor compensation filings.

<sup>8</sup> See discussion on p. 117 of D.05-01-055.

For the reasons above, we reaffirm our determinations in D.06-04-028 and deny CSBE's Petition to Modify.

#### **F. Waiver of Comment Period**

This is an intervenor compensation matter. Accordingly, as provided by Rule 14.6(c)(6) of the Commission's Rules of Practice and Procedure, we waive the otherwise applicable 30-day public review and comment period for this decision.

#### **G. Assignment of Proceeding**

Michael R. Peevey is the assigned Commissioner and Meg Gottstein is the assigned ALJ in this proceeding.

#### **Findings of Fact**

1. CSBE has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
2. CSBE requests compensation for hours related to R.01-08-028 previously denied in D.06-04-028.
3. CSBE made a substantial contribution to D.04-09-060, D.05-01-055, and D.05-04-051 as described herein.
4. CSBE has requested hourly rates and related expenses for its representative that, as adjusted herein, are reasonable when compared to the market rates for persons with similar training and experience.
5. The total of the reasonable compensation is \$29,085.
6. Contrary to CSBE's assertions, there were no representations made to CSBE that hours served on the EM&V Express Efficiency review committee would be compensable.

7. Today's decision addresses compensation to CSBE for its contribution to R.01-08-028 that were not addressed in D.06-04-028, thereby rendering moot the portion of CSBE's Petition to Modify related to those hours.

8. Appendix A to this opinion summarizes today's award.

### **Conclusions of Law**

1. CSBE has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed compensation, as adjusted herein, incurred in making substantial contributions to D.04-09-060, D.05-04-051, and D.05-04-051.

2. CSBE's Petition to Modify D.06-04-028 should be denied.

3. CSBE should be awarded \$29,085 for its contribution to D.04-09-060, D.05-01-055, and D.05-04-051.

4. Pursuant to Rule 14.6(c)(6), the comment period for this compensation decision may be waived.

5. This order should be effective today so that CSBE may be compensated without further delay.

## **O R D E R**

### **IT IS ORDERED** that:

1. The Center for Small Business and the Environment (CSBE) is awarded \$29,085 as compensation for its substantial contributions to Decisions (D.) 04-09-060, 05-01-055, and 05-04-051.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company shall pay their respective shares of the award. Each utility's share shall be calculated based on their

California-jurisdictional gas and electric revenues for the 2004 calendar year, to reflect the year in which the majority of the work was performed. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning August 30, 2006, the 75<sup>th</sup> day after CSBE filed its request for compensation, and continuing until full payment is made.

3. The Petition to Modify D.06-04-028 filed by CSBE is denied.
4. The comment period for today's decision is waived.

This order is effective today.

Dated May 3, 2007, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
TIMOTHY ALAN SIMON  
Commissioners

**APPENDIX A**

**Compensation Decision Summary Information**

<b>Compensation Decision:</b>	D0705017	<b>Modifies Decision?</b>
<b>Contribution Decision(s):</b>	D0409060, D0501055, D0504051	
<b>Proceeding(s):</b>	R0108028, A0506004 et al.	
<b>Author:</b>	ALJ Gottstein	
<b>Payer(s):</b>	Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
Center for Small Business and The Environment	June 16, 2006	\$47,325.00	\$29,085.00	Denied.	Work and communication with other agencies not compensable, failure to justify multiplier.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Hank	Ryan	Expert Witness	Center for Small Businesses and the Environment	\$140	2004-05	\$140

**(END OF APPENDIX A)**

## APPENDIX B

Date	Type	Pol. Issue	H. Ryan Activity R.01.08.028	Hours	Rate	Amount
3/3-5/2004	Draft Filings	EMV	Research, draft and review Post Workshop Comments	18.50	\$140.00	2,590.00
3/5/04	email	OBF	Setting up 4/7 Esource Teleconference with Clay Fong	0.25	\$140.00	35.00
3/8/04	email	OBF	Teleconference logistics discussion with Dennis O'Connor of UI	0.25	\$140.00	35.00
3/10/04	email	OBF	Organization of Energy Star award for UI OBF program	0.25	\$140.00	35.00
3/17/04	meeting /emails	EMV	Arrangement and meeting with David Gamson at CPUC to ask for advice regarding CFL situation	1.50	\$140.00	210.00
3/17/04	travel	EMV	SC to CPUC / return	3.00	\$70.00	210.00
3/17+18//04	meeting	EMV	CPUC Workshop	7.00	\$140.00	980.00
3/18/04	travel	EMV	SC to CPUC/return	3.00	\$70.00	210.00
3/23-25/04	Draft Filings	EMV	Research, draft and review Motion Seeking Information and Permission	17.50	\$140.00	2,450.00
4/2/04	CPUC Workshop	EMV	EMV workshop	1.50	\$140.00	210.00
4/9/04	review filings	EMV	Comment of PG&E on CSBE Motion	1.00	\$140.00	140.00
4/15/04	phone/emails	OBF	Fielding of inquiry from Peggy McGuire of SDG&E to Esource OBF teleconference	0.50	\$140.00	70.00
4/17/04	meeting	EMV	CPUC Workshop	7.00	\$140.00	980.00
4/17/04	travel	EMV	SC-CPUC/return	3.00	\$70.00	210.00
4/22/04	OBF development	OBF	Phone calls/emails to Joel Gordes /Jack Betkowski DPUC Comm	1.75	\$140.00	245.00
4/23/04	OBF development	OBF	Meetings at UI	2.00	\$140.00	280.00
4/28/04	emails/calls	EMV	Communication with Carol Harty of PG&E re: CFLs & OBF	0.25	\$140.00	35.00
5/4/05	emails/calls	OBF	research on exact OBF incentive levels with UI / Dennis O'Connor	0.25	\$140.00	35.00
5/4/04	emails/calls	EMV	Communication with ALJ Malcolm on pending decision on Motion (timing)	0.25	\$140.00	35.00
5/17/04	emails/calls	EMV	communication with Eli Kollman re: CFL study and his analysis	0.50	\$140.00	70.00
5/17/04	presentation development	OBF	work on program design template for OBF Pilot for CA IOUs	0.50	\$140.00	70.00
5/19/04	travel	OBF	To Berkeley from SC / return	3.00	\$70.00	210.00
5/20/04	emails/calls	EMV	communication with ALJ Malcolm re: confusion on ruling	0.25	\$140.00	35.00

R.01-08-028, A.05-06-004 et al. ALJ/MEG/eap

6/7/04	emails/calls	OBF	communication from J Clinton re: suggestion to ask Art to talk to Commissioners about OBF for pending ruling	0.50	\$140.00	70.00
6/7/04	Draft Filings	EMV	Research, draft and review Comments on Workshop Report on EM&V	12.50	\$140.00	1,750.00
6/13/04	email/phone	OBF	Coordination of Nov Esource summit with C. Rahaim of NatGrid and D. O'Connor of UI	0.50	\$140.00	70.00
6/13/04	email/phone	OBF	assembling avg lighting installations size for OBF comparison (1200vs7800)	0.25	\$140.00	35.00
6/13/04	email/phone	OBF	note from H. Anderson re: req for info from SCE on OBF	0.25	\$140.00	35.00
6/21/04	email/phone	OBF	request to E. Boardmen for AESP teleconference on OBF	0.25	\$140.00	35.00
6/22/04	email/phone	OBF	communication from R. Rosa to AESP noting CSBE work making OBF a "hot topic" and supporting AESP seminar	0.25	\$140.00	35.00
6/20-23/04	emails/phone	OBF	provision of OBF savings documentation from Nat. Grid	0.25	\$140.00	35.00
6/25/04	emails/phone	OBF	communication from AESP finalizing seminar	0.25	\$140.00	35.00
7/6/04	review filings	EMV	ALJ ruling on CSBE Motion	1.00	\$140.00	140.00
7/7/04	email/phone	EMV	communication w E. Kollman re: EM&V panel participation/filings	0.25	\$140.00	35.00
7/8/04	research/review	EMV OBF	<b>ALJ DRAFT DECISION</b>	2.00	\$140.00	280.00
7/13/04	Draft Filings	EMV	Research, draft and review Comments on ALJ Ruling Soliciting Pre-Workshop Comments	15.00	\$140.00	2,100.00
7/14/04	CPUC workshops	EMV	EM&V workshop	4.00	\$140.00	560.00
7/14/04	emails/phone	OBF	collaboration w S. Hall to set up AESP seminar PP on OBF	1.00	\$140.00	140.00
7/15/04	emails/phone	EMV	Request from J. Cavalli of Quantum to meet (with B. Mayo), and get started	0.25	\$140.00	35.00
7/20/04	Draft Filings	EMV OBF	Research, draft and review Comments on ALJ Draft Decision	16.00	\$140.00	2,240.00
7/20/04	emails/phone	OBF	Note from C. Rahaim of Nat Grid re: OBF software availability	0.25	\$140.00	35.00
7/21/04	Draft Filings	EMV OBF	Research, draft and review Reply Comments on ALJ 080404 Draft Ruling	17.00	\$140.00	2,380.00
7/27/04	email/phone	OBF	TURN suggesting an OBF workshop - CSBE does not agree	0.50	\$140.00	70.00
7/27/04	emails/phone	EMV	ALJ Malcolm notes and accepts CSBE Petition to Intervene	0.25	\$140.00	35.00

R.01-08-028, A.05-06-004 et al. ALJ/MEG/eap

7/29/04	review filings	EMV	CSBE petition to intervene	1.75	\$140.00	245.00
8/2/04	meeting	OBF	With B. Miller of PG&E re: OBF	1.00	\$140.00	140.00
8/3/04	travel to meeting	OBF	SC to CPUC / return (meeting held in caf	3.00	\$70.00	210.00
8/3/04	emails/phone	OBF	PG&E response to OBF meeting with next steps of PG&E onsite presentation - S. Isaacson	0.50	\$140.00	70.00
8/1-3/04	emails/phone	EMV	A. Merlino explains timing and admin issues	0.25	\$140.00	35.00
8/4/04	emails/phone	OBF	prepare requests for meeting on OBF with Comm Lynch, Wood and Peavey	1.25	\$140.00	175.00
8/5/04	emails/phone	EMV OBF	invitation to meet Julie Fitch re: OBF	0.25	\$140.00	35.00
8/9/05	emails/phone	OBF	Esource prep for Summit on OBF	0.50	\$140.00	70.00
8/11/04	emails/phone	OBF	PG&E invitation to present on OBF to managers at 245 Market	0.25	\$140.00	35.00
8/13/04	research/review	EMV	<b>D0409060</b>	2.00	\$140.00	280.00
8/16/04	meeting	EMV	Julie Fitch at CPUC re: OBF/CFL savings	0.75	\$140.00	105.00
8/18/04	travel	EMV	SC to CPUC/return	3.00	\$70.00	210.00
8/19/04	emails/phone	OBF	B. Miller from PG&E asking for meeting date change due to mix-up	0.25	\$140.00	35.00
8/19/05	emails/phone	OBF	exchange of emails with G. Rodrigues re: OBF details	0.75	\$140.00	105.00
8/14-16/04	meeting	OBF	Presentation of OBF to PG&E staff - 14 staff and management present	2.00	\$140.00	280.00
8/20/04	travel	OBF	SC to PG&E / return	3.50	\$70.00	245.00
8/23/04	emails/phone	OBF	follow up communication with B. Miller of PG&E following presentation	0.50	\$140.00	70.00
8/24/04	emails/phone	OBF	Esource final prep for Summit on OBF with Nat Grid, UI	0.50	\$140.00	70.00
8/26-30/04	review filings	EMV	CSBE NOI	0.75	\$140.00	105.00
8/26/04	meeting	OBF	B. Prusnek re: OBF meeting with IOUs - he offers to help by hosting	0.25	\$140.00	35.00
8/27/04	phone/emails	OBF	comments and suggestions from D. O'Connor on OBF meeting at CPUC - comparison of CL&P vs. UI defaults and why.	0.50	\$140.00	70.00
8/28/04	phone/emails	OBF	exchange w B. Prusnek scheduling	0.25	\$140.00	35.00
8/31/04	phone/emails	EMV	Docket office exchanges re: NOI	0.25	\$140.00	35.00
9/1/04	phone emails	EMV	B. Mayo - sent draft of Express 2003	0.25	\$140.00	35.00
9/1/04	phone/emails	EMV	exchange w B. Mayo re: panel members and communication protocols	0.50	\$140.00	70.00
9/2/04	phone/emails	EMV	exchange w A. Merino re: participation	0.25	\$140.00	35.00
9/2/04	emails/phone	OBF	exchange w B. Prusnek final meeting arrangements and agenda	0.50	\$140.00	70.00

R.01-08-028, A.05-06-004 et al. ALJ/MEG/eap

9/3/04	emails/phone	EMV	exchange w B. Mayo re: CFL hours of operation study	0.25	\$140.00	35.00
9/3/04	presentation development	OBF	Esource Summit - OBF presentation - attended by SDG&E and PG&E - D. Larson, EPA - J. Lawson, others	2.00	\$140.00	280.00
9/7/04	review ruling	EMV	ALJ Ruling on CSBE NOI	0.50	\$140.00	70.00
9/9/04	travel	EMV	auto to Meeting with ED/IOUs	3.00	\$70.00	210.00
9/10/04	meeting	OBF	Meeting at CPUC with IOUs and ED, UI on the phone	2.00	\$140.00	280.00
9/16/04	emails/phone	OBF	follow up exchanges to IOUs after CPUC OBF meeting - begin arrangements for IOU fact finding visit to UI in CT	0.50	\$140.00	70.00
9/17/04	phone/emails	OBF	exchanges / response of UI, EPA to SDG&E concerns	0.50	\$140.00	70.00
9/20/04	phone/emails	OBF	Exchange w G. Rodrigues re: UI contact info	0.25	\$140.00	35.00
9/22/04	phone/emails	EMV	exchange w M. Cooke re: intervenor roles and parameters	0.25	\$140.00	35.00
9/22/04	phone/emails	EMV	exchange re: B. Mayo Express draft comments		\$140.00	0.00
9/23/04	phone/emails	OBF	D. O'connor at UI comments on OBF payment routine queries by SDG&E	0.50	\$140.00	70.00
9/23/04	phone/emails	OBF	G. Rodrigues note: re confirmation of early 2005 trip to UI in CT	0.25	\$140.00	35.00
9/27/04	emails/phone	EMV	Exch w. P. Banwell at EPA re CFL op hours/EUL values suggested		\$140.00	0.00
9/27/04	emails/phone	EMV	exch w. A. Merlino re: CFL savings values affecting 2006-08 goals	0.25	\$140.00	35.00
9/27/04	emails/phone	EMV	Clarification from A. Merlino re: PAC	0.25	\$140.00	35.00
9/28/04	review documents	EMV	final draft of 2003 Express eval	1.00	\$140.00	140.00
9/30/04	emails/phone	EMV	exch w B. Mayo re: scope of Eval - draft turnaround time issues	0.25	\$140.00	35.00
10/1/04	research/review	EMV	ACR Ruling	2.00	\$140.00	280.00
10/1/04	emails/phone		confirmation of UI/CT travel date from G. Rodrigues with queries about how "translating the UI approach and program experience to CA" / response from R. Rosa of UI	0.50	\$140.00	70.00
10/4/04	research/review	EMV	DD – admin	2.00	\$140.00	280.00
10/4/04	research/review	EMV	ACR Ruling	2.00	\$140.00	280.00
10/5/04	research/review	EMV	ALJ Ruling	1.50	\$140.00	210.00
10/6/04	emails/phone	OBF	exch w. Z. Conway/J. Clinton re : Govs support for OBF in GBI doc	0.25	\$140.00	35.00

R.01-08-028, A.05-06-004 et al. ALJ/MEG/eap

10/6/04	meeting	EMV	At ORA with D. Appling and C. Tam re: CFL and OBF issues (provided basis for Tam comments on SCE Summer program)	1.50	\$140.00	210.00
10/18/04	travel	EMV	SC to CPUC / return	3.00	\$70.00	210.00
10/19/04	research/review	EMV	AD Comm Brown – Admin	1.00	\$140.00	140.00
10/21/04	research/review	EMV	Final SFPEP plan		\$140.00	0.00
10/21/04	emails/phone	EMV	Req from A. Merlino re: where # of hours and per units saving are reflected	0.50	\$140.00	70.00
10/21/04	Draft Filing	EMV	Research, draft and review Comments on Interim Opinion Admin Structure	2.50	\$140.00	350.00
10/22/04	research/review	EMV	Review CFL datalogger study	2.00	\$140.00	280.00
10/27/04	research/review	EMV	<b>D0501055</b>	1.50	\$140.00	210.00
10/27/04	emails/phone	EMV	D. Gamson response to note praising A. Merlino on CFL report	0.25	\$140.00	35.00
10/28/04	emails/phone	EMV	B. Mayo final schedule for Exp. Mtg	0.25	\$140.00	35.00
11/2/04	travel	EMV	SC to PG&E / return	3.50	\$70.00	245.00
11/2/04	emails/phone	EMV	J. Cavalli responds to Comments / review comments	0.75	\$140.00	105.00
11/2/04	emails/phone	EMV	A. Merlino resp to Cavalli/IOUs	0.25	\$140.00	35.00
11/2/04	emails/phone	EMV	G. Rodrigues setting up phone conf	0.25	\$140.00	35.00
11/3/04	emails/phone	EMV	A. Besa/R. Risser phone conf cnfrm	0.25	\$140.00	35.00
11/5/04	emails/phone	EMV	A. Merlino resp to Cavalli comments asking IOUs to agree or why not?	0.25	\$140.00	35.00
11/4/04	emails/phone	EMV	Resp from D. Aramula to req to cut CFL EULs in summer program from 16 yrs to at least workbook levels (8 still wrong but P. Tam addressed later	0.75	\$140.00	105.00
11/4/04	emails/phone	EMV	A. Merlino resp to cmts on Roadmap	0.50	\$140.00	70.00
11/7/04	emails/Phone	EMV	A Merlino - resp to pre-inspect sug	0.50	\$140.00	70.00
11/12/04	emails/phone	EMV	B. Mayo/A. Merlino - Final Draft disc	0.25	\$140.00	35.00
11/14/04	research/review	EMV	DD Policy Rules	2.00	\$140.00	280.00
11/15/04	meeting	EMV	ITRON - Ulrike CFL values	0.50	\$140.00	70.00
11/15/04	meeting	EMV	ITRON interview – Ulrike	1.50	\$140.00	210.00
11/15/04	meeting	OBF EMV	Protocol Workshop / Tecmarket	2	\$140.00	270.00
11/16/04	Int. Comp. Req	Comp	preparing documents /research	8	\$70.00	560.00
11/17/04	Int Comp req	Comp	time sheets	2	\$70.00	140.00
11/19/04	Int Comp req	Comp	filing request	3	\$70.00	210.00
11/19/04						
11/20/04			SUBTOTAL hours	229.75		29,085.00
12/1/04						

(END OF APPENDIX B)