

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Promote Policy
and Program Coordination and Integration in
Electric Utility Resource Planning.

Rulemaking 04-04-003
(Filed April 1, 2004)

**OPINION GRANTING INTERVENOR COMPENSATION
TO THE UNION OF CONCERNED SCIENTISTS FOR
SUBSTANTIAL CONTRIBUTIONS
TO DECISION 04-12-048**

Summary

This decision awards the Union of Concerned Scientists (UCS) \$124,943.30 in compensation for its contribution to Decision (D.) 04-12-048.

Background

The initial Prehearing Conference (PHC) in this Rulemaking on electric resource planning was held April 30, 2004, a second PHC was held August 25, 2004, and evidentiary hearings (EH) were held August 30 through September 24, 2004. The Commission issued D.04-12-048 adopting Long-Term Procurement Plans (LTPP) for the three investor-owned electric utilities (IOU), Pacific Gas and Electric Company (PG&E), Southern California Electric Company (SCE) and San Diego Gas & Electric Company (SDG&E).

The LTPPs were filed on July 9, 2004. Guidance to the IOUs in drafting and designing their LTPPs was provided in Assembly Bill (AB) 57,¹ the Energy Action Plan (EAP),² D.03-12-062,³ D.04-01-050,⁴ R.04-04-003, and the Assigned

¹ AB 57, (Stats.2002, Ch.850, Sec.3 Effective September 24, 2004). AB 57 added § 454.5 to the Pub. Util. Code.

² The Energy Action Plan issued jointly on May 8, 2003, by this Commission, the California Energy Commission (CEC) and the California Consumer Power and Conservation Financing Authority (CPA). A copy of the complete EAP is available for downloading on the Commission's website at www.cpuc.ca.gov.

³ D.03-12-062, issued in R.01-10-024, gave the IOUs procurement authority, often referred to as "AB 57 authority" for 2004, including the authority to sign contracts for up to five-year duration for 2005 procurement needs.

⁴ D.04-01-050 gave continued procurement authority to the IOUs through the first three quarters of 2005, with authority to sign contracts for up to one year's duration for 2005

Footnote continued on next page

Commissioner Ruling/Scoping Memo (ACR) issued by Commissioner Peevey on June 16, 2004, as amended June 29, 2004,⁵ in R.04-04-003.

Specifically, the ACR stated “[a]s indicated in the OIR [R.04-04-003], review and adoption of the utilities’ long-term procurement plans is the centerpiece of this proceeding. . . . This exercise, including the adoption of upfront standards and criteria for rate recovery constitutes the last major step remaining for implementation of AB 57. Completion of this review and approval of utility plans by the end of this year is of critical importance so that the utilities can make the investment decisions that are crucial to the reliable energy future of this state.”⁶

procurement needs. D.04-01-050 closed R.01-10-024, and established the parameters for R.04-04-003.

⁵ The June 29, 2004, Administrative Law Judge (ALJ) Ruling augmented the June 16, 2004, ACR and directed the utilities to include in their LTPPs responses to specific questions regarding global climate change issues.

⁶ ACR, June 4, 2004, p. 3.

Consistent with the ACR, D.04-12-048 gives the three IOUs authorization to plan for and procure the resources necessary to provide reliable service to their customer loads for the planning period 2005 through 2014. In addition, D.04-12-048 works in concert with or incorporates Commission and legislative efforts from other proceedings, in particular: Community Choice Aggregation (CCA),⁷ Demand Response (DR),⁸ Distributed Generation (DG),⁹ Energy Efficiency (EE),¹⁰ Avoided Cost and Long-term Policy for Expiring Qualifying Facility (QF) Contracts,¹¹ Renewable Portfolio Standards (RPS),¹² Transmission Assessment¹³ and Transmission Planning.¹⁴ Finally, but before D.04-12-048, the Commission had issued D.04-10-035, the Resource Adequacy (RA) decision in this docket. The LTPPs had to reflect the Commission's policy direction from these other proceedings into their LTPPs and to inform the Commission how the utilities intended to meet the established goals from the other proceedings through their respective procurement decisions between now and 2014.

Utilities also had to prioritize their resource procurement following the "loading order" of preferred resources established in the EAP. The EAP's "loading order" framework identifies certain demand-side resources as

⁷ R.03-10-003.

⁸ R.02-06-001.

⁹ R.04-03-017.

¹⁰ R.01-08-028.

¹¹ R.04-04-025.

¹² R.04-04-026.

¹³ R.04-01-026.

¹⁴ R.00-01-001.

“preferred” because they work towards optimizing energy conservation and resource efficiency while reducing per capita demand. The EAP loading order is: energy efficiency and demand response; renewables (including renewable DG); clean fossil-fueled DG; and finally clean fossil-fueled central-station generation.

The ACR also instructed the IOU’s to prepare three supply/demand scenarios: high-, medium-and low-incremental need. The medium-load plan was to be the preferred resource plan of each utility that meets the needs identified in its Alternative Base Case load-forecast scenario, or its CEC Integrated Energy Policy Report (IEPR) base case scenario. The high-load plan would be a reasonable guess at how great the burden of service could become under high future load growth and an optimistic view of economic growth, assuming modest customer migration for CCA. The low-load plan would be based on reasonable assumptions about progress in conservation and pessimistic assumptions about the economy and generous assumptions about the development of core/non-core and CCA. The IOU’s were to use these scenarios to demonstrate how they planned to accommodate the many possible outcomes and to employ risk management vis-à-vis future commitments by incorporating contract terms of different duration.

A. Procedural History

IOUs filed their respective LTPPs on July 9, 2004. Testimony was served on August 6, 2004, by Border Generation Group (BGG), Cogeneration Association of California (CAC), California Independent System Operator (CAISO), Calpine Corporation (Calpine), California Cogeneration Council (CCC), Center for Energy Efficiency and Renewable Technologies (CEERT), City of Chula Vista (Chula Vista), City of San Diego (CSD), California Manufacturers & Technology Association and the California Large Energy Consumers Association

(CMTA/CLECA), Constellation Power Source (Constellation), County of Los Angeles (LA), Duke Energy North America (DENA), California Department of Water Resources (DWR), Independent Energy Producers (IEP), Modesto Irrigation District (Modesto), Natural Resources Defense Council (NRDC), Office of Ratepayer Advocates (ORA), South San Joaquin Irrigation District (SSJID), Strategic Energy and Constellation New Energy (Strategic Energy), The Utility Reform Network (TURN), Utility Consumers Action Network (UCAN), UCS, West Coast Power (WCP) and the Western Power Trading Forum (WPTF).

On August 20, 2004, rebuttal testimony was served by PG&E, SCE, SDG&E, CAISO, Calpine, NRDC, ORA, Strategic Energy, TURN and UCS.

During the almost four weeks of evidentiary hearings there was extensive cross-examination of utility and intervenor witnesses and 128 documents were received in evidence. Post-hearing briefs were filed on October 18, 2004, by PG&E, SCE, SDG&E, BGG, CAC, CCC, Calpine, CAISO, CEERT, Chula Vista, CSD, CMTA/CLECA, Constellation, DENA, IEP, Modesto, NRDC, ORA, Sempra Energy Global Enterprises (SEGE), SSJID, Strategic Energy, TURN, UCAN, UCS, WCP and WPTF. Reply briefs were filed on November 1, 2004, by PG&E, SCE, SDG&E, CAC, CCC, Calpine, CAISO, CEERT, Chula Vista, Constellation, DENA, IEP, Modesto, NRDC, ORA, SSJID, Silicon Valley Manufacturing Group (SVMG), Strategic Energy, TURN, UCS and WCP, and a letter was received from the DWR.

The proposed decision (PD) was mailed on November 16, 2004. On November 30, 2004, SCE filed a timely request for Final Oral Argument (FOA) before the whole Commission. FOA was held on December 13, 2004.

As referenced above, UCS was an active participant in the proceeding from the beginning. UCS sponsored expert testimony, cross-examined

witnesses, filed briefs and reply briefs, filed comments and reply comments on the proposed decision and participated in oral argument.

UCS is a non-profit organization dealing with global warming, renewable energy policy and climate change policy. UCS's primary role in the proceeding was to enhance the Commission's understanding of the need to increase the role of energy efficiency and renewables in California's resource mix, and to take steps toward addressing global warming emissions resulting from utility generation and purchases.

Requirements for Awards of Compensation

The intervenor compensation program, enacted in Pub. Util. Code Sections 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 proceeding. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

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 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 (h), 1803(a).)
6. 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. (§ 1806.)

Procedural Requirements

The initial PHC in this matter was held on April 30, 2004, and UCS timely filed its NOI. In its NOI, UCS addressed its anticipated scope of participation, estimated cost of participation, customer status and significant financial hardship. Pursuant to an Administrative Law Judge (ALJ) ruling on July 27, 2004 UCS received a finding of financial hardship and was found to be eligible for intervenor compensation in this proceeding. A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding.¹⁵ UCS timely filed its request for compensation on January 6, 2005,¹⁶ within 60 days of the Commission’s issuance of D.04-12-048. UCS’s request for compensation includes a description of its substantial

¹⁵ Pub. Util. Code § 1804.

¹⁶ UCS filed an errata to its compensation request on January 21, 2005, that corrected mathematical calculation errors found in the January 6, 2005, claim. Since the correction amount to less than a \$100 change in the requested award, the Commission will use the January 6, 2005, date as the date the compensation claim was made.

contribution to the decision, as well as a detailed description of services and expenditures.

Eligibility

UCS has previously been awarded intervenor compensation in D.96-08-040, D. 98-01-007, D.03-10-085 and D.04-03-033. As requested in D.04-03-033,¹⁷ UCS attests that no monies from any source were used to fund work for which UCS is requesting intervenor compensation.

Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding we look at several things. First, did the ALJ or Commissioner adopt one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the intervenor? (*See* § 1802(h).) Second, if the customer's contentions or recommendations paralleled those of another party, did the customer's participation materially supplement, complement, or contribute to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision? (*See* §§ 1802(h), 1802.5.) As described in § 1802(h), 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 of fact (FOF), conclusions of law (COL), and ordering paragraphs in the decision to

¹⁷ D.04-03-033, O.P. # 4, p. 11.

which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.¹⁸

Should where 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.¹⁹ With this guidance in mind, we turn to the claimed contributions UCS made to the proceeding.

Carbon Costs Must Be Included in Resource Comparisons

UCS pointed out in testimony and briefs a growing momentum in the direction of establishing regulation that will compel the utilities to limit their carbon emissions, and its occurrence during the time-frame covered by the LTPPs.²⁰ In D.04-12-048 the Commission included a greenhouse gas (GHG) cost "adder" when evaluating fossil generation costs²¹ and directed the IOUs to use a "range of values to explicitly account for the financial risk associated with GHG emissions . . . of \$8 to \$25 per ton of CO₂, to be used in the evaluation of generation bids." UCS recommended using a range of carbon values starting at no less than \$8 per ton of CO₂.²² This recommendation substantially contributed to the Commission's resolution of this issue.

¹⁸ D.98-04-059, 79 CPUC 2d, 628 at 653.

¹⁹ See D. 03-12-019, discussion D.89-03-063 (31 CPUC 2d 402) (awarding San Luis Obispo Mothers for Peace and Rochelle Becker compensation in the Diablo Canyon Rate Case because their arguments, although ultimately unsuccessful, forced the utility to thoroughly document the safety issues involved).

²⁰ UCS Opening Brief, pp. 9-12, Testimony of Amy Rochelle, pp. 10-13.

²¹ D.04-12-048, pp. 3-4, 81, 151; FOF 76-80, COL 23, OP 3(c), 17 and 26(e).

²² UCS Opening Brief, p. 27, Testimony of Amy Rochelle, p. 16.

**Renewables Target is a Floor,
Not a Ceiling**

UCS advocated that the renewables portfolio standard (RPS) establish a “floor” for the IOUs in their acquisition of renewables and the Commission used the same wording: “We find also that RPS targets are a floor – not a ceiling. EAP loading order places renewables above conventional generation.”²³ In addition, UCS urged the Commission to require the IOUs to solicit renewables bids in all solicitations, not just RPS-specific solicitations.²⁴ The Commission adopted this approach.²⁵

**RPS Program Should Remain the Primary
Vehicle for Renewables Procurement**

UCS made the case for retaining RPS solicitations as the primary vehicle for renewables procurement, while opening all-source solicitations to renewables bids.²⁶ The Commission agreed with this position and adopted this approach.²⁷

**Utilities Should File Supplements to their
LTPPS to Reflect Final Decision**

UCS requested that the Commission order the IOUs to file supplements to their LTPPs in March 2005 to reflect any changes necessitated by the Commission’s final decision.²⁸ The Commission was persuaded by this

²³ D.04-12-048, p. 87.

²⁴ UCS Opening Brief, p. 19.

²⁵ D.04-12-048, OP 26(c).

²⁶ UCS Opening Comments on PD, pp. 10-12.

²⁷ D.04-12-048, OP 26(c).

²⁸ UCS Opening Brief, pp. 2-3, 12-13, 15-16, Testimony of Amy Rochelle, pp. 5-6, UCS Opening Comments, pp. 2-4, 25.

suggestion and required “a compliance filing updating [the long-term plans] to reflect the changes and modifications” adopted by the Commission. The due date set for this filing was March 25, 2005.²⁹

Debt Equivalency Advocated by IOUs Was Too High

UCS argued that the debt equivalency (DE) factor advocated by the IOUs of 30% was too high because an IOU’s credit rating is not diminished the same percentage, and the factor would have an adverse affect on the purchase of renewables relative to fossil fuel generation.³⁰ The Commission found UCS’ arguments strong and reduced the DE to 20%, “so as not to create an unfair burden . . . especially in the case of renewable resources.”³¹

IOUs Should Provide More Detail on Energy Efficiency Programs

UCS argued more savings from energy efficiency (EE) can and should be included in the IOUs LTPPs.³² In D.04-12-048 the Commission adopted UCS’ proposal and required the IOUs to revise their EE targets in their March 2005 compliance filings.³³

LTPPs Were Deficient in Their Treatment of Renewables

UCS critiqued the LTPPs and alerted the Commission to possible areas of deficiencies. In particular, UCS focused on the lack of resolution on the types and amounts of renewable generation available to the IOUs going forward,

²⁹ D.04-12-048, OP 1.

³⁰ UCS Opening Testimony, pp. 28-29, UCS Opening Brief, pp. 21-24.

³¹ D.04-12-048, FOF 97-98, COL 31.

³² UCS Opening Brief, pp. 15-17

especially for the next ten years.³⁴ The Commission adopted that recommendation: “All IOUs will provide detailed annual analysis of renewable resource potential over the next 10 years in their 2006 LTPPs.”³⁵

**Transmission Constraints Must Be
Addressed or They Will Impact Renewables**

UCS argued that the IOUs must immediately address, plan and implement all new transmission needs, or the lack of transmission will likely undermine the IOUs ability to meet their RPS goals.³⁶ The Commission was persuaded by UCS’ argument and directed the IOUs to determine the “optimal way to meet demand,” including the use of renewables, and examining whether transmission projects achieve the state’s policy preference for renewables.³⁷

**Gas Price Forecasts Should Include Scenarios
that Vary Gas Price and Mitigate Gas Price Risks**

UCS urged the Commission to require the IOUs to supplement their gas price forecasts using different scenarios since UCS argues that it is imprudent to use a single forecast as the basis for LTPP decisions. In its decision the Commission required the IOUs to update their gas forecasts as necessary in their March 2005 updates and required the utilities to include “fuel price variation” in their future LTPPs.³⁸

³³ D.04-12-048, p. 102, OP 13.

³⁴ UCS Opening Brief, pp. 2, 4-8; Testimony of Amy Rochelle, pp. 6, 34-35, 24-26; UCS Reply Brief, pp. 6-8.

³⁵ D.04-12-048, p. 86, FOF 54.

³⁶ UCS Opening Brief, pp. 4-8; Testimony of Rochelle, pp. 19, 20-26; UCS Reply Brief, pp. 6-8.

³⁷ D.04-12-048, pps. 86-87, 94-96.

³⁸ D.04-12-048, pps. 46-47; FOF 26; COL 10; OP 7(g) .

The Commission has awarded full compensation even where the intervenor's positions were not adopted in full, especially in proceedings with a broad scope.³⁹ Here, however, UCS achieved a high level of success on the issues it raised. The proceeding and the Commission's final decision benefited from UCS' participation.

Reasonableness of Requested Compensation

As described above, UCS made a substantial contribution to this proceeding. We now determine whether UCS' compensation request of \$124,943.30 is reasonable. UCS itemized its request with the necessary specificity as required by the intervenor statute and attached to its claim supporting documentation for the requested amount. The fees and costs are summarized in the award section of this decision.

The components of this request must constitute reasonable fees and costs of the intervenor's preparation for and participation in a proceeding that resulted in a substantial contribution. Thus, only those fees and costs associated with the intervenor's work that the Commission concludes made a substantial contribution are reasonable and eligible for compensation.

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

UCS documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, policy analysts and experts, along with a brief

³⁹ See, e.g., D.98-04-028, 79 CPUC 2d 570, 573-574.

description of each activity. The hourly breakdown reasonably supports the claim for total hours. Given the scope of UCS' participation and the work products prepared, the number of claimed hours is reasonable. Since we find that UCS' efforts made a substantial contribution to the decision, we need not exclude from UCS' award any compensation for specific issues.

Although we adopted many of UCS' recommendations, it is difficult to attribute specific quantifiable benefits to UCS' participation. Over the 10-year life of the LTPPs for the three IOUs, however, net financial savings in many areas recommended by UCS will likely exceed the intervenor compensation claim. For example, the arguments in support of the RPS target goals being a "floor" and not a "ceiling" and the work presented on future carbon emission costs and utilizing a GHG adder when comparing fossil fuel bids against renewable ones may prove to be a prudent course of action both from a financial and an environmental perspective. Considering these issues, we find UCS' efforts have been productive.

In addition, we believe that UCS made every effort to avoid duplication of effort with other parties, especially NRDC and CEERT – both organizations that promote similar goals. To the extent UCS took the same position on an issue as another party, we find that UCS' showing supplemented, complemented, or contributed to the showing of the other party.

Finally, in determining compensation, we take into consideration the market rates for similar services from comparably qualified persons. In this proceeding, UCS used two attorneys, a senior policy analyst and two junior policy analysts, and an administrator from Grueneich Resource Advocates (GRA); the Energy Program Director from UCS; and five professionals from

Synapse Energy Economics. As set forth below, and for the reasons UCS advocates, we find that the requested hourly rates are reasonable.

UCS Staff

UCS requests an hourly rate of \$232/hour for Alan Nogee, UCS' Energy Program Director based on a previously approved rate by the Commission of \$215 for 2003,⁴⁰ escalated by 8%.⁴¹

Synapse Energy Economics

UCS requests a rate of \$150/hour for Amy Rochelle, a Business Consultant with Synapse Energy Economics (SEE). Although the Commission has not yet authorized this rate for Rochelle, UCS posits that the rate is reasonable considering her education and professional experience. Rochelle has over ten years professional experience with a background in both business and engineering, and holds a BS and MS in materials science and engineering from MIT and UCLA, respectively, and an MBA from the MIT Sloan School of Management. UCS claims that this rate is in line with other awards the Commission has made, citing Sheryl Carter and Eric Woychik.

UCS requests a rate of \$180/hour for work performed by Bruce Biewald for 2004. The Commission approved an hourly rate of \$150 for Biewald for 2003 in D.03-10-085. UCS argues that his rate should be increased to \$180 for 2004 as that rate is consistent with rates approved by the Commission for 2004 for other witnesses with similar education and experience.⁴² We find the

⁴⁰ D.03-10-085.

⁴¹ In Resolution ALJ-184 the Commission established that a Commission approved rate may be escalated by 8% per year for work performed in 2004.

⁴² The Commission approved an hourly rate of \$185 for 2004 for William Marcus, a witness with similar experience, in D. 03-10-011 and D. 04-04-003.

\$180 rate reasonable. Biewald holds a BS in architecture from MIT, is the President of Synapse Energy Economic, has experience in the field of production and consumption of energy and has testified in more than seventy cases in utility regulatory proceedings.

UCS requests a rate of \$162/hour for Tim Woolf for work done in 2004, which is consistent with a Commission approved rate⁴³ of \$150 for 2003 for Woolf, escalated by 8%.

UCS requests a rate of \$150/hour for Geoff Keith. UCS argues that this rate is reasonable as it is the same rate the Commission approved for Rochelle, and Keith has similar experience to Rochelle. Keith has a BA from Tufts University and a Masters in Environmental Studies from Brown University and he has over seven years experience in the field of changing market structures and environmental policy initiatives.

UCS requests a rate of \$115/hour for Anna Sommer for 2004. Sommer holds a B.S. in Economics and Environmental Studies from Tufts University and has four years experience in the energy industry. UCS argues that this rate is reasonable as the Commission approved a rate of \$105/hour in D.03-10-085 for 2003 for Cliff Chen and Alex Moffett of SEE, both of whom have less experience than Sommer. \$105 escalated by 8% is \$113, so \$115 is within the acceptable range.

Grueneich Resource Advocates

UCS requests a rate of \$415/hour for Dian Grueneich for work performed in 2004. UCS claims the requested hourly rate for Grueneich is reasonable as her

⁴³ D.03-10-085.

2003 rate of \$385 was approved by the Commission in D.04-05-010 and the 2004 rate is based on the 2003 rate escalated by the allowable 8%.

UCS requests a rate of \$173/hour for Jody London for work performed in 2004. UCS claims the rate requested for London for 2004 is reasonable as it is based on a Commission approved rate in D.04-05-010 of \$160 for 2003, escalated by 8%.

UCS requests a rate of \$285/hour for work performed by Theresa Cho. UCS claims the requested rate is reasonable as the Commission approved in D.03-10-085 a rate of \$265 for Cho for 2003, and the increased rate requested for 2004 reflects the 8% escalation factor.

UCS requests a rate of \$95/hour for work performed by Seth Epstein and by Andrew Schwartz. UCS claims this rate is reasonable because their role at GRA is roughly equivalent to that of Michael McCormick, who has a Commission approved rate of \$100.⁴⁴ McCormick is a policy analyst at GRA. The rate requested for Epstein and Schwartz is actually below what would be the rate for McCormick when the 8% escalation factor is applied to the approved 2003 rate of \$100/hour. Epstein is a Policy/Data Analyst at GRA, hold a BA from St. Lawrence University and a MS in Environmental Policy and a Graduate Certificate in Industrial Ecology from the University of Michigan. Schwartz is also a Policy/Data Analyst at GRA, holds a BA in Economics from the University of Colorado, Bolder and an MPP from the Goldman School of Public Policy at the University of California, Berkeley, and has three years professional experience as a regulatory analyst.

⁴⁴ D.03-10-085.

UCS requests an hourly rate of \$65 for work done by Jack McGowan in 2004. The Commission awarded a rate of \$60/hour for McGowan in 2003 in D.03-10-085 and D.04-05-010, and \$65 is the approved 2003 rate escalated by 8%.

The incidental costs for UCS' participation in this proceeding, including telephone charges, facsimile charges, postage, messenger deliveries, photocopying and travel are well-documented and reasonable.

Award

As set forth in the table below, we award UCS \$124,943.30.

Proceeding Preparation and Participation							
First Name	Last Name	Type	Intervenor	Hours	Hourly Rate	Year	Total
Amy	Roschelle	Business Consultant	Synapse Energy Economics	129.25	150	2004	\$ 19,387.50
Anna	Sommer	Research Associate	Synapse Energy Economics	40.25	115	2004	4,628.75
Bruce	Biewald	President of Synapse Energy Economics	Synapse Energy Economics	10.00	180	2004	1,800.00
Geoff	Keith	Associate	Synapse Energy Economics	14.50	150	2004	2,175.00
Tim	Woolf	Vice President of Synapse Energy Economics	Synapse Energy Economics	4.00	150	2004	600.00
Alan	Nogee	Energy Program Director	Union of Concerned Scientist	23.33	232	2004	5,412.56
Dian	Grueneich	Senior Attorney	Grueneich Resource Advocates	97	415	2004	40,255.00
Jody	London	Senior Policy Analyst	Grueneich Resource Advocates	90	173	2004	15,570.00
Theresa	Cho	Attorney	Grueneich Resource Advocates	83	285	2004	23,655.00
Seth	Epstein	Junior Policy Analyst	Grueneich Resource Advocates	50.2	95	2004	4,769.00
Andrew	Schwartz	Junior Policy Analyst	Grueneich Resource Advocates	3	95	2004	285.00
Jack	McGowan	Administrator	Grueneich Resource Advocates	2	65	2004	130.00

Travel and Intervenor Claim Preparation							
First Name	Last Name	Type	Intervenor	Hours	Hourly Rate	Year	Total
Amy	Roschelle	Business Consultant	Synapse Energy Economics	18.5	\$ 75.00	2004	\$ 1,387.50
Alan	Nogee	Energy Program Director	Union of Concerned Scientist	0.67	\$ 11600	2004	77.72
Jody	London	Senior Policy Analyst	Grueneich Resource Advocates	6	86.5	2004	519.00
Theresa	Cho	Attorney	Grueneich Resource Advocates	2.25	142.5	2004	320.63
Andrew	Schwartz	Junior Policy Analyst	Grueneich Resource Advocates	33	47.5	2004	1,567.50

Expenses	
Intervenor	Total Expenses
Synapse Energy Economics	\$ 1,052.57
Union of Concerned Scientist	69.36
Grueneich Resource Advocates	1,281.21
Grand Total	\$124,943.30

R.04-04-003 Compensation Request Totals

Synapse Energy	\$ 29,978.75
2004 Hours	\$ 1,052.57
2004 Costs	\$ 31,031.32

Union of Concerned Scientists	\$ 5,490.28
2004 Hours	\$ 69.36
2004 Costs	\$ 5,559.64

Grueneich Resource Advocates	\$ 87,071.13
2004 Hours	\$ 1,281.21
2004 Costs	\$ 88,352.34

Total Claim	\$124,943.30
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Consistent with previous Commission decisions, we will order that interest be paid on the award amount⁴⁵commencing the 75th day after UCS filed

⁴⁵ At the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15.

its compensation request and continuing until full payment of the award is made.

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

Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

Assignment of Proceeding

Michael R. Peevey is the Assigned Commissioner and Carol A. Brown is the assigned ALJ in this proceeding.

Findings of Fact

1. UCS has previously been found eligible for intervenor compensation for its contribution to Commission decisions, D.96-08-040, D.98-01-007, D.03-10-085 and D.04-03-033.
2. UCS attests that no monies from any source were used to fund work for which UCS is requesting intervenor compensation.
3. UCS filed a timely NOI following a PHC on April 30, 2004.
4. UCS timely filed its request for intervenor compensation on January 6, 2005, following the Commission's issuance of D.04-12-048 on December 16, 2004.

5. UCS has previously provided the Commission with all other information necessary to be eligible to claim intervenor compensation in its NOI.

6. No objection has been made to UCS' NOI or claim for compensation.

7. UCS made a substantial contribution to D.04-12-048.

8. UCS' requested hourly rates for attorneys and experts are reasonable when compared to the market rates for persons with similar training and experience.

9. The total of these reasonable fees, including reasonable costs, is \$124,943.30.

Conclusions of Law

1. UCS has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to reasonable compensation, as set forth in the foregoing opinion, for its claimed fees and expenses incurred in making substantial contributions to D.04-12-048.

2. Today's order should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. Union of concerned Scientists (UCS) is awarded \$124, 943.30 as compensation for its substantial contributions to Decision 04-12-048.

2. Within 30 days of the effective date of this decision, Southern California Edison Company (SCE), Pacific Gas and Electric Company (PG&E and San Diego Gas & Electric Company (SDG&E) shall pay this award to UCS.

3. PG&E, SCE and SDG&E shall also pay interest on the award beginning March 22, 2005, at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, and continuing until full payment is made.

4. The payment obligation imposed by ordering paragraphs 2 and 3 shall be allocated among SCE, PG&E, and SDG&E on the basis of their respective jurisdictional electric revenues for 2004.

5. The comment period for today's decision is waived.

This order is effective today.

Dated _____, at San Francisco, California.