

Decision 89 07 049 JUL 19 1989

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SAN DIEGO GAS & ELECTRIC COMPANY)
for Authority to Decrease its)
Rates and Charges for Electric,)
and to Increase its Rates and)
Charges for Gas and Steam Service.)
(U-902-M))

Application 87-12-003
(Filed December 1, 1987)

Order Instituting Investigation)
into the rates, charges, and)
practices of the San Diego Gas &)
Electric Company.)

I.88-01-006
(Filed January 13, 1988)

OPINION

Summary

This decision awards the American G.I. Forum, League of United Latin American Citizens, and Filipino-American Political Association (Public Advocates) \$729 plus interest for its contribution to the women/minority business enterprise (W/MBE) issues in San Diego Gas & Electric Company's (SDG&E) 1989 test year general rate decision, (D.) 88-12-085.

Eligibility Request

Public Advocates' request for a finding of eligibility to receive compensation for its participation in SDG&E's 1989 test year general rate proceeding was granted in D.88-12-085.

Compensation Request

On January 25, 1989 Public Advocates filed a request seeking \$5,103 in compensation for its contribution to the W/MBE issues in D.88-12-085. In SDG&E's 1989 test year general rate proceeding Public Advocates recommended that SDG&E:

1. Separately state goals for Filipino-Americans.

2. Consider adopting the major recommendations in Pacific Bell's Task Force Minority Report.
3. Employ an outside expert who can address SDG&E's failure regarding Blacks and Asians.
4. Independently verify W/MBE firms.
5. Develop greater management incentives for the achievement of W/MBE goals.
6. Increase the number of women and minorities in senior management.
7. Encourage joint ventures with W/MBEs and provide W/MBEs with technical assistance in meeting financing and insurance requirements at rates competitive with SDG&E's non-W/MBE contractors.

The following is a summary of Public Advocates' requested compensation:

Attorney

Robert Gnaizda	22.2 hours x \$165/hour	\$3,663
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Law Student

Timothy Barry	23.5 hours x \$50/hour	1,175
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Paralegal

Kathleen E. Bennett	5 hours x \$35/Hour	175
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Miscellaneous Expenses

Telephone, postage, copying, and related expenses		<u>90</u>
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<u>Total Cost</u>		\$5,103
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In D.88-12-085 we stated that many of Public Advocates concerns were issues related to the generic W/MBE proceeding that resulted in General Order 156. The only Public Advocate recommendation adopted in D.88-12-085 requires SDG&E to encourage W/MBE joint ventures and provide technical assistance in meeting

financing and insurance requirements at competitive rates. Public Advocates should be compensated for its contribution to that issue.

D.87-10-078 awarded Public Advocates compensation based on an hourly rate of \$150 for its attorney, Robert Gnaizda. In Application 87-01-002 Public Advocates requested a 10% increase in Gnaizda's hourly rate, but D.89-06-051 retained the \$150 hourly rate noting that in "the vast majority of awards made for work in the 1987-early 1988 timeframe, attorneys before this Commission were being compensated at this level or less..."

Public Advocates also requests a 10% increase in the \$150 hourly rate for Gnaizda's contribution to D.88-12-085. However, we consider the following statement in D.89-06-051, a compensation decision on Gnaizda's work in the General Telephone general rate case, equally applicable to Public Advocates compensation request under consideration in this decision.

"We find very little in Gnaizda's request to justify such an increase. Relative to other compensation awards we have made, there was no showing that the level of performance justified the higher rate or that the subject matter was particularly difficult. There was no showing that the level of inflation over a two-year period even came close to the 10% increase Gnaizda is seeking. While the declarations of local attorneys supported a fee range of \$225-300 for someone of Gnaizda's experience, we think this probably represents the high (or partner) level of billing by such firms and...we cannot justify asking the ratepayers to bear the additional burdens of compensating attorneys at this level absent a clear justification not present in this case."
D.89-06-051, pp. 6 and 7.)

Public Advocates rates for other legal work is similar to that adopted in D.87-10-078 and D.89-06-051 and will be accepted for this proceeding. The miscellaneous costs of \$90 also appear reasonable.

Public Advocates did not provide an itemization of its costs by W/MBE issue. Without an itemization by issue we will allocate Public Advocates' costs equally to each recommendation and award compensation for its contribution on the one recommendation which was adopted. After adjusting for Gnaizda's hourly rate, this results in an award of \$729 including all legal and miscellaneous expenses.

Since this decision was not issued within 75 days from the date of Public Advocates' request as required by Public Utilities Code § 1804, we will allow interest on the award. Interest on the \$729 award should be calculated in the same manner as the deferred account established in D.86-06-079 and accrue from the 76th day after the request was filed.

Findings of Fact

1. Public Advocates requested \$5,103 in compensation for its contribution to D.88-12-085.
2. D.88-12-085 found Public Advocates eligible for compensation.
3. D.88-12-085 adopted only one of the seven W/MBE issues raised by Public Advocates in SDG&E's test year 1989 general rate proceeding.
4. Public Advocates did not identify its costs by issue.
5. Public Advocates was not awarded compensation for its contribution to D.88-12-085 within 75 days from the date of filing its request.

Conclusions of Law

1. The rates and miscellaneous expenses requested by Public Advocates are reasonable, except for the rate requested for its attorney Robert Gnaizda which is excessive.
2. The maximum hourly rate that Public Advocates should be compensated for Gnaizda's work should be \$150.
3. SDG&E should be ordered to pay Public Advocates \$729 plus interest for its substantial contribution to D.88-12-085. Interest

should accrue from the 76th day after the Public Advocates request was filed and be calculated consistent with the deferred account established in D.86-06-079.

4. This order should be effective today because an award of compensation has been found reasonable for a participant's activity last year.

ORDER

IT IS ORDERED that:

1. Within 10 days of the effective date of this order, San Diego Gas & Electric Company, shall pay American G.I. Forum, League of United Latin American Citizens, and Filipino-American Political Association (Public Advocates) \$729 plus interest from the 76th day after January 25, 1989. Interest shall be calculated consistent with the deferred account established in D.86-06-079.

2. Public Advocates is placed on notice that it may be subject to audit or review by the Commission Advisory and Compliance Division pursuant to Rule 76.57; therefore, adequate accounting records and other necessary documentation must be maintained in support of all claims for intervenor compensation.

Such record-keeping systems shall identify specific issues for which compensation is being requested, the actual time spent by each employee, the hourly rate paid, fees paid to consultants, and any other costs incurred.

This order is effective today.

Dated JUL 19 1989, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
Commissioners

Commissioner Patrick M. Eckert,
being necessarily absent, did
not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.

Victor Weiss
Victor Weiss, Executive Director
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