

ORIGINAL

Decision 89 08 030 AUG 3 1989

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Southern California Edison Company )  
for authority to increase rates )  
charged by it for electric service. )

Application 86-12-047  
(Filed December 26, 1986)

(Electric) (U 338 E)

Order Instituting Investigation into )  
the rates, charges, and practices of )  
the Southern California Edison )  
Company. )

I.87-01-017  
(Filed January 14, 1987)

# OPINION

## Summary

This decision awards the American G.I. Forum, League of United Latin American Citizens, and Filipino-American Political Association (Public Advocates) \$3,204 plus interest for its contribution to the women/minority business enterprise (W/MBE) issues in Southern California Edison Company's (Edison) 1988 test year general rate decision, Decision (D.) 87-12-066.

## Eligibility Request

A request for a finding of eligibility to receive compensation under Article 18.7 of our Rules of Practice and Procedure (Rules) was filed by Public Advocates on November 12, 1987. Public Advocates' filing was made in a timely manner in accordance with Rule 76.54. Rule 76.54 requires that an eligibility request include four items:

1. A showing that participation in the hearing or proceeding would pose a significant financial hardship.
2. A statement of issues that the customer intends to raise.

3. An estimate of the compensation that will be sought.
4. A budget for the customer's presentation.

Since D.89-01-015 found that Public Advocates is eligible for compensation in 1987, no additional finding that participation in this proceeding would pose a significant financial hardship is necessary. The remaining items concerning the issues raised and the cost of participation are addressed under Public Advocates' compensation request.

Compensation Request

On February 24, 1988 Public Advocates filed a request seeking \$27,447 in compensation for its contribution to the W/MBE issues in D.87-12-066. Public Advocates argues that its 1987 work in Edison's test year 1988 general rate proceeding resulted in the following:

1. The compiling of Filipino-American data separately.
2. A substantial increase in the dollar amount of Edison contracts to blacks.
3. A statement in D.87-12-066 that the Commission is not satisfied with the level of W/MBE participation and expects Edison to achieve substantial and significant increases.
4. Conclusion of Law 89 in D.87-12-066 which directs Edison to achieve significant increases in the amount and number of contract awards to W/MBEs.

The following is a summary of Public Advocates' request:

Attorney

Robert Gnaizda	131.8 hours x \$165/hour	\$21,747
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Legal Extern

Andre Madeira	61.5 hours x \$55/hour	3,383
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Paralegal

Ruth Maurice	38.5 hours x \$35	1,347
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Experts

Joseph James (1 day)	400
Kevin Williams (1 day)	300

Miscellaneous Expenses

Copying, telephone, postage, and related expenses	<u>250</u>
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<u>Total Cost</u>	\$27,427*
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\*Corrected for error in Public Advocates calculation.

Edison responded by stating that only one of Public Advocates' eight W/MBE recommendations contributed substantially to D.87-12-066. Since Public Advocates did not allocate its expenses by issue or recommendation, Edison proposes that each recommendation receive equal weighting and that Public Advocates be compensated for no more than 1/8 of its request, or \$3,431.

D.87-12-066 lists the following eight W/MBE recommendations made by Public Advocates:

1. Top executive compensation be tied directly to W/MBE achievement.
2. Substantial long range goals be set.

3. Edison be penalized by requiring that a sum equal to one-half of 1% of its total outside contracts in 1986 (\$5 million) be allocated to assisting in direct W/MBE development.
4. Edison be admonished for its poor record.
5. Edison's test year 1988 general rate proceeding be treated separately from R.87-02-026, a generic proceeding for W/MBE issues.
6. Edison develop a program to encourage and facilitate joint ventures, develop mechanisms to improve equity and capital sources for minority and women entrepreneurs, and assist W/MBEs in acquiring insurance coverage at favorable rates.
7. A category for Filipino-Americans be included in Edison's W/MBE data collection.
8. Contract awards be reported by service/purchase type.

In D.87-12-066 we stated that Recommendations 1, 2, 5, 7, and 8 would be addressed in the generic proceeding on W/MBE issues and specifically rejected Recommendations 3 and 4. However, Recommendation 6 was adopted, and 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 (A.) 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.87-12-066. However, we consider the following statement in D.89-06-051 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 and expert witnesses 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 \$250 also appear reasonable.

Without a breakdown of Public Advocates costs by W/MBE issue we will adopt Edison's proposed 1/8 allocation. Public Advocates will be awarded 1/8 of its itemized costs adjusted for Gnaizda's hourly rate. This results in an award of \$3,204.

Since this decision was not issued within 75 days from the date of Public Advocates' request as required by Public Utilities Code Section 1804, we will allow interest on the award. Interest on the \$3,204 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 \$27,447 in compensation for its contribution to D.87-12-066.

2. D.89-01-015 found Public Advocates eligible for compensation for 1987.

3. D.87-12-066 adopted only one of the eight W/MBE issues raised by Public Advocates in Edison's test year 1988 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.87-12-066 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. Edison should be ordered to pay Public Advocates \$3,204 plus interest for its substantial contribution to D.87-12-066. 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 during 1987.

ORDER

IT IS ORDERED that:

1. Within 10 days of the effective date of this order, Southern California Edison Company, shall pay Public Advocates \$3,204 plus interest from the 76th day after February 24, 1988. 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 AUG 3 1989, at San Francisco, California.

G. MITCHELL WILK  
President  
FREDERICK R. DUDA  
JOHN B. OHANIAN  
PATRICIA M. ECKERT  
Commissioners

Commissioner Stanley W. Hulett,  
being necessarily absent, did not  
participate.

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

*Victor Weisser*

Victor Weisser, Executive Director

*DB*