

Decision 90 06 055 JUN 20 1990

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the practices of Citizens Utilities Company of California, its operating divisions and its subsidiaries, with regard to the transfer of real property rights and the management of its watershed resources.

OII 83-11-09
(Filed November 30, 1983)

Kathy Wyrick, Intervenor,
Complainant,

v.

Citizens Utilities Company of California, and subsidiary companies and corporations, Sacramento Water Works, Jackson Water Works, Larkfield Water Company, Felton Water District, Montara Water District, Guerneville Water District, Washington Water and Light Co.,

Case 83-12-07
(Filed December 19, 1983)

Defendants.

In the Matter of the Application of Citizens Utilities Company of California for authority to increase rates and charges for water service in its Guerneville Water District.

Application 60220
(Filed January 27, 1981)

OPINION ON REQUEST FOR COMPENSATION
FROM THE ADVOCATES TRUST FUND

PATRIOTS seeks compensation from the Advocates Trust Fund for its participation in OII 83-11-09. PATRIOTS submits detailed time records supporting the hours of labor claimed for its representatives, Neil Sinclair and John C. Scoggins, which it values at \$75.00 per hour. In addition, PATRIOTS submits with its request a record of its out-of-pocket expenses.

In summary, PATRIOTS claims:

Labor, Sinclair, 389.5 hours at \$75.00/hour =	\$27,967.50
Labor, Scoggins, 272.0 hours at \$75.00/hour =	20,400.00
Out-of-Pocket Expense	= <u>9,644.00</u>
Grand Total	\$58,011.50

PATRIOTS' schedule of out-of-pocket expenses (Appendix C) includes a line item of 100 hours of labor for Kathy Wyrick, which it values at \$75.00 per hour. Thus, of the \$9,644 of out-of-pocket expenses, \$7,500 represents compensation for Wyrick's contribution to the proceeding. No time record are submitted in support of this item. In fact, PATRIOTS states:

"No records known to PATRIOTS exist of Ms. Wyrick's hours spent. We therefore suggest an arbitrary figure of one hundred hours for Ms. Wyrick..." (Compensation Request, p. 6; emphasis added.)

Wyrick was seriously injured in an automobile accident before hearings began; and she was in a coma for about two years before passing away. She did not participate in the evidentiary hearing, briefs, or comments. Her complaint in C.83-12-07, filed on December 19, 1983, after the OII was issued, was dismissed for lack of prosecution. (D.88-04-068, pp. 39, 52, 54.) There is no basis in fact or law for awarding compensation to Wyrick. We will deny this item of PATRIOTS' request.

PATRIOTS was not the sole advocate for the positions it took in the OII. The Division of Ratepayer Advocates (DRA) made a complete showing on all aspects of the case; and the Department of Health Services (DHS) was an active participant. Accordingly, while we agree that PATRIOTS made a substantial contribution to the outcome of the case, it did not carry the entire burden alone or even carry the heaviest part of the burden. Its contribution was also more significant on some issues than on others. We will therefore reduce the award to PATRIOTS by adjusting the hours allowed for Sinclair and Scoggins by 25%.

The compensation we award is as follows:

Labor, Sinclair, 292 hours at \$75.00/hour	=	\$21,900
Labor, Scoggins, 204 hours at \$75.00/hour	=	15,300
Out-of-Pocket Expense, less item for Wyrick	=	<u>2,144</u>
Total Award		\$39,344

Findings of Fact

1. PATRIOTS made a substantial contribution to the outcome of the case.
2. There is no record of hours spent by Wyrick to support an award of compensation to her.
3. A 25% adjustment to the hours claimed by Scoggins and Sinclair is reasonable considering PATRIOTS' contribution in relationship to the contributions of DRA and DHS.
4. No protest or other opposition has been filed or submitted to the request of PATRIOTS for compensation from the Advocates Trust Fund.
5. PATRIOTS did not include an interest component in its request for compensation.
6. The Declaration of Trust for the Advocates Trust Fund does not provide for an interest component.

Conclusions of Law

1. A request for compensation from the Advocates Trust Fund should be based upon documented participation in a proceeding and by contributions that are actual, substantial, and consequential.
2. The request of PATRIOTS for an award of compensation from the Advocates Trust Fund should be granted in part, as set forth in the following order.
3. Interest should not be added to the award of compensation.
4. Because there is no opposition to this request, the following order should be effective immediately.

ORDER

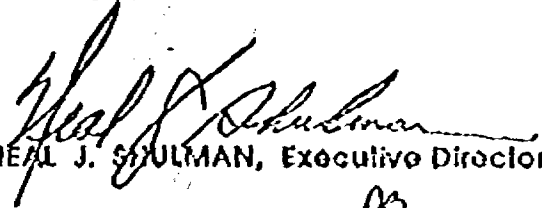
IT IS ORDERED that:

1. The sum of \$39,344 shall be disbursed to PATRIOTS from the Advocates Trust Fund as compensation for its participation in OII 83-11-09.
2. PATRIOTS' request is granted in part. To the extent that it is not granted, the request is denied.

This order is effective today.

Dated JUN 20 1990, at San Francisco, California.

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


NEAL J. SULMAN, Executive Director

FREDERICK R. DUDA
STANLEY W. HULETT
JOHN B. OHANIAN
PATRICIA M. ECKERT
Commissioners

President G. Mitchell Wilk,
being necessarily absent, did
not participate.