

Decision 90 11 017 NOV 09 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
GRAEAGLE WATER COMPANY to meter its )  
existing flat rate customers, )  
eliminate all flat rate water )  
service, and revise its metered rate )  
schedule (U-53W). )

**ORIGINAL**  
Application 88-05-033  
(Filed September 15, 1988)

OPINION ON REQUEST FOR COMPENSATION

Graeagle Property Owners Association (GPOA) requests compensation of \$1,870.47 for the cost of expert witness fees which it incurred in this proceeding. By Decision (D.) 90-05-085 dated May 22, 1990 we found GPOA eligible to claim compensation for its participation in this proceeding. GPOA filed its request for compensation following the issuance of D.90-06-030, the "final order" in this proceeding. The request was made in accordance with Rule 76.56 of the Commission's Rules of Practice and Procedure. (Title 20, Chapter 1 of the California Administrative Code.) No party responded to GPOA's request for compensation.

Substantial Contribution

Rule 76.58 requires the Commission to determine whether GPOA made a substantial contribution to D.90-06-030, describe the contributions, and set the amount of the compensation to be awarded. According to Rule 76.52(g), an intervenor has made a "substantial contribution" when:

"...in the judgment of the Commission, the customer's presentation has substantially assisted the Commission in the making of its order or decision because the order or decision had adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer."

GPOA's request for compensation is limited to the cost incurred in employing an expert witness. In determining whether GPOA made a substantial contribution to D.90-06-030, however, we examine the whole of GPOA's participation and not just the expert witness testimony. GPOA took a position in opposition to metering Graeagle Water Company's system at the outset of the hearings. In its brief it refined its position to one of opposition of metering for homeowners. By our denial of the utility's application to meter the system, we adopted in part GPOA's policy recommendation.

Moreover, in doing so, we adopted in part factual contentions put forth by GPOA through its expert witness. These include the opinion that additional storage capacity may be needed even if the system were to be metered, and the estimate that metering could result in a 25% reduction in system consumption. GPOA made significant contributions on the issues of cost-effectiveness of metering and significant consumption reductions. We conclude that GPOA made a substantial contribution to D.90-06-030.

Compensation

Rule 76.60 sets the bounds for the computation of compensation:

"[The computation] shall take into consideration the compensation paid to persons of comparable training and experience who offer similar services. The compensation awarded may not, in any case, exceed the market value of services paid by the Commission or the public utility, whichever is greater, to persons of comparable training and experience who are offering similar services."

Rule 76.52 defines "expert witness fees" as "recorded or billed costs incurred by a customer for an expert witness." GPOA requests compensation for the cost incurred in employing its expert witness, Larry Fites of Larry Fites Engineering. Fites is a licensed civil engineer with a business office in Graeagle. As

noted by GPOA, Fites is familiar with utility matters in the area and has "on-site expertise". Fites has billed GPOA \$1,870.47 for the services he rendered in connection with this proceeding. This represents the total amount of GPOA's request. The amount of Fites' bill is broken down as follows:

Engineering	31.25 hours @ \$48.50/hour	\$1,515.63
Testimony	2.00 hours @ \$65.00/hour	130.00
Clerical	8.50 hours @ \$22.00/hour	187.00
Printing		37.84
Total		<u>\$1,870.47</u>

We have reviewed recent decisions awarding compensation to expert witnesses. In D.89-07-046, we awarded an hourly rate of \$100 to an expert witness. In D.89-10-037, we awarded \$60 per hour to witnesses with experience and expertise that we found very helpful in that decision. In D.89-06-051 and D.89-08-030, a witness was awarded a daily fee of \$400, roughly the equivalent of \$50 per hour, and we again mentioned the witness' extensive experience. In D.90-09-073 we awarded fees of \$75 per hour for an expert witness and \$45 per hour for the witness' associate. In D.90-07-066 we awarded expert witness fees of \$70 per hour (reduced from a requested \$80 per hour) for a witness with a masters degree. Judged against these decisions, an hourly fee of \$48.50 for analysis and exhibit preparation and \$65.00 for testimony for a witness with Fites' experience is reasonable. We find the additional costs for clerical support and printing to be reasonable as well.

#### Conclusion

We find that GPOA made a substantial contribution to D.90-06-030, and that GPOA is entitled to compensation of \$1,870.47, to be paid by Graeagle Water Company. As discussed in previous Commission decisions, this order will provide for interest commencing on September 12, 1990 (the 75th day after GPOA filed its request for compensation) and continuing until full payment of the award is made. In accordance with Rule 76.61, the award will be

allowed as an expense for the purpose of establishing rates by way of a dollar-for-dollar adjustment to rates so that the amount of the award shall be fully recovered by Graeagle Water Company within one year from the date of the award.

GPOA is placed on notice it may be subject to audit or review by the Commission Advisory and Compliance Division. Therefore, adequate accounting records and other necessary documentation must be maintained and retained by the organization in support of all claims for intervenor compensation. Such record-keeping systems should 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 for which compensation may be claimed.

Findings of Fact

1. GPOA has requested compensation totaling \$1,870.47 for its participation in this proceeding.
2. GPOA was found eligible for compensation in D.90-05-085.
3. GPOA made significant contributions to D.90-06-030 on the issues of issues of cost-effectiveness of metering and significant consumption reductions.
4. Hourly rates of \$48.50 for engineering analysis and exhibit preparation and \$65.00 for testimony are reasonable fees for someone of Fites' training and experience.
5. The time claimed for GPOA's participation in this proceeding is reasonable.

Conclusions of Law

1. GPOA made a substantial contribution to D.90-06-030.
2. Graeagle Water Company should be ordered to pay GPOA \$1,870.47 plus any interest accrued after September 12, 1990.

O R D E R

IT IS ORDERED that:

1. Graeagle Water Company shall pay Graeagle Property Owners Association (GPOA) \$1,870.47 within 30 days after the issuance of this decision as compensation for GPOA's substantial contributions to D.90-06-030. Graeagle Water Company shall also pay GPOA interest on this amount, calculated at the three-month commercial paper rate, beginning September 12, 1990 and continuing until full payment of the award is made. ✓

2. Graeagle Water Company is authorized to file an advice letter in accordance with General Order 96-A, Section VI, for the purpose of recovery in rates of the amount of the award and interest within one year from the date the award is paid. |

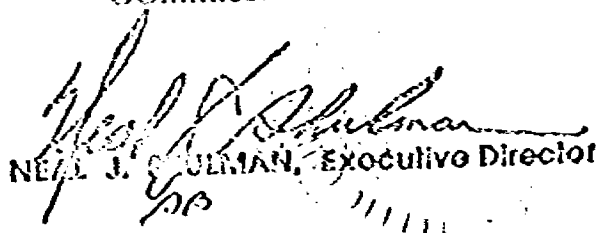
This order is effective today.

Dated NOV 09 1990, 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

  
NEAL J. SCHULMAN, Executive Director