

DEC. 16 1992

Decision 92-12-043 December 16, 1992

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

CORONA CITY COUNCIL; Mayor AL LOPEZ,)
 City of Corona; Mayor Pro Tem and)
 City Council Member WILLIAM)
 FRANKLIN, City of Corona; Mayor)
 WILLIAM PENDLETON, City of)
 Bellflower; Mayor ROBERT HANSON,)
 City of Banning; LOS ANGELES BLACK)
 WOMEN FOR WAGES FOR HOUSEWORK;)
 WAGES FOR HOUSEWORK; INTERNATIONAL)
 BLACK WOMEN FOR WAGES FOR HOUSEWORK;)
 HISPANIC BUSINESS COUNCIL OF)
 CORONA; JAMES EARLE CHRISTO;)
 ENCARNACION MUNOZ; RAMON REYNOSA;)
 SYLVIA ORTIZ; UTILITY WORKERS)
 UNION OF AMERICA, AFL-CIO, LOCAL)
 132,)

ORIGINAL

Case 91-05-042
(Filed May 20, 1991)

Complainants,

vs.

SOUTHERN CALIFORNIA GAS COMPANY,

Defendant.

Susan Minato, Attorney at Law; Messrs. Taylor, Roth, Bush & Geffner, by Ira L. Gottlieb, Attorney at Law; Gerardo Acosta, for Utility Workers Union of America, Local 132; and Sidney Ross-Risden, for Los Angeles Black Women for Wages for Housework, Wages for Housework, International Black Women for Wages for Housework; complainants.

Robert Ballew and Michael A. Cartelli, Attorneys at Law, for Southern California Gas Company, defendant.

Michel Peter Florio and Sigrid Hawkes, Attorneys at Law, for Toward Utility Rate Normalization, interested party.

Laura J. Tudisco, Attorney at Law, John Yager, and Joel Lubin, for the Division of Ratepayer Advocates.

O P I N I O N

On September 14, 1992, complainants¹ filed a timely "Request for finding of eligibility and compensation from Advocates Trust Fund." The petition requests compensation for certain of those fees and expenses incurred by complainants in Case (C.) 91-05-042.

No protests or responses to the request have been filed.

This decision grants to complainants an award of attorney fees and expenses from the Advocates Trust Fund. We find that complainants' participation in this case qualifies for compensation under the terms of the Advocates Trust Fund.

Discussion

The Advocates Trust Fund provides for compensation of attorney fees "directly related to litigation or representation of consumer interests in 'quasi judicial complaint cases,' as defined in Consumers Lobby Against Monopolies vs. Public Utilities Commission (CLAM) (1979) 25 Cal 3d 891, where the California Public Utilities Commission has jurisdiction to make attorney fee awards." (Declaration of Trust, Section 1.2.)

The instant case clearly qualifies as a "quasi-judicial complaint case."

A. Did Complainants Make a Substantial Contribution?

Fees paid out of the Trust may be awarded where a private party has "made a direct, primary, and substantial contribution to

¹ The request for compensation was filed by the Utility Workers Union of America, Local 132 (UWUA). UWUA was one of more than a dozen named complainants in the original action. We interpret this request for compensation to be made on behalf of all complainants. Payment, as awarded herein, shall be made payable to Susan Minato, Counsel for co-complainants, upon the express condition that such award be disbursed by Ms. Minato with the consent and agreement of all named complainants.

the result of the case," under the Trust. An award is based on three factors, each discussed in turn below.

1. The Strength or Societal Importance of the Public Policy Vindicated by the Litigation

As set forth in Decision (D.) 92-08-038, important public policies were vindicated by this litigation. At issue in this case is the obligation of a public utility to provide adequate, just and reasonable service, including the right of customer to reasonable payment arrangements in the rural and outlying portions of the service territory.

2. The Number of People Standing to Benefit from the Decision

According to D.92-08-038, an average of \$68,000 in payments were made each month at the 12 offices closed by Southern California Gas Company (SoCalGas). The customers making these payments directly benefit by the decision to reopen these offices.

3. The Necessity for Private Enforcement and the Magnitude of the Resultant Burden on the Complainant

We agree with complainants that without the filing of this complaint SoCalGas would have permanently closed the 12 branch offices, as well as up to 28 more slated for closure in the future. Moreover, given the vigor with which SoCalGas opposed the complaint and resisted reopening these offices, complainants have borne a significant burden in bringing this action.

For these reasons, we find that complainants have satisfied the criteria of the Advocates Trust Fund. The relief requested by complainants at the outset of this complaint was granted in D.92-08-038. We find that the efforts of complainants made a direct, primary, and substantial contribution to the result of the case. We further find that as a result of complainants' efforts to bring this complaint, a substantial benefit has been conferred upon ratepayers generally.

D. Are Complainants' Cost Estimates Reasonable?

The Commission is required by the Trust instrument to determine a reasonable level of fees according to the time spent, expenses, level of skill, and comparable fees paid to others practicing public utility law.

Complainants request a compensation award in the amount of \$145,215.38. Specifically, complainants request compensation of \$114,487 for attorney fees (for 338 hours of attorney fees at \$175 an hour, plus 368 hours of another attorney's time at \$150 an hour), \$16,848 for witnesses and consultants, and \$13,879.40 in miscellaneous expenses.

We find that the amounts requested for witnesses and miscellaneous expenses are reasonable and adequately supported. We also find the number of hours of attorney time to be reasonable, although we observe that the total time billed appears to reflect the fact that both counsel were new to this area of the law and to practice before this Commission, thus requiring somewhat more time for orientation and preparation.

Complainants' attorneys request hourly rates of \$175 and \$150 per hour. Complainants assert that these rates are reasonable based on comparable billing rates at law firms throughout the country.

While we find both attorneys, Minato and Gottlieb, to be experienced practitioners in the areas of labor, civil rights and criminal law, they came to this proceeding with little, if any, experience in public utility law or in practice before this Commission. As a consequence, given both attorneys' limited experience in this field of practice, we find that it is appropriate to compensate both attorneys somewhat below the median level of compensation for attorneys of comparable tenure or experience. We will award compensation for Gottlieb at \$130 per hour and Minato at \$100 per hour. In making this award we wish to emphasize that both counsel were able and effective advocates.

Nevertheless, because of their newness to this area of practice, we do not believe it reasonable to compensate them at the same level as those who practice regularly before this Commission.

With the aforementioned adjustment in the rate of compensation for Minato and Gottlieb, we will award a total of \$113,265.00.

Findings of Fact

1. Complainants have filed a request for compensation from the Trust for their participation in this proceeding.
2. The purpose of the Trust is to provide compensation in quasi-judicial proceedings and in cases where funding would not otherwise be available.
3. As set forth in D.92-08-038, important public policies were vindicated by this litigation.
4. An average of \$68,000 in payments were made each month at the 12 offices closed by SoCalGas. The customers making these payments directly benefit by the decision to reopen these offices.
5. Without the filing of this complaint SoCalGas would have permanently closed the 12 branch offices, as well as up to 28 more slated for closure in the future.
6. The amounts requested for witnesses and miscellaneous expenses are reasonable and adequately supported.
7. Both Minato and Gottlieb are able and effective attorneys and experienced practitioners in the areas of labor, civil rights and criminal law, but both have little, if any, experience in public utility law or in practice before this Commission.

Conclusions of Law

1. This proceeding is quasi-judicial in nature.
2. Complainants made a direct, primary, and substantial contribution to the outcome of C.91-05-042.
3. As a result of complainants' efforts in C.91-05-042, a substantial benefit has been conferred upon ratepayers generally.

4. The request of complainants for an award of compensation from the Advocates Trust Fund should be granted in part, as set forth in the following order.

ORDER

IT IS ORDERED that:

1. Complainants' request for compensation from the Advocates Trust Fund is granted in part. The sum of \$113,265.00 shall be disbursed to complainants from the Advocates Trust Fund as compensation for their participation in C.91-05-042.

2. Trustee, Sumitomo Bank and Trust Company, shall pay to complainants the sum of \$113,265.00 plus interest at the three-month commercial paper rate commencing on the date of this decision and continuing until payment is made.

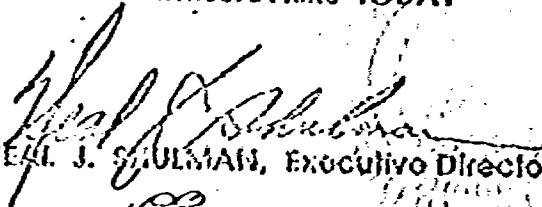
3. The Executive Director shall serve Sumitomo Bank and Trust Company a copy of this decision by certified mail.

This order is effective today.

Dated December 16, 1992, at San Francisco, California.

DANIEL Wm. FESSLER
Président
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

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


NEIL J. SULMAN, Executive Director