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**Decision 95-08-024 August 11, 1995**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company to Establish an Application 92-10-017  
Experimental Performance-Based Rate (Filed October 16, 1992)  
Making Mechanisms (U 902+M) (Filing date not determined)

ORIGINAL

**ORDER AWARDING INTERVENOR COMPENSATION**

**1. Summary**  
 The Commission finds that Utility Consumers Action Network (UCAN) made a substantial contribution to the adoption of Decision (D.) 94-08-023, issued in Phase 2 of this proceeding. The Commission grants, in part, UCAN's request for compensation for its participation in Phase 2. The requested award of \$173,718.18 is reduced to \$136,105.77 to reflect the Commission's judgments that, UCAN's contributions duplicated in part those of other parties, and that a portion of UCAN's efforts did not lead to adoption of any recommendation or legal or factual contention.

**2. Background**

In this application, San Diego Gas & Electric Company (SDG&E) proposed an experimental program of restructured rate regulation, or performance-based ratemaking (PBR), for gas procurement, electric generation and dispatch, and long-term competitive energy procurement. After filing the application, SDG&E announced that it would propose a base rate PBR mechanism as well. SDG&E, Division of Ratepayer Advocates (DRA), and the Federal Executive Agencies agreed on a proposal (Joint Proposal) for a base rate PBR mechanism. The Joint Proposal is a five-year experiment that replaces SDG&E's 1994 and 1995 operational attrition adjustments and its 1996 general rate case (GRC) including any attrition adjustments that might have been authorized for 1997 and 1998, with a revenue requirement formula, revenue

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sharing, and performance rewards and penalties. UCAN generally supported a base rate PBR experiment for SDG&E but vigorously opposed the Joint Proposal unless major amendments were made. VIO-91-158-Phase 1 of this proceeding addresses gas procurement and electric generation and dispatch mechanisms which were initially approved in D.93-06-092 as two-year experiments. Phase 2 addresses proposals for base rate and competitive energy procurement mechanisms. The Joint Proposal for a base rate mechanism was decided on August 3, 1994 by D.94-08-023. SDG&E's request to restructure energy procurement regulation is not being actively considered in this proceeding at this time.

UCAN actively participated in Phase 2 following SDG&E's circulation of a draft base rates proposal on or about May 27, 1993.<sup>1</sup> It attended and participated in prehearing conferences, Commission Advisory and Compliance Division (CACD) workshops, and evidentiary hearings. It submitted prepared testimony, and filed briefs and comments on the proposed decision. UCAN was found eligible to claim compensation for its participation in both phases of this proceeding by an Administrative Law Judge's (ALJ's) Ruling issued February 25, 1993. By D.93-10-023 the Commission awarded UCAN \$62,207.29 for its participation in Phase 1 leading to D.93-06-092.

### 3. Request for Award and Responses

UCAN filed a Request for Award of Intervenor Compensation on August 26, 1994.<sup>1</sup> UCAN seeks an award of \$173,718.18 consisting of \$105,602.00 in attorney's fees, \$63,271.00 for expert witness, SDG&E, Division of Ratepayer Attorneys (DRA), and other expenses.

For a base rate PBR mechanism, the joint board is a five-year agreement that bases rates on a biannual (Joint Board) basis.

1. Although the request does not identify the decision for which UCAN seeks compensation, it was filed shortly after D.94-08-023 was mailed. Numerous references in the request are consistent with D.94-08-023. The request clearly pertains to Phase 2 proceedings which culminated in D.94-08-023.

witnesses (including miscellaneous costs incurred by experts, S.E. witnesses) plus \$4,845.18 in other expenses, of which the SDG&E and DRA responded to the request. SDG&E argues that \$173,718.18 is excessive compensation for what it contends was a limited contribution by UCAN. DRA contends that UCAN should not be compensated for certain expert witness expenses, and that the award should be reduced by \$25,304.55. Accordingly, UCAN filed replies to SDG&E's and DRA's responses.

An ALJ's ruling directed UCAN to provide additional information which would allow the Commission to differentiate the allowable compensation according to UCAN's litigation expenses and its expenses for participation in alternatives to litigation (ATL), as well as an allocation of its attorney and expert time by issue. In response, on May 16, 1995, UCAN filed an amended request for compensation providing the requested information. There were no responses to UCAN's amended request.

### 3.1 Timeliness

Under § 1804(c),<sup>2</sup> a customer who has been found eligible may file a request for an award of compensation within 60 days of a final order or decision in the proceeding. Although Phase 2 remains open for consideration of a competitive energy procurement mechanism and for monitoring and evaluation (M&E) of the adopted base rate experiment, D.94-08-023, resolved the issues for which UCAN seeks compensation in its August 26<sup>th</sup> request.

(Rule 76.72 of the Commission's Rules of Practice and Procedure.) It is the final order or decision for purposes of the request. We find that UCAN's request for compensation was timely filed.

<sup>2</sup> All citations to sections herein are to the Public Utilities Code.

**3.2 Substantial Contribution** (contribution) according to

Pursuant to § 1803(a) of the Commission must determine whether UCAN made a substantial contribution to the adoption, in whole or in part, of D. 92-10-023, or Under § 1802(h), an intervenor has made a "substantial contribution" when no such finding is made.

"Substantial" in the judgment of the commission, the intervention of customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision adopted has adopted in whole or in part one or more

(not factual contentions, legal contentions, or specific policy or procedural recommendations of the customer)"

UCAN contends that it contributed substantially by doing the following, in this phase of Application 92-10-017 as follows:

1. Developed a full record of principles and policy issues. UCAN maintains that its objections to the Joint Proposal led to the decision's full evaluation of regulatory objectives and criteria. The decision's emphasis on reducing SDG&E's rates can be traced to the testimony of UCAN witness Robert Navarro, who explained the importance of SDG&E's rates to the state's economy. The discussion of the need to restructure to limit rate incentives, so that utility management has a reduced incentive to invest in additional coal plant, can be traced to UCAN's contentions regarding rate base expansion effects. Most importantly, according to UCAN, the adopted criteria of discouraging long term disinvestment, avoiding unintended consequences, and developing a comprehensive M&B program were brought into focus by its own participation. Finally, UCAN notes, the Commission cited UCAN's concerns about program flexibility and program stability in its analysis of the Joint Proposal.

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at 2. Helped develop a complete record of the IPBR's mechanism and how it works, and revealed its limitations. UCAN submits that without hearings, the Commission would not have had the record necessary to fully understand the IPBR's workings of the Joint Proposal's mechanism.

On D.94-08-023, One example cited by UCAN is the Commission's own self discussion of the drawbacks of the adopted National Rate Index rate comparison. Also, the Commission was afforded insights into the IPBR's revenue requirements formula that prompted the adoption of one of UCAN's proposed revisions.

UCAN also raised concerns about unintended consequences and the importance of an M&E program which were acknowledged and addressed by the Commission.

After D.94-08-023, created a set of alternatives or proposed amendments to the settlement. UCAN notes that the Commission modified the revenue requirement or the formula by adopting UCAN's proposed electric customer growth/productivity adjustment (GPA). It also adopted UCAN's proposed tax treatment of revenue sharing. In response to UCAN's concerns about the experiment's M&E program, the Commission provided that CACD should administer the program. In addition, some UCAN recommendations were not adopted as proposed but led to adopted measures. These include the requirement that SDG&E disclose accounting changes impacting revenue sharing and a review of the customer satisfaction index after three years.

SDG&E concedes that the Commission adopted UCAN's recommended GPA and its recommended treatment of taxes under the revenue sharing mechanism, and it does not contest a minor award commensurate with what it sees as UCAN's small degree of success. Yet, curiously, SDG&E asserts that UCAN did not make a substantial contribution to D.94-08-023. Before we proceed to determine whether UCAN made a substantial contribution, we should point out that an intervenor who has not done so is not entitled to any new compensation. As noted above, § 1803(a) provides a threshold. To award compensation, we must first determine that the intervenor, to

made a substantial contribution to the adoption, in whole or in part, of the decision. We do not grant even minor compensation awards to customers who have not made any substantial contribution.

SDG&E lists the numerous UCAN recommendations, and issues that were rejected, in D.94-08-023, in concluding that UCAN did not contribute substantially. However, § 1802(h) does not require such a limited view of "substantial contribution." Apart from "specific policy or procedural recommendations," we also consider whether the customer has assisted us substantially by successfully advancing "factual contentions" or "legal contentions." We believe that UCAN has done so in this case.

It is worth recalling what was at stake in the base rate PBR proceeding. As we discussed in D.94-08-023 (pp. 16-18, 30), GRCs are the means by which we have upheld the traditional regulatory compact of ensuring that monopoly utilities provide adequate service at reasonable rates. The proposal to eliminate SDG&E's GRC and replace it with an alternative form of regulation went to the very core of our regulatory program, at least as to SDG&E. Eliminating the GRC, even on an interim and experimental basis, was not a decision to be taken lightly.

Through its participation, UCAN raised, and brought focus and perspective to our understanding of, important policy issues in deciding on the Joint Proposal. For example, UCAN helped draw our attention to the objectives and criteria of regulatory reform. Significantly, UCAN supported the concept of PBR and even the general outline and structure of the Joint Proposal. UCAN's support in this regard was influential in our decision to go ahead with the experiment. UCAN explained the drawbacks of using a National Rate Index as a price performance indicator, and we explicitly acknowledged that UCAN's arguments regarding the index were meritorious. (D.94-08-023, p. 71.) The understanding we gained as a direct result of UCAN's contentions will continue to be of value as we review the experiment in the M&B phase.

Secondly, As UCAN notes, some of its proposed modifications to the Joint Proposal were adopted, while others, although not directly adopted, led to changes in the experiment. The former include the electric QPA and the tax treatment of revenue sharing, as even SDG&E recognizes. The latter include the provision for accounting changes. Also, while the Joint Proposal included an M&E plan, patterned after the Phase 1 decision, UCAN brought focus to the need for monitoring for unintended consequences. Our discussion of the role of CACD in the M&E program (D.94-08-023, p.187) resulted from UCAN's contentions, and did not necessarily lead to listing

on We stated in the Phase 2 decision that "the opposing parties have unquestionably assisted the Commission in this proceeding, by bringing important concerns to our attention...."

(D.94-08-023, p.21.) While UCAN was not alone in opposing the Joint Proposal, it was the foremost among the opposing parties in terms of degree of participation and contributions. Even though we adopted the Joint Proposal with only minor changes, UCAN clearly provided a substantial contribution to our decision.

### 3.3 Compensable Hours and Expenses

UCAN acknowledges that it prevailed on only a limited number of the specific PBR program issues decided by D.94-08-023. Nevertheless, UCAN asserts it is entitled to full compensation for virtually all of its Phase 2 activities. UCAN argues that when a settlement such as the Joint Proposal is presented, contesting intervenors face a risk that the settlement will be adopted and no contribution by the contesting party will be possible. According to UCAN, the Commission recognized this in granting full compensation for the time and expense of preparing comments on the Proposed Decision.

3 As discussed later, UCAN does not request compensation for the estimated time and expense of an expert witness for preparing testimony that was struck. UCAN also deducted 15 hours of its attorney's time for preparing comments on the Proposed Decision since those comments were not adopted.

compensation to intervenors who opposed settlements and whose recommendations were not adopted. In Re Pacific Gas and Electric Company, D.89-03-063, and Re Pacific Bell, D.90-12-026 (1), the Commission

ruled on SDG&E claims that in many instances UCAN provided little testimony, and recommendations that largely duplicated those of other parties or SDG&E estimates that the minor issues on which UCAN prevailed took less than 5% of UCAN's efforts, and asserts that UCAN's request for more than \$173,000 is disproportionately high. In Phase I Under § 1802(h) we are vested with discretion to grant partial or full compensation for the customer's costs of preparing or presenting any contention or recommendation adopted by the Commission. The relevant portion of § 1802(h) provides that

"...and where the customer's participation has resulted in a substantial contribution, even if the ESO-80-RE-A decision adopts that customer's contention or at another recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs incurred by said intervenor the customer in preparing or presenting that contention or recommendation."

UCAN argues that this statute allows us to grant compensation for all of its costs of participation. However, it is clear that UCAN incurred some costs in preparing or presenting both contentions and recommendations that were not adopted, even in part. We therefore cannot agree that we are allowed to grant UCAN compensation for all of its costs of participating in Phase 2. The discretion entrusted to the Commission under § 1802(h) is the discretion to award full or partial compensation for intervenor efforts that yield at least some assistance to the Commission. As we said in another proceeding where we considered a compensation award for UCAN,

the statute specifically refers to full compensation for preparing or presenting that contention or issue. It does not suggest that the intervenor should receive compensation for work related to all contentions or issues if

and if the Commission only adopts some contentions or settles an issue in whole or in part." (Re San Diego Gas & Electric Company, D.93-04-004, pp. 3-4.)

It is incumbent upon the Commission to evaluate UCAN's reasonable costs for preparing and presenting recommendations or contentions that were adopted in D.94-08-023. Where intervenors seeking compensation have participated in ATL, such evaluation is complicated by the need to balance sometimes conflicting objectives regarding ATL. We seek to encourage the use of ATL yet we do not want to create undue pressure on intervenors to settle on terms that they view as contrary to the public interest. To remove this pressure and when sought by intervenors, we have tried to separate the ability of intervenors to receive compensation from their decisions to sign settlement agreements. (See, e.g., D.93-04-004, and D.94-10-029.)

Notwithstanding UCAN's rejection of the Joint Proposal, we are persuaded that its participation in the ATL phase led directly or indirectly to the adoption of contentions and recommendations that were advanced by UCAN. As we stated in the Phase 2 decision, the failure of the collaborative process to yield an all-party settlement was not an indictment of either the process or the participants, but was "merely a manifestation of the reality that, despite parties' best efforts, alternatives to litigation will not always be completely successful." (D.94-08-023, p. 11.) Based on the circumstances of this case, we believe that UCAN should be awarded full compensation for all reasonable expenses that it incurred during the collaborative phase of this proceeding. Otherwise, we might create incentives for intervenors such as UCAN to either to refrain from participation in future collaborative efforts or to participate and then settle on terms they view as not in the public interest.

UCAN determined that its total expenses for participation in ATL were \$55,935.23. No parties have taken issue with the

estimates of attorney and expert witness time upon which this determination is based. We will adopt those estimates in calculating our award of compensation to UCAN.

We turn to consider the expenses incurred by UCAN for purposes of litigation. UCAN initially contended that due to the comprehensive nature of the Joint Proposal, with over 30 factual and policy issues raised by UCAN, it was not possible to make an accurate allocation of its attorney and expert time by issue. In its amended request, UCAN identified and allocated its time and expenses among four broad issues. For purposes of this proceeding, we accept UCAN's specification of these broad issues. But while we accept them as the framework for determining the allowable compensation, we keep in mind that UCAN expended some resources advancing contentions and recommendations that were not even partially adopted. Accordingly, for each of these four broad issues, we will apply our judgment in determining the extent to which UCAN successfully advanced its specific recommendations or contentions related to that issue, and whether it is entitled to full or partial compensation for its cost of advancing that issue.

The criteria by which this application and  
subsequent PBR applications will be judged.

This category addressed the objectives and criteria for regulatory reform and, for UCAN,

not surprisingly was the most time-consuming of the existing disputes, and controversies. As discussed earlier, UCAN made a substantial contribution in this area. In

MADU D.93-10,023, we discounted the hours UCAN said it had claimed for its participation in Phase 1, by 10% primarily because it pressed many of the same issues that other parties didn't. As SDG&B has noted, some of UCAN's Phase 2 efforts on this subject also duplicated those of other parties.

For example, UCAN was not alone in advancing the idea that traditional regulation provides an incentive for utilities to invest in plant.

In our judgment, a similar discount is not warranted here. UCAN is entitled to compensation for 90% of its reasonably incurred costs for this issue, totaling \$8,288 more than it

noticing 2) at The accuracy of the revenue requirements for M&DU, UCAN has successfully advanced its recommendations involving the electric GPA. Yet, UCAN devoted a significant portion of its efforts to advancing positions on the revenue requirements formula which were not adopted in part. These include, among others, the productivity benchmark, constant factors in the regression equations, the basis for network additions, and the treatment of large gas projects. In our judgment, UCAN is entitled to compensation for 50% of the costs incurred in addressing this issue.

\$00.00      \$00.00      \$00.00      \$00.00      \$00.00      \$00.00      \$00.00      \$00.00      \$00.00      \$00.00  
 ✓ \$00.34      The appropriateness of a regressive retention sharing mechanism. UCAN's primary recommendations for a symmetrical, regressive sharing mechanism were rejected. Still, UCAN's litigation of this issue led to a greater understanding of this difficult and complex regulatory issue, including our assessment of why there should be any sharing at all, which we did adopt. In our judgment, UCAN is entitled to compensation for 50% of the costs incurred in addressing this issue.

\$00.00      \$00.00      \$00.00      \$00.00      \$00.00      \$00.00      \$00.00      \$00.00      \$00.00      \$00.00  
 ✓ \$00.03      Performance Incentives System. UCAN addressed the usefulness of a price performance mechanism focused solely upon a national rate index and to a lesser extent non-price targets which allow for deterioration of current levels of service. UCAN's specific recommendations were not adopted, but were found to have merit generally equal to the joint proposals. Through UCAN's participation, we gained a better understanding of the strong and weak points of both the national and state index approaches. We agreed with and adopted UCAN's findings on the drawbacks of the national index. We believe UCAN is entitled to compensation for 75% of the costs incurred in addressing this issue.

The following table shows both UCAN's proposed factors for allocating expenses by broad issues and the effective allocations which result from incorporating our judgment of the degree to which UCAN is entitled to compensation for each such bus

issue. UCAN retained JBS Energy, Inc. (JBS) & Strategy Integration (Strategy), and Peter Navarro for expert witness services, and its allocation factors for these expert witness fees and expenses are also included. UCAN notes that its allocation factors are estimates based on judgment. We find them reasonable and adopt them for purposes of calculating the compensation award.

Issue of UCAN's and Expert Witnesses

<u>Issue</u>	<u>Expense</u>	<u>Strategy</u>	<u>Navarro</u>	<u>JBS</u>
1. PBR Criteria				
UCAN's allocation	40.00%	100.00%	50.00%	20.00%
x 90% awarded	36.00%	90.00%	45.00%	18.00%
2. Revenue Requirements Formula				
UCAN's allocation	30.00%	30.00%	30.00%	40.00%
x 50% awarded	15.00%	15.00%	15.00%	20.00%
3. Sharing Mechanisms				
UCAN's allocation	15.00%	10.00%	10.00%	20.00%
x 50% awarded	7.50%	5.00%	5.00%	10.00%
4. Performance Incentives				
UCAN's allocation	15.00%	-	10.00%	20.00%
x 75% awarded	11.25%	-	7.50%	15.00%
Total % of expense awarded	69.75%	90.00%	72.50%	63.00%

We reject DRA's recommendations that we disallow compensation for any hours expended by UCAN experts, Eric Woychik, principal of Strategy, and Dr. Peter Navarro. We are persuaded that Woychik's contributions were an integral part of the development of UCAN's positions from the early stages of this proceeding up to (but not including) the hearings. While Navarro's participation came at a later stage of the proceeding, we find that his efforts contributed to UCAN's showing and, therefore, to our decision. We note that UCAN requests compensation for only 75% of Navarro's billed expenses; as well as expenses for travel to and from UCAN's request includes hours incurred by its attorneys and one of its experts for participation in meetings with other

Commissioners and their staff, UCAN contends that these meetings were a necessary part of the Commission's education on the JNDI application. Additionally, UCAN points out utilities have regularly traditionally been reimbursed for their regulatory contacts with Commissioners.<sup>10</sup> We find no board decision regarding this practice. In the 1994 case, we approved intervehori compensation for the cost of an ex parte communication (D.94-014047, p. 10, fnote Note 3). Later that year we denied compensation for the cost of an ex parte communication (D.94-09-0017 p. 15.) Since ex parte communications are officially sanctioned in the Rules of Practice and Procedure as part of the Commission's process, even though the substance of such communications cannot be considered as evidence (Rule 1.2), we see no reason to deny UCAN reasonable compensation for communications that comply with our rules. We note that SDG&E does not dispute UCAN's assertion that utilities have traditionally been reimbursed for their regulatory contacts with Commissioners.

3.4.6 Hourly Rates UCAN requests hourly rates of its attorney Michael Shames, UCAN, requests hourly rates of \$165 for work performed in 1993 and \$170 for work being performed in 1994. Shames was awarded an hourly rate of \$165 for work performed in 1993 in previous decisions<sup>2</sup> including D.93-10-023 and D.94-10-023 provided that this rate will also apply to Shames for work in other proceedings during 1994. We find that the requested increase for 1994 is appropriate, based on Shames' experience and demonstrated skill in representing UCAN before this Commission since 1985.

The parties agree that the hourly rate for Shames will be \$170 per hour, \$225 per hour for work by a. helper at \$30 per hour. Help received in preparation and testimony, unless the same hourly rates adopted in the previous 1 compensation decision. UCAN asserts the type of work was recorded in D.93-04-004 and D.94-004.

agent John William Marcus, the principal of JBS, provided the bulk of that firm's services. Marcus' hourly rate is \$90.<sup>4</sup> This rate appears reasonable, as do those of the other JBS experts.<sup>5</sup> UCAN also billed and requests compensation for expert witness Woychik based on an hourly rate of \$90. This rate appears to be in line with that of other experts of comparable training and experience.<sup>6</sup> In Phase 1, Woychik discounted his stated rate of \$105 by 25% because UCAN is a non-profit organization.<sup>7</sup> In Phase 2, UCAN agreed to continue working for UCAN at a discount, but not for less than the compensation that UCAN paid for Marcus's work in this proceeding.<sup>8</sup> Accordingly, we reject DRA's contention that we should reduce the compensation for Woychik to the level authorized for his services for work performed in Phase 1; see e.g., (S.I. 9/8/92) (2000). UCAN requests compensation based on the billed rate of \$200 per hour for Navarro. While we do not question the value of his services for other purposes, we are required by § 1806 to need consider the market rate paid to persons of similar training and experience for services similar to those provided in this proceeding.<sup>9</sup> UCAN has not shown to our satisfaction that the other services provided by Navarro in this proceeding warrant a rate of \$200. We note that UCAN engaged Navarro's services after it was apparent that witness Woychik would be unavailable (for hearings due to ill health) and that UCAN had no other witness available.

<sup>4</sup> We note that JBS billed UCAN at an hourly rate of \$85.00 for about half of the total hours charged for Marcus. Our award reflects the actual billings. The Commission has approved an hourly rate of \$90 or more for Marcus in numerous proceedings.

<sup>5</sup> JBS billed UCAN for 1.75 hours of work by G. Schilberg at \$70 per hour, 25.75 hours of work by J. Nahigian at \$60 per hour, and 9.5 hours of work by S. Helmich at \$30 per hour. With respect to Nahigian and Helmich, these are the same hourly rates adopted in the Phase 1 compensation decision. With respect to Schilberg, UCAN asserts that his work was recognized in D.93-04-004 and D.93-10-064.

to a scheduling conflict. In a sense, Navarro was brought in as a replacement for Woychik, and it might be appropriate to allow only the same rate authorized for that expert. However, in recognition of Navarro's training, experience, and national reputation, we authorize an hourly rate 50% higher than the \$90 rate authorized for witnesses Marcus and Woychik in this decision, or \$135. UCAN argues that the reasonableness of the requested rate of \$200 per hour is affirmed by SDG&E's payment of that rate for the time SDG&E spent depositing Navarro. However, for purposes of determining a market rate for services performed in this proceeding, we are not bound by SDG&E's decision to pay that rate.

### 3.5 Miscellaneous Costs

UCAN has claimed \$2,675.97 compensation for postage, overnight delivery, copying, telephone, facsimile transmissions, and overnight delivery. UCAN's direct travel costs are \$2,169.21, consisting of Shames' travel expenses between San Francisco and San Diego. JBS, Strategy, and Peter Navarro billed UCAN for specified miscellaneous costs of \$1,223.02, \$9.80, and \$193.00, respectively. These costs appear reasonable, and we allow them in full.

01.44	2	=	01.44 x .00.11 x .60	Hotel Navarro
28.282	2	=	28.282 x .25.15 x .60	Telephone
84.005	2	=	84.005 x .00.40 x .60	SDG&E
28.864	2	=	28.864 x .00.68 x .60	Support
121.618	2	=		Total

10.218	2	=	10.218 x .00.30	UCAN - Hotel, fax, copying
15.103	2	=	15.103 x .00.30	UCAN - Travel, copying
50.553	2	=	50.553 x .00.30	JBS
98.0	2	=	98.0 x .00.30	Strategy
27.441	2	=	27.441 x .00.30	Peter Navarro
245.555	2	=		Total

Commercial telephone (25 days after trial) communication between parties with previous consultation decisions, we order that injunctive relief be based on the same (calculated as the three-month commercial base rate) commercial telephone, per day (as above after

4. Award Based on the above, we award UCAN the following compensation of \$ 33,082.50 plus interest at 10% per annum from November 9, 1994 to the date of final judgment.

Attorney's Fees, ATL:

M. Shames	200.50	x	\$165	=	<u>\$ 33,082.50</u>
Subtotal					<u>\$ 33,082.50</u>

Expert Witness' Fees, ATL:

Strategy	122.00	x	\$ 90	=	<u>\$ 10,980.00</u>
JBS	103.25	x	\$ .85	=	<u>\$ 87.76</u>
Marcus	11.00	x	\$ 90	=	<u>\$ 990.00</u>
Schilberg	.75	x	\$ 70	=	<u>\$ 52.50</u>
Nahigian	10.00	x	\$ .60	=	<u>\$ 6.00</u>
Subtotal					<u>\$ 21,398.75</u>

Attorney's Fees, Litigation:

M. Shames	1993	x	6975	x	\$.95.70	x	\$165	=	<u>\$ 11,013.87</u>
Subtotal									<u>\$ 11,013.87</u>

1994	.6975	x	333.70	x	\$170	=	<u>\$ 39,568.48</u>	
Subtotal								<u>\$ 39,568.48</u>

plus interest calculated from November 9, 1994 to the date of final judgment.

Expert Witness' Fees, Litigation:

Strategy	.90	x	22.00	x	\$ 90	=	<u>\$ 1,782.00</u>		
JBS	.63	x	91.75	x	\$ .85	=	<u>\$ 4,913.21</u>		
Marcus	.63	x	190.75	x	\$ 90	=	<u>\$ 10,815.53</u>		
Schilberg	.63	x	1.00	x	\$ 70	=	<u>\$ 44.10</u>		
Nahigian	.63	x	15.75	x	\$ 60	=	<u>\$ 595.35</u>		
Helmich	.63	x	9.50	x	\$ 35	=	<u>\$ 209.48</u>		
Peter Navarro	.75	x	.725	x	88.00	x	\$135	=	<u>\$ 6,459.75</u>
Subtotal									<u>\$ 24,819.42</u>

Other Reasonable Costs:

UCAN - Postage, fax, copying	=	<u>\$ 2,675.97</u>
UCAN - Travel, lodging	=	<u>\$ 2,169.21</u>
JBS	=	<u>\$ 1,223.02</u>
Strategy	=	<u>\$ 9.80</u>
Peter Navarro	=	<u>\$ 144.75</u>
Subtotal		<u>\$ 6,222.75</u>

Total Compensation		<u>\$136,105.77</u>
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Consistent with previous Commission decisions, we order that interest be paid on this amount (calculated at the three-month commercial paper rate) commencing November 9, 1994 (75 days after

UCAN filed its initial compensation request and continuing until SDG&E makes full payment of the award. UCAN's audit request is to be put in writing and notice shall be given to the Commission Advisory and Compliance Division may audit or review UCAN's records. Thus, UCAN must make and retain adequate accounting and other documentation to support all claims for intervention compensation. UCAN's records should identify specific issues for which it requests compensation, 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. UCAN is eligible to file for compensation for its participation in both phases of this proceeding.

2. D.94-08-023 is a final decision for purposes of this proceeding.

3. UCAN made a timely request for compensation in Phase 2 proceedings leading to the issuance of D.94-08-023. UCAN amended its request on May 16, 1995.

4. UCAN actively participated in Phase 2 and contributed substantially to the Phase 2 decision.

5. UCAN's efforts were in part similar to those of other parties in raising issues and advancing recommendations and contentions.

6. UCAN's efforts, and therefore its costs, were in part for the advancement of contentions and recommendations that were not adopted by the Commission.

7. A reasonable hourly rate for UCAN's attorney is \$165 for work performed in 1993, and \$170 for work performed in 1994.

8. The hourly rates charged by UCAN consultants JBS and Strategy are reasonable.

9. The hourly rate charged by Peter Navarro has not been shown to be reasonable for purposes of this proceeding, but in recognition of his training, experience, and national reputation,

we authorize an hourly rate 50% higher than the \$90 rate authorized for witnesses Marcus and Woychik's odd to Inuugaq Iul askem Heeds  
time 10pm; The miscellaneous costs incurred by UCAN and its  
consultants are reasonable even to those who believe compensation  
Conclusions of Law has provided a reasonable basis for the award.  
Under § 1802(h), we have discretion to allow partial or  
full compensation only if the costs of preparing or presenting one  
specific policy or procedural recommendation or factual or legal  
contentions, that were adopted in whole or in part by the  
Commission.

2. UCAN should be awarded compensation for its substantial contribution to D-94-08-023 in the amount of \$136,105.77, plus interest commencing November 9, 1994, and continuing until UCAN pays the full award, not later than April 1, 1995.

3. This order should be effective today so that UCAN may be compensated without unnecessary delay. It is therefore requested that you forward a copy of this order to all offices of UCAN and to the appropriate offices of DIA-08-033.

3. UGMN's efforts were to keep alive the traditional beliefs and  
spiritualism among the people & by cooperation  
with the BIA & other organizations to  
keep alive the traditional beliefs.

adopted by the Commission.

8. The monthly target set by UGAM conference was being met.  
9. A seasonable monthly target for UGAM's effort is set for work begun in 1963 and still to work beginning in 1964.

recognition of his criminal, explosive, and incendiary tendencies.

IT IS ORDERED that Utility Consumers' Action Network (UCAN) is awarded \$136,105.77 in compensation for its substantial contribution to Decision 94-08-023. San Diego Gas & Electric Company (SDG&E) shall pay this award to UCAN within 30 days of the effective date of this order. SDG&E shall also pay interest at the rate earned on prime, three-month commercial paper, as reported in the Federal Reserve Statistical Release, G.13, with interest beginning November 9, 1994 and continuing until the full payment is made.

This order is effective today.

Dated August 11, 1995, at San Francisco, California.

DANIEL Wm. FESSLER  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
Commissioners

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

*Wesley Franklin*

Acting Executive Director