

Decision 98-01-007 January 7, 1998

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation.

R.94-04-031
(Filed April 20, 1994)

Order Instituting Investigation on the Commission's Proposed Policies Governing Restructuring California's Electric Services Industry and Reforming Regulation.

ORIGINAL
I.94-04-032
(Filed April 20, 1994)

OPINION

1. Background

In this decision, we consider requests for compensation filed by organizations that participated in working groups designed to explore implementation strategies for public purpose programs under a restructured electric utility industry. Environmental Defense Fund (EDF), California/Nevada Community Action Association (Cal/Neva), Natural Resources Defense Council (NRDC), and Union of Concerned Scientists (UCS) seek a combined total of \$216,713.41 in compensation for their contributions to the resulting decision, D.97-02-014.

Working groups were formed to consider administration of transitional programs addressing Energy Efficiency, Renewable Energy, Low-Income Customers and Research, Development and Demonstration (RD&D) during the market transformation process. Under Assembly Bill (AB) 1890, such programs will be subject to ratepayer funding through 2001. Numerous parties participated in producing working group reports reflecting a variety of approaches to ensuring continuing viability of public purpose programs under a competitive market structure. In addition, many parties filed reply comments on the reports and participated in oral arguments.

With D.97-02-014, we evaluated the proposals set forth and decided a number of threshold issues.

In the area of energy efficiency, we determined that an automatic continuation of utility administration would present potentially conflicting interests and instead chose appointment of a statewide Independent Board to oversee the administrative process, with a Technical Advisory Committee to assist. Program administrators will be selected through a competitive bidding process open to investor-owned utilities. It was noted that the procurement process should utilize competitive bidding to obtain market transformation services. The Independent Board will develop and issue a Request for Proposal (RFP) for program administration, in addition to constructing funding eligibility parameters for Commission consideration. Initial funding levels will be set at minimum requirements under AB 1890 until administrative structure is in place.

Low-Income assistance programs, currently provided as rate assistance and energy efficiency services, will be funded under a separate statewide surcharge. A Governing Board selected by this Commission will issue an RFP to hire an administrator in a competitive bidding process. The administrator will collect and disburse funds, coordinate customer eligibility and develop energy efficiency and education services for eligible customers. Initial funding levels are set at 1996 rates.

RD&D will also be funded by a nonbypassable surcharge. Working group participants supported varying interpretations as to the appropriate definition of RD&D activities to be funded in accordance with AB 1890, § 381(c). We found that minimum funding levels delineated in the statute refer only to public interest RD&D, and do not include regulated RD&D. The California Energy Commission will be allocated \$61.8 million of the initial \$62.5 million in total annual funding for public interest RD&D not related to transmission and distribution, while the remaining amount will be allocated among the utilities. In addition, we chose to transmit the RD&D working group report to the legislature for further consideration.

For renewable energy, AB 1890 again calls for a nonbypassable surcharge-funded program. We determined that initial funding levels should be set in accordance with the

minimum levels prescribed by statute. As with RD&D, we decided to officially transmit the working group report to the legislature and the California Energy Commission.

No response to the listed compensation requests has been received. However, the Commission's Office of Ratepayer Advocates (ORA) responded to a compensation request by Utility Consumer's Action Network (UCAN) for compensation in the same decision. ORA's response, expressing concerns about compensation for participation in working groups, is relevant to this discussion and will be considered herein.

2. Requirements for Awards of Compensation

Intervenors who seek compensation for their contributions in Commission proceedings must file requests for compensation pursuant to Public Utilities (PU) Code §§ 1801-1812. Section 1804(a) requires an intervenor to file a notice of intent (NOI) to claim compensation within 30 days of the prehearing conference or by a date established by the Commission. The NOI must present information regarding the nature and extent of compensation and may request a finding of eligibility.

Other code sections address requests for compensation filed after a Commission decision is issued. Section 1804(c) requires an intervenor requesting compensation to provide "a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding." Section 1802(h) states that "substantial contribution" means that,

"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 has adopted in whole or in part on one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer. Where the customer's participation has resulted in a substantial contribution, even if the decision adopts that customer's contention or recommendations only in part, the commission may award the customer compensation for all reasonable advocate's fees, reasonable expert fees, and other reasonable costs incurred by the customer in preparing or presenting that contention or recommendation."

Section 1804(e) requires the Commission to issue a decision which determines whether or not the customer has made a substantial contribution and the amount of

compensation to be paid. The level of compensation must take into account the market rate paid to people with comparable training and experience who offer similar services, consistent with § 1806.

3. Eligibility

All parties have previously been found eligible to claim compensation in the Commission's electrical restructuring proceedings.

3.1. Cal/Neva

On July 8, 1994, Cal/Neva filed an NOI to claim compensation in this proceeding. In the Administrative Law Judge (ALJ) Ruling dated August 2, 1994, Cal/Neva was determined to have made an adequate showing of financial hardship and was found eligible for compensation in this proceeding. Cal/Neva remains eligible for compensation in this case. Cal/Neva timely filed its request for compensation on April 7, 1997.

3.2. Environmental Defense Fund

EDF filed an NOI to claim compensation on July 28, 1994. In the ALJ Ruling issued on September 1, 1994, it was ruled that EDF had met the eligibility requirements but for the showing of significant financial hardship. EDF was found to have made a sufficient showing of significant financial hardship in D.96-08-040, issued August 2, 1996. EDF's eligibility continues to the current phase of this proceeding. EDF timely filed its request for compensation on April 8, 1997.

3.3. Natural Resources Defense Council

NRDC filed an NOI to claim compensation in this proceeding on June 7, 1994, and was found to have met the eligibility requirements, but for the showing of significant financial hardship in the ALJ Ruling issued on August 2, 1994. The ALJ rejected without prejudice NRDC's showing of significant financial hardship, because it did not offer sufficient details to support such a finding. On February 20, 1996, NRDC submitted an amended showing. In D.96-08-040, issued August 2, 1996, NRDC was found to have made a satisfactory showing of significant financial hardship. NRDC's

eligibility continues here. NRDC timely filed a request for compensation on April 7, 1997.

3.4. Union of Concerned Scientists

UCS filed a notice of intent to claim compensation in this proceeding on August 1, 1994, and was found to have met all eligibility requirements with the exception of a showing of financial hardship in the ALJ Ruling issued on September 1, 1994. In D.96-08-040, the Commission concluded UCS made a sufficient showing of significant financial hardship and awarded compensation to UCS for an earlier phase of the current proceeding. UCS remains eligible to claim compensation for this proceeding. UCS timely filed its request for compensation in this proceeding on April 7, 1997.

4. Contributions to Resolution of Issues

4.1. Substantial Contribution

4.1.1. Compensation for Working Group Participation

The Office of Ratepayer Advocates (ORA) filed a response to a Utility Consumers' Action Network (UCAN) request for compensation filed in this docket. ORA's response raises concerns with UCAN's request regarding compensation for participation in working groups. ORA's concerns are applicable to these four requests and so we address them here. Specifically, ORA asserts that the absence of a record upon which to determine duplicate contribution renders working group compensation inadvisable at this time, urging that the Commission defer consideration of such requests for compensation to proceedings pursuant to the Rulemaking and Investigation on the Intervenor Compensation Program, R.97-01-009/I.97-01-010. ORA also notes the potential for duplication inherent in the process by which an organization may be compensated both for participation in a working group and for separate reply comments later filed on reports emanating from the working group.

ORA originally proposed a distinction between working groups and advisory boards, the latter subject to a per diem compensation for service. ORA has

since noted "some 20-odd 'Advisory Groups,' 'Committees,' 'Working Groups' and other entities with perhaps as many variations in authority, roles, and the rules that may apply to them." ORA Response, p. 2, fn. 1. ORA concludes that this proposed distinction may therefore prove unworkable. Nonetheless, ORA's attempted classification is instructive.

The Commission has previously considered expense reimbursement for advisory groups. In a resolution dated November 8, 1988, we established eligibility and standards for service on advisory groups, noting that such groups must be specifically established by Order of the Commission. In addition, "[t]he Advisory Committee must have an ongoing role rather than a single analytical role which would be better suited by a single contract for consultant analysis and testimony." Resolution F-621, p.3. The three groups considered for applicability of reimbursement standards had a limited membership, composed primarily of Commission staff and utility employees. R. F-621, at 2. Under the standards adopted, reimbursements are to be funded through specific charges in utility rates or charged to utility stockholders. R. F-621, at 3. Groups subject to the Resolution may have members' expenses reimbursed in accordance with regulations covering government exempt employees. R. F-621, at 4.

The electrical restructuring working groups do not fit neatly within the guidelines set forth in Resolution F.-621. The working groups established to shape future treatment of public purpose programs were designed to tap the expertise of those working within the industries likely to be affected by electrical restructuring and to obtain a wide array of creative solutions to the challenge of market transformation. As such, the working groups are open to any organization wishing to participate and contribute. The groups were formed to fulfill a very specific role in the electrical restructuring process, one peculiarly unsuited to the more formal advisory committees described above.

The Public Utilities Code sections dealing with intervenor compensation are intended "to provide compensation for reasonable advocate's fees,

reasonable expert witness fees, and other reasonable costs to public utility customers of participation or intervention in any proceeding of the commission." § 1801.

"Proceeding" is defined as "an application, complaint, or investigation, rulemaking, alternative dispute resolution procedures in lieu of formal proceedings as may be sponsored or endorsed by the commission, or other formal proceeding before the commission." (§ 1802(d).) The working group process to effect implementation of electrical restructuring policy was endorsed in our "Roadmap" decision, D.96-03-022, in which we embraced the strategy of "reliance upon the stakeholders who have advanced the proceeding to date and who must function as business entities and consumers in that new structure." (D.96-03-022, p. 7.) Participation in these working groups therefore falls within the ambit of those activities authorized by statute for the intervenor compensation process. While it may be desirable to review general applicability of intervenor funding to working group activities in our Rulemaking and Investigation on the Intervenor Compensation Program (R.97-01-009/I.97-01-010), we do not choose to defer the current set of requests for later consideration.

In the electrical restructuring context, working group participation was considered in D.96-08-040. In that decision, we awarded compensation to eight groups that participated in the comprehensive rulemaking and investigation into electrical restructuring. Each of the groups requesting compensation for its involvement in D.97-02-014 was active in the earlier proceedings, and each was awarded compensation for its contribution. Those compensation requests were evaluated under the statute governing intervenor compensation, and all parties were found to have made a substantial contribution.

D.96-08-040 addressed the issue of duplicate contribution, noting the inevitable overlap in positions of the parties involved. "The cooperative efforts participated in by the intervenors, including the working groups . . . are essential in building a California consensus. This duplication does not diminish the value of that contribution to the Commission." D.96-08-040, p. 29. We determined that the customary reduction for duplication was inappropriate "because of the extraordinary level of

participation required of parties and intervenors throughout these proceedings.”
D.96-08-040, p. 28.

Activities of the public purpose working groups warrant a similar but not identical treatment. As in D.96-08-040, participation involved a consensus-building process geared toward compatible goals and cooperative proposals. Duplication under such circumstances would hardly be surprising, nor is it irreconcilable with the “substantial contribution” standard for intervenor compensation. However, unlike the activities awarded compensation in D.96-08-040, workshop participation does not in itself comprise “extraordinary” participation such that a reduction for duplication would be inappropriate. Working group activities were limited in scope and did not involve the broad-based, multifaceted public dialogue evident in the earlier phases. A nominal reduction may be in order where organizations participated as coalition members or contributed nothing unique to the process.

4.1.2. Contributions of Parties

4.1.2.1. Cal/Neva

Cal/Neva asserts that it took the lead in forming the Low-Income Working Group (LIWG) and was instrumental in facilitating working group meetings and production of the final report. That report addressed needs analysis, funding and allocation, level and application of the ratepayer surcharge, proposals for independent administration and consumer protection. Cal/Neva also notes its involvement where necessary in overlapping issues that concerned the Energy Efficiency and Direct Access working groups. Cal/Neva jointly filed comments on the LIWG report with three other organizations, in addition to its own reply comments. Finally, Cal/Neva notes Findings of Fact and Conclusions of Law from D.97-02-014 consistent with its stated positions. Among these include the following propositions: the value of an administrative structure integrated CARE and low income energy efficiency services, including education; undesirability of utility administration of low-income programs; funding levels provided by AB 1890 provide minimums, not ceilings. (Cal/Neva Request, pp. 16-18.)

Cal/Neva's pivotal role in the LIWG was specifically noted in D.97-02-014. "We wish to commend all Working Group participants for their valuable contributions to the Working Group reports. . . We are particularly appreciative of the role played by Cal/Neva for the low-income working group. . . . Without their dedication to the effective functioning of the Working Groups and the production of the reports, we are doubtful that the process would have been so successful." D.97-02-014, p. 9. Cal/Neva's leadership in forming the working group and role as working group facilitator contributed greatly to the process and helped to make the proposal possible. In addition, Cal/Neva has illustrated that a number of its policy positions were in fact adopted in the Commission's decision. Cal/Neva has convincingly demonstrated its substantial contribution to the LIWG.

4.1.2.2. EDF

EDF requests compensation primarily for its participation in the Renewables Working Group. EDF contends that it was the chief sponsor of the only proposal in the Working Group Report that was consistent with AB 1890. (EDF Request, p. 3.) EDF filed joint comments on the working group report with the Center for Energy Efficiency and Renewable Technologies (CEERT), recommending that the report be officially transmitted to the legislature. (EDF Request, p. 5.) EDF also filed a position statement on renewables issues prior to oral argument in November, 1996, again in conjunction with CEERT. (EDF Request, p. 5.)

Of the six renewables proposals, EDF was involved in the production of the "Surcharge-Funded Production Credit" proposal. EDF was an active participant in the working group process and aided in developing issues and possible solutions in the area of renewables. D.97-02-014 acknowledged comments of EDF and others in noting that additional renewables funding may prove necessary to mitigate significant environmental effects of restructuring and preserve resource diversity at current levels. (D.97-02-014, p. 74.) EDF also participated in the Energy Efficiency working group as a member of the Coalition Parties. EDF has made a substantial contribution to the working group process and to D.97-02-014.

4.1.2.3. NRDC

NRDC claims compensation for participation in all four public purpose working groups as well as written filings and oral presentations. NRDC notes general areas of concentration for each working group and lists findings of fact and conclusions of law consistent with its positions.

NRDC's involvement in several working groups is discernable from the working group proposals. In Energy Efficiency, NRDC backed an administrative proposal put forth by coalition, and proposed policies on several aspects of program administration, including applicability and magnitude of the public goods surcharge. In Renewables, NRDC co-sponsored an adjunct proposal favoring implementation of newer technologies. NRDC provided commentary and was an active participant in the working group process, substantially contributing to D.97-02-014.

4.1.2.4. UCS

UCS requests compensation for its participation in the RD&D and Renewables working groups. UCS lists policies advocated by the organization which were adopted in Findings of Fact and Conclusions of Law of D.97-02-014, including the need for coordination with the California Energy Commission, AB 1890 funding levels as minimums rather than ceilings, and characterization of RD&D funds. UCS also notes its attendance at Renewables and RD&D working group meetings and involvement in the preparation, review and editing of all drafts up to and including final reports submitted.

UCS made a substantial contribution to the Renewables and RD&D working groups. UCS was a co-sponsor of one of the six major proposals for renewable energy program administration and provided extensive input in the form of commentary on each of the other proposals as well as adjunct proposals. UCS also provided valuable input on the legal issues regarding RD&D, particularly the stance of public interest RD&D funding. UCS' extensive participation greatly contributed to the process.

4.2. Compensation

4.3. Cal/Neva

4.3.1. Hours Claimed

Attorney Fees

Sara Steck Meyers

110.95 hrs X \$235.00 = \$ 26,073.25

23.5 hrs X \$90.00 = \$ 2,115.00

Subtotal = \$ 28,188.25

Cal/Neva Staff

Katy Olds

327.5 hrs X \$100.00 = \$ 32,750.00

Sharon Haynes-Creswell

46.75 hrs X \$95.00 = \$ 4,441.25

Joy Omania

29.75 hrs X \$50.00 = \$ 1,475.00

Subtotal = \$ 38,666.25

Expert Witness

Lynda Timbers

116.75 hrs X \$135.00 = \$ 15,761.25

Lee Riggan

131.75 hrs X \$135.00 = \$ 17,786.25

Subtotal = \$ 33,547.50

FEES SUBTOTAL = \$100,402.00

Other Reasonable Costs

Photocopying = \$ 882.50

Postage = \$ 1,106.27

Mailing Services = \$ 244.50

Phone = \$ 217.31

Fax = \$ 205.76

Travel = \$ 3,154.11

SUBTOTAL = \$ 5,810.45

TOTAL = \$106,212.45

4.3.2. Reasonableness of Hours Claimed

Cal/Neva documents its hours by issue for each individual, including time spent on the Low Income Working Group, Energy Efficiency, Consumer

Education/Protection, Uniform Treatment of Gas Utilities, Independent Administration, Low Income Program Funding, Eligibility and Program Design Options, and Preparation of Compensation Request. The vast majority of time was spent on the Low Income Working Group, 627.75 hours for a total of \$81,366.25.

In listing activities and dates for each individual, Cal/Neva indicates where travel time has been included in total time. At the request of the ALJ, Cal/Neva broke out time spent in travel from time spent on an activity. Travel time is properly compensable at $\frac{1}{2}$ the hourly rate. We will reduce Cal/Neva's award by \$6,536.50 to reflect this adjustment.

As previously noted, Cal/Neva had an active role in forming and facilitating the working group, activities which included drafting agendas and minutes, and providing required responses and status reports to the Commission. Cal/Neva was also instrumental in drafting and editing the final working group report. Cal/Neva's extensive involvement justifies the hours claimed.

Cal/Neva's substantive policy contributions duplicated the positions of other parties. Cal/Neva's positions on integration of CARE and energy efficiency services, the inadvisability of continued utility administration of low income programs and characterization of AB 1890's funding provisions were all argued by other organizations. Because Cal/Neva's substantive contributions to D.97-02-014 were not unique, we will apply a 10% reduction to the award, in accordance with prior treatment of duplication in workshop participation. This results in a reduction of \$9,967.62.

4.3.3. Hourly Rates

Cal/Neva requests a \$235 hourly rate for attorney Sara Steck Myers for her work in 1996, the same rate requested and awarded for 1996 in D.96-08-040. This rate is reasonable and will be applied here.

Cal/Neva requests \$135 per hour for expert witness Lynda Timbers in 1996. This rate was previously approved for 1995 in D.96-05-052, and we apply it here.

Cal/Neva also requests \$135 per hour for expert Lee Riggan. This rate represents a 12.5% increase over the \$120 rate granted in D.96-08-040. Ms. Riggan has 16 years' experience in low-income energy issues, having served as Executive Director of the Ventura County Commission on Human Concerns and Secretary of the Association of Southern California Energy and Environmental Programs. Ms. Riggan's experience is very comparable to that of Ms. Timbers and was compensated at the same rate in D.96-08-040. The hourly rate of \$135 is a reasonable rate for Ms. Riggan's services as an expert witness.

Cal/Neva requests \$100 per hour for the work of Cal/Neva Energy Project Director Katy Olds, a 5% increase over the 1996 rate granted in D.96-08-040. Ms. Olds has been a member of the Association of Rural Northern California Energy Providers and PG&E's Customer Energy Efficiency Committee and Low-Income Subcommittee. In addition, Ms. Olds has extensive experience in proceedings before the Commission. A \$100 hourly rate is reasonable and will be applied here.

Cal/Neva requests \$95 per hour for the work of Executive Director Sharon Haynes-Creswell, the same 1996 rate approved in D.96-08-040. We again approve that rate here.

Finally, Cal/Neva requests \$50 per hour for Project Analyst Joy Omania for her administrative support in preparing Cal/Neva's compensation request. We have not previously considered a compensation rate for Ms. Omania. She has served as an admissions representative, Public Employees' Retirement System Program Coordinator and account executive since graduating in 1993 from California State University, Sacramento with a degree in Organizational Communications Studies. A \$50 rate for Ms. Omania's services is commensurate with rates approved for similar work.

4.3.4. Other Costs

Cal/Neva's expenses for photocopying, postage, mailing, phone and fax services are reasonable in light of the level of Cal/Neva's involvement with the

Low Income Working Group and production of the final working group report. Travel expenses are also reasonable considering attendance at numerous working group meetings. Mileage is correctly requested at \$0.28 per mile, in accordance with D.93-09-086. All of Cal/Neva's claimed expenses are eligible for reimbursement.

4.4. EDF

4.4.1. Hours Claimed

Attorney Fees

Sara Myers

8.6 hrs

X

\$235 =

\$ 2,021.00

Expert Fees

Daniel Kirshner

149.6 hrs

X

\$135 =

\$20,196.00

Other Miscellaneous Expenses

Editorial Consultant - Working Group Report

\$ 2,500.00

Total = \$24,717.00

4.4.2. Reasonableness of Hours Claimed

EDF seeks compensation of 149.6 hours for its expert Daniel Kirshner and 8.6 for Attorney Sara Myers. EDF does not break down the total hours by issue, but does submit extensive timesheets detailing activities, including travel time at one-half the rate. Future compensation requests should provide a breakdown showing hours allocated to major issues. However, EDF's hours do appear reasonable here.

EDF's contributions to D.97-02-014 were made in conjunction with other parties. EDF's proposal for the Renewable Energy working group report listed 13 other sponsors. EDF contributed to the Energy Efficiency working group as a member of a 14-member coalition. EDF's comments on the Renewables working group report and position statement on renewables issues for purposes of oral argument were filed jointly with CEERT. Although EDF asserts that only one-half of the fees related to the joint EDF-CEERT filings are included here, EDF's contribution is nonetheless

duplicated by other parties. Because of this duplication, we will apply a 10% reduction to EDF's total award.

4.4.3. Hourly Rates

EDF requests a \$135 hourly rate for its expert, Daniel Kirshner. This rate was approved for Mr. Kirshner's work in 1994-96 in D.96-08-040. We approve the same rate for hours claimed here.

EDF requests \$235 per hour for attorney Sara Myers. As stated above in discussing her work for Cal/Neva, this rate for Ms. Myers was found reasonable in D.96-08-040 and will be applied here.

4.4.4. Other Costs

EDF submits as its only cost \$2,500 as EDF's one-third share of a cost over-run for editorial work on the Renewables Working Group Report. EDF's costs for editorial work would more properly be presented as a consultant fee shown at an hourly rate. However, EDF has documented this request with a memorandum from the working group editor explaining how this request came about. EDF's shared costs in producing the report are reasonable, and should be reimbursed.

4.5. NRDC

4.5.1. Hours Claimed

Attorney Fees

Ralph Cavanaugh					
15.5 hrs	X	\$200	=	\$	3,100.00

Expert Fees

Peter Miller					
150.9 hrs	X	\$135	=	\$	20,371.50
Sheryl Carter					
198.75 hrs	X	\$100	=	\$	19,875.00
Gregory Morris					
22.0 hrs	X	\$115	=	\$	2,530.00

Subtotal			=	\$	45,876.50
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Other Miscellaneous Expenses

Copying	=	\$ 1,366.10
Postage	=	\$ 583.16
Subtotal	=	\$ 1,949.26
TOTAL	=	\$47,825.76

4.5.2. Reasonableness of Hours Claimed

NRDC requests compensation for 387.15 hours total for its participation in each of the four working groups. Like EDF, NRDC provides extensive time records showing the activity and time spent for each individual. However, no breakdown is provided allocating hours by issue.

NRDC's hours appear reasonable, given its involvement in all of the public purpose working groups. While travel time is somewhat high, it is correctly requested at one-half the standard hourly rate for each individual. Given NRDC's attendance at working group meetings, travel time reported is not excessive.

NRDC's contribution, while substantial, was duplicated by other parties participating in the working group process. In Energy Efficiency, NRDC participated as a member of a Coalition comprised of fourteen organizations. While NRDC did provide some independent commentary, its main offering was the Coalition proposal. NRDC's renewables adjunct proposal was submitted in conjunction with three parties. NRDC has not demonstrated that its contribution to D.97-02-014 is sufficiently unique to warrant full compensation. As a result, we will reduce NRDC's award by 10%.

4.5.3. Hourly Rates

NRDC's requested hourly rates for Ralph Cavanaugh, Peter Miller and Sheryl Carter were approved in D.96-08-040. As such, we find them reasonable and approve them here.

NRDC seeks an hourly rate of \$115 per hour for Dr. Gregory Morris for his work in writing and editing the Renewables Working Group report. Dr. Morris, an expert on biomass and renewable energy, has completed a study on the biomass energy industry for the National Renewable Energy Laboratory and has served

as a consultant to the California Energy Commission and the Integrated Waste Management Board in matters pursuant to AB 1890. Dr. Morris' experience and expertise justify the \$115 requested hourly rate.

4.5.4. Other Costs

NRDC's expenses for copying and postage are comparable to requests by other groups participating in the working group process. NRDC's costs are reasonable and eligible for reimbursement.

4.6. UCS

4.6.1. Hours Claimed

UCS requests compensation as follows:

Attorney Fees

Dian M. Grueneich					
1.0	X	\$90.00	=		\$ 90.00
Jeanne M. Solé					
2.5	X	\$70.00	=		\$ 175.00
		Subtotal	=		\$ 265.00

Expert Witness Fees and Expenses

Dr. Gregory P. Morris					
22.0	X	\$115.00	=		\$ 2,530.00
Mark Stout					
130.0	X	\$35.00	=		\$ 4,550.00
Dr. Donald Aitken					
179.65	X	\$150.00	=		\$26,947.50
10.5	X	\$35.00	=		\$ 367.50
		Subtotal	=		\$34,395.00

Other Expenses

Travel

Mileage

9 round trips to San Francisco, 90 miles each
 11 round trips to Sacramento, 260 miles each
 3 round trips to Berkeley, 110 miles each
 4,000 miles X \$0.30 = \$ 1,200.00

Parking			=		\$ 46.50
Tolls			=		\$ 4.00
		Subtotal	=		\$ 1,250.50

Other Expenses

Photocopying	=	\$ 1,252.33
Postage/Mailing	=	\$ 795.37
Subtotal	=	\$ 2,047.70
TOTAL	=	\$37,958.20

4.6.2. Reasonableness of Hours Claimed

UCS requests compensation for 338.65 hours total time. UCS spent 42% of this time on RD&D and 58% on Renewables. UCS further documents all of its time for each individual, including travel time at one-half standard rate. UCS' hours are reasonable in view of its extensive contributions to both working groups.

While UCS' Renewables proposal was made in conjunction with five other parties, UCS distinguished its own voice by submitting comments on each of the other proposals, noting pros and cons. UCS' extensive and valuable participation in the area of RD&D and Renewables, combined with its stand-alone efforts to provide independent input, warrant full compensation.

4.6.3. Hourly Rates

UCS seeks \$150.00 per hour for time spent by Dr. Donald Aitken, Senior Scientist. This rate was approved in D.96-08-040 and will be applied here.

UCS requests \$35 per hour for Staff Intern Mark Stout. Mr. Stout's educational background is engineering, and he has completed graduate coursework on electric industry restructuring and its impact on renewable energy. Mr. Stout's \$35 hourly rate is reasonable.

UCS also requests compensation for the work of Dr. Gregory Morris, acting as editor. Having considered the reasonableness of Dr. Morris' hourly rate with NRDC's request, we apply it here.

UCS requests \$90 per hour for attorney Dian Gruenich and \$70 per hour for Jeanne Sole for assistance in preparation of UCS' Notice of Intent and Request for Award. Ms. Gruenich's hourly rate was approved in D.96-08-040. UCS notes that these hourly rates represent one-half of Ms. Gruenich's and Ms. Sole's market billing rates. We find these rates to be reasonable.

4.6.4. Other Costs

UCS' expenses for photocopying, postage and mailing appear reasonable. Travel expenses are high, but comparable to that claimed by other parties. However, mileage is requested at \$0.30 per mile, a rate higher than that customarily granted. We reduce mileage to \$0.28 per mile, in accordance with D.93-09-086. This reduces UCS' award by \$80.

5. Award

We award total compensation as follows:

Intervenor	Amount Requested	Amount Awarded
Cal/Neva	\$106,212.45	\$ 89,708.58
EDF	\$ 24,717.00	\$ 22,245.30
NRDC	\$ 47,825.76	\$ 43,043.18
UCS	\$ 37,958.20	\$ 37,878.20
TOTAL	\$216,731.41	\$192,875.26

We will assess responsibility for payment among the electric utilities affected by D.97-02-014, specifically, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E), based upon their respective 1996 retail sales of electricity measured in kilowatt-hours.

Consistent with previous Commission decisions, we will order that interest be paid on the award amount (calculated at the three-month commercial paper rate), commencing June 21, 1997 for Cal/Neva, NRDC, and UCS, and June 22, 1997 for EDF (the 75th day after each party filed its compensation request) and continuing until each utility makes its full payment of award.

As in all intervenor compensation decisions, we put Cal/Neva, EDF, NRDC and UCS on notice that the Commission Energy Division may audit records related to this award. Thus, these organizations must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Records should identify specific issues for which it requests compensation, the actual time spent by each employee, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation may be claimed.

Findings of Fact

1. Cal/Neva, EDF, NRDC, and UCS have each made a timely request for compensation for their contributions to D.97-02-014.
2. Cal/Neva, EDF, NRDC, and UCS have previously been determined to be eligible for awards of compensation in this proceeding.
3. Cal/Neva, EDF, NRDC, and UCS each contributed substantially to D.97-02-014.
4. Due to duplication of contribution, the awards of Cal/Neva, EDF, and NRDC should be reduced by 10%.
5. The hourly rates requested for the individual attorneys, expert witnesses, and staff members of the intervenors, as modified by this decision, are reasonable.
6. Cal/Neva's time spent in travel should be compensated at ½ the hourly rate, as is our practice, and as applied by the other intervenors.
7. The miscellaneous costs incurred by Cal/Neva, EDF, and NRDC are reasonable. UCS' mileage award should be reduced to reflect the standard \$0.28 per mile.
8. Allocation of the approved awards between PG&E, SDG&E, and SCE based on the number of retail kilowatt-hours of electricity sold by each of them in 1996 is reasonable.
9. Awards of compensation should earn interest beginning on the 75th day after the date of filing of each intervenor's request for compensation.

Conclusions of Law

1. Cal/Neva, EDF, NRDC, and UCS have fulfilled the requirements of Sections 1801-1812 which govern awards of intervenor compensation.
2. Compensation awards for participation in the public purpose working groups should not be deferred for consideration in the Commission's Rulemaking and Investigation on the Intervenor Compensation Program, R.97-01-009/I.97-01-010.
3. Cal/Neva should be awarded \$89,708.58 for its contribution to D.97-02-014.
4. EDF should be awarded \$22,245.30 for its contribution to D.97-02-014.
5. NRDC should be awarded \$43,043.18 for its contribution to D.97-02-014.
6. UCS should be awarded \$37,878.20 for its contribution to D.97-02-014.

7. PG&E, SDG&E, and SCE should pay to each intervenor that pro rata portion of each intervenor's award equal to each utility's percentage of the sum of the retail kilowatt-hours of electricity sold by them in 1996.

8. This order should be effective today so that Cal/Neva, EDF, NRDC, and UCS may be compensated without unnecessary delay.

O R D E R

IT IS ORDERED that:

1. For their substantial contributions to Decision 97-02-014, California/Nevada Community Action Association (Cal/Neva) is awarded \$89,708.58, Environmental Defense Fund (EDF) is awarded \$22,245.30, the Natural Resources Defense Council (NRDC) is awarded \$43,043.18, and the Union of Concerned Scientists (UCS) is awarded \$37,878.20, in compensation.

2. Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison shall pay to each intervenor that pro rata portion of each intervenor's award equal to each utility's percentage of the sum of the retail kilowatt-hours of electricity sold by the three utilities in 1996, within 30 days of the effective date of this order. Utilities shall also pay interest on the award at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release G.13,

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with interest, beginning June 21, 1997 for Cal/Neva, NRDC, and UCS, and June 22, 1997 for EDF, and continuing until full payment is made.

This order is effective today.

Dated January 7, 1998, at San Francisco, California.

P. GREGORY CONLON
President

JESSIE J. KNIGHT, JR.

HENRY M. DUQUE

JOSIAH L. NEEPER

RICHARD A. BILAS

Commissioners