

Decision 98-12-037 December 17, 1998

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of the Application of Southern California Edison Company (U-338-B) To Adopt The California Based Ratemaking and Incentive Based Ratemaking Mechanisms Specified in D.95-12-063, as modified by D.96-01-009, and Related Changes.

Application 96-07-009  
(Filed July 15, 1996)

Application of Pacific Gas and Electric Company to Adopt Performance-Based Ratemaking (PBR) for Generation And To Change Electric Revenue Requirement Subject To PBR, Effective January 1, 1998.

Application 96-07-018  
(Filed July 15, 1996)

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## O P I N I O N

This decision grants James Weil, Ray Czahar, and Ronald Knecht, an award of \$30,093.31, \$3,323.75 and \$5,036.75, respectively, in compensation for their contribution to Decision (D.) 97-12-096.

### 1. Background

James Weil, Ray Czahar, and Ronald Knecht are Pacific Gas and Electric Company (PG&E) customers that seek compensation for their participation and contribution in Application (A.) 96-07-018.

In this proceeding, the Commission considered an alternative mechanism (to performance-based ratemaking) for determining PG&E's hydroelectric and geothermal generation revenue requirements for 1998. On December 16, 1997, the Commission issued decision D.97-12-096 which adopted an alternative mechanism for determining PG&E's hydroelectric and geothermal generation revenue requirements for 1998.

On February 17, 1998, James Weil, Ray Czahar, and Ronald Knecht each timely filed a request within 60 days of the issuance of D.97-12-096 for a compensation award of \$31,795, \$21,575 and \$35,715, respectively, for their contribution to D.97-12-096.

### 2. Requirements for Awards of Compensation

In D.98-04-059, the Commission discusses extensively the requirements (Sections 1801-1812<sup>1</sup>) for a utility customer to receive a compensation award under the intervenor program. This decision follows the principles enunciated in D.98-04-059. This decision does not review the intervenor compensation

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<sup>1</sup> Division I, Part I, Chapter 9, Article 5 of the Public Utilities (PU) Code. All section references herein are to the PU Code.

program, instead it only addresses those issues raised by the particular facts and circumstances of the intervenors' request. D.98-04-059 should be consulted for an in depth review of the Commission's intervenor compensation program.

In summary, a customer claiming compensation for their participation in a Commission proceeding must do the following: file a timely "Notice of Intent" (NOI) to claim compensation as a customer, show financial hardship, and show "substantial contribution" to a Commission decision.

Weil, Czahar, and Knecht have met the NOI and financial hardship requirements. On June 30, 1997 Weil filed a NOI to claim compensation. On July 23, 1997, Czahar and Knecht each filed a separate NOI to claim compensation. In response, in a ruling in this proceeding dated August 27, 1998, Administrative Law Judge (ALJ) Wetzell found all three intervenors eligible for compensation if they show that participation in this proceeding poses a significant financial hardship.

On February 9, 1998, Weil filed a motion to amend his NOI and he also submitted, under seal, additional personal financial information. On February 17, 1998, Czahar and Knecht each filed a separate motion to amend their NOI and each also provided, under seal, additional personal financial information. In three separate rulings in this proceeding dated March 31, 1998, May 1, and March 31, ALJ Wetzell determined that Weil, Czahar and Knecht, respectively, had established that each will experience significant financial hardship by participating in this proceeding. This decision affirms ALJ Wetzell's rulings that Weil, Czahar, and Knecht are eligible for compensation and that their participation in this proceeding poses a significant financial hardship.

Thus, the only issues this decision resolves are whether the three intervenors made a substantial contribution to D.97-12-096 and if so, the amount they should receive for their contribution.

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 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."

In determining the level of compensation paid, under PU Code Section 1806, the Commission must take into account the market rate paid to people with comparable training and experience who offer similar services.

### 3. **Weil's Contribution to Resolution of Issues**

Weil requests \$31,795 for his contribution to D.97-12-096 as follows:

Professional Hours	(121.4 hrs. @ \$200/hr.)	\$24,280
Clerical Hours	(50.2 hrs. @ \$30/Hr.)	\$ 1,506
Travel time and time for preparing compensation request	(43.9 hrs. @ \$100/Hr.)	\$ 4,390
Photocopying, phone, mileage, postage		\$ 1,619.25
Weil's Reply		\$ <u>772.06</u>
Total		\$32,567.31

In his request dated February 17, 1998, Weil asserts in detail how he has made a substantial contribution to D.97-12-096. Weil also explicitly states that his request includes only time spent working on issues for which the Commission adopted his positions or his showing complemented or supplemented showings made by other parties. Further, Weil represents that his "request does not include hours on Catastrophic Event Memorandum Account (CEMA) issues, because the Commission rejected my CEMA recommendations. Nor does the request include review of reply comments to the proposed decision."

On March 19, 1998, PG&E filed a timely response that addressed the compensation requests of James Weil, Ray Czahar, and Ron Knecht for their contribution to D.97-12-096.

In response to Weil's request, PG&E states that:

"Unlike Knecht and Czahar, Weil was an active participant in the workshop process, references specific findings of fact and Conclusions of Law that he asserts demonstrate his substantial contribution to D.97-12-096, divides his hours by subject area, and does not seek to recover compensation for time spent on an issue-CEMA - where he does not believe he made a substantial contribution. Although Weil does demonstrate that he has contributed to the Commission's decision in some respects, his claims of substantial contribution are unproven. His request for compensation should be reduced to reflect his actual contributions to D.97-12-096."

In its response, PG&E acknowledges that Weil has made a substantial contribution, but asserts that in some respects Weil's request is unproven. In reviewing Weil's request for compensation, the record, and the response of PG&E, we find that Weil has made a substantial contribution to D.97-12-096 and is therefore entitled to compensation as modified below.

### **3.1. Substantial Contribution**

#### **3.1.1. Capital-Related Costs**

In his request, Weil asserts that he has made a substantial contribution regarding PG&E's capital-related costs. Weil states that he:

"...clearly made a substantial contribution to D.97-12-096 regarding PG&E's 1998 capital-related costs. At the outset ..., PG&E and the Office of Ratepayer Advocates (ORA) agreed that PG&E would construct its hydroelectric and geothermal revenue requirements based on monthly recorded rate base and a rate of return adopted in ... the CTC proceeding. I expressed concern about these two elements at the

July 17, 1997 workshop, and the issues appeared in the July 24, 1997 workshop report. . . . I contended that recorded cost ratemaking will reduce PG&E's earnings variability and shift risk from the utility to ratepayers, and that it would be a step backward from performance based ratemaking (PBR) goals...."

In response, PG&E asserts that Weil's contribution is overstated. In D.97-12-096, we note that Weil has identified a legitimate concern regarding the disconnection of proceedings affecting the rate of return. D.97-12-096 also agrees with Weil in principle that it is reasonable and appropriate to make compensating adjustments to the assignment of risks and rewards to PG&E customers. Although D.97-12-096 did not reduce PG&E's rate of return as Weil recommended, Weil's contribution was substantial in assisting the Commission in its analysis and Weil should receive compensation for all 39 professional hours claimed for capital -related cost issues.

### **3.1.2. CEMA**

In D.97-12-096, the Commission rejected Weil's CEMA recommendations. Weil should not receive any compensation for work efforts related to CEMA issues. Weil makes no claim for his professional hours associated with CEMA issues.

### **3.1.3. Reasonableness Review**

PG&E proposed to eliminate reasonableness review of hydroelectric and geothermal operations, and to establish specific standards of review of capital additions and CEMA costs. ORA opposed PG&E's proposal and Weil agreed with ORA. In addition, Weil recommended that the Commission make capital costs subject to reasonableness review.

In D.97-12-096, the Commission adopted proposals for comprehensive reasonableness review. Additionally, the Commission adopted Weil's specific proposal to include recorded capital-related costs other than

post-1997 capital additions in reasonableness reviews. (Reasonableness of capital-related costs was not included in the proposed decision that preceded D.97-12-096, but was added in response to Weil's comments to the proposed decision.)

PG&E supports Weil's claim regarding the specific issue of reasonableness reviews for capital additions. However, PG&E opposes Weil's request of compensation on the issue of continuation of traditional reasonableness reviews because it believes that Weil's support of ORA's position regarding reasonableness reviews is duplicative.

It is undisputed that Weil has a legitimate claim regarding his contribution to the issue of reasonableness reviews for capital additions. However, in reviewing the record in D.97-12-096, we conclude that PG&E raises a valid concern about duplication. In D.98-04-059, we stated that:

"We will continue our practice of evaluating substantial contribution in light of potential duplication, and apply a discount, as appropriate. That discount may be as modest as 10% or, as CMA points out, may result in no compensation. The appropriate amount of the discount and the hours or costs to which it will be applied will be determined in each case."

Further, in D.98-04-059, we stated that:

"...the participation for which compensation is sought should not duplicate 'participation of similar interest otherwise adequately represented.' The Commission has recognized that administering this standard requires flexibility. In multiparty proceedings, parties' positions likely will overlap. However, a party that is basically aligned with other parties may make its own suggestions, adopted by the Commission, that provide measurable and significant ratepayer benefits. Such participation, at least to that extent, seems compensable under this standard, especially in light of § 1802 (h)."



In reviewing the record, we find that the degree of duplication was minimal and that Weil's contribution added value to this proceeding. Therefore, Weil's compensation request for professional hours related to reasonableness issues should be reduced by 10%, i.e., from 15.4 hours to 13.9 hours.

#### **3.1.4. Extension Through 2001**

PG&E and ORA supported extending the ratemaking architecture adopted for 1998 through the year 2001. Weil opposed this plan. The Commission did not adopt Weil's recommendation to adopt PBR or general rate case ratemaking after 1998. However, in reviewing the record, the concerns Weil raised made a substantial contribution and some of his concerns are expressly stated in the decision. Weil should receive full compensation for the 9.4 professional hours he claims.

#### **3.1.5. Other Issues**

Weil claims compensation for 28.3 hours associated with other issues detailed in his request for compensation. PG&E objects because Weil did not use the word "substantial" in his request. PG&E states that: "Weil also claims that he made 'contributions of varying degree' – not substantial contributions – regarding six other substantive issue. Thus, he admits up front that his contributions do not meet the test for intervenor compensation." PG&E's argument lacks merit. Weil's request makes clear in other parts of his text that his request is for substantial contributions. Additionally, PG&E also states that it does not contest that Weil helped to arrive at a consensus procedural schedule, however, PG&E asserts that such contribution was "minor in nature." Lastly, PG&E also implies that Weil's contribution was duplicative since some of the positions he took were endorsements of ORA.

In reviewing the record, we find that PG&E's concerns have little merit and we find little duplication. In light of this duplication, however, it is reasonable to reduce Weil's request for professional hours associated with other issues by 10%, i.e., from 28.3 hours to 25.5 hours.

### **3.1.6. General Costs**

In addition to the professional hours requested for time spent on specific issues already discussed, Weil requests compensation for: "General costs ... activities which cannot be allocated to substantive issues: initial review of PG&E's application, review of the ORA report, attendance at prehearing conferences, and procedural issues." In addition to these general costs, Weil also seeks compensation for "compensation activities," time spent preparing his June 30, 1997, NOI and his February 9, 1998 motions. In light of the record and Weil's substantial contribution to this proceeding, Weil's request for compensation for 16.5 hours spent on "General Costs" and for 12.8 hours spent on "Compensation Activities" is reasonable.

### **3.2. Hourly Rate**

Weil requests compensation at \$200 per hour for professional services. In D. 98-10-007, the Commission set Weil's compensation at \$200 per hour for professional services. We follow D. 98-10-007 and grant Weil's request for compensation at the rate of \$200 per hour for professional time spent working in this proceeding.

### **3.3. Administrative Work**

Weil seeks \$30 an hour for administrative work. Although we have granted separate fees for clerical work (see, for example, D.98-05-036), we have never done so in cases where the principal received professional level fees. Professional fees assume overheads and are set accordingly. Weil's fees are set at

levels comparable to those of other professionals. We, therefore, deny additional recovery for clerical work.

**3.4. Travel Time and Time Spent Preparing Compensation Request**

Weil requests compensation for travel time and time preparing his compensation request at \$100 per hour. Consistent with our usual practice, we grant half of the professional hourly wage, or \$50 per hour, for time spent traveling and for time spent drafting the compensation request. Thus, Weil's request for \$4,390 is reasonable.

**3.5. Other Costs**

The \$1,619.25 in costs Weil claims for such items as postage, photocopying, and telephone calls are a small percentage of his request and are reasonable in light of the work he accomplished in the proceeding. We grant Weil's request for these costs.

**3.6. Weil's Reply**

On April 3, 1998, Weil filed a reply to the response of PG&E to Weil's request for an award of compensation. Weil's reply addressed PG&E's concerns and requested \$772.06 in compensation for preparation of the reply.

Weil's reply rebuts PG&E's concerns and Weil should be compensated for preparation of the reply. Weil attributes \$108 to administrative time which as discussed above is not compensable. Weil's \$772.06 request should be reduced by \$108 to \$664.06.

**3.7. Award**

We award Weil \$29,429.25 for his contributions to D.97-12-096 as follows:

Professional Hours	(117.1 hrs. @ \$200/hr.)	\$23,420.00
Clerical Hours		\$ 0
Travel time and time for preparing compensation request	(43.9 hrs. @ \$100/Hr.)	\$ 4,390.00
Photocopying, phone, mileage, postage		\$ 1,619.25
Weil's reply		\$ 664.06
Total		\$30,093.31

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 May 3, 1998, the 75<sup>th</sup> day after Weil filed his compensation request and continuing until the utility makes full payment of the award.

As in all intervenor compensation decisions, we put Weil on notice that the Commission's Energy Division may audit Weil's records related to this award. Thus, Weil must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Weil's records should identify specific issues for which he 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.

**4. Czahar's and Knecht's Contribution to Resolution of Issues**

Czahar's and Knecht's requests for an award of compensation appear to be identical, word for word, regarding their claim of substantial contribution. Thus, this decision simultaneously addresses Czahar's and Knecht's claim of substantial contribution.

Czahar requests an award of \$22,075 and Knecht requests an award of \$37,242.93.

#### **4.1. Substantial Contribution**

In their February 17, 1998 intervenor compensation request, Czahar and Knecht assert they have made a substantial contribution to D.97-12-096 in six areas. The issues that Czahar and Knecht claim to have made a substantial contribution to are: (1) Revenue Requirement, (2) Rate of Return, (3) CEMA, (4) Reasonableness Reviews, (5) Geothermal Decommissioning, and (6) El Dorado Irrigation District's (EID) Request for a Consolidated Proceeding.

In general, PG&E responds that Czahar and Knecht claim intervenor compensation for:

*"... taking positions on several issues that were agreed to by PG&E during the workshop process, sponsored by ORA, or both. Most of the major issues in this proceeding, including the basic alternative revenue requirement mechanism, were resolved as part of the workshop process. Neither Knecht or Czahar were involved in that workshop. However, they did have the July 24, 1997 workshop report and the August 11, 1997 joint PG&E/ ORA letter available to them at the time they constructed their testimony. . . . In addition, Knecht/Czahar claim intervenor compensation for positions that were not adopted by the Commission in D.97-12-096...."*

##### **4.1.1. Revenue Requirement**

Czahar and Knecht claim they have made a substantial contribution to the determination of Revenue Requirement by making four recommendations:

1. "That the revenue requirements for expense RR from the 1996 PG&E General Rate Case (GRC) be the basis for test year 1998 RR."

2. "The non-capital related 1996 GRC revenue requirements should be adjusted for a net-of-inflation productivity adjustment."
3. "The RR for TY98 rate base, including capital additions, should be based on a forecast. Capital additions should not be determined on an ex post facto fashion. In the alternative, if the Commission determines that it would be impractical to implement this recommendation, the ex post facto method for capital additions should only be used for 'TY 98. After 1998 the 'market control mechanism' adopted in Capital Additions proceeding (D.97-09-048) should be used for conventional hydroelectric, geothermal or Helms if it operates under a FERC approved ISO must-run contract as was originally proposed by ORA."
4. "The revenue requirements determination after 1998 for conventional hydroelectric, geothermal and Helms should be based on PBR methods."

PG&E opposes Czahar/Knecht request for compensation for contributions to revenue requirement. PG&E notes that at the July 17, 1997, workshop, before Czahar/Knecht became active in this proceeding, it proposed that the Commission base PG&E's expense revenue requirements on 1996 General Rate case numbers. Based on the record and the timing of their proposal, we reject Czahar/Knecht's assertion that they made a substantial contribution by recommending that the revenue requirement from the 1996 PG&E General Rate Case form the basis for the test-year 1998 revenue requirement.

Czahar/Knecht's second and third recommendations regarding revenue requirement were not adopted by the Commission. With regards to Czahar/Knecht's suggestion that the Commission adopt a forecast, we noted in D.97-12-096 they "...simply order PG&E to pursue a forecast approach,

but they present no practical or record-based means of doing so for 1998." Thus, we find that Czahar/Knecht second and third grounds for a finding of substantial contribution lack merit. Thus, Czahar and Knecht should not receive compensation for professional hours claimed for productivity adjustment identified in their April 3, 1998, late-filed reply.

Czahar/Knecht's last basis for a substantial contribution to revenue requirement is that "[i]n direct response to our testimony on this issue, the Commission's decision adopts a trigger mechanism to determine if a PBR will be appropriate to determine RR after 1998."

In D.97-12-096, we noted that "... Weil, Knecht, and Czahar do not believe that the rate freeze and the related limitations on transition cost recovery provide adequate incentives to constitute a substitute for PBR." In our analysis in D.97-12-096, we recognized that "...legitimate disputes about the effectiveness [of the incentives provided by the architecture approved] ... are not fully resolved in this proceeding. . . . Thus, it may be more appropriate to institute PBR to provide more effective incentives for the remainder of the transition period after 1998. Yet, it is premature to determine that PBR should be pursued." (D.97-12-056, mimeo., at p. 11.) In D.97-12-096, the Commission recognized Weil, Czahar, and Knecht's concerns as legitimate disputes and left open the option to institute PBR in response to those concerns. Thus, based on the record, Czahar and Knecht should receive compensation for the "post-1998 basis for revenue requirement" issue identified in their April 3, 1998, late-filed reply. However, we note that Weil claimed only 9.4 hours of professional time for this issue while Czahar and Knecht claim 21.2 and 25.4 hours, respectively, for this issue. Since Czahar and Knecht have combined their efforts, we expect more efficient use of their time. Moreover, based on the record evidence, we find

the 21.2 and 25.4 hours claimed excessive. Thus, we reduce the hours claimed to five hours each to be more in line with those hours claimed by intervenor Weil.

#### **4.1.2. Rate of Return**

Czahar and Knecht state:

"Our position, per our original testimony and in rebuttal, is that the rate of return adopted in the current rate of return proceeding (A.97-05-016) should be used to determine the 1998 revenue requirements in this case. . . . Excepting Weil, ... not other party addressed this issue in their direct testimony. -. -. The Commission's decision in this case adopts our position completely...."

In response PG&E points out that in D.97-12-096 at page 7, the Commission adopted "PG&E's and ORA's rate of return proposal (which Knecht and Czahar join)..." PG&E argues that claiming compensation for a proposal agreed to by PG&E and ORA is not the sort of action for which intervenor compensation is warranted. We agree and deny Knecht's and Czahar's request for intervenor compensation on the issue of rate of return. Thus, Czahar and Knecht should not receive compensation for professional hours claimed for "rate of return" identified in their April 3, 1998, late-filed reply.

#### **4.1.3. CEMA**

In D.97-12-096, the Commission rejected Czahar's and Knecht's CEMA recommendations. Czahar and Knecht should not receive any compensation for work efforts related to CEMA issues. Thus, Czahar and Knecht should not receive compensation for professional hours claimed for "CEMA" identified in their April 3, 1998, late-filed reply.

#### **4.1.4. Reasonableness Review**

PG&E proposed to eliminate reasonableness review of hydroelectric and geothermal operations, and to establish specific standards of



review of capital additions and CEMA costs. ORA opposed PG&E's proposal and Czahar and Knecht agreed with ORA. In D.97-12-096, the Commission adopted proposals for comprehensive reasonableness review.

PG&E opposes Czahar's and Knecht's request of compensation on the issue of continuation of traditional reasonableness reviews because it believes that Czahar's and Knecht's support of ORA's position regarding reasonableness reviews is duplicative.

In reviewing the record in D.97-12-096, we conclude that PG&E raises a valid concern about duplication of ORA's position. Further, we find that Czahar and Knecht also knowingly duplicated each others efforts. Therefore, Czahar's and Knecht's compensation request for professional hours attributed to reasonableness issues should be reduced by 50%.

#### **4.1.5. Geothermal Decommissioning**

In its request, Czahar and Knecht state that: "Our position was that geothermal decommissioning is part of the RR and not part of the TCBA. The Commission adopted this position." PG&E responds that the position of Czahar and Knecht is duplicative of Enron, Well, and ORA.

Based on a review of the record, we find that PG&E's concern regarding duplication has merit. Further, we find that Czahar and Knecht also knowingly duplicated each others efforts. Therefore, we reduce Czahar's and Knecht's compensation request for professional hours related to Geothermal decommissioning by 50%.

#### **4.1.6. El Dorado Irrigation District's Request for a Consolidated Proceeding**

In its request, Czahar and Knecht assert that they supported "EID's request for a separate proceeding to consider all issues related to El Dorado hydroelectric facility..." PG&E points out that D.97-12-096 only refers

to the positions on this issue taken by PG&E and EID and that there is no mention of Czahar or Knecht.

In D.97-12-096 , we noted that the Commission had previously instituted an investigation into the matter pursuant to Section 455.5 and determined that no further consideration of the issue is necessary in this proceeding. (D.97-12-096 at p. 26.) In reviewing the record, we find that Czahar and Knecht have not made a substantial contribution to the El Dorado Irrigation District issue.

#### 4.2. Hours Claimed

Both Czahar and Knecht in their original February 17, 1998, intervenor compensation request assert that "As reflected in the hours itemization, it is not really possible to assign the fee and expenses by issue category." However, in their subsequent late-filed reply dated April 3, 1998, Czahar and Knecht divided their hours by subject area. Below we summarize in table form the hours requested for each subject area and corresponding compensation as discussed above.

Czahar and Knecht claimed a total of 106 and 169<sup>2</sup> professional hours, respectively.

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<sup>2</sup> In his February 17, 1998, request for intervenor compensation, Knecht requests compensation for 174 hours which includes time spent preparing a bill. We estimate from Appendix A attached to Knecht's February 17, request that he spent five hours preparing a bill. These hours are excluded from Knecht's professional hours and considered under the heading for Time Spent Preparing Compensation Request.

**Czahar Professional Hours**

<u>Area</u>	<u>% Total Hours</u>	<u>% Hours Compensable</u>	<u>Hours Compensable</u>
1. Revenue Requirement			
a) Productivity adj.	5	0	0
b) Post 1998	20	--	5.0
2. Rate of Return	10	0	0
3. CEMA	35	0	0
4. Reas. Reviews <sup>3</sup>	10	50	5.3
5. Geothermal Decommissioning <sup>4</sup>	10	50	5.3
6. EID Request <sup>5</sup>	10	0	0
<b>Total Compensable Hours</b>			<b>15.6</b>

**Knecht Professional Hours**

<u>Area</u>	<u>% Total Hours</u>	<u>% Hours Compensable</u>	<u>Hours Compensable</u>
1. Revenue Requirement			
a) Productivity adj.	15	0	0
b) Post 1998	15	--	5.0
2. Rate of Return	15	0	0
3. CEMA	35	0	0
4. Reas. Reviews <sup>6</sup>	7	50	5.9
5. Geothermal Decommissioning <sup>7</sup>	7	50	5.9
6. EID Request <sup>8</sup>	7	0	0
<b>Total Compensable Hours</b>			<b>16.8</b>

<sup>3</sup> In their April 3, 1998, late-filed reply, Czahar and Knecht combine their professional hours claimed for El Dorado Irrigation District's request for a consolidated proceeding with reasonableness reviews and geothermal decommissioning issues. In his April 3, 1998, late-filed reply, Czahar claims he spent 30% of his time addressing the above three issues while Knecht claims he spent 21% of his time addressing the above three issues. Thus, in calculating Czahar's and Knecht's compensation, we assign as a reasonable proxy 10% and 7%, respectively, of Czahar's and Knecht's professional hours to each of the above three areas.

<sup>4</sup> See Footnote 3.

<sup>5</sup> See Footnote 3.

<sup>6</sup> See Footnote 3.

<sup>7</sup> See Footnote 3.

<sup>8</sup> See Footnote 3.

#### **4.3. Hourly Rate**

The Commission has previously authorized a rate of \$175/hour for the professional services of Czahar and Knecht. However, in this proceeding, Czahar and Knecht request that the Commission increase their compensation to \$200 per hour for professional services. In determining the level of compensation paid, under PU Code Section 1806, the Commission must take into account the market rate paid to people with comparable training and experience who offer similar services. Czahar and Knecht offer little information about market rates to support their request. Thus, we deny their request and maintain the previously authorized rate of \$175 per hour.

#### **4.4. Administrative Work**

Knecht seeks \$30 an hour for administrative work. Although we have granted separate fees for clerical work (see, for example, D.98-05-036), we have never done so in cases where the principal received professional level fees. Professional fees assume overheads and are set accordingly. Knecht's fees are set at levels comparable to those of other professionals. We, therefore, deny additional recovery for clerical work.

#### **4.5. Time Spent Preparing the Compensation Request**

Czahar and Knecht request compensation for time preparing their compensation request at \$200 per hour. Consistent with our usual practice, we grant half of the professional hourly wage, or \$87.50 per hour, for time spent drafting the compensation request. Knecht should receive compensation for 6.5 hours (5 hours 2/17/98 request and 1.5 hours 4/3/98 request). Czahar should receive compensation for 2.5 hours (4/3/98 request).

#### **4.6. Other Costs**

The \$375 and \$1,528 (\$1,405 2/17/98 request and \$123 4/3/98 request) in costs that Czahar and Knecht claim, respectively, for such items as

postage, photocopying, and telephone calls are a small percentage of their request and are reasonable in light of the work they accomplished in the proceeding. We grant Czahar's and Knecht's request for these costs.

#### 4.7. Award

##### 4.7.1. Czahar Award

We award Czahar \$3,323.75 for his contributions to D.97-12-096 as follows:

Professional Hours (15.6 hrs. @ \$175/hr.)	\$ 2,730.00
Clerical Hours	\$ 0
Time preparing compensation request ( 2.5 hrs. @ \$87.50/hr.)	\$ 218.75
Photocopying, phone, postage	\$ 375.00
Total	\$ 3,323.75

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 May 3, 1998, the 75<sup>th</sup> day after Czahar filed his compensation request and continuing until the utility makes full payment of the award.

As in all intervenor compensation decisions, we put Czahar on notice that the Commission's Energy Division may audit Czahar's records related to this award. Thus, Czahar must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Czahar's records should identify specific issues for which he 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.

#### 4.7.2. Knecht Award

We award Knecht \$5,036.75 for his contributions to D.97-12-096 as follows:

Professional Hours	(16.8 hrs. @ \$175/hr.)	\$ 2,940.00
Clerical Hours		\$ 0
Time spent preparing compensation request		
	(6.5 hrs. @ \$87.50/hr.)	\$ 568.75
Photocopying, phone, postage		<u>\$ 1,528.00</u>
Total		\$ 5,036.75

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 May 3, 1998, the 75<sup>th</sup> day after Knecht filed his compensation request and continuing until the utility makes full payment of the award.

As in all intervenor compensation decisions, we put Knecht on notice that the Commission's Energy Division may audit Knecht's records related to this award. Thus, Knecht must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Knecht's records should identify specific issues for which he 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. James Weil, Ray Czahar, and Ron Knecht have made a timely request for compensation for their contribution to D.97-12-096.
2. Weil made a substantial contribution to D. 97-12-096.
3. Czahar made a substantial contribution to D.97-12-096.
4. Knecht made a substantial contribution to D.97-12-096.
5. \$200 per hour is a reasonable compensation rate for Weil's professional services considering his experience, effectiveness, and rates paid other experts.

6. \$175 per hour is a reasonable compensation rate for Czahar's and Knecht's professional services.

7. Weil's, Czahar's, and Knecht's hourly rate is set at a level that assumes overhead costs are included.

8. The miscellaneous costs incurred by Weil, Czahar, and Knecht are reasonable.

### **Conclusions of Law**

1. Weil, Czahar, and Knecht have fulfilled the requirements of Sections 1801-1812 which govern awards of intervenor compensation.

2. Weil should be awarded \$30,093.31 for his substantial contribution to D. 97-12-096.

3. Czahar should be awarded \$3,323.75 for his substantial contribution to D. 97-12-096.

4. Knecht should be awarded \$5,306.75 for his substantial contribution to D. 97-12-096.

5. This order should be effective today so that Weil, Czahar, and Knecht may be compensated without unnecessary delay.

### **O R D E R**

#### **IT IS ORDERED that:**

1. James Weil is awarded \$30,093.31 in compensation for his substantial contribution to Decision (D.) 97-12-096.

2. Ray Czahar is awarded \$3,323.75 for his substantial contribution to D. 97-12-096.

3. Ron Knecht is awarded \$5,036.75 for his substantial contribution to D. 97-12-096.

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4. Pacific Gas and Electric Company shall pay James Weil, Ray Czahar, and Ron Knecht \$30,093.31, \$3,323.75 and \$5,036.75, respectively, within 30 days of the effective date of this order plus interest on the award at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release G.13, with interest beginning May 3, 1998 and continuing until full payment is made.

5. This proceeding is closed.

This order is effective today.

Dated December 17, 1998, at San Francisco, California.

RICHARD A. BILAS  
President  
P. GREGORY CONLON  
JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
Commissioners