

Decision 98-12-048 December 17, 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.

Rulemaking 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.

Investigation 94-04-032
(Filed April 20, 1994)

OPINION AWARDING COMPENSATION

This decision grants Greenlining Institute/Latino Issues Forum (GI/LIF) an award of \$121,185.35, in compensation for its contributions to Commission decisions issued in this docket, the electric industry restructuring rulemaking and investigation, since the filing of its initial request for compensation to Decision (D.) 95-12-063, the Preferred Policy Decision, on February 14, 1996. We grant Utility Consumers' Action Network (UCAN) an award of \$22,894.25 in compensation for its contributions to D.97-10-087 and D.97-12-048. We grant California/Nevada Community Action Association (Cal/Neva) an award of \$12,314.36 in compensation for its contribution to D.97-08-064.

1. Background of Electric Restructuring

The electric industry restructuring and regulatory reform process culminated in the issuance of D.95-12-063, as modified by D.96-01-009, commonly referred to as the Preferred Policy Decision. In the Preferred Policy Decision, the Commission adopted a framework for competition in which customers have the

right to choose their supplier of electricity. One of the effects of this new framework is to transform California's electricity systems from a bundled electric service system that is provided by the investor-owned electrical corporations, to a set of segmented functions including generation, transmission, and distribution. The above-named intervenors participated in various roles during the restructuring process, and seek compensation for their efforts.

Since the issuance of the Preferred Policy Decision, the Commission has issued 69 decisions in this docket. In its request for compensation, as modified by an errata served June 19, 1998, GI/LIF seeks compensation in the amount of \$218,475.15 for its asserted substantial contribution to nine decisions. GI/LIF's request covers the time period February 1996, through May 1998. During this time period, the Commission issued 64 decisions in the electric restructuring docket.¹ UCAN seeks compensation in the amount of \$34,110.75 for its asserted substantial contribution to three decisions. UCAN's request covers the time period May 1997, through December 1997.² Cal/Neva seeks \$12,314.36 for its

¹ Of the 64 decisions issued, the nine GI/LIF specifically cites in making its substantial contribution argument are D.97-02-014 regarding Public Purpose Threshold Issues; D.97-04-044, regarding the energy efficiency and low income boards' membership, budget, and operating guidelines; D.97-05-039, regarding Revenue Cycle Services; D.97-05-040, the second interim opinion on Direct Access Implementation; D.97-08-064, regarding the budget of the joint statewide customer education program; D.97-10-031, the Opinion Regarding the Customer Information Database Workshop Report; D.97-10-060, the order modifying the Customer Education Program Decision; D.98-03-072, which addressed consumer protection issues associated with direct access; and D.98-05-062, regarding the Continuation of the Electric Education Call Center. GI/LIF was awarded \$170,128.62 in this docket for its substantial contribution to the Preferred Policy Decision. (See D.96-08-040.)

² The three decisions UCAN specifically cites in making its substantial contribution argument are D.97-10-086, Opinion Regarding the Load Profiling Workshop Report and Its Supplements; D.97-10-087, Opinion Regarding Direct Access Implementation Plans

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asserted substantial contribution to D.97-08-064, regarding the budget of the Joint Customer Education Program.³ Its request covers the time period June 1997, to October 1997.

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 Sections 1801-1812.⁴ § 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. § 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." § 1802(h) states that "substantial contribution" means that,

and Related Tariffs; and D.97-12-048, which addressed in further detail the rules associated with metering and metering services. UCAN was awarded \$189,975.16 in this docket for its substantial contribution to the Preferred Policy Decision. (See D.96-08-040.) It was awarded \$243,155 for its substantial contribution to five decisions and our August 14, 1996, comments to the Federal Energy Regulatory Commission (FERC), in D.98-10-030.

³ Cal/Neva was previously awarded \$79,014.31 in this docket for its substantial contribution to the Preferred Policy Decision. (See D.96-08-040.) It was then awarded \$89,708.58 in this docket for its substantial contribution to D.97-02-014, regarding public purpose threshold issues. (See D.98-01-007.)

⁴ All future references to code sections are to the PU Code unless otherwise noted.

"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."

§ 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 for Compensation and Timeliness of Requests

All parties have previously been found eligible to claim compensation in the electric restructuring proceeding. The findings of eligibility for UCAN and Cal/Neva were made in the Administrative Law Judge (ALJ) Ruling dated August 2, 1994. GI/LIF was found eligible to request compensation in the ALJ Ruling dated September 1, 1994, pending a determination of significant financial hardship. Subsequently, the Commission found that GI/LIF faced a significant financial hardship because the economic interest of its members were far outweighed by the cost of participation in this proceeding.⁵ (See D.96-08-040,

⁵ GI/LIF asks the Commission to rule (again) on its significant financial hardship standing in this docket. (GI/LIF Request at 6.) We decline to rule again since our earlier conclusion that GI/LIF faces a significant financial hardship is still in effect, pursuant to Commission Rules of Practice and Procedure (Rules) 76.76.

mimeo. at 9.) A customer eligible for an award of compensation in one phase of a proceeding remains eligible in later phases. (See Rule 76.6 of the Commission's Rules of Practice and Procedure). All three parties, therefore, remain eligible for compensation.

§ 1804(c) requires that any request for compensation be filed within 60 days of the issuance of the decision for which compensation is sought. GI/LIF filed its request on May 21, 1998, within 60 days of the date of issuance of D.98-03-072.⁶ GI/LIF then, on June 19, 1998, served an errata to its request for compensation. In the errata, it states that it wishes 1) to withdraw the declaration of Terry J. Houlihan and the accompanying motion to file under seal, 2) to include the previously omitted declaration of Richard Bromley, and 3) to include a subsequently issued opinion by the Commission (D.98-05-062, Continuation of the Electric Education Call Center).⁷ UCAN filed its request on January 12, 1998, within 60 days of the date of issuance of D.97-12-048. Although the statute and our Rule 76.72 allow a customer to file a request for compensation within 60 days of the date of issuance of "an order or decision that resolves an issue on which the customer believes it made a substantial contribution", GI/LIF and UCAN chose to wait and file one request covering several decisions rather than file separate requests within 60 days of the issuance of the specific decision to which it now claims it made a substantial contribution. Cal/Neva filed its request on October 1, 1997, within 60 days of the date of issuance of D.97-08-064. All three requests for compensation were timely filed.

⁶ Pacific Gas and Electric Co. (PG&E) and Southern California Edison Co. (Edison) each filed a response in support of GI/LIF's request.

4. Substantial Contributions

In evaluating compensation requests in a proceeding such as this which involves multiple intervenors, we must consider both whether an intervenor has made a substantial contribution and to what extent, if any, that contribution duplicated the contribution of any other intervenor. When we considered whether duplication of contribution warranted a reduction in the award in the two most recent prior decisions on intervenor compensation issued in this docket, we concluded that:

“...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.” (D.98-01-007, mimeo. at 8. See also D.98-10-030, mimeo. at 4 and 15.)

We have reached a point of maturity of this proceeding wherein the workshops and working groups are more focused and limited in scope. Although the Commission continues to present complex issues for input and resolution in this proceeding, the character of the participation necessary to be effective and efficient is not extraordinary.

Each of the intervenors has provided information to support its individual assertions of substantial contribution. We will take up these assertions as they relate to each decision in turn.

D.97-02-014 GI/LIF asserts that it made a substantial contribution to this decision which addressed public purpose threshold issues. Together with Cal/Neva, The Utility Reform Network (TURN), and UCAN, GI/LIF formed a

⁷ GI/LIF states that it “files” the errata pursuant to Rule 2.6. However, GI/LIF neglected to follow the requirement of Rule 2.6(a)(1) that it obtain the permission of the

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R.94-04-031, I.94-04-032 ALJ/BAR/mrj

coalition for their participation in the Low-Income Program Working Group, filing joint comments. In D.98-01-007, we previously found four intervenors, including Cal/Neva, had made a substantial contribution to this decision and awarded a total of \$192,875.26 (plus interest) for those contributions. In D.98-10-030, we found TURN and UCAN made a substantial contribution to this decision.

GI/LIF asserts a number of grounds to demonstrate its substantial contribution claim to this decision, including its joint participation referenced above. Of particular note because GI/LIF was the initial, independent sponsor is the recommendation that the Commission adopt an administrative structure for the low-income program, California Alternate Rates for Energy (CARE), that is based on the Universal Lifeline Telephone Service (ULTS) program model. As noted in the decision, the Commission's ultimate approach to administrative structure for the CARE and energy efficiency programs drew on the various administrative options described, including GI/LIF's recommendation as evidenced by the fact that it is similar in some respects to the administrative structure of the ULTS program. We agree with GI/LIF that it made a substantial contribution to D.97-02-014.

D.97-04-044 In this decision, the Commission appointed members to the Independent Board For Energy Efficiency Programs and the Governing Board For Low-Income Programs, established start-up funds for the boards, provided the boards with operating guidelines, and modified D.97-02-014. GI/LIF asserts it made a substantial contribution to this decision, evidenced by the fact that the decision implements its concept of independent administration of low-income programs and that appointments to the boards include language-minority,

ALJ. The errata was therefore distributed, but not filed, by our Docket Office.

low-income, and diverse members. We agree that GI/LIF made a substantial contribution to this decision.

D.97-05-039 GI/LIF claims it made a substantial contribution to this Revenue Cycle Services decision.⁶ GI/LIF characterizes its substantial contribution to this decision as indirect. It cites to a statement in the decision that there is no debate regarding the importance of consumer protection rules and a determined consumer education program. This statement appears in the context of discussing comments made by Edison, wherein the Commission describes its efforts then underway to establish consumer protection rules and the education program. GI/LIF did not file comments or reply comments at any of the five opportunities presented by the Commission prior to the adoption of this decision. Nor was GI/LIF an active participant in the Ratesetting Working Group. GI/LIF has failed to demonstrate a substantial contribution to D.97-05-039.

D.97-05-040 GI/LIF claims it made a substantial, though indirect, contribution to our second interim opinion on Direct Access Implementation. Specifically, GI/LIF asserts it made a substantial contribution to the portion of the decision which discusses market rules for non-utility electric service providers. GI/LIF filed reply comments on the August 30, 1996, Direct Access Working Group (DAWG) Report. In its reply comments relative to the issue of market rules, GI/LIF argued that the DAWG Reports' basic consumer protection tenets should be viewed as a minimum, and that they should include no-cost right to redress, severe penalties, license revocation for repeat offenders, monitoring and oversight, a fiscal responsibility or bonding requirement, and

⁶ "Revenue cycle services" refers to the services and costs related to metering, billing, and other information services.

industry code of conduct. The Commission deferred resolving whether a code of conduct or a bonding requirement were necessary, and does not adopt the other additions to what GI/LIF referred to as minimum protections contained in the DAWG Report. (D.97-05-040, mimeo. at 51-59.). However, the DAWG Report recommendations, supported and influenced by GI/LIF's participation, did assist the Commission in resolving the market rules issues. We therefore, find that GI/LIF did make a substantial, though not unique, contribution to D.97-05-040.

D.97-08-064 In this decision we granted, to the extent set forth, the June 2, 1997 motion of PG&E, SDG&E, and Edison, on behalf of the Electric Restructuring Education Group, for approval of the joint statewide customer education plan. We modified our earlier Consumer Education Plan (CEP) decision (D.97-03-069). Both Cal/Neva and GI/LIF assert it made a substantial contribution to this decision. Cal/Neva bases its substantial contribution claim on the June 12, 1997, comments it filed jointly with GI/LIF on the utilities' proposed CEP, filed June 2, 1997, and on its participation (in the form of public comment) before the Commission's Consumer Education Advisory Panel (CEAP).⁹ GI/LIF claims it made a direct and substantial contribution to this decision through the modifications to the staff report on its Consumer Outreach Plan (May 12, 1997, revised July 14, 1997) it suggested in the comments it filed. The Commission endorsed the revised staff Consumer Outreach Plan in D.97-08-064.

⁹ The CEAP was a limited membership advisory panel established by the Commission in D.97-03-069. As described in that decision, certain members received \$300 per meeting, and reasonable travel and lodging costs. Cal/Neva was not a member of the CEAP, but rather, participated in two of its public meetings. (Had Cal/Neva been a member, the hours and costs it incurred would not be compensable through intervenor compensation. (See D.98-04-059, mimeo. at 44.))

We agree with Cal/Neva and GI/LIF that each made a substantial contribution to D.97-08-064. Their specific contributions include the following positions adopted by the Commission: supporting the need for the Commission to prepare educational materials to inform customers of the restructuring changes; focusing the outreach effort on constituencies and communities that are harder to reach through traditional means; advancing the start date of the Electric Education Trust to take charge and to design and manage a Community Based Organization outreach effort; establishing Cal/Neva's and GI/LIF's constituents as the target audience of the education plan; and establishing a multi-lingual, toll-free number for consumers to call. Although Cal/Neva and GI/LIF jointly filed comments, Cal/Neva's separate participation in the CEAP and GI/LIF's stand-alone filed comments on the staff report demonstrate that their participation was complementary and not duplicative. (See § 1802.5.)

D.97-10-031 GI/LIF claims it made an indirect substantial contribution to this Opinion Regarding the Customer Information Database Workshop Report. GI/LIF did not file comments on the report, nor did it include any argument in its request for compensation demonstrating its asserted contribution. GI/LIF is no where mentioned in the decision. We find that GI/LIF has failed to demonstrate a substantial contribution to D.97-10-031.

D.97-10-060 GI/LIF claims it made an indirect substantial contribution to this Order Modifying D.97-03-069, the Customer Education Program decision. GI/LIF did not include any argument in its request for compensation demonstrating its asserted contribution. GI/LIF is no where mentioned in the decision. We find that GI/LIF has failed to demonstrate a substantial contribution to D.97-10-060.

D.97-10-086 UCAN asserts it made a substantial contribution to our Opinion Regarding The Load Profiling Workshop Report and its Supplements

through the comments it filed August 11, 1997, on the final Retail Settlements and Information Flow Workshop Report. The Commission did not consider the Retail Settlements and Information Flow Workshop Report or the comments filed on it to resolve the issues addressed in D.97-10-086. As is clear from a plain reading of the decision, the Commission considered the load profiling workshop report and its supplements. Although two opportunities to comment on these reports was provided to parties, UCAN did not file any comments. It appears from the time records UCAN submitted that it did not attend the pre-workshop or workshop meetings. UCAN has failed to demonstrate that it made a substantial contribution to D.97-10-086.

D.97-10-087 This Opinion Regarding Direct Access Implementation Plans and Related Tariffs addressed the issues raised by the investor-owned electrical corporations' direct access implementation plans (DAIPs) and the pro forma tariffs and service agreements associated with the provisioning of direct access. UCAN claims it made a substantial contribution to this decision. It cites numerous statements from the decision, and sometimes relates those statements to one of four formal filings: the comments it filed on July 18, 1997, on the DAIPs; the comments it filed August 11, 1997, on the Final Retail Settlements and Information Flow Workshop Report; the comments it filed September 18, 1997, jointly with TURN on the Proposed Direct Access Pro Forma Tariff and Service Agreements Workshop Report; or the comments it filed October 24, 1997, jointly with TURN on the utility distribution companies' proposed customer services and products. In some instances, UCAN claims to have prevailed in its arguments made during workshop discussions and through informal, written comments to workshop participants, so that the direct access tariffs and electric service provider service agreements that were filed by the utilities and the Alliance incorporated UCAN's view. When then adopted by the Commission,

UCAN asserts it made a substantial contribution. UCAN states that it chose not to participate in the Alliance, and that the decision adopted an Alliance-drafted proposal.

UCAN states 20 numbered arguments for its substantial contribution to this decision. In four of the arguments, we find there is insufficient or unintelligible information provided to assess the merits of the arguments.¹⁰ In six of the arguments, we find no substantial contribution was made, and in two, only a partial contribution.¹¹ However, in four of the 20 arguments, we conclude that UCAN made a substantial contribution, and in four separate arguments, UCAN made a substantial contribution through comments jointly filed with TURN. Specifically, UCAN made a substantial contribution to D.97-10-087 on the following topics: the partitioning of a meter, or a single account with multiple meters; the service election process, especially with respect to the timing of the process and notification of problems; requests for customer information; the need for utility distribution companies to be monitored by the Commission; the requirement that energy service providers have one or more Scheduling Coordinator(s); that the tariffs allow for load aggregation; clarifying the meaning

¹⁰ We note that the citations UCAN included in its request to the formal filings it made were incorrect. It was only after the ALJ contacted UCAN that the proper citations for the formal filings it rested its substantial contribution arguments on were located. UCAN should be more careful in future filings. We do not expect our ALJs and Central Files staff to have to make extraordinary efforts to assess the arguments UCAN makes in its requests. In the future, such sloppy presentation of the substantial contribution argument may result in a denial of the request.

¹¹ Among these six were four UCAN arguments that base a substantial contribution to D.97-10-087 on its Comments on the Retail Settlements and Information Flow Workshop Report. The Commission did not rely on these comments in resolving the issues addressed in D.97-10-087. Rather, we considered those comments when we adopted D.97-12-090, a decision for which UCAN makes no substantial contribution claim.

of "electric load" as it is used in the tariffs; and the definition of Competition Transition Charge obligations.

D.97-12-048 This decision addresses in further detail the rules associated with metering and metering services. We authorized the unbundling of metering services in D.97-05-039. In the direct access implementation decision, D.97-10-087, the Commission adopted interim tariff provisions regarding metering. D.97-12-048 refines those interim provisions, and provides additional details with respect to the provisioning of metering services. UCAN makes three substantial contribution arguments related to this decision. It supports two of these arguments by citing its comments on the Final Retail Settlements and Information Flow Workshop Report. The Commission did not consider the Retail Settlements and Information Flow Workshop Report, or the comments filed on it to resolve the issues addressed in D.97-12-048. However, it is clear from the decision, though nowhere mentioned in UCAN's request, that the Commission did consider the Meter and Data Communications Standards Workshop Report, filed with the Commission on July 25, 1997, and the comments on it filed by the Chair of the Industry Canada Task Force, Data and Metering Specialties, Inc., the Electric Power Research Institute, Southern California Gas Company, the Office of Ratepayer Advocates, and UCAN. Although the comments UCAN filed jointly did not produce a substantial contribution, it is clear from the decision that the MDCS Workshop Report was carefully considered and extensively relied upon in the resolution of issues in D.97-12-048. From its detailed time records, and the report itself, we can see that UCAN participated in the development of the MDCS Workshop Report. Therefore, we conclude that UCAN made a substantial, though not unique, contribution to D.97-12-048.

D.98-03-072 This decision addressed the consumer protection issues associated with direct access. Although prior Commission decisions addressed some of the issues facing consumers in a restructured electricity market, D.98-03-072 focuses on the consumer protection safeguards that were added by Senate Bill (SB) 477 (Stats. 1997, ch. 275), and the consumer protection issues that were raised in connection with the DAWG reports. GI/LIF asserts it made a substantial contribution to this decision through its ongoing participation in this proceeding since 1994 on consumer protection. It relies on its most recent comments to demonstrate its substantial contribution, March 18, 1998 comments on the proposed decision and reply comments, filed March 24 and May 2, 1998. Specifically, GI/LIF asserts it made a substantial contribution by advocating for consumer education through community-based and grassroots efforts as a vital part of consumer protection; anti-redlining safeguards; the necessity of adequate bonding and registration requirements; and multi-lingual complaint and informational capabilities for monitoring and resolving complaints. We agree, although we note that a number of parties provided comment on these same issues which also assisted us in the adoption of the portions of the decision cited by GI/LIF.

D.98-05-062 In this Opinion Regarding the Continuation of the Electric Education Call Center, we approved an extension of the call center for an additional six months and directed our Consumer Services Division (CSD) to thereafter take over and absorb the call center's activities. GI/LIF claims it made a substantial contribution through its comments on the CSD Recommendation to Continue the Call Center, filed February 13, 1998, and summarized in the decision. It is clear from a plain reading of the decision that GI/LIF made a substantial contribution to D.98-05-062, especially with respect to the

Commission's recognition of the importance of the call center operator's ability to handle questions in languages other than English.

5. Reasonableness of the Requests for Compensation

Once we establish that an intervenor is eligible for compensation and has made a substantial contribution, we evaluate the reasonableness of the intervenor's request. The three requests present some common reasonableness issues which warrant general discussion before getting to the specifics of each request: working groups and reasonable hourly rates.

5.1 Working Groups and Board Participation

Because we relied heavily on the working group process to reach the decisions to which the parties made a substantial contribution, we will continue to look liberally on hours devoted to them, and to related research, drafting comments, reviewing the comments of other parties, meetings between persons within the intervenor organizations, meetings and phone calls between personnel of different parties, and ad hoc, multi-party meetings. (See D.96-08-040, slip op. at 28.)

However, as we stated in D.98-04-059, our recent decision in the intervenor compensation rulemaking, we continue our long-standing practice of providing per diem, and not intervenor compensation, for the participation of a customer on a limited-membership board. We will carefully review the instant requests to be confident board-member activities are not inappropriately compensated.

5.2 Reasonable Hourly Rates

Computation of compensation must take into consideration the market rates paid to persons of comparable training and experience who offer similar services. (§ 1806.) In no case may the compensation awarded exceed the rate paid for comparable services by the Commission or the public utility,

whichever is greater. (Id.) Even when compensation is warranted and approved, the fees awarded for the work of a customer's advocates and expert witnesses are limited to those which are "reasonable." (§ 1802 (a).) "Reasonable" implies not only that the rate charged by the advocate is justified based on the rates earned by others in the field with similar experience and skill, but also that the level of expertise of the advocate or expert is appropriate for the task performed. The burden of proof in a compensation request lies with the party seeking compensation. (See D.94-09-059). In the absence of carrying that burden, the Commission may set a rate. (D.96-05-053, mimeo. at 5.)

In the following sections, we establish appropriate rates for the attorneys, expert witnesses, and staff members of the intervenors requesting compensation in this proceeding. Wherever appropriate, we use rates previously approved by this Commission for the work of these individuals. In previous decisions, we have found the annual survey of law firms, published in the periodical *Of Counsel* to be instructive in the setting of appropriate rates for attorneys practicing before this Commission. (D.87-10-078, mimeo. at 35, n8.) In 1998, *Of Counsel* surveyed San Francisco firms and published the billing rates of 5 of the firms.¹² From this data, we extract the following conclusions, to which we refer in the following sections:

¹² 1997 Annual Survey of the Nation's Largest Law firms, 16 *Of Counsel* 11, at 64 (hereinafter *Of Counsel* Survey).

<u>Average Billing Rate</u>	<u>1997</u>
"High" Partners	\$368
"Low" Partners	\$219
All Partners	\$293
"High" Associates	\$242
"Low" Associates	\$124
All Associates	\$183

Cal/Neva's Requested Compensation

Cal/Neva requests compensation in the amount of \$12,314.36 as follows:

Attorney and Expert Costs

Sara Steck Myers			
21.25 hours	X	\$235.00	\$ 4,993.75
Sharon Eghigian			
6.5 hours	X	\$ 95.00	\$ 617.50
Joy Omania			
37.75 hours	X	\$ 90.00	<u>\$ 3,397.50</u>
		subtotal	\$ 9008.75

Preparation of Compensation Request

Sara Steck Myers			
13.0 hours	X	\$90.00	\$ 1,170.00
Joy Omania			
11.25 hours	X	\$50.00	<u>\$ 562.50</u>
		comp req total	\$ 1,741.25
		fees total	\$10,741.25

other costs

photocopying			\$ 475.20
postage			\$ 673.92
mailing services			\$ 33.58
phone			\$ 111.19
FAX expenses			\$ 87.22
Travel			192.00

costs subtotal	<u>\$ 1,573.11</u>
TOTAL REQUEST	\$12,314.36

6. Reasonableness of Hours Claimed by Cal/Neva

Cal/Neva allocates the time of its attorney and staff to two issues, consumer education of low-income and other special needs customers, as addressed in D.97-08-064, and preparation of the compensation request. It provides contemporaneous records of the amount of time spent on activities and costs incurred related to its participation on the single substantive issue. The hours include preparation and filing of comments filed jointly by Cal/Neva and GI/LIF, and attendance and participation in meetings of the CEAP. Cal/Neva believes that, by analogy, its time spent attending and participating in meetings of the CEAP should be compensated given that time spent in workshops and hearings have been regularly compensated by the Commission.

Cal/Neva's allocation of hours complies with our requirements. We agree that time spent participating in the public meetings of the CEAP (not as a board member) should be compensated, much like the time spent in other electric restructuring workshops and working groups, when a substantial contribution to the resulting order or decision has been demonstrated. The 13.0 attorney hours spent preparing the compensation request are excessive, especially in light of the fact that an additional 11.25 hours were spent by Cal/Neva staff preparing the request. However, since the attorney hourly rate applied to these hours is reduced well below the rate we would otherwise have applied, we will not reduce the hours claimed. We caution Cal/Neva that 23.25 hours spent preparing a compensation request of this level of complexity is excessive. Just the same, we find the hours Cal/Neva claims reasonable in light of the substantial contribution it made to D.97-08-064.

6.1 Reasonableness of Hourly Rates Applied by Cal/Neva

The \$235 hourly rate requested for Cal/Neva Attorney Steck-Myers for her work in 1995 was previously approved by this Commission.

(D.96-05-052.) Cal/Neva has requested that we apply this same rate to her work in 1996. Since similar services were performed by Ms. Steck-Myers, it is reasonable to apply the previously adopted rate here.

Ms. Steck-Meyers applies a \$90/hour rate to the time she spent preparing the compensation request. We note that this is less than $\frac{1}{2}$ the otherwise applicable rate -- the rate we apply to compensation requests which do not require the skill of an attorney to prepare. However, Ms. Steck-Myers appears to have applied the full hourly rate to approximately 3 hours of time she spent in travel from San Francisco to Sacramento and return. Our practice is to compensate travel at $\frac{1}{2}$ the otherwise applicable rate unless the customer demonstrates that the time was used to work on issues for which we grant compensation. (See D.98-04-059, mimeo. at 51, which cites earlier precedent.) We will not further reduce the award to reflect the over-compensation for 1.5 hours in travel given Cal/Neva's voluntary reduction in the rate applied to preparation of the compensation request.

Cal/Neva requests new hourly rates for Sharon Eghigian and Joy Omania. We previously adopted an hourly rate of \$50 for Ms. Omania's administrative support in preparing a Cal/Neva compensation request. (See D.98-01-007, mimeo. p. 13.)¹³ In this instance, Ms. Omania provided policy analysis and review of the proposed Customer Education Plan, participated in CEAP meetings, provided analysis and input for the joint comments, and helped prepare the compensation request. Cal/Neva cites D.96-08-040 for a comparison of the requested rate with the rates awarded to individuals with similar background and experience and who provided similar services to Cal/Neva. We

¹³ Ms. Omania's training and experience are also described in that decision and will not be restated here.

agree that Ms. Omania's training and experience, and the services she performed for Cal/Neva, are comparable to the training and experience, and the services performed by Cal/Neva staff who were awarded \$95/hour in D.96-08-040. A \$90/hour rate for the services performed by Ms. Omania in this proceeding from August 1996 to October 1997, is reasonable, with the exception of the hours spent preparing the compensation request. As Cal/Neva requests, we will apply the previously adopted rate of \$50/hour to those hours. However, Ms. Omania, like Ms. Steck-Myers, appears to have applied the full hourly rate to approximately 6 hours of time she spent in travel from San Francisco to Sacramento and return. Our practice is to compensate travel at ½ the otherwise applicable rate. Because Cal/Neva's request includes compensation at less than ½ the otherwise applicable rate for Ms. Steck-Myer's preparation of the compensation request, offsetting the over-compensated travel hours, we merely caution Cal/Neva to properly account for time in travel in future requests.

Cal/Neva requests a rate of \$95/hour for Sharon Eghigian's work in this proceeding in June, 1997. Ms. Eghigian is the project director at Cal/Neva, and has worked at Cal/Neva for four years. She has responsibility for overseeing Cal/Neva projects including energy and telecommunication advocacy, the community food and nutrition program, and training and technical assistance for Cal/Neva member agencies. She has 10 years of experience in legislative advocacy and policy analysis on public interest issues including energy, welfare reform, and child care. In this proceeding, she provided policy analysis and review of the proposed Customer Education Plan, and analysis and input for the comments Cal/Neva jointly filed. Again, Cal/Neva cites D.96-08-040 for a comparison of the requested rate with the rates awarded to individuals with similar background and experience and who provided similar services to Cal/Neva. We agree that Ms. Eghigian's experience and the services

she performed for Cal/Neva, are comparable to the experience and the services performed by Cal/Neva staff who were awarded \$95/hour in D.96-08-040. A \$95/hour rate for the services performed by Ms. Eghigian in this proceeding is reasonable.

6.2 Reasonableness of Cal/Neva's Other Costs

The other costs Cal/Neva claims are modest, and as is typical of this proceeding, largely attributable to the service of pleadings on the extensive service list. We find Cal/Neva's other costs reasonable.

6.3 Award to Cal/Neva

We grant Cal/Neva's request, and award it \$12,314.36.

7. UCAN's Requested Compensation

UCAN requests compensation in the amount of \$36,465.68 for its participation in this proceeding from May 1, 1997, to December 1, 1997, as follows:

Attorney Costs	hours	hourly rate	
Michael Shames	27.6	\$185.00	\$5,106.00
prepare request	3	\$185.00	\$ 555.00
subtotal			\$ 5,661.00
Consultant Fees and Expenses			
Eric Woychik	150.1	\$145.00	\$21,764.50
Scott Kain	175.5	\$ 70.00	\$12,285.00
parking		\$ 61.25	
subtotal			\$34,110.75
Other Costs			
Photocopying		\$251.10	
Postage		\$380.00	
Phone		\$ 26.00	
Overnight Delivery		\$ 14.00	
subtotal			\$ 671.10
Total Fees and Expenses			\$40,442.85
Less 10% for Duplication			\$ 3,977.18
TOTAL REQUEST			\$36,465.68

7.1 Reasonableness of Hours Claimed by UCAN

UCAN allocates its claimed hours for its attorney and consultants, Strategy Integration and Scott Kain Consulting, among two categories, direct access implementation, and meter, data, communications, and retail settlements and information flow (RSIF). UCAN allocates 75% of Mr. Shames' time to direct

access implementation, and 25% to meter, data, communications, and RSIF. UCAN applies the same allocation to the time claimed by Strategy Integration's Mr. Woychik. It indicates that 100% of the hours claimed for Scott Kain Consulting were devoted to direct access implementation. UCAN also provides daily time records for its attorney and consultants detailing the activities undertaken. From these records, it is apparent that Mr. Shames spent 3 hours and Mr. Woychik spent 2.5 hours preparing this request for compensation.

UCAN concedes that there was duplication of positions advocated by parties during this phase of the proceeding, and applies to its attorney and consultant costs a 10% discount for duplication. It argues that applying this discount is consistent with the Commission's determination in D.98-01-007, another decision on compensation in this docket.

UCAN's allocation of hours complies with our requirements. We agree that a reduction for duplication is appropriate. However, we apply the reduction to UCAN's otherwise reasonable hours and expenses rather than just its hours. Given our assessment that it made a substantial contribution to only two of the three decisions for which it claims a substantial contribution, as detailed above, we do not find it reasonable to compensate UCAN for all of the hours or costs it claims. We will reduce UCAN's otherwise reasonable hours and expenses by an additional 1/3 to reflect the fact that UCAN failed to demonstrate a substantial contribution to one of the three decisions on which it bases its intervenor compensation request. Finally, we note that UCAN is silent as to how it accounts for time spent in travel. Time spent in travel is compensable at 1/2 the otherwise applicable hourly rate. (See D.98-04-059 mimeo., at 51.) It appears that UCAN's consultants have bundled into the time recorded in a particular activity the time spent traveling to and from that activity. The number of hours that *may* be requested improperly at the full rate appear to be small. We

will not reduce UCAN's award but rather caution it to include a statement as to how the time in travel of its consultants is recorded and the hourly rate UCAN applies to travel time. Therefore, to account for duplication and UCAN's failure to demonstrate a substantial contribution to one decision, we will reduce UCAN's otherwise reasonable hours and expenses by 43%.

7.2 Reasonableness of Hourly Rates Applied by UCAN

UCAN requests new rates for all three of its representatives. UCAN requests an increase in the hourly rate for its attorney, Mr. Shames, for the work he performed. UCAN states that the Commission previously awarded Mr. Shames at the hourly rate of \$180 for work performed in 1996, and that an increase of 2% (\$5) reflects the increased experience that Mr. Shames brings to the process. The \$185 hourly rate for work performed by Mr. Shames in 1997 places him in the range of an associate per the Of Counsel Survey. It is reasonable to award Mr. Shames \$185/hour for work performed by him in 1997.

For the work performed by Mr. Woychik in 1997, UCAN requests he be compensated at an hourly rate of \$145. During the pendency of UCAN's request, we granted a request to award Mr. Woychik at the \$145/hour rate for work performed in 1996 through mid-1997 in this docket. (See D.98-10-030, mimeo at 31.) Since similar services were performed by Mr. Woychik on behalf of UCAN, it is reasonable to apply the previously-adopted rate.

UCAN requests that the Commission establish an hourly rate of \$70 for the work performed by Mr. Kain in 1997. In support of this request, UCAN states that Mr. Kain was retained to act as a substitute for Mr. Shames and Mr. Woychik at workshops; that he has a Bachelor of Science in Conservation and Resource Studies from the University of California, Berkeley; and that he has hands-on experience in deploying energy services (i.e., design and installation of domestic solar water heating and residential photovoltaic systems) to customers

through a retail and consulting firm he owned and in his work as a partner in a design, construction, and consulting firm that specialized in the design of energy efficient and passive solar homes and commercial buildings. UCAN also provided information regarding the rates the Commission has awarded to individuals of comparable education, though with less-relevant experience. It is reasonable to set Mr. Kain's hourly rate at \$70 for the work he performed in 1997.

7.3 Reasonableness of UCAN's Other Costs

UCAN's other costs appear reasonable, with one exception, given the large number of parties on the service list. Consistent with our discussion of reasonable hours, above, we will not compensate UCAN for the expenses it claims associated with the retail settlements and information flow issue. In other respects, we find UCAN's request for other costs reasonable. We therefore, award UCAN \$671.10 for photocopying, postage, telephone, and overnight delivery costs, and we award UCAN an additional \$61.25 for the expenses incurred on UCAN's behalf by its consultants.

7.4 Award to UCAN

UCAN is awarded \$20,160 for its substantial contributions in this docket, described above, for participation in this docket occurring from January 1, 1996 through April 30, 1997, as follows:

Attorney Costs	hours	hourly rate		
Michael Shames	27.6	\$185.00	\$5,106	
prepare request	3	92.50	\$ 277.50	
subtotal				\$5,383.50
Consultant Fees and Expenses				
Fees				
Eric Woychik	150.1	\$145.00	\$21,764.50	
Scott Kain	175.5	\$ 70.00	\$12,285	
parking			61.25	
subtotal				\$34,110.75
Other Costs				
Photocopying			\$ 251.10	
Postage			\$ 380.00	
Phone			\$ 26.00	
Overnight Delivery			\$ 14.00	
subtotal				\$ 671.10
Otherwise Reasonable Fees and Expenses				
				\$40,165.35
Less 43%				\$17,271.10
TOTAL AWARD				\$22,894.25

8. GI/LIF's Requested Compensation

GI/LIF requests compensation in the amount of \$218,475.15, for its participation in this proceeding from February 1996 through May 1998, as follows:

Attorney Costs	hours	hourly rate		
Robert Gnaizda	100.35	\$ 360.00		\$ 36,126.00
Susan E. Brown	412.5 ¹¹	\$ 250.00		\$103,125.00
Working Group @ 75%	99	\$ 187.50	\$18,562.50	
Compensation @ 33%	40	\$ 82.50	\$ 3,300.00	\$124,987.50
John C. Gamboa	52.85	\$ 250.00		\$ 13,212.50
Guillermo Rodriguez	95.1	\$ 150.00	\$14,265.00	
Legislative @ 25%	5	\$ 37.50	\$ 187.50	\$ 14,452.50
Roxanne Figueroa	279.4	\$ 75.00		\$ 20,955.00
Legislative @ 25%	81.4	\$18.75	\$ 1,526.25	\$ 22,481.25
Subtotal				\$211,259.75
Other Costs				
LIF postage, copies, deliveries			\$ 4,991.12	
GI postage, copies, deliveries			\$ 2,224.28	
Subtotal				\$ 7,215.40
TOTAL REQUEST				\$218,475.15

¹¹ We note that the breakdown of hours for Brown included in Exhibit D of GI/LIF's request does not produce a sum of 412.5 for hours to be compensated at the full hourly rate. Rather, it produces a sum of 426.75.

8.1 Reasonableness of Hours Claimed by GI/LIF

GI/LIF allocates its claimed hours among three issues: customer education, consumer protection, and public purpose programs. It states that these hours were dedicated to formal filings, testimonies, community education and briefings, participation in the direct access and the low-income working groups, participation on the Low-Income Governing Board and the Electric Restructuring Education Group, and meetings with constituents and members to apprise them of these proceedings and seek their input and imprimatur. (GI/LIF Request at 24.)¹⁵ GI/LIF also provides a detailed breakdown for each of its staff of the specific hours and activities for which it claims compensation. GI/LIF includes in its request 40 hours of time spent preparing this compensation request, and asks that it be compensated at 1/3 the otherwise applicable hourly rate for this time.

GI/LIF's allocation of hours complies with our requirements. However, we find included in the claimed hours time spent on activities for which we do not compensate because they are outside the context of the "proceeding" as that term is defined in 1802(f). Specifically, we do not find it reasonable to award GI/LIF for hours spent reviewing the comments of parties filed in the unbundling applications tendered by PG&E, SDG&E, and Edison; communicating with (i.e., private meetings, testifying at Legislative hearings) the Governor's staff, Legislators and their staff; preparing press releases, editorials,

¹⁵ On the same page, GI/LIF states, however, that it waives the hundreds of hours expended by Ms. Brown and Mr. Rodríguez with the Low-Income Governing Board and the Electric Restructuring Education Group. Earlier, it calls the Commission's attention to the question of whether GI/LIF should receive full compensation for certain activities "beyond the strict pale of Commission-sanctioned activities" including "time spent in appointments to the Low-Income Governing Board and the [Electric Restructuring Education Group.]" (Id. at 8.)

and communicating with the news media; community meetings and (non-Commission sanctioned) workshops; and educational conferences.¹⁶

Although the time records appear to support GI/LIF's claim that it does not seek compensation for time spent in meetings of the Low-Income Governing Board (LIGB) and the Electric Restructuring Education Group (EREG) by its member representatives, it appears that compensation for certain related activities is inappropriately included. Contrary to Resolution P-621 and the boards' charters, GI/LIF representatives seek compensation for activities within the scope of their duties as members of the boards. For example, we regard it within the scope of a board member's duties to read comments, rulings, and decisions of the Commission regarding the subject matter for which the board is responsible. We do not find it reasonable to award GI/LIF for hours spent on LIGB and EREG activities.

In addition, we regard 40 hours of time for preparing this compensation request excessive. GI/LIF has voluntarily reduced the hourly rate applied to this time by 1/3. We find it reasonable to allow GI/LIF 30 hours of time for preparing this request for compensation.

Finally, we will reduce GI/LIF's otherwise reasonable hours and expenses by 1/3 to reflect the fact that it failed to demonstrate a substantial contribution to 3 of the 9 decisions on which it bases its substantial contribution claim.

¹⁶ For a discussion of why we do not compensate for communications with the Governor, Legislators, their staffs, and the news media, see D.96-06-029, mimeo. at 18. In the first compensation decision in this docket, when considering the reasonableness of GI/LIF's claimed hours, we stated that community outreach is not a compensable activity, and we concluded elsewhere that travel to and attending conferences not integral to the proceeding were not compensable. (D.96-08-040, mimeo. at 28 (for the general discussion) and 49 (as it relates to GI/LIF).)

8.2 Reasonableness of Hourly Rates Applied by GI/LIF

GI/LIF asks the Commission to set increased, or first-time, rates for its attorneys and staff members. Before addressing the requested increases, we will briefly summarize the relevant hourly rates previously adopted:¹⁷

Attorney/Staff Member	Time Period	Rate	Decision
Gnaizda	1995-96	\$260	D.96-08-040
	1996-97	\$260	D.98-04-025
Gamboa	1994-96	\$125	D.96-08-040
	1996-97	\$125	D.98-04-025
Rodriguez	1994-96	\$ 95	D.96-08-040
	1996-97	\$100	D.98-04-025
Brown	1995-96	\$225	D.96-08-040
	Aug-Dec 1996	\$225	D.98-04-025
	1997	\$240	D.98-04-025

GI/LIF requests an hourly rate of \$360 for the work of Robert Gnaizda performed from February 1996 through March 1998. GI/LIF submits the declaration of an attorney practicing in San Francisco, Morris J. Baller, in support of the increase for Mr. Gnaizda.¹⁸ The declaration asserts that the \$360 rate is comparable to what similarly skilled and experienced attorneys receive in San Francisco. In his declaration, Mr. Baller further argues that the rate is reasonable because 1) it is for work performed on a contingency basis, where it is common practice to adjust upward the comparable, non-contingent fee; 2) it is customary for firms to charge the same hourly rates to represent clients in administrative proceedings as they charge for representation

¹⁷ With the exception of Ms. Brown and Mr. Rodriguez, GI/LIF does not provide any information on previously-adopted rates. In future requests, customers should provide this information as part of their justification of the hourly rates requested.

¹⁸ Mr. Baller specifically supports the \$360 rate for Mr. Gnaizda as a 1997 hourly rate. However, Mr. Baller argues that federal and state fee awards are routinely based on current rates at current experience levels for work done in previous years.

in judicial proceedings; and 3) the complexity, technical aspects, scale, and public importance of the proceeding.

It has long been our practice to establish an hourly rate for an individual for a specific time period, and to apply that rate when similar services are performed over a substantially same time period. We are not convinced by Mr. Baller's declaration to modify this practice. We will apply the previously-adopted rates for the services performed by Mr. Gnaizda through June, 1997.

We are then left to consider whether to increase the hourly rate for services performed by Mr. Gnaizda from June 1997 through 1998. We have stated before, and in the context of considering a request for increased hourly rates from Mr. Gnaizda, that the nature of practice before this Commission is not strictly parallel to that of attorneys in private practice. (D.95-08-051, mimeo. at 9, and D.98-04-025, mimeo. at 17.) Of late, we rely heavily on the Of Counsel Survey in setting the rates of attorneys, and find declarations another informative approach customers have taken to demonstrate the reasonableness of a rate, but we are not bound by 1806 to set rates in lock step with such surveys and declarations of comparables. Rather, we take them into consideration, and set a rate we regard reasonable that does not exceed the comparable market rate. For the services Mr. Gnaizda performed from June 1997 through December 1998, we find it reasonable to increase his hourly rate to \$270, well within the range of rates revealed in the Of Counsel Survey and high among the rates awarded other attorneys practicing before this Commission.

GI/LIF applies a rate of \$250 to the services performed by Mr. Gamboa from February 1996, through March 1997. GI/LIF supports its request to increase Mr. Gamboa's 1996-97 previously approved hourly rate of \$125 with a declaration from Mr. Gamboa detailing his training and experience.

In his declaration, Mr. Gamboa asserts that in a number of proceedings before this Commission in which he participated, opposing experts and facilitators were compensated at rates of \$300 or more. Mr. Gamboa provides no documentation or citation in support of this claim. Having just set Mr. Gamboa's 1996-97 hourly rate for his participation in the Telesis/SBC merger in April of this year (A.96-04-038), and since similar services were performed by Mr. Gamboa in this proceeding, we are disinclined to increase the rate, especially given GI/LIF's lack of effort to substantiate the reasonableness of the request.¹⁹ We will apply the previously-approved hourly rate of \$125 to the services performed by Mr. Gamboa.

GI/LIF applies an hourly rate of \$150 to the services performed by Mr. Rodriguez from February 1996, through March 1998. GI/LIF supports its request to increase Mr. Rodriguez's previously approved hourly rates with a declaration from Ms. Brown detailing his training and experience. (See D.98-04-025, mimeo. at 19, for a recitation of Mr. Rodriguez' training and experience.) It later submitted a declaration from Mr. Bromley, Vice President, Law and Government Affairs of AT&T. Mr. Bromley states that Mr. Rodriguez

¹⁹ In D.98-04-025, the order compensating customers for their participation in the Telesis/SBC merger application, we considered GI/LIF's request to increase Mr. Gamboa's rate to \$250. In that request, GI/LIF provided a substantially identical declaration from Mr. Gamboa. Only after having received our decision did it then file the instant request. GI/LIF only refers to our recent consideration in that docket of hourly rate increases when we ruled favorably on its request. (See Declaration of Ms. Brown, where our determination to increase her rate and the rate of Mr. Rodriguez is cited.) In the future, GI/LIF should refrain from rearguing issues so recently addressed. GI/LIF's practice in this instance borders on becoming vexatious litigation. Additionally, in this instance, GI/LIF's request unnecessarily exhausts the Commission's resources and in an indirect way wastes the public's resources. We would not find GI/LIF's reargument wasteful had GI/LIF at least provided new information to demonstrate the purported reasonableness of the requested increase.

serves on AT&T's Corporate/Community Council on Access to Emerging Technology, for which Mr. Rodriguez is compensated by AT&T at the rate of \$700/day.

The services performed by Mr. Rodriguez are similar to those for which we compensated him at \$100 when performed in 1996-97, specifically in-house meetings, meetings with public interest groups, and attendance at Commission-sponsored workshops and hearings. The daily rate AT&T compensates Mr. Rodriguez at supports a comparable, though lower, hourly rate assuming an eight-hour work day. We will apply the previously-adopted rates to Mr. Rodriguez' 1995-96 hours (\$95) and his 1996-97 hours (\$100). For the services Mr. Rodriguez performed from June 1997 through December 1998, we find it reasonable to increase his hourly rate to \$105.

GI/LIF requests an hourly rate of \$250 for the services performed by attorney Ms. Brown from February 1996 through May 1998. It supports this request with the declaration of Mr. Baller, summarized above, and Ms. Brown's own declaration. (See D.98-04-025, mimeo. at 19, for a description of Ms. Brown's training and experience.) We will apply the previously-adopted rates to Ms. Brown's 1995-96 hours (\$225) and her 1997 hours (\$240). For the services Ms. Brown performed in 1998, we find it reasonable to increase her hourly rate to the requested \$250.

GI/LIF requests an hourly rate of \$75 for the services performed by staff member Roxanne Figueroa from September 1996, through April 1998. We have not previously set a rate for Ms. Figueroa. GI/LIF supports this request with the declaration of Ms. Brown. Ms. Brown states that Ms. Figueroa is a 1997 graduate of the University of California at Berkeley. She is a public policy director at LIF, where she has been involved in educating community groups, formulating consumer education and protection policies for limited-English

speaking and vulnerable populations, and in advocating for those policies before the Commission and the Legislature. It is clear from Ms. Figueroa's detailed breakdown of time and activities that she performed services in this proceeding consistent with those described by Ms. Brown. In the past, we have awarded compensation for similar services performed by recent college graduates at \$75/hour. (See, e.g., D.96-08-040 and D.98-04-025.) It is reasonable to establish an hourly rate for Ms. Figueroa for services performed in 1996 through 1998 of \$75.

We note that GI/LIF appropriately billed travel at 1/2 the otherwise applicable rate.

8.3 Reasonableness of GI/LIF's Other Costs

Before addressing the reasonableness of the requested other costs, we take a moment to praise GI/LIF where we have in the past scolded for in this request, GI/LIF has provided helpful (though still challenging to read) documentation supporting its request for other costs. LIF requests \$4,991.12 in postage, photocopying, and deliveries. The documentation LIF provided reveals that certain travel expenses (air fare, mileage, parking, bridge tolls) are also included, as is a \$245.08 charge for temporary help. We will not compensate LIF for expenses associated with the activities we noted above were not compensable, and we will not compensate LIF for the "temporary help" expense that is not otherwise explained. We find the remaining \$4,504.50 in other costs reasonable.

GI requests \$2,224.28 for postage, photocopying, and deliveries. We find its request reasonable with the exception of one travel-related expense for a person not otherwise compensated in the request.

We will award GI/LIF \$6,722.78 for its reasonably incurred other costs.

8.4 Award to GI/LIF

GI/LIF is awarded \$125,158 for its substantial contributions in this docket, described above, for participation occurring from January 1, 1996 through May 30, 1998, as follows:

Attorney Costs	hours	hourly rate		
Robert Gnaizda				
1996-97	96.65	\$260.00	\$25,129.00	
1997-1998	3.7	\$270.00	\$999.00	
				\$26,128.00
Susan E. Brown				
1996	298.25	\$225.00	\$67,106.25	
1997	73.25	\$240.00	\$17,580.00	
1998	45.5	\$250.00	\$11,375.00	
Working Group @ 75%	99	\$168.75	\$16,706.25	
Compensation @ 100%	30	\$ 82.50	\$2,475.	
				\$115,242.50
John C. Gamboa	43.85	\$125.00		\$ 5,481.25
Guillermo Rodriguez				
1995-96	14.65	\$ 95.00	\$1,391.75	
1996-97	51.6	\$100.00	\$5,160.00	
1997-1998	16.1	\$105.00	\$1,690.50	
				\$ 8,242.25
Roxanne Figueroa				
1996-1998	266.15	\$ 75.00	\$19,961.25	
				\$19,961.25
Subtotal				\$175,055.25
Other Costs				
LIF postage, copies, deliveries			\$4,501.50	
GI postage, copies, deliveries			\$2,218.28	
Subtotal				\$ 6,722.78
Otherwise Reasonable Hours and Expenses				\$ 181,778.03
Less 1/3				\$ 60,592.68
TOTAL AWARD				\$ 121,185.35

9. Summary of Awards

In summary, we award compensation to Cal/Neva, UCAN, and GI/LIF for their substantial contributions in this proceeding, as follows:

<u>Intervenor</u>	<u>Amount Requested</u>	<u>Amount Awarded</u>
Cal/Neva	\$12,314.36	\$12,314.36
UCAN	\$36,465.68	\$22,894.25
GI/LIF	\$218,475.15	\$121,185.35
TOTAL	\$267,255.19	\$156,393.96

We will assess responsibility for payment of the awarded amounts among the electric utilities per the method applied previously in this docket in D.96-04-080, D.98-01-007, and D.98-10-030. PG&E, Edison, and SDG&E shall each pay a portion of the awarded amounts based upon their respective 1997 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 January 4, 1998, for Cal/Neva, March 28, 1998, for UCAN, and September 2, 1998, for GI/LIF, (the 75th day after each party filed its completed compensation request) and continuing until each utility makes its full payment of award.

As in all intervenor compensation decisions, we put Cal/Neva, UCAN, and GI/LIF on notice that the Commission's 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. The records should identify specific issues for which the party 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, UCAN, and GI/LIF have each made a timely request for compensation.
2. Cal/Neva, UCAN, and GI/LIF have previously been determined to be eligible for awards of compensation in this proceeding.
3. Cal/Neva contributed substantially to D.97-08-064.
4. UCAN contributed substantially to D.97-10-087 and D.97-12-048.
5. GI/LIF contributed substantially to D.97-02-014, D.97-04-044, D.97-05-040, D.97-08-064, D.98-03-072, and D.98-05-062.
6. We agree with UCAN that a reduction for duplication is appropriate, but apply the reduction to UCAN's otherwise reasonable hours and expenses rather than just its hours.
7. We will not compensate UCAN for activities related to retail settlements and information flow since UCAN failed to demonstrate that this work effort resulted in a substantial contribution.
8. To account for duplication and UCAN's failure to demonstrate a substantial contribution to one decision, we will reduce UCAN's otherwise reasonable hours and expenses by 43%.
9. It is not reasonable to award GI/LIF for hours spent reviewing the comments of parties filed in the unbundling applications tendered by PG&E, SDG&E, and Edison; communicating with (i.e., private meetings, testifying at Legislative hearings) the Governor's staff, Legislators and their staff; preparing press releases, editorials, and communicating with the news media; community meetings and (non-Commission sanctioned) workshops; and educational conferences.

10. It is not reasonable to award GI/LIF for hours spent on LIGB and EREG activities where those hours are claimed by GI/LIF representatives that are members of the LIGB or EREG.

11. It is reasonable to allow GI/LIF 30 hours of time at the requested rate for preparing its request for compensation.

12. We reduce GI/LIF's otherwise reasonable hours and expenses by 1/3 to reflect the fact that it failed to demonstrate a substantial contribution to 3 of the 9 decisions on which it bases its substantial contribution claim.

13. It has long been our practice to establish an hourly rate for an individual for a specific time period, and to apply that rate when similar services are performed over a substantially same time period.

14. We rely heavily on the Of Counsel Survey in setting the rates of attorneys, and find declarations another informative approach customers have taken to demonstrate the reasonableness of a rate, but we are not bound by 1806 to set rates in lock step with such surveys and declarations of comparables. Rather, we take them into consideration, and set a rate we regard reasonable that does not exceed the comparable market rate.

15. It is reasonable to apply the hourly rates requested and previously adopted for Cal/Neva's Ms. Steck-Myers since the services performed here are similar. A \$90/hour rate for the services performed by Ms. Omania in this proceeding from August 1996 to October 1997, (with the exception of time spent preparing the compensation request) is reasonable. A \$95/hour rate for the services performed by Ms. Eghigian in this proceeding in June 1997 is reasonable.

16. It is reasonable to award UCAN's Mr. Shames \$185/hour for work performed by him in 1997. It is reasonable to set Mr. Kain's hourly rate at \$70 for the work he performed in 1997. It is reasonable to apply the rate previously adopted for Mr. Woychik since the services he performed here are similar.

17. For the services GI/LIF's Mr. Gnaizda performed from June 1997 through December 1998, we find it reasonable to increase his hourly rate to \$270. We will apply the previously-adopted rate of \$125 to the services performed by Mr. Gamboa. We will apply the previously-adopted rates to Mr. Rodriguez' 1995-96 hours (\$95) and his 1996-97 hours (\$100). For the services Mr. Rodriguez performed from June 1997 through December 1998, we find it reasonable to increase his hourly rate to \$105. We will apply the previously-adopted rates to Ms. Brown's 1995-96 hours (\$225) and her 1997 hours (\$240). For the services Ms. Brown performed in 1998, we find it reasonable to increase her hourly rate to the requested \$250. It is reasonable to establish an hourly rate for Ms. Figueroa for services performed in 1996 through 1998 of \$75.

18. The miscellaneous costs incurred by Cal/Neva are reasonable.

19. The miscellaneous costs incurred by UCAN are reasonable with the exception of the expenses it claims associated with the retail settlements and information flow issue.

20. We will not compensate LIF for expenses associated with the activities we noted above were not compensable, and we will not compensate LIF for the "temporary help" expense that is not otherwise explained. We find GI's request reasonable with the exception of one travel-related expense for a person not otherwise compensated in the request. The remaining \$6,722.78 in miscellaneous costs incurred by GI/LIF are reasonable.

21. Allocation of payment of the approved awards between PG&E, Edison, and SDG&E based on the number of retail kilowatt-hours of electricity sold by each of them in 1997 is reasonable.

22. Awards of compensation should earn interest beginning on the 75th day after the date of the filing of a completed request for compensation.

Conclusions of Law

1. Cal/Neva, UCAN, and GI/LIF have fulfilled the requirements of §§ 1801-1812 which govern awards of intervenor compensation.
2. Cal/Neva should be awarded \$12,314.36 for its substantial contribution to D.97-08-064.
3. UCAN should be awarded \$22,894.25 for its substantial contributions to D.97-10-087 and D.97-12-048, covering its participation in this proceeding from May 1, 1997, to December 1, 1997.
4. GI/LIF should be awarded \$121,185.35 for its substantial contributions to D.97-02-014, D.97-04-044, D.97-05-040, D.97-08-064, D.98-03-072, and D.98-05-062, covering its participation in this proceeding from February, 1996 through May, 1998.
5. PG&E, Edison, and SDG&E should pay to each intervenor that pro rata portion of each intervenor's award based upon each utility's respective 1997 retail kilowatt-hours of electricity sold.
6. This order should be effective today so that Cal/Neva, UCAN, and GI/LIF may be compensated without unnecessary delay.

O R D E R

IT IS ORDERED that:

1. California/Nevada Community Action Association (Cal/Neva) is awarded \$12,314.36 in compensation for its substantial contributions to Decision (D.) 97-08-064.
2. Utility Consumers' Action Network (UCAN) is awarded \$22,894.25 in compensation for its substantial contributions to D.97-10-087 and D.97-12-048, covering its participation in this proceeding from May 1, 1997, to December 1, 1997.

3. Greenlining Institute/Latino Issues Forum (GI/LIF) is awarded \$121,185.35 in compensation for its substantial contributions to D.97-02-014, D.97-04-044, D.97-05-040, D.97-08-064, D.98-03-072, and D.98-05-062, covering its participation in this proceeding from February, 1996 through May, 1998.

4. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), and San Diego Gas & Electric Company (SDG&E) shall each pay to Cal/Neva, UCAN, and GI/LIF that pro rata portion of each intervenor's award based upon each utility's respective 1997 retail kilowatt-hours of electricity sold in 1997 within 30 days of the effective date of this order. PG&E, Edison, and SDG&E 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, with interest, beginning January 4, 1998, for Cal/Neva, March 28, 1998, for UCAN, and September 2, 1998, for GI/LIF, and continuing until full payment is made.

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