

Decision 99-02-034 February 4, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company to Identify Cost Savings for Revenue Cycle Services Provided by Other Entities and to Propose Credits for End-Use Customers in Such Circumstances For Implementation No Later than January 1, 1997.

Application 97-11-004
(Filed November 3, 1997)

And Related Matters.

Application 97-11-011
(Filed November 3, 1997)
Application 97-12-012
(Filed December 4, 1997)

O P I N I O N

This decision grants Utility Consumers Action Network (UCAN) an award of \$12,314.50 in compensation for contributions to Decision (D.) 97-08-056. That decision directed electric utilities to identify the costs associated with various utility functions and established a method for calculating the price of energy, among other things.

1. Background

The Commission required the utilities to file the subject applications for the purpose of "unbundling" various cost components of their operations in order to provide better information about utility costs to customers and thereby promote competition in electric markets. We resolved most issues on these matters in D.97-08-056.

UCAN filed this request for compensation on November 19, 1998 in response to the Commission's directive in D.98-10-030. That decision resolved a request for compensation filed by UCAN in Rulemaking (R.) 94-04-031. In that order, the Commission found that UCAN had inappropriately sought compensation in R.94-04-031 for work undertaken in these dockets and directed UCAN to file for that compensation here. UCAN observes that D.98-04-027 resolved a more detailed compensation request filed by The Utility Reform Network (TURN) and UCAN in this proceeding. UCAN states this compensation request does not duplicate the request in any other pleading. No party has protested UCAN's request.

2. Requirements for Awards of Compensation

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

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

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

Section 1804(e) requires the Commission to issue a decision which determines whether or not the customer has made a substantial contribution and the amount of compensation to be paid. The level of compensation must take into account the market rate paid to people with comparable training and experience who offer similar services, consistent with § 1806.

3. NOI to Claim Compensation

UCAN and TURN jointly filed an NOI to claim compensation in this proceeding. D.98-04-027 found UCAN eligible for compensation.

4. Contributions to Resolution of Issues

A party may make a substantial contribution to a decision in three ways.¹ It may offer a factual or legal contention upon which the Commission relied in making a decision.² Or it may advance a specific policy or procedural recommendation that the Administrative Law Judge or Commission adopted.³ A substantial contribution includes evidence or argument that supports part of the

¹ Cal. PU Code § 1802(h).

² Id.

³ Id.

decision even if the Commission does not adopt a party's position in total.⁴ The Commission has provided compensation even when the position advanced by the intervenor is rejected.⁵

UCAN made a substantial contribution to D.97-08-056. As UCAN's pleading observes, its testimony was adopted in whole or in part on issues relating to, among other things, cost shifting, the need for consistency with federal policy, the development of the generation price, the appropriate allocation of overhead costs, and recovery of marketing costs.

Some of UCAN's positions were shared by other parties. We nevertheless recognize that UCAN's analysis and presentation were distinguishable. Accordingly, we do not reduce the award for duplication of effort.

5. The Reasonableness of Requested Compensation

UCAN requests compensation in the amount of \$12,314.50 as follows:

Michael Shames, Attorney:	\$ 4,842.00
Eric Woychik, Consultant:	7,158.50
Travel Costs	314.00
Total	\$12,314.50

⁴ *Id.*

⁵ D.89-03-96 (awarding San Luis Obispo Mothers For Peace and Rochelle Becker compensation in Diablo Canyon Rate Case because their arguments, while ultimately unsuccessful, forced the utility to thoroughly document the safety issues involved).

5.1. Hours Claimed

In its filing, UCAN seeks compensation for all work on unbundling and metering issues undertaken by Mr. Shames and Mr. Woychik after December 6, 1996 on reviewing filings, drafting testimony, and attending hearings. UCAN seeks compensation for a total of 26.9 hours for Mr. Shames' work and 49.3 hours for Mr. Worychik's work. We find that UCAN's request in this regard is reasonable.

5.2. Hourly Rates

Section 1806 requires the Commission to compensation eligible parties at a rate which reflects the "market rate paid to persons of comparable training and experience who offer similar services."⁶ UCAN seeks funding for the work of one attorneys and one consultant.

Michael Shames - UCAN seeks compensation for Mr. Shames at an hourly rate of \$180 for work undertaken in 1996 and 1997. The Commission approved this rate for Mr. Shames in D.98-10-030. We approve the rate for the award requested herein. We do not discount the hourly rate by half for work undertaken on the subject compensation request because the amount of time spent, two hours, is relatively insignificant.

Eric Woychik - UCAN seeks an hourly rate for Mr. Woychik of \$145. We approved this rate in D.98-10-030 and so apply it to the award requested herein.

5.3. Other Costs

UCAN claims \$314 for travel costs, a small sum which we adopt here.

⁶ Cal. PU Code § 1806.

6. Award

We award UCAN \$12,314.50 for contributions to D.97-08-056. 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 February 2, 1999, the 75th day after UCAN filed this compensation request and continuing until the utility makes its full payment of award.

7. Allocation of Award Among Utilities

UCAN proposes allocating the award among the three applicants using the formula as that adopted by the Commission in D.98-04-027, that is, according to each utility's share of total retail sales of electricity in California in 1997, measured in kilowatt hours. We adopt this allocation here.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to PU Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. UCAN timely requests compensation for contributions to D.97-08-056 as set forth herein.
2. UCAN requests hourly rates for its attorney and consultant that have already been approved by the Commission.
3. The miscellaneous costs incurred by UCAN in this proceeding are reasonable.

Conclusions of Law

1. UCAN has fulfilled the requirements of Sections 1801-1812 which govern awards of intervenor compensation.
2. UCAN should be awarded \$12,314.50 for contributions to D.97-08-056 in this proceeding.

3. This order should be effective today so that UCAN may be compensated without unnecessary delay.

O R D E R

IT IS ORDERED that:

1. Utility Consumers Action Network (UCAN) is awarded \$12,314.50 as set forth herein for substantial contributions to Decision (D.) 97-08-056.

2. Pacific Gas and Electric Company (PG&E), Southern California Edison Company, and San Diego Gas & Electric Company shall, within 30 days of this order, pay UCAN that pro rata portion of UCAN's award equal to each utility's percentage of the sum of the retail kilowatt-hours of electric sold by the utilities in 1997, plus interest at the rate earned on prime, three-month commercial paper as reported in the Federal Reserve Statistical Release, G.13, with interest beginning on February 2, 1998 and continuing until the full payment has been made.

This order is effective today.

Dated February 4, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners