

ALJ/JRD/jva

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Decision 99-05-017 May 13, 1999

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

Investigation on the Commission's own motion and order to Show Cause to determine if San Diego Gas and Electric Company should be held in violation of the Commission's General Order 95 for failure to have exercised reasonable tree trimming practices and procedure.

Investigation 94-06-012  
(Filed June 8, 1994)

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## O P I N I O N

This decision grants William P. Adams (Adams) an award of \$36,535 and John Sevier (Sevier) an award of \$14,257 in compensation for their contributions to Decision (D.) 97-10-056.

### 1. Background

This decision resolves the request for an award of compensation of Adams and Sevier for their contributions to D.97-10-056.

On June 8, 1994, the Commission issued an Order Instituting Investigation (OII) 94-06-012, to investigate the electrocution of a farm worker by a San Diego Gas & Electric (SDG&E) line. One month later, pursuant to D.94-07-33, the Commission amended the original OII by expanding the scope of the investigation to include a review of the tree trimming practices of other major investor-owned electric utilities in California. The second order divided the subject matter of the proceeding into two phases: Phase I<sup>1</sup> examined the incident involving SDG&E, and Phase II reviewed the tree trimming practices of all electric utilities.

On August 10, 1994, the assigned Administrative Law Judge (ALJ) held a prehearing conference (PHC). Regarding Phase II, the ALJ required respondents to submit compliance filings describing their respective tree trimming practices and also directed the Commission's Utilities Safety Branch (USB) to hold workshops on Phase II issues.

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<sup>1</sup> On August 11, 1995, the Commission issued D.95-08-054 which approved a settlement proposed by the Commission's Utility Safety Branch and SDG&E that concluded Phase I of this proceeding.

In April 1996, the participants in Phase II filed a report on the workshops. The report explained that the participants had formed four subcommittees to address various tree trimming issues, namely, equipment (Subcommittee I), access (Subcommittee II), public awareness (Subcommittee III), and Rule 35 of General Order (GO) 95 (Subcommittee IV). The report described the work of these four subcommittees and set forth the recommendations of each with respect to its particular area of inquiry. On April 21, 1997, a three day evidentiary hearing was commenced and the proceeding was submitted on May 27, 1997.

On October 22, 1997, the Commission issued D.97-10-056 which addressed Phase II issues. On December 23, 1997, Adams and Sevier each filed a separate request for an award of compensation for their contributions to D.97-10-056.

## **2. Requirements for Awards of Compensation**

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

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

"in the judgment of the commission, the customer's presentation has substantially assisted the Commission in the making of its order or decision because the order or decision has adopted in whole or in part on 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 Section 1806.

### **3. NOI to Claim Compensation**

Adams and Sevier both filed their NOI later than the 30-day time period following the first prehearing conference. On March 24, 1995, ALJ Ryerson issued a Ruling permitting Adams' NOI to be filed late and found Adams eligible for an award of compensation at the conclusion of this proceeding, provided that Adams' request is properly supported. On February 20, 1996, ALJ Ryerson issued a Ruling granting Sevier's motion to intervene and leave to file a NOI to claim compensation. ALJ Ryerson made no finding on whether Adams or Sevier had demonstrated significant financial hardship.

On October 13, 1998, ALJ DeUlloa issued rulings directing Adams and Sevier to supplement their significant financial hardship showing. On November 16, 1998, both Adams and Sevier filed separate responses that provided information in support of a financial hardship showing as well as a motion seeking a protective order regarding the personal financial information.

Section 1802(g) defines "significant financial hardship" to mean:

"either that the customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of that group or organization is small in comparison to the costs of effective participation in the proceeding."

In their November 16, 1998, responses both Adams and Sevier assert that neither can afford to pay the costs of effective participation without undue hardship. Further, both Adams and Sevier state that the costs of effective participation are substantial compared either to their expected annual income or net worth.

Without disclosing Adams' or Sevier's financial circumstances, we conclude that both Adams and Sevier would experience undue financial hardship as a result of their participation in this proceeding.<sup>2</sup> Thus, both Adams and Sevier meet the Commission's financial hardship test for an award of intervenor compensation.

#### **4. Motion for Protective Order**

On November 16, 1998, concurrent with filing separate responses to ALJ DeUlloa's ruling of October 13, 1998, Sevier and Adams filed a joint motion for a protective order that their personal financial information be withheld from public inspection.

Such personal information was required of Sevier and Adams in ALJ DeUlloa's ruling to support a showing of financial hardship in their requests for compensation as intervenors.

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<sup>2</sup> Similarly, in a ruling dated November 12, 1998, ALJ McVicar found that Adams and Sevier satisfy the significant financial hardship test.

GO 66-C authorizes the Commission to adopt such protections. Sevier and Adams claim that their personal financial information is confidential in nature, and making it generally available for public inspection would unnecessarily intrude on their privacy. No party responded to Sevier's or Adams' requests. Good cause appearing, the joint motion of Sevier and Adams for a protective order should be granted.

## **5. Contributions to Resolution of Issues**

### **5.1. Adams**

In his request for intervenor compensation, Adams claims that he made a substantial contribution in two areas. Adams asserts that he substantially contributed to the adopted wording for GO 95, Rule 35, and that he also substantially contributed to the adopted minimum clearance of 18 inches for tree-power line clearance. Adams also emphasizes his concerns about enforcement of a 6 inch clearance as a substantial contribution.

Pacific Gas and Electric (PG&E), Southern California Edison Company (Edison) and San Diego Gas & Electric Company (SDG&E) all filed responses to Adams' request. PG&E did not challenge or comment on the substance of Adams' contribution. Rather, PG&E's response contested the sums charged for participation. PG&E's concerns are addressed under the subject headings of hours claimed and hourly rates. Similarly, Edison's and SDG&E's concerns regarding sums charged are also addressed under the subject headings of hours claimed and hourly rates.

However, Edison and SDG&E both challenge Adams' claim of substantial contribution. SDG&E believes that "while Adams did attend most of the PHCs, workshops and participated in the hearings, ...his efforts were focused on but one issue area of the many addressed in this proceeding. Through many of the workshop meetings, regardless of the subject matter, Mr. Adams constantly expressed the singular position that the clearance requirement needing to be adopted should be four feet, to mirror the which was already adopted by the California Department of Forestry (CDF)." With regards to Adams' claim of substantial contribution to revised Rule 35, SDG&E argues that "[w]hile the Commission did agree with Adams' suggested change to the rule to move the word 'reasonable' from one area of the rule to another ... this change can hardly be categorized as a substantial contribution. ..." Lastly, SDG&E contends that a large number of Adams' recommendations were rejected by the Commission, yet Adams seeks compensation for all his efforts even though most did not result in Commission adopted positions.

Edison contends that Adams' contribution was limited to only one of the many issues addressed in this proceeding. Edison believes that Adams' efforts were focused on the issue of the magnitude of the standard clearances between vegetation and electric lines. Further, Edison asserts that the Commission did not adopt Adams' recommendations and instead adopted an 18 inch clearance requirement. Thus, Edison concludes that Adams' compensation should be significantly reduced.

In D.98-04-059, the Commission made obvious its intent to broaden participation by customers in Commission proceedings. For instance, in D.98-04-059, the Commission noted that broad based participation is a key ingredient to high quality decision making. Further, the Commission adopted the principle that it should encourage presentation of multiple points of view,



even on the same issues, provided that the presentations are not redundant. Additionally, the Commission stated that an intervenor should not be required to enter into or join a settlement in order to receive compensation for participation in the settlement process.

However in D.98-04-059, the Commission also sought to improve the effectiveness of customer participation. Specifically, the Commission sought to balance its goal of effective participation against accountability. In D.98-04-059, the Commission stated its policy of avoiding unproductive or unnecessary participation that duplicates the participation of others. The tools that affect this balance are eligibility and substantial contribution.

In this proceeding, participants formed four subcommittees to address various aspects of tree trimming. Subcommittee I addressed equipment, Subcommittee II addressed access, Subcommittee III addressed public awareness and Subcommittee IV addressed Rule 35 of GO 95. In April 1996, participants filed a report which described the work of these four subcommittees and set forth the recommendations of each with respect to its area of inquiry.

A review of the record supports Adams contention that he made substantial contributions to aspects of D.97-10-056 that dealt with Subcommittee IV issues. In reviewing Adams' request for compensation it is clear that Adams has devoted significant personal resources to this proceeding. Adams' participation began in August 1994 and continued through the end of 1997.

Adams' substantial contribution resulted from participation in Subcommittee IV. Adams tenaciously opposed the six-inch clearance proposed by USB and the major utilities participating in the proceeding. Absent Adams' and Sevier's participation it is unlikely that concerns about movement of tree branches and overhead lines would have been highlighted. Such movement may

result from wind and cause direct contact of overhead lines with tree branches. Additionally, Adams raised valid concerns about the enforceability of a six-inch separation. Adams asserted and the Commission recognized difficulties with discerning a six inch separation from the ground. Although, the Commission did not embrace Adams' proposal to adopt the standards in the Public Resources Code § 4293, Adams' participation substantially contributed to the Commission's rejection of the proposed six-inch clearance.

Additionally, Adams' participation contributed to improving Rule 35 by proposing language that effectively articulated the purpose of the Commission's order. However, in other areas, D.97-10-056 rejected Adams' suggestions.

## **5.2. Sevier**

Sevier asserts that he made substantial contribution to D.97-10-056 via his participation on subcommittees III and IV.

### **5.2.1. Subcommittee III Issues**

Sevier states that he asserted from the beginning of the workshop process that agricultural workers should be made aware of the hazards of working in crop trees near overhead powerlines. Sevier notes that he encouraged DOSH staff to join subcommittee III. Sevier also states that his "proposal to require placement of durable vivid red continuous plastic warning bands on trees in orchards where high voltage wires are over or near the trees was accepted in principle by the Division of Occupational Safety and Health (DOSH) staff, the utilities and Commission staff.

Sevier's claims of substantial contribution with respect to subcommittee III issues are dubious. First, the Commission initiated this proceeding as an OII after a farm worker was electrocuted as he worked below an overhead powerline. Thus, little weight should be given to Sevier's first

argument that he substantially contributed by raising a concern that farm workers should be warned of the dangers of working under powerlines. In initiating this OII, the Commission was clearly cognizant of the dangers posed to persons working under powerlines and the need to inform and mitigate such dangers. Sevier's claimed contribution already formed a basic premise of the OII. Intervenor compensation should not be awarded to an intervenor that simply restates the basis for a Commission OII.

Sevier also asserts he made a substantial contribution by encouraging staff of DOSH to join the subcommittee. The act of recruiting others to participate in a Commission proceeding is not a compensable activity. Nor does Sevier allege any significant contribution to D.97-10-056 made by DOSH that should indirectly be credited to Sevier. Intervenor compensation should not be awarded for recruiting other parties to participate in a Commission proceeding.

Lastly, Sevier contends he substantially contributed to D.97-10-056 via his proposal to require placement of durable vivid red continuous plastic warning bands on trees in orchards where high voltage wires are over or near the trees. D.97-10-056 adopted no such proposal. The fact that other participants may have supported Sevier's proposal in "principle" is not sufficient to warrant a finding of substantial contribution and an award of intervenor compensation.

Rather than adopt any specific recommendation made by Sevier, D.97-10-056 explicitly rejected Sevier's proposal to make utilities responsible for posting warning signs in orchards. The Commission rejected Sevier's proposal on the ground that trees in commercial orchards are the property of their owners.

However, in view of the whole record, Sevier's participation on subcommittee III appears to have contributed to the Subcommittee III recommendation that the Commission support a change to the California Code of Regulations (CCR), the effect of which would be to require agricultural orchard owners and operators to provide warning to workers of overhead power lines in proximity to harvestable trees, and appropriate education of employees of the hazards and proper practices for performing work in such areas. In D.97-10-056, the Commission followed this recommendation via ordering paragraph six which directed USB to draft for the Commission's consideration an appropriate resolution concerning revision of the CCR to require orchard owners, and their tenants and contractors, to warn workers of the hazards of working near overhead powerlines. Although Sevier made a substantial contribution to D.97-10-056, it is not of the magnitude Sevier contends in his request for an award of compensation.

#### **5.2.2. Subcommittee IV Issues**

Similar to Adams, Sevier claims he substantially contributed to the Commission's adoption of 18-inch tree-powerline clearance. Similar to the reasons set forth above for Adams, Sevier made a substantial contribution to the Commission's adoption of a tree-powerline clearance.

However, similar to Adams, the Commission also rejected other proposals made by Adams and Sevier under the auspices of Subcommittee IV. For instance, D.97-10-056 adopted an exemption for old established trees whose major trunks and limbs are more than six inches but less than 18 inches from an overhead line. Adams and Sevier opposed this exemption and proposed an alternative requirement that a tree not be "readily climbable." The Commission rejected Adams and Sevier's proposal because of the element of subjectivity involved.

## 6. The Reasonableness of Adams' Requested Compensation

Adams requests unadjusted<sup>3</sup> compensation in the amount of \$66,582<sup>4</sup> as follows:

### Professional Hours

#### **Adams**

##### Subcommittee I issues

10.65 Hours @ \$100      \$ 1,065

12.8 Hours @ \$ 50      \$ 640

\$ 1,705

##### Subcommittee II issues

17.1 Hours @ \$100      \$ 1,700

19.8 Hours @ \$ 50      \$ 990

\$ 2,690

##### Subcommittee III issues

17.65 Hours @ \$100      \$ 1,765

14.20 Hours @ \$ 50      \$ 710

\$ 2,475

##### Subcommittee IV issues

210.05 Hours @ \$100      \$21,005

67.90 Hours @ \$ 50      \$ 3,395

\$24,400

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<sup>3</sup> See later discussion. Adams adjusts his compensation request by applying a 25% discount to subcommittee I, II and III issues.

<sup>4</sup> Adams' November 16, 1998, submission provided the total dollar amount claimed by issue. Adams' November 16, 1998, submission did not provide a summary of the total number of hours claimed by issue. However, Adams submitted time sheets that provided a detailed breakdown of hours worked by issue and date. Using Adams' timesheets, this decision calculated the number of hours worked per issue.

There is some discrepancy between the amount this decision states Adams claims and the amount Adams claimed in his November 16 filing. This discrepancy can be attributed to math errors in Adams' submission. For instance, on page 3 of Adams' November 16, 1998, submission, Adams calculates Smith's total compensation in Table 2 as \$17,629. The correct amount using Adams' numbers in Table 2 is \$17,400.

General

62.55 Hours @ \$100 \$ 6,255  
 48.80 Hours @ \$ 50 \$ 2,440

\$ 8,695

**Sub-total Adams' Professional Hours**

**\$39,965**

**Smith**

Subcommittee I issues

1.75 Hours @ \$200 \$ 350  
 1.75 Hours @ \$ 50 \$ 87

\$ 437

Subcommittee II issues

1.75 Hours @ \$200 \$ 350  
 1.75 Hours @ \$ 50 \$ 87

\$ 437

Subcommittee III issues

1.00 Hours @ \$200 \$ 200

\$ 200

Subcommittee IV issues

59.1 Hours @ \$200 \$11,820  
 10.1 Hours @ \$ 50 \$ 505

\$12,325

General

18.3 Hours @ \$200 \$ 3,660

\$ 3,660

**Sub-total Smith's Professional Hours**

**\$17,059**

**Total Professional Hours**

**\$57,024**

**Costs**

**Adams**

Subcommittee I issues \$ 224  
 Subcommittee II issues \$ 1,033  
 Subcommittee III issues \$ 592  
 Subcommittee IV issues \$ 5,584  
 General \$ 1,858  
\$ 9,291

**Sub-total Adams' Costs**

**\$ 9,291**

Smith		
Subcommittee IV issues	\$ 267	
		<u>\$ 267</u>
<b>Total Costs</b>		<b><u>\$ 9,558</u></b>
<b>Total Hours and Costs</b>		<b>\$66,582</b>

Adams' November 16, 1998, submission adjusts the amount of compensation requested by applying a "duplication adjustment of 25%" to hours and costs claimed for participation in subcommittee issues I, II and III. Adams analogizes to D.93-09-086, and reduces his request for compensation by 25% for subcommittee issues I, II, and III because in D.93-09-086 there were "workshops that parties participated in and made substantial contributions in clarifying... issues, and by putting forth recommendations that were largely adopted by the Commission, that the Commission applied a duplication adjustment of 25% to the parties' hours for the workshop phase of the proceeding." (Adams' November 16, 1998, submission at p.2.)

## **6.1. Hours Claimed**

### **6.1.1. Subcommittee I, II and III Issues**

In justifying his compensation request for work related to issues I, II, and III, Adams makes the conclusory assertion that there were "... areas in issues I, II, and III where Adams extensive background and experience in electrical safety and accident investigation lent clarity to discussions, and the product from workshops influenced D.97-01-044, and D.97-10-056, the Tree Trimming Decisions." (Adams' November 16, 1998, submission at p. 2.) Adams offers no other substantive statement to support his claim for compensation for issues in areas I, II, and III. The only specific citations to a Commission decision in Adams' request relate to issues in subcommittee IV. The responses of SDG&E, PG&E and Edison also support a finding that Adams did not make a substantial

contribution to issues addressed related to subcommittees I, II, and III. The mere conclusory assertion of lending "clarity" to discussions without specific references to substantive contributions is insufficient to warrant an award of compensation. Also, D.93-09-086 is inapplicable since Adams cites no recommendations that he proposed that were "largely adopted" by the Commission. Adams request for hours related to issues in subcommittee I, II, and III is unsupported by the record and should be denied.

#### **6.1.2. Subcommittee IV and General Issues**

Adams states in his request that he attended every one of the 42, workshops, PHCs, and settlement conferences. SDG&E expresses a concern about Adams' attendance when it states in its response to Adams' request that:

"while Adams did attend most of the PHCs, workshops and participated in the hearings, ...his efforts were focused on but one issue area of the many addressed in this proceeding. Through many of the workshop meetings, regardless of the subject matter, Mr. Adams constantly expressed the singular position that the clearance requirement needing to be adopted should be four feet, to mirror the which was already adopted by the California Department of Forestry ("CDF")."

The contributions Adams cites relate to tree- power line clearances. Adams' request offers no concrete explanation for his attendance at workshops not related to tree-power line clearance. The only reference found in Adams' request is that he lent clarity to discussions. Lending clarity to discussions is not sufficient in this instance to warrant a finding of reasonableness for all the hours Adams claims. Lending clarity to discussions in itself does not satisfy the standard of providing a "description of the customer's substantial contribution to the hearing or proceeding" (Pub. Util. Code §1804(c)). Further, Adams' attendance at everyone of 42 workshops reflects little effort to maximize efficiency or conserve resources. Although it may not have been warranted in all



circumstances, Adams could have taken advantage of conference calling technology or requested notes from a participant for a workshop that is peripheral to Adams' main concern of tree-power line clearance.

The bulk, 210 hours or approximately 82%, of Adams' claimed hours for subcommittee participation are attributed to subcommittee IV issues. In view of Adams' pursuit of a single issue, the amount of hours (for participation and travel) claimed for subcommittee IV participation appears excessive.

In D.95-05-018, *Sawaya v. Pacific Bell*, the Commission addressed a similar situation where the complainant claimed a large number of hours for addressing a simple issue. In D.95-05-018, the Commission reasoned that although the complainant's:

"work product is undeniably of high quality, Sawaya spent more time than was reasonably necessary to participate effectively in this proceeding. The question in this proceeding was relatively simple and clean-cut..." (*Id.* at 59 CPUC2d 645, 647 (1995).)

Similarly, given the fact that the idea advocated by Adams was a simple concept to grasp and the fact that two persons (Adams and Sevier) advocated the same issues (duplication), we conclude that Adams hours associated with subcommittee IV issues should be reduced by 20% in order to be reasonable. Similarly, Adams' hours claimed as "General" should be reduced by 40% to reflect the fact that Adams' hours for subcommittee I, II, and III are unreasonable as well as a portion of subcommittee IV issues are excessive.

### **6.1.3. Travel Hours**

The number of travel hours claimed for attending short meetings / workshops appears excessive. Under hours claimed for "General" and "Issue IV," approximately fifteen entries appear where Adams claims more hours for traveling than he does for time spent participating in the

meeting/workshop. Such a claim for hours is not per se unreasonable, but should be examined in light of the circumstances.

For instance, on March 14, 1995, Adams claims 2.8 hours in travel time plus costs [mileage and parking] for attending a 1.1 hour settlement conference. On August 9, 1995, Adams claims 8.5 hours in travel time to Lake Tahoe and back and approximately \$400 in costs [lodging, mileage and meals] for attending a 2 hour meeting on August 9, 1995 and a 1 hour meeting on August 10, 1995. Similarly, on October 12 and 13, 1995, Adams claims 2.4 hours each day for travel time from Rohnert Park to San Francisco and back and costs [mileage and parking] for attending a 2 hour subcommittee III workshop on October 12, 1995, and a 1.7 hour subcommittee II workshop on October 13, 1995. Also, on December 12, 1996, Adams claims 2.8 hours travel time and costs for a 0.5 hour meeting in San Francisco with the assigned ALJ.

It is difficult to predict the length of initial workshops/meetings especially in the initial stages of a proceeding. Generally, the Commission does not question the reasonableness of claimed hours and costs for initial workshops/meetings when the relative number of hours for initial workshops /meeting, is small in comparison to the travel time. However, in this instance, a pattern of disproportionate participation exists that warrants examination.

Adams participation in this proceeding spanned several years. In a proceeding, this long, intervenors are expected to exercise judgement about the need for their attendance at meetings. With the passage of time, Adams should have been able to examine agendas and determine the expected length of meetings and the need for his personal participation. In particular, Adams should have been able to determine whether concerns he advocated were appropriate subject matter for a planned workshop/meeting and accordingly

limited his participation. Intervenor compensation is not granted simply because an intervenor attends all meetings.

In light of the whole record, Adams' travel hours appear excessive. Since this is Adams first appearance as an intervenor, this decision only reduces Adams' hours for travel by 25%.

#### **6.1.4. Attorney Hours**

Adams also requests compensation for participation by his attorney, Carroll Smith (Smith). PG&E objects to awarding Smith compensation at attorney's fee cost for attendance at a lay workshop. PG&E states that the sum of \$5,220 should be deducted for attorney fee charges for presence at workshops. Adams responds that the subject matter of workshops in question was drafting of proposed amendments to GO 95. Further, Adams argues that since a GO has the effect of law, it is extremely important that it be constructed carefully so as to accomplish what it is expected to accomplish and be enforceable. Additionally, Adams states that Smith attended only those workshops where it was apparent to Adams that presence of counsel would be significantly helpful.

An intervenors participation must be productive and necessary to receive compensation. In Adams reply to the protests of Edison and SDG&E, Adams holds himself out as having 22 years experience at the Commission. Further, as a Commission staff member, he asserts he trained others in the application of GO 95. Given Adams claimed expertise, Smith's attendance at workshops is not fully justified.

Since Adams has not been found to have made a contribution to Subcommittee I, II and III issues, Smith's hours claimed for participation on Subcommittee I, II and III issues should not be compensated. However, since this is Adams' first effort to participate as an intervenor, we will not reduce the hours claimed for Smith's attendance at workshops as proposed by PG&E. However,

Smith's hours for subcommittee IV issues should be reduced by 20% to reflect proportionally the same reduction of hours as Adams. Similarly, Smith's hours for general issues should be reduced by 40%. Smith's travel hours are reasonable. This decision minimally reduces Smith's hours in light of the Commission's policy of encouraging broad participation.

## **6.2. Hourly Rates**

### **6.2.1. Adams**

Adams requests \$100 per hour for professional time spent working on issues, and \$50 per hour for travel time. PG&E opposed this level of compensation on the ground that the "market price for the consultation of an expert with a Bachelor of Science Degree in Forestry and Utility Arborist certification from the International Society of Arboriculture is \$45 per hour. For court testimony of such an expert, the fee is \$75." PG&E also notes that Adams has never previously appeared as an intervenor and also asserts that Adams does not meet the minimum qualification for certified utility arborist. Consequently, PG&E recommends that Adams be awarded an hourly rate of \$45 per hour for his participation.

Edison cites the record (RT. 3/403-404) for the proposition that Adams is not qualified as an attorney, electrical engineer, professional engineer, line-clearing tree trimmer, or even an arborist. Edison notes that the rate for a qualified line-clearing tree trimmer is \$15 an hour and states that Adams is not qualified to perform the task of a qualified line-clearing tree trimmer. Consequently, Edison recommends that Adams be reimbursed at a rate substantially lower than the \$100 per hour rate requested.

SDG&E notes that the rate of \$100 per hour represents the high end of the range for subject matter experts appearing before the

Commission. Further, SDG&E notes that Adams is a first time intervenor. Consequently, SDG&E argues that Adams request is not justified.

SDG&E's observation regarding the range of fees paid experts for work in 1995 is useful. We disagree with the implied suggestion of Edison that Adams should be paid an hourly rate similar to that of a tree-trimmer. In this proceeding, Adams was not performing the functions of a tree-trimmer, rather he performed the function of an expert. Given the range of fees paid experts in 1995 and PG&E's observation that arborists receive a rate of \$75 per hour for court work it is reasonable to award Adams an hourly rate of \$75 per hour for his participation in this proceeding for work performed from 1994 to 1998.<sup>5</sup>

We have previously determined that travel time is compensated at one-half the normal hourly rate approved, unless the customer provides a detailed showing that the time was used to work on issues for which we grant compensation.<sup>6</sup> Consequently, Adams' travel time should be compensated at an hourly rate of \$37.50.

#### **6.2.2. Smith**

Adams also requests an hourly rate of \$200 for compensation for his attorney Smith. Adams has offered little justification for Smith's hourly rate of \$200. In support of a \$200 hourly rate for Smith, Adams' Request for an Award of Compensation attaches a "statement of qualification" for Smith and

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<sup>5</sup> In response to Utility comments regarding Adams' compensation, Adams' primary contention is that he is "prepared to show" that he should be compensated at \$100/hour. This decision does not preclude Adams from seeking a higher rate in the future. However, if Adams does seek a higher rate of compensation in the future, he should make an affirmative showing in his request rather than just assert that he is "prepared" to do so.

<sup>6</sup> See, for example, D.86-09-046, D.92-04-042, and D.93-09-086.

further asserts that "Smith's rate of \$200 is reasonable and should be adopted."

The statement of qualifications for Smith states:

"...I have charged Mr. Adams and Mr. Sevier at a rate of \$200 per hour for my services. I believe this fee is reasonable, based upon my capabilities and expertise. I have been paid at this rate or higher by different client for work performed in various jurisdictions, including courts of San Francisco, Marin Alameda, Contra Costa, Santa Clara and Yolo Counties, as well as the California Public Utilities Commission and the Interstate Commerce Commission.

I hold a Bachelor of Arts from the University of Washington and a Doctor of Jurisprudence from Golden Gate University. I am a member of the Bar Association of San Francisco, the State Bar of California, and the American Bar Association and its section of Public Utility, Communications and Transportation Law.

I retired after 25 years with the staff of the California Public Utilities Commission."

Section 1804(e) requires the Commission to issue a decision which determines 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 Section 1806.

Smith's statement of qualifications offers little information for the Commission to determine the level of Smith's compensation. Smith's statement omits basic information like the year he was first admitted to practice law and the number of years actually practicing law. It is impossible for the Commission to determine if Smith has comparable experience to a first year attorney or seasoned twenty year attorney without a simple statement of the number of years in practice. Additionally, Smith's statement also omits detailed information regarding specific legal experience [types of cases, role, number of cases, specific proceedings, regulatory v. non-regulatory, etc.]. Absent such

information, it is difficult for the Commission to determine the level of Smith's experience. A belief that one is entitled to a rate of \$200 per hour, generic reference to unidentified work in non-regulatory forums, and citation to membership in generic law associations is insufficient to justify an hourly rate for intervenor compensation.<sup>7</sup> In absence of critical information to establish an hourly rate for Smith, this decision sets Smith's hourly rate equivalent to that of an associate. For work performed, in 1995, the Commission awarded associates with limited experience in the range of \$135/hour (attorney Briggs in D.97-03-022) to \$165/hour (attorney Mueller in D.96-06-020).

In recognition that Smith's work spanned several years, Smith's prior (non-attorney) Commission experience, and in providing the benefit of the doubt to Smith, Smith should be awarded at the high end of the associate scale. Thus, Smith should receive an hourly rate of \$165/hour for work performed between 1995 and 1998.

### **6.3. Other Costs**

In addition, Adams requests for \$9,291 for ancillary expenses. Of this amount \$1849 is attributable to subcommittee I, II and III issues. Adams request for costs should be reduced by \$1849 to reflect the fact that Adams did not make a substantial contribution to subcommittee I, II and III issues. Adams remaining request of \$7442 is reasonable, considering the amount of work involved in Adams' participation in this proceeding.

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<sup>7</sup> Smith's statement of qualifications does make a generic reference to work performed at the Commission. However, Smith provides no specific references and a search of prior intervenor compensation decisions does not reveal that the Commission has compensated Smith in the past for \$200 per hour.

**7. The Reasonableness of Sevier's Requested Compensation**

Sevier requests unadjusted<sup>8</sup> compensation in the amount of \$28,844<sup>9</sup> as follows:

**Professional Hours**

**Sevier**

**Subcommittee I issues**

2.25 Hours @ \$150      \$ 338

3 Hours @ \$ 75      \$ 225

\$ 563

**Subcommittee II issues**

3.25 Hours @ \$150      \$ 488

4 Hours @ \$ 75      \$ 300

\$ 788

**Subcommittee III issues**

17.5 Hours @ \$150      \$ 2,625

18 Hours @ \$ 75      \$ 1,350

\$ 3,975

**Subcommittee IV issues**

43.7 Hours @ \$150      \$ 6,555

15.5 Hours @ \$ 75      \$ 1,163

\$ 7,718

**General**

19.75 Hours @ \$150      \$ 2,963

22.50 Hours @ \$ 75      \$ 1,688

\$ 4,651

**Sub-total Sevier's Professional Hours**

**\$17,695**

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<sup>8</sup> See later discussion. Sevier adjusts his compensation request by applying a 25% discount to subcommittee I and II issues.

<sup>9</sup> Sevier's November 16, 1998, submission provided the total dollar amount claimed by issue. Sevier's November 16, 1998, submission did not provide a summary of the total number of hours claimed by issue. However, Sevier submitted time sheets that provided a detailed breakdown of hours worked by issue and date. Using Sevier's timesheets, this decision calculated the number of hours worked per issue.

There is a small discrepancy (\$24) between the unadjusted amount Sevier claims and the amount stated herein. This discrepancy is attributable to rounding error.



**Smith**

Subcommittee I issues	\$	0	
Subcommittee II issues	\$	0	
Subcommittee III issues	\$	0	
Subcommittee IV issues			
28.4 Hours @ \$200	\$	5,685	
1.2 Hours @ \$ 50	\$	60	
			\$ 5,745

**General**

6 Hours @ \$200	\$	1,200
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**Sub-total Smith's Professional Hours** \$ 6,945

**Total Professional Hours** \$24,640

**Costs**

**Sevier**

Subcommittee I issues	\$	125	
Subcommittee II issues	\$	176	
Subcommittee III issues	\$	987	
Subcommittee IV issues	\$	1,398	
General	\$	1,331	
<b>Sub-total Sevier's Costs</b>			\$ 4,017

**Smith**

Subcommittee IV issues	\$	187
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**Total Costs** \$ 4,204

**Total Hours and Costs** \$28,844

Sevier's November 16, 1998, submission adjusts the amount of compensation requested by applying a "duplication adjustment of 25%" to hours and costs claimed for participation in subcommittee issues I and II. Similar to Adams, Sevier analogizes to D.93-09-086, and reduces his request for compensation by 25% for subcommittee issues I and II because in D.93-09-086 there were "workshops that parties participated in and made substantial

contributions in clarifying issues, and by putting forth recommendations that were largely adopted by the Commission, that the Commission applied a duplication adjustment of 25% to the parties' hours for the workshop phase of the proceeding." (Sevier's November 16, 1998, submission at p.2.)

## **7.1. Hours Claimed**

### **7.1.1. Subcommittee I and II Issues**

Sevier claims a total of 5.5 professional hours for addressing subcommittee I and II issues. In justifying his compensation request for work related to subcommittee issues I and II, Sevier makes the conclusory assertion that there were "... areas in issues I and II where Sevier's extensive background and experience in tree trimming, safety and accident investigation lent clarity to discussions, and the product from workshops influenced D.97-01-044, and D.97-10-056." (Sevier's November 16, 1998, submission at p. 2.) Sevier offers no other substantive statement to support his claim for compensation for subcommittee I and II issues. The mere conclusory assertion of lending "clarity" to discussions without specific references to substantive contributions is insufficient to warrant an award of compensation. Also, D.93-09-086 is inapplicable since Sevier cites no recommendations that he proposed that were "largely adopted" by the Commission. Sevier's request for hours related to issues in subcommittee I and II is unsupported by the record and should be denied.

### **7.1.2. Subcommittee III Issues**

Sevier claims a total of 17.5 professional hours for addressing subcommittee III issues. In view of the minimal contribution Sevier made to Subcommittee III issues, the requested number of hours is excessive. Sevier's claimed professional hours should be reduced by 5.5 hours in order to be reasonable.

### **7.1.3. Subcommittee IV Issues**

Sevier claims a total of 43.7 professional hours for addressing subcommittee IV issues. In view of the fact that Adams advocated similar tree-powerline clearance proposals and other subcommittee IV proposals were rejected by the Commission, Sevier's requested hours should be reduced by 20% (8.7 hours) to account for duplication. Sevier's claimed professional hours for Subcommittee IV issues should be reduced by 8.7 hours in order to be reasonable.

### **7.1.4. General Issues**

Sevier claims a total of 19.75 professional hours for addressing "general issues." This claim amounts to a third of all hours claimed for Subcommittee I, II, III and IV issues. In view of the fact that Adams' hours for general issues have been reduced approximately 40%, it is reasonable to reduce by a similar percentage the professional hours claimed by Sevier for general issues. Sevier's requested hours for general issues should be reduced by 40% (7.9 hours), to account for duplication. Sevier's professional hours claimed for general issues should be reduced by 7.9 hours in order to be reasonable.

### **7.1.5. Travel Hours**

Sevier claims compensation for 66 hours for travel associated with subcommittee III and IV issues, and general issues. Sevier incurred most of these hours because he lives in San Luis Obispo and each trip to meetings/workshops would generate approximately five to six hours in roundtrip travel time.

Sevier's claim for travel hours is excessive. Since Adams and Sevier claimed to work together, it is not clear why both persons attended the same workshops. In view of Sevier's and Adams' joint participation, and joint counsel, such travel time expenses do not appear warranted. At the requested

\$75 per hour rate, Sevier requests over \$450 in travel time expenses alone per meeting, workshop or hearing. Such an expenditure is not warranted when alternates exist like having Adams monitor a meeting. Consequently, this decision reduces Sevier's requested number of hours by 25% to make it reasonable.

#### **7.1.6. Attorney Hours**

Sevier also requests compensation for participation by his attorney, Smith.<sup>10</sup> The bulk (28 hours) of Smith's hours are attributed to Subcommittee IV issues. Smith also attributes six hours to general issues. The general hours are for preparing Smith's compensation request.

Similar to the objections raised to Adams' request, PG&E objects to awarding Smith compensation at attorney's fee cost for attendance at a lay workshop. PG&E states that the sum of \$5,220 should be deducted for attorney fee charges for presence at workshops.

Smith's hours are treated similar to how we treated Adams' claim for attorney hours. Smith's hours for subcommittee IV issues should be reduced by 20% to reflect proportionally the same reduction of hours as Sevier. Smith's travel hours are reasonable. This decision minimally reduces Smith's hours in light of the Commission's policy of encouraging broad participation.

However, consistent with Commission practice, Smith should receive half his hourly rate for hours spent preparing Sevier's compensation request. Thus, Smith six hours for general issues should be compensated at half Smith's approved hourly rate.

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<sup>10</sup> Both Adams and Sevier employed Smith as counsel. Smith's records show that he did not double bill for similar work. Instead, Smith allocated his fees 50/50 between Adams and Sevier when Adams and Sevier shared Smith's work product.

## **7.2. Hourly Rates**

### **7.2.1. Sevier**

In support of his hourly rate of \$150 per hour, Sevier only states:

Sevier's hourly rate of \$150, and travel rate of \$75 is consistent with the fees he has been paid as an expert/consultant in numerous tree related matters. These rates are reasonable and consistent with other experts/consultants with Sevier's experience in "hands on" Arboriculture and Litigation Support, and therefore should be approved." (Sevier December 23, 1997, request at p. 4.)

Sevier offers no other support in his original request to justify a rate of \$150 per hour. Sevier does not provide surveys, names of cases he has worked on or any other evidence to support any rate at all. However, in Sevier's reply to the protests of Edison and PG&E, Sevier does cite one court case he worked on to justify his proposed rate of \$150 per hour.

PG&E, SDG&E and Edison all oppose Sevier's rate as unreasonable. PG&E provides a declaration stating that an expert with a Doctorate in Forestry or an individual with 15 or more years experience in utility arboriculture concerning projects of considerable magnitude and responsibility earn a fee of \$75 per hour as a consultant.

Based on the record evidence, Sevier should be awarded an hourly rate of \$75 per hour for work performed from 1995 to 1997.

### **7.2.2. Smith**

As discussed above, we set Smith hourly rate at \$165 per hour.

### 7.3. Other Costs

In addition, Sevier requests for \$4,204 for ancillary expenses. Of this amount \$301 is attributable to subcommittee I and II issues. Sevier's request for costs should be reduced by \$301 to reflect the fact that Sevier did not make a substantial contribution to subcommittee I and II issues. Sevier remaining request of \$3,903 is reasonable, considering the amount of work involved in Sevier's participation in this proceeding.

## 8. Award

### 8.1. Adams

We award Adams \$36,535, calculated as follows:

#### Professional Hours

##### Adams

Subcommittee I issues	\$	0	
Subcommittee II issues	\$	0	
Subcommittee III issues	\$	0	
Subcommittee IV issues			
168 Hours @ \$75		\$12,600	
51 Hours @ \$37.50		<u>\$ 1,913</u>	
			\$14,513
General			
38 Hours @ \$75	\$	2,850	
37 Hours @ \$37.50		<u>\$ 1,388</u>	
			<u>\$ 4,238</u>

#### Sub-total Adams' Professional Hours

**\$18,751**

##### Smith

Subcommittee I issues	\$	0	
Subcommittee II issues	\$	0	
Subcommittee III issues	\$	0	
Subcommittee IV issues			
47 Hours @ \$165		\$ 7,755	
10.2 Hours @ \$ 50		<u>\$ 505</u>	
			\$ 8,260

General		
11 Hours @ \$165	\$ 1,815	
		<u>\$ 1,815</u>
<b>Sub-total Smith's Professional Hours</b>		<b><u>\$10,075</u></b>
<b>Total Professional Hours</b>		<b>\$28,826</b>
<b><u>Costs</u></b>		
<b>Adams</b>		
Subcommittee I issues	\$ 0	
Subcommittee II issues	\$ 0	
Subcommittee III issues	\$ 0	
Subcommittee IV issues	\$5,584	
General	<u>\$1,858</u>	
<b>Sub-total Adams' Costs</b>		<b>\$ 7,442</b>
<b>Smith</b>		
Subcommittee IV issues		<u>\$ 267</u>
<b>Total Costs</b>		<b><u>\$ 7,709</u></b>
<b>Total Hours and Costs</b>		<b>\$36,535</b>

## 8.2. Sevier

We award Sevier \$14,257, calculated as follows:

### Professional Hours

#### Sevier

Subcommittee I issues	\$ 0	
Subcommittee II issues	\$ 0	
Subcommittee III issues		
12 Hours @ \$75	\$ 900	
13.5 Hours @ \$37.50	<u>\$ 506</u>	
		<b>\$ 1,406</b>
Subcommittee IV issues		
35 Hours @ \$75	\$ 2,625	
11.6 Hours @ \$37.50	<u>\$ 435</u>	
		<b>\$ 3,060</b>

General

12 Hours @ \$75	\$ 900
17 Hours @ \$37.50	<u>\$ 638</u>

\$ 1,538

**Sub-total Sevier's Professional Hours**

**\$ 6,004**

**Smith**

Subcommittee I issues	\$ 0
Subcommittee II issues	\$ 0
Subcommittee III issues	\$ 0
Subcommittee IV issues	
23 Hours @ \$165	\$ 3,795
1.2 Hours @ \$ 50\$	<u>60</u>

**\$ 3,855**

General

6 Hours @ \$82.50	\$ 495
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\$ 495

**Sub-total Smith's Professional Hours**

**\$ 4,350**

**Total Professional Hours**

**\$10,354**

**Costs**

**Sevier**

Subcommittee I issues	\$ 0
Subcommittee II issues	\$ 0
Subcommittee III issues	\$ 987
Subcommittee IV issues	\$ 1,398
General	<u>\$ 1,331</u>

**Sub-total Adams' Costs**

**\$ 3,716**

**Smith**

Subcommittee IV issues	<u>\$ 187</u>
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**Total Costs**

**\$ 3,903**

**Total Hours and Costs**

**\$14,257**



In D.98-04-059, the Commission adopted a methodology to require all utilities named as respondents to pay a share of any award. In D.94-07-033, the Commission made specific utilities respondents to this proceeding. (See Appendix A for a list of respondent utilities in this proceeding.) Thus, pursuant to D.98-04-059, we should assess responsibility for payment of intervenors' award among all utilities named as respondents in this proceeding. Each respondent's appropriate share should be based on the utilities' California jurisdictional revenues for the most recent calendar year. However, since this proceeding began prior to the issuance of D.98-09-059, we shall not impose the requirements of D.98-04-059 on all respondent utilities. Instead, we shall require the three major utilities (PG&E, SDG&E and Edison) that actively participated in this proceeding to pay a share of the award.

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 29, 1999, (the 75<sup>th</sup> day after Adams and Sevier filed their response to ALJ Ruling and thus submitting a complete compensation request) and continuing until the utility makes its full payment of award.

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

## **9. Comments on Draft Decision**

The draft decision of the ALJ in this matter was mailed to the parties in accordance with Pub. Util. Code Section 311(g) and Rule 77.1 of the Rules of Practice and Procedure.

On May 3, 1999, both Adams and Sevier filed comments on the ALJ's draft decision. No changes are made to the ALJ's draft decision for the foregoing reasons.

### **9.1. Subcommittee IV Issues**

Both Adams and Sevier comment on the 20% reduction in hours for Subcommittee IV issues. In his comments, Adams suggests that "from time to time" he worked collaboratively with Sevier. Further, that his contribution materially complements rather than duplicates the work of Sevier. In support of his position, Adams cites different concerns that he and Sevier emphasized in the proceeding.

In protesting the 20% reduction in hours of subcommittee IV issues, Sevier states that he "... did work the same OII as Adams, but that is the only duplication that existed. Sevier is a veteran of the tree care industry....Adams has a distinctly different background..."

Sevier's comments address an irrelevant factor. The fact that two intervenors have distinctly different backgrounds does not ameliorate the Commission's concern over duplication. Adams does cite valid differences in concerns raised by Adams and Sevier, Adams concentrated on effects of wind and Sevier illuminated aspects of tree growth, work with trimming tools and children playing in trees. However, in analyzing the effort made by intervenors, the ALJ's draft decision granted intervenors 80% of their requested hours. Moreover, the 20% reduction in hours, in addition to duplication, also took into account the fact that the position intervenors advocated was a simple one to

grasp. The 20% reduction in hours claimed for subcommittee IV issues is reasonable in light of the whole record.

## **9.2. General Issues**

Both Adams and Sevier argue that if no reduction in professional hours in Subcommittee IV issues occurs, then it follows that the reduction in the General Issues area should also be "eased." As stated above, we make no changes to the ALJ's recommended reduction in hours for Subcommittee IV issues. Thus, it follows that the reduction in hours for General Issues should remain the same.

## **9.3. Subcommittee III Issues**

Sevier's comments contend that he made the "main, tangible contribution to Committee III, this fact was memorialized by the Commission's own resolution SU 45, March 12, 1998..." Sevier's comments do not provide a reference to his original request for compensation where he discussed resolution SU 45 and its relation to Sevier's contribution to D. 97-10-056 for which Sevier seeks intervenor compensation. Sevier has not justified a modification to the ALJ's draft decision.

## **9.4. Hourly Rates**

Both intervenors contend they deserve the hourly rate originally requested. In support, both intervenors state that in forums outside the Commission they have received a higher hourly rate. Simply stating or showing that an intervenor has received a particular hourly rate in the past does not justify a market rate. In setting an hourly rate, Pub. Util. Code Section 1806 requires an examination of the market rate paid to people with comparable training and experience who offer similar services. For example, in the past, in setting rates, the Commission has relied on market surveys as a guide to setting rates. In this proceeding, intervenors have not provided any information on

market rates other than a statement of what each has earned in the past.

Intervenors' comments simply restate their original showing and is insufficient to justify a change to the hourly rate awarded in the ALJ's draft decision. In any future request, intervenors should provide evidence of rates paid to people with comparable training and experience who offer similar services in order to justify a higher hourly rate.

### **Findings of Fact**

1. Adams and Smith have made a timely request for compensation for their contribution to D.97-10-056.

2. Adams and Sevier both meet the Commission's financial hardship test for an award of intervenor compensation has made a showing of significant financial hardship by demonstrating the costs of participating in this proceeding would cause undue financial hardship.

3. Making Sevier's and Adams' financial information available for public inspection would unnecessarily intrude on their privacy.

4. Adams' opposition to the six inch clearance, proposed by USB and the major utilities participating, contributed to D.97-10-056.

5. Adams' and Sevier's concerns about movement of tree branches and overhead lines and Adams' concerns regarding difficulties with discerning a six inch separation from the ground contributed to D.97-10-056.

6. The Commission did not embrace Adams' proposal to adopt the standards in the Public Resources Code §4293.

7. Adams participation contributed to improving Rule 35 by proposing language that effectively articulated the purpose of the Commission's order.

8. Adams contributed substantially to D.97-10-056.

9. Sevier contributed substantially to D.97-10-056.

10. Adams request for hours related to issues in subcommittee I, II, and III is unsupported by the record.

11. Adams' attendance at every one of 42 workshops reflects little effort to maximize efficiency or conserve resources.

12. It is reasonable to award Adams \$75 per hour for work performed from 1994 to 1998.

13. Smith's statement of qualifications offers little information for the Commission to determine the level of Smith's compensation.

14. It is reasonable to award Smith \$165 per hour for work performed between 1995 and 1998.

15. It is reasonable to award Sevier \$75 per hour for work performed between 1995 and 1997.

16. Adams' travel time should be compensated at an hourly rate of \$37.50.

17. Sevier's travel time should be compensated at an hourly rate of \$37.50

18. Adams' request for costs is reasonable with the exception of expenses associated with subcommittee issues I, II and III.

19. Sevier's request does not support his claim for compensation for subcommittee I and II issues.

20. Sevier's request for costs is reasonable with the exception of expenses associated with subcommittee issues I and II.

### **Conclusions of Law**

1. Adams has fulfilled the requirements of Sections 1801-1812 which govern awards of intervenor compensation.

2. Smith has fulfilled the requirements of Sections 1801-1812 which govern awards of intervenor compensation.

3. Lending clarity to discussions in itself is not sufficient to warrant a finding of reasonableness for hours claimed.

4. Lending clarity to discussions in itself does not satisfy the standard of providing a "description of the customer's substantial contribution to the hearing or proceeding" (Pub. Util. Code §1804(c)).

5. Adams request for hours related to issues in subcommittee I, II, and III is unreasonable.

6. Adams hours associated with subcommittee IV issues should be reduced by 20% in order to be reasonable.

7. Adams' hours claimed as "General" should be reduced by 40% to reflect the fact that Adams' hours for subcommittee I, II, and III are unreasonable as well as a portion of subcommittee IV issues are excessive.

8. The number of travel hours claimed by Adams for attending short meetings/workshops is excessive.

9. Intervenor compensation is not granted simply because an intervenor attends all meetings.

10. Adams' travel hours are excessive.

11. Adams' hours for travel should be reduced by 25%.

12. Since Adams has not been found to have made a contribution to Subcommittee I, II and III issues, Smith's hours (as claimed by Adams) for participation on Subcommittee I, II and III issues should not be compensated.

13. Smith's hours (as claimed by Adams) for subcommittee IV issues should be reduced by 20% to reflect proportionally the same reduction of hours as Adams. Similarly, Smith's hours (as claimed by Adams) for general issues should be reduced by 40%. Smith's hours for travel are reasonable.

14. A belief that one is entitled to a rate of \$200 per hour, generic reference to unidentified work in non-regulatory forums, and citation to membership in generic law associations is insufficient to justify an hourly rate for intervenor compensation.

15. Sevier's request for professional hours related to subcommittee I and II issues should be denied.

16. Sevier's claimed professional hours for subcommittee IV issues should be reduced by 8.7 hours in order to be reasonable.

17. Sevier's professional hours claimed for general issues should be reduced by 7.9 hours in order to be reasonable.

18. Smith's hours (as claimed by Sevier) for subcommittee IV issues should be reduced by 20% to reflect proportionally the same reduction of hours as Sevier. Smith's travel hours (as claimed by Sevier) are reasonable. This decision minimally reduces Smith's hours (as claimed by Sevier) in light of the Commission's policy of encouraging broad participation.

19. However, consistent with Commission practice, Smith should receive half his hourly rate for hours (as claimed by Sevier) spent preparing Sevier's compensation request. Thus, six Smith hours (as claimed by Sevier) for general issues should be compensated at half Smith's approved hourly rate.

20. Adams should be awarded \$36,535 for his contribution to D.97-10-056.

21. Sevier should be awarded \$14,257 for his contribution to D.97-10-056.

22. This order should be effective today so that Adams and Smith may be compensated without unnecessary delay.

## **O R D E R**

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

1. William P. Adams is awarded \$36,535 in compensation for his substantial contribution to Decision 97-10-056.

2. John Sevier is awarded \$14,257 in compensation for his substantial contribution to Decision 97-10-056.

3. Pacific Gas and Electric (PG&E), Southern California Edison Company (Edison) and San Diego Gas & Electric Company (SDG&E) shall pay Adams \$36,535 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 29, 1999, and continuing until full payment is made.

4. PG&E, Edison, and SDG&E shall pay Sevier \$14,257 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 29, 1999, and continuing until full payment is made.

5. The joint motion of Sevier and Adams for a protective order is granted.

6. This proceeding is closed.

This order is effective today.

Dated May 13, 1999, at San Francisco, California.

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



**APPENDIX A**  
**List of Respondents**

Anza Rural Electric Coop  
Kirkwood Gas and Electric Company  
Pacific Gas and Electric Company  
Pacific Power and Light Company  
Plumas Sierra Rural Electric Coop  
San Diego Gas & Electric Company  
Sierra Pacific Power Company  
Southern California Edison Company  
Southern California Water Company  
Surprise Valley Electric Coop  
Valley Electric Coop

**(END OF APPENDIX A)**