

Decision 99-07-035 July 22, 1999

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA WATER COMPANY (U 133 W) for an order pursuant to Public Utilities Code Section 454 and 1001 et seq. to participate in the State Water Project and to recover all present and future costs under contract with the Central Coast Water Authority and other related costs to deliver water to its Santa Maria District

Application 96-11-007
(Filed November 4, 1996)

O P I N I O N

This decision grants an award of \$1,363.35 to Donald R. Ward, representing the Orcutt Area Advisory Group, Inc., in compensation for contributions to Decision (D.) 99-04-060. That decision denied the application of Southern California Water Company (SCWC) to impose a special fee to recover fixed costs and a special balancing account to recover variable costs resulting from the company's participation in the State Water Project.

1. Background

The Commission considered SCWC's application in four days of hearings in San Francisco. Briefs were filed by numerous parties, including the Orcutt Area Advisory Group. The decision in the application was issued on April 22, 1999. Ward filed this request for compensation on May 12, 1999.

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 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 that 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

Ward timely filed an NOI to claim compensation, and he was deemed eligible for compensation by administrative law judge (ALJ) ruling dated June 4, 1998. The requirements of Section 1804(a) have thus been met.

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 ALJ or Commission adopted.³ A substantial contribution includes evidence or argument that supports part of the 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

In this proceeding, Ward presented testimony in opposition to SCWC's application and offered reasoning reflected in the Commission's decision. Although Ward's position was similar to that of other parties, he brought unique perspective in representing a large group of ratepayers who would have been directly affected by SCWC's rate proposals.

¹ Cal. PUC § 1802(h).

² *Id.*

³ *Id.*

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).

Ward has demonstrated that he made a substantial contribution to D.99-04-060. The Commission adopted most elements of Ward's position. Ward established the location and times for two public hearings of the Commission in Santa Maria, and he testified and cross-examined witnesses during the San Francisco hearings. He filed numerous pleadings and supporting documentation.

5. The Reasonableness of Requested Compensation

Ward requests compensation in the amount of \$1,363.35 as follows:

Mileage costs to and from Santa Maria and San Francisco @ \$0.31 per mile	\$492.90
Hotels and parking	290.45
Meals	280.00
Mail, telephone, copying	300.00
Total	\$1,363.35

Ward estimates that he devoted 211 hours to this matter, and the secretary for the Orcutt Area Advisory Group spent 20 hours on the matter, but neither he nor the advisory group request compensation for this time. Ward states that his request is limited to recovery of out-of-pocket expenses. We deem the expenses claimed to be reasonable.

SCWC states that it does not oppose Ward's compensation request.

5.1. Award

We grant Ward's request for \$1,363.35 for contributions to D.99-04-060. 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 July 26, 1999, the 75th day after Ward filed this

compensation request and continuing until the utility makes its full payment of award.

6. Allocation of Award Among Utilities

All of the award granted today shall be paid by SCWC, because it is the only utility affected by Ward's participation in this proceeding.

7. Comments on Draft Decision

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

Findings of Fact

1. Ward timely requests compensation for contributions to D.99-04-060 as set forth herein.
2. Ward requests out-of-pocket costs of participating in this proceeding.
3. The out-of-pocket costs incurred by Ward in this proceeding are reasonable.

Conclusions of Law

1. Ward has fulfilled the requirements of Sections 1801-1812, which govern awards of intervenor compensation.
2. Ward should receive \$1,363.35 for contributions to D.99-04-060 in this proceeding.
3. This order should be effective today so that Ward may be compensated without unnecessary delay.

O R D E R

IT IS ORDERED that:

1. Donald R. Ward, representing the Orcutt Area Advisory Group, is awarded \$1,363.35 as set forth herein for substantial contributions to Decision 99-04-060.

2. Southern California Water Company shall, within 30 days of this order, pay Ward \$1,363.35, 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 July 26, 1999, and continuing until the full payment has been made.

3. This proceeding is closed.

This order is effective today.

Dated July 22, 1999, at San Francisco, California.

RICHARD A. BILAS
President
HENRY M. DUQUE
JOSIAH L. NEEPER
JOEL Z. HYATT
CARL W. WOOD
Commissioners