

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission’s Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities’ Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations	Application 12-06-013 (Filed October 3, 2011)
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CLAIM AND DECISION ON REQUEST FOR INTERVENOR COMPENSATION

Claimant: San Diego Consumers’ Action Network	For contribution to D. 14-06-029	
Claimed (\$): 29,107.50	Awarded (\$):	
Assigned Commissioner: Peevey	Assigned ALJ: McKinney & Halligan	
I hereby certify that the information I have set forth in Parts I, II, and III of this Claim is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this Claim has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).		
Signature: /s/ Michael Shames		
Date: 6/26/14	Printed Name:	Michael Shames

PART I: PROCEDURAL ISSUES (to be completed by Claimant except where indicated)

A. Brief Description of Decision: Decision granted approval of an multi-party settlement and adopted the Proposed Decision of ALJs McKinney & Halligan in the Rulemaking to establish SDG&E’s residential rates for Summer 2014 .

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	October 24, 2012	
2. Other Specified Date for NOI:	n/a	
3. Date NOI Filed:	November 20, 2012	
4. Was the notice of intent timely filed?		
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	Yes. (See Comment #B.5)	
6. Date of ALJ ruling:	February 25, 2013	
7. Based on another CPUC determination (specify):	R. 12-06-013	
8. Has the claimant demonstrated customer or customer-related status?		
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	Yes. (See Comment #B.5)	
10. Date of ALJ ruling:	February 25, 2013	
11. Based on another CPUC determination (specify):	R. 12-06-013 (See Comment B.11)	
12. Has the claimant demonstrated significant financial hardship?		
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D. 14-06-029	
14. Date of Issuance of Final Decision:	June 19, 2014	
15. File date of compensation request:	June 26, 2014	
16. Was the request for compensation timely?		

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
B.5	XX		In a ruling dated February 25, 2013 ALJ's Sullivan and McKinney found that SDCAN filed a timely notice of intent to claim compensation that meets the requirements of Rule 17.1 and California Pub. Code § 1804(a), is a "customer" as that term is defined in Pub. Util. Code § 1802(b)(1)(C) and since a determination of significant financial hardship was made within one year prior to the commencement of this proceeding, the San Diego Consumers' Action Network has a rebuttable presumption of eligibility for compensation in this proceeding.
B.11	XX		SDCAN understands that the ALJ Division has adopted a practice of only issuing a formal ruling on an intervenor's notice of intent if the intervenor is seeking to demonstrate significant financial hardship, rather than relying on the rebuttable presumption created by an earlier finding of hardship. SDCAN's showing on financial hardship (relying on the rebuttable presumption) and customer status was contained in its NOI and was found to have satisfied these two standards in this proceeding as per February 25, 2013 ALJs' ruling, p. 43-45

PART II: SUBSTANTIAL CONTRIBUTION (to be completed by Claimant except where indicated)

A. In the fields below, describe in a concise manner Claimant's contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059) (For each contribution, support with specific reference to final or record.)

Contribution	Specific References to Claimant's Presentations and to Decision	Showing Accepted by CPUC
<p><u>Overview:</u> SDCAN protested and then presented testimony on two major issues: SDCAN argued SDG&E had proposed a scheme that would impose rate shock upon Tier 1 customers and that conservation signals would be unduly muted. It proposed that residential customers are best served by a pricing scheme comprised of sufficiently differentiated tiers to preserve the conservation benefits of tiered rates while permitting the top tier levels to be reduced. Specifically, SDCAN's testimony presented two proposals:</p> <ul style="list-style-type: none"> • Rate changes should focus upon Tiers 2 and 3, with Tier 3 getting closer to Tier 4 and increasing the delta between Tiers 1 and 2. 	<p>SDCAN December 23, 2013 Protest</p> <p><u>Testimony of Michael Shames</u>, p. 6-9</p>	

<ul style="list-style-type: none"> • Tier 1 rate should be increased by no more than the system average rate increase. <p>It also argued that the proposed rate design should be either revised to ignore any and all 2014 rate adjustments (ERRA, SONGS etc), or should be revised to reflect the actual and expected reductions associated with I. 12-10-013.</p>	<p><u>Testimony of Michael Shames, p. 11</u></p>	
<p>SDCAN (and other parties) filed a joint motion for adoption of the settlement agreement.</p>	<p><u>D. 14-06-029, p. 34</u></p>	
<p>SDCAN.... filed testimony in response to the simplified Phase 2 Proposal....expressed concern regarding impacts on lower tier customers and the potential for rate shock associated with SDG&E’s proposal to quickly approach a two-tiered rate structure.</p>	<p><u>D. 14-06-029, p. 38</u></p>	
<p>SDCAN recommended that any significant rate changes should occur in Tiers 2 and 3, in order to move toward a three-tiered rate structure instead of a two-tiered rate structure. SDCAN also recommended that SDG&E’s revenues should be revised to either exclude projected rate increases or to incorporate offsetting decreases, such as those expected in Investigation 12-10-013.</p>	<p><u>D. 14-06-029, p. 39</u></p>	
<p><u>Testimony of Michael Shames, p. 7</u> SDCAN specifically proposed that Tier 1 should be increased to no more than 16 cents and Tier 2 should be raised from 17.8 to close to 22 cents per kwhr. Meanwhile, Tiers 3 and 4 and be brought closer to the 34 cent range</p> <p><u>D. 14-06-029, Attachment C, p. 7, p. 9, Table 1</u> Non-CARE Tier 1: Tier 1 Rates shall change at a level of residential class average rate (“RAR”) plus 2%, but in no event less than 7% relative to February 1, 2014 rates. In the event that Tier 1 rates change at the floor level of 7%, the existing cents/kWh differential between Tier 1 and Tier 2 rates shall be maintained. Tier 2 Rates shall change at a level of RAR plus 4%, subject to the provisions applicable to the Tier 1 and Tier 2 differential in the event Tier 1 reaches the 7% floor set forth above.</p>	<p><u>D. 14-06-029, p. 43</u> The SDG&E Settlement also reflects compromise by the settling parties. For example, SDG&E’s January 2014 simplified Phase 2 Proposal would have reduced the differential between non-CARE Tier 1 and Tier 2 and increased Tier 1 rates at the same level as SAR plus one cent per kWh, but the SDG&E Settlement provides that non-CARE Tier 1 rates change at a level of RAR plus 2% (but in no event less than 7%) while non-CARE Tier 2 rates change at a level of RAR plus 4%. And, rather than changing CARE rates at a the same level as SAR changes, as SDG&E proposed, the SDG&E Settlement provides that CARE Tier 1and Tier 2 rates change at a level of RAR plus 2% and CARE Tier 3 rates change at a level of RAR plus 5%.</p>	

<p>The adopted settlement rejected each of the controversial elements of SDG&E’s proposal:</p> <ul style="list-style-type: none"> • No change the number of usage tiers or the structure of the FERA or medical baseline programs. • It does not include a fixed customer charge and • it does not change the current baseline quantities. • Did not appreciably change the differentials between tiers 	<p><u>D. 14-06-029, p. 57</u></p> <p>SDG&E, ORA, TURN, UCAN, SDCAN, and CCUE filed a Joint Motion for Adoption of Settlement Agreement for Phase 2 Interim Residential Rate Design Changes for SDG&E. The SDG&E Settlement does not change the number of usage tiers or the structure of the FERA or medical baseline programs. It does not include a fixed customer charge and it does not change the current baseline quantities. The SDG&E Settlement does change the differentials between tiers.</p>	
<p>Final decision requires incorporation of revenue requirement changes pursuant to 2015 ERRA Forecast, SONGS related adjustments and other year-end adjustments.</p> <p><u>Testimony of Michael Shames, p. 11</u> Because the Commission is expected to act on Phase 1 and 2 of I. 12-10-013 in the first quarter of 2014, the proposed rate design should be either revised to ignore any and all 2014 rate adjustments (ERRA, SONGS etc), or should be revised to reflect the actual and expected reductions associated with I. 12-10-013.</p>	<p><u>D. 14-06-029, Attachment D, p. D-3</u></p> <p>Anticipated implementation of revenue requirement changes pursuant to 2015ERRA Forecast, SONGS related adjustments, Year-end Balances</p>	

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was DRA/ORA a party to the proceeding? (Y/N)	YES	
b. Were there other parties to the proceeding? (Y/N)	YES	
c. If so, provide name of other parties: TURN, CCUE, UCAN		
<p>d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p> <p>There were numerous active parties opposing SDG&E’s rate design proposals. Under such conditions, SDCAN submits that it was nearly impossible to avoid some amount of duplication. Still, SDCAN strove to keep such duplication to a minimum by coordinating with the other active parties to the extent practicable to identify issue areas that would be</p>		

<p>sufficiently covered by those parties. In particular, SDCAN consulted closely with ORA and TURN in order to minimize the overlap between the respective organization’s testimony. As a result, SDCAN’s testimony focused on two primary issues: SDCAN submits that residential customers are best served by a pricing scheme comprised of equally differentiated tiers to preserve the conservation benefits of tiered rates while permitting the top tier levels to be reduced. During the hearing preparation and settlement process, SDCAN coordinated with ORA and TURN thus minimizing overlap of preparation.</p> <p>In a proceeding such as this where many stakeholder groups participate, some degree of duplication may be practically unavoidable. SDCAN and other parties at times supported overlapping recommendations, but SDCAN’s compensation in this proceeding should not be reduced for duplication of the showings of other parties. Moreover, in those instances, SDCAN sought to bolster support for the proposal by emphasizing distinct facts and legal authority to support its recommendations.</p> <p>In these circumstances, SDCAN submits that the Commission should find that there was no undue duplication, as any duplication served to materially supplement, complement or contribute to the showing of another party and, therefore, is fully compensable under PU Code Section 1802.5. Hence, the Commission should not reduce SDCAN’s award of compensation due to duplication.</p>	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION (to be completed by Claimant except where indicated)

A. General Claim of Reasonableness (§§ 1801 & 1806):

a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)	CPUC Verified
<p>SDCAN’s participation in this proceeding provides several benefits for current and future energy ratepayers. SDCAN limited its intervention to two issues, both of which were ultimately settled by the parties decided by the Commission in support of SDCAN’s position. Tier consolidation was limited to three tiers and the differential between tiers were roughly equal, thus preserving the conservation effect of the higher tiers and San Onofre outage costs were incorporated into the settlement. Rate shock for lower tier customers was avoided. The comparison of SDCAN’s position to that of other parties and the final outcome are discussed above, but most clearly laid out in Attachment 3, which contains excerpts of the settling parties’ opening brief.</p>	
b. Reasonableness of Hours Claimed	
<p>This request for compensation seeks a substantial award covering a large number of hours devoted to this proceeding by our attorney and expert witnesses. However, when viewed in context and in light of the course the proceeding took, the Commission should have little trouble realizing that the number of hours is reasonable under the circumstances.</p>	

<p>SDCAN's NOI projected 100 hours of attorney time and 100 hours of expert time, with a total estimate of \$60,000. However, in light of Mr. Shames' regulatory experience and the testimony of other parties, in order to avoid duplication, Mr. Shames limited his testimony to two discreet issues and is seeking compensation for only 67.5 hours.</p> <p>SDCAN excluded any hours spent reviewing the Proposed Decision and comments upon it as it did not submit any comments itself. However, SDCAN does include hours spent preparing for hearings, as the Settlement was not consummated until one day prior to the scheduled hearings and hearing preparation was necessary due to the potential for unresolved issues. Moreover, SDCAN was compelled to prepare cross for reply testimony filed by UCAN, which was critical of other intervenors' testimony.</p>	
c. Allocation of Hours by Issue	
<p>SDCAN has allocated its attorney time by issue area or activity, as evident on our attached timesheets. However, because SDCAN's intervention was limited to two discreet issues, the allocation is between Tier rate structure and Revenue Requirement. Most of the time dedicated to the case involved discovery and case-preparation/settlement discussions which could not be allocated by issue.</p>	

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Michael Shames	2013-2014	67.5	\$365	A.10-12-005	\$24,637.50				
Michael Shames	2013	67.5	\$50	(Comment 1 below)	\$ 3,375.00				
Subtotal:					\$28,012.50	Subtotal:			
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Subtotal:					\$0	Subtotal:			
OTHER FEES									
Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.):									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Subtotal:					0	Subtotal:			

INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Michael Shames	2014	6	182.50	Commission policy	1,095				
Subtotal:					1,095	Subtotal:			
COSTS									
#	Item	Detail			Amount	Amount			
	Travel				0				
Subtotal:					0	Subtotal:			
TOTAL REQUEST \$:					29,107.50	TOTAL AWARD \$:			
<p>*We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Claimant's records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time typically compensated at 1/2 of preparer's normal hourly rate</p>									
Attorney		Date Admitted to CA BAR		Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation			
Michael Shames		May 1983		108835		Please note from January 1, 1997 until October 4, 2011, Mr. Shames was an inactive member of the California Bar. He had restored his active status before the commencement of this proceeding.			

C. Attachments or Comments Documenting Specific Claim (Claimant completes; attachments not attached to final Decision):

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Michael Shames' timesheets
3	Comparison of party positions

Comment #1	<p>Shames' rate: The last approved rate for Michael Shames is \$365.00 an hour in D.13-11-016 for all work performed after October 2011. This rate reflects Mr. Shames' decision to reinstate his active membership with the Bar due to complaints filed with the CPUC about his attorney status. However, in A.10-12-005, UCAN requested compensation for Mr. Shames at a rate of \$535 per hour. It argues that as an active member of the Bar, the Commission is obligated to pay the market rates for an active Attorney in accord with other advocate/attorneys. Current Turn Legal Director Tom Long is presently approved for \$520.00 an hour Former senior attorney of TURN, and now CPUC Commissioner Michael Florio, as well as Robert Gnaizda are approved for a rate of \$535.00 an hour. Information regarding Robert Finkelstein, of TURN, has also been provided as a comparison. Mr. Finkelstein has been an outstanding advocate for TURN since 1992, and is well known to this Commission. He has an approved rate of \$490.00. SDCAN seeks compensation at the rate in which Mr. Shames will be compensated in A. 10-12-005 and no less than his compensation in D. 13-11-016.</p> <p>SDCAN also requests a \$50 per hour adder for time spent by Mr. Shames in hearings, settlement meetings and workshops. In past awards of intervenor compensation the Commission has recognized that under certain circumstances an enhancement of the base level of award is warranted. Specifically, efficiency adders have been adopted by the Commission in past decisions that reflect an attorney's dual role as expert and attorney for as much as \$80 per hour above the approved market rate where there has been an exceptional result andA involved skills or duties that were far beyond those normally required. It most recently adopted an efficiency adder in D.11-12-016.</p> <p>SDCAN submits that it was able to play a particularly important role in achieving the ultimate settlement of complex issues that threatened to consume substantial time and resources. Mr. Shames served as an expert as well as attorney in these meetings and the adder represents a reduction in the costs that would have been sought had SDCAN had retained expert witnesses. Mr. Shames' mastery of the rate design/revenue allocation issues permitted SDCAN to achieve efficiencies that are not offered by most intervenors -- or utilities. The settlement process benefited greatly from SDCAN's participation, and the resulting outcome of the revenue allocation issues reflect SDCAN's contributions throughout.</p>

D. CPUC Disallowances & Adjustments (CPUC completes):

#	Reason

PART IV: OPPOSITIONS AND COMMENTS
 Within 30 days after service of this claim, Commission Staff
 or any other party may file a response to the claim (see § 1804(c))

(CPUC completes the remainder of this form)

A. Opposition: Did any party oppose the claim (Y/N)?

If so:

Party	Reason for Opposition	CPUC Disposition

B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6)) (Y/N)?

If not:

Party	Comment	CPUC Disposition

FINDINGS OF FACT

1. Claimant [has/has not] made a substantial contribution to Decision (D.) _____.
2. The claimed fees and costs [, as adjusted herein,] are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The total of reasonable contribution is \$ _____.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, [satisfies/fails to satisfy] all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$ _____.
2. Within 30 days of the effective date of this decision, _____ shall pay claimant the total award. Payment of the award shall include interest at the rate earned on prime,

three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning _____, 200__, the 75th day after the filing of claimant's request, and continuing until full payment is made.

3. The comment period for today's decision [is/is not] waived.
4. [This/these] proceeding[s] [is/are] closed.
5. This decision is effective today.

Dated _____, at San Francisco, California.

**Attachment 1:
Certificate of Service by Customer**

See separate attachment filed concurrently with Request