



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

**FILED**  
02-28-11  
12:44 PM

Application of Southern California Edison Company (U 338-E) for Approval of Agreement to Sell its Interest in Four Corners Generating Station.

Application 10-11-010  
(Filed November 15, 2010)

**NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION  
AND, IF REQUESTED (and  checked), ALJ RULING  
ON SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

Customer (party intending to claim intervenor compensation): <b>The Utility Reform Network (TURN)</b>			
Assigned Commissioner: Michael Peevey		Assigned ALJ: Hallie Yacknin	
I hereby certify that the information I have set forth in Parts I, II, III and IV of this Notice of Intent (NOI) is true to my best knowledge, information and belief. I further certify that, in conformance with the Rules of Practice and Procedure, this NOI and has been served this day upon all required persons (as set forth in the Certificate of Service attached as Attachment 1).			
Signature: /S/			
Date:	2-28-11	Printed Name:	Hayley Goodson, Staff Attorney for TURN

**PART I: PROCEDURAL ISSUES**

(To be completed by the party (“customer”) intending to claim intervenor compensation)

<b>A. Status as “customer” (see Pub. Util. Code § 1802(b)): Are you claiming “customer” status because you (check one):</b>	<b>Applies (check)</b>
1. Category 1: Represent consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation that is subject to the jurisdiction of the Commission (§ 1802(b)(1)(A))?	
2. Category 2: Are a representative who has been authorized by a “customer” (§ 1802(b)(1)(B))?	
3. Category 3: Represent a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, to represent “small commercial customers” (§ 1802(h)) who receive bundled electric service from an electrical corporation (§ 1802(b)(1)(C)), or to represent another eligible group?	X
4. Please explain your customer status, economic interest (if any), and provide any documentation (such as articles of incorporation or bylaws) that supports your status. Identify any attached documents in Part IV.	

TURN is a “group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential ratepayers.” TURN provided the relevant portion of our articles of incorporation in the NOI submitted in A.98-02-017, and again in A.99-12-024. The articles of incorporation have not changed since the time of those earlier submissions. D.98-04-059 directs groups such as TURN to indicate the percentage of their members that are residential ratepayers. Id., FOF 12. TURN has approximately 20,000 dues paying members, of whom we believe the vast majority are residential ratepayers. TURN does not poll our members in a manner that would allow a precise breakdown between residential and small business members, so a precise percentage is not available.

<b>B. Timely Filing of NOI (§ 1804(a)(1)):</b>	<b>Check</b>
1. Is your NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: ___ Feb. 1, 2011 _____	Yes <u>X</u> No __
2. Is your NOI filed at another time (for example, because no Prehearing Conference was held, the proceeding will take less than 30 days, the schedule did not reasonably allow parties to identify issues within the timeframe normally permitted, or new issues have emerged)?	Yes __ No <u>X</u>
2a. Describe the reason for filing your NOI at this other time:	
2b. Provide the proceeding number, date, and decision number for any Commission decision, Commissioner ruling, or ALJ ruling, or other document authorizing the filing of your NOI at this other time:	

**PART II: SCOPE OF ANTICIPATED PARTICIPATION**

(To be completed by the party (“customer”) intending to claim intervenor compensation)

<b>A. Planned Participation (§ 1804(a)(2)(A)(i)):</b>
<ul style="list-style-type: none"> <li>• The party’s description of the nature and extent of the party’s planned participation in this proceeding (as far as it is possible to describe on the date this NOI is filed).</li> <li>• The party’s statement of the issues on which it plans to participate.</li> </ul> <p><u>Nature and Extent of Planned Participation</u> TURN plans to be a very active participant in this proceeding. TURN has already filed a protest, attended the Prehearing Conference, propounded discovery, and is engaged in ongoing discussions with SCE with the hope of resolving our issues. Going forward, TURN may prepare testimony, participate in hearings, and file opening and reply</p>

comments on the Proposed Decision, as necessary, as well as participate fully in any additional opportunities that might arise.

#### Issues Likely to Be Addressed

TURN has already and will continue to address two ratemaking issues presented in this proceeding: 1) the reasonableness of SCE's proposed calculation of the net after-tax gain on sale which would flow to ratepayers if the Commission approves SCE's application, and 2) the reasonableness of the transaction costs SCE proposes to deduct from the gross sale proceeds in determining the net market value of the divested assets.

#### Economic Interests / Avoiding Undue Duplication

The Commission has stated that it will make a preliminary determination based on the NOI whether an intervenor represents interests that, if not for the availability of compensation, would be "underrepresented" in the proceeding. (D.98-04-059, mimeo, at 27.) TURN represents the interests of all of SCE's residential and small commercial ratepayers. Sierra Club, another intervenor in this proceeding, represents the interests of customers which a particular concern for the environment. (*Sierra Club Motion Requesting Party Status*, p. 3, filed 1/28/11.)

The Division of Ratepayer Advocates (DRA), which has recently filed a motion to intervene as a party, also represents interests that are distinguishable from TURN's. While both TURN and DRA represent ratepayer interests, TURN only represents the interests of residential and small commercial customers. Pursuant to PU Code § 309.5, DRA represents the interests of all ratepayers, except in revenue allocation and rate design matters, where DRA primarily considers the interests of residential and small commercial customers. Likewise, Environmental Defense Fund (EDF), another entity which recently filed a motion requesting party status, is an environmental advocacy organization, which seeks to represent the interests of its members, many of whom are customers of SCE. (*EDF Motion Requesting Party Status*, pp. 2-3, filed 2/15/2011.)

Moreover, TURN has already coordinated with Sierra Club and intends to coordinate with other intervenors which may be granted party status, to the greatest extent possible, given the respective interests of each party. This coordination will ensure that TURN's participation complements and supplements that of the other intervenors with overlapping interests in SCE's ratemaking proposal, rather than being unduly duplicative.

**B. Please provide an itemized estimate of the compensation that you expect to request, based on the anticipated duration of the proceeding (§ 1804(a)(2)(A)(ii)):**

<b>Item</b>	<b>Hours</b>	<b>Rate \$</b>	<b>Total \$</b>	<b>#</b>
<b>ATTORNEY FEES</b>				
Hayley Goodson , TURN Staff Attorney	30	\$295	\$8,850	1
Robert Finkelstein, TURN Legal Director	15	\$470	\$4,700	1
		<b>Subtotal:</b>	\$15,900	
<b>EXPERT FEES</b>				
William B. Marcus, JBS Energy, Inc.	15	\$250	\$3,750	2
		<b>Subtotal:</b>	\$3,750	
<b>OTHER FEES</b>				
		<b>Subtotal:</b>		
<b>COSTS</b>				
Estimated Miscellaneous Expenses (i.e., Telecommunications, Photocopying, Postage, Legal Research)			\$50	
		<b>Subtotal:</b>	\$50	
<b>TOTAL ESTIMATE \$:</b>			\$19,700	

Comments/Elaboration (use reference # from above):

The reasonableness of the hourly rates requested for TURN’s representatives will be addressed in our Request for Compensation (#s 1, 2). TURN has not included in this estimate claim preparation time (#1). The amount of any future request for compensation will depend upon the Commission's ultimate decision in this case, as well as the resources TURN has to devote to the case going forward.

TURN’s time thus far has been devoted approximately equally to the two ratemaking issues TURN has been focusing on, including the calculation of the net after-tax gain on sale flowing to ratepayers, and the transaction costs SCE proposes to deduct from the gross sale proceeds in determining the net market value of the divested assets. Of course we have and will continue to also devote time to coordinating with other parties and addressing procedural matters, should such arise. Finally, this allocation is only an estimate and may change over the course of this proceeding.

When entering items, type over bracketed text; add additional rows to table as necessary. Estimate may (but does not need to) include estimated claim preparation time. Claim preparation is typically compensated at ½ of preparer’s normal hourly rate.

**PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

(To be completed by party (“customer”) intending to claim intervenor compensation; see Instructions for options for providing this information)

<b>A. The party claims “significant financial hardship” for its claim for intervenor compensation in this proceeding on the following basis:</b>	<b>Applies (check)</b>
1. “[T]he 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” (§ 1802(g)); or	
2. “[I]n the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding” (§ 1802(g)).	X
3. A § 1802(g) finding of significant financial hardship in another proceeding, made within one year prior to the commencement of this proceeding, created a rebuttable presumption of eligibility for compensation in this proceeding (§ 1804(b)(1)).	X* (see clarification in Section III.B. below)
<p>ALJ ruling (or CPUC decision) issued in proceeding number: A.08-05-023 and P.10-08-016</p> <p>Date of ALJ ruling (or CPUC decision): April 22, 2009 (A.08-05-023) and November 22, 2010 (P.10-08-016)*</p> <p>*See clarification in Section III.B. below.</p>	

<b>B. The party’s explanation of the factual basis for its claim of “significant financial hardship” (§ 1802(g)) (necessary documentation, if warranted, is attached to the NOI):</b>
<p>On April 22, 2009, the Commission issued a ruling in A.08-05-023, finding that TURN had demonstrated significant hardship based on the factual showing we presented in our NOI. TURN next sought a finding of significant hardship in our NOI filed on March 19, 2010 in A.09-12-020 (PG&amp;E’s TY 2011 GRC), but the Commission has yet to rule on that showing. While awaiting a ruling in A.09-12-020, TURN again sought a finding of significant hardship in our NOI filed on August 17, 2010 in A.10-03-028 (SDG&amp;E/SoCalGas Firm Access Rights). As that ruling never came (or rather, has still yet to come), TURN filed a third NOI, which included our full factual showing of significant final hardship, in P.10-08-016 on November 5, 2010. ALJ Vieth issued a ruling promptly thereafter, on November 22, 2010, finding that TURN had demonstrated significant financial hardship.</p>

TURN recognizes that the finding made in P.10-08-016 came one week after the commencement of the instant proceeding, on November 15, 2010. Technically, the instant proceeding commenced on a date during the window of time when TURN had three pending requests for a finding of significant hardship (in A.09-12-020, A.10-03-028, and P.10-8-016), but after the time when TURN could have relied on the rebuttal presumption created by the ALJ Ruling in A.08-05-023 on April 22, 2009. However, we respectfully submit that this gap in coverage occurred through no lack of diligence on TURN's part.

For this reason, TURN requests that the Commission find that we have demonstrated significant financial hardship through option 3, the rebuttable presumption. In the alternate, TURN asks that the Commission provide TURN with an opportunity to present our full factual showing of financial hardship in a supplement to this NOI.

TURN does not anticipate any challenge to its eligibility for compensation in this proceeding. If any party does challenge our eligibility, however, TURN requests that it be granted the opportunity to reply to such party's allegations within 10 days after the service of such filing.

**PART IV: ATTACHMENTS DOCUMENTING SPECIFIC  
ASSERTIONS MADE IN THIS NOTICE**  
(Claimant identifies and attaches documents; add rows as necessary)

Attachment No.	Description
1	Certificate of Service

**ADMINISTRATIVE LAW JUDGE RULING<sup>1</sup>**  
(ALJ completes)

	Check all that apply
<b>1. The Notice of Intent (NOI) is rejected for the following reasons:</b>	
a. The NOI has not demonstrated status as a "customer" for the following reason(s):	

<sup>1</sup> An ALJ Ruling will not be issued unless: (a) the NOI is deficient; (b) the ALJ desires to address specific issues raised by the NOI (to point out similar positions, areas of potential duplication in showings, unrealistic expectations for compensation, or other matters that may affect the customer's claim for compensation); or (c) the NOI has included a claim of "significant financial hardship."

b. The NOI has not demonstrated that the NOI was timely filed (Part I(B)) for the following reason(s):	
c. The NOI has not adequately described the scope of anticipated participation (Part II, above) for the following reason(s):	
<b>2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above).</b>	
<b>3. The NOI has not demonstrated significant financial hardship for the following reason(s):</b>	
<b>4. The ALJ provides the following additional guidance (see § 1804(b)(2)):</b>	

**ORDER**

	Check all that apply
1. The Notice of Intent is rejected.	
2. Additional guidance is provided to the customer as set forth above.	
3. The customer has satisfied the eligibility requirements of Pub. Util. Code § 1804(a).	
4. The customer has shown significant financial hardship. The customer is entitled to a rebuttable presumption of eligibility for intervenor compensation in other Commission proceedings commencing within one year of the date of this ruling (§ 1804(b)(1)).	
5. The customer is preliminarily determined to be eligible for intervenor compensation in this proceeding. However, a finding of significant financial hardship in no way ensures compensation.	

Dated \_\_\_\_\_, at San Francisco, California.

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ADMINISTRATIVE LAW JUDGE

**Attachment 1**

**Certificate of Service by Customer**

I hereby certify that I have this day served a copy of the foregoing **NOTICE OF INTENT TO CLAIM INTERVENOR COMPENSATION** by (check as appropriate):

- hand delivery;
- first-class mail; and/or
- electronic mail

to the following persons appearing on the official Service List:

bfinkelstein@turn.org  
bill@jbsenergy.com  
case.admin@sce.com  
cem@newsdata.com  
hayley@turn.org  
hsy@cpuc.ca.gov  
kdw@woodruff-expert-services.com  
mm2@cpuc.ca.gov  
mrw@mrwassoc.com  
rmp@cpuc.ca.gov  
Russell.Archer@SCE.com  
speesapati@earthjustice.org  
toconnor@edf.org  
WTR@cpuc.ca.gov  
wtr@cpuc.ca.gov

Executed this 28th day of February, 2011, at San Francisco, California.

/S/

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