

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



FILED

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Application of Pacific Gas and Electric Company)
(U 39-E) for Approval of 2008 Long-Term Request)
for Offer Results and for Adoption of Cost)
Recovery and Ratesetting Mechanisms.)
_____)

Application 09-09-021
(Filed September 30, 2009)

**SUPPLEMENTAL NOTICE OF INTENT TO CLAIM
COMPENSATION OF THE UTILITY REFORM NETWORK
COVERING JUDICIAL REVIEW-RELATED WORK**

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June 29, 2011

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**SUPPLEMENTAL NOTICE OF INTENT TO CLAIM
COMPENSATION OF THE UTILITY REFORM NETWORK
COVERING JUDICIAL REVIEW-RELATED WORK**

I. INTRODUCTION

Pursuant to Rule 17.1(f) of the Commission’s Rules of Practice and Procedure, The Utility Reform Network (TURN) hereby files this Supplemental Notice of Intent to Claim Compensation (NOI). TURN filed its original NOI in this proceeding on December 22, 2009. In D.11-03-021, the Commission accepted TURN’s showing of “customer status” and “significant financial hardship” and granted TURN an award of intervenor compensation for our contribution to D.10-07-045. Subsequently, the Commission issued D.10-12-050 and D.11-05-049, which denied rehearing of D.10-12-050. On June 27, 2011, TURN filed a petition for writ of review of D.10-12-050 and D.11-05-049 with the California Court of Appeal.

Rule 17.1(f) provides that an intervenor who intends to request compensation for costs of judicial review shall file a supplemental notice of intent within 30 days after the date that the intervenor first appears or files a pleading in the judicial review proceeding. This Supplemental NOI covers work performed by TURN in the proceedings before the California Court of Appeal regarding judicial review of the Commission’s Decisions 10-12-050 and 11-05-049. Because this Supplemental NOI is filed within 30 days of TURN’s first appearance before the Court of Appeal, this Supplemental NOI is timely filed.

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II. DISCUSSION

Rule 17.1(f) directs that the supplemental NOI shall 1) “identify the issues upon which the intervenor intends to participate in judicial review”; 2) include “an itemized estimate of the compensation that the intervenor expects to request by reference to those identified issues”; and 3) if the intervenor intends to support the Commission’s decision on review, address why the intervenor expects that its participation in judicial review will supplement, complement or contribute to the Commission’s defense of its decision.

TURN addresses each of these requirements below.

A. Issues to Be Addressed By TURN in Judicial Review

TURN’s Petition for Writ of Review seeks judicial review of the overarching question of whether the Commission abused its discretion and failed to proceed as required by law in adopting D.10-12-050. More specifically, TURN seeks judicial review of the following issues:

- Whether the Commission violated Pub. Util. Code Section 311(e) and Rule 14.1 when it failed to serve the revised alternate proposed decision of Commissioner Bohn on the parties to this proceeding;
- Whether the Commission failed to proceed in a manner required by law when it approved the Oakley Project based on a determination of a risk of a capacity shortfall in 2016, when the previously established scope of the proceeding covered the need for new capacity through 2015;
- Whether the Commission failed to regularly pursue its authority when, acting *sua sponte*, it simultaneously converted PG&E’s petition for modification of D.10-12-050 into a new application and simultaneously granted that

application; and

- Whether the Commission’s finding regarding the need to act before the end of 2010 is supported by substantial evidence in light of the whole record.

B. Estimate of Costs Associated with Participating in Judicial Review

For the purposes of intervenor compensation, there is a single issue: whether D.10-12-050 should be annulled because the Commission abused its discretion and failed to proceed as required by law. TURN estimates that it will request compensation for the following costs and expenses:

Attorney/Category	Estimated Hours	Hourly Rate	Estimated Cost
Robert Finkelstein	80	\$470	\$37,600
Hayley Goodson	50	\$295	\$14,750
Other Direct Expenses			\$ 1,000
TOTAL			\$53,350

The actual amount of any future request for compensation or the distribution of expenses among the issues presented will depend upon the procedural course that the judicial review process follows. The above estimates assume that the proceeding follows a standard course pursuant to appellate court rules.¹ If the court were to grant TURN’s petition for writ of review, TURN’s estimate would greatly increase. However, TURN cannot at this time provide a meaningful estimate until we know the issues upon which further review would occur.

The reasonableness of the hourly rate requested for TURN’s representatives will be addressed either in the process established in R.06-08-019 or in our Request for

¹ As the Commission confirms in D.06-12-041, under Public Utilities Code §1804(b)(2) an award of compensation is not precluded even where the intervenor fails “to identify a specific issue in the notice of intent or to precisely estimate potential compensation.”

Compensation. TURN understands that a finding of eligibility in no way assures the granting of intervenor compensation.

C. Duplication of the Commission’s Defense of Its Decision

TURN’s request for judicial review is *challenging* the Commission’s decision on review. Therefore, there is no risk of duplication or interference with the Commission’s work.

Also of note, TURN is the only party to A.09-09-021 to have filed a petition for writ of review with the California Court of Appeal, to the best of our knowledge at the time of filing this supplemental NOI. In a related action, on June 17, 2011, Communities for a Better Environment (CBE) and Robert Sarvey (Sarvey) jointly filed a petition for review of D.10-12-050 and the California Energy Commission’s order No. 11-0518-5 with the California Supreme Court. TURN and CBE/Sarvey make some similar arguments but also address distinct issues while seeking judicial review in separate fora.

III. CONCLUSION

TURN submits that it has met all of the requirements of Rule 17.1(f). Therefore we request that the assigned ALJ issue a ruling finding TURN eligible for compensation for its judicial review work in this proceeding.

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Date: June 29, 2011

Respectfully submitted,

By: _____/s/_____
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