



FILED

01-03-12
02:27 PM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission’s Own Motion into Addressing the Commission’s Water Action Plan Objective of Setting Rates that Balance Investment, Conservation, and Affordability for the Multi-District Water Utilities of: California-American Water Company (U210W), California Water Service Company (U60W), Del Oro Water Company, Inc. (U61W), Golden State Water Company (U133W) and San Gabriel Valley Water Company (U337W).

Rulemaking 11-11-008
(Filed November 10, 2011)

**ADMINISTRATIVE LAW JUDGE’S RULING
ON SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

Customer: The Utility Reform Network (TURN)	
Assigned Commissioner: Catherine J.K. Sandoval	Assigned ALJ: Gary Weatherford

PART I: PROCEDURAL ISSUES

A. Status as “customer” (see Pub. Util. Code § 1802(b)): The party claims “customer” status because the party:	Applies (check)
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 notice of intent (NOI) submitted in Application	

(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. Decision (D.) 98-04-059 directs groups such as TURN to indicate the percentage of their members that are residential ratepayers. *Id.*, Finding of Fact 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. Timely Filing of NOI (§ 1804(a)(1)):	Check
1. Is your NOI filed within 30 days after a Prehearing Conference? Date of Prehearing Conference: <u>August 26, 2010</u>	Yes ___ 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 <u>X</u> No ___
2a. Describe the reason for filing your NOI at this other time: The Order Instituting Rulemaking (OIR) in this docket specified that Notices of Intent to Claim Compensation must be filed within 30 days of the mail date of the OIR. The OIR was mailed on November 18, 2011 thereby making the due date for the NOI December 18-19, 2011. This NOI is timely filed.	
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: OIR at 15.	

PART II: SCOPE OF ANTICIPATED PARTICIPATION

A. Planned Participation (§ 1804(a)(2)(A)(i)):
1. What is the nature and extent of your planned participation in this proceeding (as far as it is possible to describe on the date this NOI is filed)? On what issues do you plan to participate? <u>Nature and Extent of Planned Participation</u> TURN has been an active participant in several water division rulemakings including the Affiliate Transaction Rulemaking and the Water Conservation OII. TURN will address those issues that have a direct impact on residential, small business and low income ratepayers. TURN plans to fully participate in the docket including filing comments and briefs and participating in possible workshops and meetings.

Economic Interest of Participation

In this proceeding TURN represents the interests of the residential and small business ratepayers of the subject, multi-district utilities. The OIR clearly states that the goal of this docket is to look at ways to set rates that balance investment, conservation and affordability. The results of this docket may significantly impact the affordability of rates for the customers of these multi-district utilities, including the possible cross-subsidy of rates and imposition of explicit subsidies on ratepayers

Issues Likely to Be Addressed

TURN likely will address issues that directly impact the residential, small business and low income customers of these multi-district water utilities. Based on the discussion in the OIR, TURN will address issues related to the criteria and mechanism for district consolidation, the policy issues around rate cross-subsidy, district consolidation and the impact of a High Cost Fund on ratepayers, conservation efforts, and affordability. TURN will also address the legal issues related to district consolidation and High Cost Fund. TURN will rely on its familiarity with Commission ratemaking policies, best practices in the telecommunications and energy industries, and policies and legal impact of state and federal public purpose programs to contribute to the record in this docket. At this early stage of the proceeding, it is difficult to predict what additional issues, if any, TURN may address. TURN reserves the right to adjust its participation in the docket as the scope of the docket becomes clearer.

Based on the estimate of hours below, TURN anticipates the following breakdown of hours spent by issue area:

General/Case Management-20%

- Including overall scope of the docket

High Cost Fund-30%

- Ratepayer impacts/affordability
- Mechanism
- Conservation Impacts

District Consolidation-50%

- Ratepayer impacts/affordability
- Mechanism/Criteria
- Conservation Impacts

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, the Division of Ratepayer Advocates (DRA), and National Consumer Law Center are parties to this proceeding, and each group represents various ratepayer interests. As in previous dockets before the Commission, TURN expects to work closely and coordinate with these groups where there is an overlap in issues. This coordination will serve to minimize any overlap in issues and to ensure that where such overlap occurs each party is representing a unique analysis and will enable each party to most efficiently manage their advocacy efforts. Finally, the Commission should recognize that the combined efforts of the consumer representatives can serve to counterbalance the utility’s ratepayer-funded resources in this proceeding.

B. The party's itemized estimate of the compensation that the party expects to request, based on the anticipated duration of the proceeding (§ 1804(a)(2)(A)(ii)):				
Item	Hours	Rate \$	Total \$	#
ATTORNEY FEES				
Bob Finkelstein	10	\$470	\$4,700	1
Christine Mailloux	75	\$390	\$29,250	
Nina Suetake	35	\$280	\$9,800	
Regina Costa	50	\$275	\$13,750	
			Subtotal: \$57,500	
EXPERT FEES				
Expert Consultant	40		\$10,000	2
			Subtotal: \$10,000	
OTHER FEES				
N/A				
			Subtotal: \$0	
COSTS				
Estimated Miscellaneous Expenses (i.e., Electronic Research, Travel, Telecommunications, Photocopying)			\$400	
			Subtotal: \$400	
			TOTAL ESTIMATE: \$67,900	
<p>Comments/Elaboration (use reference # from above):</p> <p>The reasonableness of the hourly rates requested for TURN's representatives will be addressed in our Request for Compensation (#s 1 and 2).</p> <p>TURN has not included in this estimate claim preparation time (#1).</p> <p>TURN may hire an expert consultant to assist in policy development, any discovery that may be necessary, and brief preparation. The figure provided is an estimate for expert fees based on previous experience, the actual total will depend on the qualifications and billing rate of any expert we may hire and the nature of their work. (#3)</p> <p>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 available to devote to the case going forward.</p>				

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP

A. The party claims “significant financial hardship” for its claim for intervenor compensation in this proceeding on the following basis:	Applies (check)
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;” 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.”	X
---	----------

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):
TURN has submitted with this NOI its annual factual showing of “significant financial hardship” (Attachment 2 to this NOI).
TURN does not anticipate any challenge to its eligibility for compensation in this proceeding. If any party does attempt to rebut the presumption of 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: THE PARTY’S ATTACHMENTS DOCUMENTING SPECIFIC
ASSERTIONS MADE IN ITS NOTICE**
(Documents are not attached to final ALJ ruling)

Attachment No.	Description
1	Certificate of Service
2	TURN Annual Showing of Financial Hardship

ADMINISTRATIVE LAW JUDGE RULING

	Check all that apply
1. The Notice of Intent (NOI) is rejected for the following reasons:	
a. The NOI has not demonstrated status as a “customer” for the following reason(s):	
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):	
2. The NOI has demonstrated significant financial hardship for the reasons set forth in Part III of the NOI (above).	X
3. The NOI has not demonstrated significant financial hardship for the following reason(s):	
4. The ALJ provides the following additional guidance (see § 1804(b)(2)):	

IT IS RULED that:

	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)).	X
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.	X

Dated January 3, 2012, at San Francisco, California.

/s/ GARY WEATHERFORD

Gary Weatherford
ADMINISTRATIVE LAW JUDGE