Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pacific Gas and Electric Company (U39E), for approval of the 2006 – 2008 Energy Efficiency Programs and Budget.	Application 05-06-004 (Filed June 1, 2005)
And Related Matters.	Application 05-06-011 Application 05-06-015 Application 05-06-016

OPINION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION (D.) 05-09-043, D.05-11-011, AND D.06-12-013

This decision awards $57,747.43 to The Utility Reform Network (TURN) in compensation for its substantial contributions to D.05-09-043, including the post-D.05-09-043 compliance phase, D.05-11-011, and D.06-12-013. This represents a small decrease from the requested amount of $58,162.91. The decrease reflects our finding that certain claimed hours did not correspond to work contributing to the resolution of issues in these decisions.

1. Background

By D.05-01-055, the Commission directed Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas &

Electric Company (SDG&E), and Southern California Gas Company (collectively, "the utilities") to file program planning applications for administering energy efficiency activities over the 2006-2008 program cycle.[1] In response, the utilities filed the applications captioned above, which were consolidated for Commission consideration.

The purpose of this proceeding was to determine whether the funding levels and overall portfolio plans submitted by the utilities were reasonable and consistent with the energy efficiency policy rules adopted in D.05-04-051. The proceeding was bifurcated into phases: Phase I addressed specific program-related portfolio plans and funding levels applications. Phase II reviewed the reasonableness of the proposed energy efficiency evaluation, measurement and verification (EM&V) plans and funding levels, and addressed the appropriate ratemaking treatment to recover these costs. The Commission also established a "compliance phase" that required the utilities to file advice letter filings following the issuance of the Phase I decision.

Phase I resulted in an interim decision, D.05-09-043. This decision authorized 2006-2008 energy efficiency portfolio plans and funding levels for the utilities and established a process for improving the accuracy and reliability of the underlying data assumptions contained in those plans. D.05-09-043 also provided guidelines for the compliance phase of the proceeding.

In the post-D.05-09-043 compliance phase, the Commission evaluated the utilities' solicited competitive bid proposals and addressed the cost-effectiveness of the resulting portfolio for each utility. In this phase, the advice letters were

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[1] *See* D.05-01-055, pp. 102-03.

approved by Energy Division disposition letters, as provided for under the Commission's procedures.[2]

Phase II resulted in another interim decision, D.05-11-011. Based primarily on staff recommendations, this decision adopted EM&V plans and established an overall funding level for EM&V activities over the 2006-2008 program cycle.

On June 26, 2006, SCE petitioned to modify D.05-09-043. SCE requested authorization to carry over $18 million in unspent, uncommitted energy efficiency funding from prior program cycles to increase SCE's total 2006-2008 energy efficiency portfolio budget and fund a demonstration partnership project with the City of Palm Desert. SCE also requested that D.05-09-043 be modified to provide for an advice letter process, whereby utilities could request shifts of funds from unspent, uncommitted funds from prior program cycles to the 2006-2008 budgets authorized by D.05-09-043. D.06-12-013 approved the petition with certain modifications.

2. Requirements for Award of Compensation

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812,[3] requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

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[2] *See Energy Division Disposition of SCE's Advice Letter 1935-E*, April 18, 2006; *Energy Division's Disposition of SDG&E's Advice Letter 1955-E*, April 28, 2006; *Energy Division's Disposition of PG&E's Advice Letter 2704-G-A/2786-E-A*, June 1, 2006 and *Energy Division's Disposition of SoCalGas' Advice Letter 3588*, April 28, 2006.

[3] Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (PHC), or in special circumstances at another appropriate time that we specify. (§ 1804(a).)

2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)

3. The intervenor should file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)

4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g), 1804(b)(1).)

5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision or as otherwise found by the Commission. (§§ 1802(i), 1803(a).)

6. The claimed fees and costs must be reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§ 1806), and productive (D.98-04-059).

For discussion here, the procedural issues in Items 1-4 above are combined, followed by separate discussions of Items 5-6.

3. Procedural Issues

The PHC in this matter was held on June 22, 2005. TURN timely filed its (NOI) to claim compensation. On November 10, 2005, Administrative Law

Judge (ALJ) Gottstein issued a ruling on the notice of intent. The ruling found that TURN was a customer pursuant to Section 1802(b)(C) and met the significant financial hardship condition pursuant to Section 1804(b)(1) (*i.e.*, through a rebuttable presumption of eligibility).

D.06-12-013 was issued on December 15, 2006. TURN filed its request for compensation on February 13, 2007. The request was timely filed. No parties opposed the request.

TURN has satisfied all the procedural requirements necessary to make its request for compensation in this proceeding.

4. Substantial Contribution

TURN asserts that it made substantial contributions to this proceeding by having a number of its recommendations adopted. TURN also states that it made substantial contributions to the compliance phase. As to its recommendations not adopted by the Commission, TURN asserts that our decisions and the Energy Division's disposition in the compliance phase reflect a significant impact of TURN's advocacy.

In evaluating whether a customer made a substantial contribution to a proceeding we ask several questions. First, we look at whether the assigned ALJ adopted one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer. (*See* Section 1802(i).) Second, we look at whether the customer's contentions or recommendations paralleled those of another party, and if so, whether the customer's participation materially supplemented, complemented, or contributed to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision. (*See* §§ 1801.3(f) and 1802.5.) As described

in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

Should the Commission not adopt any of the customer's recommendations, compensation may be awarded if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order. For example, if a customer provided a unique perspective that enriched the Commission's deliberations and the record, the Commission could find that the customer made a substantial contribution.

Section 1801.3(f) requires an intervenor to avoid unnecessary participation that duplicates that of similar interests otherwise adequately represented by another party, or unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation if its participation materially supplements, complements, or contributes to that of another party whose participation makes a substantial contribution to the Commission order.

With this guidance in mind, we turn to our discussion of the contributions made by TURN to these decisions.

4.1. Contributions to D.05-09-043 (Phase I)

As TURN documents in its request for compensation, it submitted both qualitative and quantitative comments in Phase 1 on the uncertainty surrounding the utilities' planning assumptions concerning free-rider impacts ("net-to-gross" or "NTG" ratios) and measure retention that contributed substantially to the Commission's determinations in that phase. In particular, the Commission agreed with TURN that the ability of the utilities' proposed portfolios to meet or exceed the energy savings goals for 2006-2008 was uncertain. Hence, the Commission ordered the utilities to include in their

compliance phase filings sensitivity analyses "to assess whether the portfolio will still be cost-effective and meet the Commission's energy goals if key parameters (*e.g.*, NTG ratios and input assumptions for key measures such as lighting) are lower than expected after evaluation."[4]

While the Commission did not adopt the process TURN specifically recommended for addressing this uncertainty (*i.e.*, to initiate a "Phase 1A" for the purpose of further evaluating and updating *ex ante* estimates), the sensitivity analyses were intended to serve the same basic objective, namely, to obtain more information from the utilities before the final 2006-2008 portfolio plans were authorized. TURN also contributed significantly to Phase 1 by recommending that the Commission clarify the meaning of the megawatt targets adopted by D.04-09-060 to enable the Commission to assess whether the proposed portfolios would likely meet peak demand targets. The Commission incorporated this recommendation into the Phase 1 decision, by directing that this clarification be specifically addressed in coordination with updates being conducted to avoided costs in a related proceeding.

TURN also advocated a "rebalancing" of the portfolios to reduce reliance on lighting and increase the targeting of low load factor/high critical peak savings measures. The Commission agreed with TURN's concerns about the reported trends in increasing peak demands relative to baseload requirements, but declined to require the utilities to rebalance their energy efficiency portfolios based on unresolved disputes among parties over how much program funding

[4] D.05-09-043, *mimeo.*, pp. 99-100.

should be focused on heating, ventilation and air-conditioning end-uses.[5] Nonetheless, we find that TURN's comments on this issue directly enhanced the Commission's deliberations in Phase 1. For example, in recognizing that the definition of peak savings would require further deliberation in the avoided cost proceeding, the Commission noted that the utilities might ultimately "need to rebalance some of their program offerings and budget allocations based on these updates" to avoided costs.[6]

The Commission also adopted several of TURN's recommended modifications to the Phase I draft decision. For instance, the Commission adopted TURN's recommendation that the utilities be required to make available for public review the underlying load shapes embedded in the calculator used by the utilities to estimate energy efficiency cost-effectiveness, prior to the workshop on necessary calculator refinements.[7] In addition, the Commission adopted the proposed fund shifting procedures for review and/or approval of program incentive level changes that TURN advocated in its comments.[8]

In sum, we find that TURN made substantial contributions to D.05-09-043.

4.2. Contributions to Post-D.05-09-043 Advice Letter Compliance Phase

In the compliance phase, TURN and the Division of Ratepayer Advocates (DRA) jointly responded to PG&E's supplemental Advice

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[5] *Id.*, pp. 106-107.

[6] *Id., mimeo.*, p. 109.

[7] *See TURN Comments on Phase 1 Draft Decision*, pp. 1-2 and D.05-09-043, *mimeo.*, pp. 110-11.

[8] *See* D.05-09-043, *mimeo.,* pp. 151-152.

Letter 2704-G-A/2786-E-A. In the response, TURN and DRA urged the Commission to encourage effective competitively bid third-party programs and government partnerships. In particular, they recommended that the Commission closely monitor PG&E's management of these activities by, among other things, submitting a report documenting the start-up data, ramp-up and full-level operation for all partnerships and third party programs. TURN and DRA also described in their comments PG&E's delays in partnership implementation and the adverse impacts associated with such delays.[9]

The Commission addressed the compliance phase issues by informal staff disposition of June 1, 2006. The Energy Division noted:

> Staff is concerned about the issues raised with respect to PG&E's partnership programs …. Staff believes these are important issues that go beyond the scope of Staff's disposition of the Advice Letter.…
>
> Staff intends to raise these issues with the Assigned Commissioner and the Assigned Administrative Law Judge, and would strongly recommend they be addressed in R.06-04-010, as both PG&E and TURN/DRA have also suggested.[10]

On July 7, 2006, Assigned Commissioner Grueneich issued a ruling requesting progress reports from the utilities on their third party and government partnership energy efficiency programs. Assigned Commissioner Grueneich mirrored TURN's concerns in explaining her ruling: "My goal is to

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[9] *See* TURN and DRA Response to PG&E Advice Letter 2704-G-A/2786-E-A, May 8, 2006, pp. 1-2.

[10] Energy Division Disposition of PG&E AL 2704-G/2786-E & AL 2704-G-A/2786-E-A, June 1, 2006, pp. 12, 13.

have the third-party and government partnerships implemented as quickly and efficiently as possible and to minimize the negative impacts of the delay in contract signing on achieving the energy efficiency savings goals."[11] Commissioner Grueneich directed the utilities to finalize negotiations with their statewide and local partners within 30 days after the issuance of the ruling, and required monthly progress reports for the duration of 2006. She requested that the monthly reports document the dates when the contracts are signed and programs are rolled out, and to "explain how they [the utilities] will meet their savings goals while allowing their partners to fully implement their programs, given the delay in contract signing."[12]

As TURN observes, the Commission in certain circumstances has previously awarded intervenor compensation for contributions to advice letter filings that seek to comply with a Commission formal decision.[13] We agree. On more than one occasion, the Commission has awarded compensation for contributions to informal proceedings implementing formal decisions. For example, D.03-05-065 in our generation procurement rulemaking (Rulemaking 01-10-024) awarded compensation to TURN for its protests to advice letter filings related to interim procurement contracts. D.01-06-068 in our revenue adjustment proceeding (Application 99-08-022, et al.) awarded compensation for TURN's contributions to SDG&E advice letter proceeding.

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[11] *Assigned Commissioner's Ruling Requesting Progress Reports From the Utilities on Their Third Party and Government Partnership Energy Efficiency Programs*, R.06-04-010, July 7, 2006, p. 1.

[12] *Id.*, p. 2.

[13] TURN cites D.00-09-068, pp. 17-18, and D.98-11-049 (granting compensation to Aglet for participation in the advice letter process).

Based on the above, we find that TURN's comments on PG&E's compliance filing made a substantial contribution to the Commission's resolution of the advice letter process implementing a decision in this proceeding.

4.3. Contribution to D.05-11-011 (Phase II)

With respect to the overall level of EM&V budgets and funding allocations, TURN filed four pages of comments on September 16, 2005, in which it presented two overall recommendations: First, TURN recommended that the Commission scale back "in some logical fashion" staff's proposed EM&V funding recommendation.[14] Second, TURN recommended that the budget allocation for load impact studies be increased, contending that this effort was under-funded and needed to be further refined based on end-uses.

In D.05-11-011, the Commission found that TURN's calculation of impact evaluation funding failed to recognize that the majority of funds allocated to EM&V Management, Quality Assurance and Implementation Support also went to support those efforts. The Commission also pointed out that the specific allocation of funds to impact evaluations would be adjusted as needed throughout the program cycle, as staff's proposal recognized. In conclusion, the Commission found the overall level of EM&V funding proposed by staff to be reasonable, as well as the budget allocation to impact evaluations, "contrary to TURN's assertions."[15]

TURN also claims that its September 16, 2005 comments significantly contributed to the Commission's decision to require coordination among staff

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[14] *Comments of TURN on Administrative Law Judge Gottstein's Ruling Request for Comments on Proposed EM&V Plans and Budgets for 2006-2008 Program Cycle*, Sept. 16, 2005, p. 3.

[15] D.05-11-011, *mimeo.*, p. 10.

and utility EM&V activities. However, other parties, including the Office of Ratepayer Advocates (now called the Division of Ratepayer Advocates (DRA)) raised more specific issues with respect to the division of responsibilities between staff and the utilities, to which the Commission directly responded in D.05-11-011. In discussing the continued need for coordination, the Commission also noted that staff and the utilities "have already discussed ways to coordinate all [measurement and verification] efforts to minimize duplication of effort and avoid multiple contracts with the same customers, and should continue to do so throughout the program cycle.[16] In light of the above, we do not find that the single sentence presented at the conclusion of TURN's September 16, 2005 comments[17] substantially contributed to the Commission's discussion of coordination in D.05-11-011.

Although TURN does not refer to its comments on the Phase II draft decision as a source of substantial contribution, we note that these comments consisted primarily of recommendations concerning EM&V study plans and reporting requirements.[18] In D.05-11-011, the Commission affirmed the draft decision's finding that Phase II was "not the forum for resolving these matters."[19]

Based on the above, we do not find that TURN's participation in Phase II substantially contributed to the Commission's determinations in D.05-11-011.

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[16] *See* D.05-11-011, *mimeo*., pp. 10-11.

[17] *Request of TURN for an Award of Compensation*, February 13, 2007, p. 14, referring to the last sentence of its Sept. 16, 2005 comments that states: "We want to ensure that ratepayers do not fund duplicative market-level assessments by paying [staff] and the [utilities] to administer similar or overlapping studies."

[18] *Reply Comments of TURN on the 08/01/05 Joint Proposal Re: EM&V Issues*, Aug. 19, 2005.

[19] D.05-01-011, *mimeo*., p. 17.

4.4. Contribution to D.06-12-013 (Petition for Modification)

In D.06-12-013, the Commission modified the Phase I decision (D.05-09-043) to authorize SCE to record up to $14 million in its Procurement Energy Efficiency Balancing Account from existing unspent, uncommitted energy efficiency moneys to fund the Palm Desert demonstration partnership between SCE, the City of Palm Desert, and the Energy Coalition. SCE had sought authority to spend $18 million on this partnership. In addition, SCE sought authorization for utility administrators to use an advice letter process for shifting existing unspent, uncommitted energy efficiency funds to the current portfolio budgets, a request granted by the Commission in D.06-12-013 with modification.

TURN (jointly with DRA) opposed SCE's Petition on a number of grounds, including the size of the budget and duration of the program, SCE's cost-effectiveness calculations, the program design and mix of measures, level of administrative costs, and SCE's choice of the City of Palm Desert.[20] However, TURN supported the advice letter process proposed by SCE, but argued that the utility administrators should be required to first consult with their energy efficiency Peer Review Groups (PRGs) before seeking to shift prior years' unspent, uncommitted funds. TURN also noticed two calculation errors in the proposed decision leading to D.06-12-013.

Based on our review of the record, we conclude that the objections raised by TURN concerning the Palm Desert Project directly shaped the Commission's

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[20] *See Response of DRA and TURN to SCE's Petition for Modification*, July 26, 2005; D.06-12-013, *mimeo*., pp. 7-13.

review of SCE's Petition. Following TURN's response to SCE's petition, the assigned ALJ issued a ruling directing SCE to respond to a list of questions about the Palm Desert Project, which directly corresponded to the issues raised by TURN.[21] Then, in D.06-12-013, the Commission agreed with many of the issues raised by TURN. In particular, the Commission agreed that the budget should be reduced, and removed 20% from SCE's requested $18 million to account for the 20% reduction in the time period of the program.[22] The Commission also agreed that SCE had inflated the cost-effectiveness of the Palm Desert Project by failing to correctly account for free-ridership, and by failing to correct calculation anomalies, as directed by the Commission in D.06-06-063.[23] In addition, the Commission agreed that the inclusion of Thermal Energy Storage as a measure to the Palm Desert Project would be on a non-precedential, pilot basis only, because as TURN pointed out, Thermal Energy Storage is not an energy efficiency measure.[24] The Commission agreed with TURN that the $1 million in administrative costs SCE had requested for the efforts of The Energy Coalition were unjustified, and accordingly, reduced The Energy Coalition's budget by 50%.[25] Finally, the Commission adopted TURN's recommendation that the utility administrators be required to consult with their advisory groups before

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[21] *See ALJ's Ruling Seeking Further Information*, Aug. 21, 2006.

[22] D.06-12-013, *mimeo.*, pp. 13-14.

[23] *Id.*, pp. 15-16.

[24] *Id.*, pp. 18-19.

[25] *Id.,* pp. 20-21.

seeking to shift prior years' funds into the current portfolio budgets through the advice letter process.[26]

4.5. Contributions by Other Parties

Regarding contributions by other parties, we agree with TURN that in a proceeding involving multiple participants, it is virtually impossible to completely avoid some duplication of the work of other parties. TURN states that it took all reasonable steps to keep duplication to a minimum and to ensure that its work served to supplement, complement, or contribute to the showing of the other very active party in this proceeding, DRA. (*See* § 1802.5.) TURN states that it collaborated closely with DRA throughout this proceeding, jointly preparing and filing a number of pleadings. TURN believes that this coordination reduced the workload for both TURN and DRA, resulting in increased efficiency in both entities' utilization of resources.

TURN states that the hours and expenses claimed in its request for compensation reflect only TURN's efforts where TURN and DRA jointly participated. TURN indicates that it additionally sought consensus where possible with parties other than DRA, and otherwise sought to ensure that TURN's efforts were coordinated with those of other parties to the extent feasible.

We find that TURN effectively sought to avoid unnecessary duplication of effort with other parties in participating in this proceeding.

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[26] *Id.,* p. 24.

5. Reasonableness of Requested Compensation

TURN requests $58,162.91 for its participation in this proceeding, as follows:

Attorney Fees

Name	Year	Hours	Rate	Amount
Haley Goodson	2005	107.00	$190.00	$ 20,330.00
Haley Goodson	2005	.50	$95.00	$ 47.50
Haley Goodson	2006	60.25	$195.00	$ 11,748.75
Haley Goodson	2007	21.25	$97.50	$ 2,071.88
			Attorney Haley Goodson Total	**$ 34,198.13**
Marcel Hawiger	2006	1.25	$280.00	$ 350.00
			Attorney Marcel Hawiger Total	**$ 350.00**
			Attorney Subtotal	**$ 34,548.13**

Expert Witness Costs (Hours Billed)

Name	Year	Hours	Rate	Amount
Cynthia Mitchell, Energy Economics, Inc.	2005	152.5	$140.00	$21,350.00
Cynthia Mitchell, Energy Economics, Inc.	2006	14.5	$140.00	$ 2,030.00
			Expert Witness Total	**$23,380.00**

Other Reasonable Costs

Item	Amount
Legal research (Lexis)	$ 16.95
Meals	$ 25.48
Photocopying expenses	$ 172.00
Postage costs	$ 6.01
Telephone expenses	$ 14.34
Other Reasonable Costs Total	**$ 234.78**
TOTAL:	**$58,162.91**

In general, the components of each of these requests must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are discussed below.

5.1. Hours and Costs Related to and Necessary for Substantial Contribution

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for substantial contribution.

As set forth in Appendix A of TURN's request for compensation, TURN documented its claimed hours by presenting a daily breakdown of the hours of its attorneys and expert witness, accompanied by a brief description of each activity. The hourly breakdown reasonably supports the claim for total hours claimed, with two exceptions.

First, TURN includes 1½ hours of attorney time reviewing the compliance filings of SCE, for which TURN did not file any comments. Therefore, this work

did not substantially contribute to the Commission's decision making process in the compliance phase and should not be compensated.[27]

Second, TURN includes work that relates to preparation for its Application for Rehearing of D.06-12-013. As TURN explains, it filed (jointly with DRA) an Application for Rehearing of D.06-12-013 on the limited issue of the decision's silence as to the treatment of impacts from Thermal Energy Storage as energy efficiency savings. TURN states that it excluded any hours and expenses related to preparing the Application for Rehearing from its compensation request, but may separately seek compensation for those hours and expenses in a future request following the Commission's disposition of the Application for Rehearing.[28] However, we note that TURN includes ½ hour of attorney time reviewing the Palm Desert final decision after it is issued. Because this time relates directly to its subsequent Application for Rehearing and not to D.06-12-013, it should also be excluded from the compensation authorized today.[29]

Accordingly, we reduce Haley Goodson's hours by 2 hours to reflect these two adjustments.

In addition, we note that TURN included approximately 8 hours of attorney time and 33.75 hours of Cynthia Mitchell's to develop the Case Management Statement (CMS) for Phase 1. The purpose of this document was to

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[27] These hours appear for Jan. 10, Jan. 31 and Feb. 9, 2006 on the spreadsheet presenting hours for Haley Goodson.

[28] *See Request of TURN for an Award of Compensation*, Feb. 13, 2007, p. 16, fn. 60. By D.06-12-013, issued on Oct. 4, 2007 (mailed on Oct. 9, 2007), the Commission addressed the joint DRA/TURN Application for Rehearing.

[29] This entry appears for Dec. 16, 2006 for Haley Goodson.

reflect discussions among the utilities, Peer Review Group (PRG) members, and interested parties that filed opening comments (such as TURN) and identify the remaining areas of disagreement that required Commission resolution. Cynthia Mitchell served both as TURN's expert witness for intervenor work as well as TURN's PRG member during the development of the Phase 1 filings and CMS document. Therefore, we recognize that it is very difficult, if not impossible, to allocate the hours that Ms. Mitchell spent on the CMS between these two functions. Since we find the total number of hours TURN has allocated to this Phase 1 work to be reasonable, given the extensiveness of the document and issues addressed, we approve these hours in today's decision.

In doing so, we note that there is some duplication of hours requested for CMS work in TURN's separate pending request for compensation for its PRG participation.[30] In particular, the timesheets for Cynthia Mitchell show CMS-related work on July 14, 2005 in that document as well as in the request we are approving today. By today's decision, TURN is directed to carefully review its June 15, 2006 filing to remove these and any other duplicative hours (relative to today's authorized compensation) for Cynthia Mitchell's work that may appear in that separate request. These revisions should be filed and served on the service list in this proceeding no later than 60 days from the effective date of this decision. TURN may file these revisions separately or in conjunction with other supplemental information that may be required pursuant to the Commission's *Opinion Clarifying Required Showings for Awards of Compensation to Intervenors for their Substantial Contributions to Procurement Review Groups, Peer*

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[30] *See Request of TURN for an Award of Compensation*, June 15, 2006, in R.01-08-028, Attachments A and B.

Review Groups and Program Advisory Groups in Rulemaking 06-02-013, which is under final consideration by the Commission.[31]

5.2. Hourly Rates

We next take into consideration whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.

The hourly rates requested for Hayley Goodson for work completed in 2005-2006, for Marcel Hawiger for work completed in 2006, and Cynthia Mitchell for work completed in 2005, were previously approved by the Commission, as set forth in the following tables:

Name	Rate	Decision	Year
Hayley Goodson	$190	D.06-04-012	2005
	$195	D.07-05-018	2006
Marcel Hawiger	$280	D.06-10-018	2006
Cynthia Mitchell	$140	D.06-02-016	2005

TURN does not ask us to make any changes to the above rates. For Hayley Goodson's work in 2007, TURN asks us to apply the rate of $195 and a half of that rate ($97.50) for the intervenor compensation matters. For Cynthia Mitchell, TURN asks us to apply for the work performed in 2006 the hourly rate of $140.00. We confirm these rates.

[31] The Proposed Decision of ALJ Malcolm on this matter was issued in R.06-02-013 and also served on the service list in R.06-04-010 on Sept. 18, 2007.

5.3. Direct Expenses

The itemized direct expenses of $234.78 submitted by TURN are for electronic legal research, meals, photocopies, postage, and telephone expenses. The cost breakdown included with the request shows these expenses to be commensurate with the work performed. We find these costs reasonable. However, we do not compensate intervenors for meals, and therefore adjust this amount downwards by $25.48.

6. Overall Benefits of Participation

In D.98-04-059, the Commission adopted a requirement that a customer must demonstrate that its participation was "productive," as that term is used in Section 1801.3. (*See* D.98-04-059, pp. 31-33, and Finding of Fact 42.) In that decision, the Commission discussed the fact that participation must be productive in the sense that the costs of participation should bear a reasonable relationship to the benefits realized through such participation. Intervenors are directed to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. This exercise assists the Commission in determining the reasonableness of this request and in avoiding unproductive participation.

TURN's contributions to D.05-09-043 and D.05-11-011were directed primarily at policy matters and precise monetary benefits to ratepayers resulting from these contributions are not easily identified. However, the establishment of energy efficiency policies has a direct and lasting impact on customer rates. Resolving concerns raised by TURN in the areas of the appropriate energy efficiency policies and prudent planning practices will promote long-term rate stability, reduce risks to ratepayers and contribute to resource diversity.

The most apparent benefits from TURN's participation come from TURN's contributions to D06-12-013 where TURN's efforts resulted in SCE's budget reductions from $18 million to $14 million and, therefore, directly saved SCE's ratepayers $4 million.

We find that the costs of TURN's participation, as reflected in the Request for an Award of Compensation ($58,162.91), are reasonable in relationship to the benefits ratepayers will realize through that participation ($4 million).

7. Award

As set forth in the table below, we award TURN $57,747.43 for its substantial contribution to D.05-09-043, post-D.05-09-043 Compliance Phase, D.05-11-011, and D.06-12-013.

Name	Year	Hours	Rate	Amount
Haley Goodson	2005	107.00	$190.00	$ 20,330.00
Haley Goodson	2005	.50	$95.00	$ 47.50
Haley Goodson	2006	58.25	$195.00	$ 11,358.75
Haley Goodson	2007	21.25	$97.50	$ 2,071.88
Attorney Haley Goodson Total				**$ 33,808.13**
Marcel Hawiger	2006	1.25	$280.00	$ 350.00
Attorney Marcel Hawiger Total				**$ 350.00**
Attorney Subtotal				**$ 34,158.13**

Name	Year	Hours	Rate	Amount
Cynthia Mitchell, Energy Economics, Inc.	2005	152.5	$140.00	$21,350.00

Cynthia Mitchell, Energy Economics, Inc.	2006	14.5	$140.00	$ 2,030.00
Expert Witness Total				**$23,380.00**

Other Reasonable Costs

Item	**Amount**
Legal research (Lexis)	$ 16.95
Photocopying expenses	$ 172.00
Postage costs	$ 6.01
Telephone expenses	$ 14.34
Other Reasonable Costs Total	**$ 209.30**
Total Compensation	**$57,747.43**

Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in federal Reserve Statistical Release H.15) commencing on April 29, 2007, the 75th day after TURN filed its compensation request, and continuing until full payment of the award is made.

The ratepayers of all four companies will benefit from TURN's participation. It is therefore reasonable to assign a portion of the compensation to Pacific Gas and Electric Company, Southern California Gas Company, Southern California Edison Company, and San Diego Gas & Electric Company. The Commission has discretion on how to fairly allocate compensation between utilities. Allocation of the award could be based on various factors, including the relative size of the funds or the impact of the recommendations on the utility, among others.

Since this proceeding involves issues common to all four of the major California gas and electric utilities and TURN participated in major aspects of each utility's application, we direct all four applicants to share in the payment proportionally, based on their percentage of total retail sales of electricity (measured in California jurisdictional revenues) in 2005, the year in which the proceeding was primarily litigated.

We remind the intervenor 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. TURN's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, and any other costs for which compensation was claimed.

8. Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 14.6(c)(6) of the Commission Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

9. Assignment of the Proceeding

Dian M. Grueneich is the assigned Commissioner. David M. Gamson and Meg Gottstein are the assigned ALJs in this proceeding.

Finding of Facts

1. TURN has satisfied all the procedural requirements necessary to claim compensation in this proceeding.

2. TURN made substantial contributions to D.05-09-043, the post-D.05-09-043 Advice Letter compliance phase, D.05-11-011, and D.06-12-013, as described herein.

3. TURN requested hourly rates for its representatives that were previously approved by the Commission.

4. TURN requested related expenses that, except for meal expenses, are reasonable and commensurate with the work performed.

5. TURN's work reviewing SCE's compliance filing did not substantially contribute to the resolution of issues in the post-D.06-09-043 advice letter compliance phase because TURN did not submit any comments on SCE's compliance filing.

6. In its compensation request, TURN includes attorney time that relates directly to its subsequent Application for Rehearing, and not to D.06-12-013.

7. TURN's compensation request should be reduced by 2 hours of attorney time to reflect adjustments for work not contributing to its substantial contribution.

8. As discussed in this decision, there is some duplication of hours requested for CMS work between TURN's request for compensation as an intervenor in this proceeding and TURN's separate, pending compensation request for its PRG participation in this proceeding.

9. The Appendix to this opinion summarizes today's award.

Conclusions of Law

1. TURN has fulfilled the requirements of Pub. Util. Code §§ 1802-1812, which govern award of intervenor compensation, and is entitled to intervenor compensation for its claimed compensation incurred in making a substantial contribution to D.05-09-043, the post-D.05-09-043 advice letter compliance phase, D.05-11-011, and D.06-12-013.

2. TURN should be awarded $57,747.43 in compensation for its contributions, as described herein.

3. As discussed in this decision, TURN should revise its June 15, 2006 request for compensation to remove hours worked on the Phase 1 Case Management Statement and any other duplicative hours (relative to today's authorized compensation) for Cynthia Mitchell's work that may appear in that separate request.

4. This order should be effective today so that TURN may be compensated without further delay.

5. This proceeding is closed.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network is awarded $57,747.43 in compensation for its substantial contribution to Decision (D.) 05-09-043, the post-D.05-09-043 advice letter compliance phase, D.05-11-011, and D.06-12-013.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Gas Company, Southern California Edison Company, and San Diego Gas & Electric Company shall pay The Utility Reform Network the total award, as described herein. 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 April 29, 2007, the 75th day after the filing date of The Utility Reform Network's request for compensation, and continuing until full payment is made.

3. TURN is directed to carefully review its June 15, 2006 request for compensation to remove hours worked on the Phase 1 Case Management Statement and any other duplicative hours (relative to today's authorized compensation) for Cynthia Mitchell's work that may appear in that separate

request. TURN shall file and serve its revisions to the June 15, 2006 request for compensation no later than 60 days from the effective date of this decision. TURN may file these revisions separately or in conjunction with other supplemental information that may be required pursuant to the Commission's *Opinion Clarifying Required Showings for Awards of Compensation to Intervenors for their Substantial Contributions to Procurement Review Groups, Peer Review Groups and Program Advisory Groups* in Rulemaking 06-02-013, which is under final consideration by the Commission.

4. Application (A.) 05-06-004, A.05-06-011, A.05-06-015, and A.05-06-016 are closed.

5. This order is effective today.

Dated _____, at San Francisco, California.

Compensation Decision Summary Information

Compensation Decision:	D07_____	**Modifies Decision?** **No**
Contribution Decision(s):	D0509043, D0511011, and D0612013	
Proceeding(s):	A0506004, A0506011, A0506015, and A0506016	
Author:	Gottstein	
Payer(s):	Pacific Gas and Electric Company, Southern California Gas Company, Southern California Edison Company, San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	2/13/07	$58,162.91	$57,747.43	No	Hours were not for work that made substantial contribution; removed meals expenses.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Hayley	Goodson	Attorney	The Utility Reform Network	$190.00	2005	$190
Hayley	Goodson	Attorney	The Utility Reform Network	$195.00	2006	$195
Hayley	Goodson	Attorney	The Utility Reform Network	$97.50 (comp.)	2007	$97.50 (comp.)
Marcel	Hawiger	Attorney	The Utility Reform Network	$280.00	2006	$280
Cynthia	Mitchell	Expert	The Utility Reform Network	$140	2005	$140
Cynthia	Mitchell	Expert	The Utility Reform Network	$140	2006	$140