

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company (U39E) for Authority to Increase Electric Rates and Charges to Recover Costs Relating to California Solar Photovoltaic Manufacturing Development Facility.

Application 10-11-002
(Filed November 1, 2010)

DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-05-014

Claimant: The Utility Reform Network (TURN)	For contribution to Decision 12-05-014
Claimed (\$): \$74,673.52¹	Awarded (\$): \$75,201.82
Assigned Commissioner: Peevey	Assigned ALJ: Bemserfer

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	The Decision denies the application of Pacific Gas and Electric Company (PG&E) to invest \$9.9 million of ratepayer funds in Silicon Valley Technology Corporation (SVTC), a start-up company that proposes to build a new solar panel fabrication facility, the Photovoltaic Manufacturing and Development Facility (PV MDF), in Santa Clara County.
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¹ In the original Request, the total listed here was \$72,924.00. However, after reviewing TURN’s submitted timesheets, a mathematical error was discovered. The actual amount claimed by TURN in this proceeding is \$74,673.52. This new amount is utilized throughout this decision.

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 (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference (PHC):	December 20, 2010	Verified
2. Other Specified Date for Notice of Intent (NOI):		
3. Date NOI Filed:	January 19, 2011	Verified
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on Administrative Law Judge (ALJ) ruling issued in proceeding number:	See Comment #1	Rulemaking (R.) 11-11-008
6. Date of ALJ ruling:	See Comment #1	January 3, 2012
7. Based on another CPUC determination (specify):	See Comment #1	N/A
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of "significant financial hardship" (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	See Comment #1	R.11-11-008
10. Date of ALJ ruling:	See Comment #1	January 3, 2012
11. Based on another CPUC determination (specify):	See Comment #1	N/A
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804©):		
13. Identify Final Decision:	Decision (D.) 12-04-046	Verified
14. Date of Issuance of Final Order or Decision:	May 15, 2012	Verified
15. File date of compensation request:	July 13, 2012	Verified
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	TURN		Although The Utility Reform Network (TURN) filed a timely NOI in this proceeding, the assigned ALJ has not yet issued a ruling on the notice of intent. TURN’s showing on financial hardship and customer status was contained in that NOI. TURN has previously been found to satisfy these two standards -- for example see ALJ ruling on January 3, 2012 in R.11-11-008.
			The Commission accepts this showing on both the issue of Customer Status and Significant Financial Hardship.

PART II: SUBSTANTIAL CONTRIBUTION

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).

Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
<p>1. REASONABLENESS / REJECTION OF APPLICATION</p> <p>TURN’s primary recommendation was for the Commission to deny PG&E’s application.</p> <p><u>TURN opening brief, November 21, 2011, at 1</u></p> <p><u>Joint motion of TURN, DRA, Greenlining Institute, Marin Energy Authority, DACC and WPTF to dismiss PG&E’s application, October 5, 2011</u></p> <p><u>Opening Comments of TURN on the Alternate Decision of Commissioner Peevey, February 27, 2012</u></p>	<p><u>D.12-05-014</u></p> <p>Consistent with TURN’s primary recommendation, the Decision denies PG&E’s application. Because the Decision denies the application, it does not address the numerous conditions suggested by TURN as an alternative (in the event the Application was approved). (See Comment 1 for details on how TURN’s proposed conditions were addressed in the Peevey Alternate Decision.)</p>	<p>Verified</p>

<p>2. REASONABLENESS / NEED FOR RATEPAYER FUNDS</p> <p>TURN provided a historical review of the creation of SVTC and SVTC Solar and explained that there was no need for ratepayer funds either to secure the Department of Energy grant or to allow the enterprise to proceed. TURN demonstrated that the primary investors in SVTC are fully capable of providing additional capital to allow the project to proceed. TURN further explained that any assumed economic and environmental benefits from the project will occur regardless of whether ratepayers are the source of additional funds.</p> <p><u>TURN opening brief, November 21, 2011, at 5-11.</u></p> <p><u>TURN reply brief, December 6, 2011, at 3-5.</u></p> <p><u>Opening Comments of TURN on the Alternate Decision of Commissioner Peevey, February 27, 2012, at 1-4.</u></p> <p><u>Reply Comments of TURN on the Alternate Decision of Commissioner Peevey and the Proposed Decision of ALJ Bemserfer, March 5, 2012, at 1-3.</u></p>	<p><u>D.12-05-014</u></p> <p>The Decision agrees with TURN that ratepayer funds should not be used for this project and that private funds should be utilized instead. The Decision explains that “as all parties have pointed out in their briefs, we regularly consider whether to permit the use of ratepayer funds for activities that do not directly lower the cost or increase the reliability of utility service. We consider each such proposal on its merits and weigh the amount of public good, the cost to ratepayers, and the availability of alternative financing vehicles, among other things, in determining whether or not to authorize such investments. After weighing those various interests, we conclude that funding for this project is more appropriately sought from private sources.” (At 11.)</p>	<p>Verified</p>
<p>3. RISK / NO ASSURANCE THAT RATEPAYERS WOULD RECOVER THE INVESTMENT</p> <p>TURN argued that the investment was risky, that the</p>	<p><u>D.12-05-014</u></p> <p>The Decision finds that the economic benefits of the project are not sufficient to justify the risks to ratepayers. Specifically, the</p>	<p>Verified</p>

<p>project did not exhibit a high possibility of success, and that financial benefits were unlikely to accrue to ratepayers.</p> <p><u>TURN opening brief, November 21, 2011, at 1, 20-21.</u></p>	<p>Decision states that “the financial return to ratepayers of an investment in the PV MDF is remote and speculative.” (Finding of Fact 4.) And that “there is no reasonable assurance that ratepayers will ever recover any of the money invested in the PV MDF.” (At 8.)</p>	
<p>4. BENEFITS / NO SHOWING OF LIKELY DOMESTIC MANUFACTURING BENEFITS</p> <p>TURN questioned PG&E’s claim that the project would lead to increased manufacturing activity in California. TURN offered evidence on recent industry trends and the history of SVTC Solar to show that the bulk of the manufacturing would likely occur outside the United States.</p> <p><u>TURN opening brief, November 21, 2011, at 11-13.</u></p>	<p><u>D.12-05-014</u></p> <p>The Decision agrees that there is little likelihood that the investment would stimulate domestic manufacturing and cites TURN’s brief in support of the finding that “The relatively high cost of manufacturing solar panels in California versus other parts of the world, the projected rapid price erosion and the current uncompetitive state of the American solar panel industry taken together cast substantial doubt on the long-term viability of this project.” (At 8.)</p>	<p>Verified</p>
<p>5. BENEFITS / NO COMPELLING BENEFITS TO PG&E RATEPAYERS</p> <p>TURN argued that the project, even if successful, would not produce any unique benefits for PG&E ratepayers. TURN demonstrated that the investment returns would be below-market, that gains due to technology innovation would flow to producers rather than to consumers, and that the primary beneficiaries would be SVTC Solar and its management. To the extent that solar costs are</p>	<p><u>D.12-05-014</u></p> <p>The Decision agrees with TURN that there has been no showing that PG&E customers are likely to receive any unique benefits if the project is successful. The Decision explains “it is difficult to see how this benefit rewards the ratepayers for their investment. All customers of California-based solar panel manufacturers, whether located in PG&E’s service territory, elsewhere in California, or outside of California, would potentially benefit equally from lower prices for solar panels.” (At 9.) Based on</p>	<p>Verified</p>

<p>reduced, these benefits would provide global benefits rather than any specific benefits to PG&E ratepayers.</p> <p><u>TURN opening brief, November 21, 2011, at 13-20.</u></p>	<p>this analysis, the Decision concludes that “the benefits of a successful PV MDF flow to the public at large rather than to PG&E’s ratepayers.” (Finding of Fact #5)</p>	
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
<p>a. Was the Division of Office of Rate Payer Advocates (ORA)² a party to the proceeding?</p>	Yes	Yes
<p>b. Were there other parties to the proceeding with positions similar to yours?</p>	Yes	Yes
<p>c. If so, provide name of other parties:</p> <p>Greenlining Institute, Direct Access Customer Coalition, Marin Energy Authority, Western Power Trading Forum</p>		Verified
<p>d. Describe how you coordinated with ORA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</p> <p>From the early stages of the proceeding, TURN met repeatedly with DRA and the Greenlining Institute to identify concerns, allocate issues, and coordinate strategy. TURN, DRA and Greenlining worked together closely to identify key issues and decide which parties would take the lead on each one. TURN coordinated with these parties on discovery and in preparation for a Commission workshop.</p> <p>DRA took the lead on the legal issues presented by the application while TURN focused on the factual matters relating to the need for ratepayer funds, the expected risks and benefits to ratepayers and appropriate conditions in the event that the application was approved. TURN prepared a set of conditions on behalf of DRA, TURN and Greenlining that was circulated at the workshop. TURN also drafted a joint motion on behalf of all intervenors (including MEA, DACC, and WPTF) seeking dismissal of the application.</p> <p>Because TURN worked so closely with the other intervenors and provided unique contributions to the record, the Commission should recognize that TURN, Greenlining and DRA coordinated to produce excellent results for ratepayers</p>		Verified

² The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates effective September 26, 2013, pursuant to Senate Bill No. 96 (Budget Act of 2013), which was approved by the Governor on September 26, 2013.

<p>with a minimum of unnecessary efforts.</p> <p>The other organizations listed as parties (WPTF, MEA and DACC) did not participate actively throughout the proceeding and took a number of positions adverse to TURN and DRA (such as proposing that costs not be allocated to direct access customers). Therefore, TURN did not duplicate any efforts made by those parties.</p>	
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C. Additional Comments on Part II:

#	Claimant	CPUC	Comment
1	TURN		<p>Because the Decision rejects PG&E’s application in its entirety, a number of sub-issues raised by TURN in comments and briefs were not specifically addressed in the Decision. TURN offered a series of conditions to be applied to the project in the event that the application was approved. Since the application was denied, these conditions were not explicitly addressed in D.12-05-014.</p> <p>The nine conditions proposed by TURN are outlined in the opening and reply briefs. They include restrictions on SVTC Solar’s fee structure, solar panel discounts for PG&E, an increased equity allocation for PG&E ratepayers, a higher dividend rate for the PG&E ratepayer investment, a PG&E shareholder backstop for tax-related risks, a prohibition on PG&E seeking additional revenue to manage the investment, a prohibition on using the project for corporate image enhancement, the creation of a ratepayer committee to manage the investment, creating a deferred tax asset to cover tax-related obligations. (<i>See</i> TURN opening brief, at 1-3, 14-16, 18-19, 22-23, 24-27.) In addition, TURN requested that any approved costs be recovered from retail customers within distribution rates but using a generation-based allocation methodology (TURN reply brief, at 6-7; TURN opening comments on Peevey Alternate, at 9).</p> <p>As explained, D.12-05-014 does not address these conditions because it rejects the application. The Alternate Proposed Decision of Commissioner Peevey, which would have approved PG&E’s application, included the following conditions based on TURN’s proposals:</p> <ul style="list-style-type: none"> • Increasing the PG&E ratepayer equity share to 25% of total outstanding shares. (Ordering Paragraph 2.) • Collecting program costs via non-bypassable distribution rates using generation-based allocators (at 32-33, Ordering Paragraph 4). • Refunding any overcollection of the tax grossup in the event that state or federal tax rates are lowered for the tax year in which the revenues are collected. (At 25-26.) • Requiring PG&E to clarify that ratepayers are the source of funds for this project in any public statement (at 26).

		<ul style="list-style-type: none"> • Establishing a ratepayer committee to oversee PG&E’s investment decisions related to the shares of preferred stock PG&E will hold on behalf of ratepayers. (At 26.) • Reducing PG&E’s proposed tax gross-up by almost \$0.9 million based on TURN’s assertion that PG&E failed to take into account the deductibility of state taxes on a federal return. (At 28.) • Crediting half the project funds towards its R&D obligations under the EPIC program in 2012 and 2013. (At 30.) <p>Since the Peevey Alternate was not adopted, these conditions (which were based on TURN’s proposals) were not necessary.</p> <p>The standard for an award of intervenor compensation is whether TURN made a substantial contribution to the Commission’s decision, not whether TURN prevailed on each particular issue (<i>see</i> D.08-04-004, D.09-04-027). Therefore TURN should be fully compensated for time spent developing the evidentiary record and the many recommendations included in briefs and comments despite the fact that these recommendations were not explicitly adopted in the decision (although they were addressed in the Peevey Alternate). The Commission recently faced a similar situation in Application (A.) 09-12-002 where PG&E’s application was denied and the final decision (D.11-03-036) did not reach findings or conclusions relating to TURN’s proposed conditions that would have applied in the event that the application had been approved. The Commission subsequently awarded TURN full compensation (in D.11-09-034) for work on conditions that would have applied in the event that PG&E’s application was approved.</p> <p>The fact that TURN was successful in persuading the Commission to reject the application was the reason why the other issues raised in comments and briefs were deemed moot or left unaddressed. It would be unreasonable for the Commission to penalize TURN for its overall success in defeating the application by refusing to authorize compensation for work on conditions that would have been explicitly addressed had TURN been less successful. Given the extraordinary overall level of success obtained in this proceeding, the Commission should recognize the substantial contributions made by TURN on the entire range of issues addressed in testimony and briefs.</p>
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>a. Concise explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation:</p> <p>As demonstrated in the substantial contribution section, the Commission rejected PG&E’s application and denied the request to collect \$17.8 million for purposes of investing in SVTC Solar. The rejection was due, in large part, to the concerns raised by TURN. TURN was able to persuade the Commission that PG&E’s proposal was fraught with financial risks for ratepayers, provided inadequate returns, was unnecessary and would not be reasonable.</p> <p>TURN’s success in this proceeding has near-term and long-term ratepayer benefits. The near-term benefit is avoiding the collection of \$17.8 million from ratepayers in the next several years. The long-term benefits include a strong message to the utilities that expenditures reaching beyond the core competency of a utility will be subject to intense scrutiny and must present compelling benefits.</p> <p>Given the ratepayer savings, the amount requested in compensation is fully reasonable and should be awarded.</p>	<p style="text-align: center;">CPUC Verified</p> <hr/> <p style="text-align: center;">Verified</p>
<p>b. Reasonableness of Hours Claimed.</p> <p>Given the level of success achieved by TURN in this proceeding, the amount of time devoted by staff and consultants is fully reasonable. In considering the reasonableness of the request, the Commission should be mindful that the scope of the proceeding, and the associated work obligations, evolved over time since there was a multi-month suspension when PG&E was forced to file an amended application.</p> <p>TURN relied primarily on two individuals – Matthew Freedman and Garrick Jones of JBS Energy. Mr. Jones did most of the primary research, drafting of data requests, data analysis, and reviewing of the significant quantity of data response source documents provided by PG&E. Mr. Jones also worked with Bill Marcus to review the tax calculations and develop alternative tax structures for the proposed investment.</p> <p>Mr. Jones devoted significant time to drafting and reviewing data requests because the assigned ALJ and Commissioner determined, with the assent of PG&E and TURN, that no evidentiary hearings were needed. As a result, TURN focused its efforts on discovery as a method for obtaining evidence and developing its position. In addition, independent research was necessary to understand the history of SVTC Solar, the resources</p>	<p style="text-align: center;">Verified</p>

<p>available to its investors and relevant Commission precedents for R&D spending proposals. Mr. Jones also appeared at the Commission-sponsored workshop (and presented on tax and rate of return issues) and provided Mr. Freedman with draft outlines for briefs and comments.</p> <p>TURN's sole attorney was Matthew Freedman. Mr. Freedman represented TURN in appearances at the Commission, supervised Mr. Jones, helped to draft and edit data requests, presented at the workshop and ex-parte meetings, drafted briefs and other pleadings, coordinated with other intervenors, and developed the overall case strategy.</p> <p>Given the complexity of the deal structure and the fact that the other intervenors (DRA, Greenlining, WPTF, DACC, MEA) relied upon TURN to take the lead on analyzing the risks and benefits of the proposal, the time devoted to each task was reasonable in light of the issues presented.</p> <p>The Commission should find that the number of hours claimed is fully reasonable in light of the complexity of the issues and TURN's relative success on the merits.</p>	
<p>c. Allocation of Hours by Issue</p> <p>TURN has allocated all of our attorney and consultant time by issue area or activity, as evident on our attached timesheets. The following codes relate to specific substantive issue and activity areas addressed by TURN. TURN also provides an approximate breakdown of the number of hours spent on each task and the percentage of total hours devoted to each category.</p> <p>GP - 42.5 hours - 13% of total</p> <p>General Participation work essential to participation that typically spans multiple issues and/or would not vary with the number of issues that TURN addresses. This can include reading the initial application, Commission rulings, participating in prehearing conferences, attendance at all-party meetings, review of Non Disclosure Agreements, reviewing responses to data requests submitted by other parties, participation in hearings that are not specific to one topic, and reviewing pleadings submitted by other parties.</p> <p>Tax - 44.75 hours - 13% of total</p> <p>Includes work performed reviewing tax treatment of the proposed investment, corrections to PG&E miscalculations, options for reducing the tax burden on ratepayers and proposals for creating a deferred tax asset.</p>	

<p>Risks - 58.75 hours - 18% of total</p> <p>Includes work on the potential losses to ratepayers in the event that the project fails, or the loss in real value associated with timing delays, dividend yields and discount rates. Also includes work on possible liquidation/conversion scenarios, sales, and other strategies for minimizing ratepayer benefits. Time spent on some conditions to mitigate risk is included in this issue area.</p> <p>Benefits - 85 hours - 25% of total</p> <p>Includes work estimating possible benefits to ratepayers from the transaction, critiquing PG&E's assumptions, and offering conditions that could increase net ratepayer benefits.</p> <p>Reasonableness - 103 hours - 31% of total</p> <p>Work on whether PG&E ratepayer funds are needed to allow the project to succeed. Includes review of DOE grant, SVTC owners, history of SVTC Solar, availability of outside capital, and review of other collaborative ventures. Also includes appropriateness of classifying this project as an R&D expenditure.</p> <p>Comp - 11.00 hours</p> <p>Time spent on the notice of intent to claim compensation and the preparation of this compensation request.</p> <p>-----</p> <p>In addition, TURN uses the following codes for work performed on multiple issues:</p> <p>DR</p> <p>Time spent on preparing and reviewing data requests on diverse issues. Time devoted to data requests should be assigned to the other subject categories as follows - 25% risks, 25% benefits, 10% tax, and 40% reasonableness.</p> <p>%</p> <p>Time devoted to multiple issues by Garrick Jones at JBS Energy. Hours for this entry should be assigned to the other categories as follows - 25% risks, 25% benefits, 10% tax and 40% reasonableness</p> <p>#</p> <p>Time devoted to multiple issues by Matthew Freedman. Hours for this entry should be assigned to the other categories as follows - 25% risks, 20% benefits, 5% tax and 50% reasonableness</p>	
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B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Matthew Freedman	2010	12.25	\$325	D.10-09-044	\$3,981.25	12.25	\$325	\$3,981.25
Matthew Freedman	2011	64.25	\$350	D.12-07-019	\$22,487.50	64.25	\$350	\$22,487.50
Matthew Freedman	2012	43.25	\$350	D.12-07-019	\$15,137.50	43.25	\$360 ³	\$15,570.00
William Marcus	2011	2.25	\$250	D.11-09-036	\$562.50	2.25	\$250	\$562.50
William Marcus	2012	4.58	\$250	D.11-09-036	\$1,145.00	4.58	\$260 ⁴	\$1,190.80
Garrick Jones	2011	185.52	\$140	D.12-03-024	\$25,972.80	185.52	\$140	\$25,972.80
Garrick Jones	2012	21.95	\$150	See Comment #2	\$3,292.50	21.95	\$150 ⁵	\$3,292.50
<i>Subtotal:</i>					\$72,579.05	<i>Subtotal:</i>		\$73,057.35
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
[Person 1]			\$					
[Person 2]								
<i>Subtotal:</i>					\$0.00	<i>Subtotal:</i>		\$0.00
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Matthew Freedman	2011	1	\$175	D.12-07-019 (@50%)	\$175.00	1	\$175	\$175.00
Matthew Freedman	2012	10	\$175	D.12-07-019 (@50%)	\$1,750.00	10	\$180	\$1,800.00

³ Approved in D.13-02-032.

⁴ Approved in D.13-09-022.

⁵ Approved in D.13-08-022.

		<i>Subtotal:</i>	\$1,925.00	<i>Subtotal:</i>	\$1,975.00
COSTS					
#	Item	Detail	Amount	Amount	
1	Photocopies	Copies for filings and other proceeding documents	\$106.40		\$106.40
2	Lexis-Nexis	Research on SVTC Solar and parent companies	\$31.50		\$31.50
3	Postage	Mailing costs for pleadings	\$31.57		\$31.57
		<i>Subtotal:</i>	\$169.47	<i>Subtotal:</i>	\$169.47
		TOTAL REQUEST \$:	\$74,673.52	TOTAL AWARD \$:	\$75,201.82
<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 ⁶	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation		
Matthew Freedman	March 29, 2001	214812	No.		

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service - filed and served as a separate document pursuant to Rule 1.10(c)
2	Hours by Attorney and Consultant
3	Itemization of Expenses
4	<p>Hourly rate for Garrick Jones, JBS Energy</p> <p>For work performed in 2012 by Garrick Jones of JBS Energy, TURN seeks an hourly rate of \$150. JBS Energy began charging this rate for Mr. Jones's work as of January 1, 2012. The Commission has previously adopted a \$140 rate for his work since July 1, 2010, the last time JBS Energy revised the rate charged for his work. TURN seeks the increase because it reflects the market rate that JBS Energy</p>

⁶ This information may be obtained at: <http://www.calbar.ca.gov/>.

	<p>charges all of its clients for work Mr. Jones performs in 2012, and because in the Commission's current framework for setting hourly rates for intervenor compensation purposes Mr. Jones should be viewed as having moved to the next experience level.⁷</p> <p>Mr. Jones received his B.S. in Environmental and Resource Science from the University of California, Davis, in 1998. He also holds an M.S. degree in Agriculture & Resource Economics, from UC Davis (2006). Mr. Jones joined JBS Energy in June 2007. In recent year he has earned substantial responsibilities for preparation and sponsorship of testimony as an expert witness on behalf of TURN regarding electric distribution operations and maintenance and capital spending issues in the recent Sempra Phase I (A.10-12-005/6) and the Southern California Edison GRC Phase I (A.10-11-015) and PG&E 2011 GRC Phase I (A.09- 12-020) and Marginal Cost issues in Phase II of Southern California Edison's 2012 GRC (A.11-06-007). Additionally, Mr. Jones has prepared testimony regarding executive compensation issues on behalf of the Nevada Bureau of Consumer Protection in the 2009 GRC for Southwest Gas Corporation (Nevada Docket No. 09- 04003). He has provided major and substantive analytical and testimony drafting support on numerous utility regulatory cases across a diverse array of jurisdictions, including Arkansas, California, Nevada, Texas, and Washington.</p> <p>Before coming to JBS Energy in 2007, Mr. Jones analyzed the effects of electrified transit projects on statewide and regional electricity infrastructure as well as on the overall transportation energy budgets in the relevant service areas. Mr. Jones performed similar analyses for residential housing projects. Representative clients for these studies include the California High-Speed Rail Authority, the San Francisco Bay Area Rapid Transit District, the Orange County Transportation Authority, and the City of Orange, California, among others. As well, Mr. Jones performed project-level analyses of air quality impacts and prepared text for a variety of project-related issues, including public utilities and services, hydrology and water quality, and noise pollution.</p> <p>As noted earlier, Mr. Jones joined JBS Energy in June 2007. Thus, as of the start of 2012, he had 4.5 years of experience with JBS. Mr. Jones also had three years' experience of analysis with a focus on environmental impact assessment and reporting that, while not identical to the work he performs on behalf of TURN in CPUC proceedings, is very analogous in terms of the required analytical and advocacy skills and resulting written and oral work product.</p>
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⁷ The Commission has not yet adopted hourly rate principles for intervenor compensation purposes for work performed in 2012. However, Draft Resolution ALJ-281 is pending as of the date this request is filed, and will likely issue before the Commission acts on this request. The Draft Resolution suggests that the Commission is likely to retain the existing practice of providing an opportunity to seek a rate increase for an attorney or expert witness whose experience would move him or her into a different "range" for purposes of intervenor compensation. (Draft Resolution ALJ-281, at 7.)

Even when the Commission has adopted no cost of living increase for intervenor hourly rates, it has permitted rate increases where an attorney or expert witness has gained sufficient experience to move into a different range. In 2012 Mr. Jones has more than seven years of relevant experience (4.5 years experience with JBS Energy, plus three years of relevant prior experience). Thus his experience now fits in the next higher experience band in the Commission's range (7-12 years, with an hourly rate range of \$155-270 adopted in 2008 and maintained for 2009, 2010 and 2011).⁸ As is not unusual for the rates JBS Energy has over the years charged for each of its firm members, the \$150 rate for work performed in 2012 is below the low end of the scale for experts with similar training and experience, even though the Commission last changed the scale in 2008 (D.08-04-010).

The Commission should also approve the \$150 rate for work performed after January 1, 2012 because it is the market rate that JBS Energy charges each of its clients for work performed by Mr. Jones. If the Commission were to approve a lower rate for his work during that period, there would be a shortfall between the amount JBS invoiced for Mr. Jones's work and the amount awarded for that work. To the extent TURN shares that shortfall with JBS, it creates an incentive that the Commission should strive to avoid, that is, to indicate to JBS that in order to appear in Commission proceedings on behalf of TURN it must accept an hourly rate less than the rate that its other clients pay. At some point JBS Energy can reasonably be expected to respond to this incentive and devote less time to Commission proceedings in favor of more time devoted to work at its usual hourly rates.

To the extent TURN absorbs the shortfall, the Commission is signaling its expectation that TURN could obtain the same quality of expert witness services from another firm as it gets from JBS through the work Mr. Jones performs for TURN, and at an even lower rate than the \$150 JBS began charging on January 1, 2012. TURN submits that this is just not true. In very short order Mr. Jones has attained a level of facility and comfort with energy utility analysis such that he has already sponsored substantial testimony on a variety of issues related to electric distribution in recent GRCs and served as a lead witness for TURN in the PG&E Smart Grid Pilot Project proceeding (A.11-11-017). The Commission has long recognized that JBS Energy is a unique and valued resource because the firm consistently provides first-rate analysis at cut-rate prices. This is so for Mr. Jones's work even at a \$150 hourly rate. TURN submits that the likely outcome of switching to a different firm is that we could at best hope to obtain the same quality of service at a somewhat higher price. The irony is that TURN might have an easier time establishing the reasonableness of the higher rate for a new consultant than we would trying to obtain the same rate for an existing consultant with identical qualifications and experience.

⁸ Even if his pre-JBS experience is discounted to zero, Mr. Jones's 4.5 years with the firm would justify a rate above \$155, the mid-point of the 0-6 year experience range (\$125-185).

	TURN submits that this information is more than sufficient for the Commission to grant the requested increase to Mr. Jones's hourly rate. However, should the Commission disagree and believe that it needs more information to support the request, TURN asks that we be given an opportunity to provide additional information before a draft decision issues on this compensation request.
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D. CPUC Disallowances & Adjustments:

#	Reason
1. Higher Award Amount.	This Decision awards more to TURN than initially claimed. This is due to 2013 decisions that adopted higher hourly rates for Freedman, Marcus, and Jones.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the Claim?	No
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B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6))?	Yes
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FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to Decision 12-05-014.
2. The requested hourly rates for The Utility Reform Network's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$75,201.82.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$75,201.82.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay The Utility Reform Network the total award. Payment of the award shall include interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning September 26, 2012, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1205014		
Proceeding(s):	A1011002		
Author:	ALJ Bemesderfer		
Payer(s):	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	7/13/12	\$74,673.52	\$75,201.82	No	2013 Decisions adopting higher hourly rates.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Matthew	Freedman	Attorney	TURN	\$325	2010	\$325
Matthew	Freedman	Attorney	TURN	\$350	2011	\$350
Matthew	Freedman	Attorney	TURN	\$350	2012	\$360
William	Marcus	Expert	TURN	\$250	2011	\$250
William	Marcus	Expert	TURN	\$250	2012	\$260
Garrick	Jones	Economist	TURN	\$140	2011	\$140
Garrick	Jones	Economist	TURN	\$150	2012	\$150

(END OF APPENDIX)