

Decision \_\_\_\_\_

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

Application of Pacific Gas and Electric Company (U39M), San Diego Gas & Electric Company (U902E), and Southern California Edison Company (U338E) for Authority to Increase Electric Rates and Charges to Recover Costs of Research and Development Agreement with Lawrence Livermore National Laboratory for 21st Century Energy Systems

Application 11-07-008  
(Filed July 18, 2011)

**DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK  
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 12-12-031**

<b>Claimant: The Utility Reform Network (TURN)</b>	<b>For contribution to Decision (D.) 12-12-031</b>
<b>Claimed (\$): 184,066.05</b>	<b>Awarded (\$): 129,684.95 (reduced 29.5%)</b>
<b>Assigned Commissioner: Michael R. Peevey</b>	<b>Assigned ALJ: Timothy J. Sullivan</b>

**PART I: PROCEDURAL ISSUES:**

- A. Brief Description of Decision:** D.12-12-031 authorized Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company's (SDG&E) to enter into a five-year research and development agreement with Lawrence Livermore National Laboratories (LLNL). The three utilities were authorized to spend up to \$30 million per year for five years, with the spending restricted to the four areas identified in their testimony. The Commission further adopted specific criteria that the Cooperative Research and Development Agreement (CRADA) and any proposed research projects would have to satisfy, and rejected the proposed governance structure in favor of a process that includes Commission review and approval of research proposals and projects. The proceeding involved was Application (A.) 11-07-008.

**PROPOSED DECISION (Rev. 1)****B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	Claimant	CPUC Verified
<b>Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	September 19, 2011	Correct
2. Other Specified Date for NOI:	N/A	N/A
3. Date NOI Filed:	October 18, 2011	Correct
4. Was the NOI timely filed?		Yes
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	See Comment #1	Rulemaking (R.) 11-11-008
6. Date of ALJ ruling:	See Comment #1	January 03, 2012
7. Based on another CPUC determination (specify):	See Comment #1	N/A
8. Has the Claimant demonstrated customer or customer-related status?		Yes
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	Petition (P.) 10-08-016	Correct <sup>1</sup>
10. Date of ALJ ruling:	November 22, 2010	Correct
11. Based on another CPUC determination (specify):		See Comment #1
12. Has the Claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision:	D.12-12-031	Correct
14. Date of Issuance of Final Order or Decision:	December 28, 2012	Correct
15. File date of compensation request:	February 14, 2013	Correct
16. Was the request for compensation timely?		Yes

**C. Additional Comments on Part I:**

#	Claimant	CPUC	Comment
1	X		TURN understands that the ALJ Division has adopted a practice of only issuing a formal ruling on an intervenor’s notice of intent if the intervenor is seeking to demonstrate significant financial hardship, rather than relying on the rebuttable presumption created by an earlier finding of hardship. TURN’s showing on financial hardship (relying on the rebuttable presumption) and customer status was contained in our 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.

<sup>1</sup> Showing of “significant financial hardship” in comment relies on ruling from R.11-11-008, January 02, 2012. Notice of Intent to File utilizes P.10-08-016.

2		X	<p>The Commission has reviewed TURN’s revised bylaws submitted to the Commission on October 28, 1996. Section III states that TURN is organized to “train consumer law advocates...engaged in scientific research on the operations of administrative agencies...publish research...represent the interest of consumers in administrative and judicial decision making process(es) regarding public utility matters...” The Commission upholds past proceedings finding TURN eligible under Pub. Util. Code § 1802(b). We remind TURN that it must provide a copy of its bylaws or articles of incorporation, or cite to a formal proceeding in which these documents have been previously submitted. Since TURN has provided the Commission with a copy of this information, no further copies are required, unless TURN amends such bylaws or articles of incorporation in the future. Thus, TURN is eligible to seek intervenor compensation in this proceeding having the requisite showing of customer or customer-related status.</p>
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**PART II: SUBSTANTIAL CONTRIBUTION**

**A. Claimant’s description of the contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059).**

<b>Contribution</b>	<b>Specific References to Claimant’s Presentations and to Decision</b>	<b>Showing Accepted by CPUC</b>
<p>TURN’s substantial contributions in this proceeding largely fall into one of two overriding categories. The first covers much of our work during the first six months after the application was filed. During this period, there was ongoing substantial effort aimed at obtaining sufficient detail about the Joint Utilities’ proposal to meaningfully assess its merits. Through ongoing discovery efforts and more formal requests for additional description and detail about the proposal, the Joint Utilities’ proposal evolved from the testimony-free application originally submitted to an application supported by two direct and supplemental testimonies. The second category covers the work in the proceeding once the utilities had presented sufficient detail that TURN could sufficiently understand and comment upon the actual proposal. This period includes the usual efforts associated with a utility application accompanied by sufficient supporting testimony; further discovery, testimony drafting, hearings, briefing, and comments on a proposed decision.</p> <p>In D.12-12-051, the adopted outcomes generally reflect TURN’s substantial contribution, even though on most</p>		<p>Yes, subject to Disallowances.</p>

<p>issues the Commission did not adopt TURN’s recommended outcome. The governance structure the utilities proposed would have required no further Commission approval of the CRADA or of any specific project pursued as part of the CES-21 program; the final decision requires ongoing Commission review and approval of these elements. The fact that such review will occur and the structure of that review (a Tier 3 rather than a Tier 1 advice letter) are indicators of TURN’s substantial contribution even though TURN’s overall recommendation was a denial of the application. Therefore the Commission should have no trouble determining that TURN’s substantial contribution on the wide array of issues addressed in this GRC warrants the requested award of compensation.</p>		
<p><b>1. Need for greater detail than provided in initial application</b> – TURN’s protest raised concerns about the lack of detail in the utilities’ request. In particular, TURN focused on the lack of demonstration of near-term and quantifiable ratepayer benefits, and the lack of sufficient detail to determine whether the efforts supported by the application would supplement, rather than duplicate existing efforts already funded in rates.</p> <p>Administrative Law Judge (ALJ) Sullivan agreed that the application lacked sufficient detail and directed the utilities to serve an amended application that contained prepared testimony supporting the application.</p>	<p>TURN Protest at 1-3.</p> <p>Transcript of September 19, 2011 transcript at 13-15, 48; Scoping Ruling at 5.</p>	<p>Yes</p>
<p><b>2. Need for greater detail than that provided in utilities’ direct testimony</b> -- After the utilities served their “amended application” with supporting testimony, TURN served a motion to dismiss the application. TURN’s motion focused on three areas: the failure to identify particular projects for funding, instead relying on the proposed governing board to decide the projects for funding; the failure to explain why the utilities selected LLNL rather than other research institutions that could provide the same or similar services; and the reasons for bypassing the GRC process, where R&amp;D funding requests are usually considered.</p> <p>The ALJ denied TURN’s motion to dismiss, but with conditions that required the utilities to provide additional testimony addressing some of the deficiencies cited in TURN’s motion. The ruling sought further testimony on the governance structure, including a description of the</p>	<p>TURN Motion to Dismiss, November 7, 2011.</p> <p>ALJ Ruling January 17, 2012 at 7-10.</p>	<p>Yes</p>

<p>process by which the board would select and fund specific research proposals, and the manner by which the project would acquire existing expertise that is currently found outside LLNL. While the ALJ originally described the utilities' initial showing on these matters as appropriate for rebuttal testimony, he subsequently directed that the testimony be submitted as supplemental testimony due before the due date for intervenors' testimony.</p>	<p>ALJ Ruling January 26, 2012.</p>	
<p><b>3. Need for CPCU Review and Approval of CRADA:</b> TURN's testimony criticized the failure of the proponents of CES-21 to present a final or even a draft CRADA for the Commission's review. TURN's briefs renewed these criticisms, and pointed to hearing testimony making clear that the utilities did not intend for the Commission to have final approval over the terms of the CRADA.</p> <p>In D.12-12-031, the Commission required presentation and review of the CRADA through a Tier 3 advice filing.</p>	<p>TURN Testimony at 12-14</p> <p>TURN Opening Brief at 10-11; 24-25.</p> <p>D.12-12-031 at 39, 50, Finding of Fact 36 and 54, Conclusion of Law (COL) 12.</p>	<p>Yes, with deductions. <i>See</i> Section D. "CPUC Disallowances &amp; Adjustments"</p>
<p><b>4. Failure to Present Specific Projects for CPUC Review:</b> TURN's testimony and briefs criticized the failure of the proponents of CES-21 to present or propose any actual projects, and the inappropriate delegation of authority that would result under the proponents' proposal to have an independent Board of Directors make all decisions regarding actual CES-21 projects.</p> <p>In D.12-12-031, the Commission required presentation and review of proposed projects through a Tier 3 advice filing.</p>	<p>TURN Testimony at 5, 18.</p> <p>TURN Opening Brief at 10-11.</p> <p>D.12-12-031 at 62-64, Finding of Fact 36 and 54, COL 14.</p>	<p>Yes, with deductions. <i>See</i> Section D. "CPUC Disallowances &amp; Adjustments"</p>
<p><b>5. Failure to Demonstrate Cost-Effectiveness of Projects:</b> TURN's testimony and briefs criticized the failure of the CES-21 proponents to demonstrate the cost-effectiveness of the projects that would be funded through the program.</p> <p>In D.12-12-031, the Commission required that each project proposal include a "positive business case" that, among other things, assesses the project's benefits and costs.</p>	<p>TURN Testimony at 9-12.</p> <p>TURN Opening Brief at 11-13.</p> <p>D.12-12-031 at 59-62, Finding of Fact 33, Ordering Paragraph 12(c).</p>	<p>No</p>
<p><b>6. Governance Structure – Undue and Inappropriate Reliance On an Independent Board Rather Than Ongoing CPUC Oversight</b></p> <p>TURN's testimony and briefs criticized the CES-21 proposal for its reliance on an independent board of directors, a majority of whom would represent the</p>	<p>TURN Testimony at 18.</p> <p>TURN Opening Brief at 17-24.</p> <p>TURN Reply Brief at 17-21.</p>	<p>Yes</p>

<p>utilities, to negotiate and approve the CRADA and then to review and approve specific project proposals.</p> <p>The decision adopted an advice letter review process and, in doing so, avoided inappropriately delegating to an external entity the authority to approve either the terms of the CRADA or the portfolio of research projects.</p>	<p>D.12-12-031 at 39, Finding of Fact 37, Ordering Paragraph 8-12, 14.</p>	
<p><b>7. Reliance on Tier 3 Advice Letters Rather Than Tier 1 Advice Letters:</b></p> <p>The Proposed Decision sought to treat the review of the CRADA and proposed projects for CES-21 funding as ministerial matters for which staff review would be sufficient, so that the utilities could merely submit Tier 1 advice letters.</p> <p>TURN’s Comments on the Proposed Decision argued that the review anticipated in the Proposed Decision required at least a Tier 3 advice letter, as consideration of matters such as the terms and conditions of a CRADA or the costs and benefits of a proposed project were not the “ministerial” matters for which Tier 1 review can be appropriate.</p> <p>The final decision replaced the Tier 1 advice letters with Tier 3 advice letters.</p>	<p>Proposed Decision, Findings of Fact 35 and 52, COL.</p> <p>TURN Opening Comments, at 10-13.</p> <p>D.12-12-031, Findings of Fact 35-37 and 54, COL 12, Ordering Paragraphs 8 and 9.</p>	<p>Yes</p>
<p><b>8. Cost Allocation for Rate Recovery:</b></p> <p>TURN’s testimony and briefs recommended that if the Commission permitted any rate recovery of costs associated with the CES-21 proposal, the costs should be allocated among customer classes based on generation revenue requirements, or on an equal-cents-per-unit basis. The utilities partially agreed with this recommendation – to the extent a project was generation-related in nature, a generation-based allocation factor should be used, even as the cost recovery is achieved through distribution rates.</p> <p>The Proposed Decision failed to address this proposal, instead adopting the original distribution-based allocation method proposed in the utility’s direct testimony. TURN’s comments identified this error. The final decision was modified to adopt an outcome generally consistent with TURN’s recommendation.</p>	<p>TURN Testimony at 25-27.</p> <p>Joint Utilities Opening Brief at 45.</p> <p>TURN Opening Comments at 13-14.</p> <p>D.12-12-031 at 80-81, Findings of Fact 50, 52-53.</p>	<p>Yes</p>

<p><b>9. Conclusion on Substantial Contribution:</b> A typical TURN request for intervenor compensation cites a number of substantial contributions that appear on the face of the Commission decision addressing the merits of the underlying proceeding. In this proceeding TURN did not achieve its ultimate objective – denial of the Joint Utilities’ request for ratepayer funding for the CES-21 Project. However, it is equally clear that TURN’s showing in opposition to the utility’s request played an important role in the Commission’s decision-making process.</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 a particular issue. For example, the Commission recognized that it “may benefit from an intervenor’s participation even where the Commission did not adopt any of the intervenor’s positions or recommendations.” D.08-04-004 (in the review of SCE’s contract with Long Beach Generation, A.06-11-007), at 5-6. In that case TURN’s opposition focused on the need for the generation resource and its cost-effectiveness. The Commission stated, “The opposition presented by TURN and other intervenors gave us important information regarding all issues that needed to be considered in deciding whether to approve SCE’s application. As a result, we were able to fully consider the consequences of adopting or rejecting the LBG PPA. Our ability to thoroughly analyze and consider all aspects of the proposed PPA would not have been possible without TURN’s participation.” <i>Id.</i>, at 6. On this basis the Commission found that TURN had made a substantial contribution even though its positions had not been adopted, and awarded TURN intervenor compensation for all of the reasonable hours devoted to the proceeding.</p> <p>The Commission reached a similar conclusion in D.09-04-027, awarding intervenor compensation for TURN’s efforts in the SCE AMI proceeding (A.07-07-026). There the Commission found TURN to have made a substantial contribution even on issues where TURN did not prevail, as TURN’s efforts “contributed to the inclusion of these issues in the Commission’s deliberation” and caused the Commission to “add more discussion on the issue, in part to address TURN’s comments.” D.09-04-027 at 4.</p> <p>Similarly, in D.10-06-046 the Commission awarded TURN very nearly the full amount requested for its work</p>		<p>Yes; See Section D. “CPUC Disallowances &amp; Adjustments”</p>
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<p>in SCE’s application seeking ratepayer funding of a carbon sequestration feasibility study, even though TURN opposed such ratepayer funding. In that proceeding, TURN arguably only prevailed on one of the many issues addressed in D.09-12-014, the decision approving the feasibility study funding. In some cases the Commission considered TURN’s arguments and concluded in favor of the utility, while in others the Commission did not address TURN’s arguments because it deemed them moot due to the outcome adopted on other issues. Even though the overall outcome did not embrace TURN’s overall recommendation, the compensation award found that TURN’s efforts constituted a substantial contribution, even commenting, “TURN substantially helped the decision making in this proceeding.” D.10-06-046 at 5.</p> <p>TURN submits that a similar outcome is warranted here. As described above, TURN clearly made a substantial contribution on an array of issues in the proceeding, even though the ultimate outcome adopted was contrary to TURN’s overall recommendation. Consistent with these other decisions, the Commission should still find that TURN made a substantial contribution warranting an award of intervenor compensation for its work in this proceeding.</p>		
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was the Office of Ratepayer Advocates (ORA)<sup>2</sup> a party to the proceeding?</b>	<b>Y</b>	<b>Verified</b>
<b>b. Were there other parties to the proceeding with positions similar to yours?</b>	<b>N</b>	<b>Verified</b>
<p><b>c. If so, provide name of other parties:</b> TURN and ORA were the only active parties other than the utilities.</p>		<b>Verified</b>
<p><b>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:</b>  TURN worked very closely with DRA throughout this proceeding to coordinate our efforts in order to minimize duplication and to ensure that where such duplication occurs TURN’s pleadings and testimony presented distinct and unique arguments in support of the common</p>		<b>Verified</b>

<sup>2</sup> 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>or overlapping recommendations. As a result, the Commission ended up with a more robust record upon which to evaluate the issue at hand. The Commission should find that TURN's participation was efficiently coordinated with DRA so as to avoid undue duplication and to ensure that any such duplication served to supplement, complement, or contribute to the showing of the other intervenor.</p>	
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**C. Additional Comments on Part II:**

#	Claimant	CPUC	Comment
		#3	Reduction for lack of proposed solutions. Although TURN pointed out valid problems regarding the CRADA, it proposed no measures the utilities could take to solve any such issues. For example, the Decision requires presentation and review of the CRADA through a Tier 3 Advice Letter. Mere criticisms without procedural recommendations are not as useful.
		#4	The flexibility required in order to conduct effective research hinders the ability of the utilities and LLNL to propose specific projects at this juncture.
		#5	TURN's proposed cost-benefit analysis would have imposed an impractical burden on the utilities. Given the research program's range of potential projects, it would have been difficult for the utilities to present a cost-benefit analysis for all potential future projects or to discuss all the foreseeable benefits and costs without knowing the actual projects at hand. An individual project by project analysis is much more suitable for this project. The Commission finds TURN did not substantially contribute to the decision on this point.
		#9	The Commission finds that TURN made a substantial contribution to the case overall. However, not all of TURN's claimed work is compensable Previous Commission decisions have allowed for reductions in compensation based on lack of substantial contribution on singular issues. ( <i>See</i> D. 08-05-033, at 7.)

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<p><b>a. Explanation by Claimant of how the cost of Claimant's participation bore a reasonable relationship with benefits realized through participation:</b></p> <p>TURN's request for intervenor compensation seeks an award of approximately \$184,000 as the reasonable cost of our participation in the proceeding.</p> <p>In this case TURN is unable to point to any amount of savings, given the fact that the Commission approved the request for ratepayer funding of the CES-21 project. However, approximately \$150 million of ratepayer funding was at stake here, and TURN's participation in this proceeding served to advance the consumer interest in making sure any funds spent on this project are well spent and achieve the greatest potential ratepayer benefit. As described more fully in the section on TURN's substantial contribution, our participation contributed to the greater ongoing Commission oversight of the overall arrangement between the utilities and LLNL, and the specific projects proposed for ratepayer funding. In addition, the decision's recognition that a generation-based cost allocation</p>	<p style="text-align: center;"><b>CPUC Verified</b></p> <hr/> <p style="text-align: center;">Verified</p>
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<p>methodology may be appropriate for generation-related projects will ensure the amounts collected from residential and small commercial customers are lower than they would have been under the distribution-based allocator proposed by the utilities for all project costs. If 10% of the total \$150 million is spent on generation-related projects subject to this different allocation, the savings to residential and small commercial customers is likely to be substantially greater than the costs of TURN’s participation.</p> <p>In sum, the Commission should conclude that TURN’s overall request is reasonable in light of the substantial benefits to the utilities’ ratepayers that were directly attributable to TURN’s participation in the case.</p>	
<p><b>b. Reasonableness of Hours Claimed</b></p> <p>TURN’s attorneys recorded a substantial number of hours for their work on this application, consistent with the time devoted to review of the Joint Utilities’ showing, preparation of discovery and procedural pleadings, development of the testimony positions and arguments, very active participation in evidentiary hearings, and preparation of comprehensive briefs. Since most of the issues raised were more of a policy nature, TURN relied more heavily on its staff attorneys than on outside consultants. As a result, only a relatively small number of hours are included for outside consultant work, and those hours were largely devoted to analysis of the cost allocation issues. The Commission should have little trouble concluding that the amount requested is reasonable under the circumstances.</p> <p>The Joint Utilities submitted an application in July 2011 without supporting testimony, and sought approval of the application without evidentiary hearings. Application at 3-4. As the proceeding went forward, the utilities were required to submit direct testimony and then supplemental testimony (totaling approximately 50 pages of text, plus attachments) to better explain and provide support for their proposal. In response to testimony from TURN and DRA identifying and addressing a range of issues and concerns, the utilities then served an additional 45 pages of rebuttal testimony in support of their proposal. The subsequent evidentiary hearings produced further testimony, and the resulting opening and reply briefs addressed an array of policy and legal issues. The final Commission decision has 80 pages of text before reaching the findings and conclusion section, and relies on 60+ findings of fact and 17 conclusions of law to support the nearly 20 ordering paragraphs. In short, the CES-21 project proved to be a proposal warranting far more extensive discussion and review than the utilities seemed to think it was upon its first presentation for Commission consideration.</p> <p><u>TURN Attorneys:</u></p> <p>TURN had three attorneys working on this proceeding at various times in various roles. During the first six months of the proceeding, Marybelle Ang served as the lead attorney, with Robert Finkelstein and then Thomas Long supervising Ms. Ang’s work. (Mr. Long joined TURN’s staff as Legal Director on approximately September 1, 2011, the day before TURN’s first pleading was filed and served in this proceeding.) Ms. Ang bore primary responsibility for TURN’s initial protest, preparation for and participation in the prehearing conference,</p>	<p><i>See Section D. “CPUC Disallowances &amp; Adjustments”</i></p>

preparation of the motion to dismiss filed in November 2011, and discovery matters. The Commission should find reasonable the approximately 64 hours (the rough equivalent of 1.5 weeks) included in this request for her work during this six-month period.

Mr. Finkelstein assumed the lead attorney role for TURN when Ms. Ang went on parental leave. In this role he assisted in the development and drafting of TURN's testimony, ongoing discovery-related work, and procedural matters leading up to the evidentiary hearings. He also served as TURN's attorney during the hearings, and researching and drafting TURN's briefs and comments on the proposed decision. He also bore primary responsibility for TURN's work on the motion to recuse President Peevey. TURN has included approximately 200 hours (the rough equivalent of five weeks) for his work in this proceeding in 2012, a figure that is extremely reasonable given the tasks performed during this period and the quality of the work TURN presented for the Commission's consideration.

TURN's request includes approximately 16.5 hours of Mr. Finkelstein's work associated with the preparation of the Motion to Recuse President Peevey. While the Commission denied TURN's motion in the final decision, TURN submits that the reasonable hours devoted to that effort should be included in the award of compensation. TURN's motion raised important issues regarding the need to ensure that the Commission's decision-making process is free from bias or any pre-determination of the outcomes. The Commission previously awarded compensation for the reasonable time TURN devoted to a prior motion to recuse, even though the motion was ultimately unsuccessful. In D.04-06-011 (at 77), the Commission ratified an earlier Assigned Commissioner's Ruling denying a similar motion to recuse. In D.08-09-032, the Commission awarded TURN intervenor compensation in nearly the full amount requested for work in that proceeding, with no reduction of the hours included for the work on the unsuccessful motion to recuse.

Mr. Long supervised Ms. Ang's work in this proceeding, providing key support in developing TURN's strategy and shaping the pleadings filed to advance that strategy. He also served as TURN's witness in the proceeding, sponsoring testimony on a number of policy and other issues in TURN's prepared testimony. Upon completion of hearings, Mr. Long played a reduced role, as Mr. Finkelstein took the lead in preparing TURN's briefs and comments on the proposed decision. TURN has included approximately 100 hours (the equivalent of 2.5 weeks) of Mr. Long's time for his work on this proceeding. Again, this figure is reasonable given the variety of tasks he performed and roles he played on behalf of TURN.

TURN submits that the recorded hours are reasonable, both as described above and as demonstrated in the wide-ranging substantial contribution TURN made in this proceeding. Therefore, TURN seeks compensation for all of the hours recorded by our attorneys and included in this request.

JBS Energy:

JBS Energy played an important role in TURN's participation in this proceeding,

<p>assisting in preparing discovery on policy, governance and ratemaking issues, and assisting with the drafting of portions of TURN’s testimony. Garrick Jones recorded approximately 32 hours for his work on these matters, with William Marcus recording approximately 2 hours.</p> <p><u>Meetings or discussions involving more than one TURN attorney or expert witness:</u> A relatively small percentage of hours and hourly entries reflect internal meetings involving two or more of TURN’s attorneys and expert witnesses. In past compensation decisions the Commission has deemed such entries as reflecting internal duplication that is not eligible for an award of intervenor compensation. This is not the case here. For the meetings that were among TURN’s attorneys, such meetings are essential to the effective development and implementation of TURN’s strategy for this proceeding. None of the attendees are there in a duplicative role – each is an active participant, bringing his or her particular knowledge and expertise to bear on the discussions. As a result, TURN is able to identify issues and angles that would almost certainly never come to mind but for the “group-think” achievable in such settings.</p> <p><u>Compensation Request Preparation Time:</u> TURN is requesting compensation for 12.75 hours devoted to compensation-related matters, primarily preparation of this request for compensation (11.5 hours). This is a reasonable figure in light of the size and complexity of the request for compensation itself.</p> <p>Mr. Finkelstein prepared this request for compensation because his extensive knowledge of many aspects of this proceeding, combined with his experience with compensation requests associated with similar proceedings, would enable him to prepare the request in a more efficient manner than if it were prepared by one of the other attorneys.</p> <p>In sum, 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><b>c. Allocation of Hours by Issue</b></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.</p> <table data-bbox="232 1507 1214 1852"> <tr> <td>Code</td> <td>Stands for:</td> </tr> <tr> <td>GP</td> <td>General Participation -- work that would not vary with the number of issues that TURN addresses, such as the initial review of the application or later-served testimony, preparation of protest and participation in prehearing conference.</td> </tr> <tr> <td>HP</td> <td>Hearing Preparation – Work associated with hearing preparation, including tasks such as preparing cross-examination estimates and hearing schedules as well as preparation for cross-examination of other parties’ witnesses.</td> </tr> <tr> <td>GH</td> <td>General Hearing -- Hearing-related (preparation and participation), but not issue-specific.</td> </tr> </table>	Code	Stands for:	GP	General Participation -- work that would not vary with the number of issues that TURN addresses, such as the initial review of the application or later-served testimony, preparation of protest and participation in prehearing conference.	HP	Hearing Preparation – Work associated with hearing preparation, including tasks such as preparing cross-examination estimates and hearing schedules as well as preparation for cross-examination of other parties’ witnesses.	GH	General Hearing -- Hearing-related (preparation and participation), but not issue-specific.	<p>Verified</p>
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<p>Discy</p> <p>PD</p> <p>Proc</p>	<p>Discovery-related work – Drafting discovery requests and initial review of responses, as well as work associated with following up with utilities on delayed or incomplete responses.</p> <p>PD -- work on analyzing, commenting on, lobbying on, strategizing on the PD and revisions thereto, including participation in the all-party meeting convened by Commissioner Sandoval.</p> <p>Procedural – Work on matters such as the procedural schedule, follow-up on pending discovery, confidentiality matters, and analyzing and responding to the DRA motion to strike portions of the Joint Utilities’ rebuttal testimony.</p>	
<p>Gov</p> <p>Program</p>	<p>Governance – Work on matters associated with the proposed governance of the CES-21 Program.</p> <p>Program -- Issues associated with the effort made to develop specific program proposals or to establish standards for use in developing program proposals, and to addressing the illustrative programs as described in utility testimony.</p>	
<p>Ratemaking</p> <p>MTD</p>	<p>Ratemaking – Cost allocation and other issues related to rate recovery for proposed costs of CES-21 Program.</p> <p>Motion to Dismiss – The work associated with TURN’s Motion to Dismiss filed after the Joint Utilities served their initial testimony. Although the Motion to Dismiss was not granted, it did lead to the Joint Utilities serving additional testimony to address deficiencies in their showing in support of their application.</p>	
<p>Rec</p> <p>Comp</p>	<p>Motion to Recuse – The work associated with TURN’s Motion to Recuse.</p> <p>Time devoted to compensation-related pleadings</p>	
<p>#</p>	<p>Time entries that cover substantive issue work that cannot easily be identified with a specific activity code. TURN requests compensation for all of the time included in this request for compensation based on our overall substantial contribution, and does not believe allocation of the time associated with these entries is necessary. However, if such allocation needs to occur, TURN proposes that the Commission allocate these entries in equal 33% shares to the broader issue-specific categories described above that were most likely to have work covered by a # entry (Gov, Program and Ratemaking).</p>	
<p>TURN submits that under the circumstances this information should suffice to address the allocation requirement under the Commission’s rules. Should the Commission wish to see additional or different information on this point, TURN requests that the Commission so inform TURN and provide a reasonable opportunity for TURN to supplement this showing accordingly.</p>		

**PROPOSED DECISION (Rev. 1)****B. Specific Claim:\***

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Marybelle Ang	2011	56.0	\$280	D.11-06-012 (for work in 2010)	15,680.00	35.68	\$280	9,990.40
M. Ang	2012	7.25	\$300	Request pending in A.11-05-017	2,175.00	5.45	\$300	1,635.00
Robert Finkelstein	2011	3.75	\$470	D.12-03-024	1,762.50	3	\$470	1,410.00
R. Finkelstein	2012	208.0	\$480	Res. ALJ-281	99,840.00	140.75	\$480	67,560.00
Thomas Long	2011	25.25	\$520	Request pending in A.09-10-013	13,130.00	16.3	\$520	8,476.00
T. Long	2012	80.5	\$530	Res. ALJ-281	42,665.00	60	\$530	31,800.00
William Marcus	2012	1.75	\$260	Requested here and A.10-11-015 (SCE GRC)	455.00	1.75	\$260	455.00
Garrick Jones	2011	7.24	\$140	D.12-03-024	1,013.60	7.24	\$140	1,013.60
G. Jones	2012	25.03	\$150	Requested here, and in A.10-11-002 and A.10-11-015	3,754.50	25.03	\$150	3,754.50
<b>Subtotal:</b>					<b>\$180,475.60</b>	<b>Subtotal:</b>		<b>\$126,094.50</b>

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<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>								
<b>Item</b>	<b>Year</b>	<b>Hours</b>	<b>Rate</b>	<b>Basis for Rate*</b>	<b>Total \$</b>	<b>Hours</b>	<b>Rate</b>	<b>Total \$</b>
Marybelle Ang	2011	1.0	\$140	½ 2011 hourly rate	140.00	1	\$140	140.00
Thomas Long	2011	.25	\$260	½ 2011 hourly rate	65.00	0.25	\$260	65.00
Robert Finkelstein	2012	11.5	\$240	½ 2012 hourly rate	2,760.00	11.5	\$240	2,760.00
<b>Subtotal:</b>					<b>\$2,965.00</b>	<b>Subtotal:</b>		<b>\$2,965.00</b>
<b>COSTS</b>								
<b>#</b>	<b>Item</b>	<b>Detail</b>	<b>Amount</b>		<b>Amount</b>			
1	Photocopies	Copies for testimony, pleadings, hearing room exhibits and other proceeding documents	\$124.80				124.80	
2	Postage	Mailing costs for pleadings	\$32.28				32.28	
3	Lexis/Nexis	Computerized Research	\$468.37				468.37	
<b>Subtotal:</b>					<b>\$625.45</b>	<b>Subtotal:</b>		<b>625.45</b>
<b>TOTAL REQUEST \$:</b>					<b>\$184,066.05</b>	<b>TOTAL AWARD \$:</b>		<b>\$129,684.95</b>
<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 ½ of preparer's normal hourly rate</p>								
<b>Attorney</b>		<b>Date Admitted to CA BAR<sup>3</sup></b>	<b>Member Number</b>		<b>Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation</b>			
Marybelle Ang		September 18, 2009	264333		No			
Robert Finkelstein		June 13, 1990	146391		No			
Thomas Long		December 11, 1986	124776		No			

<sup>3</sup> This information may be obtained at: <http://www.calbar.ca.gov/>.

**C. Additional Comments on Part III:**

<b>Comment #</b>	<b>Comment</b>
Comment 1	<p><b>Hourly Rates for TURN Attorneys:</b></p> <p>TURN generally seeks hourly rates for its staff attorneys at levels that the Commission has previously adopted for each individual's work in a given year, or at an increased level for 2012 consistent with Resolution ALJ-281. The one exception is the rate for Thomas Long, who rejoined TURN's staff in 2011, and for whom the Commission has not yet established a 2011 rate. TURN's request for a \$520 hourly rate for Mr. Long's work in 2011 was first presented and fully justified in the Request for Compensation TURN filed in A.09-10-013 on February 17, 2012. TURN anticipates a decision on that request issuing before a decision on the instant request, and that the hourly rate adopted in the earlier decision would establish the hourly rate for Mr. Long's work in 2011. Should the Commission wish to have the full justification for the requested rate here, TURN would be glad to provide it and would ask for an opportunity to file and serve a supplement or amendment to this Request for Compensation for that purpose.</p>
Comment 2	<p><b>Hourly Rates for TURN Consultants:</b></p> <p>For many of the consultants who worked with TURN on this matter, TURN seeks hourly rates at levels that the Commission has previously adopted for each individual's work in a given year, or at an increased level for 2012 consistent with Resolution ALJ-281. Below TURN more fully discusses the new hourly rates sought for the consultants whose work was so critical to TURN's substantial contributions in this proceeding.</p> <p>JBS Energy:</p> <p>-- <u>William Marcus and Garrick Jones</u>: JBS Energy increased the hourly rates for Mr. Marcus and Mr. Jones as of 1/1/12.</p> <p>For Mr. Jones, the increase from \$140 (through 2011) to \$150 was discussed in some detail in the Request for Compensation filed in A.10-11-002 on July 13, 2012.<sup>4</sup> Rather than repeat the justification for the requested hourly rate, TURN refers the Commission to the pending request in A.10-11-002 and asks that the relevant material be incorporated by reference as though full set forth here. Should the Commission wish to see the justification included in this request, TURN requests the opportunity to supplement or amend this request accordingly.</p> <p>For Mr. Marcus, JBS Energy increased Mr. Marcus's hourly rate as of January 1, 2012, by \$10 to \$260, an increase of 4% over the \$250 rate it had charged for his work in each of the previous four years. JBS Energy last changed the hourly rate charged for his work in 2008, when his rate increased from \$220 to \$250. The Commission approved using the \$250 rate for work performed in 2008 in D.08-11-053 (in the Sempra GRC A. 06-12-009). In mid-September 2012, the Commission issued Res. ALJ-281 adopting an across-the-board cost-of-living adjustment (COLA) that permits a 2.2% increase to previously authorized hourly rates.</p>

<sup>4</sup> The increase is justified in part based on Mr. Jones's experience warranting a move to the next tier the Commission has adopted for intervenor compensation purposes.

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	<p>Had JBS Energy increased Mr. Marcus's 2012 hourly rate by 7.2%, TURN could have justified that rate by relying on the COLA plus a 5% increase as the first of the two "step" increases provided for in D.08-04-010 and reaffirmed in Res. ALJ-281. Therefore TURN submits that the Commission should find Mr. Marcus's 2012 hourly rate of \$260 to be reasonable due to its consistency with the COLA and a portion of the step increase provided for in those earlier decisions. Should the Commission wish to see further justification for this increase, TURN requests the opportunity to supplement or amend this request accordingly.</p> <p>[An identical discussion appeared in TURN's request for compensation in the SCE 2012 GRC (A.10-11-015) filed on January 25, 2013.]</p>
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**D. CPUC Disallowances & Adjustments:**

#	Reason
1. Disallowance for failure to make a substantial contribution.	Reduction of 17.25 hours for 2012 from Finkelstein for Motion to Recuse. The Commission found the arguments unpersuasive in page 74 of the decision.
2. Disallowance for unproductive efforts/excessive hours.	Reduction of 10 hours in 2012 from Finkelstein for time spent on Program and Governance issues in the Reply Brief that the Commission found unpersuasive.
3. Disallowance for unproductive efforts/excessive hours.	Reduction of 5.25 hours in 2011 and .25 hours in 2012 from Long for work spent on Motion to Dismiss.
4. Disallowance for unproductive efforts/excessive hours.	Reduction of 12.625 hours in 2011 from Ang for work spent on Motion to Dismiss.
5. Disallowance for unproductive efforts/excessive hours.	Reduction of .75 hours from 2011 and 40 hours for 2012 from Finkelstein (25% of remaining unreduced hours) for time spent in meetings, researching, and drafting issues found unproductive.
6. Disallowance for unproductive efforts/excessive hours.	Reduction of 7.7 hours from Ang for 2011 and 1.8 hours from 2012 (25% of remaining unreduced hours).
7. Disallowance for unproductive efforts/excessive hours.	Reduction of 3.7 hours from Long for 2011 and 20 hours for 2012 (25% of remaining unreduced hours).
8. Adoption of Ang's 2011 hourly	After reviewing Ang's resume the Commission finds the rate of \$300 to be reasonable within the parameters of D.08-04-010. The Commission adopts a rate of \$300 per hour

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rate.	for work Ang completed in 2011.
9. Adoption of Jones's 2012 hourly rate.	After reviewing Jones' resume the Commission finds the rate of \$150 to be reasonable within the parameters of D. 08-04-010. The Commission adopts a rate of \$150 per hour for work Jones completed in 2012.
10. Adoption of Marcus's 2012 hourly rate.	After reviewing Marcus' resume the Commission finds the rate of \$260 to be reasonable within the parameters of D. 08-04-010. The Commission adopts a rate of \$260 per hour for work Marcus completed in 2012.

**PART IV: OPPOSITIONS AND COMMENTS**

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

1. TURN has made a substantial contribution to D 12-12-031.
2. The requested hourly rates for TURN's representative 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, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable contribution is \$129,684.95.

**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 \$129,684.95.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay The Utility Reform Network their respective shares of the award, based on their

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California-jurisdictional electric revenues for the 2012 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 6, 2013, 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.
4. This decision is effective today.

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

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>		<b>Modifies Decision?</b>	No
<b>Contribution Decision(s):</b>	D1212031		
<b>Proceeding(s):</b>	A1107008		
<b>Author:</b>	ALJ Sullivan		
<b>Payer(s):</b>	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company		

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
The Utility Reform Network	2/20/13	\$184,066.05	\$129,684.95	No	Disallowance for unproductive efforts/excessive hours.

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Marybelle	Ang	Attorney	TURN	\$280	2011	\$280
Marybelle	Ang	Attorney	TURN	\$300	2012	\$300
Robert	Finkelstein	Attorney	TURN	\$470	2011	\$470
Robert	Finkelstein	Attorney	TURN	\$480	2012	\$480
Thomas	Long	Attorney	TURN	\$520	2011	\$520
Thomas	Long	Attorney	TURN	\$530	2012	\$530
William	Marcus	Expert	TURN	\$260	2012	\$260
Garrick	Jones	Economist	TURN	\$140	2011	\$140
Garrick	Jones	Economist	TURN	\$150	2012	\$150

**(END OF APPENDIX)**