

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Southern California Edison Company (U338E) for a Certificate of Public Convenience and Necessity Concerning the Tehachapi Renewable Transmission Project (Segments 4 through 11).

Application 07-06-031
(Filed June 29, 2007)

DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-07-018

Claimant: The Utility Reform Network (TURN)	For contribution to Decision 13-07-018
Claimed: \$58,523.88	Awarded: \$58,360.68 (0.278% reduction)
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Jean Vieth

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	This decision granted the petition for modification of Decision (D.) 09-12-044, filed October 28, 2011, by the City of Chino Hills (Chino Hills) to underground the Tehachapi Renewable Transmission Project transmission line for 3.5 miles in a city right of way (ROW) in lieu of the previously approved aboveground design.
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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:	<i>See Comment 1</i>	Verified
2. Other Specified Date for NOI:	<i>See Comment 1</i>	Verified
3. Date NOI Filed:	April 2, 2013	Verified

4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	See Comment 2	Verified
6. Date of ALJ ruling:	See Comment 2	Verified
7. Based on another CPUC determination (specify):	See Comment 2	Verified
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:	Investigation (I.) 06-06-014	Verified
10. Date of ALJ ruling:	November 15, 2006	Verified
11. Based on another CPUC determination (specify):	n/a	
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.13-07-018	Verified
14. Date of Issuance of Final Order or Decision:	July 16, 2013	Verified
15. File date of compensation request:	September 16, 2013	Verified
16. Was the request for compensation timely?		Yes. See Comment 16, below.

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	X		TURN first sought party status in this proceeding by formal motion filed on March 26, 2013. On March 27, 2013, Administrative Law Judge (ALJ) Jean Vieth sent an e-mail notifying the service list that she was granting The Utility Reform Network’s (TURN’s) request for party status. The ALJ issued a ruling on April 22, 2013 to confirm her earlier e-mail ruling. TURN filed its notice of intent (NOI) within a week of seeking and obtaining party status.
2	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 the NOI. TURN has previously been found to satisfy these two standards -- for example <i>see</i> ALJ ruling on January 3, 2012 in Rulemaking (R.) 11-11-008.
#1 6		X	The Decision cited by TURN was issued on July 16, 2013. TURN’s claim for compensation was not filed until September 16, 2013 – 62 days later. Under normal circumstances, TURN’s claim would not meet the requirement of being timely filed (within 60 days after the issuance of the decision that resolves the issues which the intervenor claims to have made substantial contribution). Here, however, the Center for Energy Efficiency and Renewable Technologies requested a rehearing on August 15, 2013. On October 31, 2013 the rehearing of the Decision, as modified, was denied. According to the Commission’s Rules of Practice and Procedure, “[i]f an application for rehearing challenges a decision on an issue on which the intervenor believes it made a substantial contribution, the request for an award of compensation may be filed within 60 days of the issuance of the decision denying rehearing on that issue, the order or decision that resolves that issue after rehearing, or the decision closing the proceeding.” Rules of Practice and Procedure 17.3. As such, TURN’s intervenor compensation request was timely filed within 60 days of the denial of the rehearing request.

PART II: SUBSTANTIAL CONTRIBUTION

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

Intervenor’s Claimed Contribution	Specific References to Claimant’s Presentations and to Decision	Showing Accepted by CPUC
1. TURN was the only party to initially argue that the Commission must consider the economic and environmental justice implications of allowing a single city to underground the transmission line while not ordering the same treatment for other cities along the line. The Commission took TURN’s	Opening Brief of The Utility Reform Network on the Proposed Undergrounding of the Tehachapi Renewable Transmission Project (TURN Opening Brief”) at 6-7. <i>See</i> D.13-07-018 at 20.	Yes. Citation to “Joint Dissent” should be at 4.

<p>concerns seriously and clearly gave TURN’s issues considerable thought, as the issue was discussed in the ALJ’s Proposed Decision (PD), Final Decision and the Joint Dissent of Commissioners Florio and Peterman (Joint Diessent).</p> <p>The PD agreed with TURN that the PUC should be cognizant of its impact of its review on other Communities besides Chino Hills and assessed the visual impacts of TRTP in light of the impacts on other communities. On the basis of that review, the PD concluded that Chino Hills is not unique.</p> <p>The Joint Dissent agrees with TURN that there are equity issues at stake and that the unintended message appears to be that communities that can afford attorneys to intervene at the PUC can succeed at undergrounding transmission lines while other cash-strapped communities cannot.</p>	<p><i>See</i> PD at 18-21; <i>see also</i> Comment 1.</p> <p><i>See also</i> Joint Dissent at 5.</p>	
<p>2. TURN argued that undergrounding the transmission line through Chino Hills would impose substantial and unreasonable costs on California ratepayers, especially when compared to the cost of finishing the transmission line as originally approved.</p> <p>The PD agreed with TURN that undergrounding Segment 8</p>	<p>TURN Opening Brief at 4.</p> <p><i>See</i> PD at 48-49, <i>see also</i> Comment 1.</p>	<p>Yes. Citation to “Joint Dissent” should be at 4-5.</p>

<p>would significantly increase the cost of the transmission line such that the request was unreasonable.</p> <p>The Joint Dissent agreed with TURN, stating the overall cost could not be justified given the policy considerations laid out in the case.</p>	<p><i>See Joint Dissent at 5-6.</i></p>	
<p>3. TURN argued that Chino Hills’ petition for modification would disrupt California’s regulatory environment, and granting the petition would only cause further harm.</p> <p>The Joint Dissent agreed with TURN’s assessment, explaining, “a commission decision needs to have some meaning and finality, unless we have made some sort of legal error, which we do not believe to be the case here.”</p>	<p>Reply Brief of The Utility Reform Network on the Proposed Undergrounding of the Tehachapi Renewable Transmission Project (TURN Reply Brief), at 2-3.</p> <p><i>See Joint Dissent at 3.</i></p>	<p>Yes. Citation to “Joint Dissent” should be at 2.</p>
<p>4. TURN argued that reopening the proceeding to revisit the siting of Segment 8 of the transmission line created a serious risk of delaying the completion of the line.</p> <p>The Joint Dissent agreed with TURN’s assessment, stating, “The majority’s reversal on Segment 8A brings uncertainty and likely delay, with ramifications for those developers to finance, build, and interconnect their projects.”</p>	<p>TURN Reply Brief at 3-4.</p> <p><i>See Joint Dissent at 3.</i></p>	<p>Yes.</p>

B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

	Claimant	CPUC Verified
a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?¹	X	Verified
b. Were there other parties to the proceeding with positions similar to yours?	X	Verified
c. If so, provide name of other parties: Center for Energy Efficiency and Renewable Technologies (CEERT)		Verified
d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: TURN’s position was most similar to DRA and CEERT. TURN avoided duplication by largely limiting its participation to the public policy issues presented in this proceeding. In addition, TURN, unlike DRA or CEERT, solely represents residential and small business ratepayers, and TURN focused its participation on the impacts of undergrounding Segment 8 on residential ratepayers.		Verified

C. Additional Comments on Part II:

#	Claimant	CPUC	Comment
1	X		The Commission has also long held that contribution to an ALJ’s PD is evidence of a substantial contribution even if the Commission does not adopt the PD’s recommendations. For example, in D.11-05-044 the Commission awarded TURN \$143,800 out of \$147,600 requested for TURN’s work in the Southern California Gas Company’s automated meter infrastructure (AMI) proceeding, even though the underlying decision had approved the proposed AMI program over TURN’s objections. On several issues the Commission agreed that TURN made a substantial contribution even though the decision did not adopt TURN’s recommended outcome:

¹ 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: public resources), which was approved by the Governor on September 26, 2013.

		<p>TURN’s participation ensured a thorough analysis on this issue, and their position was reflected in the PD, though not in the alternate PD, which was the final decision that was adopted.²</p> <p>TURN submits that the circumstances presented by our work in this proceeding and the adopted outcomes are substantially the same as those presented in these prior proceedings. Therefore, TURN requests that the Commission find a substantial contribution warranting an award of intervenor compensation for the reasonable costs and expenses TURN incurred for our participation in the proceeding.</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 (include references to record, where appropriate)</p> <p>The Commission should find TURN’s costs of participation reasonable. TURN’s request for intervenor compensation seeks an award of approximately \$58,000 as the reasonable cost of its participation in the proceeding. The testimony on the undergrounding of Segment 8 of TRTP included cost estimates in the range of \$140 million to \$726 million. TURN Opening Brief at 4.</p> <p>TURN’s participation in this proceeding sought to advance the consumer interest by arguing against undergrounding due to the cost and public policy implications. Given the amounts that were at stake in this proceeding and the relatively small amount of TURN’s request for intervenor compensation, the Commission should conclude that TURN’s overall request is reasonable.</p>	<p>CPUC Verified</p> <hr/> <p>Verified, <i>see</i> “CPUC Disallowances, Adjustments, and Comments” in Part III.D.</p>
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² D.11-05-044, at 4.

<p>b. Reasonableness of Hours Claimed.</p> <p><u>TURN Attorneys:</u></p> <p>Robert Finkelstein was initially the lead attorney on this proceeding and reviewed the case file to prepare to hand off the case to Nina Suetake, who subsequently became TURN’s lead attorney. Mr. Finkelstein continued to act as co-counsel on the proceeding and provided significant assistance with formulating TURN’s position on the issues.</p> <p>Nina Suetake took over as lead attorney assigned to this proceeding and was primarily responsible for drafting TURN’s pleadings in this proceeding. Her hours reflect the tasks required to participate in a proceeding multiple parties including reading the numerous comments filed by all the parties and drafting pleadings in response to the comments of other parties.</p> <p><u>TURN Consultants:</u></p> <p>William Marcus of JBS Energy acted as TURN’s consultant in this proceeding and his time was limited to preparing testimony for TURN. Mr. Marcus’ testimony informed TURN’s position on the issues of reasonableness of costs and the wider public policy issues of social justice and environmental equity.</p>	<p>Verified, <i>see</i> “CPUC Disallowances, Adjustments, and Comments” in Part III.D.</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 in our attached timesheets. The following codes related to general activities that are part of nearly all CPUC proceedings, such as tasks associated with general participation and procedural matters, as well as the specific substantive issue and activity areas addressed by TURN in this proceeding.</p> <p>General participation (GP): Time spent on activities necessary to participate in the docket that typically do not vary by the number of issues addressed, such as the initial review of the Scoping Memo and Ruling, reading staff issued papers, review of party comments and reply comments, and reviewing and commenting on the proposed decision.</p> <p>General Hearing (GH): Time spent on activities necessary to participate in hearings that are not necessarily issue specific</p> <p>Public Policy (PP): Time spent on the public policy issues addressed in this proceeding, excluding the issue of the reasonableness of costs.</p>	<p>Verified, <i>see</i> “CPUC Disallowances, Adjustments, and Comments” in Part III.D.</p>

<p>Reasonableness of costs (C): Time spent on the topic of the reasonableness of the cost of undergrounding the transmission line.</p> <p>Time spent on activities such as drafting of pleadings related to both public policy and reasonableness of costs that were difficult to separate. Time in this category has been split into 50% C and 50% PP.</p> <p>(Comp) Compensation Related (Comp): Work devoted to preparation of TURN' request for compensation.</p> <p>TURN spent its time in the following percentages: 60.2% GP, 9.5% GH, 16.14% PP, 10.11% C, and 4.07% Comp.</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 \$
Nina Suetake	2013	107.25	320	D.13-08-022 and Res ALJ-287; see Comment 1	34,320.00	107.25	\$320.00 [1] ³	\$34,320.00
Robert Finkelstein	2013	42.5	480	D.13-08-022 and Res ALJ-287; see Comment 1	20,400.00	42.16 [2]	\$480.00 [3]	\$20,236.80
Tom Long	2013	0.25	555	D.13-08-022 and Res ALJ-287; see Comment 1	138.75	0.25	\$555.00 [4]	\$138.75
William Marcus	2013	9.09	265	D.13-08-022 and Res ALJ-287; see Comment 2	2,408.85	9.09	\$265.00 [5]	\$2,408.85
Subtotal: \$57,267.60						Subtotal: \$57,104.40		

³ The bracketed number ([x]) refers to the reason listed in the section labeled "CPUC Disallowances & Adjustments" in Part III.D of this decision.

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 \$
n/a								
n/a								
Subtotal: \$					Subtotal: \$			
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Nina Suetake	2013	6	160	1/2 2013 hourly rate	\$960.00	6	\$160.00	\$960.00
Robert Finkelstein	2013	0.75	240	1/2 2013 hourly rate	\$180.00	0.75	\$240.00	\$180.00
Subtotal: \$ 1,140.00					Subtotal: \$1,140.00			
COSTS								
#	Item	Detail			Amount	Amount		
1	Copies	Copies for pleadings and other proceeding documents			\$20.30	\$20.30		
2	Postage	Mailing costs for pleadings			\$22.40	\$22.40		
3	Phone	Calls relating to work on A.07-06-031			\$1.02	\$1.02		
4	Lexis/Nexis Research	Legal research related to transmission siting requirements and policy			\$72.56	\$72.56		
Subtotal: \$116.28					Subtotal: \$116.28			
TOTAL REQUEST: \$58,523.88					TOTAL AWARD: \$58,360.68			
<p>* We remind all intervenors that Commission staff may audit its 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 are compensated at ½ of preparer's normal hourly rate.</p>								

Attorney	Date Admitted to CA BAR ⁴	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Nina Suetake	December 14, 2004	234769	No
Robert Finkelstein	June 13, 1990	146391	No
Thomas Long	December 11, 1986	124776	No

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

Attachment or Comment #	Description/Comment
Comment 1	<p>Hourly Rates for TURN Attorneys</p> <p>TURN seeks hourly rates for its staff attorneys at levels for their work in 2013 consistent with Resolution (Res.) ALJ-287. The following describes the basis for requested rates that have not been previously awarded as of the date of this Request for Compensation.</p> <p><u>Nina Suetake</u>: For Ms. Suetake's work in 2013, TURN seeks an hourly rate of \$320, an increase of 2% from the rate authorized in D.13-08-022 for her work in 2012. This is the general 2.0% increase provided for in Res. ALJ-287.</p> <p><u>Robert Finkelstein</u>: For Mr. Finkelstein's work in 2013, TURN seeks an hourly rate of \$490, an increase of 2% from the rate authorized in D.13-08-022 for his work in 2012. This is the general 2.0% increase provided for in Res. ALJ-287.</p> <p><u>Thomas Long</u>: For Mr. Long's work in 2013, TURN seeks an hourly rate of \$555, an increase of 2% from the rate authorized in D.13-08-022 for his work in 2012. This is the general 2.0% increase provided for in Res. ALJ-287.</p>

⁴ This information may be obtained at: <http://www.calbar.ca.gov/>.

2	<p>Hourly Rates for TURN Consultants</p> <p><u>William Marcus</u>: For Mr. Marcus' work in 2013, TURN seeks an hourly rate of \$265, an increase of 2% from the rate authorized in D.13-08-022 for his work in 2012. This is the general 2.0% increase provided for in Res. ALJ-287.</p>
3	<p>Reasonableness of TURN's Expenses</p> <p>The Commission should find TURN's direct expenses reasonable. The expenses consist of photocopying expenses, including the costs of producing the hard copies of TURN's pleadings, telecommunications costs for calls related to this proceeding, Lexis legal research, and postage costs for mailing TURN pleadings. All costs are directly related to this proceeding and were necessary for TURN's participation in this proceeding.</p>

D. CPUC Disallowances, Adjustments, and Comments:

Item	Reason
[1]	The Commission approved Suetake for a 2013 rate of \$320.00 in D.14-02-014.
[2]	According to TURN's Notices of Ex Parte Communication, filed on April 18, 2013, Finkelstein met with Tisdale for "approximately twenty minutes" and with Fitch for "approximately twenty minutes." Finkelstein's hours have been reduced to reflect 0.33 hours per meeting, instead of the incorrect 0.5 hours per meeting.
[3]	The Commission approved Finkelstein for a rate of \$480.00 in D.13-11-022.
[4]	The Commission now approves Long's 2013 rate of \$555.00, which provides for the general 2% increase of Res. ALJ-287.
[5]	The Commission now approves Marcus' 2013 rate of \$265.00, which provides for the general 2% increase of Res. ALJ-287.

PART IV: OPPOSITIONS AND COMMENTS

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

If not:

Party	Comment	CPUC Disposition

FINDINGS OF FACT

1. TURN has made a substantial contribution to Decision 13-07-018.
2. The requested hourly rates for TURN’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, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$58,360.68.

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 \$58,360.68.
2. Within 30 days of the effective date of this decision, Southern California Edison Company shall pay Claimant the total award. 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 11/30/2013, the 75th day after the filing of Claimant’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 A**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1307018		
Proceeding(s):	A0706031		
Author:	ALJ Vieth		
Payer(s):	Southern California Edison Company		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	09/16/2013	\$58,523.88	\$58,360.68	No.	See Part III.D of this decision.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Nina	Suetake	Attorney	TURN	\$320.00	2013	\$320.00
Robert	Finkelstein	Attorney	TURN	\$480.00	2013	\$480.00
Tom	Long	Attorney	TURN	\$555.00	2013	\$555.00
William	Marcus	Consultant	TURN (JBS Energy)	\$265.00	2013	\$265.00