

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company regarding Anti-Smart Meter Consumer Groups.

Investigation 12-04-010
(Filed April 19, 2012)

DECISION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR CONTRIBUTION TO DECISION 14-04-025

| | |
|------------------------------------------------------|---------------------------------------------------------------|
| Intervenor: The Utility Reform Network (TURN) | For contribution to Decision (D.) 14-04-025 |
| Claimed: \$12,995.34 | Awarded: \$12,856.59 (~1.068% reduction) |
| Assigned Commissioner: Michel Peter Florio | Assigned Administrative Law Judge (ALJ): Jean Vieth |

PART I: PROCEDURAL ISSUES

| | |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A. Brief description of Decision: | In response to TURN's application for rehearing, D.14-04-025 (Rehearing Decision #2) modified D.14-01-038 (Rehearing Decision #1) by omitting, as unnecessary to the decision, Section III.A.2 of Rehearing Decision #1, a section that suggested that intervenors in Commission enforcement cases have limited procedural rights compared to the Commission Staff and the target(s) of the enforcement action. |
|------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

| | Intervenor | CPUC Verified |
|-----------------------------------------------------------------------------------|-------------------|----------------------|
| Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)): | | |
| 1. Date of Prehearing Conference: | June 25, 2012 | Verified |
| 2. Other specified date for NOI: | | |
| 3. Date NOI filed: | July 25, 2012 | Verified |

| | | |
|-------------------------------------------------------------------------|-------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4. Was the NOI timely filed? | | Yes, the Notice of Intent was timely filed. |
| Showing of customer or customer-related status (§ 1802(b)): | | |
| 5. Based on ALJ ruling issued in proceeding number: | A.09-09-013 (verified in D.10-05-012) | Verified |
| 6. Date of ALJ ruling: | January 7, 2010 (verified in D.10-05-012) | Verified |
| 7. Based on another CPUC determination (specify): | | |
| 8. Has the Intervenor demonstrated customer or customer-related status? | | Yes. |
| Showing of “significant financial hardship” (§ 1802(g)): | | |
| 9. Based on ALJ ruling issued in proceeding number: | R.11-11-008 | Verified |
| 10. Date of ALJ ruling: | April 19, 2012 | The ALJ issued the ruling on January 3, 2012. |
| 11. Based on another CPUC determination (specify): | | |
| 12. Has the Intervenor demonstrated significant financial hardship? | | Yes. Despite the mistaken date cited for the ALJ Ruling, TURN properly cited the Ruling in the NOI. Since the previous Ruling demonstrated TURN’s significant financial hardship and was issued within one year of commencement of the present proceeding, TURN properly demonstrated a rebuttable presumption of eligibility. |

| Timely request for compensation (§ 1804(c)): | | |
|-----------------------------------------------------|----------------|----------|
| 13. Identify Final Decision: | D.14-04-025 | Verified |
| 14. Date of issuance of Final Order or Decision: | April 11, 2014 | Verified |
| 15. File date of compensation request: | June 10, 2014 | Verified |
| 16. Was the request for compensation timely? | | Yes |

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (see § 1802(i), § 1803(a), and D.98-04-059).

| Intervenor’s Claimed Contribution(s) | Specific References to Intervenor’s Claimed Contribution(s) | CPUC Discussion |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------|------------------------|
| <p>1. TURN’s February 18, 2014 Application for Rehearing argued that Section III.A. 2 of Rehearing Decision #1 should be removed in its entirety because it was unnecessary to the decision and contrary to law.</p> <p>The Commission agreed that Section III.A.2 was unnecessary dicta and that Rehearing Decision #1 should be modified to omit Section III.A.2.</p> | <p>TURN’s February 18, 2014 Application for Rehearing, at 1-13.</p> <p>D.14-04-025, at 1.</p> | <p>Agreed</p> |

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

| | Intervenor's Assertion | CPUC Discussion |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------|------------------------|
| a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?¹ | No | Agreed |
| b. Were there other parties to the proceeding with positions similar to yours? | TURN was the only party to submit an application for rehearing regarding Section III.A.2. | Agreed |
| c. If so, provide name of other parties: n/a | | |
| d. Intervenor's claim of non-duplication: As TURN was the only party to seek rehearing regarding Section III.A.2, TURN did not duplicate the efforts of any other party. | | Agreed |

PART III: REASONABLENESS OF REQUESTED**A. General Claim of Reasonableness (§§ 1801 & 1806):**

| | CPUC Discussion |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| a. Intervenor's claim of cost reasonableness: By gaining the removal of Section III.A.2 from Rehearing Decision #1, TURN achieved an important outcome that preserves the ability of intervenors to effectively and fully participate in CPUC formal enforcement proceedings. The benefits of this result cannot be quantified in a specific dollar value to ratepayers, but ratepayers nevertheless gain because intervenors will remain able to effectively seek to vindicate the interests of consumers in enforcement cases. TURN was able to achieve these procedural benefits for consumers at minimal cost, based on the submission of one pleading. | Verified |
| b. Reasonableness of hours claimed: TURN devoted a reasonable amount of time, less than 25 hours to its application for rehearing. Mr. Nusbaum and Mr. Long shared the research and drafting responsibilities; Mr. Long got involved because of his extensive experience in CPUC enforcement cases. Although D.14-01-038 succinctly granted TURN's | Verified, <i>but see</i> "CPUC Disallowances and Adjustments" in Part III.C. |

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.

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| <p>requested relief based on the unnecessary nature of Section III.A.2, TURN believes that all of the arguments in its rehearing application contributed to the successful outcome in that: a) TURN needed to demonstrate that an exception to the general rule barring rehearing of rehearing decisions was appropriate here; and b) the section alleging legal violations showed that allowing the unnecessary language to remain in the decision would present serious legal risk to the Commission. Accordingly, the Commission should find that TURN accomplished its substantial contribution in a reasonable number of hours.</p> | |
| <p>c. Allocation of hours by issue: TURN’s application for rehearing related to a single issue, whether Section III.A.2 of Rehearing Decision #1 was necessary and lawful. Accordingly, TURN’s work in this matter falls into the following categories, as shown in the attached hourly records:</p> <p>Application for Rehearing - 23.5 hours Compensation Request – 3.0 hours</p> | <p>Verified.</p> |

B. Specific Claim:*

| CLAIMED | | | | | | CPUC AWARD | | |
|----------------------------------------------|------|-------|----------------------|------------------------------------------------------|------------|-------------------------------|-----------------|------------|
| ATTORNEY, EXPERT, AND ADVOCATE FEES | | | | | | | | |
| Item | Year | Hours | Rate \$ | Basis for Rate* | Total \$ | Hours | Rate \$ | Total \$ |
| William Nusbaum | 2014 | 10.0 | \$455 (note 1) | D.13-10-065 (approved rate for 2013 - see note 1) | \$4,550.00 | 10 | \$455.00 | \$4,550.00 |
| Thomas Long | 2014 | 13.50 | \$555 (note 1) | D.14-05-015 (approved rate for 2013 – see note 1) | \$7,492.50 | 13.25 [1] | \$555.00 [2] | \$7,353.75 |
| Subtotal: \$ 12,042.50 | | | | | | Subtotal: \$ 11,903.75 | | |
| INTERVENOR COMPENSATION CLAIM PREPARATION ** | | | | | | | | |
| Item | Year | Hours | Rate \$ | Basis for Rate* | Total \$ | Hours | Rate | Total \$ |
| Thomas Long | 2014 | 3.0 | \$277.50 (note 1) | ½ approved hourly rate | \$832.50 | 3 | \$277.50 | \$832.50 |
| Subtotal: \$ 832.50 | | | | | | Subtotal: \$ 832.50 | | |

| COSTS | | | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|----------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------|
| # | Item | Detail | Amount | Amount |
| | Photocopies | | \$4.20 | \$4.20 |
| 2 | Computerized Legal Research (note 2) | | \$114.06 | \$114.06 |
| | Postage | | \$2.08 | \$2.08 |
| | | | Subtotal: \$ 120.34 | Subtotal: \$ 120.34 |
| | | | TOTAL REQUEST: \$ 12,995.34 | TOTAL AWARD: \$ 12,856.59 |
| <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. Intervenor'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> | | | | |
| ATTORNEY INFORMATION | | | | |
| Attorney | Date Admitted to CA BAR² | Member Number | Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation | |
| William Nusbaum | June 1983 | 108835 | No. Nusbaum maintained inactive status with the State Bar of California from January 1, 1997, until October 4, 2002. | |
| Thomas Long | December 1986 | 124776 | No | |

² This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch> .

C. Disallowances and Adjustments:

| Item | Reason |
|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| [1] | On April 23, 2014, Long listed .25 hours for reviewing the decision and preparing an email to TURN staff. As previously stated, “post-decision work cannot be characterized as assisting [the] Commission in the making of the Commission decision.” D.06-09-011 at 24. As such, the Commission cannot compensate TURN for these hours. |
| [2] | The Commission approves the rates of Nusbaum and Long for 2014. |

PART IV: OPPOSITIONS AND COMMENTS

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

FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to D.14-04-025.
2. The requested hourly rates for The Utility Reform Network's representatives, as adjusted herein, 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 \$12,856.59.

CONCLUSION OF LAW

The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. The Utility Reform Network is awarded \$12,856.59.
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 compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning August 24, 2014, the 75th day after the filing of Intervenor's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.
4. This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX
Compensation Decision Summary Information

| | | | |
|----------------------------------|----------------------------------|---------------------------|----|
| Compensation Decision: | | Modifies Decision? | No |
| Contribution Decision(s): | D1404025 | | |
| Proceeding(s): | I1204010 | | |
| Author: | ALJ Vieth | | |
| Payer(s): | Pacific Gas and Electric Company | | |

Intervenor Information

| Intervenor | Claim Date | Amount Requested | Amount Awarded | Multiplier? | Reason Change/Disallowance |
|----------------------------|-------------------|-------------------------|-----------------------|--------------------|-----------------------------------|
| The Utility Reform Network | 06/10/2014 | \$12,995.34 | \$12,856.59 | No | See Part III.C of this decision. |

Advocate Information

| First Name | Last Name | Type | Intervenor | Hourly Fee Requested | Year Hourly Fee Requested | Hourly Fee Adopted |
|-------------------|------------------|-------------|----------------------------|-----------------------------|----------------------------------|---------------------------|
| William | Nusbaum | Attorney | The Utility Reform Network | \$455 | 2014 | \$455 |
| Thomas | Long | Attorney | The Utility Reform Network | \$555 | 2014 | \$555 |