

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U 902 E) to Fill Local Capacity Requirement Need Identified in D.13-03-029.	Application 13-06-015 (Filed June 21, 2013)
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DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 14-02-016

Claimant: The Utility Reform Network (TURN)	For contribution to Decision (D.) 14-02-016
Claimed (\$): \$26,745.51	Awarded (\$): \$21,628.51 (reduced 19%)
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Hallie Yacknin

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	The Decision approved SDG&E's proposed contract (PPTA) with the Pio Pico Energy Energy Center, adopted a cost cap for transmission interconnection costs, and allocated capacity costs to all distribution customers pursuant to the Cost Allocation Mechanism (CAM).
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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:	Aug. 21, 2013	Correct
2. Other Specified Date for NOI:	N/A	N/A
3. Date NOI Filed:	Sep. 20, 2013	Correct
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:	A.12-11-009	Correct

6. Date of ALJ ruling:	Sep. 6, 2013	Correct
7. Based on another CPUC determination (specify):	N/A	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:	A.12-11-009	Correct
10. Date of ALJ ruling:	Sep. 6, 2013	Correct
11. Based on another CPUC determination (specify):	N/A	N/A
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.14-02-016	Correct
14. Date of Issuance of Final Order or Decision:	Feb. 12, 2014	Correct
15. File date of compensation request:	April 14, 2014	Correct
16. Was the request for compensation timely?		Yes

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).

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contributions	CPUC Discussion
<p>1. Contract Cost Allocation</p> <p>TURN argued that pursuant to § 365.1(c)(2)(A) and Commission precedent, the capacity costs of the PPTA must be allocated to all distribution customers.</p> <p>The Decision found that costs for local area reliability needs are properly allocated to all customers, consistent with TURN’s legal and policy analysis.</p>	<p>Woodruff Rebuttal Testimony, Exh. 12, p. 3-8.</p> <p>TURN Opening Brief, November 8, 2013, p. 2-7.</p> <p>TURN Reply Comments on PD, January 28, 2014, p. 1-4.</p> <p>D.14-02-016, Sec. 5, p. 11-12.</p>	Verified
<p>2. Coordination with LTPP need determination due to changed conditions</p> <p>TURN argued that changing conditions</p>	<p>TURN Protest, Aug. 7, 2013, p. 4-7.</p> <p>Woodruff Rebuttal Testimony, p. 2.</p>	Verified

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contributions	CPUC Discussion
<p>warranted postponing this application until resolution of the 2012 LTPP Track 4.</p> <p>TURN explained how lack of coordination with the LTPP could lead to over-procurement due to the potential for the repowering of Encina, or its replacement by the Carlsbad Energy Center, as alternatives to Pio Pico, despite SDG&E’s testimony that Carlsbad was not a viable option.</p> <p>The Commission rejected this recommendation based on position that the public policy interest in regulatory certainty outweighs the risk that future outcomes will differ from forecasts.</p>	<p>TURN Opening Brief, November 8, 2013, p. 7-10.</p> <p>TURN Opening Comments on PD, January 23, 2014, p. 1-4.</p> <p>D.14-02-016, Sec. 3.3, p. 5-6.</p>	

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

	Claimant	CPUC Verified
<p>a. Was the Office of Ratepayer Advocates (ORA)¹ a party to the proceeding?</p>	Yes	Verified
<p>b. Were there other parties to the proceeding with positions similar to yours?</p>	Yes	Verified
<p>c. If so, provide name of other parties:</p> <p>SDG&E and ORA had similar positions concerning cost allocation. ORA did not address the issue extensively. SDG&E referred to TURN’s testimony in its brief on this issue. (SDG&E Opening Brief, p. 15-17.) TURN provided the most extensive rebuttal, in testimony and briefs, to the arguments of AReM/DACC.</p> <p>Several intervenors (Sierra Club, California Environmental Justice Alliance, UCAN, Protect Our Communities) provided more extensive testimony and briefing on the issue of need and changed conditions, contract terms and conditions, and coordination with the LTPP.</p>		Verified

¹ The Division of Ratepayer Advocates was renamed the Office of Ratepayer Advocates (ORA) 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>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>No duplication issues.</p>
<p>TURN communicated with ORA to determine their intentions in addressing the cost allocation and needs issues in this proceeding. TURN also communicated with counsel for SDG&E regarding their intentions concerning the CAM issue. TURN participated in at least two coordination meetings with other intervenors. As a result, TURN focused our participation on the issue of CAM allocation, and provided limited briefing on the issue of need and coordination with the LTPP.</p>	
<p>In a proceeding involving multiple participants, it is virtually impossible for TURN to completely avoid some duplication of the work of other parties. In this case, TURN took reasonable steps to keep such duplication to a minimum, and to ensure that when it did happen, our work served to complement and assist the showings of the other parties.</p>	
<p>Any incidental duplication that may have occurred here was more than offset by TURN’s unique contribution to the proceeding. Under these circumstances, no reduction to our compensation due to duplication is warranted given the standard adopted by the Commission in D.03-03-031.</p>	

C. Additional Comments on Part II:

#	Intervenor’s Comments	CPUC Discussion
2	<p>In this case, TURN’s recommendation that the application be delayed pending resolution of the LTPP Track 4 addressed the Commission’s prior requirement that the need for the Pio Pico PPTA should be re-evaluated in light of “changing conditions” (D.13-03-029, p. 27) and was directly responsive to the first issue identified in the Scoping Memo of August 26, 2013. TURN provided policy analysis concerning the possible implications of changed conditions due to uncertainties regarding Encina retirement and facts demonstrating SDG&E’s intent to contract with the Carlsbad Energy Center. The Commission rejected this recommendation in favor of regulatory certainty associated with the need determination in D.13-03-029, despite the language concerning “changed conditions.”</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), pp. 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</p>	<p>The Commission accepts this assertion.</p>

<p>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. See, also, D.09-04-027, p. 4 (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.10-06-046, p. 5 (Awarding TURN very nearly the full amount requested for its work in SCE’s application seeking ratepayer funding of a carbon sequestration feasibility study, even though TURN opposed such ratepayer funding. While TURN prevailed on one of the many issues addressed in D.09-12-014, the Commission found that “TURN substantially helped the decision-making in this proceeding.”)</p> <p>The Commission should compensate TURN for all work in this proceeding, despite the fact that the Commission rejected one of TURN’s recommendations as a matter of policy in this proceeding. In this case, TURN was successful on the primary issue of cost allocation addressed in TURN’s testimony. The issue of need and changed conditions was within the scope of the proceeding, and TURN spent a relatively limited amount of time addressing the issue of need and changed conditions (11.25 hours of attorney time and 5.5 hours of expert witness time, or 20% of total time).</p>	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>a. Intervenor’s claim of cost reasonableness:</p> <p>TURN’s participation contributed to the allocation of contract capacity costs to all ratepayers. SDG&E forecast total costs of \$1.634 billion over the 25-year time frame of the contract. According to the CPUC DASR Activities Reports, it appears that SDG&E’s DA load represents approximately 18% of total load (higher than the statewide average of 12%). Thus, if the DA customer position had prevailed, the result would have been a cost shift to bundled customers of almost \$300 million over 25 years, or about \$12 million per year nominal.</p> <p>TURN’s one-time compensation request for approximately \$27,000 thus represents significantly less than 1% of the first year savings to bundled customers.</p>	<p style="text-align: center;">CPUC Verified</p> <hr/> <p style="text-align: center;">Verified</p>
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<p>b. Reasonableness of Hours Claimed.</p> <p>TURN’s request in this case includes approximately 55 hours of attorney time and 26 hours of expert witness time.</p> <p>Mr. Hawiger was TURN’s attorney in this proceeding. Mr. Hawiger prepared all pleadings in this case and represented TURN at hearings and meetings. Mr. Hawiger devoted 53.75 hours to the proceeding, including compensation-related work.</p> <p>Mr. Woodruff was TURN’s expert witness and provided rebuttal testimony to the testimony of AReM/DACC concerning the proper allocation of contract costs. Mr. Woodruff devoted 26 hours to reading the testimonies of all parties, preparing rebuttal testimony, and reviewing pleadings.</p> <p>TURN suggests that this amount of work, approximately two weeks worth of total time, represents a reasonable and necessary amount of time and effort. This case involved a sizable contract and involved one day of evidentiary hearings. TURN had to retain an expert witness to rebut the expert testimony of AReM/DACC regarding cost allocation. TURN has reviewed the contemporaneous time entries and believes the hours recorded represented a very reasonable amount of time for the work performed.</p>																																			
<p>c. Allocation of Hours by Issue</p> <p>Based on the detailed time sheets, the following represents the allocation by issue for attorney Marcel Hawiger and expert witness Kevin Woodruff:</p> <table border="1" data-bbox="259 1144 1084 1621"> <thead> <tr> <th rowspan="2">Issue</th> <th colspan="2">MARCEL HAWIGER</th> <th colspan="2">KEVIN WOODRUFF</th> </tr> <tr> <th>Hours</th> <th>%</th> <th>Hours</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>CAM</td> <td>14.5</td> <td>30.5%</td> <td>13.00</td> <td>50.0%</td> </tr> <tr> <td>Need</td> <td>11.25</td> <td>23.7%</td> <td>5.50</td> <td>21.2%</td> </tr> <tr> <td>GP</td> <td>18.00</td> <td>37.9%</td> <td>3.50</td> <td>13.5%</td> </tr> <tr> <td>Other</td> <td>10.00</td> <td>7.9%</td> <td>4.00</td> <td>15.4%</td> </tr> <tr> <td>Total</td> <td>53.75</td> <td></td> <td>26.00</td> <td></td> </tr> </tbody> </table>	Issue	MARCEL HAWIGER		KEVIN WOODRUFF		Hours	%	Hours	%	CAM	14.5	30.5%	13.00	50.0%	Need	11.25	23.7%	5.50	21.2%	GP	18.00	37.9%	3.50	13.5%	Other	10.00	7.9%	4.00	15.4%	Total	53.75		26.00		<p>No substantial contribution was made to Need. As such, all hours related to work in the Need Category are disallowed. See comments below.</p>
Issue		MARCEL HAWIGER		KEVIN WOODRUFF																															
	Hours	%	Hours	%																															
CAM	14.5	30.5%	13.00	50.0%																															
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Other	10.00	7.9%	4.00	15.4%																															
Total	53.75		26.00																																

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Marcel Hawiger	2013	38.75	\$400	D.13-08-022, Res. ALJ-287	15,500.00	29.75	\$385 ²	\$11,453.75
Marcel Hawiger	2014	8.75	\$400	2013 Rate	3,500.00	6.25	\$400	\$2,500.00
Matthew Freedman	2013	0.25	\$400	D.12-07-019, Res. ALJ-281 and ALJ-287	\$100.00	0.25	\$400	\$100.00
Thomas Long	2014	0.25	\$555	2013 Rate, per D.13-10-065 and Res. ALJ-281.	\$138.75	0.25	\$555	\$1,387.50
Kevin Woodruff	2013	26.0	\$240	D.12-11-050	6,240.00	20.5	\$240	\$4,920.00
Subtotal:					\$25,478.75	Subtotal:		\$20,361.75
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Hours	Rate	Total \$
Marcel Hawiger	2014	6.25	\$200	½ of 2013 Rate	\$1,250.00	6.25	\$200	\$1,250.00
Subtotal:					\$1,250.00	Subtotal:		\$1,250.00
COSTS								
#	Item	Detail			Amount	Amount		
	Copying	Copying testimony and pleadings for CPUC ALJ and Commissioner			\$7.40			\$7.40
	Postage	Mailing pleadings to CPUC			\$9.36			\$9.36
Subtotal:					\$16.76	Subtotal:		\$16.76
TOTAL REQUEST \$:					\$26,745.51	TOTAL AWARD \$:		\$21,628.51
<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</p>								

² Approved in D.14-09-012.

decision making the award.
 **Travel and Reasonable Claim preparation time typically compensated at ½ of preparer’s normal hourly rate

Attorney	Date Admitted to CA BAR ³	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
Marcel Hawiger	1/23/1998	194244	No
Thomas Long	12/11/1986	124776	No
Matthew Freedman	03/29/2001	214812	No

C. Attachments Documenting Specific Claim and Comments on Part III

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	<p><u>Attorney and Witness Time Sheets</u></p> <p>A daily listing of the specific tasks performed by Messrs. Hawiger, Freedman and Long in connection with this proceeding is set forth in Appendix A. TURN’s attorneys maintained detailed contemporaneous time records indicating the number of hours devoted to work on this case. In preparing this appendix, Mr. Hawiger reviewed all of the recorded hours devoted to this proceeding and included only those that were reasonable for the underlying task.</p>
Attachment 3	Expense Detail
Comment 1 - Issue Coding and Issue Allocation	<p>TURN typically allocates its work activities on an issue-by-issue basis where the time can be allocated to a specific issue. TURN also uses activity-based codes for work that is not issue-specific or spans multiple issues. In this proceeding, TURN specifically addressed two primary issues. The question of need for the PPTA due to changed circumstances is coded as “need,” and the issue of contract cost allocation is coded as “CAM.”</p> <p>For a very limited number of hours where the work covered both issues and separate allocation was impossible or impractical, TURN uses the code “#” to refer to multiple issues.</p> <p>Some work is fundamental to active participation in a Commission proceeding, and is not allocable by issue. Examples of these tasks include reviewing other parties’ testimony and filings; attending prehearing conferences and ex parte meetings; reviewing the proposed and any alternate decision; and preparing compensation filings. Some of these tasks do not vary by number of issues (for</p>

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

	<p>example, PHC); while others require some time spent on issues that TURN may not even address (reading pleadings of other parties), even though TURN attempts to focus our time only on issues on which we actively participate.</p> <p>TURN uses the code “GP” or “Gen I” to represent general participation time that is not allocable by issue. The entries in this category represent unallowable work that is fundamental to active participation in the case.</p> <p>TURN submits that all of the hours claimed were reasonably and efficiently expended and should be fully compensated.</p>
<p>Comment – 2 Hourly Rates</p>	<p>TURN 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 2013 consistent with Resolution ALJ-278. The following describes the basis for the requested rates that have not been previously awarded as of the date of this Request for Compensation.</p> <p><u>Marcel Hawiger</u></p> <p>The Commission has adopted an hourly rate of \$375 for Hawiger for 2012, in D.13-08-022. TURN seeks an hourly rate of \$400 for 2013, representing the general 2% COLA increase provided by Res. ALJ-287, as well as a 5% step increase due to Hawiger’s transition to the 13+ year experience tier. TURN has previously requested this hourly rate for Mr. Hawiger in the pending request A.10-12-005 (Sempra 2012 GRC).</p> <p>Due to the limited number of hours, TURN seeks compensation at the 2013 rate for Hawiger’s work in 2014, for purposes of this proceeding only. TURN reserves the right to request an increase for Hawiger’s 2014 hourly rate in a future proceeding.</p> <p><u>Matthew Freedman</u></p> <p>TURN seeks an hourly rate of \$400 for Mr. Freedman for 2013.</p> <p>The Commission has authorized an hourly rate of between \$350 and \$360 for Freedman for 2012 in D.12-07-019, D.13-09-020 and D.13-02-032. TURN has requested an hourly rate of \$375 for Mr. Freedman in A.11-07-007 (pending) and in all future compensation requests that include 2012 hours for Freedman. This request represents a 7.2% increase from the previously authorized rate of \$350 for 2011, consistent with the general 2.2% COLA increase provided by Res. ALJ-281, plus the first of two 5% step increases due to Freedman’s transition to the 13+ years experience tier.</p> <p>The hourly rate of \$400 requested for 2013 represents a 7.2% increase from the 2012 rate of \$375, based on the general 2% COLA increase provided in Res. ALJ-287, plus the second of the two 5% step increases due to Freedman’s</p>

	<p>transition to the 13+ years experience tier.</p> <p><u>Thomas Long</u></p> <p>The Commission has previously approved an hourly rate of \$520 for Long for 2011. TURN has previously requested approval of an hourly rate of \$555 for 2013, based on the standard COLA increases authorized by Resolutions ALJ-281 and ALJ-287. Due to the very limited number of Long’s hours in 2014 in this proceeding, TURN requests compensation at the 2013 rate. TURN reserves the right to request an increase for Long’s 2014 hourly rate in a future proceeding.</p> <p><u>Kevin Woodruff</u></p> <p>The Commission has previously authorized an hourly rate of \$240 for Woodruff’s expert services for 2012. Woodruff has not increased his hourly rate for TURN in 2013, so TURN does not request an increase in this case.</p>
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D. CPUC Disallowances and Adjustments:

#	Reason
1. Adoption of Marcel Hawiger’s 2014 hourly rate.	The Commission upholds the recent award decision adopting for Hawiger the rate of \$385 per hour for work he completed in 2013. However, the Commission finds The Utility Reform Network’s (TURN’s) comments compelling, and will adopt the requested rate of \$400 per hour for 2014.
2. Disallowance for failure to make a substantial contribution.	TURN did not make a substantial contribution to the issue of Need in this proceeding. As such the following hours are disallowed from TURN’s claim: 9 hours from Marcel Hawiger’s 2013 hours and 2.5 hours for 2014; and 5.5 hours from Kevin Woodruff’s 2013 hours.

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

FINDINGS OF FACT

1. TURN has made a substantial contribution to Decision 14-02-016.
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 are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$21,628.51.

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 \$21,628.51.
2. Within 30 days of the effective date of this Decision, San Diego Gas & Electric Company (U902E) shall pay The Utility Reform Network (TURN) 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 June 28, 2014, the 75th day after the filing of TURN'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 Bakersfield, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1402016		
Proceeding(s):	A1306015		
Author:	ALJ Hallie Yacknin		
Payer(s):	San Diego Gas & Electric Company (U902E)		

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	4/14/2014	\$26,745.51	\$21,628.51	N/A	Failure to make a substantial contribution on the issue of Need.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Marcel	Hawiger	Attorney	TURN	\$400	2013	\$385
Marcel	Hawiger	Attorney	TURN	\$400	2014	\$400
Matthew	Freedman	Attorney	TURN	\$400	2013	\$400
Thomas	Long	Attorney	TURN	\$555	2014	\$555
Kevin	Woodruff	Expert	TURN	\$240	2013	\$240

(END OF APPENDIX)