

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for Approval of 2013-2014 Statewide Marketing,
Education and Outreach Program and Budget
(U39M)

Application 12-08-007
(Filed August 2, 2012)

And Related Matters.

Application 12-08-008
Application 12-08-009
Application 12-08-010

**DECISION GRANTING COMPENSATION TO THE UTILITY REFORM
NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 13-12-038**

Claimant: The Utility Reform Network (TURN)	For contribution to Decision (D.) 13-12-038
Claimed: \$58,901.12	Awarded: \$58,901.12
Assigned Commissioner: Carla Peterman	Assigned ALJ: Stephen J. Roscow

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	D.13-12-038 adopted a statewide marketing, education and outreach plan for residential and small business energy management through the end of 2015.
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B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	November 26, 2012	Yes
2. Other Specified Date for NOI:	n/a	n/a
3. Date NOI Filed:	December 19, 2012	Yes
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.12-04-015	Yes
6. Date of ALJ ruling:	July 20, 2012	Yes
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:	ALJ Ruling in R.11-11-008	Yes
10. Date of ALJ ruling:	January 3, 2012	Yes
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.13-12-038	Yes
14. Date of Issuance of Final Order or Decision:	December 27, 2013	Yes
15. File date of compensation request:	February 24, 2014	Yes
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	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>1. TURN protested the IOUs' applications raising a number of issues fully discussed below.</p> <p>The Commission rejected the IOUs' applications.</p>	<p>TURN Protest (9/6/12). D. 13-12-038, COL 1- 4.</p>	<p>Accepted</p>
<p>2. Marketing Strategy</p> <p>TURN argued that a significant problem with both the IOUs' proposed marketing plans and the CCSE plan was that they were all focused on raising consumer awareness without any real attention to getting consumers to act re energy efficiency. Therefore, TURN argued, the plans failed to further the goals of the 2008 California Energy Efficiency Long-Term Strategic Plan (Strategic Plan).</p> <p>The Commission agreed stating, "...we find that neither the CCSE's nor the utilities' proposed objectives adequately provide a path to achieve the strategies of statewide marketing as defined in the 2008 Strategic Plan." D.13-12-038 went on to clarify both the long-term and short-term goals and objectives for statewide marketing, education & outreach (SW ME&O) to reflect the need for consumers to begin to take action to better manage energy consistent with</p>	<p>TURN Protest (9/6/12), pp. 3 - 6. Comments of TURN (3/28/13), pp. 3 - 4, 5 - 6.</p> <p>D.13-12-038, p. 61; FOF 3, 4; COL 6, 7.</p> <p>D.13-12-038, pp. 61 - 65.</p>	<p>Accepted</p>

<p>TURN's advocacy.</p>		
<p>3. Program Performance Metrics</p> <p>A major concern TURN identified in all the proposed plans was the lack of specific measureable performance metrics and performance indicators. Although TURN ultimately supported a revised version of the CCSE proposed marketing plan, TURN urged the Commission to adopt metrics that were measureable and allowed the Commission to accurately judge that the new SW ME&O program, using ratepayer funds, was providing tangible results including actions by consumers to meet the energy Strategic Plan. TURN also argued that the CCSE plan de-emphasized the fact that cost savings is a primary motivator for consumer action, especially among low-income consumers. TURN sought more attention in the plan to those customers.</p> <p>TURN also recommended that CCSE utilize a “collaborative process” in order for CCSE to get stakeholder feedback on performance metrics before CCSE files an Advice Letter with the Commission seeking approval of the metrics.</p> <p>The Commission agreed with TURN that the performance metrics were insufficient to assess that ratepayer funds were being used prudently and in a cost-effective manner.</p> <p>The Commission also agreed</p>	<p>TURN Protest (9/6/12), pp. 6-7.</p> <p>Comments of TURN (3/28/13), pp. 5-6, 3 – 4.</p> <p>Reply Comments of TURN (4/5/13), pp. 2 – 3.</p> <p>TURN Comments on PD (11/25/13), pp. 2-4 and 6 – 7.</p> <p>TURN Comments on PD (11/25/13), pp. 6 - 7.</p> <p>Reply Comments of TURN (4/5/13), pp. 2-3.</p> <p>TURN Comments on PD (11/25/13), pp. 5 – 6.</p> <p>TURN Reply Comments on PD (12/2/13), pp. 1 – 2.</p> <p>D.13-12-038, pp. 66 – 73.</p>	<p>Accepted</p>

<p>with TURN that CCSE should add metrics and indicators that are focused on low-income and hard-to-reach customers.</p> <p>Finally, the Commission adopted TURN’s recommendation for a “collaborative process” to develop further refinements of the metrics.</p>	<p>D.13-12-038, p. 68.</p> <p>D.13-12-038, p. 67; COL 16, 18.</p>	
<p>4. Governance Structure</p> <p>TURN supported utilizing CCSE as the primary implementer of the SW ME&O program.</p> <p>TURN also argued against SCE and the other IOUs assertions that the governance structure proposed by CCSE (non-utility administration) was illegal.</p> <p>TURN also argued against CCSE’s proposal that they be given unrestrained access to aggregated, anonymous and identifiable customer data. TURN asserted that the instant proceeding on SW ME&O had no record to make a decision on data privacy. Instead, TURN argued that any data access and privacy concerns be resolved in R.08-12-009, which has a very robust record relating to these issues.</p> <p>The Commission agreed with TURN that CCSE should be the implementer for the SW ME&O program</p> <p>The Commission agreed with TURN’s “reasoning and analysis” holding that CCSE could legally be the plan</p>	<p>Comments of TURN (3/28/13), pp. 4, 6 – 7.</p> <p>Reply Comments of TURN (4/5/13), pp. 3 – 5.</p> <p>TURN Reply Comments on PD (12/2/13), pp. 2 - 3.</p> <p>D.13-12-38, p. 57; COL 5.</p> <p>D.13-12-38, pp. 49 – 51, 73 – 77; COL 21, 25, 26.</p>	<p>Accepted</p>

<p>Technology, Greenlining Institute, Joint Parties</p>	
<p>d. Intervenor’s Claim of Non Duplication: While TURN did communicate with the other parties none of them went into the level of detail as much as did TURN and all endorsed many of TURN’s arguments and recommendations. Under such circumstances the Commission should find that TURN’s participation was efficiently coordinated with the participation of other intervenors wherever possible, 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 intervenors.</p>	<p>Verified</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>a. Intervenor’s Claim of Cost Reasonableness</p> <p>There is no question that TURN made a substantial contribution to the outcome of this proceeding. TURN’s recommendations were cited numerous times in D.13-12-38 (see above). In addition, TURN’s kept costs reasonably low by focusing on a few major issues. Given the significance of the proceeding to the achievement of the Commission’s and State of California’s long-term energy goals, and the significance of TURN’s participation, the Commission should find TURN’s request for intervenor compensation to be reasonable.</p>	<p>CPUC Verified</p> <hr/> <p>Verified</p>
<p>b. Reasonableness of Hours Claimed.</p> <p>William Nusbaum served as TURN’s lead attorney for the proceeding devoting about 101 hours, the equivalent of approximately 13 days of work time. Hayley Goodson and Marcel Hawiger each spent 5.5 and less than 2 hours respectively assisting Mr. Nusbaum on selected tasks. In addition, TURN engaged Barbara Alexander, a marketing, education and consumer outreach expert to advise on certain issues such as assessing the marketing plans and developing metrics. Ms. Alexander devoted about 50 hours to the proceeding. Finally, TURN also relied on Cynthia Mitchell, an expert in energy efficiency, to assist Mr. Nusbaum on prior IOU ME&O budgets. Ms. Marshall spent only 3 hours for this effort.</p> <p>TURN submits that this amount of time is more than reasonable when considering the complexity of the issues addressed and TURN’s substantial contributions.</p>	<p>TURN’s claimed hours are reasonable.</p>
<p>c. Allocation of Hours by Issue</p> <p>TURN has allocated all of our attorney and advocate time by issue area or</p>	

<p>activity, as evident on our attached timesheets.</p> <p>The following codes relate to specific substantive issue and activity areas addressed by TURN:</p> <p>GP - General Preparation: time for activities necessary to participate in the Docket</p> <p>Mkt – Issues associate with the marketing plans</p> <p>M – Issues associated with performance metrics and indicators</p> <p>G – Issues associated with governance structure, incl. legal and procedural issues</p> <p>B – Issues associated with the budgets of the plans</p> <p>COMP – Preparation of compensation request and TURN’s notice of intent</p> <p># - Where time entries cannot easily be identified with a specific activity code. For these entries, the allocation of time spent on activities can be broken down as such: Mkt – 30%; M – 30%; G – 25%; B – 15%</p>	<p>TURN has properly allocated its time by major issue.</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 \$
William Nusbaum	2012	41.75	\$445	Res. ALJ 281	\$18,578.75	41.75	\$445.00 ²	\$18,578.75
William Nusbaum	2013	58.75	\$455	Res. ALJ 287	\$26,731.25	58.75	\$455.00 ³	\$26,731.25
Hayley Goodson	2012	2	\$325	D.13-08-022	\$650	2.0	\$325.00 ⁴	\$650.00
Hayley Goodson	2013	3.50	\$340	Res. ALJ 281 + 5% step increase A.11-06-007 (SCE GRC Phase 2)	\$1,190	3.50	\$340.00 ⁵	\$1,190.00
Marcel Hawiger	2012	1.25	\$375	Res. ALJ 281 +5% step A.10-11-015 (SCE GRC)	\$468.75	1.25	\$375.00 ⁶	\$468.75
Barbara Alexander	2012	26.50	\$150	See comment #2 below	\$3,975	26.50	\$150.00[A]	\$3,975.00
Barbara Alexander	2013	24	\$150	See comment #2 below	\$3,600	24.00	\$150.00	\$3,600.00
Cynthia Mitchell	2012	3	\$180	Same rate as previously adopted for 2011 in D.12-02-012.	\$540	3.0	\$180.00 ⁷	\$540.00
Subtotal: \$55,733.75						Subtotal: \$55,733.75		

² Approved in D.13-12-051.

³ Approved in D. 13-10-065.

⁴ Approved in D. 14-08-026.

⁵ Approved in D.14-12-074.

⁶ Approved in D.14-12-073.

⁷ Approved in D.12-02-012.

INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
William Nusbaum	2012	2	\$222.50	Res. ALJ 247 (Half approved hourly rate)	\$445	2.0	\$222.50	\$445.00
William Nusbaum	2014	11.50	\$227.50	Res. ALJ 287 (Half approved hourly rate)	\$2,616.25	11.50	\$227.50 ⁸	\$2,616.25
Subtotal: \$3,061.25						Subtotal: \$3,061.25		
COSTS								
#	Item	Detail	Amount		Amount			
	Photocopies		\$11.20		\$11.20			
	FedEx		\$77.31		\$77.31			
	Phone		\$7.61		\$7.61			
	Postage		\$10.00		\$10.00			
Subtotal \$106.12						Subtotal: \$ 106.12		
TOTAL REQUEST: \$58,901.12						TOTAL AWARD: \$ 58,901.12		
<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>								

⁸ Approved in D.14-08-052.

Attorney	Date Admitted to CA BAR ⁹	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
William Nusbaum	June 1983	108835	No
Marcel Hawiger	January 1998	194244	No
Hayley Goodson	December 2003	228535	No

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

Attachment or Comment #	Description/Comment
1	Certificate of Service (filed as a separate attachment)
2	Reasonableness of hourly rates: Barbara Alexander charged TURN an hourly rate of \$150 for her work starting in September 2012 on this proceeding. In A.11-11-017 (the PG&E Smart Grid Pilot application), TURN is seeking compensation at \$130 per hour for work Ms. Alexander performed through mid-year of 2012. TURN submits that Ms. Alexander's increase of her market rate to \$150 in mid-2012 still results in a very reasonable rate for a witness of her experience and caliber. Ms. Alexander is a Consumer Affairs Consultant with nearly two decades of experience as a consultant, following on a decade with the Maine Public Utilities Commission's Consumer Assistance Division, where she was the division director. In Resolution ALJ -281 addressing 2012 hourly rates, the range for an expert witness or consultant with 7-12 years of experience starts at \$160; the bottom of the range for an expert with thirteen or more years of experience starts at \$160 and extends to \$400. Thus TURN submits that Ms. Alexander's rate of \$150 is clearly exceedingly reasonable (and likely substantially below-market) for a person of her training and experience.
3	Contemporaneous Time Sheets for Attorney and Expert Witness. A daily listing of the specific tasks performed by Attorneys Nusbaum, Goodson and Hawiger as well as experts Alexander and Mitchell in connection with this proceeding is set forth in Attachment 2. TURN's attorneys and experts maintained detailed contemporaneous time records indicating the number of hours devoted to work on this case. In preparing this appendix, Mr. Nusbaum reviewed all of the recorded hours devoted to this proceeding and included only those related to the issues covered in the relevant decisions and that were reasonable for the underlying task.
4	Expense Detail
5	Allocation by Issue

⁹ This information may be obtained at: <http://www.calbar.ca.gov/>.

Comment 1	<p>2012 and 2013 Hourly Rate for Barbara Alexander: In Application 11-11-017, TURN requested compensation for expert Barbara Alexander at the rate she billed TURN (\$130 per hour) for work done during the first half of 2012. In D.14-12-019, the Commission awarded Barbara Alexander a \$130 hourly rate for 2012 for work performed in that proceeding, because this rate was reasonable and consistent with Resolution ALJ-281. Resolution ALJ - 281, which addresses 2012 hourly rates, finds a reasonable range for an expert witness or consultant with 7-12 years of experience starts at \$160; the bottom of the range for an expert with thirteen or more years of experience starts at \$160 and extends to \$400. Resolution ALJ-287 approves a 2% cost-of-living adjustment for 2013 and finds a reasonable range for an expert witness or consultant with 7-12 years of experience, and for an expert with more than 13 years of experience, starts at \$165. Therefore, Barbara Alexander's requested rate of \$150, which she billed TURN in this proceeding for her work conducted in the second half of 2012 and in 2013, is reasonable for a person of her training and experience and we approve this rate for her work in this proceeding.</p>
Comment 2	<p>Reasonable Expenses: TURN seeks recovery of \$106.12 associated with expenses and costs incurred for work in this proceeding. The postage and copying costs are associated with copying and mailing pleadings to the Assigned Commissioner and Administrative Law Judge. The \$77.31 Federal Express bill (TURN attached a receipt to its request) was incurred to send documents to expert Barbara Alexander.</p>

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. The Utility Reform Network has made a substantial contribution to Decision 13-12-038.
2. The requested hourly rates for The Utility Reform Network's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.

4. The total of reasonable compensation is \$58,901.12.

CONCLUSION OF LAW

1. 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 \$58,901.12.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and San Diego Gas & Electric Company shall pay The Utility Reform Network their respective shares of the award, based on their California-jurisdictional electric and gas revenues for the 2013 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 10, 2014, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, at San Francisco, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision? No
Contribution Decision(s):	D1312038	
Proceeding(s):	A1208007; A1208008; A1208009; A1208010	
Author:	ALJ Roscow	
Payer(s):	Pacific Gas and Electric Company; Southern California Edison Company; Southern California Gas Company; and San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier	Reason Change/Disallowance
The Utility Reform Network (TURN)	2/24/2014	\$58,901.12	\$58,901.12	n/a	n/a

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
William	Nusbaum	Attorney	TURN	\$445	2012	\$445.00
William	Nusbaum	Attorney	TURN	\$455	2013	\$455.00
Hayley	Goodson	Attorney	TURN	\$325	2012	\$325.00
Hayley	Goodson	Attorney	TURN	\$340	2013	\$340.00
Marcel	Hawiger	Attorney	TURN	\$375	2012	\$375.00
Barbara	Alexander	Expert	TURN	\$150	2012	\$150.00
Barbara	Alexander	Expert	TURN	\$150	2013	\$150.00
Cynthia	Mitchell	Expert	TURN	\$180	2012	\$180.00

(END OF APPENDIX)