

Decision 17-11-029 November 30, 2017

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

Order Instituting Rulemaking to Oversee the Resource Adequacy Program, Consider Program Refinements, and Establish Annual Local and Flexible Procurement Obligations for the 2016 and 2017 Compliance Years.

Rulemaking 14-10-010

**DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR CONTRIBUTION TO DECISION 17-06-027**

Intervenor: The Utility Reform Network (TURN)	For contribution to Decision (D.) 17-06-027
Claimed: \$ 68,593.36	Awarded: \$ 68,593.36
Assigned Commissioner: Liane M. Randolph	Assigned ALJ: Peter V. Allen

**PART I: PROCEDURAL ISSUES**

A. Brief description of Decision:	The Decision adopts local and flexible capacity obligations for 2018, adopts an Effective Load Carrying Capacity (ELCC) approach to determining the capacity values of wind and solar resources, and makes other refinements to the Resource Adequacy (RA) program.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:

	Intervenor	CPUC Verified
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	N/A	N/A
2. Other specified date for NOI:	12/5/14	12/05/2014
3. Date NOI filed:	12/5/14	12/05/2014
4. Was the NOI timely filed?		Yes
Showing of eligible customer status (§ 1802(b) or eligible local government entity status (§§ 1802(d), 1802.4)):		
5. Based on ALJ ruling issued in proceeding number:	R.14-05-001	R.14-05-001
6. Date of ALJ ruling:	9/5/14	09/05/2014
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes
Showing of "significant financial hardship" (§1802(h) or §1803.1(b))		
9. Based on ALJ ruling issued in proceeding number:	R.14-05-001	Yes
10. Date of ALJ ruling:	9/5/14	Yes
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.17-06-027	D1706027
14. Date of issuance of Final Order or Decision:	7/10/17	07/10/2017
15. File date of compensation request:	9/6/17	09/06/2017
16. Was the request for compensation timely?		Yes

**PART II: SUBSTANTIAL CONTRIBUTION**

A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059).

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>1. The Decision adopted an ELCC approach (Energy Division’s second proposal) that was consistent with TURN’s cost concerns, and did not adopt competing approaches that TURN opposed.</p>	<p>Comments of TURN on Final Phase 3 Proposals, 3/10/17, pp. 2-5, 6-8, 11-12.                      Reply Comments of TURN on Final Phase 3 Proposals, 3/24/17, pp. 1-5.                      Comments of TURN on the PD, 6/14/17, pp. 1-3.                      Reply Comments of TURN on the PD, 6/19/17, p. 1.                      D.17-06-027, pp. 20-21.</p>	<p>Verified</p>
<p>2. TURN supported the Energy Division’s proposal that each utility provide historical hourly demand side load impacts to energy service providers and community choice aggregators and offered suggestions for how the proposal should be implemented. Citing TURN’s support (among others), the Decision directed the creation of a working group on this issue to submit analysis and recommendations to the proceeding considering 2019 RA compliance.</p>	<p>Comments of TURN on Preliminary Phase 3 Proposals, 1/13/17, pp. 11-12.                      D.17-06-027, p. 27.</p>	<p>Verified</p>
<p>3. The Decision found that further consideration was warranted for a variety of proposed RA revisions – relating to Fast Dispatch of Slow Response Resources, Removal of the Path 26 Constraint, Maximum Cumulative Capacity Buckets, and Seasonal Local RA --</p>	<p>Comments of TURN on Preliminary Phase 3 Proposals, 1/13/17, pp. 8-11.                      D.17-06-027, pp. 22, 24, 26, 27-28.</p>	<p>Verified</p>

<p>consistent with TURN’s advocacy that these revisions were worthy of further study.</p>		
<p>4. TURN contributed to the record on the development of a durable (as opposed to interim) flexible capacity requirement, but ultimately, along with other parties, recommended that the Commission defer implementation of such a requirement. The Commission decided to defer this issue, quoting TURN’s comments (among others).</p>	<p>Comments of TURN Regarding Study Plans for Durable Flexible Capacity Program Topics, 9/23/16, pp. 1-3.  Comments of TURN on Track 2, Question 1 (“Reliability Needs Problem Statement”), 2/5/16, pp. 1-2.  Comments of TURN on Preliminary Phase 3 Proposals, 1/13/17, p. 7.  D.17-06-027, p. 17.</p>	<p>Verified</p>
<p>5. TURN, among other parties, opposed adoption of a Multi-Year RA requirement at this time and opposed IEP’s proposal for the Commission to decide “as a matter of policy” the amount of RA capacity jurisdictional LSEs should procure 3 and 5 years forward. TURN supported IEP’s proposal for an annual report of forward capacity procurement in the interest of market transparency. The Commission did not adopt a multi-year requirement and rejected IEP’s proposal to address the substantive issues relating to such a requirement at this time. While the Commission did not adopt IEP’s forward capacity reporting requirement, it noted the Energy Division’s current efforts in this regard and encouraged continued monitoring and reporting.</p>	<p>Comments of TURN on Preliminary Phase 3 Proposals, 1/13/17, pp. 5-6.  Comments of TURN on Forward Capacity Procurement Report and Related Proposals, 2/16/17, pp. 1-3.  Comments of TURN on Final Phase 3 Proposals, 3/10/17, pp. 12-13.  D.17-06-027, pp. 17-18.</p>	<p>Verified</p>

<p>6. TURN opposed parties' recommendations to modify the PD to adopt more costly ELCC approaches. Consistent with TURN's advocacy, the final decision did not adopt such recommendations.</p>	<p>Reply Comments of TURN on the PD, 6/19/17, pp. 1-2.</p> <p>D.17-06-027, p. 21.</p>	<p>Verified</p>
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
<p>a. Was the Office of Ratepayer Advocates (ORA) a party to the proceeding?</p>		<p>Yes</p>
<p>b. Were there other parties to the proceeding with positions similar to yours?</p>		<p>Yes</p>
<p>c. If so, provide name of other parties: With respect to certain issues, depending on the issue, one or more of several other parties may have taken a position similar to TURN, including but not limited, to ORA, CLECA, SDG&amp;E, PG&amp;E, SCE, CAISO and IEP.</p>		<p>Confirmed</p>
<p>d. Intervenor's claim of non-duplication: TURN and ORA represented similar interests in this proceeding. (While both represented ratepayer interests, TURN alone focuses its representation on the interests of residential and small commercial customers.) TURN accordingly took steps to coordinate with ORA as shown in several entries in the attached timesheet. For example, TURN devoted relatively more resources than ORA to analyzing and explaining the ratepayer cost impacts of the various ELCC proposals in comments, including comments on the Proposed Decision (PD), and in ex parte meetings.</p> <p>The fact that other parties shared TURN's perspective on various other issues did not result in TURN's undue duplication with those parties. A rulemaking proceeding of this nature attracts a range of parties, and some degree of overlap in positions is inevitable. In the specific case of the issues here, the range of interests represented by parties with positions overlapping with TURN's varied widely, from generators to marketers to utilities to consumer representatives. TURN's positions were based on the independent analysis of its highly experienced and respected expert, Kevin Woodruff, and complementary to the offerings of others. TURN's independent perspective contributed to a full record upon which the Commission could base its determinations.</p> <p>For all of these reasons, TURN submits that the Commission should find no undue duplication between TURN's participation and that of ORA or other parties.</p>		<p>Verified</p>

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<p>a. Intervenor’s claim of cost reasonableness: TURN’s advocacy reflected in the Decision addressed policy and implementation matters rather than specific rates or disputes over particular dollar amounts. As a result, TURN cannot easily identify precise monetary benefits to ratepayers from our work related to these decisions, given the nature of the issues presented. While it is difficult to place a dollar value on Resource Adequacy (RA) issues, TURN submits that our participation should result in reduced customer costs by promoting accurate RA needs assessments and cost-effective refinements to the RA program. In this case as in prior RA proceedings, these benefits far exceed the modest cost of TURN’s participation. (<i>See, e.g.</i>, D.16-12-060, p. 5, issued in this docket, and D.12-06-014, issued in, R.09-10-032, as well as D.09-11-029, issued in R.08-01-025, and D.07-03-011, issued in R.05-12-013 (two earlier RA proceedings), which found that the benefits from TURN’s participation on RA policy issues outweighed the costs of TURN’s participation.)</p> <p>For all of these reasons, the Commission should find that TURN's efforts here have been productive.</p>	<p style="text-align: center;"><u>CPUC Discussion</u></p> <p style="text-align: center;">Verified</p>
<p>b. Reasonableness of hours claimed:                  This Request for Compensation includes approximately 219 total substantive hours for TURN’s attorney and consultant, or the equivalent of five and one-half weeks of full-time work by a single person (40 hours/week). TURN submits that this is a reasonable amount of time, given that the work claimed in this request spanned 24 months, required careful analysis and cost impact assessment of new ELCC proposals by Energy Division and other parties, required careful scrutiny of several new proposals for RA revisions, involved six workshops, and involved eight formal pleadings filed by TURN (excluding compensation-related pleadings).</p> <p>TURN has not included in this request any hours or costs that it requested in its previous compensation claim in this docket, which was approved in D.16-12-060. TURN includes in this request approximately 31.5 hours related to issues concerning a durable flexible capacity program that TURN deferred in its previous request because the Commission had not yet issued a decision on that issue. As noted in the Substantial Contribution section above, the Commission has now resolved this issue in this docket.</p> <p>TURN was efficient in staffing this proceeding and pursuing our objectives. As reflected in the attached timesheets, Mr. Long was TURN’s sole attorney in this phase of the case. Throughout this phase, Mr. Long was assisted by outside consultant Kevin Woodruff, of Woodruff Expert</p>	<p style="text-align: center;">Verified</p>

Services, the same expert TURN has extensively relied on in previous Resource Adequacy rulemaking proceedings. Once again, Mr. Long relied heavily on Mr. Woodruff, resulting in Mr. Woodruff's incurring more than 85% of TURN's total hours (excluding intervenor compensation-related time). This reliance on Mr. Woodruff's extensive expertise significantly reduced TURN's attorney hours and thereby resulted in efficiencies in TURN's participation in this proceeding.

TURN claims 8.75 hours (approximately 4% of TURN's total substantive hours, incurred by Kevin Woodruff) for its work analyzing the CAISO's LCR and FCR studies for the 2018 RA year. The time incurred, including participating in CAISO-organized conference calls, was related to the LCR and FCR issues in this docket, and was devoted to understanding and analyzing the CAISO studies and their results for potential comment to the CPUC. TURN was sufficiently satisfied that the CAISO methodology and estimates were reasonable and did not see a reason to file any comments with the CPUC. Nevertheless, the fact that TURN undertook to scrutinize the CAISO studies and found no problems worth commenting upon could give the Commission confidence that the CAISO studies and results were reliable. In this respect, TURN's analysis made a substantial contribution to the final decision adopting the CAISO study results, and TURN did so efficiently by incurring a small number of hours and avoiding the filing of an unnecessary pleading with the Commission. The Commission granted TURN full compensation under nearly identical circumstances in D.16-12-060 (pp. 6-7). Accordingly, TURN submits that these hours are reasonable and should be compensated.

TURN seeks compensation for 19.75 hours that TURN's expert devoted in the second half of 2015 to review and analysis of proposals that CAISO was developing for a Durable Flexibility Capacity requirement, as well as participation in CAISO-led meetings regarding such proposals. At that time, the Commission was committed to adopting such a requirement in this proceeding, and the proposal that CAISO was developing was sure to be a key proposal in this docket to which the Commission would give "great weight." TURN's efforts were focused on attempting to understand and influence the proposal that CAISO was planning to present in this docket. In this sense, this work was analogous to participation in a working group that was developing a proposal for consideration by the Commission. Because TURN's work was related to TURN's preparation for and participation in this proceeding, these hours should be fully compensated in accordance with D.15-05-026 and not viewed as advocacy by TURN before the CAISO.

TURN's request also includes 7.5 hours devoted to the preparation of this request for compensation by Mr. Long. This is a reasonable figure consistent with the scale of the relevant phases of this proceeding and

<p>TURN's level of involvement. Mr. Long has prepared this request because of his involvement in all phases of the proceeding and his detailed knowledge of TURN's work effort.</p> <p>TURN submits that all of the hours claimed in this request were reasonably necessary to the achievement of TURN's substantial contributions, and no unnecessary duplication of effort is reflected in the attached timesheets.</p>																			
<p>c. Allocation of hours by issue: TURN has allocated its daily time entries by activity codes to better reflect the nature of the work reflected in each entry. TURN has used the following activity codes for its substantive (non-compensation-related) work:</p> <table border="1" data-bbox="240 716 1053 1451"> <thead> <tr> <th>Code</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>RA Revisions</td> <td>Work specifically related to proposals to refine certain aspects of the Resource Adequacy program</td> </tr> <tr> <td>FCR</td> <td>Work specifically related to review and assessment of Flexible Capacity Requirements</td> </tr> <tr> <td>ELCC</td> <td>Work specifically related to proposed ELCC methodologies for calculating qualifying capacity for wind and solar resources</td> </tr> <tr> <td>LCR</td> <td>Work specifically related to review and assessment of Local Capacity Requirements</td> </tr> <tr> <td>GP</td> <td>Work related to general participation in this proceeding, such as reviewing the scoping memo and other rulings, review of workshop notices, and other procedural matters</td> </tr> <tr> <td>Flex Cap</td> <td>Work related to development of a durable flexible capacity requirement</td> </tr> <tr> <td>MY-RA</td> <td>Work related to a multi-year RA requirement</td> </tr> <tr> <td>Comp</td> <td>Work related to intervenor compensation.</td> </tr> </tbody> </table> <p># - Time entries that cover substantive issue work that cannot easily be identified with a specific activity code. In this proceeding, in recognition of the fact that the workshops and comments often addressed several discrete issues in a relatively short time frame, the time entries coded # represent approximately 12% of the total hours. TURN requests compensation for all of the time included in this request for compensation, and therefore 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 as follows, based on the following percentages derived from the time TURN devoted to the major issues in the docket:</p>	Code	Description	RA Revisions	Work specifically related to proposals to refine certain aspects of the Resource Adequacy program	FCR	Work specifically related to review and assessment of Flexible Capacity Requirements	ELCC	Work specifically related to proposed ELCC methodologies for calculating qualifying capacity for wind and solar resources	LCR	Work specifically related to review and assessment of Local Capacity Requirements	GP	Work related to general participation in this proceeding, such as reviewing the scoping memo and other rulings, review of workshop notices, and other procedural matters	Flex Cap	Work related to development of a durable flexible capacity requirement	MY-RA	Work related to a multi-year RA requirement	Comp	Work related to intervenor compensation.	<p>Verified</p>
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Comp	Work related to intervenor compensation.																		

<p>ELCC – 98.75 hours – 54.26%                  RA Revisions - 19.00 hours – 10.44%                  LCR/FCR – 8.75 hours – 4.81%                  Flex Cap – 44.25 hours – 24.31%                  MY-RA – 11.25 hours – 6.18%</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>	
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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 \$
Thomas Long (attorney)	2016	4.5	\$575	D.16-12-060	\$2,587.50	4.5	\$575.00	\$2,587.50
T. Long	2017	26.50	\$585	ALJ- 345	\$15,502.50	26.5	\$585.00	\$15,502.50
Kevin Woodruff (expert)	2015	19.75	\$250	D.16-12-060	\$4,937.50	19.75	\$250.00	\$4,937.50
K. Woodruff	2016	52.25	\$255	D.16-12-060	\$13,062.50	52.25	\$250.00	\$13,062.50
K. Woodruff	2017	116.50	\$260	ALJ-345 (see comment 1)	\$30,290.00	116.5	\$260.00	\$30,290.00
<b>Subtotal: \$ 66,380.00</b>						<b>Subtotal: \$66,380.00</b>		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
T. Long	2017		\$292.50	½ of 2017 rate	\$2,193.75	7.5	\$292.50	\$2,193.75
<b>Subtotal: \$ 2,193.75</b>						<b>Subtotal: \$2,193.75</b>		

COSTS				
#	Item	Detail	Amount	Amount
	Photocopying	Expenses associated with copying pleadings and other documents related to R.1410-010	\$8.90	\$8.90
	Postage	Expenses associated with mailing pleadings related to R.14-10-010	\$10.71	\$10.71
<b>TOTAL REQUEST: \$ 68,593.36</b>			<b>TOTAL AWARD: \$68,593.36</b>	
<p>*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors' 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 typically compensated at ½ of preparer's normal hourly rate</p>				
ATTORNEY INFORMATION				
Attorney	Date Admitted to CA BAR <sup>1</sup>	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation	
Thomas Long	12/86	124776	No	

C. Attachments Documenting Specific Claim and Comments on Part III

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Daily Time Records for Attorney and Expert
3	Cost/expense Details

D. CPUC Disallowances and Adjustments

Item	Reason
C	Concur with Woodruff's billable 2017 rate of \$260 per hour (an increase of \$5.00 over the 2016 billable rate).

<sup>1</sup> This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch> .

**PART IV: OPPOSITIONS AND COMMENTS**

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

**FINDINGS OF FACT**

1. The Utility Reform Network has made a substantial contribution to D.17-06-027.
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 to The Utility Reform Network is \$68,593.36.

**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 shall be awarded \$68,593.36.
2. Within 30 days of the effective date of this decision, the California Public Utilities Commission, Intervenor Compensation Fund, 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 November 20, 2017, the 75<sup>th</sup> 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 November 30, 2017, at San Francisco, California.

MICHAEL PICKER

President

CARLA J. PETERMAN

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

Commissioners

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

Compensation Decision:	D1711029	Modifies Decision?	
Contribution Decision(s):	D1706027		
Proceeding(s):	R1410010		
Author:	ALJ Allen		
Payer(s):	California Public Utilities Commission, Intervenor Compensation Fund		

**Intervenor Information**

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	September 06, 2017	\$68,593.36	\$68,593.36	N/A	N/A

**Advocate Information**

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Tom	Long	Attorney	TURN	\$575	2016	\$575
Tom	Long	Attorney	TURN	\$585	2017	\$585
Kevin	Woodruff	Expert	TURN	\$250	2015	\$250
Kevin	Woodruff	Expert	TURN	\$250	2016	\$250
Kevin	Woodruff	Expert	TURN	\$260	2017	\$260

**(END OF APPENDIX)**