

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902M) for Authority to Implement the Customer Information System Replacement Program.	Application 17-04-027 (Filed April 28, 2017)
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DECISION GRANTING INTERVENOR COMPENSATION FOR CONTRIBUTION TO DECISION 18-08-008 TO THE UTILITY REFORM NETWORK

Intervenor: The Utility Reform Network (TURN)	For contribution to Decision (D.) 18-08-008
Claimed: \$70,036.18	Awarded: \$69,973.5770,036.18
Assigned Commissioner: Michael Liane Picker Randolph¹	Assigned ALJ: Rafael Lirag

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	San Diego Gas & Electric Company (SDG&E) requested authority to establish and implement a Customer Information System (CIS) replacement program, and to establish a balancing account to recover in rates the costs of the program. In D.18-08-008, the Commission adopted an all-party settlement that slightly reduced the requested implementation cost, and adopted a number of ratemaking provisions.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812¹²:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	7/17/17	7/17/17

¹ [Reassigned from Michael Picker to Commissioner Liane Randolph on August 15, 2019.](#)¹² All statutory references are to California Public Utilities Code unless indicated otherwise.

2. Other specified date for NOI:	N/A	N/A
3. Date NOI filed:	8/16/17	8/16/17
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:	A.16-08-006	A.16-08-006
6. Date of ALJ ruling:	11/28/16	11/28/16
7. Based on another CPUC determination (specify):	N/A	N/A
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:	A.16-08-006	A. 16-08-006
10. Date of ALJ ruling:	11/28/16	11/28/16
11. Based on another CPUC determination (specify):	N/A	N/A
12. Has the Intervenor demonstrated significant financial hardship?		YES
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.18-08-008	D.18-08-008
14. Date of issuance of Final Order or Decision:	8/10/18	8/10/18
15. File date of compensation request:	9/27/18	9/27/18
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
<i>1. Settlement Outcomes On Rate Recovery of Costs In Excess of Adopted Forecast:</i> TURN’s testimony raised concerns with SDG&E’s	TURN Testimony, pp. 3-5.	Verified.

<p>proposed ratemaking, in that it sought to permit the utility to recover all recorded costs, even if the recorded amount exceeded the forecasted amount, without a clear opportunity for reasonableness review of the above-forecast amount. The Settlement Agreement provided for a Tier 3 Advice Letter for review of the reasonableness where actual costs exceed forecasted costs by up to 10%. Should the actual costs come in at 110% or higher of the forecasted costs, SDG&E will submit an application in which all project implementation costs will be subject to reasonableness review.</p>	<p>D.18-08-008, pp. 9-10 and Attachment A (Settlement Agreement), Section 2.3.4 (pp. 5-6).</p>	
<p>2. Settlement Outcomes on Future Reporting and Review of Actual Benefits: TURN’s testimony called for ratemaking treatment that would ensure SDG&E customers will realize the forecasted cost savings as actual revenue requirement reductions, rather than face the risk that “actual” benefits might be lower than forecasted. The Settlement Agreement requires SDG&E to provide updated forecasts of project benefits in its upcoming GRCs, with the benefits broken out to the extent possible in the same categories SDG&E used for its forecasts here, and in a manner that permits direct comparison to the benefit forecasts here.</p>	<p>TURN Testimony, pp. 4-6.</p> <p>D.18-08-008, pp. 8-9 and Attachment A (Settlement Agreement), Section 2.2 (p. 4) and Appendix B (CIS Replacement Program Benefit Cards).</p>	<p>Verified</p>
<p>3. Settlement Outcomes on Accounting Treatment of Cloud-Based Software Costs:</p> <p>TURN’s testimony challenged the capitalization treatment SDG&E proposed for cloud-based software</p>	<p>TURN Testimony, pp. 6-8.</p> <p>D.18-08-008, p. 11 and</p>	<p>Verified</p>

<p>costs. The Settlement Agreement provides that CIS cloud-based software will be treated as an O&M expense rather than capitalized, and the determination of the appropriate treatment of cloud-based software would be determined in future general rate cases.</p>	<p>Attachment A (Settlement Agreement), Section 2.5 (p. 7).</p>	
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
<p>a. Was the Public Advocate's Office of the Public Utilities Commission (Cal PA) a party to the proceeding?²³</p>	<p>Yes</p>	<p>Yes</p>
<p>b. Were there other parties to the proceeding with positions similar to yours?</p>	<p>Yes</p>	<p>Yes</p>
<p>c. If so, provide name of other parties: Utility Consumers' Action Network (UCAN) was also an active party in the proceeding.</p>		<p>Yes as well as ORA</p>
<p>d. Intervenor's claim of non-duplication:</p> <p>TURN worked closely with ORA and UCAN to avoid duplication throughout this proceeding where the intervenors' positions were similar. The coordination began before the prehearing conference, as TURN worked with the other intervenors to develop scheduling options for consideration and similar potential joint positions. TURN also consulted with UCAN so that each party would focus on different subsets of issues in the prepared testimony. TURN also played an instrumental role within the intervenor parties for development of strategies, evaluating settlement offers and communicating with SDG&E.</p> <p>The Commission should find that TURN's participation was efficiently coordinated with the participation of ORA and UCAN wherever possible, so as to avoid undue duplication and to ensure that whenever duplication occurred, it served to supplement, complement, or contribute to the showing of the other intervenor. And consistent with such a finding, the Commission should determine that all of TURN's work is compensable</p>		<p>Noted</p>

~~² The Office of Ratepayer Advocates (ORA) was renamed the Public Advocate's Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.~~

³ The Office of Ratepayer Advocates (ORA) was renamed the Public Advocate's Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

consistent with the conditions set forth in Section 1802.5.	
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C.. Additional Comments on Part II:

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
<p>a. Intervenor’s claim of cost reasonableness: TURN’s request for intervenor compensation seeks an award of approximately \$70,000 as the reasonable cost of our participation in this proceeding. Although it is difficult to put a firm dollar benefit on TURN’s participation, the Commission should have little trouble concluding that the benefits to SDG&E customers outweigh these costs.</p> <p>TURN’s participation in this proceeding sought to promote the interests of SDG&E’s customers in ensuring that if the costs of the CIS Replacement Program exceed the adopted forecast here, they would be reviewed in a manner that would ensure the recorded costs are reasonable before that above-forecast increment is recovered in rates. TURN also sought to create conditions that made it more certain that the benefits of the program, which are forecast to exceed the costs, appear in the forecasted amounts and are captured in future authorized revenue requirements. TURN submits that both of these elements of the settlement and the final decision demonstrate benefits to SDG&E’s customers that are hard to quantify with specificity, but are likely to be far in excess of the cost of TURN’s intervenor compensation.</p> <p>The Commission should conclude that TURN’s request for intervenor compensation is reasonable under the circumstances here.</p>	<p>Noted</p>
<p>b. Reasonableness of hours claimed: TURN seeks compensation for approximately 130 hours of time devoted to substantive work in this proceeding. This amount reflects the equivalent of just over three weeks of full-time work (spread over a number of months) for a single attorney who also served as TURN’s witness. Given the work associated with reviewing and understanding SDG&E’s original proposal in testimony, preparing testimony, preparing for and actively participating in evidentiary hearings, and actively participating in all-party settlement discussions, the total number of hours should be found reasonable.</p> <p>Robert Finkelstein, TURN’s General Counsel, served both as TURN’s attorney and witness for this matter. There are single entries for two other TURN attorneys. Hayley Goodson performed the initial high level review of the application and reached out to another intervenor to get an initial sense for the need for TURN’s participation in the proceeding. Thomas Long discussed settlement strategy with Mr. Finkelstein at a particularly</p>	<p>Accepted</p>

<p>critical juncture of the settlement discussions.</p> <p>TURN has included in this request the work associated with the brief submitted in support of consolidation of this application with SDG&E’s General Rate Case. This effort was undertaken pursuant to the briefing schedule established in the Scoping Memo. Although the Commission determined not to consolidate this matter, TURN submits that the 4.0 hours recorded for this briefing effort should be found compensable under the circumstances.</p> <p>TURN has also included hours associated with the initial efforts toward preparing the post-hearing brief. At the time this work was undertaken, there was not as yet a settlement agreement among the parties. Therefore it was reasonable to proceed as if briefing on the merits of TURN’s position on the disputed issues would be required. Once it became clear that the all-party settlement efforts had achieved “critical mass” such that a comprehensive settlement was likely to be achieved, TURN ceased all briefing efforts. Under the circumstances, the Commission should decide that hours devoted to the briefing effort are reasonable and should be compensated, even though no brief was ultimately filed by TURN.</p> <p>TURN is also seeking compensation for 6.5 hours devoted to compensation-related matters, primarily 6.0 hours associated with the preparation of this request by Mr. Finkelstein. TURN assigned the task to Mr. Finkelstein despite his relatively high hourly rate because the combination of his in-depth familiarity with the proceeding and his extensive experience with compensation requests ensured that the request could be prepared in a relatively small number of hours and a lower total cost, even at the relatively high hourly rate.</p> <p>TURN submits that our recorded attorney hours in this proceeding, as adjusted for purposes of this request, are reasonable. As such, TURN requests an award of compensation in the full amount requested.</p>		
<p>c. Allocation of hours by issue: TURN has allocated all of our attorney by issue area or activity, as is evident in our attached timesheets (Attachment 2) and in Attachment 4, which shows the allocation of TURN’s time by attorney and issue/activity area. The following codes relate to specific issue/activity areas addressed by TURN.</p>		
Code	Description	Total Hours
GP	General participation – work of a general nature such as the initial review of the application and testimony, preparing the protest, preparing for and attending PHC,	19.0

	dealing with procedural matters, other activities that tend to not be issue- or task-specific		Verified
RM	Work devoted to ratemaking issues such as general issues regarding manner of review for recorded costs, treatment of forecasted benefits, and treatment of spending on Software as a Service spending	48.5	
HP	Hearing prep – Work devoted to testimony review, cross-examination preparation, and other hearing-related tasks	11.75	
Cons	Briefing on issue of consolidation per Scoping Memo	4.0	
Brief	Early work on post-hearing brief before settlement discussions reached fruition	13.75	
Settle	Work devoted to development and presentation of the all-party, all-issue settlement adopted in D.18-08-008.	29.75	
Coord	Work devoted to coordination with ORA and UCAN on non-settlement issues where intervenors had similar positions or similar interests.	4.5	
Comp	Intervenor Compensation: work preparing TURN’s NOI and Request for Compensation	6.5	
	TOTAL – Non-compensation work	137.75	
<p>If the Commission believes that a different approach to issue-specific allocation is warranted here, TURN requests the opportunity to supplement this section of the request.</p>			

B. Specific Claim:

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Robert Finkelstein	2017	123.5	\$520	D.17-11-032	\$64,220.00	123.5	\$520	\$64,220.00
R. Finkelstein	2018	6.75	\$530	See Comment 1, below	\$3,577.50	6.75	\$530	\$3,577.50
Hayley Goodson	2017	0.75	\$405	D.18-01-020	\$303.75	0.75	\$405	\$303.75
Thomas Long	2017	0.25	\$585	D.17-11-029	\$146.25	0.25	\$585	\$146.25

Subtotal: \$68,247.50						Subtotal: \$68,247.50		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Robert Finkelstein	2017	0.5	\$260	50% of 2017 rate	\$130.00	0.5	\$260	\$130.00
Robert Finkelstein	2018	6.0	\$265	50% of 2018 rate (See Comment 1, below)	\$1,590.00	6.0	\$265	\$1,590.00
Subtotal: \$1,720.00						Subtotal: \$1,720.00		
COSTS								
#	Item	Detail			Amount	Amount		
1.	Lexis/Nexis	Computerized research costs associated with analysis of utility proposal, alternatives			\$62.61	\$0.00 ⁺ <u>62.61</u>		
2.	Photocopies	Copies related to A.17-04-027			\$2.50	\$2.50		
3.	Postage	Postage for mailing filings in A.17-04-027			\$3.57	\$3.57		
Subtotal: \$68.68						Subtotal: \$6.07<u>68.68</u>		
TOTAL REQUEST: \$70,036.18						TOTAL AWARD: \$69,973.57<u>70,036.18</u>		
<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 BAR³⁴	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation
Robert Finkelstein	June 1990	146381	No
Hayley Goodson	December 2003	228535	No
Thomas Long	December 1986	124776	No

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

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	Timesheets for TURN’s Attorney
Attachment 3	TURN Direct Expenses Associated with D.18-08-008
Attachment 4	TURN Hours Allocated by Issue
Comment 1	<p>Hourly Rates for TURN Attorneys</p> <p>The Commission has authorized an hourly rate of \$520 for work performed by Mr. Finkelstein in 2017, as indicated in the table above.</p> <p>For 2018, TURN seeks an hourly rate of \$530 for Mr. Finkelstein’s work. This represents the 2.3% COLA for 2018 provided for in Res. ALJ-352, rounded down to the nearest \$5 increment.</p>

~~D. CPUC Comments, Disallowances, and Adjustments~~

Item	Reason
1	Lexis Nexis is a basic operational service and is disallowed under D.14-02-039.

³ This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

⁴ 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

Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (see § 1804(c))

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

1. The Utility Reform Network has made a substantial contribution to D. 18-08-008.
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 \$~~69,973.57~~70,036.18.

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 \$~~69,973.57~~70,036.18.
2. Within 30 days of the effective date of this decision, San Diego 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 September 11, 2018, 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.
4. This decision is effective today.

Dated _____, at Los Angeles, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1808008		
Proceeding(s):	A1704127		
Author:	ALJ Lirag		
Payer(s):	San Diego Gas and Electric Company		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier ?	Reason Change/Disallowance
The Utility Reform Network	09/28/2017	\$70,036.18	\$69,973.5770, <u>036.18</u>	N/A	Basic operational services D.14-02-039 <u>N/A</u>

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Robert	Finkelstein	Attorney	\$520	2017	\$520
Robert	Finkelstein	Attorney	\$530	2018	\$530
Hayley	Goodson	Attorney	\$405	2017	\$405
Thomas	Long	Attorney	\$585	2017	\$585

(END OF APPENDIX)

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