

Decision \_\_\_\_\_

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

Application of Pacific Gas and Electric Company  
to Simplify Rate Components and Other  
Information on Customer Bills.

Application 06-06-026  
(Filed June 27, 2006)

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**OPINION GRANTING INTERVENOR COMPENSATION TO  
THE UTILITY REFORM NETWORK AND DISABILITY RIGHTS ADVOCATES  
FOR THEIR CONTRIBUTIONS TO DECISION 07-07-047**

This decision awards compensation to The Utility Reform Network (TURN) and Disability Rights Advocates (DisabRA) for their respective contributions to Decision (D.) 07-07-047, Order Adopting Bill Redesign Parameters for Pacific Gas and Electric Company. We award TURN \$11,209.07 and DisabRA \$27,505.39, which are the amounts each requested.

**1. Background**

Pacific Gas and Electric Company (PG&E) filed the subject application, seeking an order that would clarify the types of information PG&E must include in customer bills and a process for future approvals of changes to bill formats. PG&E stated its intention was to redesign its customer bills in hopes of making them more understandable and useful to customers. PG&E also proposed an advice letter process for Commission review of certain types of bill statement modifications.

Several parties raised concerns regarding elements of PG&E's proposal, including TURN and DisabRA. D.07-07-047 adopted much of what PG&E proposed, with some modifications.

## **2. Requirements for Awards of Compensation**

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to a Commission order, decision, or proceeding. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference, or at another appropriate time that we specify. (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor must file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g), 1804(b)(1).)
5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision. (§§ 1802(i), 1803(a).)
6. The claimed fees and costs must be reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§1806), and productive (D.98-04-059).

The following section addresses Items 1-4 above, followed by separate discussions on Items 5-6.

### **3. Procedural Issues**

TURN and DisabRA filed timely NOIs in this proceeding. Both received findings of significant financial hardship. Both are “customers” for purposes of qualifying for intervenor compensation, consistent with § 1804(b).

TURN satisfies the criteria for a finding of financial hardship, pursuant to § 1802(g) through a rebuttable presumption of eligibility, pursuant to § 1804(b)(1), because the assigned ALJ found TURN satisfied this condition in A.05-02-027<sup>1</sup> within one year of the commencement of this proceeding.

In its NOI, DisabRA states the DisabRA satisfies the criteria for a finding of financial hardship, pursuant to § 1802(g) through a rebuttable presumption of eligibility, pursuant to § 1804(b)(1), because the Commission found that DisabRA satisfied this condition in D.07-05-056<sup>2</sup> within one year of the commencement of this proceeding.

TURN and DisabRA filed their requests for compensation within 60 days of the issuance of D.07-07-047.<sup>3</sup> In view of the above, TURN and DisabRA have satisfied all the procedural requirements necessary to make their requests for compensation in this proceeding.

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<sup>1</sup> ALJ Ruling issued November 4, 2005.

<sup>2</sup> Issued in A.06-06-032 et al.

<sup>3</sup> No party opposes the request.

#### **4. TURN'S Substantial Contribution**

In evaluating whether a customer made a substantial contribution to a proceeding, we consider whether the Commission adopted one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer. If the customer's contentions or recommendations paralleled those of another party, we consider whether the customer's participation materially supplemented, complemented, or contributed to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision. The assessment of whether the customer made a substantial contribution requires the exercise of judgment.

Should the Commission not adopt any of the customer's recommendations, compensation may be awarded if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order. For example, if a customer provided a unique perspective that enriched the Commission's deliberations and the record, the Commission could find that the customer made a substantial contribution. With this guidance in mind, we turn to TURN's contributions in the proceeding.

TURN states it was active in all parts of this proceeding. TURN originally proposed the Commission dismiss the application, or at least limit relief, on the basis that PG&E had failed to adequately define and support its proposal. TURN filed comments, some of which were reflected in the Commission's decision. TURN states that although it did not prevail on most issues, the Commission has normally authorized recovery where participation nevertheless contributed to the Commission's deliberations and the record.

We agree that TURN made a significant contribution to D.07-07-047 even though we did not adopt all of its recommendations. TURN raised important

issues regarding billing information about Community Choice Aggregators and the need for more information upon which the Commission could assess the application. The Commission has many times granted compensation in cases where the intervenor did not prevail but still made a contribution to a Commission decision,<sup>4</sup> and we do so here.

Section 1801.3(f) precludes compensation where an intervenor duplicates the work of similar interests otherwise adequately represented by another party, or work that is unnecessary for a fair determination of the proceeding.

Section 1802.5, however, allows an intervenor to be eligible for full compensation if its participation materially supplements, complements, or contributes to that of another party if that participation makes a substantial contribution to the commission order. In this case, TURN did not duplicate the efforts of other parties.

### **5. TURN's Requested Compensation**

TURN requests \$11,209.07 for its participation in this proceeding, as follows:

Attorney Time	\$8,392.50
Consulting Expenses	\$2,677.50
Direct Expenses	\$ 139.07

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to

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<sup>4</sup> See, e.g., D.04-12-054 and D.06-06-018.

Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

### **Attorney and Expert Rates**

We consider here whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.

For each of its attorneys and experts, TURN seeks the hourly rate for 2006 already approved by the Commission with one exception. It seeks a 3% cost-of-living increase for Hayley Goodson, which is consistent with D.07-01-009. For 2007, TURN seeks the 2006 hourly rate plus a 3% cost of living increase plus a 5% “step increase.” These annual adjustments for 2007 were authorized in D.07-01-009. We adopt the hourly rates TURN proposes here, including those proposed for 2007.

Robert Finkelstein	2006	\$405
	2007	\$435
Hayley Goodson	2006	\$200
Nina Suetake	2006	\$195
	2007	\$210
William Marcus	2006	\$210
Gayatri Schillberg	2006	\$175
	2007	\$175

### **Hours Claimed**

TURN claims about 55 hours for the work of its attorneys and experts in this proceeding. Most of this work was conducted by TURN’s lead counsel, Nina Suetake, and its expert, Gayatri Schillberg. These hours are very reasonable

for the work TURN undertook in this proceeding. TURN appropriately billed for work on its compensation request at one-half the adopted rate.

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request. TURN states it cannot assign a value to its participation in a proceeding like this. We agree with TURN, however, that the benefits to customers of TURN's participation are likely to outweigh the costs.

### **Direct Expense**

TURN seeks \$139.07 in costs for work in this proceeding, a very small sum, which we find reasonable.

## **6. TURN'S Award of Compensation**

As set forth in the table below, we award \$11,209.07 in compensation to TURN.

<b>Advocate</b>	<b>Year</b>	<b>Hours</b>	<b>Rate</b>	<b>Total</b>
Gayatri Schillberg	2006	9.98	\$175	\$ 1,746.50
	2007	4.72	\$175	\$ 826.00
Robert Finkelstein	2006	4.00	\$405	\$ 1,620.00
	2007	1.25	\$435	\$ 543.75
Hayley Goodson	2006	7.50	\$200	\$ 1,500.00
Nina Suetake	2006	6.75	\$195	\$ 1,316.25
	2007	13.00	\$210	\$ 2,730.00
William Marcus	2006	0.50	\$210	\$ 105.00
	2007	6.50	\$105	\$ 682.50
Expenses				\$ 139.07

<b>Grand Total</b>				<b>\$11,209.07</b>
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Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on December 12, 2007, the 75th day after TURN filed its compensation request, and continuing until full payment of the award is made.

Commission staff is authorized to audit an intervenor's records related to the award. Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. TURN's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

### **7. DisabRA's Substantial Contribution**

DisabRA states it was active in all parts of this proceeding. It states it made a number of specific policy and technical recommendations intended to improve the ability of people with disabilities to access and read PG&E's bills. We agree that D.07-07-047 adopted virtually all of DisabRA's recommendations, including, for example, to require PG&E to offer bills with large print, Braille, alternate formats, and electronic format. We also directed PG&E to continue to work with DisabRA on customer billing issues affecting people with disabilities.

DisabRA made a substantial contribution to D.07-07-047.

In this case, DisabRA was the only party representing the interests of disabled customers and did not duplicate the efforts of other parties.

### **8. DisabRA's Requested Compensation**

DisabRA requests \$27,505.39 for its participation in this proceeding, as follows:

<b>Advocate</b>	<b>Year</b>	<b>Hours</b>	<b>Rate</b>	<b>Total</b>
Kasnitz	2006	25.10	\$360	\$ 9,036
	2006	3.00	\$180	\$ 540
	2007	7.60	\$390	\$ 2,964
	2007	4.20	\$195	\$ 819
Kimber	2006	16.80	\$175	\$ 2,940
	2006	7.20	\$87.50	\$ 630
	2007	16.90	\$190	\$ 3,211
	2007	14	\$95	\$ 1,330
Paralegal	2006	13.10	\$90	\$ 1,179
	2006	1.60	\$45	\$ 72
	2007	2.40	\$100	\$ 240
	2007	1.20	\$50	\$ 60
Belser	2006	2.00	\$125	\$ 250
Wong	2006	32.00	\$100	\$ 3,200
Expenses				\$ 1,034.39
<b>Grand Total</b>				<b>\$27,505.39</b>

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

**Attorney and Expert Rates**

We consider here whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.

For Melissa Kasnitz, Mary-Lee Kimber and DisabRA's paralegal, DisabRA seeks hourly rates for 2006 already approved by the Commission in the relevant year. For 2007, DisabRA proposes rates that the Commission has already authorized for Ms. Kasnitz and the paralegal. It proposes a rate increase to \$190 an hour for Ms. Kimber, applying the cost-of-living increase and 5% "step" increase anticipated in D.07-01-009. We adopt the rates DisabRA proposes here.

DisabRA also proposes to set new rates for two of its consultants, Alice Wong and Dmitri Belser. Mr. Belser is the Executive Director of the Center for Accessible Technology, which develops programs for the disabled. He has more than 20 years of experience in his field. He billed DisabRA for two hours of time at a rate of \$125 an hour, which is below the range of rates for utility experts with his experience and training. Ms. Wong has about ten years of experience as a research assistant in fields related to personal disabilities. She works at the University of California's Personal Assistance Center. She billed DisabRA for 32 hours of time at a rate of \$100 an hour, which is also below the range of rates adopted in D.07-01-009 for utility experts with Ms. Wong's experience. Although neither Ms. Wong nor Mr. Belser are utility experts - and therefore our adopted range of rates might not apply to them - their skills and experience were useful in this proceeding and their rates are reasonable under the circumstances. We adopt them here, as follows:

Melissa Kasnitz	2006	\$360
	2007	\$390

Mary-Lee Kimber	2006	\$175
	2007	\$190
Paralegal	2006	\$90
	2007	\$100
Alice Wong	2006	\$100
Dmitri Belser	2006	\$125

**Hours Claimed**

DisabRA claims about 120 hours for the work of its attorneys and experts in this proceeding. This includes the time of DisabRA's outside consultants. Most of this work was conducted by DisabRA's attorneys, Ms. Kasnitz and Ms. Kimber. DisabRA appropriately billed half of the hours spent on drafting the compensation request. DisabRA's hours are reasonable for the work DisabRA conducted in this proceeding.

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request. DisabRA states it cannot assign a value to its participation in a proceeding like this. We agree with DisabRA, however, that the benefits to disabled customers of DisabRA's participation are likely to outweigh the costs.

**Direct Expenses**

DisabRA seeks \$1,034.39 in expenses for work in this proceeding, which includes the costs of a small survey, postage, copying and travel. These costs are reasonable considering the work conducted in this proceeding.

**9. DisabRa's Award of Compensation**

As set forth in the table below, we award \$ 27,505.39 in compensation to DisabRA.

<b>Advocate</b>	<b>Year</b>	<b>Hours</b>	<b>Rate</b>	<b>Total</b>
Kasnitz	2006	25.1	\$360	\$ 9,036
	2006	3	\$180	\$ 540
	2007	7.6	\$390	\$ 2,964
	2007	4.2	\$195	\$ 819
Kimber	2006	16.8	\$175	\$ 2,940
	2006	7.2	\$87.50	\$ 630
	2007	16.9	\$190	\$ 3,211
	2007	14	\$95	\$ 1,330
Paralegal	2006	13.10	\$90	\$ 1,179
	2006	1.6	\$45	\$ 72
	2007	2.4	\$100	\$ 240
	2007	1.2	\$50	\$ 60
Belser	2006	2	\$125	\$ 250
Wong	2006	32	\$100	\$ 3,200
Expenses				\$ 1,034.39
<b>Grand Total</b>				<b>\$27,505.39</b>

Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on December 8, 2007, the 75th day after DisabRA filed its compensation request, and continuing until full payment of the award is made.

Commission staff is authorized to audit an intervenor's records related to the award. Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. DisabRA's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

### **Comments on Proposed Decision**

This is an intervenor compensation matter. Accordingly, as provided by Rule 14.6(c)(6) of the Commission's Rules of Practice and Procedure, we waive the otherwise applicable 30-day public review and comment period for this decision.

### **Assignment of Proceeding**

John A. Bohn is the assigned Commissioner and Kim L. Malcolm is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

1. TURN has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
2. TURN made a substantial contribution to D.07-07-047 as described herein.
3. TURN's requested hourly rates for its representatives that are reasonable and consistent with D.07-01-009.
4. TURN's requested related expenses that are reasonable and commensurate with the work performed.
5. DisabRA has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
6. DisabRA made a substantial contribution to D.07-07-047 as described herein.

7. DisabRA's requested hourly rates for its representatives that are reasonable and consistent with D.07-01-009.

8. DisabRA's requested related expenses that are reasonable and commensurate with the work performed.

**Conclusions of Law**

1. TURN has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its contributions to D.07-07-047 in the amount of \$11,209.07.

2. DisabRA has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its contributions to D.07-07-047 in the amount of \$27,505.39.

3. This order should be effective today so that TURN and DisabRA may be compensated without further delay.

**O R D E R**

**IT IS ORDERED** that:

1. The Utility Reform Network (TURN) is awarded \$11,209.07 as compensation for its substantial contributions to Decision 07-07-047.

2. Disability Rights Advocates (DisabRA) is awarded \$ 27,505.39 as compensation for its substantial contributions to D.07-07-047.

3. Interest shall be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on December 12, 2007, for TURN's award, and December 8, 2007, for DisabRA, and continuing until full payment is made.

4. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay TURN and DisabRA the total awards granted herein.

5. Application 06-06-026 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

### Compensation Decision Summary Information

<b>Compensation Decision:</b>		<b>Modifies Decision? NO</b>
<b>Contribution Decision(s):</b>	D0707047	
<b>Proceeding(s):</b>	A0606026	
<b>Author:</b>	Malcolm	
<b>Payer(s):</b>	PG&E	

### Intervenor Information

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
TURN		\$11,209.07	\$11,209.07	no	
DisabRA		\$27,505.39	\$27,505.39	no	

### Advocate Information

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Gayatri	Schillberg		TURN	\$175	2006	\$175
				\$175	(After 5/1/06)	\$175
Robert	Finkelstein		TURN	\$405	2006	\$405
				\$435	2007	\$435
Hayley	Goodson		TURN	\$200	2006	\$200
Nina	Suetake		TURN	\$195	2006	\$195
				\$210	2007	\$210
William	Marcus		TURN	\$220	2006	\$210
Melissa	Kasnitz		DisabRA	\$360	2006	\$360
				\$390	2007	\$390
Mary-Lee	Kimber		DisabRA	\$175	2006	\$175
				\$190	2007	\$190
Dimitri	Belser		DisabRA	\$150	2006	\$125
Alice	Wong		DisabRA	\$100	2006	100
Paralegal			DisabRA	\$90	2006	90
			DisabRA	\$100	2007	100

**(END OF SUMMARY INFORMATION)**