Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company to Implement and Recover in Rates the Costs of its Photovoltaic (PV) Program (U39E).	Application 09-02-019 (Filed February 24, 2009)

DECISION AWARDING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 10-04-052

Claimant: The Utility Reform Network	**For contribution to D.10-04-052**
Claimed: $35,973	**Awarded ($): $34,997.50 (reduced 3%)**
Assigned Commissioner: Michael R. Peevey	**Assigned ALJ: Maryam Ebke**

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: The decision adopted a five-year solar photovoltaic (PV) program to develop up to 500 MWs of solar PV facilities in Pacific Gas and Electric Company's (PG&E's) service territory. The PV program includes 250 MWs of utility-owned generation (UOG) and 250 MWs furnished through power purchase agreements (PPAs).

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 (§ 1804(a)):		
1. Date of Prehearing Conference:	May 14, 2009	Yes
2. Other Specified Date for NOI:		
3. Date NOI Filed:	June 10, 2009	Yes
4. Was the notice of intent timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.07-12-021	Yes

6. Date of ALJ ruling:	April 28, 2008	Yes
7. Based on another CPUC determination (specify):		
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.07-12-021	Yes
10. Date of ALJ ruling:	April 28, 2008	Yes
11. Based on another CPUC determination (specify):		
12. Has the claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision	D.10-04-052	Yes
14. Date of Issuance of Final Decision:	April 28, 2010	Yes
15. File date of compensation request:	June 25, 2010	Yes
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	X		Although TURN filed a timely NOI in this proceeding, the assigned ALJ has not yet issued a ruling on the request. TURN's showing on financial hardship and customer status was contained in that NOI. TURN has previously been found to satisfy these two standards -- for example see ALJ ruling on 9/12/2008 in A.08-03-015.
2		X	A finding on both "customer" status and significant financial hardship was made in an ALJ Ruling issued on April 28, 2008 in A.07-12-021. Therefore, in accordance with Pub. Util. Code § 1804(b)(1), the rebuttable presumption created in A.07-12-021 is applicable here.[1]

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant's description of its claimed contribution to the final decision:

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
1. **PPA program:** use of competitive process to determine pricing – TURN urged the rejection of PG&E's proposal to pay a fixed-price based on the levelized cost of utility-owned generation projects. Instead, TURN	D.10-04-052, pages 38-41; Rejects PG&E's fixed price approach for PPAs and orders a competitive solicitation with pricing based on submitted bids. "As TURN	Yes

[1] A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other commission proceedings commencing within one year of the date of that finding.

proposed that projects be paid based on their bids into a competitive process. *TURN opening brief, pages 11-14.* *TURN testimony, pages 3-5.*	correctly points out, several factors including lower costs of capital could enable third party developers to offer PPAs at prices below the forecast of UOG." (p.40)	
2. **UOG:** PG&E should be required to select UOG projects that provide the "best value" for ratepayers by considering the levelized cost of energy rather than capital costs. *TURN opening brief, pages 3-6.* *TURN testimony, pages 6-9.*	D.10-04-052, pages 32-33; Requires PG&E to evaluate and select UOG projects based on the levelized cost of energy rather than capital costs.	Yes
3. **PPA program:** PG&E should provide information on potential bidders on preferred interconnection locations within its service territory. *TURN opening brief, page 14.* *TURN testimony, page 4.*	D.10-04-052, page 42; Adopts TURN's recommendation -- "we agree with TURN that PG&E should provide information to potential bidders in the solicitation indicating preferred locations to interconnect."	Yes
4. **FIT issues:** AB 920 does not conflict with PG&E application. *TURN opening brief on AB 920 and SB 32 issues, pages 1-2.*	D.10-04-052, pages 45-47; Agrees that AB 920 does not conflict with PG&E application.	Yes
5. **FIT issues:** The adoption of PG&E's application would conflict with SB 32, encourage gaming by sellers, and be detrimental to ratepayer interests. To avoid the conflict, the Commission should adopt a competitive auction mechanism, suspend the ability of SB 32 projects to participate in the auction, count all PPA projects less than 3 MW towards the SB 32 cap, and reject proposals by other parties for set-asides for projects less than 3 MW in size. *TURN testimony, pages 11-12.* *TURN opening brief on AB 920 and SB 32 issues, pages 2-5.*	Proposed Decision of ALJ Ebke, pages 34-36; Due to concerns regarding potential gaming and price speculation, projects up to 3 MW in size are excluded from PG&E's program. Revised Proposed Decision of ALJ Ebke, pages 35-38; Agrees with concerns regarding potential gaming and price speculation if two programs (PG&E proposal and SB 32) co-exist. Finds that "projects between 1 to 3 MW should be excluded from the PPA portion of the PV Program after the Commission has established a price for projects pursuant to SB 32." (p.38)	Yes
6. **UOG:** The Commission should link cost	D.10-04-052, page 57; Adopts a	Yes

recovery for UOG projects to performance and assess penalties if deliveries fall more than 10% below the initial output forecast. *TURN opening brief, page 8.* *TURN testimony, pages 8-9.*	presumption that PG&E should have a portion of O&M costs "disallowed or refunded to ratepayers" if UOG facilities achieve less than 80% of expected generation.	
7. **UOG:** Establish a levelized cost of energy based on PG&E estimates for each utility-owned PV project and tie cost recovery to actual production multiplied by the cap price. *TURN opening brief, page 6.* *TURN testimony, page 8.*	Revised Proposed Decision of ALJ Ebke, pages 45-48; "We adopt a cost cap as recommended by TURN for the maximum price ratepayers should pay for energy procured from the PV program." (p.46) Limits PG&E's ability to recover UOG costs to the price cap multiplied by actual system performance.	Yes
8. **PPA program:** PPA bids should be capped "at either a forecasted or actual UOG price to ensure that no PPA would provide inferior value for ratepayers." *TURN opening brief, page 15.* *TURN testimony, page 5.*	D.10-04-052, pages 56-58; "We adopt a cost cap as recommended by TURN for the maximum price ratepayers should pay for energy procured under the PV program through PPAs." (p.56)	Yes
9. **UOG:** After two years, the Commission should require PG&E to provide summary data "comparing the costs and development status of UOG and PPA projects." *TURN opening brief, page 9.* *TURN testimony, page 11.*	D.10-04-052, pages 57-58; Requires PG&E to make an annual compliance filing "with results of the PPA solicitation and UOG costs, as well available data regarding the all-in levelized cost of energy from projects that actually come online on both the UOG and PPA side of the program."	Although the decision requires PG&E to file results of annual PPA solicitation and UOG costs, this requirement is different from TURN's recommendation. TURN recommended to use the UOG costs and PPA solicitation results to review the allocation of MW, stating that "TURN's recommendation in this area was rejected because the "adoption of such an approach would create significant uncertainty and

		could delay deployment of systems under this program."[2] *See* disallowances in Section III, Part D.
10. **PPA program:** Standard non-negotiable contracts with modest levels of development security should be awarded to the winning bidders in the competitive PPA auction. *TURN opening brief, page 16.* *TURN testimony, page 5.*	D.10-04-052, page 60; Adopts a modified standard PPA as consistent with ratepayer interest and notes "as TURN has stated, a standard contract would provide some modest level of development security."	Yes
11. **UOG:** Reject PG&E's proposal for a 1% adder to its authorized rate of return because the project does not satisfy the requirements of § 454.3. *TURN opening brief, pages 10-11.* *TURN testimony, pages 9-11.*	D.10-04-052, pages 65-66; Rejects PG&E's request for the 1% adder because "we do not believe this program fulfills the requirements or intent of 454.3(c)." (p.66)	Yes

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

	Claimant	CPUC Verified
a. Was Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Yes
b. Were there other parties to the proceeding?	Yes	Yes
c. If so, provide name of other parties: Consumer Federation of California (CFC), Greenlining Institute (Greenlining), Californians for Renewable Energy (CARE), California Large Energy Consumers Association, California Farm Bureau Federation, Direct Access Customer Coalition (DACC)/Western Power Trading Forum (WTPF), Independent Energy Producers, Solar Alliance, Coalition of California Utility Employees, Vote Solar Initiative, California Solar Energy Industries Association.		Yes
d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:		Yes

[2] *See* D.10-04-052 at 53.

TURN met several times with DRA to discuss issues and positions. TURN and DRA coordinated on a joint settlement strategy and met with PG&E several times in an effort to achieve a negotiated outcome on a wide range of issues. TURN and DRA also coordinated to avoid overlap in the issues addressed. While DRA focused on the desirability of the overall program and compared its economics to other renewable power options, TURN proposed several specific mechanisms not explicitly addressed or developed in DRA's showing – (1) replacing a fixed-price PPA offer with a competitive auction mechanism, (2) selection criteria for UOG projects, and (3) linking cost recovery to actual performance of UOG facilities. TURN and DRA also coordinated on a joint letter to Commissioners supporting the Proposed Decision of ALJ Ebke. Based on input from the Solar Alliance, TURN proposed specific changes to the PPA solicitation process that were ultimately adopted by the Commission. TURN also coordinated with DACC/WPTF on the same issue. TURN had conversations with other customer intervenors to avoid duplication where positions were aligned. On some issues, TURN did not agree with other intervenors. On most issues, TURN provided a unique showing that did not duplicate the positions taken by other parties.	

C. Additional Comments on Part II:

#	Claimant	CPUC	Comment
1	X		TURN worked with DRA to negotiate a settlement with PG&E on a wide range of issues presented in this case. Despite a number of productive discussions, no settlement was reached.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness:

Claimant's description of how the cost of its participation bore a reasonable relationship with benefits realized through claimant's participation	CPUC Verified
The Commission adopted a large number of TURN's recommendations that have a direct financial impact on ratepayer bills including a rejection of PG&E's proposed rate of return adder, a cap on PPA bid prices, a requirement that UOG projects be selected based on their value to ratepayers (rather than capital cost), the use of a PPA solicitation to achieve the lowest possible prices for ratepayers and a presumption that utility shareholders will bear some financial risks for underperforming UOG projects. These changes, when taken together, should provide significant ratepayer benefits over the life of the program. PG&E originally estimated capital costs of $1.45 billion for the UOG portion and costs of $246/MWh for the PPA deliveries. Although it is not possible to offer a specific estimate of savings at this time, the adoption of TURN's recommendations ensures that the costs will decline relative to that estimate. Given the low cost of TURN's participation in this proceeding, the resulting savings will dwarf the compensation to be awarded.	After the reductions we make to this claim, the remainder of TURN's hours and costs are reasonable and should be compensated.

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
Matthew Freedman	2009	77.25	325	Adopted here, See Note 1, below	25,188	2009	75.25	325	24,456.25
Matthew Freedman	2010	20.0	325	ALJ 247	6,500	2010	19.25	325	6,256.25
Marcel Hawiger	2009	6.5	325	D.08-08-027	2,113	2009	6.5	325	2,113
Marcel Hawiger	2010	2.5	325	ALJ 247	813	2010	2.5	325	813
					***Subtotal:* $34,614**				***Subtotal:* $33,638.50**
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
Matthew Freedman	2009	0.75	162.5	½ rate adopted here	122	2009	0.75	325	122
Matthew Freedman	2010	7.5	162.5	ALJ 247	1,219	2010	7.5	325	1,219
					***Subtotal:* $1,341**				***Subtotal:* $1,341**
COSTS									
#	**Item**				**Amount $**				**Amount $**
1	Photocopies				18				18
					***Subtotal:* $18**				***Subtotal:* $18**
					TOTAL REQUEST: $35,973[3]				**TOTAL AWARD: $34,997.50**

*If hourly rate based on CPUC decision, provide decision number; otherwise, attach rationale.

**Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.

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. Claimant'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.

[3] Rounded to the nearest dollar amount.

C. Comments Documenting Specific Claim:

Comment #	Description/Comment
1	**Hourly Rate for Matthew Freedman in 2009 and 2010, and Marcel Hawiger in 2010**: TURN has not previously requested the Commission to award compensation for work Mr. Freedman performed in 2009. The Commission had previously awarded an hourly rate of $300 for Mr. Freedman's work in 2007. (D.07-12-026, in PG&E's 2007 GRC A.05-12-002) This is the same hourly rate set for Mr. Hawiger's work in 2007 (set in the same decision). In 2008, the Commission set the hourly rate for Mr. Hawiger at $325 in D.08-08-027 (In A.04-06-024). While Mr. Freedman was on leave from TURN in 2008, it is reasonable to assume that his hourly rate would have been consistent with the rate set for Mr. Hawiger, as these two TURN attorneys have had the same rate awarded for work performed in the same year since late 2003. For work performed 2009, the Commission generally froze hourly rates at the level set for each advocate's work in 2008. Since Mr. Freedman did not have an hourly rate set for work in 2008, TURN proposes that the Commission look to the hourly rate awarded for work Mr. Hawiger performed that year and use that to set Mr. Freedman's rate for 2009. This results in an hourly rate of $325 for Mr. Freedman in 2009. TURN also requests that the same rate be used for Mr. Freedman's work in 2010, but reserves the right to seek a higher hourly rate for work performed in 2010 in a future request for compensation. TURN believes this is a reasonable approach to setting Mr. Freedman's rate for 2009 under the circumstances. Should the Commission disagree, TURN requests that we be notified and permitted to supplement this request for compensation with a fuller demonstration of the reasonableness of the requested rate of $325 consistent with the factors specified in Section 1706 and the Commission's recent hourly rate decisions. The Commission has not previously authorized an hourly rate for Mr. Hawiger in 2010. In this proceeding TURN requests compensation using the 2009 hourly rate for this 2010 work. TURN reserves the right to seek a higher hourly rate for work performed in 2010 in a future request for compensation.

D. CPUC Adoptions, Disallowances & Adjustments:

Item	Reason
2010 - Freedman	Freedman logs time on 5/21/10 for "reviewing CFC's application for rehearing." We disallow this time as it had no bearing on substantial contribution. The final decision was issued on 2/24/09. Reduce .75 hrs.
Lack of substantial contribution on item #9. *See* Part II, Section A.	TURN estimates that approximately 25% of its time was spent on UOG Program matters. In its claim it outlines 5 areas of claimed contribution under the category of "UOG." As such, we disallow 5% of Freedman's UOG and # 2009/2010 hours[4] for lack of substantial contribution on item #9. Reduce 2.0 hrs.
2009 - Freedman hourly rate	We agree with TURN's rationale listed above to establish a 2009 hourly rate for Freedman. We find the requested hourly rate of $325 to be comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services. Had it not been for Freedman's brief leave from TURN in 2008, his rate would currently be at the rate we

[4] TURN categorizes its activities coded as # to be multi-issue work which is difficult to segregate by issue.

	adopt here.
2010 - Freedman hourly rate	ALJ 247 disallows COLA increases for 2010 intervenor work. As such, we apply the same hourly rate of $325 we adopt here to Freedman's work in 2010.
2010 - Hawiger hourly rate	ALJ 247 disallows COLA increases for 2010 intervenor work. As such, we apply Hawiger's previously approved rate of $325 in D.08-08-027 to his 2010 work here.

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. Claimant has made a substantial contribution to D.10-04-052.

2. The claimed fees and costs, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.

3. The total of reasonable contribution is $34,997.50.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Claimant is awarded $34,997.50.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay claimant the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning September 8, 2010, the 75th day after the filing of claimant'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 San Francisco, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		**Modifies Decision?** No
Contribution Decision(s):	D1004052	
Proceeding(s):	A0902019	
Author:	ALJ Maryam Ebke	
Payer(s):	Pacific Gas and Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	6-25-10	$35,973	$34,997.50	No	lack of substantial contribution

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Matthew	Freedman	Attorney	The Utility Reform Network	$325	2009	$325
Matthew	Freedman	Attorney	The Utility Reform Network	$325	2010	$325
Marcel	Hawiger	Attorney	The Utility Reform Network	$325	2009	$325
Marcel	Hawiger	Attorney	The Utility Reform Network	$325	2010	$325

(END OF APPENDIX)