Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for Authorization: (1) to Replace San Onofre Nuclear Generating Station Unit Nos. 2 & 3 (SONGS 2&3) Steam Generators; (2) Establish Ratemaking for Cost Recovery; and (3) Address Other Related Steam Generator Replacement Issues.	Application 04-02-026 (Filed February 27, 2004)

OPINION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 05-12-040

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OPINION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 05-12-040

This decision awards The Utility Reform Network (TURN) $156,816.36 in compensation for its substantial contributions to Decision (D.) 05-12-040. This is a decrease of $11,605.95 from the amount requested. This proceeding is closed.

1. Background

San Onofre Nuclear Generating Station Units 2 & 3 (SONGS) is a nuclear power plant with a capacity of approximately 2,150 megawatts jointly owned by Southern California Edison Company (SCE), San Diego Gas and Electric Company (SDG&E) and the cities of Anaheim and Riverside.[1] It is located on the California coast 62 miles southeast of Los Angeles, in San Diego County, near the City of San Clemente. The site is located within the boundaries of the Camp Pendleton Marine Corps Base. Each unit has two steam generators manufactured by Combustion Engineering, Inc. (CE). In each steam generator, the heat from water circulated through the reactor is used to turn another stream of water into steam to power turbines that turn electric generators.

SONGS is currently licensed by the Nuclear Regulatory Commission (NRC) to operate until 2022. SCE estimated that SONGS will likely be required by the NRC to shut down in 2009 because of the degradation of the steam generators. As a result, SCE requests approval in this application for its steam generator replacement program (SGRP).

[1] San Onofre Nuclear Generating Station Unit 1 is no longer operating and is not the subject of this proceeding.

Hearings were held from January 30 through February 11, 2005. The application was submitted on June 21, 2005. D.05-12-040 approved the SGRP with specified conditions, and certified the Final Environmental Impact Report (Final EIR) pursuant to the California Environmental Quality Act (CEQA).

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 the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers. (Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.)

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 in special circumstances, at other appropriate times 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 should 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 are 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).

For discussion here, the procedural issues in Items 1-4 above are combined, followed by separate discussions on Items 5-6.

3. Procedural Issues

The first prehearing conference in this matter was held on March 25, 2004. TURN filed its timely NOI on April 26, 2004. In its NOI, TURN asserted financial hardship.

Section 1802(b)(1) defines a customer as: A) a participant representing consumers, customers or subscribers of a utility; B) a representative who has been authorized by a customer; or C) a representative of a group or organization authorized pursuant to it articles of incorporation or bylaws to represent the interests of residential or small business customers. In this case, TURN is a customer as defined in paragraph C, because it is authorized pursuant to its bylaws to represent the interests of consumers, some of whom are residential customers.

On May 20, 2004, Administrative Law Judge (ALJ) Jeffrey P. O'Donnell ruled that TURN is a customer pursuant to §1802(b)(1)(C), and meets the financial hardship condition through a rebuttable presumption of eligibility, pursuant to §1804(b)(1), because it met this requirement in another proceeding within one year of the commencement of this proceeding (ALJ ruling dated

March 25, 2003 in Application 02-07-050). TURN filed its request for compensation on February 17, 2006, within 60 days of D.05-12-040 being issued.[2]

In view of the above, we affirm ALJ O'Donnell's ruling and find that TURN has satisfied all the procedural requirements necessary to make its request for compensation.

4. Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding we look at several things. First, did the ALJ or Commission adopt one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer? (*See* § 1802(i).) Second, if the customer's contentions or recommendations paralleled those of another party, did the customer's participation materially supplement, complement, or contribute to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision? (*See* §§ 1802(i) and 1802.5.) As described in §1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

> In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.[3]

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[2] No party opposes the request.

[3] D.98-04-059, 79 CPUC2d, 628 at 653.

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 the contributions TURN claims it made to the proceeding.

TURN allocated its hours into six categories. Category 1, General, includes such things as review of the application and rulings, initial review of testimony and pleadings, and attending the prehearing conference and evidentiary hearings. Category 2, Cost-Effectiveness, includes evaluation of the cost-effectiveness of the SGRP, and the need to replace the steam generators. Category 3, Rate, includes ratemaking treatment, standards for rate recovery, and proposals for guaranteed savings. Category 4, Combustion Engineering, includes the reasonableness of SCE's actions regarding CE. Category 5, CEQA, includes the Final EIR. Category 6, Compensation Request, includes preparation of the intervenor compensation request.

Below, we address whether TURN made substantial contributions regarding Categories 2, 3, 4 and 5. Categories 1 and 6 are discussed later as they do not relate to specific issues or recommendations.

Category 2, Cost-Effectiveness

- **Cost of the SGRP**

SCE estimated the cost of the SGRP at $680 million (100% level).[4] TURN stated that there is a significant risk of cost overruns. Therefore, unless the Commission adopts a cost cap, TURN recommended that a 20% cost overrun be modeled.

We found SCE's SGRP cost estimate reasonable for use in determining the cost-effectiveness of the SGRP. However, we included the effect of a 10% increase in SGRP costs in our analysis to determine the sensitivity of the cost-effectiveness of the SGRP to such increases. Therefore, TURN's recommendation was adopted in part.

- **Operations and Maintenance (O&M) Costs**

SCE's O&M costs have two components; the base O&M costs, and the costs for steam generator repairs and inspections during refueling outages (RFO O&M costs). SCE developed a high total O&M cost estimate that was 10% above its 2006 general rate case (GRC) estimate. It stated that this high O&M cost estimate reasonably bounds most unforeseeable regulatory and extraordinary operating expenses.

TURN recommended that the Commission direct SCE to use the 2006 GRC estimate for base O&M costs as the base case, and to include a high case at 20% above the 2006 GRC estimate. TURN also recommended that SCE be required to model RFO O&M costs at 10% above the amount included in its

[4] 100% level is the total for the project. Individual participating owners' shares will be a portion of this amount. These numbers exclude construction financing costs, and allowance for funds used during construction.

2006 GRC as the base case, and to model a high case that assumes a 20% increase over the base case.

We adopted SCE's high total O&M estimate for its cost-effectiveness base case. We also included the effect of a 10% increase above this level to determine the sensitivity of the cost-effectiveness of the SGRP to such increases. Therefore, TURN's recommendations were adopted in part.

- **Capital Additions**

SCE developed a high capital additions estimate that is 22% above the 2006 GRC estimate of capital additions. TURN recommended the Commission direct SCE to revise its modeling of capital additions to include a high case with capital additions 50% over those included in the 2006 GRC.

We found that a capital additions estimate of 25% above the 2006 GRC estimate is reasonable and appropriate for use its base case. We also considered the effect of a 10% increase above this level to determine the sensitivity of the cost-effectiveness of the SGRP to such increases. Therefore, TURN's recommendation was adopted in part.

- **One-Year Outage**

TURN recommended that the Commission consider the potential for a one-year outage in evaluating the cost-effectiveness of the SGRP. We did not include a one-year outage in our base case. However, we did include a one-year outage in our cost-effectiveness analysis to determine the effect of such an outage. Therefore, TURN's recommendation was adopted.

- **Capacity Factor**

SCE used an 88% capacity factor in its cost-effectiveness evaluation. TURN agreed that an 88% capacity factor was reasonable for a base case. However, it recommended that an 84% and an 80% capacity factor be used in the

cost-effectiveness analysis to reflect the fact that SONGS has had lower capacity factors in the past.

We adopted an 88% capacity factor for use in our base case. We also included 92% and 84% capacity factors in our analysis to examine the effect of variations in the capacity factor on cost-effectiveness. Therefore, TURN's recommendation was adopted in part.

- **Replacement Energy Costs**

SCE assumed that replacement generation would consist of combined-cycle gas turbines (CCGT) with a heat rate of 7,250 Btu/kWh.[5]

TURN pointed out that, in D.03-12-059 and D.04-06-011, the Commission approved CCGTs with heat rates of 7,100 Btu/kWh for the Mountainview Power Project (Mountainview), and 6,971 Btu/kWh for Calpine Corporation's Otay Mesa Power Plant (Otay Mesa), respectively. As a result, TURN recommended the use of 7,100 Btu/kWh for this proceeding. TURN also advised of the possibility that SCE's Mohave Generating Station (Mohave) will return to service in the 2009-2010 time frame, and recommended this issue be considered.

We found the 7,250 Btu/kWh heat rate used by SCE reasonable. Since it is unknown whether Mohave will be in service after 2005, and at what cost, we did not include the possibility of Mohave returning to service in our analysis. Thus, we did not adopt either of TURN's recommendations.

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[5] The heat rate is the amount of heat in British thermal units (Btu), from burning natural gas, that is necessary to generate one kilowatt-hour (kWh) of electricity.

- **Transmission Mitigation**

SCE stated that the shutdown of SONGS would cause transmission system degradation that would require significant mitigation, including a 500 kilovolt (kV) transmission line, if the SGRP was not performed. SCE evaluated three transmission mitigation scenarios, and assumed that the SGRP would defer the transmission mitigation costs to 2022.

TURN argued that it is unreasonable to assume that the SGRP would defer the need for a 500kV transmission line to 2022. TURN recommended that only additional voltage support equipment would be needed as transmission mitigation. SDG&E represented that it will build a transmission line, regardless of whether the SGRP is undertaken, that will be available to mitigate the effect of SONGS shutdown. We agreed with SDG&E, and determined that we need only address the amount of voltage support equipment needed by SCE. Therefore, TURN's recommendation was adopted.

- **Tube Degradation**

Steam generator tube degradation forecasts were expressed as the percent probability that a unit (its steam generators) will exceed the plugging limit. TURN recommended that SONGS should be assumed to run, in the absence of the SGRP, until the probability of exceeding the plugging limit is 50%. We adopted TURN's recommendation.

- **Recovery of Capital Costs in the Event of an Early Shutdown**

SCE stated that it reasonably and prudently maintained the original steam generators and should recover all reasonably incurred capital costs for SONGS. In addition, SCE stated that it should recover all reasonably incurred SGRP costs if the Commission denies the application.

TURN asserted that an assumption underlying SCE's cost-effectiveness calculation is that, if SONGS shuts down at any time prior to the end of its license life, the undepreciated plant balance will remain in ratebase and be fully recovered from ratepayers. TURN also asserted that D.85-08-046 found the early shutdown of Pacific Gas and Electric Company's (PG&E) Humboldt Bay Unit 3 (Humboldt) nuclear power plant resulted in investment that was no longer used and useful and, therefore, excluded the undepreciated plant costs from ratebase. PG&E was allowed to recover plant costs over several years, but not to earn a return on the unrecovered amount. TURN also pointed out that in D.92-08-036, the Commission adopted a settlement regarding the early shutdown of (SONGS) Unit 1 that allowed SCE to recover its remaining investment over several years, but only allowed a return on the unrecovered amount equal to the embedded cost of debt. Based on the above, TURN recommended that SCE be required to run its cost-effectiveness model assuming the treatments adopted in D.85-08-046 and D.92-08-036.

We found it was premature to make these determinations, and found no fixed policy as to how any undepreciated plant balance would be recovered. Therefore, we calculated the cost-effectiveness of the SGRP without assuming a limitation on capital recovery if the SGRP is not performed. Thus, TURN's recommendation was not adopted.

- **Co-Owner Participation**

SDG&E indicated its intention, pursuant to the operating agreement, not to participate in the SGRP. However, its ownership share will be reduced accordingly, with a corresponding increase in SCE's share. SCE and SDG&E agreed that SDG&E's likely remaining ownership share would range from 0-14% if the SGRP is implemented.

TURN recommended that the SGRP should be evaluated assuming SDG&E does not participate and, since SCE and SDG&E submitted their dispute regarding the ownership share reduction to arbitration, use the results of the arbitration to evaluate the cost-effectiveness of the SGRP. TURN also recommended that, since Anaheim did not participate in the SGRP, the results of Anaheim's non-participation should be considered in evaluating the cost-effectiveness of the SGRP.

We did not adopt TURN's recommendation to consider the arbitration results. However, we evaluated the cost-effectiveness of the SGRP assuming the 0-14% range of ownership by SDG&E and an ownership range of approximately 0-2.2% for Anaheim. Therefore, TURN's recommendation to consider Anaheim's participation was adopted.

- **Affirmation of ALJ Ruling**

On June 28, 2005, SCE filed a motion to accept the gas price forecast set forth in Advice Letter 1878-E into the record. In its response to the motion, TURN did not object to SCE's motion, conditioned on the Commission directing SCE to provide the parties with cost-effectiveness model runs that incorporate changes previously proposed by TURN and other parties.

The ALJ found no basis for allowing SCE's gas price forecast to be updated without, at the very least, allowing other parties to update their showings concerning gas price forecasts, which would be the logical outcome of TURN's recommendation. On September 30, 2005, the ALJ denied the motion. The Commission affirmed the ALJ's ruling. Therefore, TURN's recommendation was adopted in part.

Overall, we adopted, at least in part, 10 out of TURN's 14 recommendations in Category 2.

Category 3, Rate

- **Reasonableness Review -**
  Management of the Original Steam Generations

TURN asserted that the Commission did not adequately address whether SCE reasonably managed its original steam generators, and recommended that a separate reasonableness review of SCE's management of its original steam generators be required.

We did not find TURN's argument persuasive. We also found that SCE addressed the steps it had taken to prevent, detect, mitigate, and repair the degradation of the steam generators. Therefore, we did not adopt TURN's recommendation.

- **Proposals for Guaranteed Savings**

Aglet Consumer Alliance (Aglet) proposed that, in lieu of a reasonableness review, SCE should provide guaranteed ratepayer savings of half of the savings estimated by SCE over the remaining life of SONGS. TURN's guaranteed savings proposal was similar to Aglet's.

We found both proposals inequitable and that the level of any achieved savings could only be estimated. Therefore, we did not adopt either proposal.

- **Construction Financing Costs**

Under traditional ratemaking treatment of projects such as the SGRP, recorded expenditures earn an allowance for funds used during construction (AFUDC). When the project is completed, the expenditures and the AFUDC are put into ratebase. In this proceeding, SCE proposed that it be allowed to recover construction financing costs as they are incurred. No AFUDC would be accrued, and only the expenditures would be put into ratebase. TURN opposed SCE's request because it was unprecedented, would cost ratepayers an additional

$3.6 million, and that SCE made no extensive showing of financial hardship. In addition, TURN represented that SCE should be able to secure funds from its corporate parent under the "first priority condition" adopted in the original holding company decision, D.88-01-063, and interpreted in D.02-01-039.[6]

We rejected SCE's proposal because it was unprecedented, would have ratepayers paying for the SGRP before it is used and useful to them, was not needed to complete the SGRP, and that no ratepayer benefit to offset the $3.6 million additional cost was shown. Therefore, TURN's recommendation was adopted.

- **Removal and Disposal Costs**

SCE proposed that the costs for removing and disposing of the original steam generators be recovered over their remaining lives (2006-2011) through depreciation. TURN recommended that SCE's proposal be denied and the costs recovered through depreciation over the remaining lives of SONGS.

We authorized SCE to recover through depreciation 20% of the estimated costs of removal and disposal of the original steam generators ($22.2 million) over 2006-2011. The remaining amount will be depreciated over the remaining lives of SONGS after the SGRP is performed. Therefore, we adopted TURN's recommendation regarding depreciation in part.

TURN recommended that taxes associated with removal and disposal costs be normalized, and an appropriate share of the costs be collected from direct access customers through the cost responsibility surcharge. We found that

[6] The "first priority condition" requires the parent holding company to infuse all types of capital into its utility subsidiary when necessary to fulfill the utility's obligation to serve.

the record did not demonstrate why depreciation of the costs of removal and disposal of the original steam generators should be treated differently from other SONGS depreciation expenses. We also found TURN should raise its cost responsibility surcharge proposal in R.02-01-011. Thus, we did not adopt either of these two recommendations.

- **Potential Stranded Costs from Departing Load**

TURN recommended that customers currently on unbundled service who subsequently leave for direct access should be obligated to pay for any stranded costs associated with the SGRP for no less than ten years after completion.

We determined that the stranded cost issue was not unique to the SGRP, and was beyond the scope of this proceeding. Therefore, we did not adopt TURN's recommendation.

- **SGRP Cost Cap**

TURN recommended that if the SGRP was approved, the cost should be capped at SCE's estimated cost, and that ratepayers should not be responsible for costs above that level. We imposed a cost cap, but at a higher level than proposed by TURN. Therefore, TURN's recommendation was adopted in part.

Overall, we adopted, at least in part, three of TURN's eight recommendations in Category 3.

- **Category 4, Combustion Engineering**

TURN alleged that SCE should have filed a law suit against CE regarding the original steam generators and recommended that the Commission impose a disallowance for SCE's failure to do so. We found that if SCE reasonably believed it had a valid claim it would have pursued legal action against CE. We also found SCE acted reasonably regarding CE, and did not adopt TURN's recommendation.

Regarding duplication, we realize that in a proceeding involving multiple participants, it is virtually impossible to completely avoid some duplication of the work of other parties. TURN took all reasonable steps to keep duplication to a minimum and to ensure that its work served to supplement, complement, or contribute to the showing of the other parties. (*See* § 1802.5.)

- **Category 5, Final EIR**

TURN devoted only 5.5 hours to this category. TURN did not explain in its request how it provided a substantial contribution to the Final EIR, and we therefore adopted no recommendations.

5. Reasonableness of Requested Compensation

TURN requests $168,422.31 for its participation in this proceeding. After correction of errors in its calculations, TURN's request amounts to $168,354.81 as follows:

Requested Compensation

Attorney Fees:

Mathew Freedman	284.5 hours @ $270/hr =	$76,815.00
Robert Finkelstein	4.25 hours @ $395/hr =	$ 1,678.75
Michel Florio	3.75 hours @ $470/hr =	$ 1,762.50

Attorney Fees for preparing Intervenor Compensation Request:[7]

Mathew Freedman	10.00 hours @ $135/hr =	$1,350.00
Robert Finkelstein	1.50 hours @ $197.50/hr =	$296.25
Michel Florio	0.50 hours @ $235/hr =	$117.50

Expert Consultant Fees:

David Schlissel	349.00 hours @ $180/hr =	$62,820.00
William Marcus (2004)	62.83 hours @ $195/hr =	$12,251.85
(2005)	15.92 hours @ $210/hr =	$3,343.20

[7] Billed at half the hourly rate.

Expenses	$7,919.76
Total	168,354.81

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. The issues we consider to determine reasonableness are discussed below:

Hours and Costs Related to and Necessary for 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.

TURN documented its claimed hours by presenting a daily breakdown of the hours spent by each attorney or consultant, accompanied by a brief description of each activity. The hourly breakdown reasonably documents the total hours spent.

TURN allocated its hours to the six categories as follows:

Allocation of Hours

General:

Freedman	133.25 hours
Finkelstein	2.00 hours
Florio	2.00 hours
Schlissel	136.00 hours

Cost-Effectiveness:

Freedman	52.25 hours
Finkelstein	0.95 hours
Schlissel	39.20 hours
Marcus	47.25 hours

Rate:

Freedman	28.35 hours
Finkelstein	1.10 hours
Florio	1.75 hours
Schlissel	5.20 hours
Marcus	31.50 hours

Combustion Engineering:

Freedman	65.15 hours
Finkelstein	.02 hours
Schlissel	168.60 hours

Final EIR:

Freedman	5.50 hours

Compensation Request:

Freedman	10.00 hours
Finkelstein	1.50 hours
Florio	0.50 hours

We adopted, at least in part, nine out of TURN's 13 recommendations in Category 2, Cost-Effectiveness. In addition, TURN was the only party to address this category comprehensively. TURN addressed almost every issue related to cost-effectiveness and, even though it did not prevail on every issue, contributed substantially to the development of the record and our decision regarding this category. As a result, we find TURN made a substantial contribution regarding this entire category and award TURN compensation for all of the hours allocated to this category.

We adopted, at least in part, three out of TURN's eight recommendations in Category 3, Rate. Therefore, we award TURN compensation for three eighths of the hours allocated to this category.

We did not adopt TURN's recommendation regarding Category 4, Combustion Engineering. This issue was developed primarily by TURN, and was appropriate for consideration in this proceeding because it was not

precluded from consideration by previous decisions or otherwise moot. As a result, even though its recommendation was not adopted, TURN was primarily responsible for developing the record regarding this issue. Therefore, we find TURN made a substantial contribution regarding entire category, and award TURN compensation for all of its hours allocated to this issue.

As to Category 5, Final EIR, TURN did not explain in its request how it provided a substantial contribution to the Final EIR. Therefore, we find TURN did not make a substantial contribution regarding the Final EIR, and award no compensation for this category.

The hours TURN allocated to Category 1, General, were spent on the initial review of the application, discovery, attending the prehearing conference, and reviewing the nondisclosure agreement utilized in this proceeding for confidential materials. These activities were necessary for participation in the proceeding regardless of the issues addressed. The claimed hours are reasonable given the scope of TURN's participation in this proceeding. Since TURN made a substantial contribution as discussed above, we award compensation for these hours.

The hours TURN allocated to Category 6 were spent preparing its intervenor compensation claim. The claimed hours are reasonable given the scope of this proceeding. Since TURN made a substantial contribution as discussed above, we award compensation for these hours.

For the reasons discussed above, award compensation for the following hours:

Award Hours

General:

Freedman 133.25 hours

Finkelstein	2.00 hours
Florio	2.00 hours
Schlissel	136.00 hours

Cost-Effectiveness:

Freedman	52.25 hours
Finkelstein	0.95 hours
Schlissel	39.20 hours
Marcus	47.25 hours

Rate:

Freedman	10.63 hours
Finkelstein	0.41 hours
Florio	0.66 hours
Schlissel	1.95 hours
Marcus	11.81 hours

Combustion Engineering:

Freedman	65.15 hours
Finkelstein	.02 hours
Schlissel	168.60 hours

Final EIR:

Freedman	0.00 hours

Compensation Request:

Freedman	10.00 hours
Finkelstein	1.50 hours
Florio	0.50 hours

Market Rate Standard

We next take into consideration 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. In Resolution ALJ-184, we set forth principles and guidelines for setting intervenor's hourly rates for work

performed in 2004. D.05-11-031 set forth principles and guidelines for 2005, and generally does not authorize increases above previously approved 2004 rates.

TURN seeks an hourly rate of $270 for work performed by Freedman in 2004 and 2005. We previously approved this rate for Freedman for the same years in D.06-04-012, and adopt it here. A small number of hours in early 2006 were also charged at half this rate for preparation of the intervenor compensation request. As TURN did in its request, we treat these hours at the 2005 rate.

TURN seeks an hourly rate of $395 for work performed by Finkelstein in 2004 and 2005. We previously approved this rate for Finkelstein for both years in D.05-10-010, and adopt it here.

TURN seeks an hourly rate of $470 for work performed by Florio in 2004 and 2005. We previously approved this rate for Florio for both years in D.06-04-012, and adopt it here.

TURN seeks an hourly rate of $180 for work performed by consultant Schlissel in 2004 and 2005. TURN represents that Schlissel has more than 26 years experience as a consultant, expert witness and attorney on complex management, engineering and economic issues, primarily relating to energy and the environment. TURN also states he has presented testimony in more than 70 cases before regulatory agencies in 21 states, two federal regulatory agencies and state and federal courts, and holds BS and MS degrees in astronautical engineering and a Juris Doctor degree in law. He has also studied nuclear engineering and project management. TURN argues that Schlissel should be compared to the top of the intervenor and utility experts appearing before the Commission. In D.05-11-031, we approved a range for intervenor experts of $110-360. Given his education and experience, we find the $180 rate reasonable for 2004 and 2005.

TURN seeks an hourly rate of $195 and $210 or work performed by consultant Marcus in 2004 and 2005, respectively. We previously approved these rates for Marcus in D.06-04-012 and adopt them here.

Productivity

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.

This proceeding did not involve setting rates and no direct dollar benefit from an intervenor's participation can be identified. The SGRP will cost ratepayers hundreds of millions of dollars over the remaining license life of SONGS. The purpose of this proceeding was to determine whether the SGRP should proceed. TURN made a substantial contribution to that determination. TURN's claimed expenditures, given its substantial contribution to the Commission's analysis of risks and benefits, are miniscule in comparison to the SGRP costs. Therefore, we find TURN's participation was productive.

Direct Expenses

The itemized direct expenses submitted by TURN include costs for such things a travel, copying, postage, and telephone, and total $7,919.76. These expenses are commensurate with the work performed, and we find them reasonable.

6. Award

As set forth in the table below, we award TURN $156,816.36.

<u>Award</u>

<u>Personnel Hours:</u>

Mathew Freedman	261.28 hours @ $270/hr = $70,545.94
Robert Finkelstein	3.56 hours @ $395/hr = $1,407.19
Michael P. Florio	2.66 hours @ $470/hr = $1,248.44
David Schlissel	345.75 hours @ $180/hr = $62,235.00
William Marcus (2004)	47.12 hours @ $195/hr = $9,188.89
William Marcus (2005)	11.94 hours @ $210/hr = $2,507.40

Compensation Request Hours:

Mathew Freedman	10.00 hours @ $135/hr = $1350.00
Robert Finkelstein	1.50 hours @ $197.50/hr = 296.25
Michael P. Florio	0.5 hours @ $235/hr = $117.50
Expenses:	$7,919.76
Total Award	$156,816.36

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 May 3, 2006, the 75th day after TURN filed its compensation request, and continuing until full payment of the award is made. The award is to be paid by SCE, the applicant in this proceeding.

We remind all intervenors that Commission staff may audit their records related to this award and that 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. Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of our Rules of Practice and Procedure, we waive the otherwise applicable 30-day comment period for this decision.

8. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned ALJ in this proceeding.

Findings of Fact

1. TURN has satisfied all the procedural requirements necessary to claim compensation in the proceeding.

2. TURN made a substantial contribution to D.05-12-040, as described herein.

3. TURN's requested hourly rates and related expenses are reasonable when compared to the market rates for persons with similar training and experience.

4. The total of the reasonable compensation is $156,816.36.

5. The appendix to this opinion summarizes today's award.

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 claimed expenditures, as adjusted herein, incurred in making substantial contributions to D.05-12-040.

2. TURN should be awarded $156,816.36 for its contributions to D.05-12-040.

3. Per Rule 77.7(f)(6), the comment period for this compensation decision may be waived.

4. This order should be effective today so that TURN may be compensated without further delay.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network (TURN) is awarded $156,816.36 as compensation for its substantial contributions to Decision (D.) 05-12-040.

2. Within 30 days of the effective date of this decision, Southern California Edison Company shall pay TURN 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 May 3, 2006, the 75th day after the filing date of TURN's request for compensation, and continuing until full payment is made.

3. The comment period for today's decision is waived.
4. Application 04-02-026 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

Compensation Decision Summary Information

Compensation Decision:		**Modifies Decision?** N
Contribution Decision(s):	D0512040	
Proceeding(s):	A0402026	
Author:	ALJ O'Donnell	
Payer(s):	Southern California Edison Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
TURN	2/17/06	$168,422.31	$156,816.36	N	Failure to make substantial contribution and lower hourly rate

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Mathew	Freedman	Attorney	TURN	$270	2004-5	$270
Robert	Finkelstein	Attorney	TURN	$395	2004-5	$395
Michael	Florio	Attorney	TURN	$470	2004-5	$470
David	Schlissel	Policy Expert	TURN	$180	2004	$180
William	Marcus	Economist	TURN	$195	2004	$195
William	Marcus	Economist	TURN	$210	2005	$210