

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Establish
Policies and Rules to Ensure Reliable, Long-Term
Supplies of Natural Gas to California.

Rulemaking 04-01-025
(Filed January 22, 2004)

**OPINION GRANTING INTERVENOR COMPENSATION TO THE UTILITY
REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO
VARIOUS DECISIONS**

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Appendix A - Compensation Summary

**OPINION GRANTING INTERVENOR COMPENSATION TO THE UTILITY
REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO
VARIOUS DECISIONS**

1. Summary

This decision awards The Utility Reform Network (TURN) \$92,779.85 in compensation for its substantial contributions to Decision (D.) 05-10-015, D.05-10-043, D.06-08-027, D.05-10-045, D.06-09-039, D.05-05-046, and for its consultation activities in connection with D.04-09-022. These decisions resolved issues relating to utility gas hedging programs, gas pipeline ratemaking issues, and pipeline capacity approval processes.

2. Background

TURN seeks compensation for its substantial contributions in six Commission decisions and for consultation activities authorized by D.04-09-022.

TURN was one of many parties who participated in this rulemaking. TURN was previously awarded intervenor compensation in D.05-05-046 for most of its efforts in phase one. This compensation request seeks compensation for TURN's phase two efforts, as well as for work arising out of the decisions in both phases.

3. Requirements for Award of Compensation

The intervenor compensation program, enacted in Pub. Util. Code §§ 801-1812, 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.¹ Section 1807 provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

¹ Unless otherwise indicated, all statutory references are to the Public Utilities Code.

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 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).

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

4. Procedural Issues

TURN timely filed its NOI on July 15, 2004. In its NOI, TURN asserted financial hardship based upon the rebuttable presumption of eligibility pursuant to § 1804(b)(1). No one challenged the presumption.

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 its articles of incorporation or bylaws to represent the interests of residential or small commercial customers.

On August 24, 2004, Administrative Law Judge (ALJ) John S. Wong ruled that TURN is a customer pursuant to § 1802(b)(1)(C). The ruling further determined that TURN met the financial hardship condition through the rebuttable presumption of eligibility, as provided for in § 1804(b)(1), because TURN met the financial hardship requirement in another proceeding within one year of the commencement of this proceeding. (See ALJ Ruling dated March 25, 2003 in Rulemaking 02-07-050.) The August 24, 2004 ruling also found that TURN was eligible to file a claim for an award of compensation.

This rulemaking was divided into two phases. D.04-09-022 addressed the first phase. TURN filed a request for compensation for its substantial contribution to D.04-09-002. TURN was awarded \$35,201.24 for its contributions to that decision in D.05-05-046.

The phase two issues were addressed in D.06-09-039. In D.06-10-035, we addressed a petition to modify D.04-09-022 and closed the proceeding.

TURN filed its request for compensation on December 22, 2006, within 60 days of D.06-10-035 being issued. No party opposed this request. In light of the above actions, we affirm the ALJ’s ruling and find that TURN has satisfied all the procedural requirements necessary to make its request for compensation in this proceeding.

5. Substantial Contribution

5.1. TURN's Contributions

In evaluating whether a customer made a substantial contribution to a proceeding we look at several things. First, whether the Commission adopted one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer. (§ 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. (§§ 1801.3(f) and 1802.5.) As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In addressing 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.²

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

² D.98-04-059, 79 CPUC2d 628 at 653.

find that the customer made a substantial contribution. With this guidance in mind, we turn to the claimed contributions TURN made to the proceeding.

TURN contends that its participation made a variety of substantial contributions to D.05-05-046, D.05-10-015, D.05-10-043, D.05-10-045, D.06-08-027, and D.06-09-039, and to the consultation process authorized in D.04-09-022.³ In the sub-sections which follow, we discuss TURN's claim of substantial contribution and consultation activities in each of the decisions.

5.1.1. D.05-10-015

In D.05-10-015, we granted the emergency petition of the Pacific Gas and Electric Company (PG&E) to approve an emergency gas hedging program for their core customers for the winter of 2005-2006.

TURN generally supported PG&E's request to spend money on natural gas hedging outside of the purview of its incentive mechanism, the Core Procurement Incentive Mechanism (CPIM). Other parties opposed PG&E's proposal. TURN recommended that PG&E's proposed hedging plan for 2005-06 be modified to last only three years, rather than the five-year period originally proposed by PG&E.

The Commission agreed with TURN that a greater level of natural gas hedging was warranted by market conditions, that potential gas price volatility warranted expeditious action, and that PG&E's plan should be modified to last

³ TURN erroneously refers to D.06-08-027 at page 10 of its request for compensation and in the Table of Contents at II.B.4. TURN's request seeks compensation for its substantial contribution to D.06-08-027 "concerning infrastructure adequacy and other phase 2 issues." It is clear, however, that the infrastructure adequacy and the other phase two issues were addressed in D.06-09-039, and not in D.06-08-027.

only three years. The Commission agreed with TURN that it was appropriate to review natural gas incentive mechanisms with respect to financial hedging for core gas procurement.

Based on our review of D.05-10-015 and TURN's response, we conclude that TURN made a substantial contribution to D.05-10-015.

5.1.2. D.05-10-043

In D.05-10-043, we granted the emergency petition of Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) to modify D.02-06-023 and D.03-07-037 so that they could engage in an expanded level of gas hedging on behalf of their core customers for the 2005-2006 winter.

TURN contends that it made a substantial contribution to D.05-10-043. TURN supported SoCalGas' emergency request to hedge outside of its Gas Cost Incentive Mechanism (GCIM), which the Division of Ratepayer Advocates (DRA) had opposed. However, TURN, along with DRA, objected to SoCalGas' proposal to target a portion of the hedging to customers on the California Alternate Rates for Energy (CARE) program. TURN also recommended that the Commission consider opening a new docket to address core gas procurement policy and potential changes to the existing procurement incentive structures.

TURN spent 21.75 hours of attorney time working on the emergency petitions for modification that resulted in D.05-10-015 and D.05-10-043.

D.05-10-043 granted the utilities' request to expand its gas hedging, including the CARE hedging that was opposed by TURN and DRA. The decision also stated that any permanent change to the incentive mechanisms should be sought in an application or in a rulemaking, and that we were considering opening such a rulemaking in the near future.

Of the three parties who filed a response to the utilities' petition to modify, TURN was the only party who supported the utilities' modifications to the incentive mechanisms and for the approval of an expanded hedging program. In D.05-10-043, we adopted the utilities' hedging plans, and the modifications that the utilities had requested. Although we did not adopt the recommendation of TURN and DRA to exclude CARE customers from the hedging program, we spent some time addressing this issue in the decision and benefited from their analysis as to why CARE customers should not be excluded.

TURN had also recommended that the Commission consider opening a new docket to address core gas procurement policy and potential changes to the existing procurement incentive structures. In D.05-10-043, we stated: "As suggested by several of the parties, any permanent change to these incentive mechanisms should be sought in an application or in a rulemaking designed to look at these mechanisms."

Based on our review of D.05-10-043 and TURN's response, we conclude that TURN made a substantial contribution to D.05-10-043.

5.1.3. D.06-08-027

D.06-08-027 granted the emergency petitions of PG&E, SoCalGas and SDG&E to modify D.05-10-043, D.05-10-015, D.04-01-047, D.02-06-023 and D.03-07-037 to exempt purchases of hedging instruments from the rewards and penalties associated with their respective incentive mechanisms and approve their natural gas hedging plans, providing that all costs and benefits of gas hedging would be allocated to utility ratepayers.

TURN contends that it made a substantial contribution to D.06-08-027. TURN supported the utilities' requests, which other parties opposed, as in the interest of ratepayers. We adopted the utilities' requests, which TURN

supported, with some minor modifications. Based on our review of our decision and the record of the proceeding, we conclude that TURN made a substantial contribution to D.06-08-027. Moreover, its claims for costs related to this contribution appear reasonable.

5.1.4. D.05-10-045

D.05-10-045 addressed the rehearing application of D.04-09-022 that was jointly filed by TURN and the Ratepayers for Affordable Clean Energy (RACE).⁴ TURN contends that it made a substantial contribution to D.05-10-045 because the decision adopted the rehearing application's principal recommendation to eliminate the designation of Otay Mesa as a joint receipt point for SoCalGas and SDG&E.

TURN's attorneys spent 45.5 hours on the rehearing application. This represents approximately 15% of the compensation that is being requested.

The joint rehearing application alleged "that our determination to designate Otay Mesa as a joint receipt point and to set interim rates for that receipt point violates §§ 454(a), 728, 1701.1, 1708, and 311(e)." (D.05-10-045, p. 4.) We did not adopt four of the legal arguments they made. However, with respect to our compliance with § 454(a), we stated in part at page 5 of D.05-10-045 that "we have decided to modify the Phase I Decision to eliminate the setting of an interim rate for the Otay Mesa joint receipt point." The modifications that we made to D.04-09-022 substituted the references to Otay Mesa as a joint receipt point with the reference that Otay Mesa would be designated as a "common

⁴ D.05-10-045 also addressed the issues raised by RACE in a separate application for rehearing of D.04-09-022.

receipt point” for both SoCalGas and SDG&E. In addition, we modified D.04-09-022 to defer the issue of establishing interim rates for a joint receipt point at Otay Mesa to Application 04-12-004. (See D.05-10-045, p. 18.) We also discussed at length in D.05-10-045 why we were not persuaded by the other code sections the rehearing application had raised.

Our review of D.04-09-022, D.05-10-045, and TURN’s request for compensation for its rehearing efforts, leads us to conclude that the argument regarding § 454(a) made a substantial contribution to D.05-10-045, and that TURN should be compensated for the time spent on the rehearing issues.

5.1.5. D.06-09-039

TURN participated actively in phase two of this proceeding, which addressed issues related to gas system infrastructure adequacy and slack capacity criteria, ratemaking issues for pipeline expansions, issues related to interconnections with new gas suppliers and independent storage facilities and gas quality standards; and which resulted in D.06-09-039. TURN filed direct and rebuttal testimony of Michel Florio, participated in hearings, and filed briefs and pleadings.

In Florio’s testimony, TURN addressed the following issues:

- With respect to infrastructure adequacy, Florio noted that adequate capacity currently exists, and Florio recommended use of PG&E’s 80-90% load factor during a one-in-ten cold and dry year as an appropriate planning standard (slack capacity criterion).
- Florio recommended that future cost allocation of backbone transmission costs account for the new planning standard.
- Florio recommended that any receipt point capacity expansions conducted in order to access new gas supply sources, rather than to ensure reliability, should be based on a market test and

financed on an incremental cost basis by parties seeking increased access to these supplies.

- Florio recommended that no uniform standard be applied for local transmission capacity planning, but that the Commission should consider applying SoCalGas' open season process to PG&E.
- Florio argued that there is adequate storage capacity, but that the Commission should monitor storage utilization by both electric utilities and electric generators serving the non-utility retail market.
- Florio opposed suggestions to use core storage assets to increase overall system pipeline capacity for the benefit of customers who did not purchase storage capacity or fill gas in storage.

In almost all instances, the Commission endorsed TURN's position and relied on Florio's analysis and contentions to support the decision.

In discussing the adequacy of current pipeline backbone capacity, the Commission concluded that "we are comfortable with the total amount of firm backbone transmission capacity on both the PG&E and SoCalGas systems," and the Commission adopted PG&E's proposed one-in-ten year cold and dry standard as the appropriate planning criterion. It is impossible to credit one party with influencing the Commission's decision on this point, and the Commission specifically noted that "we take comfort that consumer advocates, pipelines, and LNG suppliers all support the utilities' proposals." Still, it is apparent from the explicit references to TURN's positions in this section that TURN's argument concerning infrastructure adequacy contributed to the Commission's analyses. The Commission adopted TURN's primary position – that peak demand should be met by a combination of flowing supplies and storage withdrawals. The decision also mirrored TURN's concern that the mere

existence of market storage capacity does not provide reliability if unregulated noncore market participants do not actually inject gas into storage.

In discussing the desirability of expanding particular receipt points, the Commission quoted extensively from Florio's testimony concerning the risk of expanding temporarily constrained receipt points. The Commission agreed that no party "has to be proven wrong" in this debate, and ordered SoCalGas to monitor its receipt point utilization and provide regular reports.

The Commission rejected Southern California Edison's proposal that core storage customers be required to withdraw gas in order to assure adequate pipeline capacity for other customers.

With respect to local transmission expansion, the Commission noted TURN's support for long-term contracts as a requirement for expansion of constrained local transmission in order to provide firm noncore service, but did not adopt TURN's proposal. However, it did adopt a new take-or-pay requirement for large customers who require facility expansions as a result of open seasons. The Commission reiterated its expectation that the utilities will continue to rely on system planning analyses as well as open seasons for planning local transmission capacity expansions.

With respect to the issue of gas supply for electric generators, the Commission stated that "we agree with TURN that the need to ensure appropriate electric generator natural gas procurement planning goes beyond the regulated electric utilities and reaches to all gas-fired generators," and further stated that "we also agree with TURN that electric generators should do their part to fill storage fields, and to withdraw gas during times of system peak." The Commission essentially agreed with TURN that the regulated

electric utilities should demonstrate the steps they have taken to ensure adequate gas supply as part of the gas plans they submit with their procurement plans.

Among many other things, D.06-09-039 reflects Commission approval of a settlement agreement between PG&E and independent storage providers concerning interconnection standards. While TURN did not sign the settlement agreement it states that it closely reviewed the settlement language to ensure it did not harm core customers through bypass or cost-shifting. TURN reports that it participated actively in negotiations that led to a prior settlement between PG&E, Calpine and Lodi Gas that was a prelude to this matter. On this basis, TURN requests full compensation for the limited hours spent on this issue in the activities leading to D.06-09-039.

While TURN reports that it spent considerable time monitoring some of the issues related to gas quality issues, it is not requesting compensation for those activities because TURN did not hire expert witnesses in order to evaluate the potential impacts of the proposed gas quality changes upon residential and small commercial core customers.

The completion of phase two in this docket was a long and complex process. With the exception of the gas quality issues, TURN remained actively engaged throughout the process and clearly influenced the Commission's resolution of many of the most critical issues. We agree with TURN that it would be inappropriate to provide compensation for the monitoring activities related to its passive role on gas quality issues. In all other respects, TURN made a substantial contribution to D.06-09-039 and should receive compensation.

5.1.6. D.04-09-022

In D.04-09-022, we adopted policies to ensure that California has an adequate and reliable supply of reasonably priced natural gas. One of the tools

that we adopted for the gas utilities was an interstate pipeline capacity approval process to acquire pipeline capacity on the core's behalf in an efficient and cost effective manner. As part of this approval process, the utilities are to consult with, and receive the approval of, TURN and DRA⁵ for the pipeline capacity contracts that the gas utilities plan to submit under the expedited advice letter process. This consultation and approval process was extended to the review of storage contracts for PG&E in D.06-10-035.

TURN's request seeks compensation for the time it spent meeting with PG&E and SoCalGas on the pipeline and storage capacity contracts, as authorized by D.04-09-022 and D.06-10-035. Approximately 20% of TURN's compensation request is attributable to its consultation activities with PG&E and SoCalGas over a two-year period.

TURN also seeks guidance on where it can seek compensation for the consultation activities with PG&E in the future. TURN notes that there is no active proceeding concerning PG&E's CPIM or storage activities in which it can request compensation for its consultation activities with PG&E.

We have reviewed TURN's claim for compensation for its consultation activities with PG&E and SoCalGas regarding the pipeline capacity and storage contracts. The hours that TURN spent on these activities were reasonable.

On the issue of whether TURN made a substantial contribution, we need to view these activities in light of the process that we established in D.04-09-022. We acknowledged in D.05-05-046 that the consultation process is an integral part

⁵ The Office of Ratepayer Advocates (ORA) was referred to in the consultation and approval process discussed in D.04-09-022. ORA was renamed the DRA in 2006 as a result of Chapter 440, Section 2 of the Statutes of 2005.

of the adopted process for acquiring interstate pipeline capacity.⁶ The consultation and approval process adopted in D.04-09-022 allows TURN and DRA to review the pipeline capacity contracts and storage contracts to determine if those contracts are in the core's interests. If TURN and DRA approve a particular contract, the utility can then seek expedited approval of the contract from the Energy Division. The Energy Division's approval of the capacity or storage contract incorporates TURN's input and its recommendation on whether the contract should be approved. This process substantially assists the delegated authority of the Energy Division to approve or disapprove the contract.⁷ We conclude that TURN's consultation activities made a substantial contribution to the delegated authority of the Energy Division approving the pipeline capacity and storage contracts.

On the issue of where TURN should seek compensation for its future consultation activities with PG&E, TURN should use the Biennial Cost Allocation Proceeding (BCAP) for PG&E. TURN should file an NOI in the BCAP, and include a reference to the consultation activities. As for TURN's consultation activities with SoCalGas, TURN should seek compensation in SoCalGas' GCIM proceeding.

5.1.7. D.05-05-046

TURN is requesting compensation for 7.5 hours of attorney time that it spent preparing its May 10, 2005 comments on the draft decision that led to the

⁶ We also awarded compensation to TURN in D.05-05-046 for its earlier consultation activities.

⁷ We also noted in D.05-05-046 that both PG&E and SoCalGas support providing compensation to TURN for the consultation activities.

adoption of D.05-05-046, and on the alternate draft decision of Commissioner Kennedy which was mailed on April 20, 2005.

D.05-05-046 addressed TURN's request for compensation for its contributions to the phase one decision, D.04-09-022. We determined that TURN's work on the development of the interstate pipeline capacity acquisition process should be compensated, even though it predated the initiation of this rulemaking, because TURN's work helped to shape SoCalGas' proposals and our resolution of the proceeding.

The alternate draft decision, which was not adopted, proposed that the 15.5 hours that TURN had spent in advance of the initiation of this rulemaking should not be compensated. The reasoning for not awarding compensation was because this work had occurred prior to the initiation of the rulemaking, and that the intervenor compensation statutes require the work to be performed within a proceeding or hearing in order to be compensable.

TURN recognizes in its request that time related to preparing an intervenor compensation request is compensated at half the hourly rate. However, TURN is requesting compensation at the full hourly rate for time spent commenting on the draft decision and the alternate draft decision addressing the compensation request because its comments involved substantive legal analysis about the intervenor compensation statute.

We have reviewed TURN's May 10, 2005 comments on the draft decision and alternate draft decision, as well as the alternate draft decision and D.05-05-046. TURN's comments addressed the statutory history of the intervenor compensation statutes, as well as various decisions which had awarded compensation for work performed before a proceeding had been initiated. Although the draft decision was not substantively altered as a result of

TURN's comments, we acknowledged TURN's filing of the comments in D.05-05-046 and stated that the arguments for awarding compensation for work incurred prior to the initiation of the rulemaking were persuasive. Accordingly, we conclude that TURN made a substantial contribution to D.05-05-046 and should be compensated at the full rate for its substantive legal analysis.

5.2. Contributions of Other Parties

Section 1801.3(f) requires an intervenor to avoid unnecessary participation that duplicates similar interests that are adequately represented by another party, or 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.

TURN contends that its compensation should not be reduced for duplication of the showings of other parties. TURN states in its request for compensation that it was aligned with DRA on several issues, but it also differed from DRA on some issues such as hedging outside the incentive mechanism. TURN also states that it coordinated with other intervenors such as DRA and RACE to minimize the duplication of effort when possible.

Although TURN was allied with DRA and RACE on several issues, as discussed above, our review of TURN's time sheets reveals that the time that TURN spent on common positions appeared to have minimized the duplication of effort. TURN should be fully compensated for its efforts on the issues in which TURN shared similar views with other parties.

Based on TURN's activities in this proceeding, as reflected in the discussion above, we conclude that TURN made a substantial contribution to

D.05-10-015, D.05-10-043, D.06-08-027, D.05-10-045, D.06-09-039, D.05-05-046, and to the Energy Division's delegated authority approving the interstate pipeline capacity contracts.

6. Reasonableness of Requested Compensation

TURN requests \$92,779.85 for its participation in this proceeding in all seven decisions, as follows:

Item	Amount
Attorney Services	\$92,481.25
Direct Expenses	\$298.60
Total Expenses Claimed	\$92,779.85

TURN estimates that its attorney time was allocated among the different issues covered by the decisions as follows:

Issue	Percent of Time
Hedging outside incentive mechanisms	40%
Application for Rehearing	15%
Capacity consulting process	20%
Phase two issues (capacity adequacy, ratemaking, interconnection)	20%
Compensation comments on phase 1	2%
Compensation request	3%

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.

6.1. 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 a substantial contribution 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.

As set forth in Attachment A of TURN's request for compensation, TURN documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. The hourly breakdown reasonably supports the claim for total hours claimed.

6.2. Intervenor Hourly Rates

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.

All of the hourly rates that TURN is requesting for its four attorneys were previously approved by the Commission in the decisions as set forth in the following table:

Name	2004 Rate	2005 Rate	2006 Rate
Marcel Hawiger Attorney	\$270 - D.05-06-049	\$270 - D.06-04-029	\$280 - D.06-11-039
Michel P. Florio Attorney	\$470 - D.05-06-049	\$470 - D.06-07-011	\$485 - D.06-11-032
Robert Finkelstein Attorney		\$385 - D.06-10-018 ⁸	
Nina Suetake Attorney		\$190 - D.06-04-065	

6.3. 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.

TURN's NOI states that "it is impossible to quantify the benefits to ratepayers of TURN's positions in this Phase 2." (NOI, p. 19.) However, TURN notes that its positions on the infrastructure adequacy issues benefited ratepayers "by precluding the need for unnecessary pipeline capacity or storage expansions, and requiring at least some market test for intrastate capacity expansions on the SoCalGas system." (NOI, p. 19.) In addition, TURN contends

⁸ Due to the limited amount of time that Finkelstein spent in this proceeding, the 0.5 hours of work that he performed was billed at a rate of \$385. TURN's compensation request states at page 25 that "TURN used the adopted 2005 rate to bill" Finkelstein's time. However, Finkelstein's previously adopted 2005 hourly rate was \$395. (See D.06-10-018; D.06-10-043; D.07-05-050.) Due to limited amount of time that Finkelstein worked on this proceeding and the computation error by TURN, we have not adjusted TURN's compensation request.

that its positions on financial hedging may result in slightly higher costs to ratepayers, but ratepayers benefit by the price stability, and ratepayer costs will be reduced if gas prices increase unexpectedly.

Although we cannot assign a dollar amount to TURN's participation in this proceeding, it is clear from the hedging decisions and the phase two decision that TURN's participation yielded benefits to ratepayers in an amount that exceeds TURN's compensation request. We find that TURN's participation in this proceeding was productive, and bears a reasonable relationship to its participation.

6.4. Direct Expenses

The itemized direct expenses submitted by TURN include costs for photocopying, telephone charges, and parking, which total to \$298.60. Attachment B of TURN's compensation request provides a cost breakdown of these expenses. We find these costs to be reasonable, and commensurate with the work performed.

7. Award

We award TURN \$92,779.85 for its substantial contributions to D.05-10-015, D.05-10-043, D.06-08-027, D.05-10-045, D.06-09-039, D.05-05-046, and to the Energy Division's delegated authority to approve the interstate pipeline capacity contracts as authorized by D.04-09-022.

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 March 8, 2007, the 75th day after TURN filed its compensation request, and continuing until full payment of the award is made.

As the primary regulated entities affected by this rulemaking, the award of compensation is to be paid by PG&E, SDG&E and SoCalGas. These three utilities shall allocate payment responsibility among themselves based on their respective percentage of the California natural gas revenues for the 2006 calendar year.

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. 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.

8. Waiver of Comment Period

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

9. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner, and Kim Malcolm, Steven A. Weissman, and John S. Wong are the assigned ALJs in this proceeding.

Findings of Fact

1. TURN has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
2. TURN requested hourly rates for its attorneys that were approved in prior Commission decisions.
3. TURN's participation was productive and bears a reasonable relationship to its participation.

4. TURN requested related expenses that are reasonable and commensurate with the work performed.
5. The total of the reasonable compensation is \$92,779.85.
6. 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.
2. TURN made substantial contributions to D.05-10-015, D.05-10-043, D.06-08-027, D.05-10-045, D.06-09-039, D.05-05-046, and to the Energy Division's delegated authority approving the interstate pipeline capacity contracts as authorized by D.04-09-022 and D.06-10-035.
3. TURN should be awarded \$92,779.85 for its substantial contributions.
4. Pursuant to Rule 14.6(c)(6), the comment period for this compensation decision may be waived.
5. This order should be effective today so that TURN may be compensated without further delay.
6. This proceeding should be closed.

O R D E R**IT IS ORDERED** that:

1. The Utility Reform Network (TURN) is awarded \$92,779.85 as compensation for its substantial contributions to Decision (D.) 05-10-015, D.05-10-043, D.06-08-027, D.05-10-045, D.06-09-039, D.05-05-046, and to the Energy Division's delegated authority approving the interstate pipeline capacity contracts as authorized by D.04-09-022 and D.06-10-035.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Gas Company shall pay their respective shares of the award to TURN.

- a. Each utility's share shall be calculated based upon its California-jurisdictional gas revenues for the 2006 calendar year.
- b. 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 on March 8, 2007, 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. Rulemaking 04-01-025 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

Appendix A**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision? No
Contribution Decision(s):	D.05-10-015, D.05-10-043, D.06-08-027, D.05-10-045, D.06-09-039, D.05-05-046, D.04-09-022 and D.06-10-035.	
Proceeding(s):	R04-01-025	
Author:	ALJs Malcolm, Weissman, Wong	
Payer(s):	SDG&E, PG&E, SoCalGas	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	12/22/06	\$92,779.85	\$92,779.85	No	NA

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Robert	Finkelstein	Attorney	The Utility Reform Network	\$385	2006	\$385 ⁹
Marcel	Hawiger	Attorney	The Utility Reform Network	\$270	2004	\$270
Marcel	Hawiger	Attorney	The Utility Reform Network	\$270	2005	\$270
Marcel	Hawiger	Attorney	The Utility Reform Network	\$280	2006	\$280
Michel	Florio	Attorney	The Utility Reform Network	\$470	2004	\$470
Michel	Florio	Attorney	The Utility Reform Network	\$470	2005	\$470
Michel	Florio	Attorney	The Utility Reform Network	\$490	2006	\$490

⁹ See footnote 8.

(End of Appendix A)