Decision 09-06-046 June 18, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate Procurement Policies and Consider Long-Term Procurement Plans.	Rulemaking 06-02-013 (Filed February 16, 2006)

DECISION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR ITS SUBSTANTIAL CONTRIBUTIONS TO DECISIONS 08-09-012 AND 08-11-008

Claimant: The Utility Reform Network	**For contributions to D.08-09-012 and D.08-11-008**
Claimed ($): $ 38,369	**Awarded ($): $ 38,369**
Assigned Commissioner: Michael R. Peevey	**Assigned ALJ: Douglas Long**

This decision awards The Utility Reform Network $38,369 in compensation for its substantial contributions to Decisions 08-09-012 and 08-11-008. Ratepayers of Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company will pay $38,369, plus interest, effective March 25, 2009, and continuing until full payment is made. We direct these utilities to allocate payment responsibility among themselves, based on their California-jurisdictional electric revenues for the 2007 calendar year, the year in which the proceeding was primarily litigated.

PART I: PROCEDURAL ISSUES

A. Brief Description of Decisions: D.08-09-012 resolved non-bypassable charge issues in Phase 3 of this proceeding. D.08-11-008 addressed petitions for modification of D.07-12-052. Note that this is TURN's third, and hopefully final, request for compensation in this docket, which was closed by D.08-11-008, Ordering Paragraph #5.

B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:

	Claimant	CPUC Verified
Timely filing of notice of intent (NOI) to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	February 28, 2006	**Yes**
2. Other Specified Date for NOI:	None	
3. Date NOI Filed:	March 28, 2006	**Yes**
4. Was the NOI 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 18, 2008	**Yes**
7. Based on another California Public Utilities Commission (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 18, 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.08-11-008	**Yes**
14. Date of Issuance of Final Decision:	November 10, 2008	**Yes**
15. File date of compensation request:	January 9, 2009	**Yes**
16. Was the request for compensation timely?		**Yes**

C. Additional Comments on Part I (use line reference # as appropriate):

#	Claimant	CPUC	Comment
I.A.	TURN		Compensation was awarded for TURN's work in the first two phases of this proceeding in D.08-10-012.

PART II: SUBSTANTIAL CONTRIBUTION (completed by Claimant)

A. In the fields below, describe in a concise manner Claimant's contribution to the final decision (*see* § 1802(i), § 1803(a) & D.98-04-059) (For each contribution, support with specific reference to final or record.)

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
D.08-09-012:		
1. TURN argued that a Binding Notice of Intent process similar to that adopted for [Community Choice Aggregators] CCAs should be applied to all forms of departing load. (Opening Brief p. 4.)	D.08-09-012 adopted a similar process for large municipal departing load customers at pages. 29-30 and 92-93.	**Yes**
2. TURN asserted that the Edison and PG&E approaches to calculating a stranded cost [Non-Bypassable Charge] NBC produce the same mathematical result if netting of positive and negative values within the same calendar year is approved. (OB, pp. 5-6.)	D.08-09-012 at pages 45-46, citing TURN's cross-examination of SCE's witness.	**Yes**
3. TURN argued that since new [non-Renewable Portfolio Standard] non-RPS resources are only allowed stranded cost treatment for 10 years, utility retained generation should also be included for only ten years. (OB, pp. 6-7.)	D.08-09-012 did not adopt this recommendation per se, but instead – at pp. 52 - 55 and 94 -- allowed the IOUs to request extension of the 10-year period for new non-RPS resources on a case by case basis.	**Yes**
4. TURN supported Edison's vintaging proposal over PG&E's. (OB, pp. 7-8.)	D.08-09-012 adopted the Edison approach at page 68, citing the support of the majority of parties.	**Yes**
5. TURN argued that the stranded cost NBC should be calculated the same as the [Direct Access Cost Recovery Surcharge] DA CRS, with no after-the-fact true-up. (OB, p. 10.)	D.08-09-012 adopted these principles at pp. 68-69.	**Yes**
6. TURN opposed [Alliance for Retail Markets] AReM's proposal that currently bundled customers who are *eligible* for direct access should not be subject to the NBC. (Ex.117, p. 13.)	D.08-09-012 agreed and rejected AReM's proposal at pp. 35-36.	**Yes**

7. TURN opposed AReM's proposal to limit the D.06-07-029 NBC to five years rather than ten. (Ex.117, p. 15.)	D.08-09-012 rejected AReM's proposal at p. 90.	**Yes**

D.08-11-008:		
1. TURN joined with several other parties in opposing Calpine's [Petitions for Modification] PfM regarding treatment of existing generation in utility RFOs. (Decision, pp. 11-12.)	D.08-11-008 rejected Calpine's proposed modification, based on the arguments presented by the Joint Parties. (pp. 24-25.)	**Yes**
2. TURN joined with several other parties in opposing the PfMs filed by [Independent Energy Producers Association] IEP and [Competitive Market Advocates] CMA. (Decision, p. 9.)	D.08-11-008 rejected most of the modifications proposed by IEP and CMA at pp. 19, 22, 23, and 32.	**Yes**
Other post-D.07-12-052 issues:		
1. TURN provided comments and participated in a workshop regarding development of a template for [Independent Evaluator] IE reports on utility [Requests for Offers] RFOs.	ALJ Brown's ruling of 5/8/08 adopted final templates that reflected TURN's comments.	**Yes**
2. TURN participated in the hearing regarding Constellation's protest of the first SCE energy auction and opposed Constellation's proposals.	ALJ Brown's ruling of 5/28/08 rejected Constellation's protest.	**Yes**

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

	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding? (Y/N)	**DRA filed briefs but not testimony on the NBC issues in Phase 3.**	**Yes**
b. Were there other parties to the proceeding? (Y/N)	**No other consumer parties**	**Yes**
c. If so, provide name of other parties:		

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: **TURN took the lead role on NBC issues, based on our extensive experience with the development of the DA CRS. With respect to the petitions for modification, TURN and DRA worked jointly with other parties on the preparation of joint pleadings in order to minimize any potential duplication.**	**Yes**

C. Additional Comments on Part II (use line reference # or letter as appropriate):

#	Claimant	CPUC	Comment

PART III: REASONABLENESS OF REQUESTED COMPENSATION
(Completed by Claimant)

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

Concise explanation as to how the cost of claimant's participation bears a reasonable relationship with benefits realized through participation (include references to record, where appropriate)	CPUC Verified
TURN's work on NBC issues ensured that the "ratepayer indifference" standard would be honored, so that departing load does not shift costs to small bundled service customers. While the exact savings cannot be quantified, the risks to bundled service customers were significant and largely avoided through TURN's participation. On the PfM issues, TURN's work help to preserve utility-owned generation as a competitive option for ratepayers. This benefit is again unquantifiable but potentially very large. Given the small amount of this compensation request, TURN's work was clearly productive.	**Yes**

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate $	Basis for Rate*	Total $	Year	Hours	Rate $	Total $
Michel Florio	2007	42.25	$520	D.08-03-012, p. 12	21,970	2007	42.25	$520	21,970
Michel Florio	2008	26.00	$535	D.08-07-043, p. 8	13,910	2008	26.00	$535	13,910
Hayley Goodson	2007	2.00	$210	D.08-10-012, p. 18	420	2007	2.00	$210	420
				Subtotal:	**$ 36,300**			***Subtotal:***	**$ 36,300**

EXPERT FEES									
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
Kevin Woodruff	2008	2.50	$225	D.08-10-012, p. 19	563	2008	2.50	$225	563
				Subtotal:	**$ 563**			***Subtotal:***	**$ 563**
OTHER FEES **Describe here what OTHER HOURLY FEES you are claiming (paralegal, travel, etc.):**									
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
[Person 1]									
				Subtotal:				***Subtotal:***	
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	**Year**	**Hours**	**Rate $**	**Basis for Rate***	**Total $**	**Year**	**Hours**	**Rate $**	**Total $**
Michel Florio	2009	5.50	$267.50	50% of 2008 rate#	1,471	2009	5.50	$267.50	1,471
				Subtotal:	**$ 1,471**			***Subtotal:***	**$ 1,471**

COSTS					
#	**Item**	**Detail**	**Amount**	**Amount**	
1	Photocopies	TURN Pleadings	$ 35		$ 35
		Subtotal:	**$ 35**	***Subtotal:***	**$ 35**
		TOTAL REQUEST $:	**$38,369**	**TOTAL AWARD $:**	**$38,369**

When entering items, type over bracketed text; add additional rows as necessary.
*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.

C. Attachments or Comments Documenting Specific Claim (attachments not attached to final Decision):

Attachment or Comment #	Description/Comment
1	**Detailed Time Reports for TURN's Attorneys**
2	**Detail of TURN's Expenses**
3	**Certificate of Service**
#III.B.	**For Attorney Florio, TURN is using his 2008 rate for the small number of 2009 hours devoted to preparing this compensation request, but reserves the right to seek a higher hourly rate for his other work in 2009.**

D. CPUC Disallowances & Adjustments (CPUC completes):

#	Reason
	None

PART IV: OPPOSITIONS AND COMMENTS

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

A. Opposition: Did any party oppose the claim (Y/N)?	No
B. Comment Period: Was the 30-day comment period waived (*see* Rule 14.6(c)(6)) (Y/N)?	Yes

FINDINGS OF FACT

1. Claimant has made a substantial contribution to D.08-09-012 and D.08-11-008.
2. The claimed fees and costs 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 $38,369.

CONCLUSION OF LAW

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

ORDER

1. The Utility Reform Network is awarded $38,369.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall pay the Utility Reform Network their respective shares of the award. We direct Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company to allocate payment responsibility based on their relative California-jurisdictional electric revenues for the 2007 calendar year, the year in which the proceeding was primarily litigated. 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 March 25, 2009, 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 order is effective today.

Dated June 18, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	D0906046	**Modifies Decision?** No
Contribution Decision(s):	D0809012 and D0811008	
Proceeding(s):	R0602013	
Author:	ALJ Douglas Long	
Payer(s):	Southern California Edison Company, Pacific Gas and Electric Company, and San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	01-09-09	$38,369	$38,369	No	None

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michel	Florio	Attorney	The Utility Reform Network	$520	2007	$520
Michel	Florio	Attorney	The Utility Reform Network	$535	2008	$535
Hayley	Goodson	Attorney	The Utility Reform Network	$210	2007	$210
Kevin	Woodruff	Expert	The Utility Reform Network	$225	2008	$225

(END OF APPENDIX)