

Decision 09-07-050 July 30, 2009

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

Rulemaking Regarding Whether, or Subject to What Conditions, the Suspension of Direct Access May Be Lifted Consistent with Assembly Bill 1X and Decision 01-09-060.

Rulemaking 07-05-025  
(Filed May 24, 2007)

**DECISION GRANTING INTERVENOR COMPENSATION  
TO THE UTILITY REFORM NETWORK FOR  
SUBSTANTIAL CONTRIBUTION TO DECISION 08-11-056**

<b>Claimant: The Utility Reform Network (TURN)</b>	<b>For contribution to: Decision (D.) 08-11-056</b>
<b>Claimed (\$): \$26,112</b>	<b>Awarded (\$): \$26,112</b>
<b>Assigned Commissioner: Michael R. Peevey</b>	<b>Assigned ALJ: Thomas R. Pulsifer</b>

**PART I: PROCEDURAL ISSUES** (completed by Claimant)

- A. Brief Description of Decision:** D.08-11-056, in Phase 2(a)(1) of this proceeding, approved measures to facilitate the removal of the Department of Water Resources (DWR) from the role of supplying electric power. This is TURN's second request for compensation in this docket. The first was filed on April 29, 2008, for our work in Phase 1, and granted by D.08-11-055.

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

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (§ 1804(a)):</b>		
1. Date of Prehearing Conference:	N/A	<b>Yes</b>
2. Other Specified Date for NOI:	30 days after the OIR was issued.	<b>Yes</b>

3. Date NOI Filed:	June 25, 2007	<b>Yes</b>
4. Was the notice of intent timely filed?		<b>Yes</b>
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.07-05-025	<b>Yes</b>
6. Date of ALJ ruling:	August 17, 2007	<b>Yes</b>
7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status?		<b>Yes</b>
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
9. Based on ALJ ruling issued in proceeding number:	A.07-12-021	<b>Yes</b>
10. Date of ALJ ruling:	April 18, 2008	<b>Yes</b>
11. Based on another CPUC determination (specify):		
12. Has the claimant demonstrated significant financial hardship?		<b>Yes</b>
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision	D.08-11-056	<b>Yes</b>
14. Date of Issuance of Final Decision:	November 24, 2008	<b>Yes</b>
15. File date of compensation request:	January 23, 2009	<b>Yes</b>
16. Was the request for compensation timely?		<b>Yes</b>

**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.)

<b>Contribution</b>	<b>Citation to Decision or Record</b>	<b>Showing Accepted by CPUC</b>
1. TURN argued that bundled service customers should not have to pay any increased costs as a result of the actions contemplated in this proceeding. The decision embraced this principle.	TURN’s 6/9/08 comments, p. 6. D.08-11-056, p.75 and OP 2, last sentence, p. 92.	<b>Yes</b>
2. TURN explained in workshops and comments how the DWR cost allocation methodology created a barrier to IOUs’ accepting novation or	TURN’s 6/9/08 comments, pp. 2-3; TURN’s 7/28/08 comments, pp. 1-4. D.08-11-056, pp. 54-60; FoF 30,	<b>Yes</b>

transfer of any DWR contracts, and suggested a costs-follow-contracts approach with equitable adjustments as a potential solution. The decision adopted this approach, as developed in greater detail by SCE.	p. 88; FoF 32-34, p. 89; CoL 9-11, pp. 90-91, OP 9-10, pp. 93-94.	
3. TURN argued that any DWR contract renegotiation process should start with the Sempra contract and then the Coral contract. The decision adopted these priorities.	TURN's 6/9/08 comments, pp. 5-6; TURN's 8/25/08 comments, pp. 3-4. D.08-11-056, FoF 13-14, p. 86; OP 6, p. 93.	<b>Yes</b>
4. TURN pointed out and attempted to quantify the potential transactions costs resulting from this proceeding and the anticipated contract negotiations. While the decision found that such costs would not be large enough to offset the potential benefits, it adopted measures designed to minimize such costs.	TURN's 8/4/08 comments, p. 2. D.08-11-056, pp. 44-45, 66, 69-70, CoL 4, pp. 89-90, OP 3, p. 92.	<b>Yes</b>
5. TURN opposed the Reliant and CACES estimates of potential cost savings from contract renegotiations as speculative and vastly overstated. The decision agreed and declined to consider such estimates.	TURN's 8/18/08 comments, pp. 1-3. D.08-11-056, pp. 30-32.	<b>Yes</b>

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

	<b>Claimant</b>	<b>CPUC Verified</b>
<b>a. Was DRA a party to the proceeding? (Y/N)</b>	<b>Yes</b>	<b>Yes</b>
<b>b. Were there other parties to the proceeding? (Y/N)</b>	<b>Yes</b>	<b>Yes</b>
<b>c. If so, provide name of other parties: Consumer Federation and CARE</b>		<b>Yes</b>
<b>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:</b>  <b>TURN actively consulted with DRA and Consumer Federation during the course of the proceeding and generally divided up the issues that each would pursue. TURN particularly took a lead role on the issue of the effects of the adopted DWR cost allocation methodology, a topic with which its representative was</b>		<b>Yes</b>

thoroughly familiar from prior work. TURN regularly discussed the issues with DRA and other parties to avoid any duplication of effort.	
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**PART III: REASONABLENESS OF REQUESTED COMPENSATION**  
(completed by Claimant)

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

<b>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)</b>	<b>CPUC Verified</b>
TURN’s work on Phase 2(a)(1) issues informed the Commission of several significant barriers to the removal of DWR from its role as power supplier and enabled the Commission to address those barriers in its decision. TURN submitted a PHC statement and seven rounds of comments in this phase and attended several workshops, all in less than 50 hours of work. Thus, TURN’s participation was highly efficient given the scope of the issues at hand.	Yes

**B. Specific Claim:**

CLAIMED						CPUC AWARD			
<b>ATTORNEY AND ADVOCATE FEES</b>									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Michel Florio	2008	46.75	535	D.08-07-043	25,011	2008	46.75	535	25,011
<i>Subtotal:</i>					<i>\$ 25,011</i>	<i>Subtotal:</i> <i>\$25,011</i>			
<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Michel Florio	2009	4.00	267.50	50% of 2008 rate	1,070	2009	4.00	267.50	1,070
<i>Subtotal:</i>					<i>\$ 1,070</i>	<i>Subtotal:</i> <i>\$ 1,070</i>			
<b>COSTS</b>									
#	Item	Detail	Amount \$			Amount \$			
1	Photocopies	TURN Pleadings	31			31			
<i>Subtotal:</i>					<i>\$ 31</i>	<i>Subtotal:</i> <i>\$ 31</i>			
<b>TOTAL REQUEST \$:</b>					<b>\$ 26,112</b>	<b>TOTAL AWARD \$:</b> <b>\$ 26,112</b>			

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

Attachment or Comment #	Description/Comment
1	<b>Detailed Time Reports for TURN's Attorney</b>
2	<b>Detail of TURN's Expenses</b>
3	<b>Certificate of Service</b>
#III.B.	<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.</b>

**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)?**

<b>No</b>
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**B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6)) (Y/N)?**

<b>Yes</b>
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**FINDINGS OF FACT**

1. Claimant has made a substantial contribution to Decision (D.) 08-11-056
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 \$26,112.

**CONCLUSION OF LAW**

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

**ORDER**

1. Claimant is awarded \$26,112.
2. Within 30 days of the effective date of this decision, the investor-owned utilities, Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall pay The Utility Reform Network a pro-rated share of the total award of \$26,112. The proration shall be computed upon each IOU's respective share of total California-jurisdictional electric revenues for calendar year 2008, to reflect the period of time 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 April 8, 2009, the 75<sup>th</sup> 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 proceeding remains open for consideration of subsequent Phase II(a)(2) issues.

This decision is effective today.

Dated July 30, 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**

<b>Compensation Decision:</b>	D0907050	<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D0811056	
<b>Proceeding(s):</b>	R0705025	
<b>Author:</b>	ALJ Thomas R. Pulsifer	
<b>Payer(s):</b>	Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier?</b>	<b>Reason Change/Disallowance</b>
The Utility Reform Network	01-23-09	\$ 26,112	\$26,112	No	none

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Florio	Michel	Attorney	The Utility Reform Network	\$535	2008	\$535

**(END OF APPENDIX)**