

Decision 09-08-023 August 20, 2009

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

Order Instituting Investigation into the ratemaking implications for Pacific Gas and Electric Company (PG&E) pursuant to the Commission's Alternative Plan of Reorganization under Chapter 11 of the Bankruptcy Code for PG&E, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Company, Case No. 01-30923 DM.

Investigation 02-04-026  
(Filed April 22, 2002)

**DECISION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR ITS SUBSTANTIAL CONTRIBUTIONS TO DECISION 04-02-062 AND RESOLUTION E-3862**

**Claimant: The Utility Reform Network                      For contribution to: D.04-02-062 & Res. E-3862**  
**Claimed (\$): \$18,445    Awarded (\$): \$18,445**  
**Assigned Commissioner: Michael R. Peevey              Assigned ALJ: Janet A. Econome/Timothy Kenney**

**PART I: PROCEDURAL ISSUES**

**A. Brief Description of Decision:** Decision (D.) 04-02-062 adopted a rate design settlement that lowered PG&E's retail rates by \$799 million to reflect the resolution of that company's federal bankruptcy case, which had been approved in D.03-12-035. The Utility Reform Network (TURN) sought compensation for its contributions to the latter decision (as well as Item 45 on the Commission's January 22, 2004 Public Agenda) in a Request for Compensation filed February 17, 2004 in this docket. The Commission awarded TURN partial compensation in D.04-08-025, but dismissed without prejudice the portion of TURN's request that sought compensation for hours devoted to subsequent work in this proceeding after D.03-12-035 was issued (*Id.*, mimeo., at 22, 52). D.08-12-060 ultimately denied rehearing of D.04-02-062 and closed this proceeding, so TURN is now seeking compensation for the hours for which compensation

was denied without prejudice in D.04-08-025, as well as requesting correction of an inadvertent “double disallowance” of certain hours claimed in its earlier Request.

**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:	Not Applicable	<b>Yes</b>
2. Other Specified Date for NOI:	30 days after issuance of 7/17/2002 Scoping Memo (OP #7)	<b>Yes</b>
3. Date NOI Filed:	August 12, 2002	<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:	I.02-04-026, the instant proceeding	<b>Yes</b>
6. Date of ALJ ruling:	September 6, 2002	<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:	I.02-04-026, the instant proceeding	<b>Yes</b>
10. Date of ALJ ruling:	September 6, 2002	<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.08-12-060	<b>Yes</b>
14. Date of Issuance of Final Decision:	December 22, 2008	<b>Yes</b>
15. File date of compensation request:	February 20, 2009	<b>Yes</b>
16. Was the request for compensation timely?		<b>Yes</b>

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

#	Claimant	CPUC	Comment
1	TURN		D.04-08-025 found that TURN had met the procedural requirements necessary to request compensation in this docket ( <i>Id.</i> , mimeo., at 6-7).

**PART II: SUBSTANTIAL CONTRIBUTION**

**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
1. TURN vigorously negotiated on behalf of residential customers the rate design settlement approved in the decision. In the face of strong opposition from the larger customers, TURN secured a residential rate decrease equal to one-half the system average percentage decrease. TURN also secured an equal cents per kilowatt-hour (kWh) allocation of Regulatory Asset/Dedicated Rate Component charge, the provision establishing that the revenue shortfall from the Direct Access (DA) California Relay Service (CRS) cap would be funded primarily by large bundled service customers, the preservation of the 10% bill reduction for residential and small commercial customers, and the provision disputed by Alliance for Retail Energy Markets regarding the contribution of DA customers to PG&E’s headroom.	D.04-02-062, pp. 4-7, 19, 20-22.	<b>Yes</b>
2. TURN’s limited protest to Advice 2465-E argued that Regulatory Asset charge should be allocated to customers on	D.04-02-062 granted TURN’s limited protest and directed PG&E to file revised tariffs for departing load customers. ( <i>Id.</i> , mimeo., at	<b>Yes</b>

Schedule E-Depart, which PG&E failed to include in its tariffs.	pp. 30-31).	
3. TURN's limited protest to Advice 2510-G/2460-E, which implemented the ratemaking elements of D.03-12-035, argued among other things that PG&E was not authorized to eliminate the Utility Retained Generation Income Tax Memorandum Account (URGITMA).	Resolution E-3862, issued April 1, 2004, granted TURN's protest and retained the URGITMA ( <i>Id</i> at 14-15).	<b>Yes. TURN also protested the Environmental Enhancement Fund, but the resolution denied TURN's protest. Given the fact that TURN invested a minimal amount of time (2.25 hrs) on these issues, we make no adjustments to TURN's hours.</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: Aglet Consumer Alliance</b>		<b>Yes</b>
<p data-bbox="185 1276 1230 1377"><b>d. Describe how you coordinated with the Division of Ratepayer Advocates (DRA) and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:</b></p> <p data-bbox="233 1396 1214 1659">TURN actively coordinated with DRA and Aglet during the settlement negotiation process. In most cases TURN took the lead role on behalf of residential customers in those negotiations, due to TURN's familiarity with the terms of the bankruptcy settlement and with the ratemaking issues related to the DA CRS. Since the entire rate design phase of the proceeding consisted of settlement negotiations, there was no duplication of effort by TURN and DRA. Indeed, large customers had far greater representation in the negotiations than smaller customers. Aglet has already received compensation for its work leading to D.04-02-062, in D.04-12-039.</p>		<b>Yes</b>

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

**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 helped to achieve rate reductions of over 4% for residential customers, in the face of strong opposition to any such reduction. Further, this result was achieved within a very limited number of hours. Thus, our 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	2003	9.25 <sup>1,2</sup>	435	D.04-08-025, p. 60	4,023.75	2003	9.25	435	4,023.75
Michel Florio	2004	23.75 <sup>2</sup>	470	D.05-01-029, p. 9	11,162.50	2004	23.75	470	11,162.50
<b>Subtotal:</b>					<b>\$15,186.25</b>	<b>Subtotal:</b>			<b>\$15,186.25</b>
<b>EXPERT FEES</b>									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Sandra McDonald	2004	5.75 <sup>2</sup>	250	D.04-08-025, p. 55	1,437.50	2004	5.75	250	1,437.50
Meg Meal	2004	2.00 <sup>2</sup>	150	D.04-08-025, p. 56	300.00	2004	2.00	150	300.00
<b>Subtotal:</b>					<b>\$1,737.50</b>	<b>Subtotal:</b>			<b>\$1,737.50</b>
<b>INTERVENOR COMPENSATION CLAIM PREPARATION (1/2 Rate)</b>									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
Michel Florio	2009	5.50	267.50	50% of 2008 rate <sup>3</sup> set in D.08-07-043, p. 8	1,471.25	2009	5.50	267.5	1,471.25
<b>Subtotal:</b>					<b>\$1,471.25</b>	<b>Subtotal:</b>			<b>\$1,471.25</b>
<b>COSTS</b>									
#	Item	Detail			Amount \$	Amount \$			
1	Parking	Settlement meetings at PG&E			50	50			
<b>Subtotal:</b>					<b>\$50</b>	<b>Subtotal:</b>			<b>\$ 50</b>
<b>TOTAL REQUEST \$:</b>					<b>\$18,445</b>	<b>TOTAL AWARD \$:</b>			<b>\$18,445</b>

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

Attachment or Comment #	Description of Attachments, Comments and Commission’s Reply Comments
A	Detailed Time Reports for TURN’s Attorney and Experts
B	Detail of TURN’s Expenses
C	Certificate of Service
III.B <sup>1</sup>	<p>Mr. Florio’s 2003 hours include 8.75 hours mistakenly deleted from TURN’s award in D.04-08-025, at page 51. There the Commission stated that it was removing 8.75 hours of time not compensable through the intervenor compensation program for tasks such as press communications and attendance at legislative hearings. However, TURN had <i>already deleted</i> those hours from the amount claimed for Florio, as explained at page 10 of TURN’s February 17, 2004 Request for Compensation. This can be verified by noting that Florio’s attached time sheets showed a total of 475.25 hours devoted to the proceeding, but the number of hours requested on page 9 totaled only 466.50, the difference being the 8.75 hours in question. The deletion of these amounts a second time was thus in error, and TURN requests the correction here in this subsequent request.</p> <p><i>We have reviewed the filing of TURN’s Request for Compensation, filed February 17, 2004 and the Commission did in fact remove these hours from TURN’s claim, without taking note that TURN had already removed the hours not compensable through the intervenor compensation program. We correct our error here and compensate TURN for the hours it lists above.</i></p>
III.B <sup>2</sup>	<p>Aside from the correction in footnote 1 above, the hours requested for Mr. Florio, Ms. McDonald and Ms. Meal here correspond exactly to the amounts deferred from consideration in D.04-08-025, as described at the top of page 52 of that decision.</p> <p><i>We affirm TURN’s assessment here by a review of D.04-08-025 and compensate these hours in this claim.</i></p>
III.B <sup>3</sup>	<p>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.</p>

**D. CPUC Disallowances & Adjustments: 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 Decision (D.) 04-02-062 and Resolution E-3862.
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 \$18,445.

**CONCLUSION OF LAW**

1. The claim, satisfies all requirements of Public Utilities Code §§ 1801-1812.

**ORDER**

1. Claimant is awarded \$18,445.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, the regulated entity in this proceeding, shall pay claimant the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 6, 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. Investigation 02-04-026 is closed.
5. This decision is effective today.

Dated August 20, 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>	D0908023	<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D0402062 and Res. E-3862	
<b>Proceeding(s):</b>	I0204026	
<b>Author:</b>	ALJ Division	
<b>Payer(s):</b>	Pacific Gas and 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	02-20-2009	\$18,445	\$18,445	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>
Michel	Florio	Attorney	The Utility Reform Network	\$435	2003	\$435
Michel	Florio	Attorney	The Utility Reform Network	\$470	2004	\$470
McDonald	Sandra	Expert	The Utility Reform Network	\$250	2004	\$250
Meal	Meg	Expert	The Utility Reform Network	\$150	2004	\$150

**(END OF APPENDIX)**