

Decision 09-09-027 September 10, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Division of Ratepayer Advocates and The Utility Reform Network for Rehearing of Resolution E-4227A Approving in Part and Denies in Part Southern California Edison's Request to Establish a Memorandum Account and Recover up to \$30 Million in Costs For a California IGCC Study.

Application 09-04-006
(Filed April 3, 2009)

**DECISION GRANTING INTERVENOR COMPENSATION
TO THE UTILITY REFORM NETWORK FOR ITS
SUBSTANTIAL CONTRIBUTIONS TO RESOLUTION E-4227A**

Claimant: The Utility Reform Network (TURN)	For contribution to Resolution E-4227A
Claimed (\$): 17,977.50	Awarded (\$): \$17,977.50
Assigned Commissioner: None	Assigned ALJ: None

PART I: PROCEDURAL ISSUES

- A. Brief Description of Decision:** Resolution E-4227A denied Southern California Edison's (SCE) request for cost recovery of costs associated with a feasibility study to evaluate an Integrated Gasification Combined Cycle plant, and instead permitted SCE to establish a memorandum account to track the associated costs, and determined that SCE would need to file an application to seek cost recovery.

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

	Claimant	CPUC Verified
Timely filing of notice of intent (NOI) to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	N/A	Yes
2. Other Specified Date for NOI:	N/A	Yes

3. Date NOI Filed:	May 4, 2009	Yes
4. Was the NOI timely filed?		Yes, See Comment in I-C, #1
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.08-05-023	Yes
6. Date of ALJ ruling:	April 22, 2009	Yes
7. Based on another 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.08-05-023	Yes
10. Date of ALJ ruling:	April 22, 2009	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	Res. E-4227A	Yes
14. Date of Issuance of Final Decision:	March 4, 2009	Yes
15. File date of compensation request:	May 4, 2009	Yes
16. Was the request for compensation timely?		Yes

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

#	Claimant	CPUC	Comment
1	TURN		In Decision (D.) 98-11-049, ¹ the Commission determined that an NOI incorporated in the timely-filed Request for Compensation for work on an advice letter is itself timely filed. TURN has attached to this form compensation request our form NOI for this proceeding.

¹ 1998 Cal. PUC Lexis 805, at 5.

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
<p>1. SCE’s Advice Letter 2274-E sought cost recovery of up to \$30 million. TURN’s protest argued for denial of any cost recovery, since such relief required an application rather than an advice letter. The original draft resolution adopted TURN’s position. The original Peevey alternate reversed this position and would have permitted cost recovery immediately. TURN’s reply comments on the Peevey Alternate argued that establishment of a memorandum account should provide SCE sufficient comfort to fund the study, even without the assurance of cost recover. Resolution E-4227A directed SCE to fund Phase 1 of the study, but deferred cost recovery until the utility filed an application.</p>	<p>A.L. 2274-E, p. 1; TURN Protest (10/30/08), pp. 1-2; Draft Resolution E-4227, pp. 10-11; Draft Peevey Alternate Resolution, p. 1; TURN Reply Comments on Peevey Alternate (2/11/09), p. 1; Resolution E-4227A, pp. 12-13, 16.</p>	<p>Yes</p>
<p>2. TURN’s protest of SCE’s Advice Letter argued that the utility failed to provide a sufficiently detailed budget for the study costs that it sought to recover in rates. Resolution E-4227A directed SCE to include a detailed budget of the study in any future request for cost recovery.</p>	<p>TURN Protest (10/30/08), p. 3; Resolution E-4227A, p. 16 and Finding 12.</p>	<p>Yes</p>
<p>3. TURN’s protest of SCE’s Advice Letter raised concerns that the study’s costs were in fact “project development costs” that the Commission had previously determined should not be collected in rates. Resolution E-4227A did not embrace TURN’s concern about the Phase 1 costs, but agreed that if such costs were later demonstrated to be “project development costs” they would not be recovered in rates.</p>	<p>TURN Protest (10/30/08), p. 5; Resolution E-4227A, pp. 13-14.</p>	<p>Yes</p>

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

	Claimant	Showing Accepted by CPUC
a. Was DRA a party to the proceeding? (Y/N)	Y	Yes
b. Were there other parties to the proceeding? (Y/N)	Y	Yes
c. If so, provide name of other parties: Western Power Trading Forum (WPTF), Independent Energy Producers (IEP), and Hydrogen Energy International LLC (HEI).		Yes
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: Coordination in the advice letter process is more challenging than in other Commission proceedings, due to the more compressed time frame and general absence of discovery and briefs. Still, TURN coordinated with the other protesting parties to the extent practicable, as evidenced by our joint protest to the Peevey Alternate (with WPTF) and our discussions with IEP exploring further opportunities for joint protests. TURN also avoided overlapping with DRA on issues regarding the need for hearings on issues covered by the application.		Yes

PART III: REASONABLENESS OF REQUESTED COMPENSATION

(completed by Claimant except where indicated)

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
SCE’s Advice Letter was in excess of 100 pages, with substantial “attachments” that had all of the hallmarks of testimony submitted in other PUC proceedings. Furthermore, the changes from the original Draft Resolution to the Peevey Alternate Resolution implicated fundamental ratemaking issues. While TURN devoted more time than is usually the case to reviewing the initial advice letter and preparing the initial response, and to commenting on the proposed resolutions, the amount of time is reasonable under the circumstances. SCE sought immediate authorization to recover up to \$30 million in rates; the Peevey Alternate Resolution would have permitted up to \$17 million of cost recovery in rates; but the final resolution permits no recovery in rates at this time. TURN’s request, at less than \$20,000, is extremely reasonable given the amounts at stake and the outcome achieved.	Yes

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
R. Finkelstein	2008	14.25	\$470	D.08-08-027	6,697.50	2008	14.25	\$470	6,697.50
R. Finkelstein	2009	22.25	\$470	Res. ALJ-235	1,0457.50	2009	22.25	\$470	1,0457.50
Subtotal:					\$17,155.00	Subtotal \$17,155.00			
INTERVENOR COMPENSATION CLAIM PREPARATION (1/2 rate)									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
R. Finkelstein	2009	3.50	\$235	D.08-08-027	822.50	2009	3.50	\$235	822.50
Subtotal:					822.50	Subtotal: 822.50			
TOTAL REQUEST \$:					\$17,977.50	TOTAL AWARD \$: \$17,977.50			

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

Attachment or Comment #	Description/Comment
#1	Certificate of Service
#2	Notice of Intent

D. CPUC Disallowances & Adjustments: None

PART IV: Oppositions and Comments

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 Resolution E-4227A.
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 \$17,977.50.

CONCLUSION OF LAW

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

ORDER

1. Claimant is awarded \$17,977.50.
2. Within 30 days of the effective date of this decision, Southern California Edison 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 July 18, 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.

This decision is effective today.

Dated September 10, 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:	D0909027	Modifies Resolution? No
Contribution Decision(s):	Resolution E-4227A	
Proceeding(s):	A0904006 (Advice Letter 2274-E)	
Author:	ALJ Division	
Payer(s):	Southern California Edison Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	05-04-09	\$17,977.50	\$17,977.50	No	None

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	\$470	2008	\$470
Robert	Finkelstein	Attorney	The Utility Reform Network	\$470	2009	\$470

(END OF APPENDIX)