

Decision 09-11-029 November 20, 2009

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

Order Instituting Rulemaking to Consider Annual Revisions to Local Procurement Obligations and Refinements to the Resource Adequacy Program.

Rulemaking 08-01-025  
(Filed January 31, 2008)

**DECISION AWARDING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR ITS SUBSTANTIAL CONTRIBUTION TO DECISIONS 08-06-031 AND 09-06-028**

<b>Claimant: The Utility Reform Network</b>	<b>For contributions to: D.08-06-031 and D.09-06-028</b>
<b>Claimed: \$ 71,175</b>	<b>Awarded: \$ 71,105.72</b>
<b>Assigned Commissioner: Michael R. Peevey</b>	<b>Assigned ALJ: Mark S. Wetzell</b>

**PART I: PROCEDURAL ISSUES**

<b>A. Brief Description of Decisions:</b>	D.08-06-031, in Phase 1 of this proceeding, adopted local procurement obligations for 2009 and refinements to the Resource Adequacy (RA) program. D.09-06-028, in Phase 2, adopted local procurement obligations for 2010 and further refinements to the RA program.
---	--

**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	Yes
2. Other Specified Date for NOI:	3/10/08 per OP 6 of the OIR.	Yes
3. Date NOI Filed:	March 10, 2008	Yes
4. Was the notice of intent timely filed?		Yes
<b>Showing of customer or customer-related status (§ 1802(b)):</b>		
5. Based on ALJ ruling issued in proceeding number:	R.08-01-025	Yes
6. Date of ALJ ruling:	March 26, 2008	Yes
7. Based on another CPUC determination (specify):		
8. Has the claimant demonstrated customer or customer-related status?		Yes
<b>Showing of "significant financial hardship" (§ 1802(g)):</b>		
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
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision	D.09-06-028	Yes
14. Date of Issuance of Final Decision:	June 22, 2009	Yes
15. File date of compensation request:	August 21, 2009	Yes
16. Was the request for compensation timely?		Yes

**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
<b>D.08-06-031 in Phase One</b>		
<p>1. During the scoping phase, TURN argued successfully that certain issues, such as the \$40/kW-yr waiver trigger, the rules for counting of imports, and various counting issues raised by Alliance for Retail Energy Markets (AREM) should not be considered in this proceeding at this time.</p>	<p>TURN’s 2/14/08 reply comments, pp.2-4, 5 and 6.  Scoping memo issued 2/22/08 did not include those issues within the scope.</p>	Yes
<p>2. TURN presented an initial proposal on April 15 and thereafter continued working with PG&amp;E and SDG&amp;E to refine proposals to allow for RA counting of new local resources that come on line during the compliance year.</p>	<p>TURN’s 2/14/08 comments, p.4; TURN’s 5/12/08 comments, pp.1-2 and Attachment; TURN &amp; PG&amp;E’s 5/19/08 joint reply comments, pp.15-17; TURN/PG&amp;E/SDG&amp;E’s 6/23/08 joint reply comments, pp.2-3.  D.08-06-031, pp.16-17, 22.</p>	Yes
<p>3. TURN successfully supported proposals for a different RA counting protocol for dispatchable qualifying facility resources (QFs) and to allow counting of QFs with expiring contracts.</p>	<p>TURN’s 2/14/08 reply comments, p.5; TURN’s 5/12/08 comments, pp.2-4.  D.08-06-031, pp.17-18 and CoL 6.</p>	Yes
<p>4. TURN supported continued aggregation of the non-Bay Area local areas for PG&amp;E and continuation of the waiver for local capacity deficiencies.</p>	<p>TURN’s 5/12/08 comments, p.1; TURN/PG&amp;E/SDG&amp;E’s 6/23/08 joint reply comments, pp.3-5.  D.08-06-031, pp. 10 and 11, CoL 4..</p>	Yes
<b>D.09-06-028 in Phase Two</b>		
<p>1. The Commission adopted the joint PG&amp;E/TURN proposals for increased transparency of demand response (DR) capacity allocations and continuation of the allocation of DR credits based on “who pays.”</p>	<p>TURN/PG&amp;E 1/9/09 Proposals, p.5; TURN’s 2/17/09 comments, pp.3-4; TURN’s 2/27/09 reply comments, p.3.  D.09-06-028, pp.23-28, FoF 9-10, CoL 7, OP 3d.</p>	Yes
<p>2. TURN successfully argued for making the rule regarding counting of</p>	<p>TURN’s 2/17/09 comments, pp.1-2, TURN’s 2/27/09 reply comments,</p>	Yes

new local resources that come on line during the compliance year permanent and removing the two interim conditions on such counting.	pp.1-2. D.09-06-028, pp.13-15, FoF 3-4, OP 3a.	
3. TURN supported proposals for eliminating the double counting of outages for resources whose net qualifying capacity (NQC) is based on an historical average.	TURN's 2/17/09 comments, pp.4-5, TURN's 2/27/09 reply comments, p.3. D.09-06-028, pp.28-29, OP 3e.	Yes
4. While the Joint TURN/PG&E proposals to adopt a monthly load migration adjustment for local RA and to base load forecasts on a current customer approach were not adopted at this time, TURN's discussion and record development on those issues substantially advanced the debate, and provided the basis for the Commission to make findings and commit to revisiting these issues in detail in the near future.	TURN/PG&E 1/9/09 Proposals, pp.1-4; TURN's 2/17/09 comments, pp.5-10; TURN's 2/27/09 reply comments, pp.3-5. D.09-06-028, pp.30-41, FoF 12-14, CoL 8-9.	Yes

**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?</b>	<b>Yes, on a more limited basis.</b>	Yes
<b>b. Were there other parties to the proceeding?</b>	<b>Yes. However, only TURN and DRA represented small consumer interests.</b>	Yes
<b>c. If so, provide name of other parties:</b>	<b>See service list for R.08-01-025.</b>	Yes
<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 and DRA primarily focused on different issues and/or different tasks in order to avoid any unnecessary duplication. TURN joined with other parties in joint pleadings wherever possible to avoid duplication, leverage our resources, and limit our costs of participation as much as possible.</b>		Yes

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**  
(completed by Claimant except where indicated)

**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>
While it is difficult to place a dollar value on RA issues, TURN’s participation resulted in improvements to the program that should result in reduced customer costs far in excess of the limited costs of participation.	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 \$
M. Florio	2008	40.50	535	D.08-07-043	21,667.50	2008	40.50	535	21,667.50
M. Florio	2009	36.25	535	Res. ALJ-235 <sup>1</sup>	19,393.75	2009	36.25	535	19,393.75
<b>Subtotal:</b>					<b>\$41,061.25</b>	<b>Subtotal: \$41,061.25</b>			
<b>EXPERT FEES</b>									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
K. Woodruff	2008	33.00	225	D.08-10-012	7,425.00	2008	33.00	225	7,425.00
K. Woodruff	2009	92.50	225	Res. ALJ-235	20,812.50	2009	92.50	225	20,812.50
<b>Subtotal:</b>					<b>\$28,237.50</b>	<b>Subtotal: \$28,237.50</b>			
<b>INTERVENOR COMPENSATION CLAIM PREPARATION (1/2 rate)</b>									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. Florio	2008	0.50	267.50	1/2 of 2008 rate	133.75	2008	0.50	267.50	133.75
M. Florio	2009	5.00	267.50	1/2 of 2009 rate	1,337.50	2009	5.00	267.50	1,337.50
<b>Subtotal:</b>					<b>\$ 1,471.25</b>	<b>Subtotal: \$1,471.25</b>			
<b>COSTS</b>									
#	Item	Detail			Amount \$	Amount			
1	Photocopies	TURN Pleadings			25.60	25.60			
2	Consultant Travel	Sacramento to SF and Folsom for mtgs.			203.90	203.90			

<sup>1</sup> Resolution ALJ-235, disallowed COLA increase for 2009 intervenor work.

3	Consultant Lodging and Meals	Hotel in SF for 2-day workshop; working meals while traveling.	175.05	106.22
<b>Subtotal:</b>			<b>\$ 404.55</b>	<b>Subtotal:</b> \$335.72
<b>TOTAL REQUEST:</b>			<b>\$ 71,175<sup>2</sup></b>	<b>TOTAL AWARD: 71,105.72</b>

**C. Attachments or Comments Documenting Specific Claim:**

Attachment or Comment #	Description/Comment
1	Detailed Time Reports for TURN’s Attorney and Consultant. Coded as follows: “.” = Work on Phase 1 matters; “Ph2” = Work on Phase 2 matters; “Comp” = Work on compensation-related pleadings.
2	Detail of TURN’s Expenses
3	Certificate of Service

**D. CPUC Disallowances:** In keeping with our past practice of the disallowance of meals for intervenors,<sup>3</sup> we disallow \$68.55 from TURN’s request for expense.

**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 Decisions 08-06-031 and 09-06-028.
2. The claimed fees and costs, as adjusted herein, 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 \$71,105.72.

<sup>2</sup> Rounded to nearest dollar amount.

<sup>3</sup> See D.07-08-021 and D.07-12-020.

**CONCLUSION OF LAW**

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

**ORDER**

1. Claimant is awarded \$71,105.72.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company 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 November 4, 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 to address other related matters.
5. This decision is effective today.

Dated November 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>	D0911029	<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D0806031 and D0906028	
<b>Proceeding(s):</b>	R0801025	
<b>Author:</b>	ALJ Mark S. Wetzell	
<b>Payer(s):</b>	Pacific Gas and Electric Company, San Diego Gas & Electric Company and Southern California Edison.	

**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	08-21-09	\$71,175	\$71,105.72	No	disallowance of meals

**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	535	2008	535
Michel	Florio	Attorney	The Utility Reform Network	535	2009	535
Kevin	Woodruff	Expert	The Utility Reform Network	225	2008	225
Kevin	Woodruff	Expert	The Utility Reform Network	225	2009	225

**(END OF APPENDIX)**