

Decision 10-02-030 February 25, 2010

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

Commission Rulemaking to Revise Time Schedule For Rate Case Plan And Fuel Offset Proceedings; Recommendations Filed by 1-11-88 with Certificate of Service.

Rulemaking 87-11-012  
(November 13, 1987)

Southern California Gas Company, for authority to adopt its proposed performance-based regulation for base rates to be effective January 1, 1997.

Application 95-06-002  
(Filed June 1, 1995)

**DECISION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS TO  
DECISION 09-07-033**

<b>Claimant: The Utility Reform Network (TURN)</b>	<b>For contribution to D.09-07-033</b>
<b>Claimed: \$14,267.05</b>	<b>Awarded: \$14,104.55</b>
<b>Assigned Commissioner: Michael R. Peevey</b>	<b>Assigned ALJ: Michelle Cooke</b>

**PART I: PROCEDURAL ISSUES**

**A. Brief Description of Decision:** The decision denies Southern California Gas Company's petition for modification of Decision 97-07-054 to immediately suspend its Market Indexed Capital Adjustment Mechanism.

**B. Claimant must satisfy intervenor compensation requirements set forth in Pub. Util. 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:	May 1, 2009	Yes
2. Other Specified Date for notice of intent:		
3. Date NOI Filed:	May 21, 2009	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.87-11-012 and A.95-06-002	Yes
6. Date of ALJ ruling:	June 8, 2009	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:	R.87-11-012 and A.95-06-002	Yes
10. Date of ALJ ruling:	June 8, 2009	Yes
11. Based on another CPUC determination (specify):	A.08-05-023	Yes
12. Has the claimant demonstrated significant financial hardship?		Yes
<b>Timely request for compensation (§ 1804(c)):</b>		
13. Identify Final Decision	D.09-07-033	Yes
14. Date of Issuance of Final Decision:	July 31, 2009	Yes
15. File date of compensation request:	September 29, 2009	Yes
16. Was the request for compensation timely?		Yes

**PART II: SUBSTANTIAL CONTRIBUTION** (completed by Claimant except where indicated)

**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>
<p>1. TURN supported the Division of Ratepayer Advocates (DRA) position that as a policy matter the CPUC should not address the Market Index Capital Adjustment Mechanism (MICAM) trigger mechanism separate from the other Performance-Based Ratemaking (PBR) components.</p> <p>The Commission agreed that the MICAM is just one component of the PBR mechanism and specifically rejected the petition</p>	<p>TURN D.09-07-033, pp. 3, 6-7</p>	<p>Yes</p>
<p>2. TURN argued that Southern California Gas’s (SoCalGas) negotiated General Rate Case (GRC) settlements that did not address the MICAM are a policy rationale for rejecting the petition.</p> <p>The Commission discussed the GRC settlements and concluded that “although SoCalGas has had ample opportunity since 2002 to change its MICAM, it has not done so.”</p>	<p>TURN Opening Brief, p. 3-6, May 15, 2009.</p> <p>TURN Reply Comments on Proposed Decision, p. 1-2, July 20, 2009.</p> <p>D.09-07-033, at 7-8.</p>	<p>Yes</p>
<p>3. SoCalGas explicitly based its petition on factual assertions concerning changed circumstances in the financial and capital markets. TURN submitted evidence disputing SoCalGas’s factual assertions that a decline in the Return on Equity (ROE) would either harm ratepayers or impact the utilities’ ability to attract capital.</p> <p>The Commission rejected the petition on policy grounds and did not reach any findings on the disputed factual issues. However, the Commission did enumerate some of the facts and analyses from TURN’s pleadings in its description of TURN’s position.</p>	<p>TURN Opening Brief, pp. 8-19 and Attachment A.</p> <p>D.09-07-033, p. 56</p>	<p>Yes</p>

**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>	Y	Yes
<b>b. Were there other parties to the proceeding? (Y/N)</b>	Y	Yes
<b>c. If so, provide name of other parties:</b> Southern California Generation Coalition (SCGC)		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>  TURN held planning meetings with both DRA and SCGC to explicitly allocate the issues in this proceeding. As a result, TURN took the lead in rebutting the factual assertions concerning the impact of bond yields on SoCalGas’s capital attraction and ratepayer costs, while DRA took the lead on policy issues concerning the proper proceeding in which to address MICAM changes.		Yes

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

<b>#</b>	<b>Claimant</b>	<b>CPUC</b>	<b>Comment</b>
A.3.	TURN		TURN requests compensation for all of its hours and consultant expenses. The Commission did not reach any findings concerning the factual issues in dispute (regarding the impact of increased yield spreads on utility costs). However, since the basis of SoCalGas’s petition was that “facts and circumstances have changed since its 2002 position,” it was necessary for TURN to rebut the factual assertions raised by the utility. Given the interrelated nature of the claims and the limited hours expended in this proceeding, TURN believes that our work warrants full compensation for all hours and expenses.

**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>
SoCalGas is subject to a ratemaking mechanism that adjusts its authorized return on equity (ROE) based on certain factors. Under that mechanism, the utility's ROE was going to be reduced by 75 basis points. SoCalGas requested that the ROE reduction NOT happen. The work covered in TURN's comp request focused on opposing SoCalGas's request, thus preserving the ROE reduction that would take place under the status quo. By denying SoCalGas's request, the Commission preserved a \$34 million revenue requirement reduction. Thus TURN's participation achieved benefits in the form of maintaining a \$34 million revenue requirement production that the utility had tried to prevent from happening.	Yes

**B. Specific Claim:**

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. Hawiger	2009	28.0	325	D.08-08-027	9,100	2009	28.0	325	9,100
R. Finkelstein	2009	.5	470	D.09-08-025	235	2009	.5	470	235
H. Goodson	2009	1.0	280	D.09-10-051	280	2009	1.0	280	280
<b>Subtotal: 9,615</b>						<b>Subtotal: 9,615</b>			
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
J. Weil	2009	13.0	300	D.09-05-013	3,900	2009	13.0	300	3,900
<b>Subtotal: 3,900</b>						<b>Subtotal: 3,900</b>			
INTERVENOR COMPENSATION CLAIM PREPARATION (1/2 Hourly Rate)									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. Hawiger	2009	4.5	162.50	D.08-08-027	731.25	2009	3.5	162.50	568.75
<b>Subtotal: 731.25</b>						<b>Subtotal: 568.75</b>			
COSTS									
#	Item	Detail			Total \$	Total \$			
1	Xeroxing	Photocopies for pleadings not emailed			20.80	20.80			
<b>Subtotal: 20.80</b>						<b>Subtotal: 20.80</b>			
<b>TOTAL REQUEST: \$14,267.05</b>						<b>TOTAL AWARD: \$14,104.55</b>			

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

Attachment or Comment #	Description/Comment
Attachment 1	<b>Certificate of Service</b>
Attachment 2	<b>Attorney and Consultant Time Sheets</b>
Attachment 3	<b>Detailed Expense Report</b>
Comment 1	<b>Allocation of Hours by Issue:</b> Generally, TURN uses codes in our timesheets to allocate work to specific issues or categories. However, given the very narrow focus of this proceeding and the limited time expended, here TURN did not attempt to code the timesheets. The majority of the work was performed by TURN's attorney Marcel Hawiger and its consultant James Weil. Mr. Weil conducted most of the work (research and pleading drafting) related to the factual issues concerning ratepayer harm and access to capital due to a potential triggering of the MICAM. Mr. Harwiger performed most of the work related to policy issues (results of previous petition, rate case settlements) and drafted all other pleadings. Roughly, TURN devoted approximately 30-40% of our time policy issues and approximately 60-70% to factual issues.

**D. CPUC Disallowances & Adjustments:**

#	Reason
2009-Hawiger	TURN incorrectly totals Hawiger's time spent preparing its NOI and its claim for compensation at 4.5 hours. A review of Hawiger's timesheets indicate that on 5-21-09 .5 hrs was spent preparing TURN's NOI and on 9-29-09 a total of 3.0 hours was spent preparing TURN's claim for compensation. We correct this error here and reduce Hawiger's time spent on these tasks by 1 hour.

**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.09-07-033.
2. The claimed fees, as adjusted herein, are reasonable and comparable to market rates paid to experts and advocates having comparable training and experience and should be compensated.
3. The total of reasonable contribution is \$14,104.55.

**CONCLUSION OF LAW**

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

**ORDER**

1. Claimant is awarded \$14,104.55.
2. Within 30 days of the effective date of this decision, Southern California Gas 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 December 13, 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. Rulemaking 87-11-021 and Application 95-06-002 are closed.
5. This decision is effective today.

Dated February 25, 2010, at San Francisco, California

MICHAEL R. PEEVEY  
President  
DIAN M. GRUENEICH  
JOHN A. BOHN  
TIMOTHY ALAN SIMON  
NANCY E. RYAN  
Commissioners

**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>	D1002030	<b>Modifies Decision?</b>	No
<b>Contribution Decision:</b>	D0907033		
<b>Proceedings:</b>	R8711012 and A9506002		
<b>Author:</b>	ALJ Michelle Cooke		
<b>Payer(s):</b>	Southern California Gas 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	09-29-09	\$14,267.05	\$14,104.55	No	miscalculation

**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>
Marcel	Hawiger	Attorney	The Utility Reform Network	\$325	2009	\$325
Robert	Finkelstein	Attorney	The Utility Reform Network	\$470	2009	\$470
Hayley	Goodson	Attorney	The Utility Reform Network	\$280	2009	\$280
James	Weil	Expert	The Utility Reform Network	\$300	2009	\$300

**(END OF APPENDIX)**