Decision 10-04-025 April 8, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the Commission's post-2005 Energy Efficiency Policies, Programs, Evaluation, Measurement and Verification, and Related Issues.	Rulemaking 06-04-010 (Filed April 13, 2006)

DECISION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTIONS TO THE ENERGY EFFICIENCY PROGRAM ADVISORY GROUP PROCESS

This decision awards The Utility Reform Network $84,329.98 for its contribution to the energy efficiency program advisory and peer review groups.[1] This represents a decrease of $19,360.03 or approximately 19% from the amount requested due to excessive hours, unproductive efforts, and inappropriately claimed expenses. Today's award payment will be allocated to the affected utilities. This proceeding is closed.

1. Background

The Commission opened this rulemaking to consider the design, delivery and management of utility energy efficiency (EE) programs. In addition, this proceeding has encompassed ongoing activities related to the implementation of the 2006-2008 portfolios, including consideration of recommendations made by

[1] TURN's original request for compensation was filed using the standardized form and encompassed TURN's contributions to two separate matters: Decision (D.) 08-12-059

Footnote continued on next page

the utility peer review groups during 2006-2008, such as those included in the peer review group reports filed with the utilities' compliance advice letters. The Utility Reform Network (TURN) has been an active participant in the EE advisory and review group process since its creation by the Commission in D.05-01-055. D.09-03-045 awarded compensation for TURN's program advisory and review groups work through late August of 2007. In the subject request, TURN requests compensation for its work from late August 2007 through the end of 2008. In Rulemaking (R.) 01-08-028, the predecessor to this rulemaking, an Administrative Law Judge's (ALJ) ruling of April 4, 2005 directed eligible intervenors to seek compensation for their PAG/PRG work in the rulemaking, rather than the utility energy-efficiency application docket (R.01-08-028, Ruling of April 4, 2005, at 10). This rulemaking is associated with the 2006-2008 portfolios and the work leading up the presentation of the 2009-11 portfolios, therefore filing and considering TURN's subject request in this proceeding is appropriate. This request for compensation was a part of the request for compensation for TURN's contributions to D.09-12-059, which was resolved in a separate decision.

2. Requirements for Awards of Compensation

The intervenor compensation program, which is set forth in California Public Utilities Code §§ 1801-1812,[2] requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if that party makes a

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and Energy Efficiency Program Advisory Group process. We addressed TURN's contributions to D.08-10-059 in D.10-02-031.

[2] All subsequent statutory references are to the Public Utilities Code unless otherwise indicated.

substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent to claim compensation (NOI) within 30 days of the prehearing conference (PHC), pursuant to Rule 17.1 of the Commission's Rules of Practice and Procedure (Rules), or at another appropriate time that we specify. (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. To seek a compensation award, the intervenor must file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g) and 1804(b)(1).)
5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision or as otherwise found by the Commission. (§§ 1802(i) and 1803(a).)
6. The claimed fees and costs must be reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§ 1806), and productive (D.98-04-059).

In the discussion below, the procedural issues in Items 1-4 above are combined and a separate discussion of Items 5-6 follows.

2.1. Requirements for Award of Compensation for Participation in Program Advisory Group

Details of the EE program advisory groups (PAGs) and PAG subgroups, referred to as "peer review groups" (PRGs), activities are protected by confidentiality agreements, and it is important for the Commission to have sufficient non-confidential information to make the findings required by §§ 1801-1812. D.07-11-024 clarifies requirements for intervenor compensation for participation in PAGs. It directs intervenors to indicate types of programs, policies, practices or documents reviewed in connection with their work and how that work contributed to an outcome that benefited ratepayers. The intervenors should also explain how their unique analysis, perspective or work product or specific expertise or skills added value to the review or advisory process.[3]

2.2. Preliminary Procedural Issues

Under § 1804(a)(1) and Rule 17.1(a)(1), a customer who intends to seek an award of intervenor compensation must file an NOI before certain dates. In a proceeding in which a PHC is held, the intervenor must file and serve its NOI in the period of time between the date the proceeding was initiated and the 30th day after the PHC is held. (Rule 17.1(a)(1).) PHC in this matter was held on May 9, 2006. TURN timely filed its NOI on June 8, 2006.

On June 28, 2006, ALJ Gottstein issued a ruling, determining that TURN is a customer pursuant to § 1802(b)(1)(C) (a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small business customers). In the NOI,

[3] D.07-11-024, at 5-6.

TURN asserted financial hardship. The June 28, 2006 ruling found that TURN met the financial hardship condition through a rebuttable presumption of eligibility under § 1804(b)(1). The rebuttable presumption was created by the November 4, 2005 ruling issued in A.05-02-027. The June 28, 2006 ruling determined that TURN is eligible to claim compensation in this proceeding. We affirm.

TURN filed its request for compensation on March 3, 2009, within the statutory 60 days from the date of issuance of D.08-12-059. On January 5, 2010, TURN filed a supplement to the request, in support of the claimed direct costs.

We find that TURN has satisfied all the procedural requirements necessary to request compensation in this proceeding.

3. Substantial Contribution

3.1. Introduction

The following specific expectations for members of the PRGs and PRG's role were identified in D.07-10-032 pertaining to the utilities' 2009-2011 EE portfolio planning:[4]

- Review the investor-owned utilities' (IOUs) submittals to the Commission and assess the IOUs' overall portfolio plans, including their plans for bidding out pieces of the portfolio per the minimum bidding requirement.
- Review the bid evaluation utilized by the IOUs and their application of that criteria in selected third-party programs.
- The utilities are required to consult with the PRGs for certain fund shifting requests, proposals to modify

[4] See, D.07-10-032 at 105-106.

customer incentive levels, and for adding new programs mid-cycle.[5]

- The PRGs are expected to meet and assess the statewide portfolio in terms of its ability to meet or exceed short and long-term savings goals in compliance with the Policy Rules.
- The PRG should provide an assessment report on the IOU 2009-2011 portfolio applications, competitive solicitation, and the government partnership process 30 days after the IOU EE applications are filed.

TURN's request at pages 8 and 9 indicates the following major areas of its participation in the PAG/PRG, and the corresponding codes for TURN's time records:

Table 1 - TURN's Major Issues and Activities	**TURN's Code**
Issues related to the treatment of certain costs and benefits in the calculation of portfolio cost-effectiveness and performance earnings basis (PEB), the procedures for review and approval of utility claims, and the proper true-up of final performance based on ex post evaluation, measurement and verification (EMV) and how the final true-up would impact previous payments	EESI-EMV
General EMV issues regarding the 2006-2008 portfolios.	EMV-0608
Pacific Gas and Electric Company's (PG&E) request for fund shifting.	PG&E 2008 fund shift
Hours TURN devoted to general PRG issues.	PRG
Third party program elements of the 2009-11 portfolios.	PRG-3PP
PG&E PAG and PRG, pertaining to the implementation of the 2006-2008 portfolios.	PRG-PGE

[5] D.05-09-043 at 149 and Table 8 (Adopted Fund Shifting Rules); D.06-12-013, Ordering Paragraph 2.

Local government partnership programs.	PRG-LGP
Statewide PAG and PRG, pertaining to the implementation of the 2006-2008 portfolios.	PAG/PRG-Stwd
Development and consideration of EE policy rules.	PY0911-EEPR
Portfolio planning issues prior to the submission of the utility applications for portfolio years 2009-2011.	PY0911-PP

TURN's timesheets describe activities of each staff member in chronological order and include designated codes (above) in the descriptions. Unfortunately, TURN does not provide, for each issue, the total number of hours worked. We also note that timesheets include additional codes not explained in the request.

As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

> In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.[6]

Since we do not have a formal record of the PAG activities and events, we must rely on our analysis of information provided by TURN, which encompasses TURN's work from late August 2007 through the end of 2008. TURN's work during this period of time focused on the 2009-2011 program planning cycle. This work culminated in the September 12, 2008 report of the

[6] D.98-04-059, 79 CPUC2d 628 at 653.

PRG on the utility proposals for 2009-2011 portfolios. We assess TURN's PRG's work pursuant to the guidelines of D.98-04-059 and D.07-11-024.

For each major issue and the related PAG/PRG, TURN provides, in accordance with our requirement, a summary of its activities, goals and tasks in connection with the documents under review in the related group. Based on TURN's representations, below, we conclude that TURN provided substantial contributions to the PAGs and PRGs.

3.2. Third-Party Solicitation

TURN represents that it reviewed PG&E, Southern California Edison (SCE), and Southern California Gas Company (SoCalGas) initial and interim revised proposed 2009-2011 Third Party Solicitation criteria and related materials (statewide, local, and innovative). This enabled TURN to assess the IOUs' plans for bidding out pieces of their portfolio per the minimum bidding requirement, and review the bid evaluation utilized by the IOUs and their application of that criteria in selected third-party programs. This was necessary to ensure that the solicitation process focused on innovation and exchange of best practice information to improve the likelihood of increased third-party contracting, as called for in D.07-10-032.

TURN reviewed PG&E, SCE, and SoCalGas final proposed 2009-2011 Third Party Solicitation criteria and related materials. This enabled TURN to assess the statewide portfolio's ability to meet or exceed short and long-term savings goals, and contribute to the preparation of an assessment report on the competitive solicitation portion of the IOU 2009-2011 applications, including the IOU's efforts to expand their partnership relationships.

TURN reviewed PG&E, SCE, and SoCalGas responses to a TURN data request regarding the extent to which the IOUs' statewide competitive

solicitation process had been modified to expand third-party relationships in order to promote innovation and the ability to contribute to the long-term savings goals. The data request and responses also addressed the opportunities for consolidation of multiple contracts with the same third-party.

TURN reviewed PG&E, SCE, and SoCalGas summary status report of existing third party contracts, IOUs' proposed bifurcation criteria, results of applying the bifurcation criteria, and PG&E, SCE, and SoCalGas statewide abstracts received under the first phase of the statewide solicitation process.

TURN participated in drafting Division of Ratepayer Advocates (DRA)-TURN's letter to Commissioner Grueneich presenting PRG concerns that the inability of the PRG to meaningfully comment on the IOUs proposed solicitation strategy resulted in the IOUs bidding their third party contracts by essentially the same flawed competitive bid solicitation process used for their 2006-2008 portfolios.

3.3. Local Government Partnerships (LGP)

TURN reviewed a number of the Energy Division's proposed agenda and related materials, and meeting minutes from all Energy Division-led meetings on draft LGP selection criteria. TURN reviewed Energy Division Abstract guidance documents, and DRA documents on incorporation of innovation and comprehensiveness into the government selection criteria. TURN also reviewed Energy Division draft memoranda to the IOUs capturing PRG concerns and issues on IOUs' government partnerships selection criteria, and Abstracts received per the criteria.

TURN reviewed proposed 2009-2011 Local Government Solicitation criteria and related materials for PG&E, SCE, and SoCalGas, and each IOU's LGP vision documents on "model local governments" and "green cities partnerships."

TURN reviewed LGP abstracts and documents provided to PRG members as part of PRG-conducted LGP focus groups to survey LGP concerns.

3.4. Assessment Report

In collaboration with DRA and Natural Resources Defense Council (NRDC), TURN assisted in the development of the assessment report on the IOU 2009-2011 portfolio applications, competitive solicitation and the government partnership process. The report was submitted to the Commission on September 12, 2008.

4. Contributions of Other Parties

Section 1801.3(f) requires an intervenor to avoid participation that duplicates that of similar interests otherwise adequately represented by another party, or participation unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation where its participation materially supplements, complements, or contributes to the presentation of another party if that participation makes a substantial contribution to the Commission order. D.07-12-024 requires that an intervenor participating in PRGs adequately describe its contributions and distinguish them from the work of others. More specifically, that decision directs an intervenor to assess the value that its work added to the PRG process through unique analysis, perspective or work product, or specific expertise or skills. (D.07-11-024, at 5-6). We consider the value factor in this section.

Distinguishing an intervenor's work from the work of others when that work was undertaken in a collaborative setting, such as PRG meetings, is often challenging. Here, the relatively minimal resources PRG members were able to devote to the group's work made it essential to assign different aspects of PRG work to PRG members. According to TURN, it focused on encouraging the

development of more innovative and "best practice" third-party and government partnerships via more comprehensive and transparent selection criteria and processes (as described in Section 6.5 of D.07-10-032 at 89-90). For instance, TURN's expert Mitchell assisted with some of the underlying analytics needed to translate the policy objectives of innovation and comprehensiveness into possible workable proposals, in part by preparing for the other PRG participants a White Paper on how to maximize short and long-term EE savings by minimizing cream-skimming and avoiding the creation of lost opportunities.[7] Early in the 2009-2011 planning, Mitchell was pressing for consideration of the unresolved third-party issues from the 2006-2008 portfolio cycle until the other PRG members and Energy Division devoted additional time to these issues.

TURN explains that Mitchell has extensive experience in EE program design, evaluation and assessment matters, including experience with third party solicitations in other jurisdictions, and in addressing how EE fits into integrated resource planning. TURN asserts that she also has invaluable skills in getting process established and moving it forward.

Mitchell also delivered unique analysis and work product that benefited PAGs/PRGs. TURN championed the differentiation of EE savings into key end uses and measure groups to more readily determine EE portfolio contributions to resource procurement and greenhouse gas offsets. As a result of Mitchell's efforts to this end, such differentiation has become normalized in California EE reporting and analysis. The Commission and interested parties no longer have

[7] "TURN Document for LGP PRG Members March 25, 2008: Moving Beyond the Short Run Focus of Net Benefits in Energy Efficiency Cost Effectiveness."

to undertake the tedious manual review using the utilities 2004-2005 EE reports. Mitchell carried this one step further for the 2009-2011 planning process by working to establish EE measure groupings by year, an approach embraced in the ruling issued February 29, 2008 (Attachment A to the ruling, 2009-2011 EE Portfolio Application Information Requirements, at 1). Mitchell contended that by modifying the reporting requirements to include cost data by end use and measure groupings, the Commission would greatly enhance its understanding of the various programs and portfolios as a whole, especially when compared to what can be communicated through aggregate program data and narrative text. Mitchell explained that there were three distinct levels of data on a forecasted, reported, and measured and verified basis required to utilize EE as a procurement resource: 1) Savings by end use category; 2) Savings by key measure groupings, and 3) Savings by individual or discrete measures. The Commission previously had the EE savings data broken out in categories 1 and 3. TURN asserts that Mitchell's efforts through the PRG process resulted in the inclusion of Category 2, Savings by Key Measure Groupings.

TURN demonstrates reasonable collaboration with other PRG members, as we require (D.07-11-024, at 6). TURN worked with other PRG members toward allocating tasks among the parties in a manner that reduced each party's workload and minimized the risk of undue duplication. TURN explains that the need to do so was particularly acute given the fact that the non-utility membership in three PRGs had declined to the point that it was three individuals representing three organizations (DRA, NRDC and TURN) representing non-utility interests. TURN asserts that Cynthia Mitchell worked with DRA and NRDC to help DRA in championing more innovative and transparent third-party and government partnership selection criteria and processes, and to

help DRA and NRDC in conducting a process evaluation of the utilities' government partnership solicitation and program design process. For instance, when Mitchell determined that, given her fellow-PRG members' knowledge and expertise with government partnership matters, and related TURN work in the formal proceeding, she could reasonably play a lesser role in the PRG government process evaluation, she instead devoted her effort to other PRG matters.

Based on TURN's explanations of its distinctive input during the PAG process, and TURN's contributions to the related areas in this formal proceeding, we conclude that TURN's work added value to the PRG process through TURN's unique analysis, work product, and specific expertise and skills. We also find that TURN's contributions were distinctive from the work of others so as to affirm the eligibility of TURN's PRG-related work for compensation. We also find that the award should not be reduced for duplication.

5. Reasonableness of Requested Compensation

TURN requests compensation in the amount of $103,690.008,[8] as follows:

Table 2. TURN's Request for Compensation for PAG/PRG Work				
Name	Year	Hours	Rate	Total
Attorney Fees				
Hayley Goodson	2007	19.50	$210.00	$4,095.00
Hayley Goodson	2008	71.75	$270.00	$19,372.50

[8] In its original request on the standardized form, TURN combined its claims related to D.08-12-059 and PRGs, in the total amount of $163,902.25. As we have explained earlier in the decision, we separated these two claims. A separate decision addressed TURN's contributions to D.08-12-059. TURN's hours related to the preparation of the intervenor compensation request as well as TURN's copying expenses were included in that decision and we do not consider these claims here.

Attorney Subtotal:		**91.25**		**$23,467.50**
Expert Witness Fees				
Cynthia K. Mitchell	2007	62.00	$140.00	$8,680.00
Cynthia K. Mitchell	2008	386.25	$170.00	$65,662.50
Gillian Court	2008	32.50	$120.00	$3,900.00
Expert Witness Subtotal:		**480.75**		**$78,242.50**
Direct Expenses				
Telephone/Facsimile				$119.00
Consultant Lodging/meal				$1,139.00
Consultant Travel				$722.00
Direct Expenses Subtotal:				**$1,980.00**
TOTAL REQUEST:				**$103,690.00**

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are discussed below.

5.1. Hours and Costs Related to and Necessary for Substantial Contributions

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

TURN documented its work by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity, and the related code (see Table 1). In general, the hourly breakdown reasonably supports the claim. We note, however, several deficiencies in TURN's claim. First, the codes "EESI," "EEPR," "2006-8," and "GP" TURN uses in its timesheets to connect a specific task to a specific issue, are not explained, and we have to

guess about what issue each code represents. Second, TURN does not indicate a percentage of its time spent on each issue, as we require.[9] Further, TURN incorporates its travel time into the professional time category, in violation of the provisions of Rule 17.4(b) and (c). Travel time claim should reflect the actual travel time at half the professional rate. We request that in its future claims TURN more consistently and accurately follows our requirements. We also call TURN's attention to numerous cases of incorrect, inaccurate or inconsistent information that it provides in the claim and supporting documents. Some of these incidents are addressed in our analysis in section 5.1.

We approve most of the hours TURN spent in the PRG process. However, we also make several disallowances, as described below.

1. We find that not all of TURN's time spent on EMV issues (EMV-0608 in Table 1) was reasonably required necessary to make a contribution in that area. TURN's request covers the period of time when PRG activities moved to 2009-2011 portfolio planning, rather than 2006-2008 implementation. TURN indicates, on pages 2 and 21 of the request, that hours and expenses associated with the PRG process that were included in the request largely focused on the 2009-11 program planning cycle. TURN describes that its work during the subject period of time was focused on two areas: the third-party solicitation and local government partnerships. (Request, at 22-24 and 27-28). However, according to the time records, the most time consuming work – more than 60% of the total time – falls on TURN's EMV-0608 work (approximately 184 hours of Mitchell's work (2 hours in 2007 and 182 hours in 2008), 16.75 hours of

[9] D.98-04-059, at 48, reference to D.85-08-012, (18 CPUC2d 485).

Goodson's work (0.5 hours in 2007 and 16.25 hours in 2008), and 18 hours of Court's work in 2008). We find that the amount of the time does not adequately correspond to the reasonable effort required from TURN to contribute in this area during the time covered by the present request. We, therefore, reduce each representative's time spent in this area by 20%, to achieve a more reasonable amount of time in this area.

2. The May 12, 2008 entry in Gillian Court's timesheet (3.50 hours) states the following:

> (TURN/DRA Protest to PG&E Advice Letter 3257-E) Research on CFL mercury content; phone conversation S. Fleming at NEAA – Emails to CM.

Compact fluorescent lamp (CFL) issues were considered in this proceeding within PG&E's portfolio savings issue; it seems that research on the lamp mercury content went outside the scope of the proceeding. For these reasons, we disallow 3.25 hours of work for Court reported on May 12, 2008.

3. On April 3, 2008, expert Mitchell worked with TURN and DRA on a possible extension of time to file comments on the March 28, 2008 ruling requesting comments on revision 4.0 of the Energy Policy Manual. We disallow 0.50 hours of her time since it did not contribute to PRG work.

4. We further analyze the work on the April 8, 2008 comments in response to the March 14, 2008 assigned commissioner's and ALJ ruling regarding cost-effectiveness metrics and energy efficiency policy manual. The comments contain 18 pages of text, including several pages of references to TURN's informal comments of March 24, 2008, and a two-page attachment.
Three TURN's representatives spent approximately 45.00 hours working on these comments (Mitchell's 8.75 hours, Goodson's 25.25 hours, and Court's

11.00 hours). We find this effort as well as the amount of time related to the comments excessive and reduce it by 10%.

5. As we have stated earlier, TURN did not properly itemize and report travel time, in violation of the requirements of Rule 17.4(c) and (b). TURN incorporates its travel hours, divided by two, into Mitchell's professional time at the full professional rate. We correct this deficiency in our award by separating travel hours from the professional fees into a separate category, multiplying these hours by two, and calculating the compensation at a half the professional rate, in accordance with our practice.[10]

Mitchell's timesheets report the following six trips:

Table 3. Travels As Reported in Time Records

No.	Date	Hours[11]	Purpose	Issue Code
1	11/5/07	5.0	To and from workshop and PHC in San Francisco	PY0911-PP
2	3/26/08	1.5	San Francisco-Reno, to attend PG&E LGP meeting	PRG-LGP
3	3/26/08	1.5	Reno-Oakland[12]	PRG-LGP
4	4/28/08	2.5	Travel from Reno to Burbank airport, to PRG meeting	PRG-Stwd
5	4/30/08	0.5	Travel to PRG focus group with SCE's LGPs	PRG-LGP
6	12/15/08	4.0	Travel to and from workshop in San Francisco	PFM2[13]

[10] Although these methods reach the same billed amount, we required the travel time to be separately recorded so that we may more easily evaluate the reasonableness of claimed professional time.

[11] Reported at one-half of the actual travel time.

[12] The timesheet does not contain information on a purpose of the trip. On March 27th, Mitchell attends a meeting (presumably, SCE and San Diego Gas & Electric Company's LGP PRG).

In our previous decision in this proceeding, D.09-03-045, we concluded that Mitchell's trips to and from San Francisco in 2006-2007 were not compensable because TURN failed to prove that Mitchell possessed a unique or special expertise so as to justify bringing this expert in from afar (D.09-03-045 at 31-32). However, by 2008, Mitchell has been an active PRG member representative for more than three years, since the inception of the PRG process in 2005. TURN explains how Mitchell's participation contributes to the PAG process. At this time, it is reasonable to conclude that Mitchell has become now an indispensable part of the PRG activities, and compensation for non-routine her travel should be allowed. Therefore, we allow her travel time as reflected in the timesheets. We note that according to TURN, Mitchell personally attended some of the meeting because it was necessary and participated in the rest of them via telephone, to reduce her travel time and costs.

6. We note frequent communications between Mitchell and Goodson as well as work that parallels each other's. Although Mitchell was TURN's primary representative,[14] Goodson often reviewed and worked on the same documents or essentially the same tasks as Mitchell. For example, on the statewide bidding issues both of them reviewed documents, with Goodson also reviewing Mitchell's work (see, Mitchell's timesheet entries in September 2007). Throughout Mitchell's and Goodson's timesheets, examples like these are abundant, which raises concerns about the work efficiency and duplication of

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[13] This code relates to the work towards D.08-12-059, which is a subject of our decision related to TURN's contributions to that decision. In this decision, we consider only direct costs related to that travel.

[14] See, Request, Attachment D at 25.

each other's efforts. We believe the extent of the internal duplication of the tasks and involvement of two staff members in the same activities were not always justified. In any case, we do not believe it is fair to make ratepayers pay for two experienced representatives reviewing the same documents and checking each other's work. To address our concerns, we reduce their remaining hours: Mitchell's by additional 10 percent and Goodson's by 20%.

5.2. Intervenor Hourly Rate

We next take into consideration whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.

Attorney Hayley Goodson. TURN requests a rate of $210 for her work in 2007, relying on D.07-12-026. We approve this rate. TURN requests the rate of $270 for her work in 2008, relying on D.08-08-027. However, D.08-08-027 adopted the rate of $280 for Goodson's work in 2008, and we approve this rate here.

Expert Cynthia Mitchell. TURN requests the rate of $140 for Mitchell's work in 2007. That rate was adopted in D.06-02-016 for Mitchell's work in 2005. We approve it here. TURN requests the rate of $170 for Mitchell's work in 2008, the same rate we adopted in D.09-05-015. We approve this rate here.

Expert Gillian Court. TURN requests and we approve here, the rate of $120 for Court's work in 2008, the same rate we adopted in D.09-05-015.

5.3. Direct Expenses

TURN's direct expenses total $1,980. The cost breakdown included with the request, in general, shows the miscellaneous expenses to be commensurate with the work performed. They include phone/fax ($119) and consultant's expenses ($1,861) incurred during her travels. We make a few disallowances.

First, we disallow costs of meals, in accordance with our practice.[15] TURN calculates these costs at $273.72 (Request, Attachment B, at 2).

[15] See, D.07-08-021, D.07-12-040, D.08-04-022, D.08-10-012, etc.

Second, we compare several sources of information provided by TURN, and note that, according to them, some of the incurred lodging expenses were not necessary:

Table 4. Comparing Travel Information From Several Sources Provided by TURN

Expense supported by receipts (meals excluded) (Supplement to Request of January 5, 2010)	**Mitchell's time records (Attachment A)**	**Attachments B and D to the claim**
1. 4/27/08 airfare Reno-Los Angeles-LA/LA-Bur airfare 4/28, 29, and 30, hotel (LA)	4/27 [No timesheet entry for travel for this date] 4/28/08 travel PRG meeting Burbank Airport from Reno (5 hours) 4/28/08 organize materials for Stwd PRG meeting 4/29/08 Statewide PRG meeting (10 to 5); pre- and post- meeting discussions and meetings. 4/30 travel (0.5 hrs each way) PRG focus group with SCE's LGPs (10:00 am-3:30 pm) Code: PRG-Stwd	Statewide PRG: 4/29/08 – meeting with all IOUs, discussion stwd issues, matters; each IOU presentation then discussion (Request at 31)
2. 12/2/08 airport parking (Reno) 12/2/08 airfare Reno-Oakland-Reno 12/2/8 transportation BART-hotel (San Francisco) 12/2, 3, and 4 Hotel (San Francisco)	12/2 [No timesheet entry for this date] 12/3 – [No timesheet entry for this date] 12/4 – [No timesheet entry for this date] 12/5 - participate ED workshop draft IPBR draft IPBR findings; follow-up discussion J Hirsch. [No timesheet entry for travel] Code: PFM2[16]	12/5/08 Hotel Lodging 3 nights

[16] Under this code, TURN records its time towards D.08-12-059 resolving utilities' joint petition for modification.

3. 12/15 no receipts for travel 12/16-12/18, airport parking 12/16 airfare (Reno-Oakland) 12/16 transportation (taxi) 12/16, 12/17 Hotel (San Francisco) 12/18 transportation (taxi) 12/18 airfare (Oakland-Reno)	12/15 travel to and from workshop, Reno to SF, 4 hours each way 12/16 discussion RRIM possible modifications Z Tapawan, ED [No timesheet entry for travel] 12/17 draft internal comments to Z Tapawan, ED, TURN proposed modifications to RRIM 12/18 – [No timesheet entry for this date] Code: PFM2	12/18/08 Hotel Lodging 2 nights

Based on these documents, we allow a part of the lodging expenses, and we disallow unjustified expenses. Since meetings in April 2008 occurred on April 29th and 30th, we disallow lodging expenses for April 28th, but compensate hotel charges for April 29th and 30th ($249.78). Since only one entry of Mitchell's time records (December 5, 2008), reflects her participation in the Energy Division workshop, we disallow lodging fees for December 2nd and 3rd, and allow hotel charges for December 4th ($84.36). Since the timesheet seems to point out only one day of the second workshop in December 2008, we allow hotel fees for one night ($135.66). We emphasize that undocumented or unexplained expenses will not be allowed.

6. Productivity

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through its participation. (D.98-04-059, at 34-35.) This showing assists us in determining the overall reasonableness of the request. For PAG/PRG activities, D.07-11-024 directs intervenors to describe ratepayer benefits occurring as a result of the intervenor's participation in PAG/PRG.

TURN submits that its ongoing contributions to the PRG process provide ratepayer benefits by assisting the Commission in achieving its EE goals, thus helping to mitigate rate increases or fluctuations stemming from supply side procurement expenditures, as well as providing economic and environmental benefits from avoided emissions. As the Commission observed in D.05-09-043, the ongoing work of the EE advisory groups is part of the process intended "to ensure that the overall portfolio remains cost-effective to ratepayers through program implementation," which likewise delivers ratepayer benefits. (D.05-09-043, at 7.) In D.08-04-022, the Commission found that TURN's work in the PAG and PRG process was itself a substantial contribution warranting an award of compensation. (D.08-04-022, Finding Of Fact 2). TURN asserts that a similar finding is warranted here.

TURN asserts further that aside from the general ratepayer benefits stemming from good EE programs and policies, TURN's PRG work has contributed to ratepayer benefits by helping to improve the initially proposed 2009-2011 portfolios, and integrated resource planning in California. Similarly, TURN's continuing work to assist PG&E, SCE and SoCalGas with their third party solicitations has helped to bring into their portfolios new program designs and delivery mechanisms, and TURN's efforts to explore the feasibility of statewide third-party bidding could additionally contribute benefits from economies of scale and scope, not to mention decreased administrative costs. Likewise, TURN's ongoing work to improve the functioning of local government partnerships through the PRGs should enhance the long-term value of the portfolios.

We conclude that, with the time and cost adjustments, in §§ 5.1 and 5.3, TURN's PAG work was productive.

7. Award

As set forth in the table below, we award TURN $84,329.98.

Table 5. TURN's Intervenor Compensation Award for PAG/PRG work

Name	Year	Hours	Hourly Rate	Total
Attorney Fees				
Hayley Goodson	2007	15.52	$210.00	$3,259.20
Hayley Goodson	2008	52.78	$280.00	$14,778.40
Attorney Subtotal:		***68.30***		***$18,037.60***
Expert Fees				
Cynthia K. Mitchell	2007	56.06	$140.00	$7,848.40
Cynthia K. Mitchell	2008	304.63	$170.00	$51,786.68
Gillian Court	2008	24.55	$120.00	$2,946.00
Expert Subtotal:				***$62,581.08***
Travel				
Cynthia K. Mitchell	2007	10.00	$70.00	$700.00
Cynthia K. Mitchell	2008	20.00	$85.00	$1,700.00
Travel Subtotal:				***$2,400.00***
Direct Expenses				
Item				**Amount**
Telephone/fax				$119.00
Transportation, including airfare, and parking				$722.50
Lodging				$469.80
Direct Expenses Subtotal:				***$1,311.30***
TOTAL AWARD:				**$84,329.98**

Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on May 17, 2009, the 75th day after TURN filed its compensation request, and continuing until full payment of the award is made.

We remind all intervenors that Commission staff may audit their records related to the award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. TURN's records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants, and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.

8. Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Pub. Util. Code and Rule 14.6(c) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

9. Assignment of Proceeding

Dian M. Grueneich is the assigned Commissioner and David M. Gamson is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. TURN has satisfied all the procedural requirements necessary to claim compensation in this proceeding.

2. TURN has made substantial contributions to the program advisory groups and peer review groups as described herein.

3. TURN requested hourly rates for its representatives that, as adjusted herein, were approved in the Commission's prior decisions and are reasonable when compared to the market rates for persons with similar training and experience.

4. TURN requested related expenses that, as adjusted herein, are reasonable and commensurate with the work performed.

5. The total of the reasonable compensation is $84,329.98.

6. The appendix to this decision summarizes today's award.

Conclusions of Law

1. TURN has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed expenses, as adjusted herein, incurred in making substantial contributions to the energy efficiency program advisory groups and peer review groups.

2. TURN should be awarded $84,329.98 for its contribution to the energy efficiency program advisory groups and peer review groups.

3. This order should be effective today so that TURN may be compensated without further delay.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network is awarded $84,329.98 as compensation for its substantial contributions to energy efficiency program advisory groups and peer review groups.

2. Within 30 days of the effective date of this decision, Southern California Edison Company, San Diego Gas & Electric Company, Southern California Gas Company and Pacific Gas and Electric Company shall pay The Utility Reform Network the award granted herein in shares proportional to their 2008 California-jurisdictional electric and gas revenues. 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 on May 17, 2009, the 75th day after the filing date of The Utility Reform Network's request for compensation, and continuing until full payment is made.

3. This proceeding is resolved for the purpose of compliance with Public Utilities Code § 1701.5. However, the proceeding remains open to address pending Request for Rehearing.

4. Rulemaking 06-04-010 remains open.

This order is effective today.

Dated April 8, 2010, at San Francisco, California.

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

APPENDIX A

Compensation Decision Summary Information

Compensation Decision:	D1004025	Modifies Decision? No
Contribution Decision(s):	Energy efficiency program advisory groups and peer review groups	
Proceeding(s):	R0604010	
Author:	ALJ Gamson	
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	March 3, 2009	$103,690.00	$84,329.98	No	Excessive hours; unproductive effort, inappropriately claimed expenses, corrected hourly rate

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Hayley	Goodson	Attorney	The Utility Reform Network	$210	2007	$210
Hayley	Goodson	Attorney	The Utility Reform Network	$270	2008	$280
Cynthia	Mitchell	Expert	The Utility Reform Network	$140	2007	$140
Cynthia	Mitchell	Expert	The Utility Reform Network	$170	2008	$170
Gillian	Court	Expert	The Utility Reform Network	$120	2008	$120

(END OF APPENDIX A)