

Decision 10-04-050 April 22, 2010

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

Application of Southern California Edison Company (U338E) for Authority to Implement and Recover in Rates the Cost of its Proposed Solar Photovoltaic (PV) Program.

Application 08-03-015  
(Filed March 27, 2008)

**DECISION GRANTING REQUEST OF THE UTILITY REFORM NETWORK FOR  
INTERVENOR COMPENSATION FOR SUBSTANTIAL CONTRIBUTION TO  
DECISION 09-06-049**

<b>Claimant: The Utility Reform Network</b>	<b>For contribution to D.09-06-049</b>
<b>Claimed (\$): 73,890.75</b>	<b>Awarded (\$): \$72,147.12</b>
<b>Assigned Commissioner: Peevey</b>	<b>Assigned ALJ: Ebke</b>
<b>Claim Filed: August 21, 2009</b>	

**PART I: PROCEDURAL ISSUES**

- A. Brief Description of Decision:** Approves SCE's request to own and operate 250 MW of solar photovoltaic projects in the 1-2 MW range, with a benchmark capital cost of \$962.5 million; and orders SCE to conduct competitive solicitations for 250 MW of solar PV projects, with a PPA<sup>1</sup> price cap equal to the utility's forecast LCOE.<sup>2</sup>

<sup>1</sup> Power purchase agreement.

<sup>2</sup> Levelized Cost of Electricity.

**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:	7/10/2008	Correct
2. Other Specified Date for NOI:	N/A	Correct
3. Date NOI Filed:	8/11/2008	Correct
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:	A.08-03-015	Correct
6. Date of ALJ ruling:	9/12/2008	Correct
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.08-03-015	Correct
10. Date of ALJ ruling:	9/12/2008	Correct
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.09-06-049	Correct
14. Date of Issuance of Final Decision:	6/22/2009	Correct
15. File date of compensation request:	8/21/2009	Correct
16. Was the request for compensation timely?		Yes

**PART II: SUBSTANTIAL CONTRIBUTION****A. Claimant’s description of its contribution to the final decision (see § 1802(i), § 1803(a) & D.98-04-059)**

<b>Contribution</b>	<b>Citation to Decision or Record (Provided by Claimant)</b>	<b>Showing Accepted by CPUC</b>
1. Cost effectiveness: Comparison of program cost to RPS <sup>3</sup> – TURN provided expert testimony showing the project was significantly more expensive than the RPS procurement. TURN Direct Testimony, pp. 10-12.	D.09-06-049, pp. 29-30, 31. Agrees that “parties have presented testimony that RPS projects are generally less expensive than the SPVP” based on testimonies of TURN and DRA. But concludes that “simply comparing the direct costs of the SPVP <sup>4</sup> with RPS contract costs or the MPR <sup>5</sup> does not reasonably account for the differences in the costs and benefits of the two programs.”	Yes
2. Cost effectiveness: Comparison of program costs to CSI <sup>6</sup> – TURN provided expert testimony showing that CSI is less expensive for ratepayers when considering both subsidies and NEM <sup>7</sup> benefits. TURN Direct Testimony, pp. 13-14. TURN specifically analyzed how SCE’s per watt capital cost estimates must be grossed-up for taxes and return and how CSI subsidies must account for declining incentives. TURN Rebuttal Testimony, pp. 1-5; TURN Opening Brief, pp. 10-14.	D.09-06-049, pp. 31-32. While the Decision concludes that “it is difficult to make a reasonable comparison of the SPVP with CSI and RPS,” it does “agree with TURN and DRA that SCE’s estimate of the per-watt installed cost for the SPVP excludes many cost categories we would want to consider before making a comparison with other projects, such as taxes, O&M, <sup>8</sup> and SCE’s return on rate base.” (p. 32.) The Decision also agrees that SCE’s comparison with “average historical costs of large CSI-funded projects” does not account for the fact that “CSI program costs are projected to decline in the future.” (pp. 32-33.)	Yes
3. Cost effectiveness: SPVP Project Size – TURN recommended a small pilot of 50 MW. TURN argued that SCE’s economies of scale argument justifying 250 MW <sup>9</sup> was factually erroneous and	ALJ PD, <sup>10</sup> pp. 31, 33 – Rejects TURN’s proposal for a 50 MW pilot, but agrees with TURN that a reduced SCE program of 160 MW can achieve the cost target because “while there may be minimal loss of	Yes

<sup>3</sup> Renewable Portfolio Standard.

<sup>4</sup> Solar photovoltaic program.

<sup>5</sup> Market Price Referent.

<sup>6</sup> California Solar Initiative.

<sup>7</sup> Net Energy Metering.

<sup>8</sup> Operations and maintenance.

<sup>9</sup> Megawatts.

<sup>10</sup> Proposed Decision of Administrative Law Judge.

<p>SCE’s pilot program cost was already low. TURN Direct Testimony, pp. 20-21.</p>	<p>economies of scale if the program is reduced in size, the \$3.85/W is still a reasonable cost target given the first year installation results and the projection for 2009.” D.09-06-049, p. 38 – Agrees with TURN that “SCE’s argument that it cannot meet its cost target if the program is reduced is not persuasive.” But concludes that “while overstated, SCE’s argument is not entirely without merit,” and decides that “reducing the project size could adversely impact price to some degree.”</p>	
<p>4. Cost effectiveness: transmission benefit of distributed solar – TURN provided expert testimony addressing the valuation of any avoided transmission benefits of the project. TURN Rebuttal Testimony, pp. 5-8; TURN Comments on APD,<sup>11</sup> pp. 7-8.</p>	<p>D.09-06-049, p. 32 – Concludes that “transmission costs and line losses associated with RPS projects can be considerable,” and provides example of Sunrise as costing \$1/W to access the renewable resources. Does not address record evidence.</p>	<p>Yes</p>
<p>5. Ratemaking: ROE<sup>12</sup> Adder and Taxes – TURN argued that at most a 50 basis point adder is justified based on § 454.3, since the technology is not experimental. TURN Direct Testimony, pp. 24-25. TURN subsequently argued that eligibility for the ITC<sup>13</sup> provides additional shareholder returns and warrants no ROE adder. TURN Comments on PD, pp. 6-7.</p>	<p>ALJ PD, p. 42 – “We adopt TURN’s recommendation and grant a 50 basis points increase.” D.09-06-049, p. 53. Agrees that § 454.3 does not justify any ROE adder. Disagrees with TURN’s argument that the ITC should substitute for any additional incentive under § 454.3.</p>	<p>Yes</p>
<p>6. Ratemaking: Cost sharing of capital costs – TURN argued for a cost sharing provision of capital cost over/under runs. TURN Direct Testimony, pp. 21-23; D.09-06-049, p. 46.</p>	<p>ALJ PD, p. 38 – “We also adopt TURN’s framework for sharing cost overruns between ratepayers and shareholders to protect ratepayers against cost overruns and provide an incentive to SCE to reduce costs.”  D.09-06-049, p. 48. Rejects TURN’s proposal based on using existing review of utility capital investments in GRC and review of operations in ERRA.<sup>14</sup></p>	<p>Yes</p>

<sup>11</sup> Alternate Proposed Decision.

<sup>12</sup> Return on Equity.

<sup>13</sup> Investment Tax Credit.

<sup>14</sup> Energy Resource Recovery Account.

<p>7. Competitive Alternatives: PPA bids – TURN recommended that the price of any PPA be capped at the utilities’ LCOE, as adjusted for actual UOG<sup>15</sup> prices.</p>	<p>D.09-06-049, p. 39 – Adopts costs cap based on forecast LCOE, and states that “capping the price paid to IPP<sup>16</sup> projects at 100% of SCE’s LCOE provides reasonable protection to ratepayers against the total cost of the program.”</p>	<p>Yes</p>
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**B. Duplication of Effort (§§ 1801.3(f) & 1802.5):**

	As Stated by Claimant	CPUC Verified
<p><b>a. Was Division of Ratepayer Advocates (DRA) a party to the proceeding? (Y/N)</b></p>	<p>Y</p>	<p>Yes</p>
<p><b>b. Were there other parties to the proceeding? (Y/N)</b></p>	<p>Y</p>	<p>Yes</p>
<p><b>c. If so, name of other parties:</b> The following parties provided testimony and/or briefs: First Solar, Coalition of California Utility Employees, Greenlining, Recurrent Energy, Independent Energy Producers Assn., Solar Alliance, Californians for Renewable Energy, City of Victorville.</p>		<p>Yes</p>
<p><b>d. Claimant’s description of how it coordinated with DRA and other parties to avoid duplication or of how claimant’s participation supplemented, complemented, or contributed to that of another party:</b>  TURN met several times with DRA to discuss issues, positions and resource allocation. TURN focused our policy recommendations on ratemaking issues (cost sharing, PPA price caps) which were not the focus of DRA’s testimonies. TURN and DRA did overlap in our analyses concerning the comparison to RPS projects. TURN focused more on comparison to CSI and NEM.</p>		<p>Yes</p>

**C. Additional Comments on Part II:**

#	Claimant	CPUC	Comment
<p>B.2.d.</p>	<p>X</p>		<p>While TURN’s analysis concerning the comparison of the SPVP and RPS did overlap some with the analysis of the DRA, TURN provided several additional factual arguments presented in our confidential attachments to TURN’s direct testimony. TURN’s contributions and positions are fairly well summarized in the text of D.09-06-049 (see pp. 29-30). Likewise, TURN provided more detailed analysis concerning the comparison to CSI and NEM. Although the final decision states that the DRA noted that CSI subsidies will “decline over time,” (p. 29), TURN actually quantified the expected cost to ratepayers of the CSI due to declining subsidies. (TURN Rebuttal Testimony, pp. 2-3.)</p>

<sup>15</sup> Utility-owned generation.

<sup>16</sup> Independent power producer.

A.1 and A.2	X		Cost effectiveness: While the Commission ultimately rejected the comparison to CSI and RPS, the Decision did adopt several of TURN’s arguments concerning this comparison and noted that the parties who provided data on this issue were responding “to our inquiry” based on the scoping memo. (D.09-06-049, p. 31.) Thus, TURN seeks compensation for all our time devoted to these analyses.
A.4	X		Cost effectiveness: TURN requests full compensation for our work concerning the issue of potential transmission benefits. The PD did not specifically address TURN’s analysis. D.09-06-049 likewise does not address TURN’s analysis but relies on its own quantification of Transmission benefits based on D.08-12-058.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

**A. General Claim of Reasonableness (§§ 1801 & 1806):**

<b>Concise explanation by claimant of how the cost of claimant’s participation bears a reasonable relationship with benefits realized through participation</b>	<b>CPUC Verified</b>
<p>The Commission adopted two of TURN’s recommendations that have a direct financial impact on ratepayer bills, no ROE adder for the utility and a cap on PPA bid prices.</p> <p>TURN’s recommendation to disallow the 100 basis point adder results in lower revenue requirements over the life of the project. On a very approximate nominal basis, reducing utility profit on \$962.5 million of capital investment by 1.0% is a ratepayer benefit of \$96 million over the 20-year life of the project.</p> <p>The impact of the cap on PPA prices is difficult to quantify in advance, as it will depend on actual bid prices. In general, the price cap serves to limit ratepayer’s exposure to the PPA portion to approximately the same amount as SCE’s project costs. The potential impact of this benefit could be very large if PPA bids are similar to current CSI project costs rather than SCE’s estimated cost. For example, at \$0.42/kWh (based on CSI install costs of \$6/w), ratepayers would pay an additional \$6.5 million annually for electricity, compared to SCE’s \$0.27/kWh estimated price (using 250 MW and 20% capacity factor).</p>	Yes

**B. Specific Claim\*:**

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
Marcel Hawiger	2008	165.5	\$325	D.08-08-027, p. 5	\$53,787.50	2008	165.5	\$325	\$53,787.50
Marcel Hawiger	2009	34.5	\$325	D.08-08-027, p. 5	\$11,212.50	2009	30.75	\$325	\$9,993.75
Michel P. Florio	2008	9.75	\$535	D.08-07-043, p. 8	\$5,216.25	2008	9.75	\$535	\$5,216.25
<b>Subtotal:</b>					<b>\$70,216.25</b>	<b>Subtotal:</b>			<b>\$68,997.50</b>
EXPERT FEES									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
William Marcus	2008	1.0	\$250	D.08-11-053, p. 10	\$250.00	2008	1.0	\$250	\$250.00
Jeff Nahigian	2008	7.5	\$190	D.09-04-027, p. 10	\$1,425.00	2008	7.5	\$190	\$1,425.00
Gayatri Schilberg	2008	1.12	\$200	D.09-04-027, p. 10	\$224.00	2008	1.12	\$200	\$224.00
<b>Subtotal:</b>					<b>\$1,899.00</b>	<b>Subtotal:</b>			<b>\$1,899.00</b>
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
Marcel Hawiger	2009	10.75	\$162.5	D.08-08-027, p. 5	\$1,746.88	2009	7.52	\$162.5	\$1,222.00
<b>Subtotal:</b>					<b>\$1,890.21</b>	<b>Subtotal:</b>			
COSTS									
#	Item	Detail			Amount	Amount			
	Xerox				\$28.00	\$28.00			
	Phone				\$0.62	\$0.62			
<b>Subtotal:</b>					<b>\$28.62</b>	<b>Subtotal:</b>			<b>\$28.62</b>
<b>TOTAL REQUEST \$:</b>					<b>\$73,890.75</b>	<b>TOTAL AWARD \$:</b>			<b>\$72,147.12</b>
<p>* 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. Claimant'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.</p> <p>** Reasonable claim preparation time typically compensated at 1/2 of preparer's normal hourly rate.</p>									

**C. Comments on Specific Claim:**

Attachment or Comment #	Description/Comment
Comment 1	Comment re Expert Fees: The three experts from JBS Energy Inc. provided assistance to

	<p>TURN’s witness Marcel Hawiger concerning the issues of revenue requirements calculation and O&amp;M expenses (Mr. Nahigian), the impact of ITC on utility revenue requirements (Mr. Marcus), and potential locational benefits of DG based on circuit performance data (Ms. Schilberg). While these experts did not submit separate testimonies, their very limited participation was essential to TURN’s analyses and was reflected in the testimonies of Mr. Hawiger concerning ROE, performance analysis and ITC impacts.</p>
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**D. CPUC Disallowances & Adjustments:**

Item	Reason
<p>Hawiger’s professional hours related to application for rehearing.</p>	<p>TURN requests 3.75 hours for its work on the application for rehearing of D.09-06-049. This request is premature, since the rehearing phase of the proceeding has not been concluded. At this time, we disallow these hours.</p>
<p>Deficiencies in the time records; reduction of the time spent on the intervenor compensation claim preparation.</p>	<p>The request, in accordance with our requirements, contains allocation of time by issues, as follows: Cost Effectiveness (sub-issues: comparison to RPS – 22%, comparison to CSI – 25%, transmission benefits of DG/other benefits of solar PV – 7%); Policy (sub-issue: consistency with state and CPUC goals – 5%); Ratemaking and Performance (sub-issues: cost sharing of capital costs – 17%, performance assurance and O&amp;M costs – 5%; ROE adder/ITC and taxes – 12%); and Competitive Alternatives (sub-issues: PPA prices; program size allocation – 7%). TURN calls these issues “primary.” (Request, Attachment 4 at 22.)</p> <p>TURN’s timesheets use the following issue codes for professional tasks: CE, RM, #, GP, GH, AFR, and AL 2364. TURN explains only two of these codes: “GP” as referring to “general practice essential to participation”, and “#” as referring to “multi-issue work” (Attachment 4 at 16). We assume that CE corresponds to the “Cost Effectiveness” issue, RM to “Ratemaking and Performance,” GH stands for general work for evidentiary hearings, AFR – for a work on the application for rehearing, and AL 2364 for work on that advice letter. It seems appropriate to explain all issue codes used in the time records. We request that in its future claims TURN explain and decipher codes it uses in the time records, as it has done in the majority of its past claims.</p> <p>We are concerned further with the fact that only two issues that TURN lists as “primary”: “CE” and “RM” (corresponding, assumingly, to “Cost Effectiveness” and “Ratemaking and Performance”) are used in the timesheets. No other issue or sub-issue from Attachment 4 (such as, for example, “Policy,” Competitive Alternatives, or sub-issues) appear in time records. We assume they have been included under the multi-issue work (code “#”) and we are concerned with an extensive use of this issue code in TURN’s timesheets. This issue occupies almost a half of TURN’s time. We request that in its future claims, TURN avoid using the single multiple issue category. Associating a professional task with the specific issue, or, when it is not feasible, with several specifically named issues, should be the appropriate course of action.</p> <p>With these deficiencies, hours spent on the claim preparation are excessive; we reduce it by 30% (or 3.23 hours).</p>

**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
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**B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(2)(6)) (Y/N)?**

Yes
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**FINDINGS OF FACT**

1. Claimant The Utility Reform Network has made a substantial contribution to Decision (D.) 09-06-049.
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 \$72,147.12.

**CONCLUSION OF LAW**

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

**ORDER**

1. Claimant The Utility Reform Network is awarded \$72,147.12.
2. Within 30 days of the effective date of this decision, 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 decision is effective today.

Dated April 22, 2010, at Los Angeles, 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>	D1004050	<b>Modifies Decision?</b> N
<b>Contribution Decision(s):</b>	D0906049	
<b>Proceeding(s):</b>	A0803015	
<b>Author:</b>	ALJ Ebke	
<b>Payer(s):</b>	Southern California Edison 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	8/21/09	\$73,890.75	\$72,147.12	No	Hours unrelated to contributions to the decision; excessive hours for claim preparation

**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	2008	\$325
Marcel	Hawiger	Attorney	The Utility Reform Network	\$325	2009	\$325
Michel	Florio	Attorney	The Utility Reform Network	\$535	2008	\$535
William	Marcus	Expert	The Utility Reform Network	\$250	2008	\$250
Jeffrey	Nahigian	Expert	The Utility Reform Network	\$190	2008	\$190
Gayatri	Schilberg	Expert	The Utility Reform Network	\$200	2008	\$200

**(END OF APPENDIX)**