

Decision 10-05-016 May 6, 2010

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

Application of Pacific Gas and Electric Company and  
PG&E Corporation for Limited Exemption from  
Rule V.E of the Commission's Affiliate Transaction Rules.  
(U39M)

Application 08-07-014  
(Filed July 9, 2008)

**DECISION GRANTING REQUEST OF THE UTILITY REFORM NETWORK FOR  
INTERVENOR COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO  
DECISION 09-09-021**

<b>Claimant: The Utility Reform Network</b>	<b>For contribution to D.09-09-021</b>
<b>Claimed: \$ 18,525</b>	<b>Awarded: \$18,525</b>
<b>Assigned Commissioner: Bohn</b>	<b>Assigned ALJ: Pulsifer</b>
<b>Claim Filed: 11/03/2009</b>	

**PART I: PROCEDURAL ISSUES**

**A. Brief Description of  
Decision:**

The Decision closed this proceeding in which PG&E had requested an exemption from the Commission's affiliate transactions rules to allow Peter Darbee to serve as President and CEO of both the utility and the parent holding company, because the request had become moot as a result of PG&E's motion to withdraw the application.

**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:	September 16, 2008	Correct
2. Other Specified Date for NOI:	None	Correct
3. Date NOI Filed:	October 16, 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.08-03-002	Correct
6. Date of ALJ ruling:	July 2, 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.07-12-021	Correct
10. Date of ALJ ruling:	April 18, 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.09-09-021	Correct
14. Date of Issuance of Final Decision:	9/11/09	Correct
15. File date of compensation request:	11/3/09	Correct
16. Was the request for compensation timely?		Yes

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

#	Claimant	CPUC	Comment
3 & 5	X		No ruling on TURN’s NOI was ever issued in this proceeding. However, the Commission has determined TURN’s customer status in many other proceedings, including the one listed on line 5.

**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>
<p>1. Throughout this proceeding, via its testimony and briefing, TURN consistently opposed PG&amp;E’s request to allow the utility and parent holding company to share the same President and CEO, and offered evidence of the potential problems that such a dual role would create or exacerbate. PG&amp;E eventually withdrew its request and the Commission closed the proceeding, with the effect that TURN’s position in the proceeding ultimately prevailed.</p>	<p>D.09-09-021 closed the proceeding, based on PG&amp;E’s 7/2/09 motion to withdraw the application. See also, Prepared Direct Testimony of Michel Peter Florio, Ex.2, submitted November 25, 2008; TURN’s opening and reply briefs filed January 20 and February 2, 2009.</p>	<p>Yes</p>

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

	<b>Claimant</b>	<b>CPUC Verified</b>
<p>a. Was DRA a party to the proceeding? (Y/N)</p>	<p>Yes</p>	<p>Correct</p>
<p>b. Were there other parties to the proceeding? (Y/N)</p>	<p>Yes</p>	<p>Correct</p>
<p>c. If so, provide name of other parties: Independent Energy Producers (IEP) and individual intervenor L. Jan Reid</p>		<p>Correct</p>
<p>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: TURN actively coordinated with DRA, IEP and, at least initially, Reid, to share ideas and strategies with respect to this proceeding. Ultimately TURN’s testimony and briefs focused on different issues than did DRA’s, while IEP’s brief cited liberally to TURN’s testimony. Reid, on the other hand, eventually entered into a settlement with PG&amp;E and thereafter opposed TURN’s position. To the extent that there was any overlap, TURN’s work supplemented and complemented that of DRA and the other parties opposed to the application.</p>		<p>Yes</p>

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

#	Claimant	CPUC	Comment
II. A	X		This Commission has recognized in past decisions that an intervenor can make a substantial contribution in a proceeding even when there is not an ultimate decision on the merits of the utility's request. See D.02-08-061 at 6-7; D.02-07-030 at 9-10. In this case the outcome of D.09-09-021 was entirely consistent with TURN's litigation position, such that TURN's position ultimately prevailed.

**PART III: REASONABLENESS OF REQUESTED COMPENSATION****A. General Claim of Reasonableness (§§ 1801 & 1806):**

<b>D. Concise explanation by Claimant as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation</b>	<b>E. CPUC Verified</b>
TURN's participation helped to prevent what TURN believed to be an inappropriate sharing of management roles between PG&E and its parent holding company, which might otherwise have resulted in financial harm to ratepayers. While it is impossible to quantify the "avoided cost" of such a conflict of interest, the benefits clearly outweigh TURN's limited costs of participation here.	Correct

**B. Specific Claim\*:**

<b>Claimed</b>						<b>CPUC Award</b>			
<b>ATTORNEY AND ADVOCATE FEES</b>									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
Michel Florio	2008	27.25	\$535	D.08-07-043 at 8	\$14,578.75	2008	27.25	\$535	\$14,578.75
Michel Florio	2009	5.00	\$535	Res. ALJ-235	\$ 2,675.00	2009	5.00	\$535	\$ 2,675.00
Bob Finkelstein	2009	0.50	\$470	D.08-08-027 at 5; ALJ-235	\$ 235.00	2009	0.50	\$470	\$ 235.00
Hayley Goodson	2008	0.25	\$280	D.08-08-027 at 5	\$ 70.00	2008	.25	\$280	\$ 70.00
<b>Subtotal:</b>					<b>\$17,558.75</b>	<b>Subtotal:</b>			<b>\$17,558.75</b>

<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
Michel Florio	2009	3.50	\$267.50	50% of \$535	\$ 936.25	2009	3.50	\$267.50	\$936.25
<b>Subtotal:</b>					<b>\$936.25</b>	<b>Subtotal:</b>			<b>\$936.25</b>

**COSTS**

#	Item	Detail	Amount	Amount	
1	Photocopies	TURN Pleadings	\$ 30.00		\$ 30.00
<b>Subtotal:</b>			<b>\$ 30.00</b>	<b>Subtotal:</b>	<b>\$ 30.00</b>
<b>TOTAL REQUEST \$:</b>			<b>\$ 18,525</b>	<b>TOTAL AWARD \$:</b>	<b>\$ 18,525</b>

\* 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.

\*\* Reasonable claim preparation time typically compensated at ½ of preparer’s normal hourly rate.

**PART IV: OPPOSITIONS AND COMMENTS**

**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(c)(6)) (Y/N)?**

Yes
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**FINDINGS OF FACT**

1. Claimant has made a substantial contribution to Decision (D.) 09-09-021.
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 \$18,525.

**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 \$18,525.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric 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 January 17, 2010, 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 the remaining intervenor compensation matter.
5. This decision is effective today.

Dated May 6, 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>	D1005016	<b>Modifies Decision?</b> No
<b>Contribution Decision(s):</b>	D0909021	
<b>Proceeding(s):</b>	A0807014	
<b>Author:</b>	ALJ Pulsifer	
<b>Payer(s):</b>	Pacific Gas and Electric 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	11/3/09	\$18,525	\$18,525	No	

**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
Robert	Finkelstein	Attorney	The Utility Reform Network	\$470	2009	\$470
Hayley	Goodson	Attorney	The Utility Reform Network	\$280	2008	\$280

**(END OF APPENDIX)**