

Decision 10-05-015 May 6, 2010

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

Application of Southern California Edison Company (U338E) to Establish Marginal Costs, Allocate Revenues, and Design Rates.

Application 08-03-002  
(Filed March 4, 2008)

In the Matter of the Application of Southern California Edison Company (U338E) for Authority to Make Various Electric Rate Design Changes.

Application 07-12-020  
(Filed December 21, 2007)

**DECISION GRANTING REQUEST OF THE UTILITY REFORM NETWORK FOR  
INTERVENOR COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO  
DECISION 09-08-028**

<b>Claimant: The Utility Reform Network</b>	<b>For contribution to Decision (D.) 09-08-028</b>
<b>Claimed (\$): \$82,855</b>	<b>Awarded (\$): \$71,703.47</b>
<b>Assigned Commissioner: Peevey</b>	<b>Assigned ALJ: Yip-Kikugawa</b>
<b>Claim Filed: 10/26/2009</b>	

**PART I: PROCEDURAL ISSUES**

**A. Brief Description of Decision:** The Decision resolved all issues of revenue allocation and rate design in Phase 2 of Southern California Edison Company's (SCE) general rate case by approving several settlements among the parties. The decision also resolved certain rate design issues first raised in A.07-12-020 and consolidated into this proceeding.

**B. Claimant must satisfy intervenor compensation requirements set forth in Public Utilities Code §§ 1801-1812:**

	<b>As Stated by Claimant</b>	<b>CPUC Verified</b>
<b>Timely filing of notice of intent to claim compensation (§ 1804(a)):</b>		
<b>1. Date of Prehearing Conference:</b>	<b>May 1, 2008</b>	<b>Correct</b>
<b>2. Other Specified Date for NOI:</b>	<b>None</b>	<b>Correct</b>
<b>3. Date NOI Filed:</b>	<b>June 2, 2008</b>	<b>Correct</b>

<b>4. Was the notice of intent timely filed?</b>		<b>Yes</b>
<b>Showing of customer or customer-related status § 1802(b):</b>		
<b>5. Based on ALJ ruling issued in proceeding number:</b>	<b>A.08-03-002 (present proceeding)</b>	<b>Correct</b>
<b>6. Date of ALJ ruling:</b>	<b>July 2, 2008</b>	<b>Correct</b>
<b>7. Based on another CPUC determination (specify):</b>		
<b>8. Has the claimant demonstrated customer or customer-related status?</b>		<b>Yes</b>
<b>Showing of “significant financial hardship” (§ 1802(g)):</b>		
<b>9. Based on ALJ ruling issued in proceeding number:</b>	<b>A.08-03-002 (present proceeding)</b>	<b>Correct</b>
<b>10. Date of ALJ ruling:</b>	<b>July 2, 2008</b>	<b>Correct</b>
<b>11. Based on another CPUC determination (specify):</b>	<b>ALJ Ruling cited ruling in A.07-12-021 (on 4/18/08) for rebuttable presumption of eligibility</b>	<b>Correct</b>
<b>12. Has the claimant demonstrated significant financial hardship?</b>		<b>Yes</b>
<b>Timely request for compensation (§ 1804(c)):</b>		
<b>13. Identify Final Decision</b>	<b>D.09-08-028</b>	<b>Correct</b>
<b>14. Date of Issuance of Final Decision:</b>	<b>8/25/09</b>	<b>Correct</b>
<b>15. File date of compensation request:</b>	<b>10/26/09</b>	<b>Correct</b>
<b>16. Was the request for compensation timely?</b>		<b>Yes</b>

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

<b>#</b>	<b>Claimant</b>	<b>CPUC</b>	<b>Comment</b>

**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. TURN made a complete showing on issues of marginal cost and revenue allocation among classes and on that basis argued in settlement negotiations for a lower residential rate increase than proposed by SCE. TURN’s testimony showed that the residential class would experience an increase 3.0% above the system average without capping, compared to SCE’s proposed 6.3%. TURN also argued for a 2% above system average cap on class increases. The adopted Revenue Allocation settlement recommended a 2.75% above system average cap on class increases, including residential, without specifically endorsing any party’s marginal cost proposals.</p>	<p>D.09-08-028 at 7-14; TURN/Marcus testimony, especially at 37-38.</p>	<p>Yes</p>
<p>2. TURN’s testimony on residential rate design opposed SCE’s proposed customer charge increase and suggested deferral of baseline allowance reductions and upper tier closure pending potential legislative action. The Residential and Small Commercial Settlement did not increase the customer charge and proposed two alternatives for baseline allowances and upper tier rate differentials, depending on whether legislation was enacted, which it was. TURN also supported SCE’s proposed Conservation Incentive Adjustment, which was adopted in the settlement and Commission decision.</p>	<p>D.09-08-028 at 14-21; TURN/Florio testimony at 1-7; TURN’s response to A.07-12-020; 7 RT at 544:25 – 545:12.</p>	<p>Yes</p>
<p>3. TURN’s testimony recommended that SCE submit monthly and annual reports providing information on residential customer arrearages and shutoffs, and the Residential and Small Commercial Settlement adopted that proposal.</p>	<p>D.09-08-028 at 17; TURN/Marcus testimony at 39-43.</p>	<p>Yes</p>

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

	<b>As Stated by Claimant</b>	<b>CPUC Verified</b>
<b>a. Was DRA a party to the proceeding? (Y/N)</b>	Yes	Yes
<b>b. Were there other parties to the proceeding? (Y/N)</b>	None with positions similar to TURN's or that represent solely the interests of residential and small business ratepayers.	
<b>c. If so, provide name of other parties:</b> See service list for A.08-03-002.		
<b>d. Claimant's statements as to how it coordinated with DRA and other parties to avoid duplication or how Claimant's participation supplemented, complemented, or contributed to that of another party:</b> TURN actively coordinated with DRA, particularly during the settlement phase of the proceeding, to achieve our common objectives in the face of multiple intervenors representing larger customers. Since DRA filed its testimony on an earlier date, TURN was able to focus on different issues or arguments than those presented by DRA and thus avoid any undue duplication. To the extent that TURN merely supported DRA's position, that fact was briefly stated without elaboration unless TURN had additional evidence or argument to offer on the issue in question. Thus, to the extent that there was any overlap, TURN's work supplemented and complemented that of DRA.		Yes

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

#	Claimant	CPUC	Comment

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

<b>Concise explanation by Claimant as to how the cost of Claimant's participation bears a reasonable relationship with benefits realized through participation</b>	<b>CPUC Verified</b>
TURN's participation helped to achieve a revenue allocation settlement that limited the increase to residential rates to a much smaller amount than had been proposed by SCE. TURN's proposals on residential rate design were also largely adopted in the approved Residential and Small Commercial settlement agreement. TURN's cost of participation was tiny in comparison to these benefits. (See, for example, D.09-08-028, Attachment B at A-1.)	Yes

**B. Specific Claim\*:**

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
Michel Florio	2008	21.50	\$535	D.08-07-043, at 8	\$11,502.50	2008	21.50	\$535	\$11,502.50
Michel Florio	2009	5.25	\$535	Res. ALJ-235	\$ 2,808.75	2009	5.25	\$535	\$2,808.75
Hayley Goodson	2008	67.50	\$280	D.08-08-027, at 5	\$18,900.00	2008	67.50	\$280	\$18,900.00
Hayley Goodson	2009	19.25	\$280	Res. ALJ-235	\$ 5,390.00	2009	19.25	\$280	\$5,390.00
Bob Finkelstein	2008	2.50	\$470	D.08-08-027, at 5	\$ 1,175.00	2008	2.50	\$470	\$1,175.00
<b>Subtotal:</b>					<b>\$39,776.25</b>	<b>Subtotal:</b>			<b>\$39,776.25</b>
EXPERT FEES									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
William Marcus, JBS Energy	2008	67.00	\$250	D.08-11-053, at 10	\$16,750.00	2008	67.00	\$250	\$16,750.00
William Marcus, JBS Energy	2009	3.83	\$250	Firm left 2009 rates at 2008 levels.	\$ 957.50	2009	3.83	\$250	\$957.50
Gayatri Schilberg, JBS Energy	2008	0.18	\$200	D.09-04-027, at 10	\$ 36.00	2008	0.18	\$200	\$36.00
Jeff Nahigian, JBS Energy	2008	2.00	\$190	D.09-04-027, at 10	\$ 380.00	2008	2.00	\$190	\$380.00
Jeff Nahigian, JBS Energy	2009	3.50	\$190	Firm left 2009 rates at 2008 levels.	\$ 665.00	2009	3.50	\$190	\$665.00
Garrick Jones JBS Energy	2008	177.68	\$120	D.09-04-027, at 10	\$21,321.60	2008	84.75	\$120	\$10,170.00
<b>Subtotal:</b>					<b>\$40,110.10</b>	<b>Subtotal:</b>			<b>\$28,958.50</b>
OTHER FEES									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total \$
William Marcus, JBS Energy	2009	4.00	\$125	50% of \$250	\$ 500.00	2009	4.00	\$125	\$500.00
<b>Subtotal:</b>					<b>\$ 500.00</b>	<b>Subtotal:</b>			<b>\$500.00</b>

<b>INTERVENOR COMPENSATION CLAIM PREPARATION **</b>									
<b>Item</b>	<b>Year</b>	<b>Hours</b>	<b>Rate</b>	<b>Basis for Rate*</b>	<b>Total \$</b>	<b>Year</b>	<b>Hours</b>	<b>Rate</b>	<b>Total \$</b>
Michel Florio	2009	7.00	\$267.50	50% of \$535	\$1,872.50	2009	7.00	\$267.50	\$1,872.50
Robert Finkelstein	2009	1.00	\$235	50% of \$470	\$235.00	2009	1.00	\$235	\$235
Nina Suetake	2008	1.00	\$112.50	50% of \$225 per D.09-04-027, at 10	\$112.50	2008	1.00	\$112.50	\$112.50
Hayley Goodson	2008	0.25	\$140	50% of \$280	\$35.00	2008	0.25	\$140	\$35.00
<b>Subtotal:</b>					<b>\$ 2,255.00</b>	<b>Subtotal:</b>			<b>\$2,255.00</b>
<b>COSTS</b>									
<b>#</b>	<b>Item</b>	<b>Detail</b>		<b>Amount</b>	<b>Amount</b>				
1	Consultant Travel	Auto Mileage: Sacramento – San Francisco, round trip		\$110.00	\$110				
2	Lexis Research	October Invoice		\$51.94	\$51.94				
4	Photocopies	TURN Pleadings		\$41.60	\$41.60				
5	Phone/Fax	Case-related only		\$10.18	\$10.18				
<b>Subtotal:</b>				<b>\$213.72</b>	<b>Subtotal:</b>		<b>\$213.72</b>		
<b>TOTAL REQUEST \$:</b>				<b>\$82,855</b>	<b>TOTAL AWARD:</b>		<b>\$71,703.47</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 ½ of preparer's normal hourly rate.</p>									

## C. Additional Comments on Part III:

#	Claimant	CPUC	Comment																																										
1	X		<p><b>Allocation of TURN Attorney and Expert Witness Hours by Issue/Activity Code:</b> TURN has allocated all of our attorney and expert witness time by issue area or activity, as evident on our timesheets attached to this request for compensation. The following codes relate to specific substantive issue areas addressed by TURN:</p> <table> <thead> <tr> <th><u>Code</u></th> <th><u>Hours</u></th> <th><u>Stands for:</u></th> </tr> </thead> <tbody> <tr> <td>MC</td> <td>201.78</td> <td>Marginal Cost Theory &amp; Quantification</td> </tr> <tr> <td>RA</td> <td>27.08</td> <td>Revenue Allocation among Classes</td> </tr> <tr> <td>MC/RA</td> <td>28.50</td> <td>Both MC and RA issues combined</td> </tr> <tr> <td>RRD</td> <td>51.00</td> <td>Residential Rate Design</td> </tr> <tr> <td>Sett</td> <td>18.58</td> <td>Settlement-related work not allocable by issue.</td> </tr> <tr> <td>GP</td> <td>25.75</td> <td>General Preparation, including review of application and other parties' testimony, initial discovery, procedural work, etc.</td> </tr> <tr> <td>#</td> <td>6.25</td> <td>Attorney time editing testimony on all issues.</td> </tr> <tr> <td>GH</td> <td>3.25</td> <td>General hearing-related work not allocable by issue.</td> </tr> <tr> <td>PD</td> <td>4.00</td> <td>Review and analysis of Proposed Decision.</td> </tr> <tr> <td>CSM</td> <td>4.00</td> <td>Review of Commercial Submetering Settlement. (While TURN did not explicitly join in this settlement, our attorney and expert reviewed the terms for consistency with D.07-09-004 (see pp.35-39, 56), in which the Commission adopted certain modifications proposed by TURN in resolving the same basic issues for PG&amp;E.)</td> </tr> <tr> <td>Travel</td> <td>4.00</td> <td>Witness round trip travel to SF for hearing (Billed @ 50%).</td> </tr> <tr> <td><u>Comp</u></td> <td><u>9.25</u></td> <td><u>Work on compensation-related pleadings (Billed @ 50%).</u></td> </tr> <tr> <td></td> <td><b>383.44</b></td> <td><b>Total Hours Claimed</b></td> </tr> </tbody> </table>	<u>Code</u>	<u>Hours</u>	<u>Stands for:</u>	MC	201.78	Marginal Cost Theory & Quantification	RA	27.08	Revenue Allocation among Classes	MC/RA	28.50	Both MC and RA issues combined	RRD	51.00	Residential Rate Design	Sett	18.58	Settlement-related work not allocable by issue.	GP	25.75	General Preparation, including review of application and other parties' testimony, initial discovery, procedural work, etc.	#	6.25	Attorney time editing testimony on all issues.	GH	3.25	General hearing-related work not allocable by issue.	PD	4.00	Review and analysis of Proposed Decision.	CSM	4.00	Review of Commercial Submetering Settlement. (While TURN did not explicitly join in this settlement, our attorney and expert reviewed the terms for consistency with D.07-09-004 (see pp.35-39, 56), in which the Commission adopted certain modifications proposed by TURN in resolving the same basic issues for PG&E.)	Travel	4.00	Witness round trip travel to SF for hearing (Billed @ 50%).	<u>Comp</u>	<u>9.25</u>	<u>Work on compensation-related pleadings (Billed @ 50%).</u>		<b>383.44</b>	<b>Total Hours Claimed</b>
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2	X		<p><b>Travel Time</b> – TURN seeks recovery of the time devoted to traveling (at half the regular hourly rate) and the full amount of travel expenses for work in this proceeding. TURN's expert witness William Marcus traveled to San Francisco from his office in West Sacramento in order to present TURN's position at the evidentiary hearing regarding the settlement. This trip meets the criteria set forth in D.07-10-014: The amount of travel time is reasonable, both when considered in isolation (4.00 hours for round-trip travel between West Sacramento and San Francisco during the work day)</p>																																										

		<p>and in context of this compensation request; the travel was <u>not</u> routine commuting, but rather a trip that would not have been incurred but for TURN's participation in the proceeding; the expenses were reasonably incurred; and there was no less expensive way to participate in the proceeding. Therefore, the Commission should grant compensation for the requested travel time and expenses.</p>
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**D. CPUC Disallowances & Adjustments:**

#	Reason
<p><b>Jones' hours in 2008 and 2009</b></p>	<p>We note that most of Jones' time records fail to describe "the specific task performed" indicating only issues or subjects (for example, "Replacement Costs" or "Marginal Costs" or "RECC &amp; PVRR factor", etc.) This constitutes only partial compliance with Rule 17.4(b) of the Commission Rules of Practice and Procedure, it also makes it appear as if Jones performed his work in the total isolation from the work of other representatives and without producing any outcome. Since he did not present any written or oral testimony, in the absence of information on his communications or written materials addressed to other individuals, it is not clear how his work contributed to the settlement and decision. We hope that in its future requests, TURN will comply with Rule 17.4, as it has been doing in the majority of its previous requests.</p> <p>Fortunately, other TURN's representatives mention a few instances of communicating with Jones or using his work product: 10/29/08 Goodson discussed JBS testimony with Jones; 08/04/08 Marcus discussed RECC calculations with Jones, 10/17/08 he reviewed Jones' work on meter, transformer replacements; and 10/24/08, he checked fixed charge models prepared by Jones. This indirect proof of Jones' input helps us to analyze the requested compensation for his work.</p> <p>Jones worked exclusively on the MC (Marginal Cost Theory &amp; Quantification) issue. From what transpires in Jones' and Marcus' timesheets, we assume that Jones' 158.93 hours were spent to provide input to Marcus' testimony. We note that Marcus himself spent, approximately, 16.50 hours on the same issue and that it occupies some 24 pages of his testimony. Although Marcus' testimony on the MC issue was thorough and valuable, we believe that Jones' additional time in this matter is excessive, especially, in the absence of a clear indication to what extent his work contributed to Marcus' testimony or our decision. To address all of these concerns, we allow 66.00 hours of Jones' time representing approximately four times more hours than Marcus himself spent on the MC issues in his testimony. The total allowed Jones' hours – 84.75 consist of 66.00 hours for Jones' work done, assumingly, towards Marcus' testimony and 18.75 hours spent on document production.</p>

**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 D.09-08-028.
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 \$71,703.47.

**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 \$71,703.47.
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 January 9, 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.
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>	D1005015	<b>Modifies Decision?</b> No
<b>Contribution Decision:</b>	D0908028	
<b>Proceeding:</b>	A0803002, A0712020	
<b>Author:</b>	ALJ Yip-Kikugawa	
<b>Payer:</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	10/26/09	\$82,855	\$71,703.47	No	Undocumented costs, excessive hours

**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
Hayley	Goodson	Attorney	The Utility Reform Network	\$280	2008	\$280
Hayley	Goodson	Attorney	The Utility Reform Network	\$280	2009	\$280
Robert	Finkelstein	Attorney	The Utility Reform Network	\$470	2008	\$470
William	Marcus	Expert	The Utility Reform Network	\$250	2008	\$250
William	Marcus	Expert	The Utility Reform Network	\$250	2009	\$250
Gayatri	Schilberg	Expert	The Utility Reform Network	\$200	2008	\$200
Jeff	Nahigian	Expert	The Utility Reform Network	\$190	2008	\$190
Jeff	Nahigian	Expert	The Utility Reform Network	\$190	2009	\$190
Garrick	Jones	Expert	The Utility Reform Network	\$120	2008	\$120

**(END OF APPENDIX)**