

Decision 10-06-017 June 3, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company (U902G) and Southern California Gas Company (U904G) For Authority to Revise Their Rates Effective January 1, 2009, in Their Biennial Cost Allocation Proceeding.

Application 08-02-001
(Filed February 4, 2008)

DECISION GRANTING REQUEST OF THE UTILITY REFORM NETWORK FOR INTERVENOR COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 09-11-006

Claimant: The Utility Reform Network	For contribution to Decision 09-11-006
Claimed (\$): \$118,941	Awarded (\$): \$115,121.95
Assigned Commissioner: Timothy A. Simon	Assigned ALJ: John S. Wong
Claim Filed: January 22, 2010	

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:	Decision (D.) 09-11-006 adopted with very limited exceptions a broadly-based settlement supported by The Utility Reform Network (TURN) that resolved all of the major issues in Phase 2 of the Biannual Cost Allocation Proceeding for SoCalGas ¹ and SDG&E. ²
--	--

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

	Claimant	CPUC Verified
Timely filing of notice of intent (NOI) to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	April 3, 2008	Correct
2. Other Specified Date for NOI:		

¹ Southern California Gas Company.
² San Diego Gas & Electric Company.

3. Date NOI Filed:	May 5, 2008	Correct
4. Was the notice of intent timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	A.08-02-001	Correct
6. Date of ALJ ruling:	June 25, 2008	Correct
7. Based on another CPUC determination:		
8. Has the Claimant demonstrated customer or customer-related status?		Yes
Showing of “significant financial hardship” (§ 1802(g)):		
9. Based on ALJ ruling issued in proceeding number:	A.08-02-001	Correct
10. Date of ALJ ruling:	June 25, 2008	Correct
11. Based on another CPUC determination (specify):		
12. Has the Claimant demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.09-11-006	Correct
14. Date of Issuance of Final Decision:	November 24, 2009	Correct
15. File date of compensation request:	January 22, 2010	Correct
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant’s description of its contributions to the final decision (see § 1802(i), § 1803(a) & D.98-04-059)

Contribution	Citation to Decision or Record (Provided by Claimant)	Showing Accepted by CPUC
1. TURN successfully negotiated a settlement that reduced SoCalGas’ proposed residential rate increase of 3.1 cents per therm or 6.9% to less than one cent per therm or 2.2%, a saving of over \$50 million. A typical residential customer in SoCalGas’ service territory will actually experience a 1% decrease in their monthly bill.	Application, Appendix A, Table 1 compared with D.09-11-006, Appendix B, Table 1. See also, Decision, at. 2 & 52 adopting settlement, and at 3, last paragraph, describing rate impact on a typical residential customer.	Yes
2. TURN witness Marcus examined SoCalGas’ marginal and embedded cost	TURN Exhibits 101 and 102. “Black box” settlement on cost	Yes

<p>studies in depth and provided a thorough critique in his prepared testimony. TURN witness Florio also provided policy testimony on the use of marginal and embedded cost studies in allocating the utility's revenue requirement. The approved settlement allocates a smaller portion of revenues to the residential class than proposed by SoCalGas.</p>	<p>allocation does not adopt any party's position on the various underlying issues, but the residential class increase was much smaller than proposed, as explained in #1 above. (See Decision at 20-22, 31, 39-40)</p>	
<p>3. TURN proposed a somewhat larger differential between baseline and non-baseline residential rates than SoCalGas and DRA. The settlement adopts TURN's proposal, subject to phase-in limitations. As a result, the baseline rate (and a typical customer's monthly bill) will actually be lower than before as a result of this decision.</p>	<p>Decision at 3, 33-34.</p>	<p>Yes</p>
<p>4. TURN joined with DRA in advocating that core rate deaveraging be limited to 5% per year. The settlement adopted that proposal.</p>	<p>Decision at 35-36.</p>	<p>Yes</p>
<p>5. TURN proposed that SoCalGas regularly submit reports detailing the amount of residential customer bill arrearages and service shut-offs. In the settlement SoCalGas committed to negotiate in good faith with TURN on the contents of such reports, and agreement was ultimately reached on the reporting format.</p>	<p>Decision at 45.</p>	<p>Yes</p>
<p>6. TURN initially proposed retention of the SoCalGas peaking rate, but endorsed SoCalGas' proposed Transmission Level Service (TLS) as a second best alternative for preventing uneconomic partial bypass. The settlement adopted a revised version of the TLS that TURN and SoCalGas believe will deter bypass.</p>	<p>Decision at 40-43.</p>	<p>Yes</p>

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

	Claimant	CPUC Verified
a. Was the Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Yes
b. Were there other parties to the proceeding?	Many	Yes
c. If so, provide name of other parties: The service list for Application (A.) 08-02-001 shows a total of about 25 individual parties. Among those only TURN and DRA actively participated on behalf of small consumers.		Yes
d. Claimant’s description of how it 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 throughout this proceeding. In Phase 1 (Ph 1) TURN deferred entirely to DRA and did not actively participate, because DRA was covering all of the relevant issues. In Phase 2 (Ph 2) TURN took a much more active role and was the only party that examined the Sempra Utilities’ preferred embedded cost study in depth. During the settlement process TURN and DRA worked together with a large number of noncore customer representatives who were taking opposing positions on cost allocation issues. As a result of this division of labor there was no duplication of effort between TURN and DRA and, to the extent that some overlap was unavoidable, TURN’s efforts served to complement those of DRA.		Yes

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

Explanation as to how the cost of Claimant’s participation bears a reasonable relationship with benefits realized through participation	CPUC Verified
TURN’s participation in this proceeding was clearly cost-effective. Under SoCalGas’ proposed embedded cost allocation methodology, residential rates would have increased by 3.1 cents per therm or 6.9% (Application, Appendix A, Table 1). Under the settlement that TURN helped to achieve, residential rates will increase by less than one cent per therm or 2.2% (Decision, Appendix B, Table 1), a saving of over \$50 million for TURN’s constituents. TURN’s costs of participation in this proceeding total only about a quarter of one percent of those benefits.	Yes

B. Specific Claim*:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item ³	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total
M. P. Florio	2008	24.00	\$535	D.08-07-043, p.8	\$12,840.00	2008	24.00	\$535	\$12,840.00
M. P. Florio	2009	135.75	\$535	Res. ALJ-235	\$72,626.25	2009	135.75	\$535	\$72,626.25
N. Suetake	2008	7.75	\$225	D.09-04-027	\$ 1,743.75	2008	0.75	\$225	\$ 168.75
N. Suetake	2009	9.25	\$225	Res. ALJ-235 (i)	\$ 2,081.25	2009	0.00	\$225	\$ 0.00
M. Hawiger	2008	5.25	\$325	D.08-08-027, p.5	\$ 1,706.25	2008	4.75	\$325	\$ 1,543.75
H. Goodson	2009	9.75	\$280	D.08-08-027, p.5; Res. ALJ-235	\$ 2,730.00	2009	9.75	\$280	\$ 2,730.00
Subtotal:					\$93,727.50	Subtotal:			\$89,908.75
EXPERT FEES									
Item	Year	Hours	Rate	Basis for Rate*	Total \$	Year	Hours	Rate	Total
W. Marcus JBS Energy	2008	59.25	\$250	D.08-11-053	\$14,812.50	2008	59.25	\$250	\$14,812.50
W. Marcus JBS Energy	2009	35.42	\$250	JBS left its 2009 rates at the same level already approved for 2008.	\$ 8,855.00	2009	35.42	\$250	\$ 8,855.00
Subtotal:					\$23,667.50	Subtotal:			\$23,667.50

³ We request that in its future claims TURN indicate both the first and the last names of each representative.

INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate	Basis for Rate*	Total	Year	Hours	Rate	Total \$
M. P. Florio	2008	0.75	\$267.50	50% of 2008 rate	\$ 200.63	2008	0.75	\$ 267.50	\$ 200.63
M. P. Florio	2010	4.75	\$267.50	50% of 2009 rate (ii)	\$1,270.63	2009	4.75	\$267.50	\$1,270.63
Subtotal:					\$1,471.26	Subtotal:			\$1,471.26
COSTS									
#	Item	Detail	Amount	Amount					
1	Photocopies	of TURN's pleadings	\$ 3.60	\$ 3.60					
2	Telephone	Calls for this case only	\$ 70.84	\$ 70.84					
Subtotal:			\$ 74.44	Subtotal:	\$ 77.44				
TOTAL REQUEST \$:			\$ 118,941	TOTAL AWARD \$:	\$ 15,121.95				
<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 (the same applies to the travel time).</p>									

C. Additional Comments on Part III:

Comment	Claimant	CPUC	Description/Comment
Note i	X		TURN reserves the right to request a "step increase" to Ms. Suetake's 2009 hourly rate in a future proceeding in which she reports a greater number of 2009 work hours.
Note ii	X		TURN reserves the right to request a higher hourly rate for Mr. Florio's substantive work in 2010 in a future proceeding.
Comment 1	X		In Attachment 1 TURN coded its attorney and expert witness hours as follows: General Preparation (GP) – 13.50 hours; Ph 1 – 2.00 hours; Ph 2 – 264.67 hours; and Compensation-related pleadings (Comp) – 5.50 hours. GP time included various foundational activities early in the proceeding, including attendance at pre-application briefings provided by the utility, initial review of the application,

			<p>drafting of TURN’s initial protest, case scheduling activities, and prehearing conference attendance. As discussed above, TURN did not actively participate in Ph 1 of the proceeding, in part as an effort to avoid duplication with DRA.</p> <p>However, TURN’s attorneys devoted a minimal two hours to tracking the progress of Ph 1 in order to ensure that the settlement in that phase did not pre-empt any of the issues that TURN planned to address in Ph 2. Because Ph 2 was resolved by settlement prior to evidentiary hearings, TURN has not attempted to subdivide its Ph 2 work into more discrete issues, because all issues were addressed together in the settlement process and trade-offs were made among issues, such that work on one particular issue may have influenced the overall outcome of the settlement, even on seemingly unrelated issues.</p>
Comment 2			<p>Since no hearings were held and settlement meetings were conducted primarily by telephone, TURN did not incur any travel-related costs in connection with this proceeding.</p>

D. CPUC Disallowances & Adjustments:

#	Reason
1. Suetake’s hours	<p>Based on our analysis of TURN’s timesheets we conclude that attorney Suetake’s work involved duplicative and inefficient efforts. For example, Marcus (expert) and Florio (attorney) wrote and edited TURN’s testimony, and spent considerable amount of their time on these tasks. In addition, Suetake spent 5 hours (3 in 2008 and 2 in 2009) editing the same documents. Furthermore, Florio participated in a number of the events (see, his time records of 1/7/08, 1/28/08, 2/10/09, 3/2/09, 3/3/09, and 3/5/09), in which Suetake also participated. Considering the fact that her substantive involvement in the proceeding was rather limited, these efforts lacked efficiency. We find that most tasks performed by Suetake were unproductive and non-essential to TURN’s contributions to this proceeding, and we disallow her time spent on such tasks (the total of 7.00 hours in 2008 and 9.25 hours in 2008). We view her remaining tasks (reflected in her time records of 9/23/08 and 12/18/08) as necessary for TURN’s contributions.</p>
2. Hawiger’s hours	<p>According to Hawiger’s timesheets, on July 1, 2008, he read Scoping Memo and calendared filing dates. We consider this task clerical and thus non-compensable.</p> <p>Considering Hawiger’s overall limited contributions to this proceeding, we disallow his time (0.25 hours) spent on September 18, 2008, reviewing Ph 1 settlement, as spent on unproductive and duplicative effort, unnecessary for TURN’s claimed contribution to this proceeding.</p>

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim (Y/N)?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(2)(6)) (Y/N)?	Yes

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision (D.) 09-11-006.
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 \$115,121.95.

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 \$115,121.95.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company and Southern California Gas Company shall pay Claimant their respective shares of the total award, based on their California-jurisdictional electric and gas revenues for the 2009 calendar year, to reflect the year in which Phase 2 of the proceeding was primarily litigated. 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 April 7, 2010, the 75th 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 is closed.
5. This decision is effective today.

Dated June 3, 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**

Compensation Decision:	D1006017	Modifies Decision? No
Contribution Decision(s):	D0911006	
Proceeding(s):	A0802001	
Author:	ALJ John Wong	
Payer(s):	San Diego Gas & Electric Company, Southern California Gas Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	1/22/10	\$118,941	\$115,121.95	No	Unproductive, inefficient efforts, non-compensable clerical time.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michel	Florio	Attorney	The Utility Reform Network	\$535	2008	\$535
Michel	Florio	Attorney	The Utility Reform Network	\$535	2009	\$535
Nina	Suetake	Attorney	The Utility Reform Network	\$225	2008	\$225
Nina	Suetake	Attorney	The Utility Reform Network	\$225	2009	\$225
Marcel	Hawiger	Attorney	The Utility Reform Network	\$325	2008	\$325
Hayley	Goodson	Attorney	The Utility Reform Network	\$280	2009	\$280
William	Marcus	Expert	The Utility Reform Network	\$250	2008	\$250
William	Marcus	Expert	The Utility Reform Network	\$250	2009	\$250

(END OF APPENDIX)