

Decision 10-09-041 September 23, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Rulemaking regarding whether, or subject to what Conditions, the suspension of Direct Access may be lifted consistent with Assembly Bill 1X and Decision 01-09-060.

Rulemaking 07-05-025
(Filed May 24, 2007)

**DECISION AWARDING INTERVENOR COMPENSATION TO
THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO
DECISION (D.) 10-03-022 AND D.10-05-039**

Claimant: The Utility Reform Network (TURN)	For contribution to D.10-03-022 & D.10-05-039
Claimed: \$35,854.20	Awarded: \$35,854.20
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Thomas R. Pulsifer

PART I: PROCEDURAL ISSUES

- A. Brief Description of Decision:** D.10-03-022 adopted the initial rules needed to facilitate the limited reopening of Direct Access (DA) pursuant to Senate Bill (SB) 695. D.10-05-039 modified D.10-03-022 in response to a petition filed by TURN and other parties to eliminate an inadvertent timing problem.

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

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	N/A	Yes
2. Other Specified Date for NOI:	Within 30 days of the issuance of the Order	Yes

	Instituting Rulemaking (OIR). ¹	
3. Date NOI Filed:	June 25, 2007	Yes
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:	R.07-05-025, the instant proceeding	Yes
6. Date of ALJ ruling:	August 17, 2007	Yes
7. Based on another CPUC determination (specify):		
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:	R.07-05-025, the instant proceeding	Yes
10. Date of ALJ ruling:	August 17, 2007	Yes
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.10-05-039	Yes
14. Date of Issuance of Final Decision:	May 21, 2010	Yes
15. File date of compensation request:	July 16, 2010	Yes
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	X		This is TURN’s third request for compensation in this docket. TURN’s prior requests were addressed by D.08-11-055 and D.09-07-050. None of the hours or expenses claimed in those earlier requests are included in this filing.

¹ The OIR was issued on May 30, 2007.

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant’s description of its claimed contribution to the final decision:

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
TURN’s procedural comments, filed 12/7/09, suggested that the investor-owned utilities (IOU) be required to provide additional data (pp. 1-2), and recommended a narrowing of the scope of this phase (pp. 2-3).	The Assigned Commissioner ruling of 12/17/09 adopted TURN’s procedural recommendations at pages 2, 3, and 5.	Yes
TURN stated its initial substantive positions in comments filed 1/5/10 and indicated an interest in working with other parties on consensus positions. Thereafter TURN joined with a broadly-based coalition of parties (the “Joint Parties”) to propose a comprehensive set of rules and policies in reply comments filed 2/1/10.	D.10-03-022 adopted the vast majority of the Joint Parties’ 2/1/10 recommendations (see pages 13, 17, 20-22), including TURN’s proposal to true-up annual Local Resource Adequacy obligations to reflect mid-year load migration resulting from the reopening of DA (pp. 26-29).	Yes
TURN’s separate reply comments, also filed 2/1/10, argued that SB 695 does not allow for additional residential DA.	D.10-03-022 adopted TURN’s position at page 23.	Yes
The Joint Parties’ comments on the Proposed Decision, filed 3/1/10, suggested that each IOU maintain a “waiting list” to backfill any unused portion of the first-year allocation.	D.10-03-022 adopted the Joint Parties’ waiting list proposal at pages 17-18.	Yes
After D.10-03-022 was issued, TURN and other Joint Parties noted that the adopted timeline did not allow sufficient time for the waiting list process to be effective. Accordingly, the Joint Parties promptly submitted a Petition for Modification on 3/25/10 proposing a modest change to the decision to correct that problem.	D.10-05-039 adopted the changes proposed in the Joint Petition for Modification.	Yes

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

	Claimant	CPUC Verified
a. Was DRA a party to the proceeding?	Yes	Correct
b. Were there other parties to the proceeding?	Yes	Correct
c. If so, provide name of other parties: See service list for R.07-07-025 in attached certificate of service.		Correct
d. Describe how you coordinated with the Division of Ratepayer Advocates (DRA) and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party: TURN actively worked with a coalition of parties with diverse interests to develop a near-consensus set of proposals for SB 695 implementation. While TURN actively consulted with DRA during the course of the proceeding, DRA did not join the Joint Parties group.		Correct

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

Claimant's explanation as to how the cost of claimant's participation bore a reasonable relationship with benefits realized through claimant's participation	CPUC Verified
TURN achieved a high level of success in this proceeding and significantly assisted the Commission's effort to issue a timely decision on SB 695 implementation by helping to build broad party consensus under extreme time constraints. TURN's costs of participation in this proceeding were quite small in relation to its degree of success in the proceeding.	Yes

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. Florio	2009	4.00	535	D.09-08-025	2,140.00	2009	4.00	535	2,140.00
M. Florio	2010	61.50	535	D.10-05-012	32,902.50	2010	61.50	535	32,902.50
Subtotal: \$35,042.50						Subtotal: \$35,042.50			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. Florio	2010	3.00	267.50	50% of 2010 rate	802.50	2010	3.00	267.50	802.50
Subtotal: \$802.50						Subtotal: \$802.50			
COSTS									
#	Item	Detail			Amount \$	Amount \$			
1	Photocopies	Copies of TURN's pleadings			7.60	7.60			
2	Postage	Mailing of TURN's pleadings			1.60	1.60			
Subtotal: \$9.20						Subtotal: \$9.20			
TOTAL REQUEST: \$35,854.20						TOTAL AWARD: \$35,854.20			
<p>**Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.</p> <p>We remind all intervenors that Commission's 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 seeks 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>									

C. Comments Documenting Specific Claim:

Comment #	Description/Comment
1	TURN typically includes in its compensation requests an allocation of time among the issues that it addressed. In this case, TURN's participation addressed a multitude of discrete issues within a constrained time period, often via discussion with other parties that covered numerous different topics. Especially given TURN's high degree of success in this phase, TURN submits that compensation is merited for the full amount of time that TURN's attorney devoted to the proceeding.

D. CPUC Disallowances: None

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim?

No

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

Yes

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision (D.)10-03-022 and D.10-05-039.
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 \$35,854.20.

CONCLUSION OF LAW

1. The claim satisfies all requirements of Public Utilities Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$35,854.20.
2. Within 30 days of the effective date of this decision, the investor-owned utilities (IOUs), Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall pay The Utility Reform Network a pro-rated share of the total award of \$35,854.20. The proration shall be computed based upon each IOU's respective share of total California-jurisdictional electric revenues for calendar year 2010. 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 September 29, 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 decision is effective today.

Dated September 23, 2010, at San Francisco, California

MICHAEL R. PEEVEY

President

DIAN M. GRUENEICH

TIMOTHY ALAN SIMON

NANCY E. RYAN

Commissioners

Commissioner John A. Bohn, being
necessarily absent, did not
participate.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D1009041	Modifies Decision? No
Contribution Decision(s):	D1003022 and D1005039	
Proceeding(s):	R0705025	
Author:	ALJ Thomas R. Pulsifer	
Payer(s):	Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	07-16-10	\$35,854.20	\$35,854.20	No	None

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	2009	\$535
Michel	Florio	Attorney	The Utility Reform Network	\$535	2010	\$535

(END OF APPENDIX)