

Decision 10-09-042 September 23, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Expedited Authorization to Change Residential Electric Rates Effective June 1, 2010, to Provide Summer 2010 Rate Relief for Households with Upper Tier Consumption. (U39E)

Application 10-02-029
(Filed February 26, 2010)

**DECISION GRANTING REQUEST OF THE UTILITY REFORM NETWORK FOR
INTERVENOR COMPENSATION FOR SUBSTANTIAL CONTRIBUTIONS TO
DECISION 10-05-051**

Claimant: The Utility Reform Network (TURN)	For contribution to Decision (D.) 10-05-051
Claimed (\$): \$39,366	Awarded (\$): \$37,067
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Robert A. Barnett
Claim Filed:	July 19, 2010

PART I: PROCEDURAL ISSUES**A. Brief Description of Decision:**

The decision approved a settlement that, relative to March 1, 2010 rates, reduces Tier 4 by 2.5 cents and Tier 5 rates by 10.0 cents while increasing Tier 3 rates by approximately 0.5 cents/kWh. The settlement was achieved and approved in time to have these rate changes reflected in Pacific Gas and Electric Company (PG&E)'s tariffs by June 1, 2010, thus affording some amount of rate relief to upper tier residential customers in the summer of 2010.

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 1, 2010	Correct
2. Other Specified Date for NOI:		
3. Date NOI Filed:	April 14, 2010	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:	See note #1	Application (A.) 08-05-023
6. Date of ALJ ruling:		April 22, 2009
7. Based on another CPUC determination (specify):	See note #1	
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:	See note #1	A.08-05-023
10. Date of ALJ ruling:	See note #1	April 22, 2009
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.10-05-051	Correct
14. Date of Issuance of Final Decision:	May 26, 2010	Correct
15. File date of compensation request:	July 19, 2010	Correct
16. Was the request for compensation timely?		Yes

C. Additional Comments on Part I:

#	Claimant	CPUC	Comment
1	X		To TURN's knowledge, there has not yet been a ruling on TURN's timely-filed NOI in this proceeding. TURN's showing on financial hardship and customer status was contained in that NOI. TURN has previously been found to satisfy these two standards -- for example see ALJ ruling of 9/12/2008 in A.08-03-015, and ALJ Ruling of April 22, 2009 in A.08-05-023.

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

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
<p>1. Pre-application consultation with PG&E and the Division of Ratepayer Advocates (DRA): In early 2010, TURN participated in a number of meetings with PG&E and DRA to explore possibilities for achieving relief for residential customers who regularly face Tier 4 and 5 rates, in order to address outcries from PG&E customers to summer bills, particularly in the inland portions of PG&E's service territory. While the meetings did not lead to an agreed-upon approach at the time, TURN's participation helped inform the development of TURN's position and preparation of a more substantive protest to the PG&E application than would normally be the case.</p>	<p>Rule 17.4(d): The request for compensation may include reasonable costs of participation in the proceeding that were incurred prior to the start of the proceeding.</p>	<p>Yes</p>
<p>2. TURN Protest: TURN engaged in substantial discovery much earlier in the application process in order to be prepared to provide more substantive positions in our protest as compared to a typical proceeding, in light of the utility-requested expedited review of these issues, and the common desire to have any appropriate relief available by the summer of 2010. As a result, TURN's protest was more substantive and laid out in greater detail the group's objections to the utility-proposed approach and to present an alternative that would achieve rate relief on terms TURN believed to be more equitable.</p> <p>TURN's protest also raised concerns regarding PG&E's inclusion of testimony on the impact of inclining block rates on achieving the state's energy efficiency goals. TURN urged PG&E to withdraw the testimony in order to enable the accelerated review the utility sought. When in PG&E's reply to protests the utility did not agree to withdraw the testimony, TURN argued at the prehearing conference (PHC) that the testimony should be stricken. The ALJ agreed with TURN.</p>	<p>TURN Protest (March 23, 2010), particularly pages 4 and 7 citing discovery responses.</p> <p>TURN Protest at 9-11; PHC Transcript at 9.</p>	<p>Yes</p>
<p>3. Settlement outcome -- rates: TURN's protest supported the recommendation of the DRA protest to achieve rate relief by consolidating Tiers 4 and 5,</p>	<p>TURN Protest at 7-8.</p>	<p>Yes</p>

<p>without increasing Tier 3 rates. TURN joined in a settlement with PG&E and DRA to achieve reductions to Tier 4 and Tier 5 of PG&E residential rates in a manner that included consolidation of those tiers, while minimizing the impact on Tier 3 rates. PG&E originally proposed to increase Tier 3 rates by approximately 4.3 cents per kWh. The settlement achieved rate relief for Tier 4 and Tier 5 with only a 0.5 cent per kWh increase to Tier 3 rates.</p>	<p>D.10-05-051, Table 1 (at 3) compared with Paragraph 3 at 9.</p>	
<p>4. Settlement Outcome – outreach materials: TURN’s protest raised the issue of requiring PG&E’s informational materials regarding the residential rate changes to make clear that any rate relief was being funded by other PG&E ratepayers, rather than by the utility or its shareholders. The Settlement included a provision requiring that any advertising campaign to publicize the rates under the settlement agreement would include a disclosure to this effect.</p>	<p>TURN Protest at 8-9; Settlement Agreement, Section V.6 (at 6).</p>	<p>Yes</p>

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

	Claimant	CPUC Verified
<p>a. Was DRA a party to the proceeding?</p>	<p>Y</p>	<p>Correct</p>
<p>b. Were there other parties to the proceeding?</p>	<p>Y</p>	<p>Correct</p>
<p>c. If so, provide name of other parties: Marin Energy Authority.</p>		<p>Marin Energy Authority’s motion for party status was denied. D.10-05-051 at 13.</p>
<p>d. Claimant’s description of how Claimant coordinated with DRA and other parties to avoid duplication or how Claimant’s participation supplemented, complemented, or contributed to that of another party: TURN worked very closely with DRA in this proceeding, both in the discussions with PG&E before the application was filed and in the course of developing each party’s protest, preparing for the PHC, and then engaging in the negotiations that ultimately resulted in the settlement agreement adopted in D.10-05-051. As a result, TURN and DRA minimized the overlap between issues addressed and positions taken in the protest and, in doing so, maximized the issues covered. For example, before the prehearing conference TURN and DRA discussed how to best approach the substantive and procedural issues for this application and agreed upon a general approach that had TURN take the lead on several matters addressed during the PHC. TURN and DRA continued to closely coordinate our efforts during the ensuing settlement negotiations and, as a result, achieved a very reasonable</p>		<p>Yes</p>

<p>outcome for PG&E ratepayers.</p> <p>Where, as here, there were only three active parties in the proceeding (at least until the very last throes of the proceeding) and two represented ratepayer interests, there will be some amount of overlap. TURN submits that we took all reasonable steps to minimize such overlap and to ensure that when it did occur it served to permit TURN and DRA to supplement and complement each other's showing on these issues.</p>	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

Explanation by Claimant as to how the cost of Claimant's participation bore a reasonable relationship with benefits realized through participation.	CPUC Verified
<p>PG&E's application sought to provide rate relief to customers whose consumption incurs Tier 4 and 5 rates by substantially increasing the utility's Tier 3 rates. As described in TURN's protest, the summer bill reduction for Tier 4 and 5 consumption would have been approximately \$27 million, with a corresponding increase to Tier 3 amounts on summer bills. TURN's efforts helped to reduce that impact to a much smaller figure. The total hours included in this request represent less than a week of attorney time for the discussions with PG&E and DRA and the internal consultation and analysis that preceded the application, and approximately 1.5 weeks of a single attorney's time for the post-application work leading up to the settlement adopted in D.10-05-051. In light of the millions of dollars at stake in this proceeding, TURN's requested intervenor compensation of approximately \$40,000 is very reasonable.</p>	Yes

B. Specific Claim*

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$ ¹
Robert Finkelstein	2010	61.0	\$470	Rate approved for 2009 work in D.09-10-051	\$28,670	2010	61.0	\$470	\$28,670
Michel Florio	2010	5.5	\$535	Rate approved for 2008 work in D.08-07-043.	\$2,943	2010	2.25	\$535	\$1,204
Hayley	2010	24.75	\$280	Rate approved for	\$6,930	2010	22.75	\$280	\$6,370

¹ Rounded to the nearest dollar.

Goodson				2009 work in D.09-10-051						
<i>Subtotal:</i>					\$38,543	<i>Subtotal:</i>				\$36,244
INTERVENOR COMPENSATION CLAIM PREPARATION**										
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$	
Robert Finkelstein	2010	3.5	\$235	½ rate approved for 2009 work in D.09-10-051	\$823	2010	3.5	\$235	\$823	
<i>Subtotal:</i>					\$823	<i>Subtotal:</i>				\$823
TOTAL REQUEST \$:					\$39,366	TOTAL AWARD \$:				\$37,067

*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 (the same applies to the travel time).

C. Additional Comments on Part III:

#	Claimant	CPUC	Comment
1			<p>Allocation of Time by Issue: TURN typically includes in its compensation requests an allocation of time among the issues that it addressed. In this case there was a single over-riding issue: How to provide rate relief to Tier 4 and Tier 5 customers in a manner that could be implemented before the summer of 2010. Since TURN’s participation addressed only this single issue, TURN has not attempted to allocate time by issue. The attached time sheets provide an allocation by task that might be a useful substitute under the circumstances.</p> <p>There is a pre-application period that includes all of Mr. Florio’s 5.5 hours and nearly all of the hours for Ms. Goodson (20.75 of the total 24.75 hours).</p> <p>After PG&E filed its application, due to internal workload issues Mr. Finkelstein assumed the primary role for TURN. The bulk of the post-application hours were incurred during Mr. Finkelstein’s review of the application and supporting testimony, preparation of discovery requests and review and analysis of PG&E’s responses thereto, and drafting the protest served March 23, 2010. (35 hours for Mr. Finkelstein, and 3.25 hours for Ms. Goodson).</p> <p>The period between the protest due date and the PHC on April 1, 2010</p>

		<p>included 10.5 hours for Mr. Finkelstein as TURN continued conducting discovery and coordinating with DRA (with the initial settlement discussions among the parties also included during that point).</p> <p>Finally, after the PHC Mr. Finkelstein recorded 15.5 hours (with a single entry of 0.5 hours for Ms. Goodson) associated with negotiating and finalizing the settlement and reviewing the proposed decision on the proposed settlement.</p> <p>There is also a single entry for 0.5 hours for preparation of the NOI to claim intervenor compensation, which is reflected separately in the table above (along with the 3.0 hours devoted to preparing this Request for Compensation, which are not included in the attachment because TURN was unable to enter them into our timekeeping system due to TURN staff vacations schedules).</p> <p>TURN submits that under the circumstances this information should suffice to address the allocation requirement under the Commission’s rules. Should the Commission wish to see additional or different information on this point, TURN requests that the Commission so inform TURN and provide a reasonable opportunity for TURN to supplement this showing accordingly.</p>
2		<p>Hourly Rate for TURN attorneys 2010: The Commission has not previously authorized an hourly rate for TURN’s attorneys where a substantial portion of the substantive work in the proceeding occurred in 2010. In this proceeding TURN requests compensation using the previously-approved 2009 hourly rates for each attorney’s 2010 work. TURN reserves the right to seek a higher hourly rate for work performed in 2010 in a future request for compensation.</p>

D. CPUC Disallowances & Adjustments:

#	Reason
Florio’s Hours	<p>The January 13, 2010 timesheets for attorneys Michel Florio and Hayley Goodson indicate participation in the telephone conference. In addition, Goodson discussed the conference with Florio afterwards. Requesting compensation for two attorneys for the same activity is not justified. Since Goodson devoted considerably more hours to pre-application work, we allow all of her hours and disallow Florio’s time (1.00 hour) spent attending the conference.</p> <p>Further duplication of these representatives’ efforts occurred on February 10, 2010, when they attended the same telephone conference, and Goodson discussed the conference with Florio afterwards. Under the same reasoning as above, we allow all of Goodson’s hours and disallow Florio’s time (1.75 hours) spent on this activity.</p> <p>Also, on February 19, 2010, Goodson and Florio participated in the same telephone conference with PG&E. Compensating such duplicative effort is unreasonable. We</p>

allow all of Goodson’s time and disallow Florio’s time (0.50) spent participating in the conference.
The total of the disallowed hours for Florio is 3.25.

Goodson’s Hours

After the application was filed (2/26/10), TURN’s participation was handled by Robert Finkelstein. However, until April 7th, Goodson continued to work on this proceeding. The excerpts from the timesheets demonstrate how tasks were distributed:

Date	Tasks Performed by Goodson/Time	Tasks Performed by Finkelstein/Time
2/26/10	Skim the application – 0.25	
3/4/10	Discuss issues and strategy during Energy Division meeting – 0.50	Discussion with Energy Division staff and initial review of testimony
3/5/10	Discuss bill impacts and discovery with Finkelstein – 0.25	Review application and the related materials
3/8/10	Consolidate data, share with Finkelstein analysis of data on bill impacts; discuss case and data TURN had with Finkelstein – 1.50	Meet with Goodson to discuss lead-up to application; review application and testimony, draft discovery requests
3/9/10-3/31/10	3/17 Help Finkelstein with research for protest (issue of crediting ratepayers for rate relief) – 1.00	Review and analyze application and the related materials; prepare the relevant correspondence; finish discovery requests; analyzing discovery data; writing protest to the application; correspondence on strategy; preparing for a PHC, etc.
4/1/10-4/7/10	4/7 Review settlement materials; discuss settlement scenarios with Finkelstein – 0.50	Communications related to the settlement; participation in PHC and numerous settlement calls; analysis of the discovery data, communications with parties to the settlement, etc.
4/7/10-4/20/10		Settlement calls, negotiating with PG&E re: settlement provisions; review and edit settlement pleadings; write settlement-related correspondence; revisions, etc.
5/11/10-5/12/10		Review proposed decision, write the related correspondence, etc.
Total time	4.0 hours	61.0 hours

These records show duplicative tasks, for example, participation in the March 4, 2010 meeting, review of the application, discussion of the strategy and settlement materials, or communications regarding settlement strategy, etc. We note, however, that Finkelstein’s records indicate his deeper and more extensive involvement with the proceeding, which corresponds with TURN’s statement in this regard (TURN’s comment in Part III.C.). We find that the overlap in certain tasks performed by Goodson and Finkelstein was in the case of Goodson unreasonable and unproductive. To avoid compensation for these efforts, we reduce Goodson’s time by one half

	(2 hours). We allow compensation for two hours of Goodson's work consisting of consolidating data and doing research on the issue of crediting ratepayers for rate relief.
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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 (<i>see</i> Rule 14.6(2)(6))?	Yes
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FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision (D.) 10-05-051.
2. The claimed fees, 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 \$37,067.

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 \$37,067.
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 October 2, 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:	D1009042	Modifies Decision? No
Contribution Decision:	D1005051	
Proceeding:	A1002029	
Author:	ALJ Robert Barnett	
Payer:	Pacific Gas and Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	7/19/10	\$39,366	\$37,067	No	Duplicative and unproductive efforts

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Robert	Finkelstein	Attorney	The Utility Reform Network	\$470	2010	\$470
Michel	Florio	Attorney	The Utility Reform Network	\$535	2010	\$535
Hayley	Goodson	Attorney	The Utility Reform Network	\$280	2010	\$280

(END OF APPENDIX)