

Decision 10-10-014 October 14, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider Refinements to and Further Development of the Commission's Resource Adequacy Requirements Program.

Rulemaking 05-12-013
(Filed December 15, 2005)

**DECISION AWARDING INTERVENOR COMPENSATION
TO THE UTILITY REFORM NETWORK
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 10-06-018**

Claimant: The Utility Reform Network (TURN)	For contribution to Decision (D.) 10-06-018
Claimed (\$): 238,402¹	Awarded (\$): 238,193
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: Mark S. Wetzell

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

D.10-06-018 determined that a centralized capacity market should not be adopted in California at this time and found that the proposal of the Bilateral Trading Group (BTG), of which TURN was an active member, best met the Commission's policy goals for Resource Adequacy (RA). The decision also closed Rulemaking (R.) 05-12-013, and brought an end to five years of work for TURN and other parties on capacity market structure and related issues.

¹ TURN makes a minor miscalculation error in totaling its award. We correct this error here. The corrected total is \$238,402.

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

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	February 3, 2006	Yes
2. Other Specified Date for the Notice of Intent (NOI):		
3. Date the NOI Filed:	March 6, 2006	Yes
4. Was the NOI timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	R.05-12-013, the instant proceeding	Yes
6. Date of ALJ ruling:	April 10, 2006	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.05-12-013, the instant proceeding	Yes
10. Date of ALJ ruling:	April 10, 2006	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.10-06-018	Yes
14. Date of Issuance of Final Decision:	June 7, 2010	Yes
15. File date of compensation request:	August 4, 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 in Phase 1 and in Phase 2, Track 1 were addressed by D.07-03-011 and D.08-04-034. None of the hours or expenses claimed in those earlier requests are included in this filing.

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 was instrumental in forming, and an active member of, the Bilateral Trading Group (BTG). The BTG's proposal for incremental improvements to the existing bilateral RA procurement framework, rather than adoption of a centralized capacity market, was found most consistent with the Commission's RA policy goals.	BTG proposal filed 3/30/07 and subsequent written comments; D.10-06-018, page 3.	Yes
TURN filed individual reply comments on 3/14/08 opposing Alliance for Retail Energy Market's (AREM's) proposal for an opt-out from the cost allocation mechanism (CAM).	D.10-06-018 rejected AREM's proposal, citing TURN's criticisms, at page 74.	Yes
TURN filed separate opening and reply comments on the original PD on 12/2/09 and 12/11/09, arguing that the PD's legal analysis was incorrect and opposing the multi-year forward procurement obligation adopted by the PD.	The original PD was revised in a manner consistent with TURN's comments on 3/30/10 and ultimately adopted by the Commission in D.10-06-018.	Yes
TURN's initial comments and reply comments regarding the staff Capacity Markets White Paper, filed 9/23/05 and 10/11/05 in R.04-04-003 and incorporated into the record of this proceeding by the 12/15/05 OIR (OP 3, page 11) urged a "go slow" approach with respect to this Commission's consideration of a centralized capacity market.	The scoping memo for Phase 2 issued 12/22/06 found that "great care must be taken in developing a complete, fully vetted record on centralized capacity markets and alternatives such as bilateral trading" (p. 14) and adopted a schedule that allowed time for TURN and other like-minded parties to form the BTG coalition and develop a comprehensive alternative proposal, which the Commission largely adopted in D.10-06-018.	Yes
In the ALJ ruling dated 2/28/07 parties were "encouraged to form coalitions and file joint proposals on as many Track 2	TURN took this advice and worked with a diverse group of parties to form the BTG and present a joint	Yes

topics as possible” (p. 3).	proposal that was supported by many different interests throughout the industry.	
-----------------------------	--	--

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

	Claimant	CPUC Verified
a. Was DRA a party to the proceeding?	Yes	Yes
b. Were there other parties to the proceeding?	Yes	Yes
<p>c. If so, provide name of other parties:</p> <p>See service list for R.05-12-013 in attached certificate of service. Virtually all entities involved in the California electric industry were parties to this proceeding, including the IOUs, the CAISO, generators, marketers, retailers, and end users. The BTG included, at various times, in addition to TURN and DRA, APS Energy Services, the California Electricity Oversight Board, the California Large Energy Consumers Association, the California Manufacturers and Technology Association, the City and County of San Francisco, the Energy Users Forum, J. Aron and Company, Direct Energy, L.L.C., and Shell Energy North America (US), L.P., or their predecessor organizations.</p>		Correct
<p>d. Claimant’s description of how it coordinated with DRA and other parties to avoid duplication or its participation supplemented, complemented, or contributed to that of another party:</p> <p>TURN actively worked with a broad coalition of parties with diverse interests to develop a consensus set of proposals for presentation as the “BTG proposal” in this docket. TURN was a “charter member” of the BTG, and DRA joined the effort shortly thereafter. All of the BTG members worked together to develop a joint position and prepare joint comments throughout the proceeding. While the development of such a diverse coalition necessarily required time in group discussions to come up with a broadly acceptable consensus position, any inefficiency inherent in that process was more than outweighed by the <i>far greater efficiency</i> achieved by the filing of joint comments on behalf of a number of parties. This coalition approach greatly reduced the amount of time that TURN staff had to spend preparing written comments, because the members of the BTG shared drafting duties among them. This enabled TURN to make a far more comprehensive and convincing presentation than would have ever been possible for a single party acting alone.</p>		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
<p>TURN's work in this proceeding, in coalition with other like-minded parties, achieved an extremely successful result, since the BTG position was opposed by the entire generator community and two of the three large IOUs, as well as the CAISO. TURN believes that the ratepayers of the three large IOUs will save hundreds of millions of dollars in future years as a result of the rejection of the centralized capacity market proposal. TURN's costs of participation in this proceeding were quite modest in relative to its degree of success in the proceeding and the magnitude of the issues at stake.</p>	<p>After the reductions and disallowance we make to this claim, the remainder of TURN's hours and costs are reasonable and should be compensated.</p>

B. Specific Claim:

CLAIMED						CPUC AWARD			
ATTORNEY AND ADVOCATE FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M.P. Florio	2005	37.75	470	D.06-07-011	17,742.50	2005	37.75	470	17,742.50
M.P. Florio	2006	43.50	485	D.06-11-032	21,097.50	2006	43.50	485	21,097.50
M.P. Florio	2007	200.50	520	D.08-03-012	104,260.00	2007	200.50	520	104,260.00
M.P. Florio	2008	98.00	535	D.08-07-043	52,430.00	2008	98.00	535	52,430.00
M. P. Florio	2009	19.50	535	D.09-08-025	10,432.50	2009	19.50	535	10,432.50
M.P. Florio	2010	19.00	535	D.10-05-012	10,165.00	2010	19.00	535	10,165.00
B.Finkelstein	2007	1.25	435	D.07-11-033	543.75	2007	1.25	435	543.75
Subtotal: \$216,671.25						Subtotal: \$216,671.25			
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
K. Woodruff	2005	0.50	200	D.09-12-040	100.00	2005	0.50	200	100.00
K. Woodruff	2006	2.50	225	D.07-06-045	562.50	2006	2.50	225	562.50
K. Woodruff	2007	64.50	225	D.07-10-012	14,512.50	2007	64.50	225	14,512.50

K. Woodruff	2008	1.00	225	D.09-06-046	225.00	2008	1.00	225	225.00
Subtotal: \$15,400.00						Subtotal: \$15,400.00			
OTHER FEES (travel)									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M.P. Florio	2007	12.00	260	50% of 2007 rate	3,120.00	2007	12.00	260	3,120.00
Subtotal: \$3,120.00						Subtotal: \$3,120.00			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. P. Florio	2010	8.50	267.50	50% of 2010 rate	2,273.75	2010	8.50	267.50	2,273.75
Subtotal: \$2,273.75						Subtotal: \$2,273.75			
COSTS									
#	Item	Detail			Total \$	Total \$			
1	Expert Travel Expenses	Auto mileage and parking, Amtrak and BART fares, and meals (SF and Folsom).			209.50	--0--			
2	Attorney Travel Expenses	Mileage roundtrip to CAISO stakeholder meetings in Folsom.			320.10	320.10			
3	Photocopies	Copies of TURN's pleadings			383.40	383.40			
4	Postage	Mailing of TURN's pleadings			22.07	22.07			
5	Telephone	Calls related to this case			1.96	1.96			
Subtotal: \$937.03						Subtotal: \$727.53			
TOTAL REQUEST: \$238,402²						TOTAL AWARD: \$238,193³			
<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 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> <p>**Reasonable claim preparation time typically compensated at 1/2 of preparer's normal hourly rate.</p>									

² Rounded to nearest dollar amount.

³ Rounded to nearest dollar amount.

C. Comments Documenting Specific Claim:

Comment #	Description/Comment
#1	<p>In accordance with our typical practices, TURN allocated the time of its attorneys and expert consultant among the issues addressed in the proceeding. In Phase 2, Track 2 of this case, most of TURN’s participation was focused on the issue of capacity market structure, and is coded as activity “CM” in the attached timesheets. Further, since D.10-06-018 closed R.05-12-013, this request includes a few hours of “clean-up” activity on issues from earlier phases, reflecting work performed subsequent to the filing of our last compensation request in this docket on 8/24/07. This includes 2.5 hours of Florio’s time in September of 2007 on “Track 1” and “Track 3” issues, as well as 27.0 hours of Woodruff’s time in July through October of 2007 and January of 2008, primarily on issues related to improvements in the Local Capacity Requirements (“LCR”) study process that were addressed via an Assigned Commissioner’s Ruling on 11/1/07 in this docket. The improvements to the LCR study process that Woodruff helped to develop have resulted in smoother integration of CAISO LCR studies into the Commission’s RA proceedings in subsequent years.</p> <p>Initially the scope of Phase 2, Track 2 included an issue regarding potential changes to the Commission’s adopted Planning Reserve Margin (PRM). Florio and particularly Woodruff devoted time in this docket to PRM-related issues during late 2007. However, on 11/19/07 the Assigned Commissioner issued a ruling stating that PRM matters would be severed from this docket and subsequently considered in a new proceeding, which became R.08-04-012. Accordingly, TURN has removed most PRM-related hours from this request and will include them in a future request that may be filed in R.08-04-012.</p> <p>Also, consideration of the capacity markets issue actually began in 2005 in R.04-04-003, pursuant to an Assigned Commissioner ruling issued 2/28/05 in that docket. A staff White Paper was released on 8/25/05 and TURN spent time discussing that report with staff and filing two rounds of comments in R.04-04-003. Thereafter, consideration of the capacity markets issue was transferred to this proceeding when R.05-12-013 was launched in December of 2005. The OIR specifically stated that the comments filed in R.04-04-003 on this issue would become part of the record in R.05-12-013 (OP 3, p. 11). TURN therefore transferred the hours originally recorded in R.04-04-003 on the capacity markets issue to this docket, and they are included in this request. None of those hours were ever claimed for compensation purposes in R.04-04-003.</p> <p>Finally, the Assigned Commissioner ruling issued 5/25/07 in this docket provided that at least a portion of the analysis of alternative capacity market structures would take place in a CAISO stakeholder process, rather than in a CPUC proceeding, and that CAISO staff would assist in the preparation of the Energy Division’s staff report in this case. Accordingly, TURN’s representatives participated in several meetings at the CAISO related to the subject matter of this proceeding. The time and expenses involved in participating in those meetings are also included in this request, since participation at the CAISO was integral to</p>

	<p>the work before this Commission and directly contributed to the ultimate staff report.</p> <p>Especially given TURN’s high degree of success in this proceeding, TURN submits that compensation is merited for the full amount of time that TURN’s attorneys and expert consultant devoted to the proceeding, as reflected in the attached timesheets.</p>
Comment 2	<p>Michel Peter Florio was TURN’s lead attorney in this proceeding and recorded the lion’s share of TURN’s hours, as reflected in the attached timesheets. Bob Finkelstein devoted a few hours to this case in the July of 2007, while Florio was on vacation. Florio was also assisted by Kevin Woodruff of Woodruff Expert Services in Sacramento, who has acted as TURN’s primary expert consultant on procurement, resource adequacy and PRM issues for several years. Woodruff devoted his efforts primarily to some of the more technical issues in this docket, but also participated in several meetings or conference calls of the BTG while the group’s positions were being formulated, or when Florio was otherwise unavailable. All of the hours claimed in this request were reasonable and necessary to the achievement of TURN’s substantial contributions, and no unnecessary duplication of effort is reflected in the attached timesheets.</p>
Comment 3	<p>The travel time and travel expenses requested here cover only travel that was necessary for TURN’s effective participation in this proceeding and would not have been incurred but for TURN’s participation in this case. As noted above, some of the analysis of alternative capacity market structures took place in a CAISO stakeholder process. TURN’s attorney and expert consultant had to travel to the CAISO offices in Folsom (from their offices in San Francisco and Sacramento, respectively) in order to participate in those meetings. In addition, Woodruff was required to travel from his office in Sacramento to attend workshops held at the Commission’s offices in San Francisco. TURN’s travel time and associated travel expenses should be awarded in full.</p>
Comment 4	<p>If the Commission has any questions regarding any of the time or expenses claimed for compensation in this docket, or any other concerns regarding the content of this request, TURN respectfully asks that it be given an opportunity to answer any such questions prior to the issuance of a decision on this request.</p>

D. CPUC Disallowances:

Item	Reason
Disallowance of Consultant Costs related to routine commuting	<p>TURN requests \$177.80 for travel related expenses for its consultant Woodruff. We disallow these expenses as they relate to “routine travel.”⁴ Woodruff’s office is located in Sacramento. We consider his travel to Folsom to attend meetings at the CAISO offices and to San Francisco to attend workshops in San Francisco as “routine.” We define "routine travel" to be travel with a one-way distance of 120 miles or less. In contrast however, we allow Florio’s travel time and costs</p>

⁴ See D.07-04-010 at 12.

	to attend these meetings in Folsom, because as TURN senior attorney, Florio is domiciled in San Francisco and would not have incurred these expenses had it not been for TURN's participation in this proceeding. Here, the facts we rely on to determine approval for travel compensation are independent and different between Woodruff and Florio.
Meals	We disallow \$31.70 of TURN's expenses related to "working meals." ⁵

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim?

No

B. Comment Period: Was the 30-day comment period waived?

Yes

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision 10-06-018.
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 \$238,193.

CONCLUSION OF LAW

1. The claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Claimant is awarded \$238,193.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company shall pay Claimant the total award. We direct Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company to allocate payment responsibility among themselves based upon their California-jurisdictional electric revenues for the 2007 calendar year, to reflect the year in which 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 October 18, 2010, the 75th day after the filing of Claimant's request, and continuing until full payment is made.

⁵ See D.09-10-055 and D.10-03-020.

3. The comment period for today's decision is waived.

This order is effective today.

Dated October 14, 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:	D1010014	Modifies Decision? No
Contribution Decision(s):	D1006018	
Proceeding(s):	R0512013	
Author:	ALJ Mark S. Wetzell	
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	08-04-10	\$238,402	\$238,193	No	disallowance of costs related to routine travel and the disallowance of meals

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	\$470	2005	\$470
Michel	Florio	Attorney	The Utility Reform Network	\$485	2006	\$485
Michel	Florio	Attorney	The Utility Reform Network	\$520	2007	\$520
Michel	Florio	Attorney	The Utility Reform Network	\$535	2008-2010	\$535
Robert	Finkelstein	Attorney	The Utility Reform Network	\$435	2007	\$435
Kevin	Woodruff	Expert	The Utility Reform Network	\$200	2005	\$200
Kevin	Woodruff	Expert	The Utility Reform Network	\$225	2006-2008	\$225

(END OF APPENDIX)