Decision 10-10-031 October 28, 2010

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

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|---|---|
| Order Instituting Rulemaking Regarding Policies and Protocols for Demand Response Load Impact Estimates, Cost-Effectiveness Methodologies, Megawatt Goals and Alignment with California Independent System Operator Market Design Protocols. | Rulemaking 07-01-041<br>(Filed January 25, 2007) |

# DECISION AWARDING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 10-06-034

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|---|---|
| **Claimant: The Utility Reform Network (TURN)** | **For contribution to D.10-06-034** |
| **Claimed: $57,629.20** | **Awarded: $57,629.20** |
| **Assigned Commissioner: Dian M. Grueneich** | **Assigned ALJ: Timothy J. Sullivan** |

## PART I: PROCEDURAL ISSUES

**A. Brief Description of Decision:** D.10-06-034 approved a settlement agreement in Phase 3 of this proceeding that provides for the transitioning of the several of the IOUs' reliability-triggered Demand Response (DR) programs to price-responsive DR and reduces the amount of reliability DR that can count for Resource Adequacy (RA) purposes.

**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: | August 20, 2008 | Yes |
| 2. Other Specified Date for Notice of Intent (NOI): | | |
| 3. Date NOI Filed: | September 18, 2008 | 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.07-01-041, instant proceeding | Yes |
| 6. Date of ALJ ruling: | May 14, 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.07-01-041, the instant proceeding | Yes |
| 10. Date of ALJ ruling: | May 14, 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.10-06-034 | Yes |
| 14. Date of Issuance of Final Decision: | June 25, 2010 | Yes |
| 15. File date of compensation request: | August 23, 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 first request for compensation in this docket, since Phases One and Two have not yet been fully resolved. None of the hours or expenses that TURN incurred in those phases are included in this filing. No ruling has been issued to date with respect to TURN's Amended NOI for Phase 3. |

## PART II: SUBSTANTIAL CONTRIBUTION

### A. Claimant's claimed contribution to the final decision

| Contribution | Citation to Decision or Record | Showing Accepted by CPUC |
|---|---|---|
| 1. TURN was actively involved in negotiating the Phase 3 settlement that was approved by D.10-06-034. The settlement embodied a compromise of the parties' litigation positions in this case. | D.10-06-034, p. 1. | Yes |
| 2. The settlement provides for reliability-based DR to be dispatched prior to the CAISO's canvassing of neighboring balancing authorities for expensive exceptional dispatch energy or capacity, such that ratepayers do not "pay twice." | D.10-06-034, pp. 2-3. TURN's 8/15/08 PHC Statement, pp. 4-5; TURN's 10/12/09 Pre-Workshop #2 Comments. | Yes |
| 3. The settlement provides for a reduction over time in the number of MWs of reliability-based DR that can count for RA purposes. | D.10-06-034, pp. 1-2. TURN's 8/27/09 Post-Workshop #1 Comments. | Yes |
| 4. TURN's participation in this proceeding helped to further the Commission's goal of better integrating the IOUs' DR programs into the CAISO MRTU market. | OIR 07-01-041, pp. 1, 4, 8-9, OP #1 at p. 12. D.10-06-034, pp. 3, 19. | Yes |

### 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, many | Yes |

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| **c. If so, provide name of other parties:**<br>See service list for R.07-01-041. All of the active parties in Phase 3 were signatories to the approved settlement, including DRA. | Correct |
| **d. Describe how you coordinated with DRA and other parties to avoid duplication or how your participation supplemented, complemented, or contributed to that of another party:**<br>TURN actively coordinated with DRA and the CAISO, both of which generally shared similar objectives in this proceeding, throughout the litigation and settlement process, so as to avoid any duplication of efforts. To the extent that any incidental duplication may have occurred, TURN's work served to complement and supplement that of DRA. Given that the three major IOUs and CLECA generally resisted the changes sought by TURN and DRA, the participation of both organizations helped to secure a more favorable settlement than may have been possible otherwise. | Correct |

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

| # | Claimant | CPUC | Comment |
|---|---|---|---|
| 1 | X | | TURN's efforts to further the Commission's goal of better integrating the IOUs' DR programs into the CAISO MRTU market included participation in the working group (see OIR, p. 4) that developed the Proxy Demand Response product for the CAISO market, which provided the vehicle through which many of the IOUs' non-reliability-based programs can participate directly in the MRTU market. See, for example, TURN's written comments on PDR at http://www.caiso.com/2336/23368d5c53680.pdf, and the "Draft Final Proposal for the Design of Proxy Demand Resource (PDR)" issued by the CAISO on August 28, 2009 at pp. 3-9 and 41; available at http://www.caiso.com/241d/241da56c5950.pdf. |

## PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

| Claimant's description of how the cost of claimant's participation bore a reasonable relationship with benefits realized through claimant's participation | CPUC Verified |
|---|---|
| TURN's work in this proceeding helped to better integrate IOU DR programs into MRTU and reduce the extent to which ratepayers would have to "pay twice" for reliability-based DR. While the savings cannot be readily quantified, they are likely to be well in excess of the amount of compensation requested here by TURN. | We agree that TURN's claim is reasonable and commensurate with the work performed. Although difficult to quantify, ratepayers will achieve financial benefits in the future as a result of TURN's participation in this proceeding. |

### 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 | 2008 | 19.75 | 535 | D.08-07-043 | 10,566.25 | 2008 | 19.75 | 535 | 10,566.25 |
| M. P. Florio | 2009 | 55.00 | 535 | D.09-08-025 | 29,425.00 | 2009 | 55.00 | 535 | 29,425.00 |
| M.P. Florio | 2010 | 14.25 | 535 | D.10-05-012 | 7,623.75 | 2010 | 14.25 | 535 | 7,623.75 |
| M. Hawiger | 2008 | 4.75 | 325 | D.08-08-027 | 1,543.75 | 2008 | 4.75 | 325 | 1,543.75 |
| M. Hawiger | 2009 | 0.75 | 325 | D.10-07-040 | 243.75 | 2009 | 0.75 | 325 | 243.75 |
| B. Finkelstein | 2010 | 0.25 | 435 | D.10-06-046 | 108.75 | 2010 | 0.25 | 435 | 108.75 |
| | | | | | ***Subtotal:* $49,511.25** | | | | ***Subtotal:* $49,511.25** |
| **EXPERT FEES** | | | | | | | | | |
| Item | Year | Hours | Rate $ | Basis for Rate* | Total $ | Year | Hours | Rate $ | Total $ |
| G. Schilberg | 2008 | 28.49 | 200 | D.09-04-027 | 5,698.00 | 2008 | 28.49 | 200 | 5,698.00 |
| G. Schilberg | 2009 | 0.33 | 200 | D.10-02-010 | 66.00 | 2009 | 0.33 | 200 | 66.00 |
| | | | | | ***Subtotal:* $5,764.00** | | | | ***Subtotal:* $5,764.00** |
| **INTERVENOR COMPENSATION CLAIM PREPARATION **** | | | | | | | | | |
| Item | Year | Hours | Rate $ | Basis for Rate* | Total $ | Year | Hours | Rate $ | Total $ |
| M. P. Florio | 2008 | 0.50 | 267.50 | 50% of 2008 rate | 133.75 | 2008 | 0.50 | 267.50 | 133.75 |
| M. P. Florio | 2010 | 8.00 | 267.50 | 50% of 2010 rate | 2,140.00 | 2010 | 8.00 | 267.50 | 2,140.00 |
| | | | | | ***Subtotal:* $2,273.75** | | | | ***Subtotal:* $2,273.75** |

| COSTS | | | | |
|---|---|---|---|---|
| # | Item | Detail | Amount | Amount |
| 1 | Attorney Expenses | Parking at off-site meetings of working group | 58.00 | 58.00 |
| 2 | Photocopies | Copies of TURN's pleadings | 22.20 | 22.20 |
| | | | ***Subtotal:* $80.20** | ***Subtotal:* $80.20** |
| | | | **TOTAL REQUEST: $57,629.20** | **TOTAL AWARD: $57,629.20** |

**Reasonable claim preparation time typically compensated at ½ of preparer's normal hourly rate.

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.

## B. Comments Documenting Specific Claim:

| Comments | Description/Comment |
|---|---|
| #1 | In accordance with our typical practices, TURN allocated the time of its attorneys and expert consultant among the issues addressed in the proceeding. Since Phase 3 involved a fairly discrete set of issues, all of the hours claimed in this request were coded as "Phase 3" or "Ph3" in the attached timesheets, except for work on compensation-related pleadings, which is coded as "Comp1". None of the hours expended on Phase 1 or Phase 2 issues (Load Impact Protocols, Cost-Effectiveness Methodology, DR Policy, etc.) are included in this request.<br>In the original OIR at page 4, the Commission indicated its "support for a stakeholder working group process which could be used to identify how to best align existing utility DR programs with wholesale markets." TURN took that direction to heart, and actively participated in the working group that developed the Proxy Demand Resource (PDR) proposal as a means to integrate non-reliability-based DR programs into MRTU in a reasonable and cost-effective fashion. This request includes 25.25 hours of Florio's time (timesheet entries dated 12/2/08 and 1/8/09 through 5/12/09), 26.03 hours of Schilberg's time, and $58 of expenses incurred in connection with that working group process. In light of the fact that the working group process was a critical element of TURN's advocacy on the issues related to this phase of the proceeding, and given how the product of that process significantly furthered this Commission's goal of successfully integrating utility DR programs into the CAISO's new MRTU market, the hours and expenses associated with participation in that process should be deemed sufficiently related to TURN's substantial contribution here to warrant being included in the award of compensation.<br>In sum, given TURN's degree of success in this proceeding and our contribution to the achievement of this Commission's goal of integrating utility DR programs into MRTU, 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 |

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| | attached timesheets. |
| #2 | Michel Peter Florio was TURN's lead attorney in Phase 3 of this proceeding and recorded the lion's share of TURN's hours, as reflected in the attached timesheets. Marcel Hawiger was the lead attorney for TURN in R.07-01-041 more generally, but engaged Florio in the MRTU integration issues because of the latter's extensive CAISO experience as a long-time member of that organization's Board of Governors. Hawiger also recorded some time in Phase 3 as part of his coordination of TURN's participation in the entire proceeding, and in consultations with Florio. Bob Finkelstein, TURN's Legal Director, devoted a small amount of time to this case in the January of 2010, discussing the potential for settlement with Florio. Finally, Gayatri Schilberg of JBS Energy Inc., who performed extensive consulting services for TURN in the other phases of R.07-01-041, devoted 28.82 hours of time to the MRTU integration issues in this phase from November of 2008 through January of 2009, and advised Florio in connection with MRTU integration issues. 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. |
| #3 | If the Commission has any questions regarding any of the time and 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. |

**C. CPUC Disallowances & Adjustments: None**

## PART IV: OPPOSITIONS AND COMMENTS

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| **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.)10-06-034.

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 $57,629.20.

## CONCLUSION OF LAW

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

**ORDER**

1. Claimant is awarded $57,629.20.

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 on their California-jurisdictional electric revenues for the 2009 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 November 6, 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 was waived.

This decision is effective today.

Dated October 28, 2010, at San Francisco, California.

MICHAEL R. PEEVEY
President
JOHN A. BOHN
TIMOTHY ALAN SIMON
NANCY E. RYAN
Commissioners

Commissioner Dian M. Grueneich, being necessarily absent, did not participate.

# APPENDIX

## Compensation Decision Summary Information

| | | |
|---|---|---|
| **Compensation Decision:** | D1010031 | **Modifies Decision?** No |
| **Contribution Decision(s):** | D1006034 | |
| **Proceeding(s):** | R0701041 | |
| **Author:** | ALJ Timothy J. Sullivan | |
| **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 | 08-23-10 | $57,629.20 | $57,629.20 | 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 | 2008-2010 | $535 |
| Marcel | Hawiger | Attorney | The Utility Reform Network | $325 | 2008-2009 | $325 |
| Robert | Finkelstein | Attorney | The Utility Reform Network | $435 | 2010 | $435 |
| Gayatri | Schilberg | Expert | The Utility Reform Network | $200 | 2008-2009 | $200 |

**(END OF APPENDIX)**