

Decision 10-11-031 November 19, 2010

Application of Pacific Gas and Electric Company to Revise its Gas Rates and Tariffs to be Effective July 1, 2010 (U39G).

Application 09-05-026
(Filed May 29, 2009)

DECISION GRANTING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 10-06-035

Claimant: The Utility Reform Network (TURN)	For contribution to Decision (D.) 10-06-035
Claimed: \$26,389	Awarded: \$26,077
Assigned Commissioner: Timothy A. Simon	Assigned ALJ: John S. Wong

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:

D.10-06-035 approved a Partial Settlement agreement supported by TURN, that resolved all but two issues in this Pacific Gas and Electric Company (PG&E) Biennial Cost Allocation Proceeding (BCAP) proceeding. The settlement generally resolved the disputed issues between TURN and the Division of Ratepayer Advocates (DRA) on the one hand, and PG&E on the other hand, by adopting the midpoint between those positions.

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:	July 31, 2009	Yes
2. Other Specified Date for NOI:		
3. Date NOI Filed:	August 28, 2009	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:	A.09-05-026, the instant proceeding	Yes
6. Date of ALJ ruling:	September 23, 2009	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:	A.09-05-026, the instant proceeding	Yes
10. Date of ALJ ruling:	September 23, 2009	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.10-06-035	Yes
14. Date of Issuance of Final Decision:	June 28, 2010	Yes
15. File date of compensation request:	August 25, 2010	Yes
16. Was the request for compensation timely?		Yes

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
1. TURN was an active participant in negotiating the Partial Settlement that resolved all of TURN’s issues in this proceeding and was adopted by the PUC.	D.10-06-035 at 1.	Yes
2. The settlement adopted marginal costs for cost allocation purposes that “split the difference” between the combined DRA/TURN position and the PG&E position. This outcome necessarily relied upon the marginal cost showing of TURN witness Marcus.	D.10-06-035 at 15-17.	Yes
3. The settlement adopted the TURN/DRA position that core rate	D.10-06-035 at 19-20, 23.	Yes

<p>deaveraging should be phased in over five years rather than two years as proposed by PG&E, and adopted TURN's position that residential gas transportation rates should be set with a tier differential of 1.6 times, not including commodity costs.</p>		
<p>4. TURN's participation in this proceeding helped to mitigate the rate impacts on TURN's residential customer constituency.</p>	<p>D.10-06-035 concluded at 24, that "the increases shown in Appendix 2 are lower than what PG&E and DRA had originally proposed in their testimony."</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>Yes</p>	<p>Yes</p>
<p>b. Were there other parties to the proceeding?</p>	<p>Yes</p>	<p>Yes</p>
<p>c. If so, provide name of other parties: See service list for A.09-05-026 in attached certificate of service. TURN and DRA were the only parties that represented the general interests of core customers, although other parties had certain limited issues as well.</p>		<p>Correct</p>
<p>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: TURN actively coordinated with DRA throughout the litigation and settlement process, so as to avoid any unnecessary duplication of efforts. Indeed, the recommendations of TURN and DRA generally did not overlap except in a few instances, and on those issues TURN presented different arguments and analysis than DRA. To the extent that any incidental duplication may have occurred, TURN's work served to complement and supplement that of DRA. Given that the settlement was based on the combined positions of TURN and DRA, the participation of both organizations helped to secure a more favorable settlement than would have been possible otherwise.</p>		<p>Correct</p>

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness:

Claimant's explanation of how its participation bore a reasonable relationship with benefits realized through claimant's participation	CPUC Verified
TURN's work in this proceeding helped to achieve a smaller level of residential rate increase immediately, and a more gradual trajectory of rate increases due to core deaveraging in future years. While the savings were relatively modest given the limited scope of this case, they are well in excess of the limited amount of compensation requested here by TURN.	After the travel disallowance we make to TURN's claim, the remainder of hours and costs are reasonable and should be compensated.

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	2009	27.75	535	D.09-08-025	14,846.25	2009	27.75	535	14,846.25
M.P. Florio	2010	1.50	535	D.10-05-012	802.50	2010	1.50	535	802.50
N. Suetake	2009	5.00	225	D.09-09-028	1,125.00	2009	5.00	225	1,125.00
Subtotal: \$16,773.75						Subtotal: \$16,773.75			
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
W. Marcus	2009	33.67	250	D.10-03-019	8,417.50	2009	33.67	250	8,417.50
W. Marcus	2010	0.25	250	D.10-09-045	62.50	2010	0.25	250	62.50
Subtotal: \$8,480.00						Subtotal: \$8,480.00			
OTHER FEES (Travel)									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
W. Marcus	2009	2.50	125	50% of 2009 rate	312.50	2009	0	125	0 ¹
Subtotal: \$312.50						Subtotal: \$0			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
M. P. Florio	2009	0.50	267.50	50% of 2009 rate	133.75	2009	0.50	267.50	133.75
M. P. Florio	2010	2.50	267.50	50% of 2010 rate	668.75	2010	2.50	267.50	668.75

¹ See CPUC disallowances on page 6.

Subtotal: \$802.50				Subtotal: \$802.50
COSTS				
#	Item	Detail	Amount \$	Amount \$
1	Photocopies & Telephone	Copies of TURN's pleadings and phone calls related to this case	20.73	20.73
Subtotal: \$20.73				Subtotal: \$20.73
TOTAL REQUEST: \$26,389²				TOTAL AWARD: \$26,077³

**Reasonable claim preparation time typically compensated at 1/2 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.

C. Comments Documenting Specific Claim:

Comment	TURN's Comments
#1	<p>In accordance with our typical practices, TURN attempted to allocate the time of its attorneys and expert consultant among the issues addressed in the proceeding. Since this proceeding involved a fairly narrow range of issues that were resolved comprehensively via the Partial Settlement, the only issue coding shown in Appendix A is for work on compensation-related pleadings, which is coded as "Comp" and for Mr. Marcus' travel time, which is coded as "Travel". If the Commission desires a more refined breakdown, Mr. Marcus' time could be attributed fully to marginal costs and cost allocation. Mr. Florio's time could be broken down into approximately 10 hours for rate design issues, with the remainder allocable proportionately to all issues generally. Similarly, Ms. Suetake's time was not issue- specific and could be attributed proportionately to all issues.</p> <p>Given TURN's degree of success in this proceeding and the limited number of hours expended in total, 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>
#2	<p>Michel Peter Florio was TURN's lead attorney in this proceeding and recorded the lion's share of TURN's in-house hours, as reflected in the attached timesheets. Ms. Suetake drafted TURN's protest in the proceeding, edited TURN's prepared testimony to improve its readability, and would have represented TURN at hearings if the case had not settled. William Marcus of JBS Energy Inc. served as TURN's</p>

² Rounded to the nearest dollar amount.

³ Rounded to the nearest dollar amount.

	expert witness on marginal cost and cost allocation issues, and all participated actively in the settlement meeting that resulted in the Partial Settlement. 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	TURN is requesting compensation at one-half the usual hourly rate for Mr. Marcus' travel time associated with his attendance at the settlement meeting conducted in this matter on November 20, 2009. This travel was not "general commuting," as JBS Energy staff members only rarely come to the CPUC for business, and Mr. Marcus would not have traveled to San Francisco on this day but for his need to appear at the settlement meeting, where he took a very active role along with TURN's attorney.
#4	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.

D. CPUC Disallowances:

#	Reason
2009 Marcus travel hours	We disallow 2.5 hrs of Marcus' round trip travel time from Sacramento to San Francisco. Marcus is a staff expert for the JBS Energy group whose main office is in Sacramento. Marcus participates frequently before the Commission as an expert for several ratepayer advocate groups. We consider travel time and costs incurred by attorneys, consultants and other experts participating in Commission proceedings to be non-compensable "routine travel" when the one way travel distance is 120 miles or less.

PART IV: OPPOSITIONS AND COMMENTS

A. Opposition: Did any party oppose the claim?

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

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision (D.)10-06-035.
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 \$26,077.

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 \$26,077.
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 November 8, 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 November 19, 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:	D1011031	Modifies Decision? No
Contribution Decision(s):	D1006035	
Proceeding(s):	A0905026	
Author:	ALJ John S. Wong	
Payer(s):	Pacific Gas and Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	8-25-10	\$26,389	\$26,077	No	disallowance of "routine travel"

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	2009-2010	\$535
Nina	Suetake	Attorney	The Utility Reform Network	\$225	2009	\$225
William	Marcus	Expert	The Utility Reform Network	\$250	2009-2010	\$250

(END OF APPENDIX)