

Decision 10-11-032 November 19, 2010

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company
for Authority to Increase Revenue Requirements to
Recover the Costs to Implement a Program to
Improve the Reliability of its Electric Distribution
System (U39E).

Application 08-05-023
(Filed May 15, 2008)

**DECISION GRANTING INTERVENOR COMPENSATION TO
THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION
TO DECISION 10-06-048**

Claimant: The Utility Reform Network (TURN)	For contribution to Decision (D.) 10-06-048
Claimed: \$441,776¹ equal to \$354,569, plus 25% enhancement of \$87,207	Awarded: \$441,401
Assigned Commissioner: Michael R. Peevey	Assigned ALJ: David Fukutome

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision: The decision addressed Pacific Gas and Electric Company (PG&E)'s proposal for a Distribution Reliability Improvement Program (DRIP), which PG&E gave the moniker "Cornerstone Improvement Project." PG&E proposed spending nearly \$2 billion in capital and \$60 million in expense over the period 2010 through 2016. In D.10-06-048 the Commission rejected PG&E's proposal in favor of a scaled-back version generally consistent with an alternative recommendation put forward by TURN, with expenditures amounting to \$357.4 million in capital and \$9.2 million in expense for the period 2010 through 2013. The reduced program approved in D.10-06-048 is estimated to achieve up to 68% of the quantifiable reliability improvement benefits, but at approximately 18% of the cost requested by PG&E. The adopted outcome on nearly all issues is far closer to TURN's position than PG&E's, and the decision cites with favor TURN's analysis throughout its discussion of the various elements of PG&E's proposal and the adopted outcome.

¹ TURN makes a minor miscalculation error, see Footnote 3 at 11, corrected in this claim.

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:	January 26, 2009	Yes
2. Other Specified Date for NOI:	N/A	
3. Date NOI Filed:	February 23, 2009	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:	A.08-05-023	Yes
6. Date of ALJ ruling:	April 22, 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.08-05-023	Yes
10. Date of ALJ ruling:	April 22, 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.10-06-048	Yes
14. Date of Issuance of Final Decision:	June 25, 2010	Yes
15. File date of compensation request:	August 24, 2010 (amended 10/6/10) ²	Yes
16. Was the request for compensation timely?		Yes

² In early October 2010, TURN became aware that it had inadvertently used an incorrect hourly rate for the 2009 and 2010 work for one of its consultants, Garrick Jones. The Amended Request for Compensation, filed on October 6, 2010 corrects the 2009-2010 hourly rates for work performed by Jones, a consultant of JBS Energy (\$130 rather than \$120), made associated changes to TURN’s subtotals and recalculates TURN’s request (an increase of \$4,846 to the base amount, and \$1,212 to the requested enhancement, as reflected in the tables in Part III.B. and Comment 5). In addition, TURN includes a justification for Jones 2009 rate and corrects the date of its amended filing in Part I.B. In all other ways, TURN submits that the two requests are identical.

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
<p>As described in more detail below, TURN’s substantial contribution to D.10-06-048 is evident at all levels in the decision and on nearly all issues the decision addresses. PG&E’s application sought authorization to spend approximately \$2 billion over a six-year period. In D.10-06-048, the Commission largely agreed with TURN’s analysis as the basis for rejecting PG&E’s proposal, and adopted a TURN-developed alternative instead, authorizing spending at approximately 20% of the total level sought by the utility, yet still achieving nearly 70% of the quantifiable reliability improvement benefits.</p>	<p>TURN Testimony, <i>passim</i>. (at 93-98 for alternative recommendation).</p> <p>TURN Opening Brief, <i>passim</i>. (at 35-37 for alternative recommendation).</p> <p>D.10-06-048, §§8.1.2, 8.2.2, 8.3.2 and 8.4.2.</p>	<p>Yes</p>
<p><u>Motion to Dismiss:</u> Shortly after PG&E filed its application, TURN took the lead role in preparing a joint motion to dismiss, filed with Division of Ratepayer Advocates (DRA) and supported by several other consumer groups. In late 2008, the Assigned Commissioner and ALJ issued a joint ruling granting the motion to dismiss in part. The ruling noted that “Addressing distribution-related expenditures and reliability incentive mechanisms in between general rate case (GRC)s is contrary to established Commission GRC policies and procedures,” consistent with central arguments in the motion to dismiss. However, the ruling found that there was sufficient cause to make an exception to these established policies and procedures for purposes of PG&E’s request. The ruling did prohibit rate recovery of any 2009 or 2010 of any revenue requirement associated with the distribution reliability improvement program.</p>	<p>TURN/DRA Motion to Dismiss (June 17, 2008); TURN/DRA Reply on Motion to Dismiss (July 18, 2008).</p> <p>Assigned Commissioners and Administrative Law Judge’s Joint Ruling Denying in Part and Granting in Part Motion to Dismiss the Application and Setting Prehearing Conference (December 19, 2008), at 5-8.</p>	<p>Yes</p>
<p><u>Scope of Proceeding:</u> After the Assigned Commissioner and ALJ set the first prehearing conference, PG&E served a prehearing conference statement that purported to identify all of the</p>	<p>Joint Consumer Prehearing Conference Statement (January 22, 2009), at 2-7 (scope of</p>	<p>Yes</p>

<p>issues in dispute, as well as indicating the utility’s intent to serve updated testimony to be consistent with the decision on the motion to dismiss. In coordination with several other consumer groups (DRA, California Farm Bureau Federation, and California Large Energy Consumers Association (CLECA)), TURN filed a responsive prehearing conference statement that identified a number of issues not included in PG&E’s statement but that should be deemed within the scope of the proceeding; reaffirmed PG&E’s burden of proof on the issues in the proceeding; and proposed an alternative schedule that provided more time to intervenors to review the utility’s updated showing. The Assigned Commissioner’s Ruling and Scoping Memo issued February 23, 2009, reflected many of the criticisms and concerns raised in the TURN-driven prehearing conference statement. It directed PG&E to include in its update testimony material that addressed several specific questions TURN had raised, it agreed with TURN’s analysis of the burden of proof in the proceeding, and it adopted a procedural schedule very consistent with the one TURN had proposed.</p>	<p>issues), 7-9 (burden of proof), and 9-11 (schedule).</p> <p>Assigned Commissioner’s Ruling and Scoping Memo (February 23, 2009), at 8-11 (scope of issues), 11-12 (burden of proof), and 12-13 (schedule).</p>	
<p><u>The Need For PG&E’s Proposed Program:</u> TURN’s testimony and brief addressed at some length PG&E’s failure to meet its burden of proof in support of its application and, in particular, its failure to demonstrate the need for its proposed distribution reliability improvement program or to explain why its approach to comparing reliability performance with other utilities was now reasonable when PG&E had argued against that approach in the recent past.</p> <p>In D.10-06-048, the Commission agreed that the preponderance of the evidence did not support the need for a program with the scope and cost of PG&E’s proposal, and therefore denied PG&E’s request for cost recovery associated with that proposal.</p> <p>The Commission also rejected PG&E’s proposal to change the previous determination in D.04-10-034 with respect to reliability comparisons with other utilities.</p>	<p>TURN Testimony, at 2-37; TURN Opening Brief, at 4-35.</p> <p>D.10-06-048, at 15-18; also Conclusions of Law (COL) 1 and 2.</p> <p>D.10-06-048, at 17; also Findings of Fact (FOF) 3 and 4.</p>	<p>Yes</p>

<p><u>Distribution Automation:</u> TURN’s testimony and brief presented a detailed analysis of PG&E’s proposed spending on distribution automation and the underlying equipment’s role in the distribution system. The testimony illustrated the poor cost-benefit ratios under PG&E’s approach. In an alternative described in the testimony, TURN called for funding an amount necessary to automate PG&E’s 400 worst-performing circuits, with the recognition that what gets done might be different than the 400 worst-performing circuits as identified in 2008 or 2009.</p> <p>In D.10-06-048, much of the material in Section 8.1.2 (discussing the adopted outcome for distribution automation spending) paraphrases with favor TURN’s testimony and brief. For example, the decisions states, “TURN’s alternative recommendation for distribution automation is a reasonable means for addressing our reliability concerns with respect to poorly performing circuits. We will adopt its recommendations as described above, but with a slightly modified cost as described below.”</p> <p>The Commission also adopted TURN’s “three zone assumption,” forecasted labor escalation factors, and lower per-unit cost for underground devices.</p>	<p>TURN Testimony, at 39-55; and 94-95.</p> <p>TURN Opening Brief, at 89-105.</p> <p>D.10-06-048, at 22-26 (quoted material from at 25); FOF 13 and COL 7.</p> <p>D.10-06-048, at 25; FOF 14-15 and COL 8-9.</p>	<p>Yes</p>
<p><u>Feeder Interconnectivity:</u> TURN’s testimony and brief presented a detailed analysis of PG&E’s proposed spending on feeder connectivity and the underlying equipment’s role in the distribution system. After concluding that PG&E’s proposal overstated the need for connectivity to support its distribution automation proposal, TURN identified “low hanging fruit” that would obtain a significant portion of the emergency connectivity benefits for a small fraction of the cost. In an alternative described in the testimony, TURN called for funding an amount consistent with the recommendation regarding the 400 poorly performing circuits, including an amount necessary to capture this low-hanging fruit.</p>	<p>TURN Testimony, at 76-85; and 95-96.</p> <p>TURN Brief, at 69-85.</p>	<p>Yes</p>

<p>In D.10-06-048, the Commission agreed with TURN that a broadly based connectivity program had not been justified. It went on to adopt TURN’s alternative funding recommendation based on the scaled back distribution automation program adopted earlier, and the low hanging fruit TURN had identified.</p>	<p>D.10-06-048, at 27-28; FOF 17-18; COL 12-13.</p>	
<p><u>Electric Distribution Capacity:</u> TURN’s testimony and brief presented a detailed analysis of PG&E’s proposal to change its planning process and, as a result, spend a half billion dollars to add emergency capacity such as substation transformers. TURN addressed the limited System Average Interruption Duration Index (SAIDI) and System Average Interruption Frequency Index (SAIFI) benefits of such spending, the already-high reliability of PG&E’s substation transformers, the past success of PG&E’s substation asset management program, and the availability of mobile transformers to mitigate the impact of any substation outage, should one occur.</p> <p>In D.10-06-048, the Commission noted the inappropriateness of making the wholesale changes PG&E proposed for substation transformer emergency capacity in the face of the rejection of PG&E’s broader proposal. It also specifically cited as troubling PG&E’s specific proposal to rely less on mobile transformers. The decision then lists 13 “important points” made by TURN on this issue, and points out that most of the points were not rebutted by PG&E. The decision then embraces TURN’s arguments that PG&E had failed to demonstrate that a problem exists, or that its proposal was the best solution even if one were to concede that a problem exists. The decision goes so far as to suggest that PG&E take TURN’s (and DRA’s) criticisms of its proposals in this proceeding should it seek to establish the need for improving substation transformer emergency capacity in the future. The Commission authorized funding for the 23 substations for which PG&E reported deficiencies of greater than 15 MW. The authorized funding was approximately \$114.5 million, rather than the</p>	<p>TURN Testimony, at 56-76</p> <p>TURN Opening Brief, at 40-69.</p> <p>D.10-06-048, at 31-34; FOF 19-23; COL 14.</p> <p>D.10-06-048, at 34-35.</p>	<p>Yes</p>

<p>\$600 million PG&E requested.</p>		
<p><u>Reliability Monitoring and Incentive Recommendations:</u> TURN (along with DRA and California Utility Employees (CUE)) opposed PG&E’s proposed Reliability Performance Incentive Mechanism. TURN’s testimony first addressed the proposed changes to the method for monitoring reliability, agreeing with PG&E that a new definition is needed but disagreeing with PG&E’s proposed new definition. TURN called for a different “Beta” and that human-caused outages not be excluded from the reliability measurement mechanism. TURN’s approach resulted in more aggressive performance targets than PG&E proposed. Furthermore, because of the difficulty of establishing financial incentives in a manner that does not ultimately reward or penalize PG&E based on the weather, TURN recommended that no financial rewards or penalties be adopted.</p> <p>As noted in the decision, PG&E’s rebuttal testimony withdrew the utility’s proposal for a reliability performance metric with associated penalties and rewards.</p>	<p>TURN Testimony, at 99-108.</p> <p>D.10-06-048, at 7.</p>	<p>Yes</p>
<p><u>Requirements for Future Proceedings:</u> From the very beginning of the proceeding, TURN’s criticisms of PG&E’s proposal included the utility’s failure to present a Value of Service (VOS) study or to perform cost-effectiveness analysis of its proposals. TURN maintained those criticisms throughout the proceeding.</p> <p>In D.10-06-048, the Commission directed that PG&E include a new VOS study in its next GRC for use, at least in part, in determining and justifying its electric distribution reliability needs. The Commission also made clear its expectation that PG&E conduct appropriate levels of cost-effectiveness analyses for proposed reliability programs or projects in the future.</p>	<p>Motion to Dismiss, at 4, and 25-26.</p> <p>Reply for Motion to Dismiss, at 9-10.</p> <p>Prehearing Conference Statement of Joint Consumers, at 7-9.</p> <p>TURN Reply Brief, at 7-8.</p> <p>D.10-06-048, at 20; also COL 5.</p>	<p>Yes</p>
<p><u>Limitation on Funding Flexibility:</u> The proposed decision included a short section on “Implementation Flexibility” that gave PG&E</p>		<p>Yes</p>

<p>“flexibility as to how it implements the improvements and what it spends.” In its opening comments, PG&E called for clarification that this flexibility would permit it to shift funds within and between all of its reliability programs described in the PD. TURN’s reply comments urged the Commission to reject PG&E’s request and to instead explicitly <u>prohibit</u> shifting funds between programs, at least to the extent that funds might be shifted away from either the rural reliability or distribution automation programs in order to increase funding for emergency substation capacity projects. In D.10-06-048, the Commission adopted such a prohibition, with the authorization for emergency substation capacity limited to, at most, the identified projects with a 15 MW deficiency or more.</p>	<p>TURN Reply Comments, at 4-5.</p> <p>D.10-06-048, at 40.</p>	
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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
<p>c. If so, provide name of other parties:</p> <p>California Farm Bureau Federation (CFBF); California Large Energy Consumers Association (CLECA); City and County of San Francisco (CCSF); Engineers and Scientists of California (ESC); and Coalition of California Utility Employees (CUE).</p>		Correct
<p>d. Claimant’s description of how it coordinated with DRA and other parties to avoid duplication or how claimant’s participation supplemented, complemented, or contributed to that of another party:</p> <p>TURN took the lead role among the parties opposed to PG&E’s application for a distribution reliability improvement program. When PG&E filed its application, TURN was primarily responsible for developing and implementing the strategy of pursuing a motion to dismiss the application. When a prehearing conference was scheduled, TURN again played a lead role in preparing a prehearing conference statement to counter PG&E’s, and sought out and obtained the support of a wider array of consumer groups (with CFBF and CLECA joining TURN and DRA on the pleading). Prior to drafting testimony, TURN met with other consumer groups to ensure a minimum of overlap in the issues covered in each party’s testimony.</p>		Correct

<p>TURN submits that the Commission should find that TURN took all reasonable steps to avoid duplication and, to the extent that there was any overlap, TURN’s work supplemented and complemented that of DRA and the other parties opposed to the application. This is especially true in light of the repeated favorable references to TURN’s advocacy efforts in D.10-06-048.</p>	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>Concise explanation as to how the cost of claimant’s participation bore a reasonable relationship with benefits realized through participation (include references to record, where appropriate)</p>	<p>CPUC Verified</p>
<p>TURN’s participation helped to convince the Commission to reject PG&E’s proposal for a \$2 billion program in the name of distribution reliability improvement in favor of an alternative recommendation put forward by TURN with a price tag of approximately \$370 million. This reduction in the same capital spending means PG&E’s rate base will be approximately \$1.4 billion lower in 2016 than the utility had proposed. Assuming a revenue requirement of 18% of rate base to collect depreciation, tax and return on this amount, PG&E ratepayers avoided an increased revenue requirement of approximately \$250 million <u>per year</u> in 2017 and continuing at nearly that level for many years beyond.</p> <p>In considering the reasonableness of TURN’s requested amount of compensation, the Commission should also compare the overall benefits with the overall amount TURN is requesting. As described below, TURN’s costs of participation sought in this request are approximately \$350,000. Even with the requested 25% multiplier, the total request is below \$450,000, which is approximately two-tenths of 1% of the \$250 million of revenue requirement savings each year from 2017 and for many years thereafter, as described earlier in this subsection.</p>	<p>We note here that we have momentarily broken from our standard practice of disallowing the attendance of several individuals from the same advocacy group at the same workshop or meeting. Based on TURN’s showing here that none of its attorneys or expert witnesses attended meetings (with 3-5 PG&E attorneys) where their presence was not vital to the development and implementation of TURN’s strategy, we approve time that we would normally find duplicative. We find in this instance, given these facts, that full compensation is warranted. We will not however, broadly apply this same type of allowance to other intervenor claims absent such a convincing showing.</p> <p>After the disallowances 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 \$
R. Finkelstein	2008	51.7	470	D.08-08-027	24,299	2008	51.7	470	24,299
R. Finkelstein	2009	265.8	470	D.09-08-025	124,926	2009	265.8	470	124,926
R. Finkelstein	2010	15.5	470	D.10-06-046	7,285	2010	15.5	470	7,285
H. Goodson	2009	137.2	280	D.09-10-051	38,416	2009	137.2	280	38,416
H. Goodson	2010	3.5	280	D.10-07-040	980	2010	3.5	280	980
N. Suetake	2009	89.5	280	Adopted here	25,060	2009	89.5	280	25,060
N. Suetake	2010	1.5	280	Adopted here	420	2010	1.5	280	420
Subtotal: \$221,386						Subtotal: \$221,386			
EXPERT FEES									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
W. Marcus	2008	4.2	250	D.08-11-053	1,050	2008	4.2	250	1,050
W. Marcus	2009	127.9	250	D.09-10-051	31,975	2009	127.9	250	31,975
W. Marcus	2010	.3	250	D.10-09-045	75	2010	.3	250	75
G. Schilberg	2008	3.4	200	D.10-02-010	680	2008	3.4	200	680
G. Schilberg	2009	151.5	200	D.09-04-027	30,300	2009	151.5	200	30,300
G. Jones	2008	3.0	120	D.09-04-027	360	2008	3.0	120	360
G. Jones	2009	481.5	130	Adopted here	62,595	2009	481.5	130	62,595
G. Jones	2010	3.1	130	Adopted here	403	2010	3.1	130	403
Subtotal: \$127,438						Subtotal: \$127,438			
TRAVEL									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
W. Marcus	2009	3.0	125	½ 2009 rate	375	2009	0.00	125	0
Subtotal: \$375³						Subtotal: \$0⁴			
INTERVENOR COMPENSATION CLAIM PREPARATION **									
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Year	Hours	Rate \$	Total \$
R. Finkelstein	2009	1.25	235	50% of \$470	294	2009	1.25	235	294
R. Finkelstein	2010	14.75	235	50% of \$470	3,466	2010	14.75	235	3,466
Subtotal: \$3,760						Subtotal: \$3,760			

³ TURN incorrectly calculates Marcus's requested travel time at \$475. The correct amount is \$375. The amounts we reflect above correct this error and re-calculate TURN's totals.

⁴ See disallowances Section III-Part D at 16.

COSTS			
Expense	Detail	Total \$	Total \$
Photocopies	TURN Pleadings	1,376	1,376
Lexis/Nexis	Computerized research	89	89
Phone and postage	Proceeding-related phone calls and TURN pleadings	145	145
		Subtotal: \$1,610	Subtotal: \$1,610
		Request without multiplier: \$354,569	Award Total: \$354,194
		Request with 25% Multiplier⁵: \$87,207	Additional 25% Multiplier: \$87,207
		TOTAL REQUEST: \$441,776	TOTAL AWARD: \$441,401

**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.

C. TURN and CPUC Comments Documenting Specific Claim:

TURN Comments	Description of TURN’s Comments
1	<p>Reasonableness of TURN Hours: PG&E’s distribution reliability improvement proposal warranted a level of effort and resource commitment similar to that which TURN typically devotes to a full-fledged general rate case. The application focused on PG&E’s electric distribution operations, both proposing changes to the utility’s operation and reliability measurement standards, and seeking to implement those changed standards through very costly measures. Substantial time and effort was required to understand PG&E’s proposals sufficiently to challenge them on a technical basis. Furthermore, throughout the proceeding PG&E steadfastly refused to present traditional or typical cost-effectiveness analysis of its proposals, thus requiring TURN to engage in extensive discovery and analysis in order to backfill this omission of material that (in TURN’s experience) would typically be included in a utility’s initial workpapers supporting such an application. As a result, in order to perform the broad and detailed analysis that a multi-billion dollar proposal warrants, TURN was required to devote substantial attorney and consultant resources to further fleshing out and reviewing the utility’s proposal. As just one example, TURN’s consultants and at least one of our attorneys made a very substantial effort in order to develop a sufficient grasp of interconnectivity issues and the importance of the number of zones on a feeder. The result is that both TURN’s attorneys and consultants recorded a substantial amount of hours. As described below, the number of hours for each TURN representative was reasonable under the circumstances present here.</p> <p>Robert Finkelstein was the sole TURN attorney assigned to this proceeding from its start in</p>

⁵ The multiplier excludes travel time, costs and compensation preparation.

mid-2008 through the service of PG&E's updated testimony in March 2009. Soon thereafter, Hayley Goodson and Nina Suetake both began working on the proceeding with Mr. Finkelstein, with Ms. Goodson taking on distribution capacity issues and Ms. Suetake focusing primarily on distribution automation issues, while Mr. Finkelstein continued to address the broad policy issues (including the purported need for the new program) and ratemaking issues, overseeing the work of TURN's other attorneys, and generally coordinating TURN's efforts.

Mr. Finkelstein's hours are reasonable. In 2008, he recorded approximately 50 hours, almost entirely related to the very substantial and comprehensive Motion to Dismiss and the ensuing reply pleading. In 2009, he recorded approximately 265 hours associated with serving as the sole TURN attorney on the matter for the first portion of the year, and then TURN's lead attorney (coordinating discovery and review of PG&E's application and updated testimony, and TURN's development of testimony, ongoing coordination with DRA and other intervenors, handling of evidentiary hearings, and drafting of briefs) as well as maintaining primary responsibility for policy and related issues.

The hours Ms. Goodson and Ms. Suetake recorded in 2009 (approximately 135 and 90, respectively) reflect a reasonable amount given the effort required to assist with later rounds of discovery, testimony development and review, preparation for cross examination on complex and highly technical issues, and briefing those issues. As noted earlier, the absence of any cost-effectiveness showing in PG&E's application and supporting testimony required a broader focus on technical issues, which in turn led to Ms. Goodson and Ms. Suetake devoting substantial effort to quickly getting up the learning curve on issues related to substation capacity and its effect on system reliability, and feeder lines and connectivity matters.

JBS Energy, TURN's consultant for expert witness services in this proceeding, allocated its resources in a manner similar to the approach taken in the most recent SCE GRC (A.07-11-011). The vast majority of the hours billed to TURN for work in this matter were for the review and analysis performed by Garrick Jones, who's billing rate is substantially lower than those of the other firm members. By having Mr. Jones perform the most substantial share of the initial review and analysis of a wide array of issues raised in this application, as well as drafting large portions of the testimony ultimately sponsored by Mr. Marcus, JBS Energy was able to cover a wider array of the disputed issues in this proceeding while still controlling the amounts invoiced to TURN for the work in this proceeding. Furthermore, Mr. Jones took the lead for JBS Energy in terms of getting a handle on the non-cost-effectiveness issues PG&E relied on to support its application. Mr. Jones devoted many hours to reviewing and analyzing PG&E's claims about the purported benefits of adding to its emergency substation capacity and the utility's distribution automation proposal. The number of Mr. Jones's hours (approximately 475 in 2009) makes sense when the far lower figures for Gayatri Schilberg (approximately 150 hours) and Mr. Marcus (approximately 130 hours) are considered.

Ms. Schilberg's focus was primarily on PG&E's proposed changes to reliability measurement, monitoring and reporting, as well as the incentive mechanism PG&E proposed in its application, but then withdrew in the face of the opposition raised by TURN and other intervenors. She sponsored portions of TURN's testimony, and drafted a portion sponsored by Mr. Marcus.

In the SCE GRC, the Commission awarded intervenor compensation for approximately 2,000 hours for JBS Energy (the full amount of hours requested), of which approximately 60% were

	<p>for Mr. Jones’s work. Here, TURN seeks compensation for approximately 750 hours for JBS Energy. Mr. Jones’s hours represent approximately 62% of the total sought for JBS Energy’s work (475/755 =63%). TURN submits that the Commission should find the JBS Energy totals reasonable and award compensation for the full amount of hours requested, consistent with its treatment in D.09-10-051 (in A.07-11-011).</p> <p>A very small number of hourly entries reflect meetings attended by two or more of TURN’s attorneys and expert witnesses. In past compensation decisions the Commission has deemed such entries as reflecting internal duplication that is not eligible for an award of intervenor compensation. This is not the case here. These meetings were essential to TURN developing and implementing its strategy for this proceeding. TURN’s requested hours do not include any hours for any TURN attorney or expert witness where his or her presence at a meeting was not necessary in order to achieve the meeting’s purpose. TURN notes that PG&E had three attorneys handling the proceeding, and those three attorneys worked with at least five PG&E staff or consultants sponsoring testimony. TURN suspects (but does not know for a fact) that those attorneys similarly met among themselves and with one or more of the expert witnesses in order to develop and implement the utility’s strategy. TURN submits that such meetings can be part of an intervenor’s effective advocacy before the Commission, and that intervenor compensation can and should be awarded for the time of all participants in such meetings where, as here, each participant needed to be in the meeting to advance the intervenor’s advocacy efforts.</p> <p>There is also travel time associated with TURN’s expert witness’s attendance at the evidentiary hearings conducted in this matter. 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 hearing.</p> <p>Finally, TURN is requesting compensation for 16.0 hours devoted to compensation-related matters, primarily preparation of this request for compensation. Of this amount, approximately 2.0 hours were devoted to researching and preparing the request for a fee enhancement. While slightly higher than the number of hours TURN tends to seek for compensation-related matters, this is a reasonable figure in light of the fact that TURN’s NOI in this proceeding presented its support for the annual finding of financial hardship (resulting in higher-than-normal hours devoted to this task), and given the size and complexity of the request for compensation itself. In D.10-07-012, the Commission awarded compensation for the full 13.0 hours requested for compensation-related work in a somewhat less complex proceeding.</p>
<p>Comment 2</p>	<p>Allocation of Hours: TURN has allocated its time entries by the following activity codes:</p> <p>MotDis – Motion to Dismiss: time devoted to preparing the TURN/DRA Motion to Dismiss and the Reply to the responses other parties filed to the Motion to Dismiss.</p> <p>GP – General Participation: time for activities necessary to participate in the docket that typically do not vary by the number of issues addressed, such as initial review of applications and updated applications, participation in prehearing conferences, and similar activities.</p> <p>GH – General Hearing: time spent preparing for and participating in the evidentiary hearings that is not easily allocated to a specific issue category. (Due to a coding error by TURN’s attorney, hours designated “HP” in the attachment also fall into this category.)</p>

	<p>Pol – Policy and Need for Program: TURN’s more generalized critique of PG&E’s proposal on policy grounds as well as the broader failure to demonstrate the need for the program.</p> <p>DistCap – Distribution Capacity: Analyzing and critiquing PG&E’s proposal for substation emergency transformer capacity and related issues, and developing TURN’s proposed alternative recommendation.</p> <p>DA – Distribution Automation: Analyzing and critiquing PG&E’s proposal for distribution automation and related issues, and developing TURN’s proposed alternative recommendation.</p> <p>RelMonitor – Reliability Monitoring and Incentive Mechanisms: Analyzing and critiquing PG&E’s proposals for reliability monitoring and incentive mechanisms, and developing TURN’s proposed alternative recommendation.</p> <p># – Time entries that cover substantive issue work that cannot easily be identified with a specific activity code. The time entries coded # represent approximately 13% of the total hours TURN recorded for work allocated to substantive categories in this proceeding, which TURN believes is a reasonable amount given the simultaneous handling of all substantive categories throughout much of the proceeding. TURN requests compensation for all of the time included in this request for compensation, and therefore does not believe allocation of the time associated with these entries is necessary. However, if such allocation needs to occur, TURN proposes that the Commission allocate these entries in equal 20% shares to the four issue-specific categories described above (Policy, DistCap, DA, and RelMonitor) and general participation (GP).</p> <p>Settle – Settlement-related matters, including discussions with other parties and development of TURN’s settlement position and strategy.</p> <p>PD – Proposed Decision: Time devoted to reviewing and analyzing the Proposed Decision and any modified versions thereof, developing and drafting TURN’s comments and reply comments, and reviewing comments and reply comments of other parties.</p> <p>Comp – Time devoted to compensation-related pleadings</p> <p>Travel – Time devoted to travel related exclusively to work in this proceeding.</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>
<p>Comment 3</p>	<p>Hourly Rate for TURN attorneys and consultants in 2009 and 2010:</p> <p><u>2009 Rates:</u> With two exceptions, TURN’s request for compensation uses 2009 hourly rates for its attorneys and consultants at levels previously authorized in prior Commission decisions, as noted in the table above.</p> <p>TURN seeks an increase in the hourly rate for the work of staff attorney Nina Suetake in 2009. Ms. Suetake joined TURN’s staff as an attorney in late 2004. Since joining TURN’s staff, Ms. Suetake has participated in a wide array of technical and complex matters, including serving as TURN’s lead attorney on the array of AMI-related applications before the Commission in recent years. Based on her work at TURN in 2005-2008, she had four years experience on public utilities-related issues in California prior to the start of 2009, and was early in her fifth year as an attorney in this field when 2009 began. In Resolution ALJ-247, the Commission</p>

	<p>adopted a range of \$280-300 (the same as for 2008) for attorneys in their fifth through seventh year of experience. The requested rate of \$280 is at the low end of this range. It would also bring Ms. Suetake's 2009 rate to the same level adopted for Ms. Goodson's work in 2008 (in D.08-08-027, at 5), consistent with Ms. Goodson having joined TURN's staff as an attorney in late 2003.</p> <p>TURN's showing in support of this requested increase is based on and consistent with the showing UCAN made in C.08-08-026 in support of the requested increase for its attorney's hourly rate. The Commission approved the requested increase in D.10-08-018 (at 8).</p> <p>For work performed in 2009 by Garrick Jones of JBS Energy, TURN seeks an hourly rate of \$130. The Commission has previously adopted a \$110 rate for Mr. Jones's work in 2007, and a \$120 rate for his work in 2008. TURN had originally requested the \$130 rate for Mr. Jones's work in 2008 (the rate JBS Energy invoiced TURN for his work after January 1, 2008), and explained that the requested rate was very near the bottom of the \$125-185 range the Commission had adopted for similarly-experienced experts in D.08-04-010. The Commission instead adopted the \$120 rate for 2008 work, a figure below the adopted range. (D.09-04-027, at 12 and 15.) For 2009, TURN again seeks adoption of the \$130 rate that JBS Energy has charged for Mr. Jones's work since January 1, 2008. The Commission retained the \$125-185 range for experts with 0-6 years of experience in 2009. Resolution ALJ-235. It also retained the policy and procedure under which an intervenor could seek an hourly rate increase beyond those generally adopted where a rate is below the range of rates for a given level of experience. Resolution ALJ-235, at 4, citing D.08-04-010 (§4.3.3). Given that his 2008 hourly rate was set <u>below</u> the adopted range for that year (despite TURN's request for a rate within the range), and given that his experience in 2009 would have put him at least in the upper two-thirds of the experience range, an hourly rate of \$130 (just above the bottom of the range) is clearly reasonable. Therefore TURN asks the Commission to use the \$130 invoiced rate for Mr. Jones's 2009 work for purposes of calculating the compensation award in this proceeding.</p> <p><u>2010 Rates:</u> The Commission has not previously authorized an hourly rate for TURN's attorneys or consultants where a substantial portion of the substantive work in the proceeding occurred in 2010. In this proceeding TURN requests compensation using the previously-approved or requested 2009 hourly rates for each attorney's and consultant'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>
<p>Comment 4</p>	<p>Reasonableness of Expenses: The Commission should find TURN's direct expenses reasonable. The expenses consist of photocopying expenses, including the costs of producing the hard copies of TURN's testimony, expenses for legal research conducted via the Lexis/Nexis database in support of TURN's advocacy in this proceeding, and phone and postage costs for TURN's participation in this proceeding.</p>

<p>Comment 5</p>	<p>Request for Fee Enhancement:</p> <p>In past awards of intervenor compensation the Commission has recognized that under certain circumstances an enhancement of the base level of award is warranted. TURN submits that such circumstances are present here, in light of the exceptional results TURN’s participation achieved in this proceeding.</p> <p>In decisions addressing requests for enhancement of an intervenor compensation award, the Commission has described two categories of work that might warrant such an enhancement:</p> <p style="padding-left: 40px;">Commission decisions authorize two different kinds of multipliers, sometimes differentiated as either an “efficiency adder” or a “fee enhancement.” Both are applied to the authorized hourly rate. An “efficiency adder” has been approved where a customer’s participation involved skills or duties beyond those normally required.... A “fee enhancement” has been approved where the Commission determined the intervenor had achieved exceptional results.⁶</p> <p>As the Commission noted in D.04-08-025, a multiplier award is rare in all cases, and particularly rare as a “fee enhancement” for achieving exceptional results.⁷</p> <p>TURN’s research suggests that the most recent award of a multiplier as a “fee enhancement” occurred in D.00-09-068, awarding intervenor compensation to TURN and other intervenors in PG&E’s test year 1999 GRC. In that decision the Commission first reviewed the factors set forth in D.88-02-056 for determining whether an upward adjustment to the base level of compensation is warranted. It went on to quote the earlier decision’s recognition that the factors “are not to be applied in a rigid manner.”⁸ The Commission then found that TURN’s request for a 25% enhancement for work performed on depreciation-related issues in that GRC was justified, noting that “TURN achieved a remarkable degree of success on these issues” particularly in light of the substantial dollars associated with the depreciation issues in that GRC.</p> <p>TURN submits that the circumstances present here with regard to the entirety of PG&E’s distribution reliability incentive program similarly warrant a 25% enhancement. As described in the section on TURN’s substantial contribution, TURN achieved remarkable success in this proceeding from the outset through the conclusion of the proceeding. Throughout the decision, the Commission cited with favor TURN’s analysis, and generally adopted TURN’s recommended outcome on each of the disputed issues. As a result, the utility was authorized to spend approximately 18% of the requested amount on capital and 16% of the requested amount for expense. D.10-06-048, at 2. Even at the final stage of the decision-making process, the Commission adopted the change TURN recommended to prevent the utility from spending on substation emergency transformer capacity amounts authorized for distribution automation or rural reliability improvements. In sum, the Commission should find that the outcomes TURN achieved in this proceeding represent the type of exceptional results that warrant a fee enhancement.</p> <p>In D.04-08-025, the Commission described the fee enhancement as applying to the authorized hourly rate. In the table in Part III.B of the request for compensation, TURN used the regular</p>
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⁶ D.04-08-025 (I.02-04-026 -- PG&E Bankruptcy) at 46.

⁷ *Id.*, and Footnote 17, at 46-47.

⁸ D.00-09-068 at 27-28.

hourly rates approved (or for which approval is sought) for each TURN staff member or expert witness, and made a single entry to reflect the 25% fee enhancement TURN is requesting. The table below makes the same calculation with the enhancement reflected in the hourly rate used for each staff member or expert witness. (Since TURN seeks a single hourly rate for each attorney’s or consultant’s work in this proceeding, the following figure shows the total hours for each attorney or consultant from 2008-2010.)

Participant	Hours	Normal Rate	25% of Normal Rate (enhancement)	Requested Comp at Normal Rate	Requested at Enhancement Rate	Total Requested Comp
R. Finkelstein	333.0	\$470	\$117.50	\$156,510	\$39,128	\$195,638
H. Goodson	140.7	\$280	\$70.0	\$39,396	\$9,849	\$49,245
N. Suetake	91.0	\$280	\$70.0	\$25,480	\$6,370	\$31,850
W. Marcus	132.4	\$250	\$62.50	\$33,100	\$8,275	\$41,375
G. Schilberg	154.9	\$200	\$50.0	\$30,980	\$7,745	\$38,725
G. Jones	3.0	\$120	\$30.0	\$360	\$90	\$450
G. Jones	484.6	\$130	\$32.5	\$62,998	\$15,750	\$78,748
Totals				\$348,824	\$87,207	\$436,031

CPUC Comments	Description of CPUC Comments
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<p>Comment 1</p>	<p>TURN seeks a 25% enhancement (calculated as \$87,207) to its baseline compensation request for its professional hours in this proceeding because of TURN’s claim of “remarkable success” with regards to the entirety of PG&E’s distribution reliability incentive program. TURN submits that the Commission cited with favor TURN’s analysis on each of the disputed issues, and as a result, PG&E was authorized to spend approximately 18% of the requested amount on capital and 16% of the requested amount for expense. <i>See</i> D.10-06-048 at 2. With TURN’s participation it alleges that the Commission rejected PG&E’s proposal for a \$2 billion program in the name of distribution reliability improvement in favor of an alternate recommendation sponsored by TURN at a cost of approximately \$370 million. This reduction in capital spending means that PG&E’s rate basis will be approximately \$1.4 billion lower in 2016 than the utility had proposed. Assuming a revenue requirement of 18% of rate base to collect depreciation, tax and return on this amount, TURN estimates that PG&E ratepayers avoided an increase to revenues of about \$250 million per year in 2017 which will continue at nearly the same level for many years beyond through TURN’s participation.</p> <p>The Commission has, in certain cases, awarded an enhancement, or upward adjustment to the hourly rate for intervenor participation. In D.88-02-056, at 3-4, the Commission set forth factors that can be considered in making this determination. These factors are:</p> <p style="margin-left: 40px;">A. Fee level</p> <ol style="list-style-type: none"> The experience, reputation, and ability of the attorney. The skill required to perform the legal service properly. Customary fee. <p style="margin-left: 40px;">B. Compensable Hours</p>
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4. The time and labor required (reasonable number of hours to present case).
5. Efficiency of presentation.
6. Novelty and difficulty of the issues.
7. Duplication of effort.

C. Degree of Success

8. Dollar amount involved
9. Degree of importance of the issue.
10. The results obtained (partial or complete success on the issue).

Past Commission decisions have authorized two different kinds of multipliers, sometimes differentiated as either an “efficiency adder” or a “fee enhancement.” Both are applied to the authorized hourly rate. An “efficiency adder” has been approved where a customer’s participation involved skills or duties beyond those normally required. An example is when an attorney develops and sponsors necessary technical testimony, performing the dual roles of counsel and expert not only with a very high degree of professionalism but also at a lower total cost than the hourly fees of two individuals. A “fee enhancement” has been approved where the Commission determined the intervenor had achieved exceptional results.

The Commission has awarded TURN an enhancement to all or part of its base compensation on many occasions. The most recent award of a multiplier as a “fee enhancement” occurred in D.00-09-068 for TURN’s claim filed in PG&E’s test year 1999 GRC, see D.00-09-068 (25% enhancement based on the dollar amount involved and TURN’s success associated with depreciation issues in that GRC. In addition, TURN has received enhancements in D.88-02-056 [25% enhancement based on the dollar amount involved and TURN’s level of success]; D.93-04-048 20% enhancement based on TURN’s degree of success, the novel and complex issues, TURN’s efficiency and skill, and the contingent nature of the litigation]; D.94-09-022 [35% enhancement based on the substantial dollars involved, TURN’s degree of success, the complexity and risks involved, the contingent nature of the litigation, and the exceptional skill of TURN’s attorney]; D.96-09-024, 67 CPUC2d 678, 690-91 [25% enhancement for TURN’s 1995 work on Phase 1 issues based on the substantial dollars involved, TURN’s degree of success, the difficulty and complexity of the litigation, TURN’s efficiency, and the contingent nature of the litigation.])

TURN’s requested 25% enhancement for its work performed on PG&E’s distribution reliability incentive program is justified. TURN’s work was efficient and achieved a remarkable degree of success, resulting in large savings to ratepayers for many years to come. For these reasons, we grant TURN a 25% enhancement for both its attorney and experts work in this proceeding.

D. CPUC Adoptions, Disallowances & Adjustments:

Adoptions	
2009-Suetake hourly rate	TURN requests an hourly rate of \$280 for Suetake’s 2009 work. Suetake joined TURN’s staff as an attorney in late 2004. As TURN’s attorney, Suetake has participated in a wide array of technical and complex matters before the Commission, and has served as TURN’s lead attorney in several AMI-related applications. Based on her work at TURN in 2005-2008, Suetake had four years experience on California related public utilities issues. In 2009 Suetake moved into the range of \$280-\$300 for attorneys with 5-7 years of experience adopted by the Commission in D.08-04-010. We find the hourly rate of \$280 for Suetake to be reasonable and adopt it here.
2010-Suetake hourly rate	Resolution ALJ 247 disallows cost-of-living (COLA) increases for 2010 intervenor work. As such, we apply the same 2009 hourly rate adopted here to Suetake’s 2010 work.
2009-Jones hourly rate	TURN requests an hourly rate of \$130 for Jones’s 2009 work. The Commission has previously adopted a \$110 rate for Mr. Jones’s work in 2007, and a \$120 rate for his work in 2008. The rate requested here is equal to the rate JBS Energy invoiced TURN for Jones work after January 1, 2008, and is at lower end of the \$125-\$185 range the Commission adopted for similarly-experienced experts in D.08-04-010. We find the hourly rate of \$130 for Jones to be reasonable and adopt it here.
2010-Jones hourly rate	Resolution ALJ 247 disallows cost-of-living (COLA) increases for 2010 intervenor work. As such, we apply the same 2009 hourly rate adopted here to Jones’s 2010 work.
Disallowances & Adjustments	
2009-Marcus travel hours	We disallow 3.0 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?

No

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

Yes

FINDINGS OF FACT

1. Claimant has made a substantial contribution to Decision (D.)10-06-048.
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 \$441,401.

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 \$441,401.
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 December 21, 2010, the 75th day after the filing of TURN's amended claim for compensation, and continuing until full payment is made.
3. The comment period for today's decision is 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:	D1011032	Modifies Decision? No
Contribution Decision(s):	D1006048	
Proceeding(s):	A0805023	
Author:	ALJ David Fukutome	
Payer(s):	Pacific Gas and Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	08/24/10 amended on 10/07/10	\$354,569 (w/o multiplier) \$441,776 (w/ multiplier)	\$441,401	Yes	minor miscalculation and the disallowance of hours related to "routine travel"

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	2008-2010	\$470
Hayley	Goodson	Attorney	The Utility Reform Network	\$280	2009-2010	\$280
Nina	Suetake	Attorney	The Utility Reform Network	\$280	2009-2010	\$280
William	Marcus	Expert	The Utility Reform Network	\$250	2008-2010	\$250
Gayatri	Schilberg	Expert	The Utility Reform Network	\$200	2008-2009	\$200
Garrick	Jones	Expert	The Utility Reform Network	\$120	2008	\$120
Garrick	Jones	Expert	The Utility Reform Network	\$130	2009-2010	\$130

(END OF APPENDIX)