

Decision 12-07-019 July 12, 2012

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of San Diego Gas & Electric Company (U902 E) to Amend Renewable Energy Power Purchase Agreement with NaturEner Rim Rock Wind Energy, LLC and for Authority to Make a Tax Equity Investment in the Project.

Application 10-07-017
(Filed July 15, 2010)

**DECISION AWARDING INTERVENOR COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO
DECISION 11-07-002**

Claimant: The Utility Reform Network (TURN)	For contribution to D.11-07-002
Claimed: \$198,261¹	Awarded: \$196,380
Assigned Commissioner: Mark J. Ferron	Assigned ALJ: Jean Vieth

PART I: PROCEDURAL ISSUES

A. Brief Description of Decision:

Adopts an all-party settlement authorizing San Diego Gas & Electric (SDG&E) Company to make a tax equity investment in the Rim Rock wind project. The settlement was submitted by SDG&E, the Division of Ratepayer Advocates (DRA), TURN, and Naturener. The settlement authorizes SDG&E to invest up to \$250 million of ratepayer funds in the 189 MW project subject to a minimum shareholder investment, establishes conditions relating to the subordination of the recovery of shareholder investments to ratepayer investments, creates due diligence and consultation requirements, and includes a voluntary commitment by SDG&E to limit future procurement of Tradable Renewable Energy Credits (TREC)s).

¹ Rounded to nearest dollar amount.

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

	Claimant	CPUC Verified
Timely filing of notice of intent to claim compensation (§ 1804(a)):		
1. Date of Prehearing Conference:	September 15, 2010	Correct
2. Other Specified Date for NOI:		
3. Date NOI Filed:	October 15, 2010	Correct
4. Was the notice of intent timely filed?		Yes
Showing of customer or customer-related status (§ 1802(b)):		
5. Based on ALJ ruling issued in proceeding number:	P.10-08-016	Correct
6. Date of ALJ ruling:	November 22, 2010	Correct
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:	P.10-08-016	Correct
10. Date of ALJ ruling:	November 22, 2010	Correct
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.11-07-002	Correct
14. Date of Issuance of Final Decision:	July 21, 2011 ²	Correct
15. File date of compensation request:	September 19, 2011	Correct
16. Was the request for compensation timely?		Yes

² TURN filed an amended claim on January 27, 2012. TURN filed the amended compensation request after consulting with the Assigned ALJ in this proceeding. The amended request includes the final total for hours associated with post-decision implementation work authorized by the settlement agreement adopted in D.11-07-002. We use the amended claim in our consideration of an award.

PART II: SUBSTANTIAL CONTRIBUTION

A. Claimant’s claimed contribution to the final decision:

Contribution	Citation to Decision or Record	Showing Accepted by CPUC
<p>PORTFOLIO / SIZE OF PROJECT</p> <p>TURN expressed concerns as to whether this deal would harm SDG&E’s ability to satisfy its Sunrise Powerlink commitments (from D.08-12-058). If approved at 309 MW, the Rim Rock project plus additional TREC transactions could satisfy virtually all incremental renewable procurement requirements in the coming years. TURN also expressed concerns that the project will not result in the delivery of any incremental renewable energy into California, thereby diminishing its value to ratepayers.</p> <p><u>Testimony of Kevin Woodruff, at 2-3, 9, 42-44</u></p>	<p><u>D.11-07-002, at 9, Settlement Agreement, Section 2(a)</u></p> <p>The adopted settlement requires SDG&E to reduce the total project size from 309 MW to no more than 189 MW. As a result, SDG&E will not have as much renewable procurement from resources that cannot deliver electricity into the California system. Additionally, the settlement ensures that SDG&E will have more opportunities to conduct incremental procurement from local resources to meet future renewable portfolio standard obligations.</p>	<p>Correct</p>

<p>2. COST / REDUCTION IN RATEPAYER CONTRIBUTION:</p> <p>TURN opposed a \$600 million ratepayer investment given that this sum represents a significant portion of total projected SDG&E capital expenditures for the next few years. TURN expressed concerns that this magnitude of investment could shortchange local investments in infrastructure and suggested that the Commission limit SDG&E's ratepayer contribution to a lower amount.</p> <p><u>Testimony of Kevin Woodruff, at 3-5, 41-42.</u></p>	<p><u>D.11-07-002, at 8-9, Settlement Agreement, Section 2(f)(i)</u></p> <p>The adopted settlement reduces the maximum contribution of SDG&E ratepayers from \$600 million (in the application) to the lesser of \$250 million or 64.99% of total project costs. This reduction significantly limits ratepayer exposure and frees up more investment capital for other purposes.</p>	<p>Correct</p>
<p>3. RISK / REQUIRING SHAREHOLDER INVESTMENT:</p> <p>TURN expressed concerns about the lack of shareholder investment in Rim Rock and the disconnection between shareholder returns and assumed risks. TURN recommended that SDG&E shareholders be required to backstop some project performance risks and reduce the financial exposure to ratepayers under the deal.</p> <p><u>Testimony of Kevin Woodruff, at 6, 44-46.</u></p>	<p><u>D.11-07-002, at 9, Settlement Agreement, Section 2(f)(iii)</u></p> <p>The adopted settlement requires SDG&E shareholders to provide capital investment equal to no less than 10% of the total project costs. Under the original application, SDG&E shareholders would not make any investment in the project. Under the settlement, the shareholder investment is used to reduce the size of the ratepayer investment.</p>	<p>Correct</p>
<p>4. RISK / REQUIRING DEVELOPER CONTRIBUTION:</p> <p>TURN opposed a \$600 million ratepayer investment given that it represents a significant portion of total projected SDG&E capital expenditures for the next few years. TURN sought to reduce the</p>	<p><u>D.11-07-002, Settlement Agreement, Section 2(f)(iv)</u></p> <p>The adopted settlement agreement requires Naturener to make an equity contribution of no less than 25% of total project costs. Under the original</p>	<p>Correct</p>

<p>ratepayer investment by substituting investments from other sources.</p> <p><u>Testimony of Kevin Woodruff, at 3-5, 40, 41-42.</u></p>	<p>application, Naturener would only have had to contribute as little as 20% of total project capital. (SDG&E Application, at 6.)</p>	
<p>5. RISK / SUBORDINATION OF SHAREHOLDER AND DEVELOPER CONTRIBUTIONS:</p> <p>TURN expressed concerns about the lack of shareholder risk and the fact that ratepayers would bear a variety of financial risks under the proposed project structure. If these risks were to materialize, ratepayers might never be fully repaid while shareholders would not face any possibility of under-recovery. To remedy this problem, TURN proposed that shareholders should guarantee that ratepayers are fully repaid no later than the 10th year of project operations.</p> <p><u>Testimony of Kevin Woodruff, at 6, 26, 34-35, 44-46.</u></p>	<p><u>D.11-07-002, at 9-10, Settlement Agreement, Section 2(g)(v)</u></p> <p>Under the adopted settlement, ratepayer investment is afforded the highest priority for recovery through a larger allocation of project benefits during the pre-flip period (through year 10) with the recovery of shareholder and developer investments being delayed until ratepayers have been made whole. This subordination of the shareholder investment ensures that some operational and financial risks associated with the project will fall on shareholders.</p>	<p>Correct</p>
<p>6. COST / RATEPAYER NEUTRALITY DETERMINED BASED ON PRE-TAX COST OF CAPITAL:</p> <p>TURN opposed SDG&E's proposal to use an after-tax cost of capital to compute the Net Present Values of certain benefit streams allocated to ratepayers. TURN proposed the use of a pre-tax cost of capital for purposes of calculating the present value of ratepayer benefits under the project.</p> <p><u>Testimony of Kevin Woodruff, at</u></p>	<p><u>D.11-07-002, at 10, Settlement Agreement, Section 2(h)(i)</u></p> <p>The adopted settlement defines ratepayer neutrality to include the condition that financial benefits provided to ratepayers are discounted at an 8.4% annual rate. This rate is consistent with SDG&E's pre-tax cost of capital.</p>	<p>Correct</p>

<p><u>13.</u></p> <p>7. RISK / RATEPAYER NEUTRALITY GUARANTEED THROUGH FUTURE ADJUSTMENTS TO REVENUE REQUIREMENTS</p> <p>TURN expressed concerns about the fact that ratepayers would bear a variety of financial risks under the proposed project structure and that these risks could lead to less than full recovery over the 20-year term of the project agreement. To remedy this risk, TURN proposed that shareholders should guarantee that ratepayers are fully repaid no later than the 10th year of project operations.</p> <p><u>Testimony of Kevin Woodruff, at 6, 26, 34-35, 44-46.</u></p>	<p><u>D.11-07-002, at 10, Settlement Agreement, Section 2(h)(iv), (h)(v)</u></p> <p>The adopted settlement requires SDG&E to make a Tier 2 Advice Letter filing at the time of the Ratepayer Flip (approximately 10 years) with a demonstration that ratepayer neutrality has been achieved. If necessary, SDG&E is required to adjust prospective revenue requirements to ensure ratepayer neutrality. This obligation means that shareholders would accept lower returns to ensure that ratepayers are fully repaid.</p>	<p>Correct</p>
<p>8. MODEL / NO MODIFICATIONS TO BASE CASE MODEL WITHOUT REVIEW AND ADVICE BY TURN AND DRA</p> <p>During evidentiary hearings, TURN cross-examined SDG&E witnesses on whether the Base Case Model could be modified after a final Commission decision and prior to Construction Financial Close of the Project. SDG&E indicated that the model could be modified or “optimized” without any further review by TURN, DRA or the Commission. Moreover, SDG&E indicated its opposition to any Commission oversight of final model runs (RT Vol. 2, at 199). Had this case reached the briefing stage, TURN would have argued for a</p>	<p><u>D.11-07-002, at 10, Settlement Agreement, Section 3(a)</u></p> <p>Under the adopted settlement agreement, SDG&E may not make any changes to the Base Case Model subsequent to a final Commission decision without advising TURN and DRA and providing these groups with an opportunity to review the modifications prior to the final runs at Construction Financial Closing. This outcome ensures that there is ongoing review and oversight of the model after a final Commission decision approving the project.</p>	<p>Correct</p>

<p>mechanism to prevent post-decision modifications to the Base Case Model without oversight and review.</p> <p><u>Evidentiary hearing transcripts, Vol. 2, at 172-185, 198-199, 236-238, 282-286.</u></p> <p>See Comment 1</p>		
<p>9. MODEL / DUE DILIGENCE, UPDATES TO KEY MODEL PARAMETERS, AND SOURCES FOR ALBERTA ENERGY PRICE FORECASTS</p> <p>During evidentiary hearings, TURN cross-examined SDG&E witnesses on whether the Base Case Model could be modified after a final Commission decision and prior to Construction Financial Close of the Project. SDG&E indicated that new input assumptions could be included from a variety of sources and would not be subject to review by TURN, DRA or the Commission. In testimony, TURN expressed specific concerns about the use of Alberta energy price forecasts and urged that they be updated to reflect settled forward prices.</p> <p>Had this case reached the briefing stage, TURN would have argued for strict constraints applied to the updating of assumptions and a mechanism to ensure ongoing participation and oversight by TURN, DRA and the Commission.</p> <p><u>Evidentiary hearing transcripts, Vol. 2, at 172-185, 198-199, 211-217, 236-238, 282-286</u></p> <p><u>Testimony of Kevin Woodruff, at</u></p>	<p><u>D.11-07-002, at 10, Settlement Agreement, Section 3(b), 3(d), 3(e), 3(f), 3(g), 3(h), 3(i), 3(j)</u></p> <p>Under the adopted settlement, SDG&E and Rim Rock are obligated to provide the results of their due diligence and specific updated Base Case Model inputs to TURN, DRA and the Energy Division no later than 60 days prior to expected Construction Financial Closing. The updated inputs are specified as to their sources and may not be provided from alternate sources without the consent of TURN and DRA. In particular, the updated wholesale market prices in the model shall be based upon a blend of future and forecast data specified in Section 3(e). If TURN and DRA object to the use of any updated inputs, they may object (Section 3(g)) and any unresolved disputes will be decided by the Director of the Energy Division (Section 3(j)). SDG&E is obligated to</p>	<p>Correct</p>

<p><u>23-28, Attachment 10 (at 1-5).</u> <u>See Comment 1</u></p>	<p>prepare up to 9 sensitivity cases within the Base Case Model based on alternative assumptions specified by TURN and DRA. TURN and DRA may select a preferred scenario for purposes of the final Model run.</p>	
<p>10. MODEL / TIMING OF SHAREHOLDER SUBORDINATION: During evidentiary hearings, TURN cross-examined SDG&E witnesses and discovered that the Base Case Model could be modified after a final Commission decision and prior to Construction Financial Close of the Project without any review by TURN, DRA or the Commission. Under the application, SDG&E reserved the right to make unilateral adjustments to the distribution of project benefits provided to ratepayers. Had this case reached the briefing stage, TURN would have argued for strict constraints applied to any changes relating to the distribution of project benefits and would have sought subsequent review of any model changes by TURN, DRA and the Commission. <u>Evidentiary hearing transcripts, Vol. 2, at.172-177, 235-238, 282-286</u> <u>See Comment 1</u></p>	<p><u>D.11-07-002, at 10, Settlement Agreement, Section 3(c), 3(f)</u> Under the adopted settlement, TURN and DRA may select a shareholder subordination period of between 12 and 18 months within the base case model update provided within 60 days of Construction Financial Closing (Section 3(c)). TURN and DRA may also select amongst three possible post-Shareholder Flip allocations (1%, 2.5% and 4%) that will provide project benefits to ratepayers (Section 3(f)). This process ensures that the actual distribution of project benefits will maximize the ratepayer value from the project over a 20-year period.</p>	<p>Correct</p>
<p>11. PORTFOLIO / LIMITS ON PROCUREMENT OF RENEWABLE ENERGY CREDITS TURN expressed concerns about potential overreliance by SDG&E on Tradable Renewable Energy</p>	<p><u>D.11-07-002, at 10, Settlement Agreement, Section 4</u> Under the adopted settlement, SDG&E agrees (with certain exceptions) to refrain from the procurement</p>	<p>Correct</p>

<p>Credits (TRECs) based on its procurement of other Montana wind generation and the proposed Rim Rock project. Specifically, TURN noted that even under Commission-adopted TREC restrictions (which would grandfather the Rim Rock deal); SDG&E could satisfy virtually all future renewable procurement obligations with non-California TREC purchases. This outcome could jeopardize SDG&E's ability to meet its Sunrise Commitment (pursuant to D.08-12-058) and would deprive ratepayers of many of the benefits of local renewable generation.</p> <p><u>Testimony of Kevin Woodruff, at 2-3, 42-44.</u></p>	<p>of additional Tradable Renewable Energy Credits (TRECs) from projects not directly connected to, or dynamically scheduled into, a California Balancing Area Authority prior to January 1, 2018. This commitment goes beyond any applicable regulatory or legislative requirements.</p>	
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B. Duplication of Effort (§§ 1801.3(f) & 1802.5):

Claimant		CPUC Verified
a. Was Division of Ratepayer Advocates (DRA) a party to the proceeding?	Yes	Correct
b. Were there other parties to the proceeding?	Yes	Correct
c. If so, provide name of other parties: SDG&E, DRA and NatureEner Rim Rock Wind Energy, LLC.		Correct
<p>d. TURN’s description of how it coordinated with DRA and other parties to avoid duplication or how TURN’s participation supplemented, complemented, or contributed to that of another party:</p> <p>TURN coordinated closely with DRA throughout the proceeding. TURN and DRA met prior to the submission of testimony, coordinated data requests, and worked very closely together during evidentiary hearings. After the conclusion of hearings, TURN and DRA jointly participated in settlement negotiations with SDG&E and Natureener. TURN and DRA crafted joint offers and counteroffers, communicated frequently regarding case strategy, and worked together to finalize a settlement agreement. TURN and DRA also met frequently to discuss post-decision implementation issues relating to due diligence and the selection of final Base Case Model inputs.</p> <p>Given the significant concessions obtained from SDG&E in the final settlement agreement, the Commission should recognize that TURN and DRA coordinated in a model fashion to produce excellent results for ratepayers with a minimum of unnecessary or duplicative efforts.</p>		<p>We make no reductions to TURN’s claim for unnecessary duplication of effort. TURN’s claim of close coordination with other parties is affirmed by our review of its timesheets.</p>

C. TURN's Additional Comments on Part II:

TURN's Comments
<p>Because parties did not file briefs in this case, some issues of interest to TURN were not formally addressed in prepared testimony. These issues arose as the result of data responses provided by SDG&E and responses by SDG&E and Naturener witnesses during evidentiary hearings. Had post-hearing briefs been prepared, TURN would have made a series of proposals that went beyond the recommendations contained in the prepared testimony of TURN's primary witness.</p> <p>For example, the cross examination of SDG&E witness Moftakhar highlighted the fact that SDG&E retained the right to make a variety of unreviewable changes to the Base Case Model well after a final Commission decision. Based on these responses, TURN would have proposed a variety of conditions on the use and updating of this model in post-hearing briefs.</p> <p>After the conclusion of hearings, TURN entered into settlement negotiations with DRA, SDG&E and Naturener. During these negotiations, TURN raised several issues not explicitly addressed in prepared testimony but raised during hearings. These issues are addressed in the settlement.</p> <p>In determining TURN's substantial contribution in this case, the Commission must consider these facts and recognize that evidentiary hearings often result in new issues being identified or developed. These issues are typically submitted for consideration in briefs. In this case, the settlement was the venue for raising and addressing these concerns.</p> <p>The adopted settlement authorizes TURN and DRA to participate in a series of tasks related to the implementation of the settlement after the issuance of a final Commission decision (see D.11-07-002, at 9-10). Specifically, TURN is authorized to review changes to the Base Case Model, to evaluate updated inputs, to work with DRA to jointly select from a range of revenue distributions, to help select scenarios, and to pick a tail allocation for the final run of the model. The post-decision work commenced in August of 2011 and concluded in January 2012 with the final run of the Base Case Model. As part of the post-decision implementation work, TURN worked with DRA to review due diligence by SDG&E and determine the appropriate allocation of project benefits to be provided to ratepayers after the shareholder flip. After extensive meetings and a thorough review of model sensitivities, TURN and DRA opted for an approach that provides ratepayers with 4% of "tail" revenues after both the ratepayer and shareholder investments have been recovered. SDG&E accepted this proposal and incorporated the 4% tail allocation into the final Base Case Model that was run in early January 2012.</p> <p>Hours recorded by TURN attorneys and consultants on these tasks and are included in this request with the code "Imp" (implementation). Since there is unlikely to be any subsequent formal Commission decision on this matter, TURN includes these hours in this amended request. The decision to seek these hours via an amended compensation</p>

request was made after consultations with the assigned ALJ in this proceeding. The original compensation request included 3 hours of implementation work by Matthew Freedman and 3.5 hours of implementation work by Kevin Woodruff. This amended request includes an additional 48.5 hours by Kevin Woodruff and 20 hours by Matthew Freedman devoted to implementation tasks.

If the Commission seeks additional justification for these hours, TURN would be happy to provide more information and requests the opportunity to respond to any concerns prior to the issuance of a final decision on this request for compensation.

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

<p>Claimant’s explanation as to how the cost of claimant’s participation bore a reasonable relationship with benefits realized through claimant’s participation</p>	<p>CPUC Verified</p>
<p>As demonstrated in the substantial contribution section, the adopted settlement makes major modifications to SDG&E’s original application. The Decision notes that “the settlement includes specific provisions designed to address DRA’s and TURN’s well-developed objections, while authorizing SDG&E and Rim Rock to proceed with a less expansive, less expensive (and less risky) plan for a tax equity investment in the project.” (D.11-07-002, at 16) The modifications contained in the settlement significantly limit the scope of ratepayer investments, allocate some important project risks to SDG&E shareholders, ensure that ratepayer advocates (and the Commission) can oversee changes to the final financial assumptions, and limits the ability of SDG&E to procure additional TRECs that do not benefit ratepayers.</p> <p>The most obvious change is the reduction in the ratepayer investment from \$600 million to \$250 million. This significant reduction is a result of a smaller project size (189 MW vs. 309 MW), an SDG&E shareholder investment, and a larger investment by Naturener. This reduction means that ratepayers will bear far lower costs and see smaller rate impacts over the life of the project.</p> <p>The settlement requires SDG&E shareholders to make a minimum investment in the project, subordinates their investment to the capital provided by ratepayers and dedicates a flow of project revenues to recover the investment. This structure means that the ability of SDG&E shareholders to recover their capital is tied to the performance of the project. As a result, SDG&E shareholders are at risk in the event that the project does not perform as expected. The settlement therefore establishes an important precedent by linking shareholder returns to the actual performance of a generation unit. Future utility tax equity investment proposals will likely incorporate similar mechanisms.</p> <p>Finally, the settlement commits SDG&E to refrain from additional purchases of TRECs from facilities not connected to a California Balancing Authority or delivering energy to California in real-time. This commitment means that SDG&E will focus its future renewable procurement efforts on projects located within the California Independent System Operator footprint, particularly on those facilities providing local employment, economic and energy benefits. The commitment in the settlement is incremental to existing law and regulation, and therefore represents a concession that could not have been achieved through litigation.</p> <p>Taken together, the benefits obtained by TURN far exceed (by orders of magnitude) the cost of TURN’s participation in the proceeding. TURN’s claim should be found to be reasonable.</p>	<p>We agree with the benefits to ratepayers that TURN lists here, in addition to the fact that the benefits to ratepayers will outweigh the cost of TURN’s participation in this proceeding.</p> <p>After some minor disallowances and adjustments to this claim, the remainder of TURN’s hours and costs are reasonable and warrant compensation.</p>

B. Specific Claim: *

CLAIMED					CPUC AWARD			
ATTORNEY FEES								
Year	Hours	Rate \$	Rate Rationale	Total \$	Year	Hours	Rate \$	Total \$
2010	142.75	325	D.10-09-044	46,394	2010	142.75	325	46,394
2011	119.00	350	Adopted here	41,650	2011	119.00	350	41,650
2012	2.25	350	Adopted here	788	2012	2.25	350	788
Subtotal: \$88,832					Subtotal: \$88,832			
EXPERT FEES								
Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
2010	286.25	225	D.07-06-045	64,406	2010	286.25	225	64,406
2011	167.00	240	Adopted here	40,080	2011	167.00	235	39,245
2012	1.50	240	Adopted here	360	2012	1.50	235	353
2010	1.67	250	D.10-09-045	418	2010	1.67	250	418
Subtotal: \$105,264					Subtotal: \$104,422			
INTERVENOR COMPENSATION PREPARATION								
Year	Hours	Rate \$	Basis for Rate	Total \$	Year	Hours	Rate \$	Total \$
2010	1.25	162.50	½ rate D.10-09-044	203	2010	1.25	162.50	203
2011	14.00	175.00	½ rate adopted here	2,450	2011	14.00	175.00	2,450
2012	2.50	175.00	½ rate adopted here	438	2012	2.50	175.00	438
Subtotal: \$3,091					Subtotal: \$3,091			
COSTS								
Item				Amount	Amount \$			
Photocopies				33	33			
Lodging-Woodruff's lodging in San Francisco to participate in evidentiary hearings				1,039	-0-			
Postage-Protest filed at CPUC				2	2			
Subtotal: \$1,074					Subtotal: \$35			
TOTAL REQUEST: \$198,261³					TOTAL AWARD: \$196,380⁴			

³ Rounded to the nearest dollar amount.

*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.

**Reasonable claim preparation time is compensated at ½ of preparer’s normal hourly rate.

C. TURNS Comments Documenting Specific Claim:

<p>Comment 1</p>	<p>Hourly Rate for Matthew Freedman in 2011:</p> <p>TURN seeks an increase in the hourly rate for the work of staff attorney Matthew Freedman in 2011 from the \$325 rate authorized for work in 2010 to \$350 for his work in 2011. This increase would reflect his having moved from the 8-12 years experience range to the 13+ years experience range for purposes of establishing hourly rates for attorneys for intervenors.</p> <p>Freedman graduated Harvard Law School in 1999 and previously earned a Bachelor degree in Political Science in 1991 from Columbia University. Prior to joining TURN, he worked for 3.5 years as an energy policy analyst with Public Citizen in Washington, D.C. where he lobbied Congress on energy regulation and conducted extensive research on nuclear power and renewable energy technologies, trends and policies. During his time at law school, Freedman continued his work with Public Citizen as their New England representative and lobbied the Massachusetts legislature on electric deregulation. In addition, Freedman spent a summer performing legal research on electricity regulation and utility law issues for the law firm of Scott Hempling. Finally, Freedman was employed by the Massachusetts Public Interest Research Group for over 1 year and focused on the regulation of criteria air pollutants from fossil power plants, including drafting a petition and leading negotiations that resulted in landmark new standards requiring new emissions controls for older power plants in Massachusetts.</p> <p>Freedman joined TURN in February of 2000. Freedman has served as TURN’s lead attorney in practically all renewable energy proceedings over the past decade, on nuclear power issues (including both the SCE and PG&E applications seeking authority to replace steam generators at their nuclear plants), in several general rate cases (including the PG&E 2007 GRC, the PG&E 2007 GRC Phase 2, and the PG&E 2011 GRC Phase 2), a</p>
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⁴ *Ibid.*

	<p>number of generation related proceedings (including the SCE Mountain View and PG&E’s Contra Costa 8 applications), and a wide array of other environmental and rate related proceedings.</p> <p>In 2011, Freedman was in his eleventh year on TURN’s staff (excluding a sabbatical year in 2008). Even discounting his pre-TURN experience by 50% to reflect Freedman’s lack of a completed law degree (although the nature of the work was very similar and directly related to energy regulation), his cumulative experience would move him into the 13-plus year category in 2013. Due to a quirk in the Commission’s rate structure, the lower end of the 13-plus year range is the same as the lower end of the 8-12 year experience range. However, even though the approved rate of \$325 for Freedman’s work in 2010 is above the low end of the 13-plus year range, the Commission should approve an hourly rate of \$350 to reflect the different range in which Freedman now belongs.</p> <p>The \$325 hourly rate for 2010 is approximately mid-way in the \$300-355 range set for attorneys with 8-12 years of experience, but is only 10% above the floor of the \$300-535 range for attorneys with more than 13 years experience. An increase to \$350 would put Freedman’s 2010 rate at approximately 20% above the floor of the higher range.</p> <p>TURN submits that this information is more than sufficient for the Commission to grant the requested increase to Freedman’s hourly rate. However, should the Commission disagree and believe that it needs more information to support the request, TURN asks that we be given an opportunity to provide additional information before a draft decision issues on this compensation request.</p>
<p>Comment 2</p>	<p>Hourly Rate for Kevin Woodruff in 2011:</p> <p>This is the second request for compensation that includes a substantial amount of hours for Kevin Woodruff for work performed in 2011. The first such request was filed on August 30, 2011 in R.09-10-032 (for substantial contributions to D.11-06-022) and remains pending at this time.</p> <p>The Commission had previously approved an hourly rate of \$225 for Woodruff’s work beginning in 2006 (see D.07-06-045). As of January 1, 2011, Woodruff increased his hourly rate from \$225 to \$240, an increase of approximately 7% as compared to the rate in place since 2006.</p> <p>Woodruff’s experience on energy-related matters spans more than two decades, (see Attachment 4) including fourteen years as a member of Henwood Energy services. Since 2002, Woodruff has operated as a sole practitioner offering expert witness and consultant services on a wide variety of energy matters.</p>

	<p>Because Woodruff did not change his billing rate from 2006 through 2010, TURN never had cause to seek any of the hourly rate increases made available under D.07-01-009 and D.08-04-010. Had Woodruff sought an increase in either 2007 or 2008, under those two decisions TURN could have justified a 3% cost of living adjustment (COLA) increase plus a 5% step increase in either of those years, and perhaps in both. An 8% increase would have resulted in a \$245 billing rate as early as 2007, and perhaps as high as \$265 in 2008. Of course, had Woodruff taken advantage of these opportunities, his increased rate would have applied to the substantial number of hours he worked in Commission-related matters during 2007-2010. Furthermore, the \$240 billing rate is in the lower half of the rate range for an expert witness with 13+ years of experience (\$155-390 for 2009, 2010 and 2011 -- Res. ALJ-267, at 5). For these reasons, the Commission should find the \$240 billing rate for Woodruff adopted beginning January 1, 2011 reasonable.</p> <p>TURN is confident that the Commission will agree that that Woodruff's decision to leave his 2006 authorized rate in place for five years and, in effect, to forego a number of annual increases he might otherwise have received under the Commission's treatment of hourly rates in 2007 and 2008 is a sufficient basis to approve the requested hourly rate of \$240 for 2011. For that reason, TURN has opted to not provide the comparison to peer rates for Woodruff's work in 2011. While we are confident such a comparison would provide further support for the reasonableness of the requested rate, such a comparison requires additional time and resources that TURN hoped to avoid unnecessarily devoting to this request. However, should the Commission wish to consider such peer rates to confirm that they are comparable to the requested rate for Woodruff's work in 2011 TURN asks that it be provided an opportunity to supplement this showing.</p>				
<p>Comment 3</p>	<p>Allocation of TURN Attorney and Consultant Hours by Issue/Activity Code: TURN has allocated all of our attorney and consultant time by issue area or activity, as evident on our attached timesheets.</p> <p>The following codes relate to specific substantive issue and activity areas addressed by TURN:</p> <table border="1" data-bbox="441 1612 1511 1883"> <thead> <tr> <th data-bbox="441 1612 678 1671">Code</th> <th data-bbox="678 1612 1511 1671">Explanation</th> </tr> </thead> <tbody> <tr> <td data-bbox="441 1671 678 1883">COST</td> <td data-bbox="678 1671 1511 1883">Cost and competitiveness of the Rim Rock tax equity investment as compared to other options including a smaller project size, alternative financing structures with third-party investment, and other resource options. Also includes the net impact on ratepayers under SDG&E's</td> </tr> </tbody> </table>	Code	Explanation	COST	Cost and competitiveness of the Rim Rock tax equity investment as compared to other options including a smaller project size, alternative financing structures with third-party investment, and other resource options. Also includes the net impact on ratepayers under SDG&E's
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		revenue requirements model and the financial treatment of RECs.
	PORTFOLIO	Renewable portfolio impacts of the Rim Rock transaction including overreliance on TREC's from outside California and concerns over whether SDG&E will satisfy obligations related to the Sunrise Transmission project.
	MODEL	Reasonableness of relying on the Base Case Model (BCM), the data inputs proposed by SDG&E and Naturener, and post-decision revisions to the model inputs. Includes disputes over the use of wholesale market price forecasts, tax issues, capacity factors and revisions to such inputs prior to Construction Financial Close.
	RISK	Financial risks to ratepayers under the proposed Rim Rock structure including delayed recovery of initial investment, unanticipated cost responsibilities, project failure, lower than expected performance, and timely completion of the MATL transmission project. Also includes the risks to shareholders under the proposed transaction structure and the revisions associated with the settlement.
	IMP	Post-decision implementation tasks requiring TURN to consult with SDG&E pursuant to the approved settlement agreement. Includes meetings with DRA and SDG&E, review of updated cost inputs, development of scenarios, and selection of ratepayer tail allocation for the final base case model.
	SETT	Work related to efforts to achieve a settlement between TURN, DRA, SDG&E and Naturener. Includes work negotiating the agreement, coordinating joint filings and explaining the benefits of the agreement to Commission staff and Commissioners.
	GP	General Participation work essential to participation that typically spans multiple issues and/or would not vary with the number of issues that TURN addresses. This can include reading the initial application, Commission rulings, participating in prehearing conferences, attendance at all-party meetings, and reviewing pleadings submitted by other parties. This also includes TURN's coordination with DRA on case strategy and

		issues.
	EH	Preparation for, and participation in, evidentiary hearings and prehearing conferences.
	COMP	Preparation of compensation request and TURN's notice of intent.
	#	Attorney work that involves multiple issue areas and should be allocated 15% to Cost, 10% to Portfolio, 25% to Model, and 50% to Risk.
	*	Attorney work that involves multiple issue areas and should be allocated 20% to Cost, 7% to Portfolio, 40% to Model, and 33% to Risk (consistent with the pre-settlement allocation for Kevin Woodruff).
Comment 4	<p><u>Allocation of expert witness hours by issue/activity</u></p> <p>Included in this request are hours devoted to this proceeding by Kevin Woodruff and Bill Marcus of JBS Energy. The time of these experts can be allocated across the issue codes used by TURN as follows:</p> <p>Bill Marcus: Model=65%, Cost=35%</p> <p>Kevin Woodruff: Cost=15%, Portfolio=5%, Model=25%, Risk=20%, Sett=25%, Imp=10%.</p>	

D. CPUC Adoptions and Disallowances:

Adoptions	
2011-2012 hourly rates for Matthew Freedman	TURN seeks an increase in hourly rates for Freedman's 2011-2012 work here. Freedman moved from the 8-12 year experience range to the 13+ range of \$300-\$535 established in D.08-04-010 for attorneys with comparable market rates having comparable training and experience and offering similar services. TURN's request of \$350 an hour for Freedman's 2011 work is reasonable and adopted here. We apply this same hourly rate to Freedman's 2012 work as Resolution ALJ-281 disallows cost-of-living increases for 2012 intervenor work.
2010 Kevin Woodruff hourly rate	The Commission has previously adopted an hourly rate of \$225 for Woodruff's 2006-2010 work. We apply the provisions of D.08-10-040 at 8 which lists five circumstances where intervenor representatives (attorneys and experts) with an hourly rate previously adopted by the Commission would qualify for a rate increase. The circumstance fully supported by the record is circumstance #2, where a step increase is limited to two annual increases of no more than 5% each year within any given level of experience for each individual. Resolution ALJ-267 disallowed cost-of-living increases for 2011 intervenor work. We apply a 5% step increase to Woodruff's adopted 2010 hourly rate and round the resulting figure to the nearest \$5.00 increment, achieving a reasonable hourly rate of \$235. We adopt this rate for Woodruff's 2011 rate.

Disallowances	
Disallowance of lodging expenses	D.10-11-032 the Commission determined that travel within a radius of 120 miles or less (one-way), to and from the Commission is considered “routine travel” which is non-compensable. Here, Woodruff traveled from Sacramento, CA to San Francisco, a distance of less than 120 miles one-way. We disallow the lodging expenses for Woodruff as these expenses were incurred during his routine travel to the Commission.

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(2)(6))?

Yes

FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to Decision 11-07-002.
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 \$196,380.

CONCLUSION OF LAW

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

ORDER

1. The Utility Reform Network is awarded \$196,380.
2. Within 30 days of the effective date of this decision, San Diego Gas & Electric Company shall pay The Utility Reform Network 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 March 15, 2012, the 75th day after the filing of The Utility Reform Network’s request, and continuing until full payment is made.

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

This decision is effective today.

Dated July 12, 2012, at San Francisco, California.

MICHAEL R. PEEVEY
President
TIMOTHY ALAN SIMON
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
MARK J. FERRON
Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D1207019	Modifies Decision? No
Contribution Decision:	D1107002	
Proceeding:	A1007017	
Author:	ALJ Jean Vieth	
Payee:	San Diego Gas & Electric Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	09-19-11	\$198,261	\$196,380	No	adjusted hourly rate, disallowance of lodging expenses incurred during "routine" travel.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Matthew	Freedman	Attorney	The Utility Reform Network	\$325	2010	\$325
Matthew	Freedman	Attorney	The Utility Reform Network	\$350	2011/2012	\$350
Kevin	Woodruff	Expert	The Utility Reform Network	\$225	2010	\$225
Kevin	Woodruff	Expert	The Utility Reform Network	\$240	2011/2012	\$240
William	Marcus	Expert	The Utility Reform Network	\$250	2010	\$250

(END OF APPENDIX)