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Decision 08-10-012 October 2, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Integrate
Procurement Policies and Consider Long-Term
Procurement Plans.

Rulemaking 06-02-013
(Filed February 16, 2006)

**OPINION GRANTING INTERVENOR COMPENSATION
TO THE UTILITY REFORM NETWORK
FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION (D.) 06-07-029,
D.07-09-044, AND D.07-12-052 AND DENYING INTERVENOR
COMPENSATION FOR CONTRIBUTIONS TO APPLICATION 05-06-003**

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TO THE UTILITY REFORM NETWORK
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D.07-09-044, AND D.07-12-052 AND DENYING INTERVENOR
COMPENSATION FOR CONTRIBUTIONS TO APPLICATION 05-06-003**

This decision awards The Utility Reform Network (TURN) \$265,111.39 in compensation for its substantial contributions to Decision (D.) 06-07-029, D.07-09-044, and D.07-12-052 in Rulemaking (R.) 06-02-013. This decision denies TURN compensation for its contributions to Application (A.) 05-06-003.

Today's award is \$8,608.94 less than the amount requested by TURN due to three factors: (1) the Commission disallows compensation for TURN's work on A.05-06-003 because TURN failed to meet the procedural requirements in filing its request for compensation; (2) the Commission slightly reduces the requested 2006 hourly rate for one of TURN's attorneys to be consistent with the 2006 hourly rate granted for that attorney in another decision; and (3) the Commission reduced the reimbursement of direct expenses to disallow meals.

R.06-02-013 remains open to address further long-term procurement issues.

1. Background

Rulemaking (R.) 06-02-013 is the Commission's long-term procurement proceeding for review and approval of the 2006 integrated long-term procurement plans (LTPPs) for Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E), the investor-owned electric utilities (IOUs). R.06-02-013 is the successor to R.01-10-024 and R.04-04-003 (both now closed proceedings).

Decision (D.) 06-07-029 adopted a new cost-allocation mechanism on a limited and transitional basis, specifying that the IOUs were to procure new

generation pursuant to long-term contracts for power purchase agreements (PPA). The resulting energy and capacity from the PPAs would be unbundled. The load serving entities (LSEs) in the IOUs' service territories would be allocated rights to this capacity. The energy would be auctioned and the LSEs' customers would only pay for the net cost of this capacity, determined as a net of the contract price minus the energy revenues from the auction. The decision reserved for Phase II of the proceeding the development of long-term market rules and institutions to supersede the above temporary arrangements.

D.07-09-044 adopted, with clarifications, all provisions of a joint settlement agreement outlining principles for the process and products pertaining to the IOUs' energy auctions that the Commission established in D.06-07-029.

D.07-12-052 adopted, with modifications, the LTPPs for PG&E, SCE, and SDG&E for the period of 2007 to 2016. This decision also provided direction to the IOUs on preparing their conformed 2006 LTPP compliance filings. Furthermore, the decision required the IOUs to aim for higher levels of performance beyond the targets set by the Legislature and the Commission.

In a separate proceeding, Application (A.) 05-06-003, SCE proposed to acquire additional capacity through new long-term PPAs. Over a dozen parties contributed to the discussion of SCE's proposal. SCE then moved to withdraw its application. The Commission granted SCE's motion to withdraw in D.06-01-004.

The Utility Reform Network (TURN) filed a request for compensation on September 19, 2006, for its work performed from December 2005 to September 2006 on Phase I of R.06-02-013. TURN also included in this filing a request for compensation for its work performed in 2005 under A.05-06-003. No party opposed this request.

TURN filed a second request for compensation on February 19, 2008, for its work performed from August 2006 to December 2007 on Phase II of R.06-02-013 as well as for its work performed in July 2006 on Phase I. No party opposed this request.

R.06-02-013 remains open to address further long-term procurement issues.

2. Requirements for Awards of Compensation

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812,¹ requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers.

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (PHC) or, in special circumstances, at other appropriate times that the Commission specifies. (§ 1804(a); Rule 17.1(a) of the Commission's Rules of Practice and Procedure (Rules).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to the Commission's jurisdiction. (§ 1802(b).)

¹ All subsequent statutory references are to the Public Utilities Code unless otherwise indicated.

3. The intervenor must file and serve a request for a compensation award within 60 days of the Commission's final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g), 1804(b)(1).)
5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision or as otherwise found by the Commission. (§§ 1802(i), 1803(a).)
6. The claimed fees and costs must be reasonable (§ 1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§ 1806), and productive (D.98-04-059).

The Commission will first address the procedural issues in Items 1 to 4 above and then separately address Items 5 and 6.

3. Procedural Issues

3.1. Filing a Timely NOI to Claim Compensation

Under § 1804(a)(1) and Rule 17.1(a)(1), a customer who intends to seek an award of intervenor compensation must file an NOI in a timely manner. In a proceeding that includes a PHC, the intervenor must file and serve its NOI between the initiation date of the proceeding and 30 days after the first PHC. (Rule 17.1(a)(1).) The Commission conducted the first PHC in R.06-02-013 on February 28, 2006. TURN timely filed its NOI to claim compensation on March 28, 2006.

The Commission conducted the PHC for A.05-06-003 on August 2, 2005. TURN timely filed its NOI to claim compensation on September 1, 2005.

3.2. Meeting the Definition of “Customer”

Section 1802(b)(1) defines “customer” as: (A) a participant representing consumers, customers or subscribers of a utility; (B) a representative who has been authorized by a customer; or (C) a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small business customers. TURN represents the interests of residential ratepayers of the IOUs. TURN has previously appeared before the Commission as a consumer advocate. The Commission finds that TURN is a customer as defined in § 1802(b)(1)(C).

3.3. Filing a Timely Request for Compensation

TURN filed its first request for compensation on September 19, 2006, within 60 days of the issuance of D.06-07-029 in proceeding R.06-02-013. TURN timely filed its request for compensation with respect to this decision.

In this request, TURN also seeks compensation for its work in proceeding A.05-06-003. However, the Commission issued the final decision in that proceeding on January 13, 2006, more than eight months before TURN filed its request. Because TURN did not timely file its request for compensation with respect to A.05-06-003, TURN failed to meet the procedural requirements and the Commission must disallow that part of the request relating to TURN’s work in A.05-06-003.² The Commission wishes to emphasize, however, that the Commission does appreciate TURN’s participation in A.05-06-003 and the

² In its request, TURN notes that it deferred seeking compensation for its work in A.05-06-003 because the final decision, D.06-01-004, did not resolve the underlying policy issues. Regardless, D.06-01-004 was the final decision by the Commission in the proceeding and TURN has the responsibility to seek compensation pursuant to § 1804(c).

Commission encourages TURN's continued participation in Commission proceedings.

TURN timely filed its second request for compensation on February 19, 2008, within 60 days of the issuance of D.07-12-052.

3.4. Demonstrating Significant Financial Hardship

The Commission found in a November 4, 2005 ruling in A.05-02-027 that TURN made a satisfactory showing of significant financial hardship pursuant to § 1802(g). The current proceeding commenced on February 16, 2006 – within one year of that finding. Thus, pursuant to § 1804(b)(1), there exists a rebuttable presumption of eligibility for compensation for TURN.

In light of the above, the Commission finds that TURN has satisfied the procedural requirements necessary to make its request for compensation for its work toward D.06-07-029, D.07-09-044, and D.07-12-052; however, the Commission finds that TURN did not satisfy the procedural requirements necessary to make its request for compensation for its work in A.05-06-003.

4. Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding, the Commission looks at several things. First, we look at whether the Commission adopted one or more of the factual contentions, legal contentions, or specific policy or procedural recommendations that the customer advanced. (§ 1802(i).) Second, if the customer's contentions or recommendations paralleled those of another party, we look at whether the customer's participation unnecessarily duplicated or materially supplemented, complemented, or contributed to the presentation of the other party. (§§ 1801.3(f) and 1802.5.)

The assessment of whether the customer made a substantial contribution requires the exercise of judgment. (§ 1802(i).)

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.³

With this guidance in mind, the Commission turns to TURN's claimed contributions to the proceeding.

4.1. Contributions to D.06-07-029

TURN was a proponent of the "Joint Parties" proposal for the cost-allocation mechanism that the Commission adopted in modified form in D.06-07-029.⁴ TURN advocated for such a policy beginning with its December 12, 2005 pre-workshop comments in response to the December 2, 2005 Assigned Commissioner's Ruling in R.04-04-003 and continuing through the proceeding. TURN participated in creating the Joint Parties proposal, participated in the workshop to discuss the proposal, contributed to all subsequent Joint Parties filings, and submitted several separate supporting comments. D.06-07-029 directly utilized some of TURN's arguments in support of the adopted policy:

³ D.98-04-059, 79 CPUC2d 628 at 653.

⁴ TURN notes that the Joint Parties proposal is a descendant of TURN's original proposal in R.01-10-024 and of the SCE proposal in A.05-06-003, which TURN supported.

TURN Contributions	Reference in Decision
Given the urgent need for new capacity and the lengthy lead-times required both for new construction and to develop and implement new market institutions, the Commission concludes that staying the course is too risky.	page 4
TURN has stated that it would be unfair to bundled customers to require the IOUs alone to invest in long-term contracts if those contracts cost more than existing generation.	pages 12-13
But as TURN noted, it is more important that the Commission figure out how to ensure new generation needed for system reliability gets built when it is not in the interest of any LSE or its customers to take on such an obligation.	pages 24-25
. . . if the IOUs have to pass on the entire cost of the new generation to just their bundled customers, with no wider cost allocation scheme, then the cost of energy from an IOU will necessarily be more expensive than that from a competing DA provider. Because the non-utility LSEs do not have RAR requirements that necessitate them entering into long-term contracts, the non-utility LSEs would not have to pay the price of a contract for new generation. This situation will create an unacceptable inequitable balance between IOU bundled ratepayers and other ratepayers.	page 46

The Commission finds reasonable TURN’s claim for substantial contribution to D.06-07-029. The Commission benefited from TURN’s participation, analysis, and discussion of the issues.

4.2. Contributions to A.05-06-003

The Commission does not analyze TURN’s claim for substantial contribution to A.05-06-003 because TURN failed to meet the procedural requirements in filing its request for compensation.

4.3. Contributions to D.07-09-044

TURN alleges an active involvement in Phase II of proceeding R.06-02-013, contributing to D.07-09-044. TURN propounded discovery, prepared direct and rebuttal testimony, participated in workshops, working groups and negotiation

sessions, cross-examined witnesses, filed opening and closing briefs, and filed opening and reply comments on the proposed decision.

With respect to D.07-09-044, TURN represented the interests of small bundled service customers at the public workshops and negotiation sessions. TURN focused on the “Benefit and Cost Allocation” section of the settlement and minimized its costs of participation by avoiding undue involvement in issues tangential to the interests of these customers. D.07-09-044 adopted the joint settlement agreement as presented by TURN and the other settling parties with only minor modifications. The Commission finds reasonable TURN’s claim of substantial contribution to D.07-09-044.

4.4. Contributions to D.07-12-052

TURN alleges the following contributions to D.07-12-052:

TURN Contributions	Effects on the Decision
<p>(1) Recommendation to find that any new conventional resource procurement authorization adopted in this case should be based on the adopted Planning Reserve Margin (PRM) and not some other criteria. Furthermore, after providing testimony and conducting cross-examination, recommendation to reject PG&E’s proposed changes to its PRM.</p>	<ul style="list-style-type: none"> * The Commission included this recommendation in the need determination tables and in Findings of Fact 42, 46, and 48 (calculating the range of need as a 15% -- 17% Planning Reserve Requirement) (pp. 116-118, 277-278). * The Commission rejected PG&E’s requested changes for its PRM. (See Finding of Fact 38, p. 276.) * The Commission found that the need determination for each IOU would be based on, inter alia, the PRM assessments. (See Finding of Fact 41, p. 277.)
<p>(2) Recommendation to find that potential increases in Community Choice Aggregator (CCA) or Direct Access (DA) load will impact future bundled customer needs but not the <i>physical resource need</i> in the utility service area as a whole.</p>	<ul style="list-style-type: none"> * Finding of Fact 17: The Commission finds that PG&E, SCE and SDG&E’s assessment that system need is not impacted by possible future load shifting to DA and CCA is reasonable and that future DG and MDL is captured by the historical trends used to develop the forecast. (P. 272.) * Conclusion of Law 8: System need is not impacted by possible future load shifting to DA and CCA, and future DG and MDL is captured by the historical trends used to develop the IOUs’ forecasts. (P. 292.)

<p>(3) Recommendation to not require the utilities to discontinue contracting with “aging plants” by an arbitrary date certain but rather allow market forces to dictate the pace of unit retirements.</p>	<p>* In consideration of the issues surrounding plant retirement, the Commission found merit in TURN’s position, which assisting us in moderating the proposals of PG&E and CEC. (Pp. 88-89.)</p>
<p>(4) Recommendation to adopt PG&E’s aggressive forecast of aging plant retirements <i>if and only if</i> the potential availability of these older units to “bridge the gap” is also taken into account in addressing the contingency that preferred resources may not develop as quickly as forecasted. Recommendation not to adopt an assumption that all of the aging plants will retire <i>if</i> that assumption leads to the construction of new conventional units as a contingency for the potential delay of preferred resources.</p>	<p>* The Commission effectively followed TURN’s recommendation by rejecting the contingencies requested by PG&E. (See Finding of Fact 39, pp. 276-277.)</p>
<p>(5) Recommendation to reject PG&E’s proposal to procure to meet a higher PRM pending consideration of the appropriate PRM for all LSEs in Phase II of R.05-12-013.</p>	<p>* The Commission declined any changes to the IOU’s PRMs. (See Finding of Fact 38, p. 276; and Conclusion of Law 22, p. 294.)</p>
<p>(6) Recommendation to reject PG&E’s proposal to procure an additional 500 MW of new resources because of the possibility that Resource Adequacy counting rules may be changed in the future.</p>	<p>* The Commission directed PG&E to pursue its requested Resource Adequacy Counting contingency in the appropriate proceeding devoted to Resource Adequacy. (P. 96.)</p>
<p>(7) Recommendation to recognize that new resources currently “in the pipeline” may not all be developed as currently planned but address that contingency by allowing aging plants to continue to operate, rather than by authorizing procurement of additional new conventional plants.</p>	<p>* TURN states that the decision assures that new conventional generation will not be developed based solely on the potential that some preferred resources may be delayed or cancelled. (See Findings of Fact 31, 37, and 39, pp. 275-277.)</p>
<p>(8) Recommendation to allow the utilities to procure a <i>limited amount</i> of new resources beyond just the amount needed to meet the PRM, but only if those additional resources will reduce the Net Present Value of ratepayer costs when compared with <i>not procuring</i> such new resources.</p>	<p>* TURN notes that while the decision did not directly address this issue, the decision accomplished a similar result by authorizing a range of need rather than a point estimate based solely on the minimum PRM.</p>

<p>(9) Recommendation to find that the PG&E service area has no need for new resources prior to 2014. Recommendation not to authorize more than 200 to 700 MW of new conventional procurement with authorization for the higher amount being contingent upon the receipt of bids that would reduce the Net Present Value of ratepayer costs when compared with <i>not procuring</i> the resource.</p>	<ul style="list-style-type: none"> * The Commission’s published need determination table for PG&E shows no estimate of need before 2014. (P. 116.) * The Commission found that PG&E’s service area shows a need of 800 to 1,200 MW by 2015, which is more than TURN’s recommendation but less than PG&E’s request for 2,300 to 2,500 MW. (Finding of Fact 41, p. 277; pp. 104-105.)
<p>(10) Recommendation to find that any new resource procurement authorization for the Edison service area should not exceed a range of from 500 to 1,000 MW (using 2013 as the base year), depending upon the attractiveness of the offers received and to allocate the resulting net costs to all customers per D.06-07-029.</p>	<ul style="list-style-type: none"> * The Commission’s published need determination table for SCE shows an estimated need in 2013 from 250 MW at 15% PRM to 717 MW at 17% PRM. (P. 117.) * The Commission found an estimated need for SCE’s service area from 1,200 MW to 1,700 MW by 2015. (P. 117; Finding of Fact 46, p. 278.)
<p>(11) Recommendation to continue the Procurement Review Groups (PRG) and expand them to include DA and CCA <i>customers</i> only when reviewing RFOs conducted pursuant to D.06-07-029 that will result in an allocation of costs to those customers, assuming that the necessary non-disclosure agreements can be worked out. TURN was an active participant of the PRG Participation Working Group.</p>	<ul style="list-style-type: none"> * The Commission directed the utilities to continue to use PRGs as advisors for the procurement activities. (Finding of Fact 53, p. 279.) * The Commission adopted the PRG Participation Working Group proposal to create a CAM Group for procurement which shall include representatives of CCA and DA customers. (Finding of Fact 58, p. 280.) * The adopted proposal included NDA obligations. (Appendix D, pp. 3-5.)
<p>(12) Recommendation to continue use of an Independent Evaluator (IE) and to consider having the Energy Division (ED), rather than the utility, hire and supervise the IE if the related state contracting issues can be satisfactorily resolved.</p>	<ul style="list-style-type: none"> * The Commission found it reasonable to continue the use of IEs. (Finding of Fact 59, p. 280.) * The Commission found that, at this time, it is not practical to transfer the IE contracting authority to the Commission. (P. 136.) However, the Commission adopted SCE’s proposal that ED should be involved during the selection process, the development of the scope of work and the drafting of the terms of the contracts with the IE and have the right to final approval of such engagements. (Finding of Fact 60, p. 280.)

<p>(13) Recommendation to support further development of methods for evaluating potential transmission costs <i>avoided</i> by local area generation projects that may eliminate or postpone the need for additional transmission capacity into a constrained area.</p>	<p>* The Commission declined to make any findings or orders on how transmission costs and benefits are to be evaluated for specific generation projects in the RFO process. (Finding of Fact 78, p. 283.)</p> <p>* The Commission reiterated its order from D.04-12-048 regarding the IOUs consideration of Brownfield sites before considering building new generation on Greenfield sites. (Finding of Fact 103, p. 288.)</p>
<p>(14) Recommendation to consider requiring the utilities to use a higher discount rate (based on the utility's <i>pre-tax</i> weighted average cost of capital) when evaluating proposed long-term investments.</p>	<p>* TURN notes that the Commission's decision did not directly address this issue.</p>
<p>(15) Recommendation to adopt TURN's proposed framework for comparing PPA bids with cost estimates for utility-owned generation in competitive solicitations and to require the utilities to propose ratemaking mechanisms to mitigate the cost and performance risks to ratepayers when seeking approval of utility-owned projects.</p>	<p>* TURN states that the Commission's preference for a "competitive market first" approach is consistent with TURN's overall approach. (See pp. 201-213.)</p> <p>* In the Commission's discussion about comparing UOG and IPP bids, the Commission favorably cited TURN's position regarding allowing head-to-head competition subject to safeguards. (P. 206; see also Findings of Fact 94, 98-99, pp. 287-287.)</p> <p>* The Commission appreciated TURN's proposal for unique circumstances in which UOG outside of a competitive RFO may be the most attractive option to ratepayers for resource development. (P. 210.)</p> <p>* The Commission found that if an IOU proposes a UOG project outside of a competitive RFO, it is reasonable to require the IOU to make a showing that holding a competitive RFO is infeasible. (Finding of Fact 100, p. 287.)</p>
<p>(16) Recommendation to adopt TURN's proposal for implementation of AB 1576.</p>	<p>* The Commission decided not to make any new finding in regards to AB 1576 repowering projects. (Finding of Fact 103, p. 288.) TURN notes that this decision validated TURN's comments on problems with proposals by Edison, Mirant, and LS Power.</p>

<p>(17) Recommendation to support the continued development of a procurement “rulebook” for all of the utilities but to find that it should remain a reference tool and not supersede or otherwise supplant.</p>	<ul style="list-style-type: none"> * The Commission endorsed, but did not yet adopt, the concept of SCE’s Rulebook in principle and directed ED, the IOUs, and other parties to create a Procurement Plan Implementation Manual” for each IOU. (Finding of Fact 102, pp. 287-288.) * The Commission concurred with TURN’s position that the IOUs accurately reflect their EE goals in their LTTPs. (Finding of Fact 19, p. 272; Conclusion of Law 11, p. 292.) * TURN notes that it opposed and the Commission did not adopt the IOU’s proposed changes to the Commission’s EE policies. * The Commission held that IOUs may tailor their RFOs to address particular needs (procurement, system reliability, RA requirements) but are prohibited from creating false barriers to participation or attempting to limit or manipulate the competitive process. (Finding of Fact 65, p. 281; Conclusion of Law 25, p. 294.)
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The Commission finds reasonable TURN’s claim for substantial contribution to D.07-12-052. While the Commission did not adopt or address all of TURN’s recommendations, most of them were highly relevant to the Commission’s decision and elevated the discussion and the Commission’s consideration. TURN’s advocacy had a significant impact on the Commission’s decision.

5. Contributions of Other Parties

Section 1801.3(f) requires an intervenor to avoid participation that duplicates that of similar interests otherwise adequately represented or for participation that is not necessary for a fair determination of the proceeding. Section 1802.5, however, allows full intervenor compensation for participation that materially supplements, complements, or contributes to that of another party if that participation makes a substantial contribution to the Commission decision.

The Commission agrees with TURN that, as the only organization who both represented the interests of consumers and supported the Joint Proposal for D.06-07-029, its work was neither unnecessary nor duplicative of the work of any other party.

The Commission also agrees with TURN that its work for D.07-09-044 and D.07-12-052 was neither unnecessary nor duplicative of the work of any other party. TURN explains how it only participated in those aspects of the proceeding related to the interests of consumers. Furthermore, TURN states that it consulted with other parties representing the interests of consumers, such as Division of Ratepayer Advocates and Aglet Consumer Alliance, to avoid addressing the same issues with the same concerns.

6. Reasonableness of Requested Compensation

TURN submitted two requests, one for \$62,210.33 and another for \$211,510.00, for a total of \$273,720.33 for its participation in the decisions, as follows:

September 19, 2006 Request				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel Peter Florio	2005	21.25	\$470	\$ 9,987.50
Michel Peter Florio	2006	66.25	\$490	\$32,462.50
Matthew Freedman	2005	4.75	\$270	\$ 1,282.50
Kevin Woodruff	2005	22.50	\$200	\$ 4,500.00
Kevin Woodruff	2006	52.00	\$225	\$11,700.00
Subtotal:				\$59,932.50
Preparation of NOI and Compensation Request				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel Peter Florio	2006	8.25	\$245	\$ 2,021.25
Subtotal Hourly Compensation:				\$61,953.75
Expenses				\$ 256.58
Total Requested Compensation (09/19/2006)				\$62,210.33

February 19, 2008 Request				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel Peter Florio	2006	41.75	\$485	\$ 20,249.00*
Michel Peter Florio	2007	254.25	\$520	\$132,210.00
Hayley Goodson	2007	13.25	\$210	\$ 2,783.00*
Marcel Hawiger	2006	2.00	\$280	\$ 560.00
Marcel Hawiger	2007	0.75	\$300	\$ 225.00
Kevin Woodruff	2006	79.00	\$225	\$ 17,775.00
Kevin Woodruff	2007	142.00	\$225	\$ 31,950.00
Cynthia Mitchell	2007	17.50	\$140	\$ 2,450.00
Subtotal:				\$208,202.00
Preparation of NOI and Compensation Request				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel Peter Florio	2008	10.25	\$260	\$ 2,665.00
Subtotal Hourly Compensation:				\$210,867.00
Expenses				\$ 643.00*
Total Requested Compensation (02/19/2008)				\$211,510.00

* Rounded up to the nearest dollar.

Grand Total Requested Compensation	\$273,720.33
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In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The Commission discusses below the issues the Commission considers to determine reasonableness.

6.1. Hours Related to and Necessary for Substantial Contribution

The Commission first assesses whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by determining to what degree the hours are related to the work performed and necessary for the substantial contribution.

TURN documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. The hourly breakdown reasonably supports the claim for total hours.

Because the Commission disallows TURN's request for compensation for work done in proceeding A.05-06-003, the Commission adjusts the hours from TURN's September 19, 2006 request as follows:

Attorney/Staff	Year	Hours
Michel Peter Florio	2005	12.00
Matthew Freedman	2005	2.25
Kevin Woodruff	2005	6.50

6.2. Intervenor Hourly Rates

The Commission next takes into consideration whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services.

TURN seeks an hourly rate of \$470 for Florio for work performed in 2005. The Commission previously approved this rate for Florio in D.06-07-011⁵ and adopts it here.

TURN seeks, in its first request, an hourly rate of \$490 for Florio for work performed in 2006. In its second request, TURN seeks an hourly rate of \$485 for Florio for work performed in 2006. The Commission previously approved the rate of \$485 for Florio in D.06-11-031⁶ and adopts it here.

TURN seeks an hourly rate of \$520 for Florio for 2007. This rate represents a 3% cost-of-living adjustment (COLA) plus a 5% step increase over Florio's

⁵ D.06-07-011, p. 11.

⁶ D.06-11-031, p. 11.

previously approved 2006 rate but capped within the authorized rate range for attorneys with 13+ years of experience. The Commission previously approved an hourly rate of \$500 for Florio for 2007 in D.07-05-043; while that decision states that this increase included a 5% step increase, TURN correctly points out that it only represents the 3% COLA over the 2006 rate of \$485.⁷ Thus, applying the 5% step increase and taking into account the limit of rate range, the Commission finds reasonable and approves the hourly rate of \$520 for Florio for 2007. TURN does not seek any further increase in Florio's rate for his work performed in 2008 for this compensation request but reserves the right to seek a higher 2008 rate in future compensation requests.

TURN seeks an hourly rate of \$270 for Freedman for work performed in 2005. The Commission previously approved this rate for Freedman in D.06-07-011⁸ and adopts it here.

TURN seeks an hourly rate of \$210 for Goodson for work performed in 2007. The Commission previously approved this rate for Goodson in D.07-12-026⁹ and adopts it here.

TURN seeks an hourly rate of \$280 for Hawiger for work performed in 2006. The Commission previously approved this rate for Hawiger in D.06-10-018¹⁰ and adopts it here.

⁷ D.07-05-043, p. 15.

⁸ D.06-07-011, p. 11.

⁹ D.07-12-026, Appendix A, p. 1.

¹⁰ D.06-10-018, Appendix A, p. 1.

TURN seeks an hourly rate of \$300 for Hawiger for work performed in 2007. The Commission previously approved this rate for Hawiger in D.07-12-026¹¹ and adopts it here.

TURN seeks an hourly rate of \$200 for Woodruff for work performed in 2005. The Commission previously approved this rate for Woodruff for 2003 in D.04-05-050¹² and adopts it here.

TURN seeks an hourly rate of \$225 for Woodruff for work performed in 2006. The Commission previously approved this rate for Woodruff in D.07-06-045¹³ and adopts it here. TURN does not seek an increase in Woodruff's rate for his work performed in 2007.

TURN seeks an hourly rate of \$140 for Mitchell for work performed in 2007. The Commission previously approved this rate for Mitchell for 2005 in D.06-03-023¹⁴ and adopts it here.

6.3. Direct Expenses

TURN submitted expenses of \$256.58, including costs for photocopying, postage, consultant's travel and meals; and \$642.93, including costs for photocopying, consultant's travel, lodging, and meals. TURN's requests for direct expenses are all reasonable and commensurate with the work performed with the exception of reimbursement for meals.

¹¹ D.07-12-026, Appendix A, p. 2.

¹² D.04-05-050, p. 13.

¹³ D.07-06-045, pp. 2-5.

¹⁴ D.06-03-023, p. 16.

September 19, 2006 Request		
Photocopying	A.05-06-003	\$ 74.40
Postage	A.05-06-003	\$ 10.80
Photocopying	R.06-02-013	\$110.00
Postage	R.06-02-013	\$ 4.38
Travel (parking, tolls)	R.06-02-013	\$ 40.00
Meals	R.06-02-013	\$ 17.00*
Total Expenses		\$256.58

February 19, 2008 Request	
Photocopying	\$283.00
Travel (mileage and Amtrak)	\$203.50
Lodging	\$149.68
Meals	\$ 6.75*
Total Expenses	\$642.93

Grand Total Expenses	\$899.51¹⁵
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* Disallowed.

As the Commission explained above, it disallows compensation for TURN's work in proceeding A.05-06-003. Thus the Commission disallows the \$85.20 in expenses associated with TURN's work in that proceeding.

The cost breakdown included with the request shows miscellaneous expenses, excluding meal allowances, to be reasonable and commensurate with the work performed.

¹⁵ TURN's total of all expenses was reduced to \$875.76 due to the disallowance of meals.

7. Productivity

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through its participation. This showing assists us in determining the overall reasonableness of the request.

TURN notes that its work towards D.06-07-029 dealt primarily with the allocation of costs and benefits among different types of customers. TURN asserts that at minimum there were tens of millions of dollars in costs at stake over a period of 10 years. TURN argues that it was overall successful in assuring that bundled service customers would not be forced to bear an excessive share of the costs of constructing new generation projects that provide reliability benefits to all customers, both bundled and unbundled. Through its advocacy, TURN claims to have assured small bundled service customers a reasonable degree of protection from cost shifting. The Commission agrees with TURN that the protection afforded to this class of consumer, in part through TURN's participation, is substantial, although difficult to quantify. Thus the Commission finds that TURN's efforts have been productive.

TURN states that its work in D.07-09-044 and D.07-12-052 dealt primarily with broad policy issues and as such is extremely difficult to quantify. TURN noted its overall participation in Phase II of the proceeding and particularly its work in assuring that the utilities would not receive authorization to procure an unnecessarily large amount of new conventional resources. The Commission agrees with TURN that its participation, while not easily quantifiable, had real and substantial effects on ratepayer costs. Thus the Commission finds that TURN's efforts have been productive.

8. Award

As set forth in the tables below, the Commission awards TURN \$265,111.39.

Award for September 19, 2006 Request				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel Peter Florio	2005	12.00	\$470	\$ 5,640.00
Michel Peter Florio	2006	66.25	\$485	\$32,131.25
Matthew Freedman	2005	2.25	\$270	\$ 607.50
Kevin Woodruff	2005	6.50	\$200	\$ 1,300.00
Kevin Woodruff	2006	52.00	\$225	\$11,700.00
Subtotal:				\$51,378.75
Preparation of NOI and Compensation Request				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel Peter Florio	2006	8.25	\$242.50	\$ 2,000.63
Subtotal Hourly Compensation:				\$53,379.38
Expenses				\$ 239.58
Total Awarded Compensation for 09/19/2006 Request				\$53,608.96
Award for February 19, 2008 Request				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel Peter Florio	2006	41.75	\$485	\$ 20,248.75
Michel Peter Florio	2007	254.25	\$520	\$132,210.00
Hayley Goodson	2007	13.25	\$210	\$ 2,782.50
Marcel Hawiger	2006	2.00	\$280	\$ 560.00
Marcel Hawiger	2007	0.75	\$300	\$ 225.00
Kevin Woodruff	2006	79.00	\$225	\$ 17,775.00
Kevin Woodruff	2007	142.00	\$225	\$ 31,950.00
Cynthia Mitchell	2007	17.50	\$140	\$ 2,450.00
Subtotal:				\$208,201.25
Preparation of NOI and Compensation Request				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Michel Peter Florio	2008	10.25	\$260	\$ 2,665.00
Subtotal Hourly Compensation:				\$210,866.25
Expenses				\$ 636.18
Total Awarded Compensation for 02/19/2008 Request				\$211,502.43
Grand Total Awarded Compensation				\$265,111.39

Pursuant to § 1807, the Commission directs PG&E, SDG&E, and SCE to allocate payment responsibility among themselves. With respect to the award associated with D.06-07-029 for the amount of \$53,608.96, this allocation shall be based upon their California-jurisdictional electric revenues for the 2006 calendar year to reflect the year in which this decision was primarily litigated. With respect to the award associated with D.07-09-044 and D.07-12-052 for the amount of \$211,502.43, this allocation shall be based upon their California-jurisdictional electric revenues for the 2007 calendar year to reflect the year in which these decisions were primarily litigated.

Consistent with previous Commission decisions, the Commission orders that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing on the 75th day after TURN filed each respective compensation request and continuing until full payment of the award is made. For the September 19, 2006 request, the 75th day is December 3, 2006. For the February 19, 2008 request, the 75th day is May 4, 2008.

The Commission reminds TURN that Commission staff may audit its records related to the award and that TURN must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. TURN's records should identify specific issues for which it requested 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.

9. Waiver of Comment Period

This is an intervenor compensation matter. Accordingly, as provided by Rule 14.6(c)(6) of the Commission's Rules, the Commission waives the otherwise applicable 30-day comment period for this decision.

10. Assignment of Proceeding

President Michael R. Peevey is the assigned Commissioner and Carol Brown is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. TURN has satisfied all the procedural requirements necessary to claim compensation for D.06-07-029, D.07-09-044, and D.07-12-052.
2. TURN failed to file its request for compensation within 60 days of the final decision for A.05-06-003 as required in § 1804(c). TURN filed its request for compensation more than eight months after the Commission issued its final decision in A.05-06-003. As a result, TURN's request for compensation in this proceeding is disallowed.
3. TURN made a substantial contribution to D.06-07-029, D.07-09-044, and D.07-12-052 as described herein.
4. TURN requested hourly rates for its representatives that, as adjusted herein, are reasonable when compared to the market rates for persons with similar training and experience.
5. TURN requested related expenses (excluding meals), that are reasonable and commensurate with the work performed.
6. The total of the reasonable compensation is \$265,111.39.
7. The appendix to this decision summarizes today's award.

Conclusions of Law

1. TURN has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, for its requests for compensation for its work toward D.06-07-029, D.07-09-044, and D.07-12-052 in R.06-02-013 and thus is entitled to intervenor compensation for its claimed expenses, as adjusted herein, incurred in making substantial contributions to those decisions.

2. TURN has not fulfilled the requirements of Pub. Util. Code §§ 1801-1812 for its request for compensation for its work in A.05-06-003 and thus is not entitled to intervenor compensation for its claimed expenses incurred in making substantial contributions in that proceeding.

3. TURN should be awarded \$265,111.39 for its contributions to D.06-07-029, D.07-09-044, and D.07-12-052.

4. This order should be effective today so that TURN may be compensated without further delay.

O R D E R

IT IS ORDERED that:

1. The Utility Reform Network (TURN) is awarded \$265,111.39 as compensation for its substantial contributions to Decision (D.) 06-07-029, D.07-09-044, and D.07-12-052.

2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company (SDG&E), and Southern California Edison Company (SCE) shall pay TURN their respective shares of the award. The Commission directs PG&E, SDG&E, and SCE to allocate payment responsibility among themselves, based on their California-jurisdictional electric

revenues for the year in which the decisions were primarily litigated. Payment of \$53,608.96, associated with D.06-07-029, shall be allocated based on the 2006 calendar year. Payment of \$211,502.43, associated with D.07-09-044 and D.07-12-052, shall be allocated based on the 2007 calendar year. 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 3, 2006, the 75th day after the filing date of TURN's September 19, 2006 request for compensation and beginning May 4, 2008, the 75th day after the filing date of TURN's February 19, 2008 request for compensation and continuing until full payment is made.

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

4. Rulemaking 06-02-013 remains open to address further long-term procurement issues.

This order is effective today.

Dated October 2, 2008, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX

Compensation Decision Summary Information

Compensation Decision:	D0810012	Modifies Decision? N
Contribution Decision(s):	D0607029, D0709044, D0712052	
Proceeding(s):	R0602013	
Author:	ALJ Brown	
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	09/19/2006; 02/19/2008	\$273,720.33	\$265,111.39	No	(1) Failure to file timely request for compensation; (2) failure to justify hourly rate; and (3) inappropriately claimed expenses

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Michel	Florio	Attorney	The Utility Reform Network	\$470	2005	\$470
Michel	Florio	Attorney	The Utility Reform Network	\$485 / \$490	2006	\$485
Michel	Florio	Attorney	The Utility Reform Network	\$520	2007	\$520
Michel	Florio	Attorney	The Utility Reform Network	\$520	2008	\$520
Matthew	Freedman	Attorney	The Utility Reform Network	\$270	2005	\$270
Hayley	Goodson	Attorney	The Utility Reform Network	\$210	2007	\$210
Marcel	Hawiger	Attorney	The Utility Reform Network	\$280	2006	\$280
Marcel	Hawiger	Attorney	The Utility Reform Network	\$300	2007	\$300
Kevin	Woodruff	Policy Expert	The Utility Reform Network	\$200	2005	\$200
Kevin	Woodruff	Policy Expert	The Utility Reform Network	\$225	2006	\$225
Kevin	Woodruff	Policy Expert	The Utility Reform Network	\$225	2007	\$225
Cynthia	Mitchell	Policy Expert	The Utility Reform Network	\$140	2007	\$140

(END OF APPENDIX)