

Decision 08-12-016 December 4, 2008

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Southern California Edison Company's
Application for Approval of Embedded Energy
Efficiency Pilot Programs for 2007-2008.

Application 07-01-024
(Filed January 16, 2007;
reopened February 19, 2008)

And Related Matters.

Application 07-01-026
Application 07-01-029
Application 07-01-030

**DECISION GRANTING INTERVENOR COMPENSATION AWARDS
TO THE NATURAL RESOURCES DEFENSE COUNCIL
AND THE UTILITY REFORM NETWORK
FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 07-12-050**

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**DECISION GRANTING INTERVENOR COMPENSATION AWARDS
TO THE NATURAL RESOURCES DEFENSE COUNCIL
AND THE UTILITY REFORM NETWORK
FOR SUBSTANTIAL CONTRIBUTIONS TO DECISION 07-12-050**

This decision awards \$41,430.75 in compensation for Natural Resources Defense Council's substantial contributions during the consolidated proceeding leading to Decision (D.) 07-12-050. This represents a decrease of \$22.20 from the amount requested due to disallowance of routine commuting costs.

This decision awards \$76,349.76 in compensation for The Utility Reform Network's substantial contributions during the consolidated proceeding leading to D.07-12-050.

1. Background

1.1. Decision (D.) 07-12-050

D.07-12-050 directed the four major energy investor-owned utilities (IOUs or energy utilities) regulated by the Commission to fund and implement a series of water conservation pilot programs. The broad purpose of these pilot programs is to track and examine the potential for embedded energy¹ to be saved, cost effectively, through those water conservation programs. The pilot programs therefore include studies and monitoring programs that track the water conservation programs and closely examine the related reduction in energy use associated with those water conservation programs to illustrate the relationship between water savings and associated energy savings.

¹ "Embedded energy" is the amount of energy needed to produce, convey, and treat a given quantity of water.

Ultimately, these pilot programs were designed to yield the base data necessary to set the stage for anticipated future Commission proceedings by enhancing the Commission's understanding of the potential for embedded energy to be saved, cost effectively, through water conservation programs. The decision also directed the Energy Division to oversee and monitor the pilot programs and to conduct several related studies designed to ensure the collection of comprehensive foundational data and to supplement data resulting from the energy utilities' pilot programs. Using the resulting foundational data, the Commission announced its planned future efforts to develop its own cost-effectiveness calculator for water-energy saving measures and programs.

Cumulatively, the energy utilities will spend approximately \$6.4 million on these pilot programs. The Commission anticipates that the results of this pilot process will inform later decisions about the incorporation of water conservation efforts in the energy efficiency (EE) programs for 2009-2011 and beyond.

1.2. Procedural History

The instant consolidated docket, which resulted in D.07-12-050, initially arose from the Commission's prior directives in other proceedings. The Commission began explicitly addressing the possibility that energy utilities might pursue demand side resources by targeting potential embedded energy savings in D.05-09-043, the decision addressing the 2006-2008 EE program applications of Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), San Diego Gas & Electric Company (SDG&E), and Southern California Gas Company (SoCalGas) (collectively, the energy utilities).

A few months later, the Commission opened a new EE rulemaking, (R.) 06-04-010, and confirmed that it intended to explore the issue of "counting embedded energy savings associated with water efficiency." A Scoping Memo

was issued on May 24, 2006, which determined that it would be prudent to convene workshops and to receive comments. During 2006 and 2007, multiple educational and training workshops were conducted by the Commission to facilitate policy discussions relating to water-embedded energy savings pursuant to the preceding Scoping Memo. Parties likewise filed post-workshop comments and reply comments on issues laid out in the Scoping Memo on July 31, 2006, and August 18, 2006, respectively.

On October 16, 2006, assigned Commissioner Grueneich issued a ruling in R.06-04-010, directing the energy utilities to file applications in January 2007 to propose spending up to \$10 million (collectively) on pilot programs designed to study water-embedded energy savings. The energy utilities, potential water utility partners, and other stakeholders then convened the "Water-Energy Consortium," a working group to assist the energy utilities during the fall of 2006 in developing their pilot program proposals.

On January 16, 2007, the energy utilities each filed an application (Application (A.) 07-01-024, A.07-01-026, A.07-01-029, and A.07-01-030) seeking Commission authorization to implement a pilot EE program intended to capture the embedded energy savings associated with water conservation. On January 30, 2007, the Commission held a prehearing conference (PHC), which was followed by three workshops in February and one in May. On June 14, 2007, the energy utilities served supplemental prepared testimony proposing revised pilot programs and supplementing their previous showing. On June 22, 2007, assigned Administrative Law Judge (ALJ) Weissman extended the schedule to allow for additional negotiations between the energy utilities and other parties. Following these negotiations, the energy utilities submitted amended supplemental prepared testimony on July 11, 2007, to address various issues that

arose during those negotiations, and parties filed comments and reply comments on July 18, 2007, and July 25, 2007, respectively. On August 1, 2007, a second PHC was held and all parties stipulated to receipt of all of the applicants' proposals and supporting prepared testimony without cross-examination and without responsive testimony.

The assigned ALJ issued a proposed decision on November 15, 2007. Comments were due on December 5, 2007, and reply comments on December 10, 2007. D.07-12-050 closed the proceedings and approved various pilot programs, discussed above, as negotiated by parties and proposed by the energy utilities, with several modifications designed to ensure that pilot programs will yield the comprehensive and practical information needed to determine the ongoing role of water conservation efforts in the energy utilities' EE programs.

2. Requirements for Awards of Compensation

The intervenor compensation program, which is set forth in Pub. Util. Code §§ 1801-1812,² requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if that party 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 PHC, pursuant to

² All subsequent statutory references are to the Public Utilities Code unless otherwise indicated.

Rule 17.1 of the Commission's Rules of Practice and Procedure (Rules), or at another appropriate time that we specify. (§ 1804(a).)

2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor must file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g) and 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) and 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).

In the discussion below, the procedural issues in Items 1-4 above are combined and discussed in section 3 below. Separate discussions of Items 5-6 follow, starting section 4.

3. Preliminary Procedural Issues

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 before certain dates. In a proceeding in which a PHC is held, the intervenor must file and serve its NOI between the date the proceeding was initiated until 30 days after the PHC is held. (Rule 17.1(a)(1).) The PHC in this matter was held on January 30, 2007.

3.1. Natural Resources Defense Council (NRDC)

On March 1, 2007, NRDC filed its initial NOI in this proceeding. Thereafter and based on the subsequent Assigned Commissioner's Scoping Memo (dated April 23, 2007), NRDC filed an Amended NOI on May 23, 2007, in order to update its previous estimated compensation request in light of that Scoping Memo. NRDC's two NOIs were both timely.

Section 1802(b)(1) defines a "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. (§ 1802(b)(1)(A) through (C).)

On April 3, 2007, the ALJ issued a ruling that found NRDC a customer pursuant to § 1802(b) and that it meets the financial hardship condition pursuant to § 1802(g).

NRDC timely filed its request for compensation on February 19, 2008, within 60 days of D.07-12-050 issuance. No party opposed NRDC's request.

3.2. The Utility Reform Network (TURN)

On March 1, 2007, TURN timely filed its NOI in this proceeding.

On April 3, 2007, the ALJ issued a ruling that found TURN a customer pursuant to § 1802(b) and that it meets the financial hardship condition pursuant to § 1802(g).

On February 19, 2008, TURN timely filed its request for compensation, within 60 days of D.07-12-050 issuance. No party opposed TURN's request.

In view of the above, we affirm the ALJ's April 3, 2007, ruling and find that NRDC and TURN have satisfied all the procedural requirements necessary to make their respective request for compensation in this proceeding.

4. Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding, we look at several things. First, we look at whether the Commission adopted one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer. (§ 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.)

As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

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, we turn to the claimed contributions NRDC and TURN, respectively, made to the proceeding.

³ D.98-04-059, 79 CPUC2d 628 at 653.

4.1. NRDC's Claim of Substantial Contribution

NRDC claims that its participation was instrumental in precipitating this consolidated proceeding which ultimately resulted in D.07-12-050. NRDC claims that it actively and meaningfully participated in both the proceeding that resulted in that decision and other related and precipitating EE proceedings, R.06-04-010 and A.05-06-004 et al.

NRDC contends its success is largely reflected in its efforts that precipitated this consolidated proceeding as well as its efforts that shaped the participatory process that ultimately resulted in D.07-12-050. As the lone environmental advocacy group in this consolidated proceeding, NRDC also asserts that its arguments were successful and clearly reflected in the rulings issued, the course that the proceeding took, and D.07-12-050 issued.

NRDC and its scientists brought to the proceeding a unique environmental perspective coupled with its vast policy expertise gained through its historic participation in related proceedings and in the studies to minimize the environmental effects associated with Californian's energy consumption.⁴ Thus, their active participation and input in this proceeding provided invaluable technical and policy foundation which set the stage for the meaningful discussion.

Our review of the record in this case confirms that NRDC's participation was active throughout this consolidated proceeding and judges that NRDC's contribution to the proceeding substantially assisted the Commission. NRDC participated in PHCs, hearings, meetings with Commissioners' offices, organized

workshops, prepared and submitted four sets of comments, and reviewed numerous rounds of comments, testimony, and other filings.

NRDC claims it made substantial and meaningful contributions during the formative stages of this consolidated proceeding, during which the energy utilities and other parties discussed and debated many aspects of the energy utilities' applications leading up to the energy utilities' July 2007 revised applications.

During the initial stage of this proceeding, NRDC claims it played an active role during the workshops in setting the stage for this proceeding by presenting NRDC's technical insight into the potentials of energy savings in water conservation, the concept of embedded energy. Thereafter, NRDC contends it participated in the discussions with the utilities and other parties outlining the multitude of data deficiencies associated with the applications which had set forth the conceptual pilot proposals. Ultimately, those discussions helped shape and led to the filing of supplemental testimony and revised applications answering fundamental questions about water-embedded energy as a demand side resource for energy utilities.

During the subsequent debates and discussions concerning the pilot program design, NRDC played an active role in designing the embedded water energy calculator and the various factors/assumptions that go into the calculation, by pointing out, in its reply comments, the flaw in the cost-effectiveness calculator proposed in the applications and noted how, as

⁴ See, e.g., Audrey Chang, Natural Resources Defense Council, *Energy Efficiency Implementation through Utility-Based Programs: A Focus on California Policy* (July 26, 2007).

proposed, the calculator undervalues the embedded energy savings and that the Commission needed to “understand the *full range* of associated energy savings” attributable to the reform of water transportation, use, and treatment practices.

The Final Decision reflects some of NRDC’s concerns, although it does not incorporate all of its explicit recommendations. First, the Proposed Decision was silent regarding whether and how the ongoing 18 months of water-energy efficiency programs and studies authorized by the Commission in this proceeding would receive oversight, review, and input from the parties, the general public, and other stakeholders. Following NRDC’s meetings with the Commissioners’ offices and its opening and reply comments on the Proposed Decision wherein NRDC stressed the need to create opportunities for ongoing oversight, review, and input of the utilities’ pilot programs and the various studies authorized by the Commission, the Final Decision acknowledged the importance of that oversight and public review as recommended by NRDC and noted “We agree that public vetting of the draft study plans is necessary and likely beneficial.”

In addition, the Proposed Decision was also silent on the explicit linkage between the results of the two foundational studies to be completed by the Energy Division and the cost-effectiveness calculator that will ultimately be used to evaluate the economics of prospective energy-water efficiency proposals. Further, the Proposed Decision did not contain a commitment to undertake further development of calculator, stating only that this would be explored. Following NRDC’s meetings with the Commissioners’ offices and its opening and reply comments on the Proposed Decision wherein NRDC stressed the centrality of the cost-effectiveness calculator to determining whether and what full-scale programs might be authorized by the Commission in the future, the

Final Decision made explicit the Commission's commitment to linking the foundational studies to the further development of the calculator as follows:

The Energy Division will consider revisions to the calculator based on the outcome of the studies and work with the Commissioner assigned to the energy efficiency rulemaking proceeding to establish a procedure for public review of and comment on the study results and calculator revisions.

While the Commission did not specifically adopt NRDC's recommendation to develop another cost-effectiveness calculator, its endorsement was significant in the Commission's concern that the current cost-effectiveness calculator incorporate information derived from the pilot programs. The Commission therefore approved two embedded energy foundational studies to address the added information required to perform cost-effectiveness calculations. This action was taken in large part because of NRDC's advocacy.

As set forth in the Final Decision, NRDC recommended that the Commission not base its pilot program approval decisions on formal cost-effectiveness evaluation by the utilities proposed cost-effectiveness calculator, since the calculator, as proposed, is not capable of comprehensively addressing the statewide energy implications of saving water within individual utility service areas. D.07-12-050 effectively adopted that recommendation, since none of the utility-proposed pilot programs ultimately approved by the Commission were found to be cost-effective by the current calculator.

In its reply comments on the Proposed Decision, NRDC recommended that the Commission not approve at this time a recommendation that the four utility applicants in A.07-01-024 *et al.* enter into pilot programs with Commission-regulated water utilities. D.07-12-050 effectively adopted this recommendation.

In addition to the foregoing participation, NRDC further complemented the discussion and recommended, and SCE agreed, that the study included an assessment of greenhouse gas emission reduction potential from water management options.

While NRDC's cooperation with other parties was exemplified by the show of minimal duplication in its work product, when appropriate, NRDC contributed by taking an active and complementary role.

4.2. TURN's Claim of Substantial Contribution

TURN claims and the record reflects, that TURN actively participated in every aspect of this consolidated proceeding, including the work in R.06-04-010 that preceded the filing of A.07-01-024 et al.

Our review of the record shows TURN attended the water-embedded energy savings workshop in Downey, filed post-workshop opening and reply comments, and actively participated in the Water-Energy Consortium. Once the energy utilities filed their applications, TURN filed a PHC statement, attended the PHC, persuaded the Commission to deny the motion of SDG&E and SoCalGas for premature spending authorization,⁵ filed a consolidated protest of the four applications, assisted the Commission in planning workshops for the proceeding,⁶ participated in every workshop, engaged in productive discussions and negotiations with the energy utilities and other intervenors, filed comments on the energy utilities' proposed pilot programs (as supplemented and amended,

⁵ See *Assigned Commissioner and Administrative Law Judge's Ruling Discussing Pilot Program Objectives, Setting a Schedule for Initial Workshops, and Denying Motions Related to Pre-Approval Expenditures*, 2-15-2007, p. 6.

⁶ See D.07-12-050, pp. 10-11.

pursuant to the negotiations), and filed comments and reply comments on the proposed decision.

TURN has included in its request for compensation for its work during the summer and fall of 2006 related to water-embedded EE. TURN also notified the Commission of its intention to include these hours in this request for compensation when it filed NOI on March 1, 2007. Such work is formally associated with R.06-04-010; however, it is logical for TURN to seek compensation for its time and expenses in this consolidated proceeding which resulted in D.07-12-050, where the Commission considered the energy utilities' proposed water-embedded energy pilot program applications.

Our review of the record indicates that TURN raised the following six categories of issues in this proceeding: 1) ratepayer benefits/cost-effectiveness; 2) appropriateness of pilot program and study designs; 3) design of low-income element of the pilots, in particular; 4) administration of the evaluation, measurement, and verification (EM&V) component of the pilots; 5) counting savings from the pilots towards the EE goals adopted in D.04-09-060; and 6) pilot funding mechanisms. For each of these issues, either the energy utilities changed their proposals in response to TURN's position (and had those proposals ultimately adopted in D.07-12-050), or the Commission agreed with TURN in rulings or D.07-12-050.

First, in its protest and PHC statement, TURN asserted that each application lacked essential information, without which the Commission could neither assess potential ratepayer benefits from the pilots nor evaluate whether the pilots would help answer fundamental questions about water-embedded energy as a demand side resource for energy utilities. TURN therefore recommended that the Commission issue a ruling clarifying the Commission's

expectations regarding the purpose of the pilot programs, as well as the quality and quantity of supporting data that the applications should contain, and then require the energy utilities to update their applications to remedy the myriad of data deficiencies. On April 23, 2007, the *Assigned Commissioner Ruling and Scoping Memo* adopted TURN's recommendations, clarified the objectives of the pilots, and directed the energy utilities to provide supplemental testimony proposing program revisions necessary to meet the Commission's objectives, including information needed to determine cost-effectiveness of the proposed pilots. Then in D.07-12-050, the Commission also adopted TURN's position that the pilots must produce information about whether water conservation efforts can be cost-effective for energy ratepayers, and if so, which measures and strategies might warrant inclusion in the utilities' 2009-2011 EE portfolios. Finally, the Commission found the energy utilities' proposals insufficient, and in D.07-12-050, the Commission set forth a more comprehensive study strategy than those energy utilities proposed, and authorized only those programs likely to produce meaningful data about water-embedded energy savings.

Next, in its protest, TURN argued that the applications did not appear to satisfy the Commission's directive regarding low-income customers because low-income customers would not necessarily receive direct benefits from the proposed pilot programs. TURN pointed out that tenant households who do not receive a water bill will not receive economic benefits from water conservation and advocated targeting low-income customers of both the energy and water utility partners to increase direct economic benefits for low-income people from the pilot. Thereafter, PG&E modified its pilot proposal to target low-income customers of both PG&E and the water utility partner specifically addressing

that concern. The Commission approved this aspect of PG&E's low-income program in D.07-12-050.

Likewise, in its protest, TURN objected to the proposal that the energy utilities, and not Energy Division, would administer impact-related evaluations. The Commission agreed in D.07-12-050 that Energy Division, and not the energy utilities, should oversee such studies conducted as part of the water-embedded energy pilot, and directed that Energy Division play a central oversight role with the pilot programs. TURN also recommended, in its reply comments to the proposed decision, that Energy Division obtain public input on draft study plans using procedures similar to those in place for the 2006-2008 EE studies it administers, rather than through a more cumbersome and formal process like an ongoing EM&V advisory group (as proposed by some parties). In the final decision, the Commission agreed with TURN's recommended informal approach to receiving public input, and ordered Energy Division to follow the procedures used for soliciting input on 2006-2008 EE program draft evaluation plans.

Also in its protest, TURN opposed the energy utilities' requests to count embedded energy savings from pilot activities towards meeting their EE goals. TURN argued that allowing embedded energy savings to count would conflict with existing Commission EE policies and recommended that this issue be addressed only after pilot results become available. The Commission agreed with TURN in D.07-12-050.

Finally, TURN also protested PG&E's proposed funding mechanism. PG&E alone proposed to increase its electric and natural gas revenue requirements to fund water-embedded energy pilot program activities. TURN argued that PG&E should use existing, pre-2006 unspent, uncommitted EE electric funds and no gas funds, since no benefits would accrue to gas customers.

PG&E revised its proposed funding mechanism in its June 14, 2007, Supplemental Testimony to reflect TURN's recommendation. TURN also successfully objected to SDG&E and SoCalGas' request for pre-pilot approval spending authorization. D.07-12-050 found that all utilities, including PG&E, should fund pilot activities exclusively from unspent EE funds from prior years.

4.3. Determinations of NRDC's and TURN's Claims of Contribution

The Commission has awarded full compensation even where the intervenor's positions were not adopted in full, especially in proceedings with a broad scope. (D.98-04-028, 79 CPUC2d 570, 573-574.) Here, NRDC and TURN each achieved a high level of success on the varying issues each raised. NRDC made a significant contribution to initiate and facilitate meaningful public discussion on this issue of high public importance which ultimately resulted in the final decision. Likewise, TURN made a significant contribution in shaping and leading the public discussion concerning numerous significant issues which led to the final decision.

In the areas where we did not adopt NRDC's or TURN's position in whole, or in part, we nonetheless benefited from their respective analysis, input and discussion of all of the issues which each raised.

5. Contributions of Other Parties

Section 1801.3(f) requires an intervenor to avoid participation that duplicates that of similar interests otherwise adequately represented by another party, or participation unnecessary for a fair determination of the proceeding. Section 1802.5, however, allows an intervenor to be eligible for full compensation where its participation materially supplements, complements, or contributes to the presentation of another party if that participation makes a substantial contribution to the Commission order.

NRDC and TURN state that they each collaborated closely with all other intervening parties throughout this proceeding, coordinating meetings, workshops, analysis of applications, and discussions with parties. NRDC and TURN explain that the modest overlaps between TURN, NRDC, and other intervening parties do not reflect excessive duplication, rather such seeming overlaps are evidence of active cooperation and coordination to facilitate constructive and efficient public dialogue.

This consolidated proceeding required high-quality and quickly delivered analysis and recommendations, all of which were critically important to the process leading to the final decision. To that end, NRDC and TURN both state that they each took all reasonable steps to coordinate with all parties while keeping duplication to a minimum and to ensure that its work served to supplement, complement, or contribute to the showing of the other very active parties in this proceeding. The record of the consolidated proceeding, as well as the requests detailing the work, confirms this. NRDC and TURN acknowledge that TURN was the leading intervenor with broader interests and issues it championed; and TURN's record evidences this. NRDC, as a lone environmental party, played a formidable role in the consolidated proceeding.

We agree with NRDC that in this consolidated proceeding which involved multiple participants, it was virtually impossible to completely avoid some duplication of the work of other parties. However, the record shows that NRDC and TURN each made a substantial contribution in their respective roles, in this consolidated proceeding, by constructively adding to the discussion while minimizing unnecessary duplication.

6. Reasonableness of Requested Compensation

After we have determined the scope of a customer's substantial contribution, we then look at whether the amount of the compensation request is reasonable.

6.1. NRDC' Requested Compensation

6.1.1. Reasonableness of NRDC's Requested Compensation

NRDC requests \$41,452.95 for its participation in this proceeding, as follows:

Work on Proceeding				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Audrey Chang	2007	21.25	\$150	\$ 3,187.50
Eric Wanless	2007	30.75	\$125	\$ 3,843.75
Ronnie Cohen	2007	28.75	\$150	\$ 4,312.50
Clyde Murley	2007	145.90	\$195	\$28,450.50
Subtotal:				\$39,794.25
Preparation of NOI and Compensation Request				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Audrey Chang	2007	7.00	\$75.00 (50% of \$150)	\$ 525.00
Clyde Murley	2007	11.40	\$97.50 (50% of \$195)	\$ 1,111.50
Subtotal of Compensation				
(on NOI and Compensation Request):				\$ 1,636.50
Expense Request				
Clyde Murley (Commute Expense/Travel Time excluded)	2007			\$ 22.20
Subtotal of Expense:				\$ 22.20
Total Requested Compensation				\$41,452.95

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 issues we consider to determine reasonableness are discussed below.

6.1.2. NRDC's Requested Hours and Costs Related to and Necessary for Substantial Contribution

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

NRDC documented its claimed hours by presenting an hourly and daily breakdown of the time its staff and consultant Murley spent relating to this proceeding, accompanied by a brief description of each activity, which are detailed in the following section. In general, the hourly breakdown reasonably supports the claim for total hours.

6.1.3. NRDC Hourly Rates

We next take into consideration whether the claimed fees are comparable to the market rates paid to advocates and experts having comparable training and experience and offering similar services.

6.1.3.1. Audrey Chang

NRDC seeks an hourly rate of \$150 for 2007 work. In D.08-10-011, this rate was adopted for Chang's 2007 work and we utilize it here.

This new requested rate for Chang is consistent with D.07-01-009, as it falls at the lowest 2007 range adopted by D.07-01-009 for experts with 7-12 years of experience, and we adopt that requested rate here.

6.1.3.2. Eric Wanless

NRDC seeks an hourly rate of \$125 for work performed by Wanless in this proceeding. We have not previously adopted an hourly rate for Wanless.

Wanless has a Master's degree in Energy Engineering and a Bachelor's degree in Environmental Science, both from Stanford University. Wanless has three years of experience working on energy and environmental issues.

This new requested rate for Wanless is consistent with D.07-01-009, as it falls at the lowest 2007 range adopted by D.07-01-009 for experts with 0-6 years of experience, and we adopt that requested rate here.

6.1.3.3. Ronnie Cohen

NRDC seeks an hourly rate of \$150 for Ronnie Cohen. We have not previously adopted an hourly rate for Cohen. Cohen has a Master's degree in Public Policy from UC Berkeley and a Bachelor's degree in Environmental Studies from Brown University. Cohen has over twelve years of experience working on water and environmental issues. She has served on the Steering Committee of the California Urban Water Conservation Council, and was appointed to the Landscape Task Force established by the state Legislature. She is the author of several reports on water efficiency, including *Energy Down the Drain: The Hidden Cost of California's Water Supply*, which has been credited for initiating the recent focus on the connection between water and energy consumption. Prior to joining NRDC in 1994, Cohen worked as a consultant for Barakat & Chamberlin, specializing in water efficiency and Integrated Resource Planning.

NRDC's request for a 2007 hourly rate of \$150 for Cohen is consistent with D.07-01-009, as it falls at the lowest 2007 range adopted by D.07-01-009 for experts with 7-12 years of experience, and we adopt that requested rate here.

6.1.3.4. Clyde Murley

NRDC seeks to increase consultant Murley's hourly rate to \$195 (\$15 above his 2006 authorized rate). Murley's most recent awarded rate at the Commission is \$180, in 2006.

Murley is an independent consultant with 20 years of professional experience in energy and environmental issues, including policy and technical experience and expertise in the areas of EE, renewable energy, demand response, integrated resource planning, energy economics, energy procurement, and environmental protection, and he has served as an expert witness in several of these areas and before the Commission on numerous proceedings.

NRDC's requested hourly rate of \$195 for Murley's 2007 work related to D.07-12-050 is consistent with D.07-01-009,⁷ as it falls at the lowest 2007 range adopted by D.07-01-009 for experts with his experience, and we adopt that requested hourly rate of \$195 here.

6.2. NRDC's Direct Expenses

NRDC seeks \$22.20 for Murley's travel expense for his travel from his residence in East Bay to San Francisco to attend meetings and workshops related to this proceeding as itemized on their Attachment B. We have previously found that routine commuting to San Francisco is not appropriate for compensation. If an intervenor has extraordinary travel costs that are reasonable and justified, such as might be incurred to attend hearings in another area of the state or to

⁷ D.07-01-009 further provided for a 2007 cost-of-living adjustment (COLA) and for intervenor representatives to receive up to two annual 5% "step" increases within each experience level. Applying one 5% step increase plus a 3% 2007 COLA to Murley's 2006 approved hourly rate of \$180, together with rounding, yields a 2007 rate of \$195.

bring in a consultant with special expertise from another part of the country, we will continue to compensate them.

6.3. TURN'S Requested Compensation

6.3.1. Reasonableness of TURN's Requested Compensation

TURN requests \$76,349.76 for its participation in this proceeding, as follows:

Work on Proceeding				
Attorney/Staff	Year	Hours	Hourly Rate	Total
Haley Goodson	2006	26.25	\$195	\$ 5,118.75
Haley Goodson	2007	152.00	\$210	\$31,920.00
Cynthia K. Mitchell	2006	74.00	\$140	\$10,360.00
Cynthia K. Mitchell	2007	192.25	\$140	\$26,915.00
Subtotal:				\$74,313.75
Preparation of NOI and Compensation Request				
Attorney/Expert	Year	Hours	Hourly Rate	Total
Haley Goodson	2007	2.50	\$105 (50% of \$210)	\$ 262.50
Haley Goodson	2008	15.75	\$105 (50% of \$210)	\$ 1,653.75
Subtotal of Compensation (on NOI and Compensation Request):				\$ 1,916.25
Expense Request				
Photocopying	--			\$ 97.20
Telephone Expense	--			\$ 22.56
Subtotal of Expense:				\$ 119.76
Total Requested Compensation				\$76,349.76

The issues we consider to determine reasonableness of TURN's request are discussed below.

6.3.2. TURN's Requested Hours and Costs Related to and Necessary for Substantial Contribution

We first assess whether the hours claimed for TURN's efforts that resulted in substantial contributions to Commission decision are reasonable by determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

TURN documented its claimed hours by presenting an hourly and daily breakdown of the time its staff attorney Haley Goodson and consultant Cynthia K. Mitchell spent on this consolidated proceeding, accompanied by a brief description of each activity. In general, the hourly breakdown reasonably illustrates and supports TURN's claim for total hours and sufficiently shows the details of TURN's participation.

6.3.3. TURN Hourly Rates

We next take into consideration whether the claimed hourly rates by TURN are comparable to the market rates paid to advocates and experts having comparable training and experience and offering similar services.

6.3.3.1. Haley Goodson

Goodson served as TURN's attorney in this consolidated proceeding. Goodson also served as TURN's attorney in the related proceeding, R.06-04-010. TURN seeks an hourly rate of \$195 for Goodson's work in 2006. The Commission approved this rate for Goodson's work in 2006 in D.07-12-026, issued in A.05-12-002 (PG&E's 2007 GRC). For Goodson's work in 2007, TURN requests an hourly rate of \$210, the same rate the Commission approved for her 2007 work in D.07-12-026. TURN requests that the Commission apply Goodson's 2007 rate of \$210 to her very limited work in 2008, in preparing this request for

compensation (with the customary 50% reduction for compensation-related matters).

The Commission adopts TURN's requested hourly rates for Goodson as requested, and approves her 2006 hourly rate as \$195, her 2007 hourly rate as \$210, and her 2008 hourly rate as \$210. TURN reserved its right to seek Commission approval of a higher rate for Goodson's 2008 work in other proceedings.

6.3.3.2. Cynthia K. Mitchell, Energy Economics, Inc.

TURN also relied on outside technical expert witness Mitchell of Energy Economics, Inc., in its contribution to the consolidated proceeding. Mitchell assisted TURN as needed throughout the course of this proceeding, as well as with TURN's work related to water-embedded energy savings in R.06-04-010 in 2006.

TURN seeks compensation for Mitchell's work in 2006 and 2007 at the hourly rate of \$140. In D.08-10-012, issued in R.06-02-013, the Commission approved an hourly rate of \$140 for Mitchell's 2007 work. The Commission adopts TURN's requested hourly rates for Mitchell's 2006 and 2007 work at the requested rate of \$140.

6.4. TURN's Expenses Are Reasonable

The miscellaneous expenses of \$119.76 listed in the summary presented above are reasonable in magnitude and were necessary for TURN's efforts in this case. They consist of basic photocopying expenses that relate to the preparation and distribution of TURN's pleadings, as well as telephone communication related to this consolidated proceeding. TURN's requested costs are reasonable.

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. (D.98-04-059, pp. 34-35.) 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.

7.1. NRDC's Productivity

NRDC states that its emphasis in this proceeding has been to improve the effectiveness of the water-energy efficiency pilot programs and increase net benefits to customers. It concedes it cannot identify precise monetary benefits to ratepayers. However, NRDC claims, its focus on policies that ensure a reliable, affordable and environmentally sustainable energy resource portfolio should have lasting benefits to ratepayers. We agree that to the extent energy usage is lowered through water-energy efficiency programs, ratepayers benefit monetarily by avoiding increased energy procurement costs. We also agree that these programs, improved through NRDC's participation, have other social benefits which, though hard to quantify, are substantial. Thus, we find that NRDC's efforts have been productive.

7.2. TURN's Productivity

Akin to NRDC's contribution, TURN's contributions to D.07-12-050 were directed primarily at policy matters, rather than the establishment of specific rates, funding levels, or disputes over particular dollar amounts. As such, it is naturally difficult to quantify the precise monetary benefits to ratepayers resulting from TURN's efforts here.

However, TURN contends that its participation yielded some significant tangible and quantifiable monetary benefit to the rate payers and we agree. For

instance, TURN contends that it saved PG&E's ratepayers \$2,447,063, the entire amount of PG&E's contribution to the pilot activities ordered by D.07-12-050. PG&E had initially proposed to collect these funds from ratepayers. The record of the proceeding confirms that TURN's efforts substantially contributed to the discussions leading to PG&E's revised proposal to ultimately use existing, unspent EE funds instead of raising new revenues by collecting these funds from the ratepayers. The record also shows TURN saved the ratepayers of SDG&E and SoCalGas \$25,000 (each) by successfully opposing both utilities' motions for authorization to spend this amount on start-up activities prior to the Commission's approval of each utility's pilot activities. The Commission agreed with TURN that such spending authorization would be premature. (*Assigned Commissioner's Ruling*, February 15, 2007, p. 6.)

Aside from these quantifiable benefits, TURN also contends that its active participation benefited ratepayers by overall shaping and directing of a meaningful public policy debate, leading to the establishment of EE policies. TURN contends its participation benefited the ratepayers by raising multitude of significant issues and affecting the discussion such that a full record is developed here.

We find that TURN's efforts were highly productive in yielding a number of significant, quantifiable, and less quantifiable benefits to the ratepayers by its active role leading to the D.07-12-050, as well as in some specific and substantial monetary savings as discussed above.

8. Award

8.1. NRDC's Award

As set forth in the table below, we award NRDC \$41,430.75:

Work on Proceeding

Attorney/Staff	Year	Hours	Hourly Rate	Total
Audrey Chang	2007	21.25	\$150	\$ 3,187.50
Eric Wanless	2007	30.75	\$125	\$ 3,843.75
Ronnie Cohen	2007	28.75	\$150	\$ 4,312.50
Clyde Murley	2007	145.90	\$195	\$28,450.50
Subtotal:				\$39,794.25

Preparation of NOI and Compensation Request

Attorney/Staff	Year	Hours	Hourly Rate	Total
Audrey Chang	2007	7.00	\$75.00 (50% of \$150)	\$ 525.00
Clyde Murley	2007	11.40	\$97.50 (50% of \$195)	\$ 1,111.50
Subtotal NOI and Compensation Request				\$ 1,636.50
Total Requested Compensation				\$ 41,430.75

CALCULATION OF NRDC'S FINAL AWARD

Work on Proceeding	\$39,794.25
NOI and Compensation Request Preparation	\$ 1,636.50
TOTAL AWARD	\$41,430.75

8.2. TURN's Award

As set forth in the table below, we award TURN \$76,349.76:

Work on Proceeding

Attorney/Staff	Year	Hours	Hourly Rate	Total
Haley Goodson	2006	26.25	\$195	\$ 5,118.75
Haley Goodson	2007	152.00	\$210	\$31,920.00
Cynthia K. Mitchell	2006	74.00	\$140	\$10,360.00
Cynthia K. Mitchell	2007	192.25	\$140	\$26,915.00
Subtotal:				\$74,313.75

Preparation of NOI and Compensation Request

Attorney/Staff	Year	Hours	Hourly Rate	Total
Haley Goodson	2007	2.50	\$105 (50% of \$210)	\$ 262.50
Haley Goodson	2008	15.75	\$105 (50% of \$210)	\$ 1,653.75
Subtotal of Compensation (on NOI and Compensation Request):				\$ 1,916.25

Expense Request

Photocopying	--	\$ 97.20
Telephone Expense	--	\$ 22.56
Subtotal of Expense:		\$ 119.76
Total Requested Compensation		\$76,349.76

CALCULATION OF TURN'S FINAL AWARD

Work on Proceeding	\$74,313.75
NOI and Compensation Request Preparation	\$ 1,916.25
Expenses	\$ 119.76
TOTAL AWARD	\$76,349.76

Consistent with previous Commission decisions, we order 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 May 4, 2008, the 75th day after NRDC and TURN filed their compensation requests, and continuing until full payment of the award is made to each.

We direct PG&E, SDG&E, SoCalGas, and SCE to allocate payment responsibility among themselves based upon their California-jurisdictional gas and electric revenues for the 2007 calendar year, to reflect the year in which the proceeding was primarily litigated.

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. TURN's and NRDC's records should identify specific issues for which they 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), we waive the otherwise applicable 30-day public review and comment period for this decision.

10. Assignment of Proceeding

Commissioner Dian M. Grueneich is the assigned Commissioner, and David Gamson is the assigned ALJ in this proceeding.

Findings of Fact

1. NRDC has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
2. NRDC made a substantial contribution to the underlying proceeding leading to D.07-12-050 as described herein.
3. NRDC requested hourly rates for its representatives that are reasonable when compared to the market rates for persons with similar training and experience.

4. The total of the reasonable compensation for NRDC is \$41,430.75.
5. TURN has satisfied all the procedural requirements necessary to claim compensation in this proceeding.
6. TURN made a substantial contribution to the underlying proceeding leading to D.07-12-050 as described herein.
7. TURN requested hourly rates for its representatives that are reasonable when compared to the market rates for persons with similar training and experience.
8. TURN requested compensable related expenses that are reasonable and commensurate with the work performed.
9. The total of the reasonable compensation for TURN is \$76,349.76.
10. The appendix to this decision summarizes today's award.

Conclusions of Law

1. NRDC has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed expenses, as adjusted herein, incurred in making substantial contributions to D.07-12-050.
2. NRDC should be awarded \$41,430.75 for its contribution to D.07-12-050.
3. TURN has fulfilled the requirements of §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its claimed expenses, as adjusted herein, incurred in making substantial contributions to D.07-12-050.
4. TURN should be awarded \$76,349.76 for its contribution to D.07-12-050.
5. This order should be effective today so that NRDC and TURN may be compensated without further delay.

O R D E R

IT IS ORDERED that:

1. Natural Resources Defense Council (NRDC) is awarded \$41,430.75 and The Utility Reform Network's (TURN) is awarded \$76,349.76, as their respective compensation for substantial contributions to Decision 07-12-050.

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), Southern California Gas Company (SoCalGas), and Southern California Edison Company (SCE) shall pay NRDC and TURN their respective shares of the award. We direct PG&E, SDG&E, SoCalGas, and SCE to allocate payment responsibility among themselves, based on their California-jurisdictional gas and electric revenues for the 2007 calendar year, to reflect the year in which the proceeding was primarily litigated. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning May 4, 2008, the 75th day after the filing date of NRDC's and TURN's requests for compensation, and continuing until full payment is made.

This order is effective today.

Dated December 4, 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:	D0812016	Modifies Decision?
Contribution Decision(s):	D0712050	
Proceeding(s):	A0701024, A0701026, A0701029, A0701030	
Author:	ALJ Gamson	
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, Southern California Edison Company	

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Natural Resources Defense Council	2/19/08	\$41,452.95	\$41,430.75		Routine commuting
The Utility Reform Network	2/19/08	\$76,349.76	\$76,349.76		N/A

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Audrey	Chang	Attorney	Natural Resources Defense Council	2007	\$150	\$150
Ronnie	Cohen	Policy Expert	Natural Resources Defense Council	2007	\$150	\$150
Eric	Wanless	Engineering	Natural Resources Defense Council	2007	\$125	\$125
Clyde	Murley	Policy Expert	Natural Resources Defense Council	2007	\$195	\$195
Haley	Goodson	Attorney	The Utility Reform Network	2006	\$195	\$195
Haley	Goodson	Attorney	The Utility Reform Network	2007	\$210	\$210
Haley	Goodson	Attorney	The Utility Reform Network	2008	\$210	\$210
Cynthia	Mitchell	Policy Expert	The Utility Reform Network	2006	\$140	\$140
Cynthia	Mitchell	Policy Expert	The Utility Reform Network	2007	\$140	\$140

(END OF APPENDIX)