

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338 E) Regarding A.02-05-046 the Future Disposition of the Mohave Generating Station.

Application 02-05-046

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING TURN'S NOTICE OF
INTENT TO CLAIM COMPENSATION**

This ruling responds to a notice of intent (NOI) to claim compensation filed by The Utility Reform Network (TURN) on June 10, 2003, in the above referenced proceeding. No party filed a response. This ruling addresses the requirements of the Public Utilities Code, Division 1, Part 1, Chapter 9, Article 5, § 1804. All statutory references are to the PU Code.¹

Under §1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.” A second prehearing conference (PHC) in this proceeding was held on May 23, 2003. TURN’s NOI is timely filed.

Section 1804(a)(2) sets forth those items that must be addressed in an NOI. Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the

¹ All statutory references are to the Public Utilities Code.

intervenor is a customer, as defined in § 1802(b) and identify whether the intervenor is a participant representing consumers, a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers. Once the applicable definition of customer is identified, the correct standard of “significant financial hardship” can be applied.

Customer Status

TURN is a non-profit consumer advocacy group, organized in 1973, to represent the interests of residential and small commercial customers of California’s utility companies regulated by the Commission. D.98-04-059 requires groups such as TURN to include in their NOI’s a copy of the authorization in their articles of incorporation to represent residential customers, or to provide a reference to a previous filing. TURN previously included a copy of the relevant portions of its articles of incorporation, which authorizes TURN’s representation of the interests of residential customers, in its NOI in Application (A.) 98-02-017, and again in A.99-12-024. The articles of incorporation have not changed since the time of those earlier submissions. D.98-04-059 also requires TURN to provide the percentage of how many of its customers are residential ratepayers. TURN has in excess of 30,000 dues-paying members, a majority of whom it believes are residential customers. TURN does not poll members to determine the breakdown between residential and small business, so TURN is unable to provide a precise percentage.

Financial Hardship

Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Alternatively, the required showing may be made in the request for award of compensation. For a group or

organization, § 1802(g) defines financial hardship as a state in which “the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.” TURN’s members are small residential customers whose individual interests in this proceeding are small relative to the costs of participation and the cost of TURN’s participation in Commission proceedings substantially outweighs the benefit to any individual customer it represents.

Section 1804(b)(1) states in part:

“A finding of significant financial hardship shall create a rebuttable presumption of eligibility for compensation in other Commission proceedings commencing within one year of the date of that finding.”

TURN received a finding of significant financial hardship in a ruling issued in A.01-09-003, dated December 19, 2001. This present proceeding commenced within one year of the date of that finding, so the rebuttable presumption applies in this case. A finding of significant financial hardship in no way, however, ensures compensation for TURN (Section 1804(b)(2)).

Pursuant to D.98-04-059, an intervenor must state in their NOI how it will represent customer interests that would otherwise be underrepresented. While the Commission’s Office of Ratepayer Advocates represents all ratepayers, TURN only represents the interests of core customers. TURN will tailor its participation to ensure that its work serves to support and complement the work of other parties that share TURN’s position. TURN will work to avoid any undue duplication of work by ORA, or others, whenever practicable. Participation in Commission proceedings by parties representing the full range of affected interests is important as it assists the Commission in ensuring that the

record is fully developed and that each customer group receives adequate representation.

Planned Participation

This proceeding will address many issues, including the future cost-effectiveness of the Mohave Generating Station and the potential costs and benefits to ratepayers of alternatives to Mohave. Although a scoping memo was issued by the assigned Commissioner, the scope of the proceeding is subject to change as the proceeding develops, testimony is served, and discovery is conducted. To the extent the proceeding focuses on the future of the Mohave facility, TURN anticipates it will fully participate in that aspect of the case.

Section 1804(a)(2)(A)(I) requires NOIs to include a statement of the nature and extent of the customer’s planned participation in the proceeding to the extent this can be predicted. TURN has already actively participated in the proceeding by attending the May 23, 2003, PHC and serving testimony. TURN expects to be an active party in this proceeding and intends to pursue discovery, prepare testimony, participate in any hearings that are conducted, and submit briefs and comments as required.

Estimated Compensation Request

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. At this time, TURN estimates a total projected budget of \$105, 800 for this proceeding. TURN’s proposed budget for this matter is as follows:

Attorney Hawiger	(240 hours @\$220/hour)	\$52,800
Attorney Finkelstein	(80 hours @ \$350/hour)	\$28,000
Expert/Consultant JBS Energy		\$20,000

Estimated expenses	\$ 5,000
Total	\$105,800

This ruling does not address the merits of TURN's final compensation claim. The reasonableness of the hourly rates requested for TURN's representatives and expert witnesses will be addressed in their Request for Compensation.

IT IS RULED that:

1. The Utility Reform Network's (TURN) Notice of Intent was timely filed.
2. TURN has met the eligibility requirements of Public Utilities Code § 1804(a), including the requirement that it established significant financial hardship, and TURN is found eligible for compensation in this proceeding.
3. TURN is a customer as that term is defined in § 1804(b) and is a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.
4. TURN fulfilled the requirements of § 1804(a)(2)(A) by providing a statement of the nature and extent of its planned participation and an itemized estimate of the compensation it expects to request.
5. A finding of eligibility in no way assures compensation.
6. Parties requesting compensation shall make every effort to reduce duplication of contribution.

Dated July 8, 2003, at San Francisco, California.

/s/ Carol Brown

Carol Brown
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding TURN's Notice of Intent to Claim Compensation on all parties of record in this proceeding or their attorneys of record.

Dated July 8, 2003, at San Francisco, California.

/s/ Antonina v. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, *e.g.*, sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.