

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Pacific Gas and Electric Company (U 39-E) for Approval of the 2006-2008 Energy Efficiency Programs and Budget.	Application 05-06-004 (Filed June 1, 2005)
Southern California Gas Company (U 904-G) for Approval of Natural Gas Energy Efficiency Programs and Budgets for Years 2006 through 2008.	Application 05-06-011 (Filed June 1, 2005)
Southern California Edison Company (U 338-E), for Approval of its 2006-2008 Energy Efficiency Program Plans and Associated Public Goods Charge (PGC) and Procurement Funding Requests.	Application 05-06-015 (Filed June 2, 2005)
San Diego Gas and Electric Company (U 902-E) for Approval of Electric and Natural Gas Energy Efficiency Programs and Budgets for Years 2006 Through 2008.	Application 05-06-016 (Filed June 2, 2005)

ADMINISTRATIVE LAW JUDGE'S RULING FINDING THE NATURAL RESOURCES DEFENSE COUNCIL AND THE UTILITY REFORM NETWORK, ELIGIBLE TO CLAIM INTERVENOR COMPENSATION

I. Summary

Notices of Intent (NOIs) to claim intervenor compensation in this proceeding were filed by the Natural Resources Defense Council (NRDC) on July 22, 2005, and by The Utility Reform Network (TURN) on July 13, 2005. Both NRDC and TURN are eligible to claim compensation pursuant to the

requirements in Pub. Util. Code §§ 1801-1804.¹ No parties oppose the NOIs. However, a finding of eligibility for compensation does not guarantee an award of compensation. NRDC and TURN should both attempt to not duplicate other parties' efforts by taking the same approach to the same issues as it may result in a reduction in the amount of compensation ultimately awarded.

II. NOI Requirements

A. Timely Filing

Pursuant to § 1804(a)(1), a customer who intends to seek an award of compensation shall, within 30 days after the Prehearing Conference (PHC) is held, file and serve an NOI on all parties to the proceeding. The PHC was held on June 22, 2005, and NRDC and TURN both timely filed NOIs.

B. Customer Status

Pursuant to Decision (D.) 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and whether the intervenor is 1) a participant representing consumers, 2) a representative authorized by a customer, or 3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.²

¹ All statutory references are to the Pub. Util. Code.

² "When filing its Notice of Intent, a participant should state how it meets the definition of customer: as a *participant* representing consumers, as a *representative* authorized by a customer, or as a representative of a *group or organization* that is authorized by its bylaws or articles of incorporation to represent the interests of residential customers." D.98-04-059, *mimeo.* at 28-29 (emphasis in original).

NRDC and TURN both meet this requirement as organizations authorized by their by-laws to represent the interests of residential or small commercial customers, as defined in § 1802(b)(1)(C).

C. Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in its NOI. Section 1802(g) defines “significant financial hardship”:

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, 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. Alternatively, the customer may make the required showing in the request for an award of compensation.

Both NRDC and TURN made a showing of financial hardship in their NOIs, based on a rebuttable presumption of eligibility, pursuant to § 1804(b)(1), as both were found eligible in a another proceeding that commenced within one year of this proceeding (Administrative Law Judge Ruling dated July 27, 2004, in Rulemaking 04-04-003). If any party attempts to rebut this presumption, NRDC and TURN are granted leave to furnish evidence of significant financial hardship within 10 days of the rebuttal’s filing.

D. Nature and Extent of Planned Participation

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. NRDC and TURN both expect to participate actively in all phases of this proceeding, including the approval of 2006-2008 energy efficiency planning cycles. Both intend to attend meetings, workshops and proceedings before the Commission, submit written comments and briefs, and participate in evidentiary hearings as appropriate. To the extent possible, NRDC and TURN will coordinate their individual participation with other parties to avoid duplication.

E. Itemized Estimate of Compensation

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive.

1. NRDC

NRDC estimates a total projected budget of \$37,500 for this case, as detailed below, based on proposed hourly rates it will address in its request for compensation.

Amount	Description
\$11,250	75 hours of expert time by Peter Miller at \$150/hour
\$9,500	75 hours of scientist time by Devra Wang at \$120/hour
\$8,750	50 hours of scientist time by Sheryl Carter at \$175/hour
\$7,500	75 hours of scientist time by Audrey Chang at \$100/hour
\$500	Miscellaneous Costs
\$37,500	Total

2. TURN

TURN estimates a total projected budget of \$49,000 for this case, as detailed below, based on proposed hourly rates it will address in its request for compensation.

Amount	Description
\$18,700	85 hours of attorney time by Hayley Goodson at \$220/hour
\$28,000	200 hours of expert time by Cynthia Mitchell at \$140/hour
\$2,300	Miscellaneous Costs
\$49,000	Total

NRDC and TURN satisfactorily present itemized estimates of the compensation they expect to request, although we will require far more specificity in the costs when each ultimately seeks compensation. Moreover, the number of hours and the hourly rates may be excessive and, as must any intervenor, NRDC and TURN must fully support their requests for compensation, including the reasonableness of the hours spent and hourly rates.

IT IS RULED that:

1. The Natural Resources Defense Council (NRDC) has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it establish significant financial hardship, and NRDC is found eligible for compensation in this proceeding.

2. The Utility Reform Network (TURN) has met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement that it establish significant financial hardship, and TURN is found eligible for compensation in this proceeding.

3. NRDC is a customer as that term is defined in § 1802(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 is a customer as that term is defined in § 1802(b) and is a group or organization that is authorized to represent the interests of residential ratepayers.
5. A finding of eligibility in no way assures compensation.
6. NRDC and TURN shall make every effort to reduce duplication of contribution.

Dated November 10, 2005, at San Francisco, California.

/s/ MEG GOTTSTEIN by LTC
Meg Gottstein
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 Finding The Natural Resources Defense Council and The Utility Reform Network, Eligible To Claim Intervenor Compensation on all parties of record in this proceeding or their attorneys of record.

Dated November 10, 2005, at San Francisco, California.

/s/ ELVIRA T. NIZ

Elvira T. Niz

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.