

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**



FILED

07/09/26

04:59 PM

A2311002

Application of Southern California Edison Company (U338E) for Authority to Proceed Under General Order 69-C with a Site Marketing and Access Agreement and SCEs Assignment of Existing Agreements or, in the Alternative, Approval of the Same Pursuant to Public Utilities Code Section 851.

Application 23-11-002
(Filed November 2, 2023)

**PETITION OF THE UTILITY REFORM NETWORK
FOR MODIFICATION OF DECISION 26-07-025**

July 9, 2026

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I. INTRODUCTION

On July 7, 2026, the Commission issued Decision (D.) 26-07-025, *Decision Granting Compensation to The Utility Reform Network for Substantial Contribution to Decision (D.) 26-01-004*. In that decision, the Commission adopted a lower hourly rate than requested by The Utility Reform Network (TURN) for work performed by Attorney David Cheng in 2026. Pursuant to Rule 16.4 of the Commission’s Rules of Practice and Procedure, TURN respectfully submits this Petition for Modification of D.26-07-025.¹ As demonstrated below, D.26-07-025 should be modified because the Commission proceeded on a basic misconception of fact in considering the appropriate hourly rate for Mr. Cheng’s work in 2026.

II. STANDARD OF REVIEW

Section 1708 of the California Public Utilities Code authorizes the Commission to “rescind, alter, or amend any order or decision made by it” after providing proper notice to the parties and an opportunity to be heard.² Rule 16.4 sets forth the requirements for a petition for modification of a Commission decision:

A petition for modification of a Commission decision must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new

¹ Rule 16.4 (d) requires that a petition for modification be filed within one year of the effective date of the decision proposed to be modified, with an exception set forth therein. This petition for modification is filed 2 days after the effective date of D.26-07-025 and is thus timely filed.

² Cal. Pub. Util. Code § 1708.

or changed facts must be supported by an appropriate declaration or affidavit.³

In carrying out its broad discretion under Section 1708, the Commission has sought to protect parties from endless re-litigation of the same issues.⁴ The Commission has modified decisions where (1) new facts are brought to the attention of the Commission, (2) conditions have undergone a material change, or (3) the Commission proceeded on a basic misconception of law or fact, among other extraordinary circumstances.⁵

III. BACKGROUND

In Resolution (Res.) ALJ-393, the Commission adopted a new methodology for calculating intervenor compensation hourly rates for application to work performed in the 2021 calendar year or later. The new framework, like its predecessor established in D.07-01-009 and affirmed in D.08-04-010, includes hourly rate ranges tied to experience tiers for specific labor roles.⁶ In D.08-04-010, the Commission identified five opportunities for an intervenor representative with an established hourly rate to qualify for a rate increase: (1) annual cost of living adjustments, or escalation; (2) two 5% “step” increases within each experience tier; (3) “moving to a higher experience tier” (“apart from any COLA or step increase”); (4) where the rate is below the rate range; and (5) where the intervenor representative has historically sought rates at the low end of the applicable rate range and can demonstrate the adopted rate is significantly less than rates

³ Rule 16.4 (b).

⁴ D.17-12-006, p. 9.

⁵ D.17-12-006, p. 11.

⁶ Res. ALJ-393, pp. 1, 3-4; D.08-04-010, p. 5. Whereas the framework established in D.07-01-009 and D.08-04-010 included two categories of labor roles – “Attorneys” and “Experts” – the new framework includes nearly 80 labor roles.

for close peers.⁷ In Res. ALJ-393, the Commission expressly continued the practice of applying annual escalation and permitting two 5% “step” increases in each experience tier, subject to the upper limit of the hourly rate range for that tier.⁸ The Commission has since affirmed the policy adopted in D.08-04-010 of authorizing a rate increase in recognition of an intervenor’s move to a higher experience tier, apart from escalation or a “step” increase.⁹

On March 20, 2026, TURN timely filed a request for an award of intervenor compensation for substantial contribution to D.26-01-004, issued in this proceeding.¹⁰ In pertinent part, TURN requested an hourly rate of \$620 for the work of TURN Attorney David Cheng in 2026. TURN explained:

The requested rate is equal to the rate authorized by the Commission in D.25-06-064 for Mr. Cheng’s work in 2025, \$570, adjusted by both (1) an escalation rate of 3.35% for 2026, and (2) the *second* 5% step increase in the Attorney – Level IV experience tier.¹¹

In D.26-07-025, the Commission denied the requested 5% step increase for Mr. Cheng in 2026 and instead adopted a rate of \$590.00. The Commission reasoned:

⁷ D.08-04-010, pp. 8-9.

⁸ Res. ALJ-393, pp. 4-5.

⁹ *See, e.g.*, D.24-07-030, pp. 10-11 (5% rate increase for David Cheng’s move from Attorney – Level III to Level IV), D.26-05-030, pp. 18-19, 21 (5% rate increase for Elise Torres’ move from Attorney – Level III to Level IV); D.26-03-040, p. 9 (25% rate increase for Reina Yanagiba’s move from Paralegal – Level I to Level II).

¹⁰ TURN Intervenor Compensation Claim, 3/20/26, Part I.B. In D.26-01-004, issued on January 20, 2026, the Commission authorized Southern California Edison Company (SCE), subject to specified conditions, to contract with a third party to facilitate agreements with telecommunications providers for the use of unused space on SCE’s property. (D.26-01-004, p. 2).

¹¹ TURN Intervenor Compensation Claim, 3/20/26, Part III.C., Comment #1 – 2026 Rate for David Cheng (emphasis added).

For Cheng’s 2026 rate, we do not apply the second step increase as requested by TURN as Cheng already received the two allowable step increases in the role of Attorney – IV. D.24-06-021 at 11 awarded the first step increase, and D.25-06-064 at 13 awarded the second step increase.¹²

However, this conclusion relies on a basic misconception of fact, as will be explained below. TURN seeks to correct this misconception through this petition and to prevent further confusion in forthcoming decisions addressing the 2026 hourly rate for Mr. Cheng.

IV. JUSTIFICATION FOR THE REQUESTED RELIEF

The Commission should modify D.26-07-025 because it is premised on the misconception that Mr. Cheng has already received two “step” increases in the Attorney – Level IV experience tier. Instead, Mr. Cheng received the first “step” increase in his 2025 hourly rate after receiving a separate increase in 2024 for his move to the Level IV experience tier. The Commission should find reasonable the requested 2026 rate of \$620 for Mr. Cheng and adjust the awarded amount accordingly.

A. TURN Did Not Seek A “Step” Increase to Establish David Cheng’s 2024 Hourly Rate.

In 2024, Mr. Cheng had obtained sufficient experience to move from the Attorney – Level III to Attorney – Level IV experience tier. TURN sought an increase in his 2023 authorized hourly rate to expressly account for his move to a higher experience tier, consistent with the Commission’s long-standing policy of providing rate increases – apart from annual COLA adjustments and “step” increases – when an intervenor representative

¹² D.26-07-025, p. 12, Part III.D, Comment 1 – David Cheng (Cheng) 2023-2026 Hourly Rates.

moves to a higher experience tier. In early 2024, TURN filed two intervenor compensation claims in which TURN presented the following request:

For Mr. Cheng's work in 2024, TURN requests that the Commission adjust his 2023 rate in two regards: (1) by applying the annual escalation adjustment authorized by Resolution ALJ-393, which is not yet available; and (2) further adjusting Mr. Cheng's hourly rate by 5% to recognize his move from Attorney - Level III (5-10 years) to Attorney - Level IV (10-15 years). In D.08-04-010, the Commission recognized moving to a higher experience tier as one of the circumstances that qualify an intervenor representative for a rate increase, apart from annual COLA adjustments and "step" increases. (D.08-04-010, p. 8).¹³

TURN filed the first of those claims on 1/16/24 in A.21-12-006, et al. and the second claim on 2/20/24 in I.19-06-014.¹⁴

In D.24-07-030, the Commission resolved TURN's claim in A.21-12-006, et al.. The Commission explicitly agreed with TURN's basis for Mr. Cheng's 2024 rate, which did not include a "step" increase:

Given Mr. Cheng's level of experience in issues relevant to the Commission, we agree a rate in the middle of the Attorney IV range is appropriate, and approve TURN's request to adjust Mr. Cheng's 2023 hourly rate by the 4.07% escalation adjustment authorized by Resolution ALJ-393 plus a 5% increase in recognition of Mr. Cheng's move to Attorney IV. The resulting approved 2024 hourly rate for Mr. Cheng is \$525.¹⁵

Eighteen days earlier, the Commission had resolved TURN's claim submitted in I.19-06-014 in D.24-06-021.¹⁶ Whereas in D.24-07-030, the Commission referred to the "5% increase in recognition of Mr. Cheng's move to Attorney IV," in D.24-06-021, the

¹³ D.24-07-030, p. 10, Part III.C, Comment 2 – 2024 Hourly Rate for David Cheng; D.24-06-021, pp. 9-10, Part III.C, Comment 2 – 2024 Hourly Rate for David Cheng.

¹⁴ See D.24-07-030, issued in A.21-12-006, et al.; D.24-06-021, issued in I.19-06-014.

¹⁵ D.24-07-030, p. 11, Part III.D, Comment 3 – Cheng 2024 Hourly Rate.

¹⁶ The Commission issued D.24-06-021 on 6/28/24 and D.24-07-030 on 7/16/24.

Commission referred to the “5% *step* increase in recognition of Mr. Cheng’s move to Attorney IV.”¹⁷ However, TURN had not requested a 5% “step” increase for Mr. Cheng in its claim, as TURN relied on the Commission’s invitation in D.08-04-010 to seek an increase for a move to a higher experience tier, separate from the permitted “step” increases. Nor did the Commission indicate that it was overturning the Commission’s policy established in D.08-04-010 of permitting rate increases solely in recognition of the move to a higher experience tier.

Because the Commission corrected the D.24-06-021 rationale for Mr. Cheng’s 2024 rate 18 days later in D.24-07-030, TURN assumed the Commission had realized and corrected the erroneous inclusion of the word “step” in D.24-06-021. As such, TURN did believe it was a good use of TURN’s or the Commission’s resources to seek modification of D.24-06-021.

B. TURN Requested the First “Step” Increase for David Cheng in the Attorney - Level IV Experience Tier in 2025.

TURN initially requested the establishment of a 2025 hourly rate for Mr. Cheng in a claim filed in R.18-07-005 on 1/13/25. In that claim, TURN requested two adjustments to the 2024 rate of \$525 adopted by the Commission in D.24-07-030. TURN relied on D.24-07-030 because it accurately reflected TURN’s justification for Mr. Cheng’s requested 2024 hourly rate, as explained above. The two adjustments TURN requested in its R.18-07-005 claim included the application of the Commission’s 2025

¹⁷ D.24-06-021, p. 11, Part III.D, Comment 2 – David Cheng (Cheng) 2024 Hourly Rate (emphasis added).

escalation rate and “the *first* 5% step increase in the Attorney – Level IV experience tier.”¹⁸

In D.25-06-064, the Commission approved a rate of \$570 for Mr. Cheng’s work in 2025, citing the application of the “2025 escalation factor of 3.46% and 5% step increase to the 2024 rate.”¹⁹ The Commission did not specify whether it was the first or second step increase for Mr. Cheng in the Level IV experience tier. It did not need to, as TURN had requested the *first* step increase.

C. D.26-07-025 Miscounts the “Step” Increases Awarded to David Cheng in the Attorney – Level IV Experience Tier.

As recounted above, the Commission concluded in D.26-07-025 that Mr. Cheng had already exhausted the two permitted “step” increases in Level IV and accordingly denied TURN’s request for a second step increase for Mr. Cheng in 2026. The Commission stated, “D.24-06-021 at 11 awarded the first step increase, and D.25-06-064 at 13 awarded the second step increase.”²⁰ This is an understandable but incorrect accounting of the history of Mr. Cheng’s recent rate increases.

As explained above, TURN did not seek a “step” increase for Mr. Cheng in 2024 but instead sought a 5% increase for Mr. Cheng’s move to the Level IV experience tier, as provided for in D.08-04-010. The Commission in D.24-06-021 incorrectly stated that the authorized 2024 rate for Mr. Cheng included a “step” increase for Mr. Cheng’s move to the Level IV experience tier. Eighteen days later, the Commission correctly excluded

¹⁸ D.25-06-064, p. 12, Part III.C., Comment 1 – 2025 Hourly Rate for David Cheng (emphasis added).

¹⁹ D.25-06-064, p. 13, Part III.D., Comment 2 – Cheng’s 2024 and 2025 Hourly Rates.

²⁰ D.26-07-025, p. 12, Part III.D, Comment 1 – David Cheng (Cheng) 2023-2026 Hourly Rates.

the word “step” when it again authorized Mr. Cheng’s 2024 rate in D.24-07-030. There the Commission made clear that it was accepting TURN’s request for an increase in 2024 – apart from escalation and any “step” increases – solely for Mr. Cheng’s move to the Level IV experience tier.²¹

Normally, it is reasonable for the Commission to rely on the first decision authorizing a new rate for an intervenor representative in future hourly rate determinations. However, here, that first decision, D.24-06-021, contained an error that was corrected shortly thereafter in D.24-07-030, which also fully evaluated TURN’s rate request and adopted the same hourly rate for Mr. Cheng in 2024. Given these unusual circumstances, D.24-07-030 is the correct decision for the Commission to rely on, as well as TURN’s underlying 2024 rate request for Mr. Cheng in A.21-12-006, et al. and I.19-06-014, in counting the “step” increases that TURN has received for Mr. Cheng in the Attorney – Level IV experience tier.

Based on D.24-07-030, TURN did not receive the first Attorney – Level IV “step” increase for Mr. Cheng in 2024. Rather, TURN received the first “step” increase for Mr. Cheng in 2025 in D.25-06-064. As noted above, TURN had explicitly requested the first step increase for Mr. Cheng in the claim resolved by D.25-06-064, and the Commission granted TURN’s request for a step increase. The Commission did not state that it was the second step increase for Mr. Cheng, contrary to conclusion drawn in D.26-07-025.

Accordingly, the Commission should modify D.26-07-025 to correctly account for Mr. Cheng’s “step” increases in the Attorney – Level IV experience tier. With the

²¹ D.24-07-030, p. 11, Part III.D, Comment 3 – Cheng 2024 Hourly Rate.

facts clarified, the Commission should conclude that Mr. Cheng is eligible for the second “step” increase in 2026.

V. SPECIFIC WORDING TO CARRY OUT THE REQUESTED MODIFICATION

Rule 16.4 requires a petitioner “to propose specific wording to carry out all requested modifications to the decision.”²² TURN recommends that the Commission modify the discussion of Mr. Cheng’s hourly rates in D.26-07-025, as well as the calculation of the award for Mr. Cheng’s time in 2026.

First, the Commission should modify the discussion of Mr. Cheng’s hourly rates in Part III.D, Comment 1 as follows:

TURN requested 2023, 2024, 2025 and 2026 hourly rates of \$480.00, \$525.00, \$570.00 and \$620.00 respectively. TURN also requested the second step increase be applied to Cheng’s 2026 hourly rate.

D.24-02-043 verified a 2023 hourly rate of \$480.00 for Cheng as a Legal – Attorney – III. We apply the same rate here.

D.24-06-021 verified a 2024 hourly rate of \$525.00, which **reflected Cheng’s move to** ~~included award of the first available step increase as an Attorney – IV, for Cheng as a Legal – Attorney – IV.~~ We apply the same rate here.

D.25-06-064 verified a 2025 hourly rate of \$570.00, which included award of the **first** ~~second and final~~ available step-increase as an Attorney – IV, for Cheng as a Legal – Attorney – IV.

For Cheng’s 2026 rate, we ~~do not~~ apply the second step increase as requested by TURN ~~as Cheng already received the two allowable step increases in the role of Attorney – IV. D.24-06-021 at 11 awarded the first step increase, and D.25-06-064 at 13 awarded the second step increase. In light of the information above and using our calculation methodology, we~~

²² Rule 16.4 (b).

We also apply the 3.35% escalation factor to the approved 2025 rate of \$570.00 and round to the nearest allowable \$5 increment:

$$\$570.00 \times 1.0335 \underline{1.0835} = \$590\textbf{620.00}$$

We find the 2026 rate of ~~\$590~~**620.00** reasonable and adopt it here. Intervenor Compensation Claim Preparation hours are compensated at ½ preparer’s normal hourly rate, bringing the 2026 claim preparation rate to ~~\$295~~**310.00**.

Second, the Commission should adjust the amount of TURN’s award in Part III.B to reflect the application of the 2026 hourly rate of \$620 for Mr. Cheng. This adjustment would increase TURN’s award by \$405.00, as shown below.

CPUC AWARD							
ATTORNEY, EXPERT, AND ADVOCATE FEES							
Item	Year	Hours	Rate \$	Total \$	Modified Rate \$	Modified Total \$	Increase
David Cheng, TURN Attorney	2026	10.75	\$590.00	\$6,342.50	\$620.00	\$6,665.00	\$322.50
INTERVENOR COMPENSATION CLAIM PREPARATION							
David Cheng, TURN Attorney	2026	5.50	\$295.00	\$1,622.50	\$310.00	\$1,705.00	\$82.50

VI. CONCLUSION

In D.26-07-025, the Commission proceeded on an understandable misconception of fact in authorizing an hourly rate for TURN Attorney David Cheng in 2026. The Commission should modify D.26-07-025 to correctly find that Mr. Cheng is eligible for a second “step” increase in the Attorney – Level IV experience tier in 2026. The Commission should also adjust TURN’s award to account for this change in Mr. Cheng’s 2026 hourly rate. Finally, to avoid further confusion, the Commission should ensure that future decisions addressing intervenor compensation for Mr. Cheng’s work in 2026

correctly account for the previous “step” increases requested by TURN and authorized by the Commission.

Date: July 9, 2026

Respectfully submitted,

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