

Decision 22-04-029 April 7, 2022

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric
Company for Wildfire Mitigation and
Catastrophic Events Interim Rates (U39E).

Application 20-02-003

**DECISION GRANTING COMPENSATION TO
THE UTILITY REFORM NETWORK
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 20-10-026**

Intervenor: The Utility Reform Network	For contribution to Decision (D.) 20-10-026
Claimed: \$28,203.01	Awarded: \$28,203.01
Assigned Commissioner: Alice Reynolds ¹	Assigned ALJ: Robert Haga

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	D.20-10-026 authorized PG&E to collect in rates, starting in December of 2020 and “subject to refund,” approximately \$447 million in revenues, out of the \$891 million requested by PG&E. The Decision authorizes interim cost recovery of costs recorded in three memorandum accounts but denies interim recovery of costs in the CEMA. The decision also denies PG&E’s requested policy that would have authorized automatic rate increases due to memorandum account balances.
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¹ This proceeding was reassigned from President Batjer to President Alice Reynolds on January 31, 2022

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812:²

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	April 2, 2020	Verified
2. Other specified date for NOI:	n/a	
3. Date NOI filed:	May 4, 2020	Verified
4. Was the NOI timely filed?		Yes
Showing of eligible customer status (§ 1802(b)) or eligible local government entity status (§§ 1802(d), 1802.4):		
5. Based on ALJ ruling issued in proceeding number:	See Comment #1	Verified
6. Date of ALJ ruling:	See Comment #1	Verified
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes
Showing of “significant financial hardship” (§ 1802(h) or § 1803.1(b)):		
9. Based on ALJ ruling issued in proceeding number:	R.19-01-011	Verified
10. Date of ALJ ruling:	July 26, 2019	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.20-10-026	Verified
14. Date of issuance of Final Order or Decision:	Oct. 23, 2020	Verified
15. File date of compensation request:	December 22, 2020	Verified
16. Was the request for compensation timely?		Yes

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

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
1	TURN did not receive an affirmative ruling on its Notice of Intent in this proceeding. As explained in the Commission's Intervenor Compensation guide, "normally, an ALJ Ruling need not be issued unless: (a) the NOI has requested a finding of "significant financial hardship" under § 1802(g); (b) the NOI is deficient; or (c) the ALJ desires to provide guidance on specific issues of the NOI." (page 12) Since none of these factors apply to the NOI submitted in this proceeding, there was no need for an ALJ ruling in response to TURN's NOI.	Noted

PART II: SUBSTANTIAL CONTRIBUTION**A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059):**

Intervenor's Claimed Contribution(s) to D.19-12-056	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>1. Interim Cost Recovery in General</p> <p>TURN agreed that the Commission has legal authority to grant interim rate recovery, but argued that the facts in this case did not conform with the factors and principles present in the cases where the Commission has previously authorized interim cost recovery, so that the Commission should deny all interim cost recovery in this case.</p> <p>The Commission concluded that "some interim rate recovery" is warranted in order to promote fairness, minimize costs to ratepayers and promote rate stability.</p>	<p>TURN Protest, pp. 6-10; TURN Opening Brief, pp. 4-25; TURN Reply Brief, pp. 3-5.</p> <p>See, generally, D.20-10-026, pp. 19-21 (description of TURN's positions).</p> <p>D.20-10-026, pp. 24-27.</p>	Verified
2. Recovery of CEMA costs		Verified

Intervenor's Claimed Contribution(s) to D.19-12-056	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>TURN noted that the CEMA costs at issue in this case were at least in part due to wildfire emergencies triggered by PG&E equipment failures, which is fundamentally different from prior CEMA cases.</p> <p>The Commission agreed with the Public Advocates Office that CEMA costs should be excluded due to 1) the uncertainty of cost recovery of a large portion of the recorded CEMA, and 2) the ability of PG&E to request expedited recovery of CEMA costs separately.</p>	<p>TURN Opening Brief, p. 8.</p> <p>D.20-10-026, pp. 30-31.</p>	
<p>3. Partial Interim Cost Recovery</p> <p>TURN explained that a portion of the recorded costs, totaling approximately \$250 to \$275 million in revenue requirements, or about 25% of the total recorded revenue requirements, could arguably qualify for interim cost recovery based on Commission precedents.</p> <p>The Commission expressed concern that 25% underestimates the potential recovery, and instead approved recovery of 55% of the costs in three of the four memorandum accounts (half way between 25 and 85), which resulted in cost recovery of \$447 million, or 43% of the PG&E's recorded revenue requirements in the four memorandum accounts.</p>	<p>TURN Opening Brief, p. 29; TURN Reply Brief, p. 6.</p> <p>D.20-10-026, pp. 31-32.</p>	Verified
<p>4. Future Policy Regarding Automatic Cost Recovery</p>		Verified

Intervenor's Claimed Contribution(s) to D.19-12-056	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
<p>TURN opposed PG&E's policy request and explained that the request was ill-defined, not supported by precedent, and had potential negative consequences that needed more consideration.</p> <p>The Commission generally agreed that TURN's position and denied PG&E's request.</p>	<p>TURN Opening Brief, p. 25-29.</p> <p>D.20-10-026, pp. 35-36 ("There are numerous implications that such a policy would have, and even more questions raised about how it would actually work.")</p>	

B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Public Advocate's Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?³	Yes	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: Wild Tree Foundation (WTF)		Verified
d. Intervenor's claim of non-duplication: TURN's compensation in this proceeding should not be reduced for duplication of the showings of other parties. In a proceeding involving multiple participants, it is virtually impossible for TURN to completely avoid some duplication of the work of other parties. TURN's analyses and recommendations in this case differed substantively from those of the two other intervenors representing ratepayer interests – Cal Advocates and WTF. TURN coordinated with WTF and determined our legal positions were different and did not entail duplication.		Noted

³ The Office of Ratepayer Advocates was renamed the Public Advocate's Office of the Public Utilities Commission pursuant to Senate Bill 854, which the Governor approved on June 27, 2018.

C. Additional Comments on Part II:

#	Intervenor's Comment	CPUC Discussion
1	<p><u>Partial Success:</u></p> <p>The statutory definition of “substantial contribution” in Section 1802 of the PU Code states that a contribution results because the Commission “has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer.”</p> <p>The Commission has interpreted the “in whole or in part” provision, in conjunction with Section 1801.3, so as to effectuate the legislature’s intent to encourage effective and efficient intervenor participation. The Commission has established as a general proposition that when a party makes a substantial contribution in a multi-issue proceeding, it is entitled to compensation for time and expenses even if it does not prevail on some of the issues. See, for example, D.98-04-028 (awarding TURN full compensation in CTC proceeding, even though TURN did not prevail on all issues); D.98-08-016, pp. 6, 12 (awarding TURN full compensation in SoCalGas PBR proceeding); D.00-02-008, pp. 4-7, 10 (awarding TURN full compensation even though we unsuccessfully opposed settlement).</p> <p>In this proceeding, while the Commission did not agree “in full” with TURN’s recommendation that all interim cost recovery be denied, the Commission adopted a numerical compromise outcome that was half-way between the alternative outcome proposed by TURN and Cal Advocates, and on a net basis was closer to TURN’s alternative recommendation than PG&E’s recommendation. Additionally, the Commission rejected PG&E’s policy request based on TURN’s factual and policy arguments.</p>	Noted

PART III: REASONABLENESS OF REQUESTED COMPENSATION**A. General Claim of Reasonableness (§ 1801 and § 1806):**

	CPUC Discussion
a. Intervenor’s claim of cost reasonableness:	Noted

	CPUC Discussion
<p>TURN requests compensation of less than \$30,000 for its work in this proceeding.</p> <p>TURN's contributions to this proceeding involve both policy and financial impacts. TURN's participation contributed to a reduction in authorized interim rate increases (from December 2020 to April 2022) of about \$447 million, thus delaying potential rate increases during an extremely difficult economic time for most ratepayers. There is some economic benefit to ratepayers due to the "time-value-of-money" benefit from delayed payment; however, such a benefit is difficult to estimate and depends on the interest rate of the memorandum account as compared to actual inflation, and on the amount found reasonable for cost recovery in any ultimate reasonableness review decision.</p> <p>From a policy perspective, TURN's contributions prevented a policy that would have allowed automatic rate increases without a review of the reasonableness of recorded costs.</p>	
<p>b. Reasonableness of hours claimed:</p> <p>TURN devoted a total of approximately 60 hours, or 1.5 weeks, of attorney time in this proceeding. TURN suggests that this amount of time was quite reasonable considering PG&E's extraordinary request for interim recovery prior to any reasonableness review, and considering the request was for cost recovery of almost one billion dollars.</p> <p><u>Reasonableness of Attorney Hours:</u></p> <p><u>Marcel Hawiger</u></p> <p>Mr. Hawiger was the lead attorney on this proceeding. He took the lead in conducting all necessary legal research and in drafting all of TURN's pleadings. He spent 46.5 hours of time on the proceeding (excluding work related to the compensation request).</p> <p>Mr. Hawiger has been a staff attorney with TURN since 1998. Mr. Hawiger has been the lead attorney on various proceedings, including general rate cases, electric and gas procurement cases, cases addressing demand-side management programs and policies, and various applications for utility infrastructure investments. Mr. Hawiger was the lead attorney in the test year 2013 cost of capital proceeding.</p> <p><u>Other Attorneys</u></p>	Noted

	CPUC Discussion										
TURN claims a limited number of hours (less than 15 hours total) for four other attorneys who conducted work or provided advice during the course of the proceeding. Their involvement was necessary both for normal 1) due diligence oversight and 2) support necessary for scheduling conflicts, but also because two of the other attorneys had worked on analogous applications for interim cost recovery over the past two years and provided guidance and background to assist in this case and prevent unnecessary duplication of prior research and writing.											
<p>c. Allocation of hours by issue:</p> <p>TURN uses a combination of activity and issue codes when itemizing the hourly work performed by attorneys and consultants. Some work is fundamental to active participation in a Commission proceeding, and may not be allocable by issue, and/or the amount of time required may not vary by the number of issues. Examples of these tasks include reviewing other parties' testimony and filings, reviewing the proposed and any alternate decision; attending prehearing conferences and <i>ex parte</i> meetings; and preparing compensation filings. TURN usually uses the activity code "GP" to represent such general participation time that is not allocable by issue.</p> <p>This proceeding was unusual in that it involved two primary issues – 1) the reasonableness of the interim recovery request, and 2) PG&E's policy proposal. While the first issue involved multiple legal (prior CPUC precedents) and factual (nature of the costs recorded in the memorandum account compared to precedents) sub-issues, these were all so closely intertwined such that TURN could not segregate the work and all work on these issues was coded as "ICR" for interim cost recovery.</p> <p>Based on the detailed coding of the attorney time sheets and the personal knowledge of TURN's attorney on this case, the approximate allocation of time by substantive issue is as follows:</p> <table> <tr> <th>Issue</th><th>% of Time</th></tr> <tr> <td>ICR - Application of precedent</td><td>60</td></tr> <tr> <td>ICR - Unique characteristics of costs and proposal for recovery prior to rsnl review</td><td>20</td></tr> <tr> <td>Alternative Proposal</td><td>10</td></tr> <tr> <td>Policy Proposal</td><td>10</td></tr> </table>	Issue	% of Time	ICR - Application of precedent	60	ICR - Unique characteristics of costs and proposal for recovery prior to rsnl review	20	Alternative Proposal	10	Policy Proposal	10	Noted
Issue	% of Time										
ICR - Application of precedent	60										
ICR - Unique characteristics of costs and proposal for recovery prior to rsnl review	20										
Alternative Proposal	10										
Policy Proposal	10										

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Marcel Hawiger, TURN Staff Attorney	2020	46.50	\$455.00	D.19-11-011 + 2.55% COLA (Res. ALJ-387)	\$21,157.50	46.50	\$455.00 [1]	\$21,157.50
Robert Finkelstein, TURN General Counsel	2020	5.75	\$550.00	D.19-11-015 + 2.55% COLA (Res. ALJ-387)	\$3,162.50	5.75	\$550.00 [2]	\$3,162.50
Hayley Goodson, TURN Staff Attorney	2020	3.25	\$455.00	D.19-10-013 + 2.55% COLA (Res. ALJ-387)	\$1,478.75	3.25	\$455.00 [3]	\$1,478.75
Thomas Long, TURN Legal Director	2020	1.75	\$625.00	D.19-11-015 + 2.55% COLA (Res. ALJ-387)	\$1,093.75	1.75	\$625.00 [4]	\$1,093.75
David Cheng, TURN Staff Attorney	2020	0.50	\$375.00	D.19-11-009 and Move to 8-12 yr experience tier	\$187.50	0.50	\$375.00 [5]	\$187.50
Subtotal: \$27,080.00						Subtotal: \$27,080.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Marcel Hawiger, TURN Staff Attorney	2020	0.50	\$227.50	Half of 2020 rate	\$113.75	0.50	\$227.50	\$113.75
Marcel Hawiger, TURN Staff Attorney	2021 [6]	4.25	\$227.50	Half of 2020 rate	\$966.88	4.25	\$227.50	\$966.88
Subtotal: \$1,080.63						Subtotal: \$1,080.63		

CLAIMED				CPUC AWARD
COSTS				
#	Item	Detail	Amount	Amount
1	Photocopies	Photocopy expenses related to TURN prepared testimony and pleadings provided to the Commission.	\$1.30	\$1.30
2	Lexis Legal Research	Computerized research costs associated with the preparation of TURN's legal arguments	\$39.88	\$39.88
3	Postage	Postage expenses related to TURN prepared testimony and pleadings mailed to the Commission.	\$1.20	\$1.20
Subtotal: \$42.38				Subtotal: \$42.38
TOTAL REQUEST: \$28,203.01				TOTAL AWARD: \$28,203.01
<p>*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§ 1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenors' records should identify specific issues for which it seeks 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. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer's normal hourly rate</p>				
ATTORNEY INFORMATION				
Attorney	Date Admitted to CA BAR ⁴	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation	
Marcel Hawiger	January 1998	194244	No	
Hayley Goodson	December 2003	228535	No	
David Cheng	June 2015	303794	No	
Bob Finkelstein	January 1990	146391	No	
Thomas Long	December 1986	124776	No	

⁴ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	Attorney Time Sheets
Attachment 3	Direct Expenses Detail
Comment 1:	Time Keeping TURN's attorneys and experts maintained detailed contemporaneous time records indicating the number of hours devoted to work on this case. In preparing this compensation request, Mr. Hawiger reviewed all of the recorded hours devoted to this proceeding and included only those that were reasonable and relevant to the issues addressed in the decision.

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
[1]	Adopting \$455 rate for 2020. New rate based on Hawiger's 2019 rate adjusted to reflect Resolution ALJ-387 (2.55% COLA).
[2]	Adopting \$550 rate for 2020. New rate based on Finkelstein's 2019 rate adjusted to reflect Resolution ALJ-387 (2.55% COLA).
[3]	Adopting \$455 rate for 2020. New rate based on Goodson's 2019 rate adjusted to reflect Resolution ALJ-387 (2.55% COLA).
[4]	Adopting \$625 Rate for 2020. New rate based on Long's 2019 rate adjusted to reflect Resolution ALJ-387 (2.55% COLA).
[5]	Adopting \$375 rate for 2020. New rate based on Cheng's 2019 rate adjusted to reflect Resolution ALJ-387 for an attorney with 8-12 years of experience.
[6]	Compensation Request was filed 12/22/2020, therefore requested year of 2021 was incorrectly entered. Correct year is 2020.

PART IV: OPPOSITIONS AND COMMENTS

**Within 30 days after service of this Claim, Commission Staff
or any other party may file a response to the Claim (see § 1804(c))**

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (see Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to D.19-03-025.
2. The requested hourly rates for The Utility Reform Network's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$28,203.01.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. The Utility Reform Network shall be awarded \$28,203.01.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company shall pay The Utility Reform Network the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning March 7, 2021, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated April 7, 2022, at San Francisco, California.

ALICE REYNOLDS

President

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

DARCIE L. HOUCK

JOHN R.D. REYNOLDS

Commissioners

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D2204029	Modifies Decision?	No
Contribution Decision(s):	D2010026		
Proceeding(s):	A2002003		
Author:	ALJ Haga		
Payer(s):	Pacific Gas and Electric Company		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/ Disallowance
The Utility Reform Network	December 22, 2020	\$28,203.01	\$28,203.01	N/A	See CPUC Comments, Adjustments and Disallowances

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Marcel	Hawiger	Attorney	\$455	2020	\$455.00
Robert	Finkelstein	Attorney	\$550	2020	\$550.00
Thomas	Long	Attorney	\$625	2020	\$625.00
Hayley	Goodson	Attorney	\$455	2020	\$455.00
David	Cheng	Attorney	\$375	2020	\$375.00

(END OF APPENDIX)