

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company to Recover Costs Recorded in the Catastrophic Event Memorandum Account Pursuant to Public Utilities Code Section 454.9 and Forecasted Pursuant to Resolution ESRB-4 (U39E).

Application 18-03-015

**DECISION GRANTING COMPENSATION TO
THE UTILITY REFORM NETWORK
FOR SUBSTANTIAL CONTRIBUTION TO
DECISION (D.) 22-03-011 AND D.19-04-039**

Intervenor: The Utility Reform Network (“TURN”)	For contribution to Decision (D.) 22-03-011, D.19-04-039
Claimed: \$127,568.02	Awarded: \$127,449.27
Assigned Commissioner: Darcie L. Houck	Assigned ALJ: Jason Jungreis

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	In D.22-03-011, the Commission approved the all-party settlement agreement, which allowed Pacific Gas and Electric Company to recover \$683,200,000 in revenue requirement for its expenses and capital costs associated with responding to 11 catastrophic events occurring between 2016 and 2019. That recovery was reduced by a net amount of \$373,000,000 because that amount had been previously authorized in D.19-04-039 as interim revenue requirement recovery. Therefore, D.22-03-011 authorized further revenue requirement recovery of \$310,200,000 in rates.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812¹:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	7/10/2018	Verified
2. Other specified date for NOI:	N/A	
3. Date NOI filed:	8/6/2018	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:	I.15-08-019	Verified
6. Date of ALJ ruling:	November 8, 2017	Verified
7. Based on another CPUC determination (specify):	N/A	
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:	I.15-08-019	Verified
10. Date of ALJ ruling:	November 8, 2017	Verified
11. Based on another CPUC determination (specify):	N/A	
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.22-03-011	Verified
14. Date of issuance of Final Order or Decision:	3/21/2022	Verified
15. File date of compensation request:	5/20/2022	Verified
16. Was the request for compensation timely?		Yes

¹ All statutory references are to California Public Utilities Code unless indicated otherwise.

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)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>1. <u>Interim Rate Recovery</u></p> <p>PG&E sought interim recovery of \$588 million of costs to go into rates on March 1, 2019, before a determination of the reasonableness of these costs is made.</p> <p>TURN and Cal Advocates argued against the request, stating that PG&E failed to present any evidence regarding how interim rate recovery would affect PG&E’s cost of capital or cash flow. TURN and Cal Advocates also presented an alternative proposal which would limit the interim rate recovery to \$373 million.</p> <p>The Commission agreed with TURN and Cal Advocates and limited interim rate recovery to \$373 million.</p>	<ul style="list-style-type: none"> • D.19-04-039, pp. 3-4. • TURN & Cal Advocates Response (Dec 19, 2018), pp. 4,11. • D.19-04-039, p. 7. 	<p>Verified</p> <p>Verified</p>
<p>2. <u>Recovery of Forecasted Vegetation Management Costs</u></p> <p>PG&E sought recovery of forecasted vegetation management costs, even though the costs have not been incurred.</p> <p>TURN noted that Resolution ESRB-4 does not entitle PG&E to recovery of forecasted costs, and Resolution ESRB-4 also does not entitle PG&E to any non-CEMA form of recovery of forecasted costs. Lastly, PG&E was not seeking</p>	<ul style="list-style-type: none"> • D.19-04-039, p. 4. • TURN Opening Brief (August 31, 2018), pp. 1-3. 	<p>Verified</p>

Intervenor’s Claimed Contribution(s)	Specific References to Intervenor’s Claimed Contribution(s)	CPUC Discussion
<p>recovery of forecasted costs for vegetation management under any authority other than Resolution ESRB-4.</p> <p>The Commission agreed and denied PG&E’s request to recover forecasted vegetation management costs in this proceeding.</p>	<ul style="list-style-type: none"> • D.19-04-039, pp. 9-11. 	<p>Verified</p>
<p>3. <u>Reduction of CEMA Eligible Costs</u></p> <p>PG&E sought recovery of \$719.9 million a total revenue requirement for its CEMA events.</p> <p>PG&E, TURN, and Cal Advocates entered into a settlement agreement to reduce the revenue requirement by \$36.7 million, from \$719.9 million to \$683.2 million.</p> <p>The Commission adopted the settlement agreement, finding that it was reasonable, consistent with the law, and in the public interest.</p>	<ul style="list-style-type: none"> • D.22-03-011, pp. 14-17. • Joint Motion for Approval and Adoption of Settlement Agreement (November 4, 2021). • D.22-03-011, pp. 18-21. 	<p>Verified</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?	Yes	Yes
b. Were there other parties to the proceeding with positions similar to yours?	No	No
c. If so, provide name of other parties:		
<p>d. Intervenor’s claim of non-duplication: TURN coordinated with Cal Advocates throughout the proceeding, as reflected on the timesheets. The coordination included conferring on strategy, issue positions, and others. As a general matter, TURN either offered unique positions in this proceeding, or, where our positions overlapped with Cal Advocates or other intervenors, unique analysis in support or opposition of those positions. For example, TURN was the only party that demonstrated that for the contested costs, PG&E would not have reduced staffing if the CEMA events had not occurred. As another example, TURN also uniquely demonstrated that PG&E does not track the “additional” costs associated with postponed activities due to the CEMA events that require incremental overtime labor as well as significant incremental contract resources, and therefore these costs should be recoverable. Both of these unique contributions by TURN strengthened the grounds for certain costs to be disallowed.</p> <p>The Commission should find that TURN’s participation was efficiently coordinated with the participation of Cal Advocates and other intervenors so as to avoid undue duplication and to ensure that to the extent duplication occurred, it served to supplement, complement, or contribute to the showing of the other intervenor. And consistent with such a finding, the Commission should determine that all of TURN’s work is compensable consistent with the conditions set forth in Section 1802.5.</p>		Noted

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§ 1801 and § 1806):

	CPUC Discussion
<p>a. Intervenor’s claim of cost reasonableness: TURN’s request for intervenor compensation seeks an award of approximately \$128,000 as the reasonable cost of our participation in</p>	Noted

	CPUC Discussion
<p>this proceeding. TURN submits that these costs are reasonable in light of the importance of the issues TURN addressed and realized savings to customers.</p> <p>D.22-03-011 adopted a settlement agreement by the parties, which adopted a \$36.7 million revenue requirement reduction. The saving of \$36.7 million to ratepayers far outweighs the cost of TURN’s participation at \$128,000. Furthermore, D.19-04-039 also addressed important policy questions, namely circumstances where interim rate recovery should be allowed, and whether forecasted vegetation management costs are allowed in the CEMA context. TURN’s participation in this proceeding, including its several pleadings, testimony, and involvement in the settlement discussions were important factors that led to the settlement agreement which was ultimately adopted by the Commission.</p> <p>For these reasons, the Commission should find that TURN's efforts have been productive and the requested amount of compensation is reasonable in light of the benefits achieved through those efforts.</p>	
<p>b. Reasonableness of hours claimed:</p> <p>This Request for Compensation includes approximately 290 hours of TURN’s attorney and expert time, the equivalent of a little bit over seven weeks of full-time work for an individual attorney but spanning a four-year period. TURN’s efforts reflected herein resulted in multiple contributions to D.22-03-011 and D.19-04-039, detailed above, and encompass the preparation of numerous formal filings by TURN and participation in activities including attending prehearing conference, status conferences, and settlement discussions.</p> <p>TURN assigned this proceeding to General Counsel Robert Finkelstein and Staff Attorney David Cheng. This request for compensation includes approximately 150 hours of Mr. Finkelstein’s time and 73 hours of Mr. Cheng’s time.</p> <p>TURN suggests that the Commission should find that the number of issues addressed in this phase of the rulemaking, and the time necessary for preparing various pleadings warrant finding that the hours spent were reasonable. However, should the Commission believe that more information is needed or that a different approach to discussing the reasonableness of the requested hours is warranted here, TURN requests the opportunity to supplement this section of the request.</p>	<p>Noted</p>

			CPUC Discussion
<p>c. Allocation of hours by issue:</p> <p>TURN has allocated all of our attorney and expert time by issue area or activity, as is evident on our attached timesheets (Attachment 2) and in Attachment 4, which shows the allocation of TURN’s time included in this request by attorney or expert and issue / activity area. The following codes relate to specific substantive issue and activity areas addressed by TURN.</p>			Noted
Code	Description	Allocation of Time	
#	Work related to multiple substantive issue areas that is not easily allocated to specific issues	9.6%	
Coord	Time associated with coordinating with other parties on positions, strategies, others	5.2%	
Disc	Time associated with conducting and reviewing discovery	15.4%	
Ex Parte	Time associated with Ex Parte related work and activities	2.8%	
GH	Time associated with prepping for and attending prehearing conferences and status conferences	1.8%	
GP	The work in this category includes activities associated with general participation in this proceeding.	15.8%	
Interim	Time associated with PG&E's interim rate recovery request	18.2%	
NDA	Time associated with entering into an NDA with PG&E for confidential information	0.7%	
PD	Work related to the Proposed Decision where not easily allocated to specific issue areas	12.4%	
Reduc	Work associated with reduction of PG&E's requested recovery of CEMA costs	14.8%	
Settle	Time associated with Settlement discussions and activities	3.3%	
Total		100%	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
David Cheng, TURN Attorney	2018	17.50	\$335.00	D.19-09-035	\$5,862.50	17.50	\$335.00 [1]	\$5,862.50
David Cheng, TURN Attorney	2019	16.25	\$350.00	D.19-11-009	\$5,687.50	16.25	\$350.00 [1]	\$5,687.50
David Cheng, TURN Attorney	2020	3.50	\$375.00	D.20-11-042	\$1,312.50	3.50	\$375.00 [1]	\$1,312.50
David Cheng, TURN Attorney	2021	35.50	\$425.00	D.22-05-027	\$15,087.50	35.25 [7]	\$425.00 [2]	\$14,981.25
David Cheng, TURN Attorney	2022	0.50	\$440.00	D.22-05-027 + COLA, See Comment 1	\$220.00	0.50	\$440.00 [3]	\$220.00
Robert Finkelstein, TURN General Counsel	2018	86.50	\$530.00	D.18-11-043	\$45,845.00	86.50	\$530.00 [4]	\$45,845.00
Robert Finkelstein, TURN General Counsel	2019	54.75	\$540.00	D.19-11-015	\$29,565.00	54.75	\$540.00 [4]	\$29,565.00
Robert Finkelstein, TURN General Counsel	2020	5.75	\$555.00	D.20-11-042	\$3,191.25	5.75	\$555.00 [4]	\$3,191.25
Robert Finkelstein, TURN General Counsel	2021	2.50	\$785.00	Res. ALJ-393 New Rate, See Comment 2	\$1,962.50	2.50	\$780.00 [5]	\$1,950.00
John Sugar, TURN Consultant	2021	66.79	\$235.00	2019 approved rate (D.21-12-046) + COLA	\$15,695.65	66.79	\$235.00 [6]	\$15,695.65
Subtotal: \$124,429.40						Subtotal: \$124,310.65		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Robert Finkelstein, TURN General Counsel	2018	0.50	\$265.00	½ of 2018 approved rate	\$132.50	0.50	\$265.00	\$132.50
Robert Finkelstein, TURN General Counsel	2019	1.00	\$270.00	½ of 2019 approved rate	\$270.00	1.00	\$270.00	\$270.00

CLAIMED						CPUC AWARD		
David Cheng, TURN Attorney	2022	9.75	\$250.00 ²	½ of requested 2021 rate	\$2,145.00	9.75	\$220.00 [3]	\$2,145.00
Subtotal: \$2,547.50						Subtotal: \$2,547.50		
COSTS								
#	Item	Detail			Amount	Amount		
1.	Lexis Legal Research	Electronic Legal research costs associated with TURN's participation in proceeding			\$552.98	\$552.98		
2.	Postage and Fedex	Mailing costs associated with pleadings mailed to the Commission			\$20.94	\$20.94		
3.	Photocopies	Expenses for printouts/copies of TURN's pleadings and exhibits			\$17.20	\$17.20		
Subtotal: \$591.12						Subtotal: \$591.12		
TOTAL REQUEST: \$127,568.02						TOTAL AWARD: \$127,449.27		
<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 ³	Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation			
Robert Finkelstein		June 1990	146391		No			
David Cheng		June 2015	303794		No			

**C. Attachments Documenting Specific Claim and Comments on Part III:
(Intervenor completes; attachments not attached to final Decision)**

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	Timesheets for TURN's Attorneys and Experts

² Correct intervenor compensation claim preparation rate is \$220.00.

³ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

Attachment or Comment #	Description/Comment
Attachment 3	Cost / Expense Detail
Attachment 4	TURN Hours Allocated by Issue
Comment 1	<p>2022 Hourly Rate Request for David Cheng</p> <p>TURN requests that the Commission apply the annual escalation methodology adopted in Res. ALJ-393 to determine the 2022 hourly rate for David Cheng. This annual escalation methodology is based on the annual percentage change in the Bureau of Labor Statistics Employment Cost Index, Table 5, for the Occupational Group “Management, Professional, and Related excluding Incentive Paid Occupations.” (Res. ALJ-393, p. 4; Intervenor Compensation Market Rate Study, Final Report, p. 8). The percent change for this occupational group for the 12-months ended December 2021 is 3.3%. See https://www.bls.gov/news.release/eci.t05.htm.</p> <p>TURN accordingly requests a 2022 hourly rate of \$425, increased by 3.3%, which equals \$440.</p>
Comment 2	<p>2021 Hourly Rate Request for Robert Finkelstein</p> <p>TURN filed an intervenor compensation claim in A.18-07-024 on August 11, 2021, that included a request that the Commission adopt an hourly rate of \$785 for Mr. Finkelstein’s work in 2021, based on the Market Rate Study and guidance adopted in Res. ALJ-393. The Commission has yet to act upon that intervenor compensation claim. Rather than repeat the same showing here for the requested hourly rate for Mr. Finkelstein, TURN refers the Commission to the showing presented in A.18-07-024.</p>

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
[1] David Cheng 2018-2020 Rate	<p>D.20-11-042 verified the following rates for David Cheng and we apply the same rates here:</p> <p>2018: \$335.00 2019: \$350.00 2020: \$375.00</p>
[2] David Cheng 2021 Rate	<p>D.22-05-027 verified a 2021 rate of \$425.00 for David Cheng. We apply the same rate here.</p>

Item	Reason
[3] David Cheng 2022 Rate	<p>D.23-04-022 verified a 2022 rate of \$440.00 for David Cheng. We apply the same rate here.</p> <p>Intervenor Compensation Claim Preparation is ½ preparer’s normal rate, bringing the 2022 claim preparation rate to \$220.00.</p>
[4] Robert Finklestein 2018-2020 Rate	<p>D.20-11-042 verified the following rates for Robert Finklestein and we apply the same rates here:</p> <p>2018: \$530.00 2019: \$540.00 2020: \$555.00</p>
[5] Robert Finklestein 2021 Rate	<p>D.22-06-018 verified a 2021 rate of \$780.00 for Robert Finklestein. We apply the same rate here.</p>
[6] John Sugar 2021 Rate	<p>TURN requested a 2021 rate of \$235.00 for John Sugar.</p> <p>D.21-12-046 verified a 2019 consultant rate of \$230.00. TURN requested application of the COLA for the 2021 rate, however, 2020 was the final year of the application of the COLA. Per TURN’s request, using our calculation methodology, based on the approved 2019 rate of \$230.00, the application of the 2.55% 2020 COLA and rounding to the nearest \$5, we find the requested 2021 rate of \$235.00 reasonable and adopt it here.</p> <p>We remind TURN approved consultant rates are maintained at the rates charged by the consultant and we appreciate the clarity presented in the referenced D.21-12-046.</p>
[7] Reduction of Hours for Administrative Tasks	<p>Review of the submitted timesheets found one entry for David Cheng on 2/18/21 totaling 0.25 hours described as “Draft email to potential consultant.” We reduce the 2021 hours by 0.25 for administrative tasks, bringing the total to 35.25 hours and remind TURN that claimed time must substantially contribute to the overall decision.</p>

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 (<i>see</i> Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to D.22-03-011 and D.19-04-039.
2. The requested hourly rates for The Utility Reform Network’s representatives, as adjusted herein, 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 \$127,449.27.

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 \$127,449.27.
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 August 3, 2022, 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 _____, at Sacramento, California.

APPENDIX

Compensation Decision Summary Information

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D2203011, D1904039		
Proceeding(s):	A1803015		
Author:	ALJ Jungreis		
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	May 20, 2022	\$127,568.02	\$127,449.27	N/A	See Part III.D CPUC Comments, Disallowances and Adjustments

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
David	Cheng	Attorney	\$335	2018	\$335.00
David	Cheng	Attorney	\$350	2019	\$350.00
David	Cheng	Attorney	\$375	2020	\$375.00
David	Cheng	Attorney	\$425	2021	\$425.00
David	Cheng	Attorney	\$440	2022	\$440.00
Robert	Finkelstein	Attorney	\$530	2018	\$530.00
Robert	Finkelstein	Attorney	\$540	2019	\$540.00
Robert	Finkelstein	Attorney	\$555	2020	\$555.00
Robert	Finkelstein	Attorney	\$785	2021	\$780.00
John	Sugar	Expert	\$235	2021	\$235.00

(END OF APPENDIX)