

Decision 24-09-016 September 12, 2024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Recovery of Recorded Expenditures in Memorandum and Balancing Accounts Related to Wildfire and Gas Safety (U 39 M)	Application 23-06-008 (Filed June 15, 2023)
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DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 24-03-006

Intervenor: The Utility Reform Network (TURN)	For contribution to Decision 24-03-006
Claimed: \$53,766.25	Awarded: \$53,166.25
Assigned Commissioner: John Reynolds	Assigned ALJ: Camille Watts-Zagha

PART I: PROCEDURAL ISSUES

B. Brief description of Decision:

D.24-03-006 grants the request of Pacific Gas and Electric Company (PG&E) for interim rate relief, pending a final decision on what permanent cost increase, if any, is reasonable based on the evidence. PG&E is authorized to recover a maximum of \$516 million (75 percent of PG&E’s total request of \$688 million) in interim rates.

B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§801-1812¹:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§1804(a)):		
1. Date of Prehearing Conference:	9/1/2023	Verified
2. Other specified date for NOI:	N/A	
3. Date NOI filed:	9/29/2023	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:	A.23-06-008	Verified

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

6. Date of ALJ ruling:	3/30/2024	3/20/2024
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:	A.23-06-008	Verified
10. Date of ALJ ruling:	3/30/2024	3/20/2024
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.24-03-006	Verified
14. Date of issuance of Final Order or Decision:	3/7/2024	3/12/2024
15. File date of compensation request:	4/19/2024	Verified
16. Was the request for compensation timely?		Yes

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>TURN challenged PG&E’s claim that its requested interim rate increase would save customers \$25 million per year, pointing out that PG&E’s calculation assumed 100% approval of the costs in this application.</p> <p>The decision agreed with TURN that PG&E’s scenario depends upon a presumption that all of PG&E’s recorded costs will be found just and reasonable and stating that TURN is correct that, should the costs be found unreasonable, no savings will occur.</p>	<p>TURN 7/17/23 Opposition to PG&E Motion, at pp. 7-8.</p> <p>D.24-03-006, p. 23.</p>	Verified
<p>TURN questioned PG&E’s claim that it has \$5.7 billion of unrecovered costs in memorandum and balancing accounts. TURN included a breakdown it obtained</p>	<p>TURN 7/17/23 Opposition to PG&E Motion, at 10-11; TURN 9/8/23 Response to CPUC Questions, at 7-8.</p>	Verified

<p>in discovery showing that much of that amount related to rate recovery that has already been approved.</p> <p>The decision noted that in response to inquiries by TURN and the CPUC, PG&E reduced its estimate of unrecovered balances from \$5.7 billion to \$2.7 billion, by removing revenue already authorized for recovery and not yet effective in rates.</p>	<p>D 24-03-006, p. 26.</p>	
<p>TURN urged the CPUC to take into account the rate shock to vulnerable households that PG&E’s requested relief would exacerbate. TURN pointed out that, when other approved and pending rate increases are considered, the combined effect would be to increase bills far more than the 2.9% inflation rate for the San Francisco Bay Area, causing significant economic hardship to many households.</p> <p>The CPUC reduced PG&E’s requested interim relief from 85% to 75% based in part on affordability concerns, including TURN’s point that the combination of this rate increase and the 2023 GRC rate increase will dwarf the 2.9% inflation rate for the San Francisco Bay Area.</p>	<p>TURN 7/17/23 Opposition to PG&E Motion, at 4-7; TURN 9/8/23 Response to CPUC Questions, at 4-5.</p> <p>D. 24-03-006, pp. 32-33.</p>	<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.	Verified
b. Were there other parties to the proceeding with positions similar to yours?	No.	Verified
c. If so, provide name of other parties: Only Cal Advocates. Energy Producers and Users Coalition (EPUC) and Indicated Shippers (IS) did not participate until the proposed decision was issued.		Verified
d. Intervenor’s claim of non-duplication: TURN was the sole party who fully opposed PG&E request for an interim rate increase, primarily on the grounds of rate shock to PG&E’s customers. Cal Advocates took a different position, seeking to reduce PG&E’s percentage of interim relief from 85% to 55%. TURN was the only intervenor to respond to the questions in the Commission’s August 22, 2023, Ruling seeking additional information regarding PG&E’s request for an interim rate increase. For these reasons, TURN submits that the Commission should find no undue duplication between TURN’s participation and that of other parties.		Noted

C. Additional Comments on Part II:

#	Intervenor’s Comment	CPUC Discussion
II.A	<u>Partial success.</u> Although TURN was not successful on all issues and recommendations it presented in its pleadings, TURN’s partial success satisfies the definition of “substantial contribution under PU Code Sec. 1802(j) (“in the judgment of the commission, the customer’s presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer.” (emphasis added)). The standard for an award of intervenor compensation is whether TURN made a substantial contribution to the Commission’s decision, not whether TURN prevailed on a particular issue or recommendation. For example, the Commission has recognized that it “may benefit from an intervenor’s participation even where the Commission did not adopt any of the intervenor’s positions or recommendations.” D.08-04-004 (in the review of SCE’s contract with Long Beach Generation, A.06-11- 007),	Noted

#	Intervenor’s Comment	CPUC Discussion
	<p>pp. 5-6. Similarly, in D.09- 04-027, awarding intervenor compensation for TURN’s efforts in the SCE AMI proceeding (A.07-07- 026), the Commission found TURN to have made a substantial contribution even on issues where TURN did not prevail, as TURN’s efforts “contributed to the inclusion of these issues in the Commission’s deliberation” and caused the Commission to “add more discussion on the issue, in part to address TURN’s comments.” D.09-04-027, p. 4.</p>	

PART III: REASONABLENESS OF REQUESTED COMPENSATION

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

	CPUC Discussion
<p>a. Intervenor’s claim of cost reasonableness:</p> <p>This request seeks an award of approximately \$53,766 as the reasonable cost of our participation on the interim rate issue in this proceeding. These costs are reasonable in light of the quality of TURN’s work and the contributions of TURN to the final decision.</p> <p>The clearest monetary benefit of TURN’s participation in this proceeding is that the CPUC limited PG&E’s interim rate increase to 75% of its requested total revenue requirement, compared to the 85% relief PG&E sought in its motion, resulting in an approximately \$70 million reduction in the interim revenue requirement increase. This represents a reduction in the mounting bill increase pressure faced by PG&E’s vulnerable households that dwarfs the relatively modest costs of TURN’s participation.</p> <p>In addition, TURN’s advocacy provided the non-monetary benefit of helping to create a record that supported the Commission’s balance of competing considerations on the interim rate issue. While this benefit cannot be quantified, it should be recognized in assessing the value that resulted from TURN’s participation.</p> <p>In sum, the Commission should conclude that TURN’s request is reasonable given the revenue requirement amounts at issue, the value of TURN’s participation, and the adopted outcome.</p>	<p>Noted</p>
<p>b. Reasonableness of hours claimed:</p> <p>TURN requests compensation for approximately 66 hours of substantive work reviewing, analyzing and submitting pleadings on PG&E’s motion for an interim</p>	<p>Noted</p>

rate increase. TURN filed three pleadings on the interim rate issue – its 7/17/23 Opposition to PG&E’s Motion, at 4-7, its 9/8/23 Response to CPUC Questions, and its 2/20/24 Comments on the Proposed Decision – and served on PG&E two sets of data requests, consisting of 11 questions.

TURN’s team was led by its attorney, Director of Regulatory Strategy Thomas Long, who has more than 35 years of experience related to CPUC ratemaking proceedings. Mr. Long prepared TURN’s three rounds of pleadings. Mr. Long was assisted with analysis from TURN’s Senior Policy Expert, Jennifer Dowdell, who has an extensive background in corporate finance and accounting -- including several managerial positions in various financial and regulatory roles at PG&E. Ms. Dowdell provided analysis and support regarding the issue of PG&E’s need for an interim rate increase to support its financial metrics. TURN General Counsel Robert Finkelstein -- who has decades of experience on complex ratemaking issues and has been TURN’s lead attorney on other cases presenting interim rate increase issues -- consulted with Mr. Long on strategy with respect to PG&E’s request. TURN’s Legal Assistant, Reina Yanagiba, managed TURN’s discovery efforts with respect to the interim rate issue.

TURN is requesting compensation for 5.0 hours that it devoted to preparation of this request for compensation (and 1.0 hour that it spent preparing its Notice of Intent to Claim Compensation and its request for a finding of significant financial hardship). This is a reasonable number of hours for a request of this size and scope. Mr. Long prepared this request because of his involvement in all aspects of the work for which compensation is requested.

TURN’s request here is limited to time spent related to PG&E’s motion for an interim rate increase. TURN anticipates seeking compensation for other time in this proceeding in a subsequent request to the extent that TURN’s work meets the Commission’s requirements for intervenor compensation.

In sum, the Commission should find that the number of hours claimed is fully reasonable in light of the substantial contributions TURN made in this proceeding.

c. Allocation of hours by issue:

The following codes relate to the issue and activity areas addressed by TURN with respect to PG&E’s motion for an interim rate increase.

Code	Description	Allocation (other than “Comp” time)	Hours
Int	Work related to the issue of PG&E’s motion for an interim rate increase	90.53%	59.75
Proc	Procedural issues (e.g., schedule, party status) related to TURN’s participation on the interim rate increase issue	6.44%	4.25

Noted

Disc	Work by TURN’s Legal Assistant to track and organize discovery questions and responses relating to the interim rate increase issue	3.03%	2.00
Comp	Time devoted to compensation-related pleadings.	n/a	6.0
<p>TURN submits that under the circumstances this information should suffice to address the allocation requirement under the Commission’s rules. Should the Commission wish to see additional or different information on this point, TURN requests that the Commission so inform TURN and provide a reasonable opportunity for TURN to supplement this showing accordingly.</p>			

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Thomas Long, TURN Dir. of Reg. Strategy	2023	48.25	\$840.00	D.23-05-032	\$40,530.00	48.25	\$830.00 [1]	\$40,047.50
T. Long	2024	5.00	\$875.00	D.23-05-032 and Res. ALJ-393 (See Comment #1)	\$4,375.00	5.00	\$860.00 [1]	\$4,300.00
Robert Finkelstein, TURN Gen. Counsel	2023	2.50	\$840.00	D.24-02-020	\$2,100.00	2.50	\$840.00	\$2,100.00
R. Finkelstein	2024	0.50	\$875.00	D.24-02-020 and Res. ALJ-393 (See Comment #1)	\$437.50	0.50	\$875.00 [2]	\$437.50
Jennifer Dowdell, TURN Sr. Policy Expert	2023	7.75	\$455.00	D.23-04-022 and Res. ALJ-393 (See Comment #2)	\$3,526.25	7.75	\$455.00 [3]	\$3,526.25
Subtotal: \$51,158.75						Subtotal: \$50,411.25		

CLAIMED						CPUC AWARD		
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Reina Yanagiba, TURN Legal Assistant	2023	2.00	\$95.00	D.24-04-030	\$190.00	2.00	\$95.00	\$190.00
<i>Subtotal: \$190.00</i>						<i>Subtotal: \$190.00</i>		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
T. Long	2023	1.0	\$420.00	½ of 2023 rate	\$420.00	1	\$415.00 [1]	\$415.00
T. Long	2024	5.0	\$437.50	½ of 2024 rate	2,187.50	5	\$430.00 [1]	\$2,150.50
<i>Subtotal: \$2,607.50</i>						<i>Subtotal: \$2,565.00</i>		
TOTAL REQUEST: \$53,766.25						TOTAL AWARD: \$53,166.25		
<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 ²		Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation			
Thomas Long	December 1986		124776		No			
Robert Finkelstein	June 1990		146391		No			

² 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:
*(attachments not attached to final Decision)***

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	Timesheets for TURN Attorneys/Experts
Attachment 3	TURN hours allocated by issue
Comment #1	<p><u>2024 Hourly Rate for Thomas Long and Robert Finkelstein</u> For the work of Mr. Long and Mr. Finkelstein in 2024, TURN requests that the Commission adjust their 2023 rate of \$840.00 by applying the annual escalation adjustment authorized by Resolution ALJ-393, which is 4.1%. The resulting rate for 2024 is \$875.00.</p>
Comment #2	<p><u>2023 Hourly Rate for Jennifer Dowdell</u> TURN requests that the Commission adopt a 2023 hourly rate of \$455.00 for TURN Senior Policy Expert Jennifer Dowdell. TURN made this same request in its compensation request in A.21-06-021 (amended filing on 2/15/24). This rate is equal to the rate authorized by the Commission in D 23-04-022 for her work in 2022, \$415.00, adjusted by both the annual escalation methodology adopted in Resolution (Res.) ALJ-393 and the first 5% step increase for Ms. Dowdell in the Expert – Public Policy Analyst, Level IV experience tier.</p> <p>The annual escalation methodology adopted in Res. ALJ-393 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 2022 is 4.5%. See: https://www.bls.gov/news.release/eci.t05.htm.</p> <p>Res. ALJ-393 permits intervenor representatives to additionally claim up to two 5% annual “step increases” within each labor role experience tier, as long as their final requested rate does not exceed the maximum approved rate for that experience level. (Res. ALJ-393, p. 5). The maximum approved rate for an Expert – Public Policy Analyst, Level IV, is \$494.00 for work conducted in 2021, which escalates to \$533 in 2023 by applying the 3.3% 2022 COLA and then the 4.5% 2023 COLA.</p> <p>The requested 2023 rate for Ms. Dowdell of \$455.00 is well below the maximum 2023 rate for an Expert – Public Policy Analyst, Level IV.</p>

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
<p>[1] Thomas Long (Long) 2023 and 2024 Hourly Rate</p>	<p>D.23-05-032 approved a 2023 hourly rate of \$840.00 for Long. However, this exceeds the maximum hourly rate for the Legal – Legal Director – Level IV classification for 2023 (\$518.55--\$832.67). Therefore, to stay within the approved rate range, we approve a 2023 hourly rate of \$830.00 for Long moving forward. We apply the 2024 annual escalation factor of 4.07% per Resolution ALJ-393 round to the nearest \$5.00 and adjust the rate to stay within the Legal – Legal Director – Legal IV classification rate range (\$545.91-\$860.03). Therefore, we approve a 2024 hourly rate of \$860.00 for Long. Intervenor Compensation Claim Preparation Rates are compensated at half of preparer’s normal hourly rate.</p>
<p>[2] Robert Finkelstein (Finkelstein) 2024 hourly rate</p>	<p>We adopt the hourly rate TURN requests of \$875.00 for Finkelstein. D.23-05-032 authorized a 2023 hourly rate of \$840.00 for Finkelstein. We applied the 2024 annual escalation rate of 4.07% per Resolution ALJ-393 and rounded to the nearest \$5.00.</p>
<p>[3] Jennifer Dowdell (Dowdell) 2023 Hourly Rate</p>	<p>We adopt the hourly rate TURN requests of \$455.00 for Dowdell. D.23-04-022 authorized a 2023 hourly rate of \$415.00 for Dowdell. We applied the 2023 annual escalation rate of 4.46% per Resolution ALJ-393. As requested, we also applied the first 5% step increase, and rounded to the nearest \$5.00.</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))

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

FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to D.24-03-006.
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, as adjusted herein, are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$53,166.25.

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 is awarded \$53,166.25.
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 July 3, 2024, 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 September 12, 2024, at Sacramento, California.

ALICE REYNOLDS
President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

Commissioners

Commissioner Matthew Baker recused himself from this agenda item and was not part of the quorum in its consideration.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:	D2409016	Modifies Decision?	No
Contribution Decision(s):	D2403006		
Proceeding(s):	A2306008		
Author:	ALJ Watts-Zagha		
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	April 19, 2024	\$53,766.25	\$53,166.25	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
Thomas	Long	Attorney	\$840.00	2023	\$830.00
Thomas	Long	Attorney	\$875.00	2024	\$860.00
Robert	Finkelstein	Attorney	\$840.00	2023	\$840.00
Robert	Finkelstein	Attorney	\$875.00	2024	\$875.00
Jennifer	Dowdell	Expert	\$455.00	2023	\$455.00
Reina	Yanagiba	Legal Assistant	\$95.00	2023	\$95.00

(END OF APPENDIX)