ALJ/KWZ/abb **Date of Issuance 9/17/2024**

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) |

**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**

1. **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.

1. **Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§801‑1812[[1]](#footnote-2):**

|  | **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 |
| 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**

1. **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** |
| 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.  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. | TURN 7/17/23 Opposition to PG&E Motion, at pp. 7‑8.  D.24-03-006, p. 23. | Verified |
| TURN questioned PG&E’s claim that is has $5.7 billion of unrecovered costs in memorandum and balancing accounts. TURN included a breakdown it obtained in discovery showing that much of that amount related to rate recovery that has already been approved.  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. | TURN 7/17/23 Opposition to PG&E Motion, at 10‑11; TURN 9/8/23 Response to CPUC Questions, at 7‑8.  D 24-03-006, p. 26. | Verified |
| 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.  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. | TURN 7/17/23 Opposition to PG&E Motion, at 4‑7; TURN 9/8/23 Response to CPUC Questions, at 4‑5.  D. 24-03-006, pp. 32‑33. | Verified |

1. **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 |

1. **Additional Comments on Part II:**

| **#** | **Intervenor’s Comment** | **CPUC Discussion** |
| --- | --- | --- |
| II.A | Partial success. 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), 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. | Noted |

**PART III: REASONABLENESS OF REQUESTED COMPENSATION**

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

|  |  |
| --- | --- |
|  | **CPUC Discussion** |
| **a. Intervenor’s claim of cost reasonableness:**  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.  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.  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.  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. | Noted |
| **b. Reasonableness of hours claimed:**  TURN requests compensation for approximately 66 hours of substantive work reviewing, analyzing and submitting pleadings on PG&E’s motion for an interim 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 thatTURN’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. | Noted |
| **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 | | 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 | |  |  |  |  |   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. | Noted |

1. **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** | | |
| **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 |
| ***Subtotal: $190.00*** | | | | | | | ***Subtotal: $190.00*** | | |
| **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 |
| ***Subtotal: $2,607.50*** | | | | | | | ***Subtotal: $2,565.00*** | | |
| ***TOTAL REQUEST: $53,766.25*** | | | | | | | ***TOTAL AWARD: $53,166.25*** | | |
| \*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. Intervenor’s 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.  \*\*Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer’s normal hourly rate | | | | | | | | | |
| **ATTORNEY INFORMATION** | | | | | | | | | |
| **Attorney** | **Date Admitted to CA BAR[[2]](#footnote-3)** | | | **Member Number** | | **Actions Affecting Eligibility (Yes/No?)**  **If “Yes”, attach explanation** | | | |
| Thomas Long | December 1986 | | | 124776 | | No | | | |
| Robert Finkelstein | June 1990 | | | 146391 | | No | | | |

1. **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 | 2024 Hourly Rate for Thomas Long and Robert Finkelstein  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. |
| Comment #2 | 2023 Hourly Rate for Jennifer Dowdell  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.  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*](https://www.bls.gov/news.release/eci.t05.htm).  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.  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. |

1. **CPUC Comments, Disallowances, and Adjustments**

| **Item** | **Reason** |
| --- | --- |
| [1] Thomas Long (Long) 2023 and 2024 Hourly Rate | 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. |
| [2] Robert Finkelstein (Finkelstein) 2024 hourly rate | 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. |
| [3] Jennifer Dowdell (Dowdell) 2023 Hourly Rate | 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. |

**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.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)**

1. All statutory references are to California Public Utilities Code unless indicated otherwise. [↑](#footnote-ref-2)
2. This information may be obtained through the State Bar of California’s website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>. [↑](#footnote-ref-3)