

Decision 24-09-015 September 12, 2024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement Senate Bill 520 and Address Other Matters Related to Provider of Last Resort.	Rulemaking 21-03-011 (Filed March 18, 2021)
---	---

DECISION GRANTING COMPENSATION TO THE UTILITY REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO DECISION 24-04-009

Intervenor: The Utility Reform Network	For contribution to Decision (D.) 24-04-009
Claimed: \$31,362.50	Awarded: \$31,362.50
Assigned Commissioner: Darcie L. Houck	Assigned ALJ: Andrew Dugowson

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	<p><u>D.24-04-009</u> Adopts several updates to improve the accuracy of the existing Financial Security Requirement and re-entry fee calculations; authorizes the electric investor-owned utilities as the POLR to track actual incremental administrative and/or procurement costs during a mass involuntary return of customers from Community Choice Aggregation (CCA) or Electric Service Provider (ESP) service; establishes a financial monitoring process to provide early notice of a potential mass involuntary return of CCA customers to POLR service; and clarifies and/or enhances the existing rules and requirements concerning CCA and ESP registration and deregistration.</p>
--	---

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

1. Date of Prehearing Conference:	6/11/2021	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	07/02/2021	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:	R.20-08-021	Verified
6. Date of ALJ ruling:	12/11/2020	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.20-08-021	Verified
10. Date of ALJ ruling:	12/11/2020	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.24-04-009	Verified
14. Date of issuance of Final Order or Decision:	04/22/2024	Verified
15. File date of compensation request:	06/19/2024	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
1. ELECTRIC SERVICE PROVIDER OBLIGATIONS		Verified

<p>Portfolio Standard (RPS). TURN noted there is no statutory provision that allows the Commission issue a “blanket waiver” for POLR compliance with RPS obligations.</p> <p>The Decision agrees with TURN that the POLR is not entitled to “an upfront short-term waiver or grace period of RA, RPS and IRP program compliance obligations”. (page 23) In particular, the Decision notes that there is no exception to RPS compliance available for “mass involuntary return of customers”. (page 24)</p>	<p><u>D. 24-04-009, pages 23-24</u></p>	
<p>3. RESOURCE AND COST ALLOCATION</p> <p>TURN urged the Commission to adopt measures to ensure that the POLR has access to reasonably-priced resources serving involuntarily returned customers. Specifically, TURN argued that the Commission should require any resources allocated to an LSE through the Voluntary Auction Market Offer (VAMO) process be available to serve customers involuntarily returned to the POLR. TURN proposed that this requirement should be included in “any relevant contractual agreements that implement these allocations.”</p> <p>Although the Decision does not agree that existing VAMO resources should automatically follow benefiting customers when migrating to the IOU POLR, it does find that “we</p>	<p><u>TURN opening comments, March 28, 2022, pages 5-8</u></p> <p><u>TURN reply comments, April 25, 2022, pages 4-6</u></p> <p><u>D. 24-04-009, pages 38-39</u></p>	<p>Verified</p> <p>TURN’s reply comments were filed on April 15, 2022.</p>

<p>see no reason why new VAMO contracts could not contain a clause requiring all rights and obligations to automatically and immediately follow benefiting customers in the event of a mass involuntary return of customers to IOU POLR service”. The Decision further directs the IOUs to file a joint Tier 2 Advice Letter to propose modifications to VAMO contracts that would effectuate this outcome.</p>		
---	--	--

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

	Intervenor’s Assertion	CPUC Discussion
<p>a. Was the Public Advocate’s Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?</p>	Yes	Verified
<p>b. Were there other parties to the proceeding with positions similar to yours?</p>	Yes	Verified
<p>c. If so, provide name of other parties: Utility Consumers Action Network, Small Business Utility Advocates</p>		Verified
<p>d. Intervenor’s claim of non-duplication: TURN’s positions did not consistently align with any other intervenor including parties representing small customer interests. However, TURN did take care to only address selected issues in order to minimize any overlap or duplication. Moreover, TURN’s participation in this proceeding was targeted and reflected the minimum number of hours necessary to contribute on several key issues. To the extent that any duplication occurred, it was unavoidable due to the nature of the process and the array of issues identified as within the scope of the proceeding. TURN worked diligently to ensure that its involvement uniquely influenced the outcome of the final Decision.</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:</p> <p>As demonstrated in the substantial contribution section, TURN’s participation had a material impact on the outcome of the final decision TURN’s contributions include the following:</p> <ul style="list-style-type: none"> • Clarifying that Electric Service Providers have specific obligations relating to the Provider of Last Resort and that such obligations may increase if the current cap on Direct Access loads is lifted. • Ensuring that the POLR must comply with resource planning obligations under the Renewables Portfolio Standard and Resource Adequacy programs. • Establishing the expectation that future contracts subject to the Voluntary Allocation and Market Offer process will include provisions that allow these resources to automatically follow benefiting customers in the event of a mass involuntary return to POLR service. <p>Given these specific contributions, and the small number of hours devoted to this proceeding, the benefits associated with TURN’s participation far exceed the cost of TURN’s participation in this proceeding. TURN’s claim should be found to be reasonable.</p>	<p>Noted</p>
<p>b. Reasonableness of hours claimed:</p> <p>TURN devoted the minimum number of hours to reviewing rulings, drafting pleadings, reading comments submitted by other parties, and evaluating the proposed decision. TURN’s pleadings were highly substantive given the amount of time devoted to the task.</p> <p>Reasonableness of Staffing</p> <p><u>Matthew Freedman</u></p> <p>TURN’s lead attorney was Matthew Freedman. Mr. Freedman drafted all formal pleadings, attended the Prehearing conference and both workshops, and conducted selective outreach to other parties. The use of a single TURN staff member to handle the entire proceeding significantly reduced the number of total hours required to participate on issues of interest to TURN.</p> <p><u>Time spent on meetings with Commissioner offices</u></p> <p>TURN’s request includes 4.75 hours relating to meetings with the Assigned Commissioner and her staff. The first such meeting was</p>	<p>Noted</p>

<p>requested by the Assigned Commissioner to discuss an array of issues in the proceeding. The second meeting with staff was a follow-up to that original meeting. Because this proceeding is characterized as <i>quasi-legislative</i>, these meetings were not subject to the <i>ex parte</i> disclosure requirements. The Commission should find that hours spent on these meetings represent the “reasonable costs of preparation for and participation in a hearing or proceeding.” (Cal. Pub. Util. Code §1803) and that hours spent by advocates reflect costs “incurred by the customer in preparing or presenting” (§1802(j)) TURN’s arguments to the Commission. The Commission has routinely approved compensation for similar <i>ex parte</i> activities by intervenors in decisions dating back for more than 20 years. A sampling of prior decisions awarding compensation for time devoted to <i>ex parte</i> communications include (but are not limited to) D.24-01-024, D.23-10-013, D.23-06-045, D.22-08-050, D.22-08-010, D.22-06-018, D.21-12-051, D.21-08-033, D.21-06-016, D.21-07-017, D.21-04-013, D.19-10-020, D.19-10-018, D.19-08-032, D.19-07-020, D.19-03-005, D.18-11-043, D.18-04-021, D.15-08-023, D.12-08-041.</p> <p><u>Compensation Request</u></p> <p>TURN’s request also includes 7 hours devoted to the preparation of compensation-related filings. The time devoted to this compensation request is appropriate and should be found to be reasonable.</p>	
<p>c. Allocation of hours by issue:</p> <p>TURN has allocated all attorney time by issue area or activity, as evident on our attached timesheets. The following codes relate to specific substantive issue and activity areas addressed by TURN. TURN also provides an approximate breakdown of the number of hours spent on each task and the percentage of total hours devoted to each category (note that the numbers do not equal 100% due to rounding).</p> <p>General Participation (GP) – 9.5 hours – 21.2% of total</p> <p>General Participation work essential to participation that typically spans multiple issues and/or would not vary with the number of issues that TURN addresses. This includes (a) reviewing the initial OIR, rulings and proposed decisions, and reviewing comments submitted by other parties,</p> <p>Commission Meetings (CM) – 11 hours – 24.6% of total</p> <p>Work relating to preparation for, and participation in, prehearing conferences, workshops, and meetings with Commissioners and Commission staff.</p> <p>Coordination (COORD) – 1.00 hours – 2.2% of total</p> <p>Time coordinating with other parties on issues of shared interest in the proceeding.</p>	<p>Noted</p>

<p>Electric Service Provider Obligations (ESP) – 3.00 hours – 6.7% of total</p> <p>Work relating to the obligations of Electric Service Providers (ESPs) relating to the Provider of Last Resort and Commission authority to establish such requirements for ESPs.</p> <p>Resource Planning Compliance (COMPLIANCE) – 3.75 hours – 8.4% of total</p> <p>Work related to whether resource planning requirements apply to the POLR including compliance with the Renewables Portfolio Standard.</p> <p>Resource and Cost Allocation (ALLOC) – 16.5 hours – 36.9% of total</p> <p>Work related to the Financial and Resource Obligations of Load Serving Entities to the POLR including proposals to require that resources and costs subject to the Voluntary Allocation and Market Offer (VAMO) process follow benefiting customers in the event of a mass involuntary return to POLR service.</p> <p>Compensation – 7 hours</p> <p>Time spent on the preparation of compensation-related pleadings.</p> <p>-----</p> <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 \$
Matthew Freedman	2021	15.25	\$625	D.22-03-028	9,531.25	15.25	\$625	\$9,531.25
Matthew Freedman	2022	26.25	\$645	D.23-04-054	16,931.25	26.25	\$645	\$16,931.25
Matthew Freedman	2023	1.25	\$710	D.23-10-013	887.50	1.25	\$710	\$887.50
Matthew Freedman	2024	2.00	\$740	D.23-10-013 + 4.1% (Res. ALJ-393, 2023 COLA)	\$1,480	2.0	\$740 [1]	\$1,480.00

Subtotal: \$28,830.00						Subtotal: \$28,830.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Matthew Freedman	2021	1	312.50	50% of 2021 rate	\$312.50	1.0	\$312.50	\$312.50
Matthew Freedman	2024	6	370	50% of 2024 rate	\$2,220.00	6.0	\$370 [1]	\$2,220.00
Subtotal: \$2,532.50						Subtotal: \$2,532.50		
TOTAL REQUEST: \$31,362.50						TOTAL AWARD: \$31,362.50		
<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 BAR²		Member Number		Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation		
Matthew Freedman		March 29, 2001		214812		No		

**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	Daily Time Records for Attorneys and Experts
Attachment 3	Hours Allocated by Issue

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
-------------	---------------

² This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch> .

<p>[1] Matthew Freedman (Freedman) 2024 Hourly Rate</p>	<p>We adopt the hourly rate TURN requests of \$740 for Freedman. D.23-10-013 authorized a 2023 hourly rate of \$710 for Freedman. We applied the 2024 annual escalation rate of 4.07% per Resolution ALJ-393 and rounded to the nearest \$5. Intervenor Compensation Claim Preparation Rates are compensated at half of preparer’s normal hourly rate.</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.24-04-009.
2. The requested hourly rates for The Utility Reform Network 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 \$31,362.50.

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 \$31,362.50.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp shall pay The Utility Reform Network their respective shares of the award, based on their California-jurisdictional electric revenues for the 2022 calendar year, to reflect the year in which the proceeding was

primarily litigated. If such data is unavailable, the most recent electric revenue data shall be used. 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 September 2, 2024, the 75th day after the filing of The Utility Reform Network' 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:	D2409015	Modifies Decision?	No
Contribution Decision(s):	D2404009		
Proceeding(s):	R2103011		
Author:	ALJ Dugowson		
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, Bear Valley Electric Service, Inc., Liberty Utilities, and PacifiCorp		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	06/19/2024	\$31,362.50	\$31,362.50	N/A	N/A

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Matthew	Freedman	Attorney	\$625	2021	\$625
Matthew	Freedman	Attorney	\$645	2022	\$645
Matthew	Freedman	Attorney	\$710	2023	\$710
Matthew	Freedman	Attorney	\$740	2024	\$740

(END OF APPENDIX)