

Decision **DRAFT DECISION OF ALJ MALCOLM** (Mailed 11/15/2004)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Examine the
Commission's Future Energy Efficiency Policies,
Administration and Programs.

Rulemaking 01-08-028
(Filed August 23, 2001)

**OPINION GRANTING INTERVENOR COMPENSATION
TO THE UTILITY REFORM NETWORK AND
WOMEN'S ENERGY MATTERS**

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**OPINION GRANTING INTERVENOR COMPENSATION
TO THE UTILITY REFORM NETWORK AND
WOMEN'S ENERGY MATTERS**

This decision awards compensation for contributions to several Commission decisions, as follows:

1) The Utility Reform Network (TURN) is awarded \$79,410.23 for its contributions to Decision (D.) 03-08-067, D.03-12-060, and D.04-02-059. This amount is less than TURN's request because we reduce the rate requested for TURN's attorney.

2) Women's Energy Matters (WEM) is awarded \$85,133.06 for its contributions to D.02-07-040, D.03-01-038, D.03-04-055, D.03-07-034, D.03-08-067, D.03-12-060, and D.04-01-032, and several rulings issued in this proceeding. This amount is less than WEM's request because we do not authorize compensation for community organizing that did not result in a substantial contribution, for work that did not appear directly related to this proceeding, or work for which WEM appeared to request excessive amounts. We explain these deductions in detail in the body of this decision.

1. Background

The Commission opened this rulemaking in 2001 to examine the Commission's future energy efficiency policies, administration and programs. Since that time the Commission has issued over 20 decisions addressing a broad array of issues.

The Commission has awarded TURN compensation for its contribution to previous decisions in this rulemaking. TURN now seeks compensation for contributions to three recent decisions: D.03-08-067, D.03-12-060, and D.04-02-059. These decisions address energy efficiency program selection

criteria, program selection and contracting processes, funding and program allocation among utilities and non-utilities, proposals for the 2004-05 energy efficiency portfolio, and funding allocations to programs approved for inclusion in that portfolio.

WEM seeks compensation for its contributions to D.02-07-040, D.03-01-038, D.03-04-055, D.03-06-077, D.03-07-034, D.03-08-067, D.03-12-060, D.04-01-032, and D.04-02-059. These decisions generally allocate energy efficiency funding and prescribe program guidelines.

2. Requirements for Awards of Compensation

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-12, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers. (Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.)

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (or in special circumstances, at other appropriate times that we specify). (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor should file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)

4. The intervenor must demonstrate “significant financial hardship.” (§§ 1802(g), 1804(b)(1).)
5. The intervenor’s presentation must have made a “substantial contribution” to the proceeding, through the adoption, in whole or in part, of the intervenor’s contention or recommendations by a Commission order or decision. (§§ 1802(i), 1803(a).)
6. The claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. (§ 1806.)

For discussion here, the procedural issues in Items 1-4 above are combined, followed by separate discussions on Items 5 and 6.

3. Procedural Issues

3.1 TURN

TURN filed a timely NOI on October 10, 2001. On November 1, 2001, Administrative Law Judge (ALJ) Sarah R. Thomas ruled TURN to be a customer and to meet the significant financial hardship condition. TURN filed its request for compensation on May 3, 2004, within 60 days of D.04-02-059 being issued. No party opposes the request. TURN has satisfied all the procedural requirements necessary to make its request for compensation.

3.2 WEM

WEM filed its NOI on November 20, 2001, more than 60 days after a September 10, 2001 prehearing conference. However, by a ruling dated July 1, 2003, ALJ Kim Malcolm found that WEM had made a reasonable showing that the Commission should accept its late filing.

The same ruling found that WEM met the definition of customer, as set forth in § 1802(b), because it was representing the interests of a customer, Ardys DeLu, in Pacific Gas and Electric Company’s (PG&E) territory. WEM filed its

request for compensation on May 3, 2004, within 60 days of D.04-02-059 being issued.¹ Southern California Edison Company (Edison) opposes WEM's request on the ground that WEM did not make a substantial contribution to any Commission decision or order.

An intervenor seeking compensation must show that, without undue hardship, it cannot pay the reasonable costs of effective participation in the proceeding. An intervenor that is a "participant representing consumers" (Category 1) or a "representative authorized by a customer" (Category 2) must disclose financial information to the Commission, under appropriate protective order, to make this showing. (§ 1802(b), (g).) Such a finding is normally made in the ALJ's preliminary ruling as to whether the customer will be eligible for compensation (§ 1804(b)).

In her July 1, 2003 ruling,² ALJ Malcolm stated the following with regard to WEM's financial hardship:

WEM seeks a finding of significant financial hardship because Ms. DeLu is a low-income ratepayer who was, at the time of filing, unemployed. WEM does not present any evidence of this claim. I will make a finding of significant financial hardship in this ruling, contingent upon WEM providing evidence of Ms. DeLu's financial status using official documents (for example, tax returns). WEM

¹ At the request of ALJ Michelle Cooke, WEM supplemented its request, and the supplemental information has been placed in the correspondence file for this proceeding.

² The ruling erroneously found WEM a "participant" (category 1); in fact, WEM is a "representative authorized by a customer" (category 2), and we so find. As a consequence, the financial information to be disclosed to demonstrate hardship need only pertain to the "customer" (here, Ms. DeLu) and not to customer's representative (here, WEM).

may provide that evidence in a supplemental motion or when it files its request for compensation. It may provide relevant information under seal.

On May 3, 2004, WEM sent, under cover of a handwritten note addressed to ALJ Malcolm, copies of DeLu's tax returns for the years 2001, 2002, and 2003 but did not disclose her monthly expenses. As described in D.98-04-059, Category 2 customers must disclose their gross and net monthly income, monthly expenses, cash and assets, including equity in real estate. Subsequent rulings have determined that it is reasonable to exclude the equity of a participant's personal residence from this disclosure.

Despite the fact that monthly expenses were not provided, we find that DeLu meets the significant financial hardship test because the tax returns reveal that DeLu has no income other than from her investments, so her total income, relative to the cost of living and the cost of participating in this proceeding, is quite low.³

4. Substantial Contribution

In evaluating whether a customer made a substantial contribution to a proceeding, we look at several things. First, did the ALJ or Commission adopt

³ While we find that WEM meets the financial hardship standard, WEM should have made a better showing in this regard. The financial hardship rule is key to one's eligibility for compensation. In most litigation and regulatory contexts, each party bears its own attorney or advocate fees. The intervenor compensation statute is one limited provision that reverses the general presumption in the United States that each party to a legal proceeding should bear its own fees, thus, scrutiny of financial hardship claims is warranted. If it participates in this or other proceedings in the future and claims intervenor compensation, WEM shall better document its financial hardship claim by providing the value of the represented customer's assets (except the primary residence) and the customer's expenses.

one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer? (See § 1802(i).) Second, if the customer's contentions or recommendations paralleled those of another party, did the customer's participation materially supplement, complement, or contribute to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision? (See §§ 1802(i) and 1802.5.) As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.⁴

Even where the Commission does not adopt any of the customer's recommendations, compensation may be awarded if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order.⁵ For example, if a customer provided a unique perspective that enriched the Commission's deliberations and the record, the Commission could find that the customer made a substantial contribution. With this guidance

⁴ D.98-04-059, 79 CPUC 2d 628, 653 (1998).

⁵ See D.03-12-019, discussing D.89-03-063 (31 CPUC 2d 402 (1989)) (awarding San Luis Obispo Mothers for Peace and Rochelle Becker compensation in the Diablo Canyon Rate Case because their arguments, although ultimately unsuccessful, forced the utility to thoroughly document the safety issues involved).

in mind, we turn to the claimed contributions TURN and WEM made to the proceeding.

4.1 TURN

TURN states that its involvement was extensive, including: preparation of “voluminous” comments in response to a July 2003 ruling of the Assigned Commissioner; participation in workshops; filing of replies to motions; oral presentations at ex parte meetings; and filing of comments and reply comments on the proposed decisions and alternate proposed decisions that preceded D.03-08-067, D.03-12-060, and D.04-02-059. (TURN Request, p. 1.) Though TURN recognizes that its participation did not lead to success on every argument it presented, TURN points out that one or more of its recommendations was adopted in every major issue area that TURN addressed and specifically identifies its contribution to each of the three decisions to which it claims it contributed.

4.1.1 D.03-08-067

With respect to D.03-08-067, TURN identifies four areas where its proposals were adopted in whole or in part. First, in the area of program selection criteria, TURN points to: 1) Conclusion of Law 5, which adopts TURN’s position that existing utility energy efficiency programs should not be automatically extended into 2004-05, but should be subject to the same evaluation criteria as new programs; and 2) language in the decision that retains long-term energy savings as a program selection criteria and increases the importance of peak demand reduction relative to the other selection criteria.

Second, regarding program selection and contract management processes, TURN points to decision language that, adopting TURN’s position, rejects the proposal that utilities select non-utility 2004-05 programs.

Third, regarding program and funding allocation between utilities and non-utilities, TURN notes that D.03-08-067 adopts a flexible rather than firm 20% set-aside for non-utility energy efficiency programs. The decision concludes that the exact allocation of funds cannot be decided until the competing program proposals have been evaluated for consistency with established program criteria and goals. TURN had advocated abolishing any set-aside and instead, opening all funds to competition; D.03-08-067 does not do that, but changes made to the draft decision moved the adopted policy closer to TURN's position.

Fourth, in the area of energy efficiency program evaluation, measurement and verification (EM&V), D.03-08-067 moves closer to TURN's position than the draft decision. TURN urged the Commission to contract for independent M&E studies of utility and non-utility programs. While the decision retains a substantial M&E role for the utilities, it also states: "The Commission will also separately hire an independent entity to oversee and consolidate all evaluation efforts. The Commission may decide to transfer the responsibilities in the future to EM&V away from the utilities and to the Commission or an independent entity." (*Id.*, p. 16.)

4.1.2 D.03-12-060

In D.03-12-060 and D.04-02-059, the Commission approved a portfolio of energy efficiency programs for the 2004-05 program cycle, involving disbursement of more than \$800 million in ratepayer funds. TURN cites a number of examples reflecting its contribution to these decisions, as follows.

TURN advocated successfully that the Commission withhold a portion of the 2004-05 energy efficiency funding pending re-evaluation by the Commission's Energy Division of whether the program selection process had adequately adhered to adopted criteria and review processes. It urged the

Commission to clarify the standards for EM&V of energy efficiency programs funded through the procurement surcharge (a different source of funding than normal energy efficiency programs, which are funded by the “public goods charge” which appears as a line item on customer bills). At TURN’s urging, the Commission in D.03-12-060 included directives to the utilities requiring that procurement surcharge-funded EM&V be rigorous, independent and based on objective criteria.

4.1.3 D.04-02-059

In D.04-02-059, the Commission awarded some of the funds withheld in D.03-12-060 to a residential and small commercial HVAC (heating, ventilation and air conditioning) program. TURN had commented extensively in various pleadings on the dearth of residential HVAC programs in Commission-approved energy efficiency portfolios. TURN also successfully advocated for inclusion of language (Conclusion of Law 10) in D.04-02-059 to clarify the two-phased nature of the program proposal review process established by D.03-08-067. TURN also successfully opposed a PG&E motion to shift certain 2003 energy efficiency funding between programs; D.04-02-059 denied the motion.

4.1.4 Summary

We agree that these three decisions reflect the significant impacts of TURN’s advocacy. TURN achieved a high level of success on the issues it raised. In the areas where we did not adopt TURN’s position in whole or in part, we benefited from TURN’s analysis and discussion of the issues TURN raised. TURN made a substantial contribution as described above.

4.2 WEM

WEM claims it made substantial contributions to D.02-07-040, D.03-01-038, D.03-04-055, D.03-06-077, D.03-07-034, D.03-08-067, D.03-12-060, D.04-01-032, and

D.04-02-059, and several rulings issued in this proceeding.⁶ WEM states that it succeeded in preserving at least 20% of the energy efficiency funds for non-utility third party programs. WEM states that it has focused, among other things, on whether Commission-authorized energy efficiency programs are cost effective; EM&V is effective; energy efficiency funds are provided to residential and small business customers in proportion to the amount of public goods charge funds they contribute; the programs promote environmental and economic justice; and programs are implemented and evaluated in a manner free from conflicts of interest. WEM alleges it has broken new ground in bringing the Commission into direct contact with parties affected by and involved in the energy efficiency system, including San Francisco's low-income Bayview and Hunters Point districts.

In its supplement e-mailed on July 22, 2004, WEM broke its time records into several subparts. We will use these categories to analyze whether WEM made a substantial contribution to the various decisions WEM references:

- EM&V;
- Flex Your Power (FYP);⁷
- Pilot (referring to a \$16 million San Francisco Department of the Environment / PG&E joint energy efficiency pilot program);

⁶ WEM's original request was not clear on the full array of decisions for which it seeks compensation. We urge WEM to seek compensation earlier when the proceeding is as lengthy and involves as many separate decisions as this one.

⁷ The FYP campaign, run alternately by the State of California and Edison, is a media campaign that urges consumers to conserve energy and install energy efficiency measures.

- Third Parties (referring to efforts to attain energy efficiency funding for third party programs not run by the large investor owned utilities);
- 2004-05 Solicitation (referring to applications for energy efficiency funding for 2004 and 2005);
- Community Choice (referring to the Commission's implementation of the energy efficiency aspects of Assembly Bill (AB) 117 (Stats. 2002, Ch. 838);
- Intervenor Compensation; and
- Travel.

Another document in the packet WEM submitted on July 22, 2004 lists the decisions and rulings to which its work contributed. WEM took all of its work on this proceeding for each of the years 2002, 2003, and 2004 and apportioned its time to decisions and rulings according to the percentage of time it spent on each. We analyze these percentages within our discussion below of the individual decisions for which WEM seeks compensation.

4.2.1 EM&V

WEM's work in this area focused on whether EM&V of energy efficiency programs would be independent (an issue we addressed in D.03-08-067, *mimeo.*, pp. 16, 26, and D.03-12-060, albeit without reference to WEM's input); and whether the California Measurement Advisory Committee (CALMAC), a ratepayer-funded forum for addressing energy efficiency issues, was open to all (an issue ALJ Malcolm addressed, on WEM's motion, in a March 19, 2003 ruling).

The March 19, 2003 ruling denied WEM's December 2, 2002 motion, which alleged that utilities and some EM&V consultants had a conflict of interest and that CALMAC was excluding outsider participation. Nonetheless, ALJ Malcolm indicated that WEM's EM&V conflict of interest concerns were appropriate for Commission action:

Contracting Procedures. WEM is concerned that the utilities are managing consultants hired to evaluate utility performance. Logically, consultants hired to critique a utility's program should not also act as a consultant to the same utility on other matters. Many of WEM's concerns are likely to be obviated in the future. The Commission intends to hire and manage such contracts internally. In that context, Commission staff is considering ways to assure consultants do not have conflicts of interest. (3/19/03 Ruling, p. 4.)

With regard to the portion of WEM's motion alleging that CALMAC was operating too exclusively while expending ratepayer funds, ALJ Malcolm ruled as follows:

Because it is funded by the public goods charge, CALMAC may not, as PG&E suggests, exclude interested parties from meetings, conferences or gatherings where its members are discussing matters relevant to its public mission.

...

PG&E objects to WEM's participation on CALMAC by arguing that WEM has no technical expertise and has not followed a proper process. As an active participant in Commission energy efficiency proceedings, WEM is a "stakeholder" and would not need particular expertise to contribute to the discussion of ways to evaluate energy efficiency programs. If the process for joining CALMAC suggests CALMAC is an exclusive club, perhaps the Commission should reconsider the funding for and activities of the CALMAC. (*Id.*, pp. 3-4.)

We have found in the past, and § 1802(i) expressly states, that a party may be compensated for work on procedural aspects of a case, such as that leading up to a ruling.⁸ We therefore find that WEM made a substantial contribution on EM&V issues.

⁸ See D.98-04-059, 79 CPUC 2d 628 (1998), 1998 Cal. PUC LEXIS 429, at *127 (finding eligibility for intervenor compensation for contribution to a Commission decision on

Footnote continued on next page

4.2.2 Flex Your Power – D.02-07-040

We addressed the FYP campaign in D.02-07-040. The decision involved a change in the party administering the program from the State of California’s Department of Consumer Affairs (DCA) to Edison. We noted in approving the change that WEM had filed comments that were critical of the switch to Edison, but that, “we believe the original decision adequately addresses . . . the matters raised and make no changes [in the draft decision].”⁹

Edison claims that for this reason, WEM did not substantially contribute to the decision. It claims that WEM’s comments on the decision were utterly without merit. For example, according to Edison,

WEM alleged that the draft decision was “bad precedent,” as it involved the “associated giveaway” by the Commission of public funds to the IOUs and the Commission’s “aiding and abetting of DCA in an illegal act of sweetheart, no-bid contracts.” In fact, in D.02-07-040, the Commission found the reallocation was the result of a competitive bidding process, since [Edison] had bid for the funding that was originally awarded to DCA.¹⁰

WEM’s comments also expressed concern that Edison would promote “utility branding” of energy efficiency.

We have examined D.02-07-040 and find that WEM did make a substantial contribution. The decision takes care to explain that the transfer from DCA, a

procedural matters); D.04-02-26, *mimeo.*, p. 17 (awarding compensation in part for preparing responses to procedural motions).

⁹ D.02-07-040, *mimeo.*, p. 6.

¹⁰ *Response of Southern California Edison Company . . . to the Request for an Award of Compensation to Women’s Energy Matters for R.01-08-028*, dated June 2, 2004 (Edison Comments), pp. 7-8.

state agency, to Edison, an investor-owned utility, was justified and the result of competitive bidding. Such language addressed the types of criticism WEM leveled about the transfer. WEM was the only party to raise these issues with respect to the transfer which resulted in a more comprehensive and thorough decision. Therefore, WEM is entitled to compensation for its contribution to D.02-07-040.

4.2.3 Energy Efficiency Pilot Program

Much of WEM's claimed contribution was related to a \$16 million pilot energy efficiency project PG&E proposed for San Francisco in 2003. "PG&E described the pilot program as addressing San Francisco's specific program needs in response to the prospect for San Francisco to experience an electricity shortage in 2004-2005 and a concern that statewide programs do not adequately address the city's unique needs." (D.03-04-055, *mimeo.*, p. 8.) WEM objected to funding this program because the program would result in preferential treatment for the customers of a single community and would shift funding from residential customers to commercial and industrial customers. WEM also observed that it was unable to comment on program elements because PG&E did not provide a budget.

D.03-04-055 ultimately adopted the pilot but specifically required PG&E and San Francisco to file a program implementation plan and budget which was not required of any other adopted program. (See D.03-04-055, Ordering Paragraph 12.) In addition, the decision noted the serious concerns it had with the proposed program, consistent with the concerns raised by WEM. Thus, WEM made a substantial contribution to D.03-04-055.

After the Commission approved the PG&E / San Francisco pilot program in D.03-04-055, WEM sought rehearing of the decision. WEM alleged that most of

the \$16.3 million in funding for the pilot would be spent on downtown energy efficiency programs aimed at commercial and industrial customers based on the incorrect premise that the effect of the reduced demand for energy by these customers would allow the shutdown of the PG&E Hunters Point Power Plant. WEM also alleged that the decision erred by granting PG&E the flexibility to proceed with the proposal without first requiring the production of details of the program in violation of the open meeting requirements of Government Code § 11120. WEM also alleged violation of “environmental justice and bad faith” by PG&E in misleading the Hunters Point community that the program would lead to the closure of the Hunters Point Power Plant.

The Commission denied the application for rehearing in D.03-06-077, finding that WEM’s application:

fails to demonstrate any legal error in the Decision. WEM has failed to support its contentions with any cited legal authority and without reference to any evidence in the record. It has not complied with or set forth a convincing showing under Public Utilities Code Section 1732, which requires that an application for rehearing “shall set forth specifically the ground or grounds on which the applicant considers the decision or order to be unlawful.”

WEM’s allegations primarily represent a re-argument of its position taken in the proceeding.

Edison argues that WEM is ineligible for compensation related to unsuccessful applications for rehearing. Edison cites D.98-05-014,¹¹ which found that intervenors’ contentions and recommendations in an application for rehearing were wholly rejected, and thus the request for compensation for the

¹¹ 1998 Cal. PUC LEXIS 360, at *15-16.

hours spent on the application for rehearing should be denied. We agree that WEM may not obtain compensation for its application for rehearing in this case because it failed to expand or defend its contribution to the prior decision.

WEM explains in its July 22, 2004 supplement that much of its work in this area occurred after we approved the pilot (and after we denied its application for rehearing, discussed below):

The project sponsors have been making adjustments to the program based on our input—including prioritizing [energy efficiency] funds for Bayview Hunters Point (BVHP) residences and small businesses and providing job training and referrals for community members to work on the program.

Examination of WEM's timesheets reveals that most of its work on the pilot involved contacting community members, providers, and others with regard to Bayview Hunters Point community efforts to close the Hunters Point Power Plant. While the pilot has some relationship to the power plant, to the extent that lowered energy usage through energy efficiency in San Francisco could reduce the need for an existing power plant, the relationship is tenuous at best. While WEM references the San Francisco Peak Energy Program (PEP, the name given the pilot program) in a large majority of its entries, the work appears to be an effort to connect general Bayview Hunters Point community activism with respect to the power plant—which may be laudable in its own right—to this energy efficiency proceeding. We find the connection of this outreach work to WEM's contribution in the energy efficiency proceeding indirect at best. WEM's efforts in this area are for the most part limited to community organizing that did not result in a substantial contribution.

Finally, several of WEM's entries reflect its work on a separate proceeding to consider the suitability of PG&E's application to construct a large electric

transmission line, the Jefferson-Martin line (Application 02-09-043). The allegation in that proceeding is that installation of the line will hasten closure of the Hunters Point Power Plant. Such work is not compensable in this proceeding.

To summarize, only WEM's work leading up to D.03-04-055 made a substantial contribution. We find much of WEM's work claimed on the pilot did not contribute because it bears only a tenuous relationship to the energy efficiency proceeding or was not necessary to a fair determination of whether to award funding for the pilot, since it occurred after we approved the program. WEM's application for rehearing was wholly unsuccessful. Finally, some of WEM's hours relate not to this proceeding but to the Jefferson-Martin transmission line case. We discuss how much of the claim on this subject was reasonable below.

4.2.4 Third Parties

Whether and the extent to which to allow non-utility third parties to receive energy efficiency funding was a major issue in the early years of this proceeding. The utilities traditionally received all such funding, and any third parties receiving funding submitted bids to and were chosen by the utilities. Decision 01-11-066, D.02-03-056, D.02-05-046,¹² D.03-01-038, D.03-04-055, and D.03-08-067 addressed this framework, and in some of the decisions we assigned interim responsibility for choosing third party programs to the Commission itself. This change was disputed, both by the utilities, resisting independent

¹² WEM does not seek funding related to D.01-11-066, D.02-03-056 or D.02-05-046. It states that it performed its early work in this case on a *pro bono* (no fee) basis.

third party participation, and by third parties advocating that they receive a larger share of the pie.

A further issue was how to place the chosen third parties under contract. Ultimately, the Commission decided to have the utilities contract with the third parties, with Commission direction on the language of the contracts. This issue also raised concerns from both sides—from the utilities who were uncomfortable with having contract terms prescribed for them by the Commission, and from third parties who feared that the utilities would delay contract finalization and execution and therefore delay third parties' receipt of energy efficiency funding. WEM's records contain several entries related to the contracting issue.

WEM's time records also reflect that it spent significant time addressing ALJ Thomas' October 28, 2002 ruling setting forth the process she recommended for Commission evaluation of 2003 energy efficiency programs. The ruling apparently gave third parties concerns about their ability to continue receiving energy efficiency funding, and several parties, including WEM, filed comments on the ruling. The Commission ratified the approach ALJ Thomas took in her ruling in D.03-01-038.

Edison claims in opposition to WEM's request that all WEM did was to urge the Commission to closely scrutinize utility programs, and that the Commission deferred consideration of issues related to WEM's comments on independent administration of energy efficiency. Thus, Edison asserts, WEM did not contribute to a final order or decision with regard to the administration of energy efficiency programs.

While it is true that the Commission had not finally decided whether a party other than the utilities should administer energy efficiency programs, it had in the past taken steps to involve third parties in the programs, and in

D.03-01-038 it assigned partial interim administrative responsibility to the Commission's Energy Division. Thus, it is not correct that the Commission deferred consideration of all administrative issues. We find WEM did make a substantial contribution in this area because its recommendations to move to independent administration were acted upon by the assignment of partial administrative responsibility away from the utilities, a change from the status quo at the time.

4.2.5 2004-05 Solicitation

WEM's request at p. 2 states that "this request does not include work on . . . selection of 2004-05 programs," but WEM does include these hours in its July 22, 2004 supplement. In the original request, at pp. 10-12, WEM also lists a number of comments, motions, and other filings it made leading up to D.04-02-059, in which we approved the selection of 2004-05 programs. Thus, we will now address WEM's participation regarding the 2004-05 programs.

WEM cites comments it made on the draft interim opinion establishing selection criteria for 2004-05 programs (ultimately adopted as D.03-08-067). As recited in D.03-08-067, WEM objected to limiting non-utility funding in any way, suggesting such limits conflicted with AB 117. WEM also suggested the Commission conduct a "blind" program proposal review process to avoid any favoritism in the selection process. Although the Commission did not adopt WEM's position, we find that WEM's arguments added to the Commission's consideration of important issues and thus contributed substantially to the Commission's decision.

As noted, WEM lists a number of filings it made "prior to" D.04-02-059, but many of them had nothing to do with that decision. D.04-02-059 cites only one WEM filing, a petition to modify (earlier styled as an application for

rehearing of) D.03-08-067, related to the Commission's interpretation of AB 117. The interpretation was for the most part unrelated to issues the Commission resolved in D.04-02-059. The Commission noted in D.04-02-059 that the petition and related matters were being handled elsewhere, and therefore denied WEM's petition. Thus, the petition was irrelevant to D.04-02-059. We find WEM made no substantial contribution to D.04-02-059.

4.2.6 Community Choice

We stated in D.03-07-034:

In response to the state's energy crisis, the Legislature passed AB 117 [(Stats. 2002, Ch. 838)], permitting cities and counties to become [community choice aggregators] CCAs and thereby purchase energy supplies on behalf of utility customers in their respective jurisdictions. The bill also permits CCAs to apply to the Commission for energy efficiency program funding so that they may implement energy efficiency programs in their areas.

WEM proposed that the Commission articulate a preference to CCAs for energy efficiency program funding. The Commission rejected this suggestion, but nonetheless left the issue open for future consideration:

[W]e are not prepared to treat CCAs any differently from other parties at this time. While we may ultimately find that CCAs are appropriately independent agencies that should have considerable deference to use Section 381 funds, we leave the issue of CCA's role and discretion to our broader rulemaking. To treat them differently at this time would presume a policy direction that we are not prepared to address in the narrow context of this inquiry. We may reconsider the process and criteria for reviewing CCA applications for energy efficiency program funding. Until and unless we do, we will apply the same procedures and criteria for review that we apply now to

all Third Party applicants for energy efficiency program funding, including EM&V requirements.¹³

In response to AB 117's requirement that "The commission . . . direct the administrator to work with the community choice aggregator, to provide advance information where appropriate about the likely impacts of energy efficiency programs," D.03-07-034 noted that WEM sought information about "what the utilities have collected in each local jurisdiction." In that decision, we ordered the utilities to provide, among other things, "Public Goods Charge customer payments by zip code and city." Thus, the Commission accepted WEM's input on this issue.

"Substantial contribution" includes providing assistance in the ways mentioned in § 1802(i) (*i.e.*, causing us to adopt, in whole or in part, a factual or legal contention or policy or procedural recommendation made by the intervenor). Moreover, within the meaning of § 1802.5, a party may make a substantial contribution if it "materially supplements, complements, or contributes to the presentation of another party." Most of WEM's claimed compensation on the community choice issue made a substantial contribution, within the meaning of the statute. The exception, time on an unspecified lawsuit in civil court, is not time that relates to a Commission proceeding, and we deduct it.

5. Reasonableness of Requested Compensation

Having determined the scope of a customer's substantial contribution, we consider whether the requested compensation is reasonable. The components of

¹³ D.03-07-034, *mimeo.*, p. 10.

a request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. Thus, only those fees and costs associated with the customer's work that the Commission concludes made a substantial contribution are reasonable and eligible for compensation.

To assist us in determining the reasonableness of the requested compensation, D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request.

5.1 TURN

TURN requests \$81,742.48 for its participation in this proceeding, as follows:

Attorney Fees	Hours	Rate (Year)	Total for Year	
Hayley Goodson	141.00 hrs	\$ 190.00 (2003)	\$ 26,790.00	
	77.75 hrs	\$ 190.00 (2004)	\$ 14,772.50	
	25.75 hrs	\$ 95.00 (2004)	\$ 2,446.25	
			\$ 44,008.75	Subtotal
Marcel Hawiger	56.25 hrs	\$ 250.00 (2003)	\$ 14,062.50	
	3.75 hrs	\$ 250.00 (2004)	\$ 937.50	
			\$ 15,000.00	Subtotal
Robert Finkelstein	1.25 hrs	\$ 365.00 (2003)	\$ 456.25	
	1.25 hrs	\$ 365.00 (2004)	\$ 456.25	
	2.00 hrs	\$ 182.50 (2004)	\$ 365.00	

			\$ 1,277.50	Subtotal
Expert Witness Costs				
Cynthia Mitchell, E3 Consulting	151.75 hrs	\$ 115.00 (2003)	\$ 17,451.25	
	24.25 hrs	\$ 115.00 (2004)	\$ 2,788.75	
Expenses (airfare)			\$ 492.00	
			\$ 20,732.00	Subtotal
Other Costs (TURN)				
FAX			\$ 5.60	
LEXIS			\$ 73.52	
Photocopying			\$ 584.20	
Postage			\$ 11.30	
Telephone			\$ 33.60	
Miscellaneous			\$ 16.00	
			\$ 724.23	Subtotal

TURN argues that because D.03-08-067, D.03-12-060, and D.04-02-059 address policy matters and do not establish specific rates or involve disputes over particular dollar amounts, the value of TURN's participation to ratepayers eludes precise quantification. However, as TURN contends, energy efficiency investments, designed as they are to displace supply side resource procurement such as generation, have a "direct and lasting impact on customer rates" (TURN request, p. 14). We agree with TURN that "appropriate energy efficiency (and integrated resource planning) policies and prudent planning practices will be essential to maintaining both low and stable rates." (*Ibid.*) TURN's efforts in this proceeding have informed our efforts toward those goals. Moreover, TURN successfully worked to ensure its efforts complemented or contributed to the

efforts of other parties. We note that the Commission's Office of Ratepayers Advocates participated very little in the proceedings that resulted in these three decisions and TURN was often the only party representing the interests of all residential and small commercial customers.

Even where a customer's efforts in a proceeding result in substantial contributions to Commission decisions, we must assess whether the hours claimed are reasonable. TURN has documented its claimed hours by presenting a daily breakdown of the hours of its attorneys, accompanied by a brief description of each activity. The hourly breakdown reasonably supports the claim for total hours.¹⁴ Since we found that TURN's efforts made a substantial contribution to the delineated decisions, we need not exclude from TURN's award compensation for certain issues. However, we note that TURN has broken down its efforts by issue; had we needed to eliminate certain issues from the award, this breakdown would have facilitated the process.

Finally, in determining compensation, we take into consideration the market rates for similar services from comparably qualified persons. The rates TURN requests for Hawiger, Finkelstein, and Mitchell have previously been approved and are reasonable here.¹⁵

TURN seeks an hourly rate of \$190 per hour for attorney Hayley Goodson (Goodson) for her work in 2003 and 2004. TURN has not previously requested compensation for Goodson since she became an attorney. Goodson is a 2003

¹⁴ TURN separated the hours associated with travel and preparation of this compensation request and requests compensation at half the usual hourly rate for this time.

¹⁵ See D.04-05-048, D.03-08-041, and D.01-12-008, respectively.

graduate of the University of California, Berkeley's Boalt Hall School of Law and a 1996 graduate of Brown University. Goodson joined TURN's staff as a legal assistant in 1998 and worked for TURN as a summer law clerk between her second and third years of law school. She joined TURN's attorney staff in 2003. In D.03-10-080, we awarded Goodson \$80 per hour for her work as a paralegal in 1999 and 2000, and in D.03-05-065 and D.04-05-048 we awarded \$95 per hour for work in 2002.

TURN claims \$190/hour is reasonable based on comparable market rates for new law school graduates. TURN notes that "[i]n recent compensation decisions, the Commission has adopted hourly rates of \$165 to \$175 for work performed in 2001 by attorneys who appear to have graduated from law school in the prior year [citing D.02-05-005, *mimeo.*, pp. 9-10; D.03-01-075, *mimeo.*, p. 10]. Increasing these rates by 7.5% per year yields a 2003 of \$190-202 per hour."¹⁶ TURN explains that a 7.5% per year increase is justified because a survey of attorney hourly rates, the *Of Counsel* survey, reflects average low-end associate attorney hourly rate increases of 16.5% from 2002 to 2003.¹⁷

The *Of Counsel* survey TURN relies on shows that rates for junior associate attorneys in San Francisco in 2000-01 ranged from \$110 per hour (Lillick & Charles) to \$200 per hour (Townsend and Townsend). Unfortunately, the survey only lists these two San Francisco firms. Other firms in the San Francisco Bay Area show rates for 2002-03 for junior associates ranging from \$170 (Fenwick &

¹⁶ TURN Request at 20.

¹⁷ *Id.* at 22.

West – Palo Alto), to \$190 (Cooley Godward – Palo Alto) to \$195 (Gray Cary Ware – Palo Alto).

In D.03-01-075, we awarded \$190/hour to Shawna Parks for work in 2001. Parks had two years of experience at the time, in contrast to Goodson, who was in her first year of practice in late 2003 and 2004, when she billed the hours at issue here. In D.02-09-040, we awarded TURN's attorney Marcel Hawiger \$190 per hour for work he performed in 2001. Hawiger joined TURN in August 1998 and obtained his law degree from New York University School of Law in 1993. He has bachelor's and master's degrees in geology and environmental engineering, and has worked on energy-related cases at the Commission, focusing on issues related to natural gas and demand side management. At the time we issued D.02-09-040, Hawiger had been TURN's lead attorney on two Biennial Cost Allocation Proceedings, the Gas Industry Restructuring Proceeding, the Interruptible Rulemaking, and several energy efficiency proceedings.

On the basis of the foregoing information, we find the hourly rate TURN claims for Goodson to be too high. It is at the high end of the range for private firms in San Francisco and Palo Alto, and is the same as the rate we awarded both Parks and Hawiger, who each had more experience at the time they put in their efforts. While our awards to Parks and Hawiger were for work performed prior to 2003-04, we find that a fairer hourly rate for Goodson for 2003 and 2004 is \$180 and award her that rate for her work on this case.

5.1.1 Other TURN Costs

TURN includes a detailed itemization of its claim for other expenses, such as LEXIS and photocopying. These expenses and the airfare for Mitchell generally appear reasonable. We adjust these costs only to deduct \$16.00 for

meals during the workshop, since such costs generally are not compensable through the intervenor compensation program, and TURN offers no explanation for them.

5.2 WEM

WEM originally requested \$147,789.94. It increased its request in a supplement e-mailed to ALJ Michelle Cooke (and available in the correspondence file for this proceeding), to total \$155,190.87, as follows:

	Year	Rate	Hours	Total
George (professional)	2002	\$150	167.25	\$ 25,087.50
George (travel)	2002	\$75	16.0	\$ 1,200.00
George (professional)	2003	\$150	582.3	\$ 87,337.50
George (travel/comp)	2003	\$75	47.75	\$ 3,581.25
Fenn (professional)	2003	\$120	86.0	\$ 10,320.00
George (professional)	2004	\$150	88.0	\$ 13,200.00
George (travel/comp)	2004	\$75	124.3	\$ 9,318.75
			Subtotal Advocate Fees	\$150,045.00
			Expenses	\$ 5,145.87
			Total	\$155,190.87

WEM does not attempt to quantify the benefits of its participation to ratepayers, however, as we described for TURN, the issues involved in this proceeding did not deal with adoption of rates. WEM's participation that we found made a substantial contribution focused on ensuring programs were administered fairly and cost-effectively, and that participation was productive.

Because not all of a customer's efforts in a proceeding result in substantial contributions to Commission decisions, we must assess whether the hours claimed are reasonable. WEM has documented the hours claimed by Barbara George and WEM's consultant, Paul Fenn, by presenting a daily breakdown of those hours and an accompanying brief description of each activity. As described in Section 4.2, WEM has provided an allocation of its professional time among various issues for which it claims compensation, and given our finding that certain aspects of WEM's activity did not result in a substantial contribution, this allocation allows us to modify the number of hours for which we award compensation with more ease.

5.2.1 EM&V

In the area of EM&V,¹⁸ we have examined WEM's July 22, 2004 timesheets and find the 48.5 hours claimed¹⁹ for George to be compensable.

5.2.2 FYP

WEM seeks 12.5 hours for George in 2002 for activities related to the FYP campaign. We have reviewed the timesheets and find this time reasonable.

5.2.3 Energy Efficiency Pilot Program

WEM claimed the following time for George's efforts related to the pilot:

Year	Hours
2002	44.00
2003	Pilot only 318.25
	Pilot / EM&V 29.75
2004	63.25

We have not addressed compensation for community organizing in great detail in many previous decisions. Under § 1802(d), advocate fees must be "reasonable" and be incurred as "preparation for and participation in a proceeding." The Commission has generally not awarded intervenor compensation for community organizing activities. For example, in D.03-10-056, we denied an intervenor significant costs related to community organizing,

¹⁸ WEM segregated its 2003 hours into an "EM&V" category and a "pilot/EM&V" category. We consider the latter hours in connection with our discussion of WEM's "Pilot"-related work.

¹⁹ 42.25 hours in 2002 and 6.25 hours in 2003.

noting that the organizing was aimed at sustaining the intervenor's existence as a community organization.²⁰ In contrast, one decision, D.03-03-031, did award intervenor compensation where the intervenor, among other things "educated and mobilized local community groups to urge Commission approval of" a utility's promise to engage in community collaboration that became a condition of Commission approval of a large corporate merger.

Here, we find that most of WEM's costs attributable to the pilot are not compensable. There is no clear precedent for recovery of community organizing expenses when the Commission decision does not directly endorse the collaboration or when the link between that organizing effort and the issues in the proceeding are so tenuous. Section 1801.3(f) denies compensation for "participation that is not necessary for a fair determination of the proceeding." In D.98-04-059, we found that this test means that "the Commission should not award compensation where the customer has argued issues that are, *e.g.*, irrelevant, outside the scope of the proceeding, or beyond the Commission's jurisdiction to resolve."²¹ Closure of the Hunters Point Power Plant is not within the scope of this proceeding, nor is work to implement the pilot program necessary to a Commission decision, since the Commission had already approved the program.

Moreover, we have denied compensation where a party's fees are excessive. In D.04-02-026, we deducted 30% of a claimed award on the ground

²⁰ This was first articulated in D.96-08-040 which denied compensation for time organizing and/or participating in rallies or protests on issues related to Commission proceedings. (See 67 CPUC 2d 562, 577.)

²¹ D.98-04-059, 79 CPUC 2d 628 (1998), 1998 Cal. PUC LEXIS 429, at *53-54.

that “Pub. Util. Code § 1801 only allows parties ‘reasonable’ advocates’ fees. In the past, we have reduced a party’s award where it reflects inefficiency. . . . [I]n D.02-07-030, we reduced an intervenor’s award by 30% because it was far out of line with the awards requested by other intervenors.”²²

WEM’ request for almost \$70,000 for work on one \$16 million program is excessive, especially considering that the Commission awarded close to \$1 billion in energy efficiency program funding over the period during which WEM made its efforts. WEM’s expenditures are out of proportion to the importance of the issue, and excessive in light of the fees incurred by other intervenors in the proceeding, such as TURN’s work that we address today. Similarly, in D.04-02-016, the Natural Resources Defense Council (NRDC) received approximately \$23,500 for its contribution to five decisions issued in this proceeding, one-sixth of the approximately \$150,000 WEM seeks here.

WEM’s fees in this area are excessive, both in and of themselves and by comparison to the fees we have awarded TURN and NRDC in this proceeding. For all of the foregoing reasons, we reduce WEM’s claimed hours in the “pilot” category by 80%. This reduction is an approximation of the time associated with work on issues outside of the scope, work performed after the program was occurred, and WEM’s application for rehearing. We award WEM 20% of its claimed hours for work on the pilot, because that amount is the approximate amount of time (derived from its time sheets), that WEM spent on matters that resulted in its substantial contribution to D.03-04-055.

²² D.04-02-026, *mimeo.*, p. 18.

5.2.4 Third Parties

WEM seeks the following amounts for George's work in the "third parties" category:

Year	Hours
2002	68.50
2003	21.75
2004	7.25

We find WEM is entitled to the most of the compensation it seeks related to third parties. We note, however, that several of WEM's entries in 2003 and 2004, reflect community organizing rather than input to the Commission.²³ We therefore deduct 10% of WEM's total hours, an amount that approximates the amount WEM spent on work that did not make a substantial contribution to the Commission's decisions, from the 2003 hours for this category.

5.2.5 2004-05 Solicitation

WEM seeks the following amounts for George related to the Commission's solicitation and choice of providers to offer energy efficiency programs in the 2004 and 2005 program years. The Commission addressed the solicitation in D.03-08-067 and D.04-02-059.

Year	Hours
2003	184.25
2004	16.50

²³ The entries for February 3, 2003 through the end of February 2003 all fit this category.

We find that WEM is entitled to all but 29.25 hours for its work on the 2004-05 solicitation.²⁴

5.2.6 Community Choice

WEM seeks 41.75 hours for George related to the AB 117 community choice issue. With the exception of the one hour claimed in 2004 for a civil lawsuit, all of George's time spent on community choice issues is reasonable.

5.2.7 Intervenor Compensation

WEM seeks 26.0 hours in 2003 and 20.0 hours in 2004 for George related to its request for intervenor compensation. Although this number of hours is fairly high, given that this was WEM's first time filing a request, and the number of decisions and length of time involved, we find them reasonable.

5.2.8 Travel

WEM seeks the following amounts for George's travel:

Year	Hours
2002	16.00
2003	21.75
2004	20.00

We do not compensate WEM for travel required to file documents (when a messenger service could be employed more cheaply), or for items that are not explained, relate to items that have no relationship to this proceeding, or are

²⁴ WEM's hours on a petition to modify D.03-08-067, for which we found no substantial contribution, are contained in its September 22, 23, 24, 25, and October 5 and 10, 2003 entries, and total 29.25 hours, which we do not compensate.

connected to community organizing.²⁵ We find the reasonable number of hours of travel to be 13.0 in 2002, 15.25 in 2003, and 2.5 in 2004.

5.2.9 Fenn's Time

WEM also requested compensation for its expert, Fenn, but did not break Fenn's time down by subject areas. A review of the invoice included for Fenn allows us to assess the topics on which he worked. With the exception of the 17.0 hours spent on the application for rehearing of D.03-07-034, we find that Fenn's time is compensable because it was associated with the issues for which we have found WEM made a substantial contribution. The compensable time totals 69.0 hours.

We note that Paul Fenn is listed as an appearance representing Local Power in this proceeding. We have no reason to doubt WEM's statement that Fenn had a contractual relationship and worked as a consultant for WEM in this proceeding. We remind Local Power, however, that to the extent it appears on its own behalf in a proceeding, it must file its own notice of intent to claim compensation and ultimately, request for compensation, if it seeks eligibility for intervenor compensation on its own behalf.

5.2.10 Hourly Rates

Finally, in determining compensation, we take into consideration the market rates for similar services from comparably qualified persons.

WEM seeks an hourly rate of \$150 for work performed by Barbara George, Executive Director of WEM, in 2002-2004. George has worked on energy policy

²⁵ The items occurred on the following dates: July 16, 2002, May 17, 2003, October 6, 2003, November 7, 2003, January 16 and 30, 2004, February 3, 18, and 25, 2004, and March 10 and 16, 2004, and total \$2,025.00.

issues at the local, state and national levels for 25 years. Although WEM does not compare George's experience to that of other experts appearing before us, we note that other experts with similar or fewer years of experience on energy matters have been awarded similar hourly rates (Jody London, \$160/hour in 2003 with 13 years relevant experience (D.03-06-065); Gelly Borromeo, \$160/hour in 2003 with 12 years relevant experience (D.04-08-020)). The rate requested for George is reasonable.

WEM also employed the services of Paul Fenn of Local Power. Fenn has worked on energy issues since 1993, first in the Massachusetts Legislature and then as Executive Director of Local Power. WEM requests \$120/hour for Fenn's services in 2003. WEM did not compare this rate to others offering similar services that appear before us but based on our review of hourly rates, the requested rate for Fenn is reasonable.

In an e-mail to ALJ Cooke on June 10, 2004, WEM stated that "All driving and intervenor compensation entries are billed at half rate," as the Commission requires. We can see from the time records submitted on July 22, 2004 that these hours were billed at \$75/hour, half the claimed rate of \$150.

5.2.11 Other Costs

WEM includes a detailed itemization of its claim for other expenses, such as telephone, photo copying, and travel. We adjust the travel to remove 46% of the travel expenses (mileage and lodging), consistent with the amount of travel time we did not approve, resulting in reasonable expenses of \$3,289.31.

6. Award

As set forth in the tables below, we award TURN \$79,410.23 and WEM \$85,133.06.

TURN

Advocate	Year	Rate	Hours	Total
Goodson	2003	\$180	141.00	\$25,380.00
Hawiger	2003	\$250	56.25	\$14,062.50
Finkelstein	2003	\$365	1.25	\$ 456.25
Mitchell	2003	\$115	151.75	\$17,451.25
Goodson	2004	\$180	77.75	\$13,995.00
Goodson (Comp)	2004	\$ 90	25.75	\$ 2,317.50
Hawiger	2004	\$250	3.75	\$ 937.50
Finkelstein	2004	\$365	1.25	\$ 456.25
Finkelstein (Comp)	2004	\$182.50	2.00	\$ 365.00
Mitchell	2004	\$115	24.25	\$ 2,788.75
			Subtotal	\$78,210.00
			Expenses	\$ 1,200.23
			Total	\$79,410.23

Women's Energy Matters

Advocate	Year	Rate	Hours	Total
George	2002	\$150	132.05	\$19,807.50
George-Travel	2002	\$ 75	13.00	\$ 975.00
George	2003	\$150	283.60	\$42,540.00
Fenn	2003	\$120	69.00	\$ 8,280.00
George-Travel/ Compensation	2003	\$ 75	41.25	\$ 3,093.75
George	2004	\$150	36.40	\$ 5,460.00
George-Travel/ Compensation	2004	\$ 75	22.50	\$ 1,687.50
			Subtotal	\$81,843.75
			Expenses	\$ 3,289.31
			Total	\$85,133.06

Consistent with previous Commission decisions, we order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15) commencing the 75th day after TURN and WEM filed compensation requests and continuing until full payment of the award is made.

We direct PG&E, San Diego Gas & Electric Company, Southern California Gas Company, and Edison to allocate payment responsibility for the awards among themselves based upon their California-jurisdictional gas and electric revenues for the 2003 calendar year.

We remind all intervenors that Commission staff may audit their records related to this award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. TURN's and WEM's records should identify specific issues for which it requested compensation, the actual time spent by each employee, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

7. Comments on Draft Decision

Pursuant to Rule 77.7(f)(6) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment could be waived. However, we are allowing 30-days comment on the decision because it does not award the requested compensation in full to WEM and because Edison has contested the request.

8. Assignment of Proceeding

Susan P. Kennedy is the Assigned Commissioner. Meg Gottstein and Kim Malcolm are the assigned ALJs in this proceeding.

Findings of Fact

1. WEM is a representative authorized by a customer, and has established that Ardys DeLu, the customer it represents, cannot, without undue hardship, pay the reasonable costs of effective participation in this proceeding.

2. TURN made a substantial contribution to D.03-08-067, D.03-12-060, and D.04-02-059 as described herein.

3. WEM made a substantial contribution to D.02-07-040, D.03-01-038, D.03-04-055, D.03-07-034, D.03-08-067, D.03-12-060, and D.04-01-032 as described herein.

4. TURN requested hourly rates for attorneys and experts that, as adjusted in the opinion, are reasonable when compared to the market rates for persons with similar training and experience.

5. WEM requested hourly rates for experts that are reasonable when compared to the market rates for persons with similar training and experience.

6. The total of the reasonable compensation is \$79,410.23 for TURN and \$85,133.06 for WEM.

Conclusions of Law

1. TURN has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its allowable fees and costs, as set forth in the foregoing Opinion, incurred in making substantial contributions to D.03-08-067, D.03-12-060, and D.04-02-059.

2. WEM has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, and is entitled to intervenor compensation for its allowable fees and costs, as set forth in the foregoing Opinion, incurred in making substantial contributions to D.02-07-040, D.03-01-038, D.03-04-055, D.03-07-034, D.03-08-067, D.03-12-060, and D.04-01-032.

3. TURN should be awarded \$79,410.23 for its contributions to D.03-08-067, D.03-12-060, and D.04-02-059.

4. WEM should be awarded \$85,133.06 for its contributions to D.02-07-040, D.03-01-038, D.03-04-055, D.03-07-034, D.03-08-067, D.03-12-060, and D.04-01-032.

5. This order should be effective today so that TURN and WEM may be compensated without further delay.

O R D E R**IT IS ORDERED** that:

1. The Utility Reform Network (TURN) is awarded \$79,410.23 as compensation for its substantial contributions to Decision (D.) 03-08-067, D.03-12-060, and D.04-02-059. Women's Energy Matters (WEM) is awarded \$85,133.06 as compensation for its substantial contributions to D.02-07-040, D.03-01-038, D.03-04-055, D.03-07-034, D.03-08-067, D.03-12-060, and D.04-01-032.

2. Within 30 days of the effective date of this decision, Southern California Edison Company, San Diego Gas & Electric Company, Southern California Gas Company, and Pacific Gas and Electric Company shall pay TURN and WEM their respective shares of the award. Each utility's share shall be calculated based upon their California-jurisdictional gas and electric revenues for the 2003 calendar year. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning July 17, 2004, the 75th day after the filing date of TURN's and WEM's requests for compensation, and continuing until full payment is made.

This order is effective today.

Dated _____, at San Francisco, California.

Compensation Decision Summary Information

Compensation Decision:	
Contribution Decision(s):	D0308067; D0312060; D0402059
Proceeding(s):	R0108028
Author:	ALJ Malcolm
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	5/3/04	\$81,742.48	\$79,410.23	No	Failure to justify hourly rate; undocumented expenses.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Hayley	Goodson	Attorney	The Utility Reform Network	\$190	2003, 2004	\$180
Marcel	Hawiger	Attorney	The Utility Reform Network	\$250	2003, 2004	\$250
Robert	Finkelstein	Attorney	The Utility Reform Network	\$365	2003, 2004	\$365
Cynthia	Mitchell	Policy Expert	The Utility Reform Network	\$115	2003, 2004	\$115

Compensation Decision Summary Information

Compensation Decision:	
Contribution Decision(s):	D0207040; D0301038; D0304055; D0307034; D0308067; D0312060; D0401032
Proceeding(s):	R0108028
Author:	ALJ Malcolm
Payer(s):	Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison Company, and Southern California Gas Company

Intervenor Information

Intervenor	Claim Date	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Women's Energy Matters	5/3/04	\$155,190.87	\$85,133.06	No	Failure to make substantial contribution; excessive hours; work performed in another proceeding; inappropriately claimed expenses.

Advocate Information

First Name	Last Name	Type	Intervenor	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Barbara	George	Policy Expert	Women's Energy Matters	\$150	2002-2004	\$150
Paul	Fenn	Policy Expert	Women's Energy Matters	\$120	2003	\$120